
HOUSE BILL 2145

State of Washington

65th Legislature

2017 Regular Session

By Representatives Frame, Robinson, Farrell, Jinkins, Santos, Doglio, Macri, Dolan, Bergquist, Sells, Pollet, Sawyer, Wylie, Ryu, Appleton, Chapman, Gregerson, Cody, Kirby, Stonier, Riccelli, Fitzgibbon, Kloba, Peterson, Fey, Slatter, Tharinger, Stanford, Ortiz-Self, and Orwall

Read first time 03/10/17. Referred to Committee on Finance.

1 AN ACT Relating to honoring the legislature's intent to create
2 and retain local jobs through incentives provided to the aerospace
3 industry by redirecting those incentives to other job creating
4 opportunities if the number of aerospace jobs continue to decline;
5 amending RCW 82.04.4461 and 82.32.534; amending 2013 3rd sp.s. c 2 s
6 1 (uncodified); reenacting and amending RCW 82.04.260; adding new
7 sections to chapter 82.32 RCW; adding a new section to chapter 82.04
8 RCW; adding a new section to chapter 43.135 RCW; creating new
9 sections; providing an effective date; and providing an expiration
10 date.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 **Sec. 1.** 2013 3rd sp.s. c 2 s 1 (uncodified) is amended to read
13 as follows:

14 (1) The legislature finds that the people of Washington have
15 benefited enormously from the presence of the aerospace industry in
16 Washington state. The legislature further finds that the industry
17 continues to provide good wages and benefits for the thousands of
18 engineers, mechanics, and support staff working directly in the
19 industry throughout the state. The legislature further finds that
20 suppliers and vendors that support the aerospace industry in turn
21 provide a range of well-paying jobs. In 2003, and again in 2006, and

1 2007, the legislature determined it was in the public interest to
2 encourage the continued presence of the aerospace industry through
3 the provision of tax incentives. Certain tax incentives provided to
4 the aerospace industry, however, have not fully lived up to the
5 legislature's intent, as evidenced by the loss of twelve thousand two
6 hundred fifty-nine jobs at Washington's largest aerospace employer
7 since the tax incentives were last extended while other states have
8 experienced net gains in their employment. To this end, and in
9 recognition of the continuing extreme importance of the aerospace
10 industry in Washington, it is the legislature's intent to reaffirm
11 and build upon prior aerospace tax incentive legislation in a
12 fiscally prudent manner.

13 (2) The legislature categorizes the tax preferences extended in
14 this act as intended to create or retain jobs in Washington, as
15 indicated in RCW 82.32.808(2)(c).

16 (3) It is the legislature's specific public policy objective to
17 maintain and grow Washington's aerospace industry workforce. To help
18 achieve this public policy objective, it is the legislature's intent
19 to conditionally extend aerospace industry tax preferences until July
20 1, 2040, in recognition of intent by the state's aerospace industry
21 sector to maintain and grow its workforce within the state. It is
22 also the legislature's specific public policy objective to provide
23 tangible taxpayer accountability for Washington's largest aerospace
24 company by adopting a minimum employment baseline that must be met by
25 the company to fully qualify for aerospace tax incentives, similar to
26 aerospace job standards created in other states such as Alabama,
27 South Carolina, and Missouri, to ensure taxpayer dollars are used to
28 create jobs here in Washington. If it is determined that the
29 legislature's intent is not being met, this aerospace incentive
30 should be reinvested to encourage job growth at small businesses in
31 Washington and to fulfill the state's paramount duty.

32 (4) The joint legislative audit and review committee must review
33 the tax preferences provided in this act and report to the
34 legislature by December 1, 2019, and every five years thereafter. As
35 part of its tax preference reviews, the committee must specifically
36 assess changes in aerospace industry employment in Washington in
37 comparison with other states and internationally. To the extent
38 practicable, the committee must use occupational data statistics
39 provided by the bureau of labor statistics and state agencies

1 responsible for administering unemployment insurance to perform this
2 assessment.

3 (5) If the department of revenue, in consultation with the
4 employment security department, determines that aerospace industry
5 job losses that have occurred at Washington's largest aerospace
6 company are due to industry-wide cyclical downturns as outlined in
7 RCW 82.04.260(11)(f)(ii)(C), rather than outsourcing to other states
8 or internationally at the expense of jobs in Washington, then the
9 legislature intends that the tax preferences in this act remain in
10 place for the remainder of their term.

11 **Sec. 2.** RCW 82.04.260 and 2015 3rd sp.s. c 6 s 602 and 2015 3rd
12 sp.s. c 6 s 205 are each reenacted and amended to read as follows:

13 (1) Upon every person engaging within this state in the business
14 of manufacturing:

15 (a) Wheat into flour, barley into pearl barley, soybeans into
16 soybean oil, canola into canola oil, canola meal, or canola by-
17 products, or sunflower seeds into sunflower oil; as to such persons
18 the amount of tax with respect to such business is equal to the value
19 of the flour, pearl barley, oil, canola meal, or canola by-product
20 manufactured, multiplied by the rate of 0.138 percent;

21 (b) Beginning July 1, 2025, seafood products that remain in a
22 raw, raw frozen, or raw salted state at the completion of the
23 manufacturing by that person; or selling manufactured seafood
24 products that remain in a raw, raw frozen, or raw salted state at the
25 completion of the manufacturing, to purchasers who transport in the
26 ordinary course of business the goods out of this state; as to such
27 persons the amount of tax with respect to such business is equal to
28 the value of the products manufactured or the gross proceeds derived
29 from such sales, multiplied by the rate of 0.138 percent. Sellers
30 must keep and preserve records for the period required by RCW
31 82.32.070 establishing that the goods were transported by the
32 purchaser in the ordinary course of business out of this state;

33 (c)(i) (~~Beginning July 1, 2025~~) Except as provided otherwise in
34 (c)(iii) of this subsection, from July 1, 2025, until January 1,
35 2036, dairy products; or selling dairy products that the person has
36 manufactured to purchasers who either transport in the ordinary
37 course of business the goods out of state or purchasers who use such
38 dairy products as an ingredient or component in the manufacturing of
39 a dairy product; as to such persons the tax imposed is equal to the

1 value of the products manufactured or the gross proceeds derived from
2 such sales multiplied by the rate of 0.138 percent. Sellers must keep
3 and preserve records for the period required by RCW 82.32.070
4 establishing that the goods were transported by the purchaser in the
5 ordinary course of business out of this state or sold to a
6 manufacturer for use as an ingredient or component in the
7 manufacturing of a dairy product.

8 (ii) For the purposes of this subsection (1)(c), "dairy products"
9 means:

10 (A) Products, not including any marijuana-infused product, that
11 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,
12 parts 131, 133, and 135, including by-products from the manufacturing
13 of the dairy products, such as whey and casein; and

14 (B) Products comprised of not less than seventy percent dairy
15 products that qualify under (c)(ii)(A) of this subsection, measured
16 by weight or volume.

17 (iii) The preferential tax rate provided to taxpayers under this
18 subsection (1)(c) does not apply to sales of dairy products on or
19 after July 1, 2023, where a dairy product is used by the purchaser as
20 an ingredient or component in the manufacturing in Washington of a
21 dairy product;

22 (d)(i) Beginning July 1, 2025, fruits or vegetables by canning,
23 preserving, freezing, processing, or dehydrating fresh fruits or
24 vegetables, or selling at wholesale fruits or vegetables manufactured
25 by the seller by canning, preserving, freezing, processing, or
26 dehydrating fresh fruits or vegetables and sold to purchasers who
27 transport in the ordinary course of business the goods out of this
28 state; as to such persons the amount of tax with respect to such
29 business is equal to the value of the products manufactured or the
30 gross proceeds derived from such sales multiplied by the rate of
31 0.138 percent. Sellers must keep and preserve records for the period
32 required by RCW 82.32.070 establishing that the goods were
33 transported by the purchaser in the ordinary course of business out
34 of this state.

35 (ii) For purposes of this subsection (1)(d), "fruits" and
36 "vegetables" do not include marijuana, useable marijuana, or
37 marijuana-infused products;

38 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or
39 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as
40 to such persons the amount of tax with respect to the business is

1 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel
2 feedstock manufactured, multiplied by the rate of 0.138 percent; and

3 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
4 persons the amount of tax with respect to the business is equal to
5 the value of wood biomass fuel manufactured, multiplied by the rate
6 of 0.138 percent.

7 (2) Upon every person engaging within this state in the business
8 of splitting or processing dried peas; as to such persons the amount
9 of tax with respect to such business is equal to the value of the
10 peas split or processed, multiplied by the rate of 0.138 percent.

11 (3) Upon every nonprofit corporation and nonprofit association
12 engaging within this state in research and development, as to such
13 corporations and associations, the amount of tax with respect to such
14 activities is equal to the gross income derived from such activities
15 multiplied by the rate of 0.484 percent.

16 (4) Upon every person engaging within this state in the business
17 of slaughtering, breaking and/or processing perishable meat products
18 and/or selling the same at wholesale only and not at retail; as to
19 such persons the tax imposed is equal to the gross proceeds derived
20 from such sales multiplied by the rate of 0.138 percent.

21 (5) Upon every person engaging within this state in the business
22 of acting as a travel agent or tour operator; as to such persons the
23 amount of the tax with respect to such activities is equal to the
24 gross income derived from such activities multiplied by the rate of
25 0.275 percent.

26 (6) Upon every person engaging within this state in business as
27 an international steamship agent, international customs house broker,
28 international freight forwarder, vessel and/or cargo charter broker
29 in foreign commerce, and/or international air cargo agent; as to such
30 persons the amount of the tax with respect to only international
31 activities is equal to the gross income derived from such activities
32 multiplied by the rate of 0.275 percent.

33 (7) Upon every person engaging within this state in the business
34 of stevedoring and associated activities pertinent to the movement of
35 goods and commodities in waterborne interstate or foreign commerce;
36 as to such persons the amount of tax with respect to such business is
37 equal to the gross proceeds derived from such activities multiplied
38 by the rate of 0.275 percent. Persons subject to taxation under this
39 subsection are exempt from payment of taxes imposed by chapter 82.16
40 RCW for that portion of their business subject to taxation under this

1 subsection. Stevedoring and associated activities pertinent to the
2 conduct of goods and commodities in waterborne interstate or foreign
3 commerce are defined as all activities of a labor, service or
4 transportation nature whereby cargo may be loaded or unloaded to or
5 from vessels or barges, passing over, onto or under a wharf, pier, or
6 similar structure; cargo may be moved to a warehouse or similar
7 holding or storage yard or area to await further movement in import
8 or export or may move to a consolidation freight station and be
9 stuffed, unstuffed, containerized, separated or otherwise segregated
10 or aggregated for delivery or loaded on any mode of transportation
11 for delivery to its consignee. Specific activities included in this
12 definition are: Wharfage, handling, loading, unloading, moving of
13 cargo to a convenient place of delivery to the consignee or a
14 convenient place for further movement to export mode; documentation
15 services in connection with the receipt, delivery, checking, care,
16 custody and control of cargo required in the transfer of cargo;
17 imported automobile handling prior to delivery to consignee; terminal
18 stevedoring and incidental vessel services, including but not limited
19 to plugging and unplugging refrigerator service to containers,
20 trailers, and other refrigerated cargo receptacles, and securing ship
21 hatch covers.

22 (8) Upon every person engaging within this state in the business
23 of disposing of low-level waste, as defined in RCW 43.145.010; as to
24 such persons the amount of the tax with respect to such business is
25 equal to the gross income of the business, excluding any fees imposed
26 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

27 If the gross income of the taxpayer is attributable to activities
28 both within and without this state, the gross income attributable to
29 this state must be determined in accordance with the methods of
30 apportionment required under RCW 82.04.460.

31 (9) Upon every person engaging within this state as an insurance
32 producer or title insurance agent licensed under chapter 48.17 RCW or
33 a surplus line broker licensed under chapter 48.15 RCW; as to such
34 persons, the amount of the tax with respect to such licensed
35 activities is equal to the gross income of such business multiplied
36 by the rate of 0.484 percent.

37 (10) Upon every person engaging within this state in business as
38 a hospital, as defined in chapter 70.41 RCW, that is operated as a
39 nonprofit corporation or by the state or any of its political
40 subdivisions, as to such persons, the amount of tax with respect to

1 such activities is equal to the gross income of the business
2 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
3 percent thereafter.

4 (11)(a) Beginning October 1, 2005, upon every person engaging
5 within this state in the business of manufacturing commercial
6 airplanes, or components of such airplanes, or making sales, at
7 retail or wholesale, of commercial airplanes or components of such
8 airplanes, manufactured by the seller, as to such persons the amount
9 of tax with respect to such business is, in the case of
10 manufacturers, equal to the value of the product manufactured and the
11 gross proceeds of sales of the product manufactured, or in the case
12 of processors for hire, equal to the gross income of the business,
13 multiplied by the rate of:

14 (i) 0.4235 percent from October 1, 2005, through June 30, 2007;
15 and

16 (ii) 0.2904 percent beginning July 1, 2007.

17 (b) Beginning July 1, 2008, upon every person who is not eligible
18 to report under the provisions of (a) of this subsection (11) and is
19 engaging within this state in the business of manufacturing tooling
20 specifically designed for use in manufacturing commercial airplanes
21 or components of such airplanes, or making sales, at retail or
22 wholesale, of such tooling manufactured by the seller, as to such
23 persons the amount of tax with respect to such business is, in the
24 case of manufacturers, equal to the value of the product manufactured
25 and the gross proceeds of sales of the product manufactured, or in
26 the case of processors for hire, be equal to the gross income of the
27 business, multiplied by the rate of 0.2904 percent.

28 (c) For the purposes of this subsection (11), "commercial
29 airplane" and "component" have the same meanings as provided in RCW
30 82.32.550.

31 (d) In addition to all other requirements under this title, a
32 person reporting under the tax rate provided in this subsection (11)
33 must file a complete annual report with the department under RCW
34 82.32.534.

35 (e)(i) Except as provided in (e)(ii) and (f) of this subsection
36 (11), this subsection (11) does not apply on and after July 1, 2040.

37 (ii) With respect to the manufacturing of commercial airplanes or
38 making sales, at retail or wholesale, of commercial airplanes, this
39 subsection (11) does not apply on and after July 1st of the year in
40 which the department makes a determination that any final assembly or

1 wing assembly of any version or variant of a commercial airplane that
2 is the basis of a siting of a significant commercial airplane
3 manufacturing program in the state under RCW 82.32.850 has been sited
4 outside the state of Washington. This subsection (11)(e)(ii) only
5 applies to the manufacturing or sale of commercial airplanes that are
6 the basis of a siting of a significant commercial airplane
7 manufacturing program in the state under RCW 82.32.850.

8 (f)(i) Beginning with the taxes due and payable in the first
9 calendar year subsequent to the effective date of this section, and
10 adjusted for taxes due and payable each calendar year thereafter, the
11 preferential tax rate under (a) and (b) of this subsection must be
12 reduced as provided in (f)(ii) of this subsection, if the employment
13 level of a significant aerospace firm is below the employment
14 baseline, except as provided otherwise in (f)(ii)(C) of this
15 subsection.

16 (ii)(A) If a significant aerospace firm has an employment level
17 that is below the employment baseline, except as provided otherwise
18 in (f)(ii)(B) and (C) of this subsection, the following rates apply:

19 (I) A rate of 0.3807 percent for the manufacturing of commercial
20 airplanes, or components of such airplanes, or making sales, at
21 wholesale, of commercial airplanes or components of such airplanes;
22 and

23 (II) A rate of 0.3807 percent of making sales at retail of
24 commercial airplanes or components of such airplanes.

25 (B) If a significant aerospace firm has an employment level that
26 is two thousand five hundred or more employment positions below the
27 employment baseline, (a) and (b) of this subsection do not apply.

28 (C) A tax rate adjustment under (f)(ii)(A) or (B) of this
29 subsection does not apply, and the tax rate for the current calendar
30 year continues to apply, if the number of direct employees in the
31 aerospace industry nationally declines by at least five percent for
32 three or more consecutive months as determined by the state economic
33 and revenue forecast council, or successor entity.

34 (iii) The tax rate adjustment under this subsection (11)(f) only
35 applies to a significant aerospace firm claiming the preferential
36 rate under this subsection (11).

37 (iv) The department must make a determination of any required tax
38 rate adjustment under this subsection (11)(f) by January 1st of the
39 calendar year in which the rate of adjustment is required.

1 (v) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (A) "Employment baseline" means seventy thousand employment
4 positions.

5 (B) "Employment level" means the average number of employment
6 positions reported to the state employment security department for
7 the months of January through September.

8 (C) "Employment position" means a job in which the employee has
9 worked for a significant aerospace firm at an average rate of at
10 least thirty-five hours per week.

11 (D) "Significant aerospace firm" means a manufacturer that has
12 made a final decision to site a significant commercial airplane
13 manufacturing program in the state under RCW 82.32.850.

14 (12)(a) Until July 1, 2024, upon every person engaging within
15 this state in the business of extracting timber or extracting for
16 hire timber; as to such persons the amount of tax with respect to the
17 business is, in the case of extractors, equal to the value of
18 products, including by-products, extracted, or in the case of
19 extractors for hire, equal to the gross income of the business,
20 multiplied by the rate of 0.4235 percent from July 1, 2006, through
21 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
22 2024.

23 (b) Until July 1, 2024, upon every person engaging within this
24 state in the business of manufacturing or processing for hire: (i)
25 Timber into timber products or wood products; or (ii) timber products
26 into other timber products or wood products; as to such persons the
27 amount of the tax with respect to the business is, in the case of
28 manufacturers, equal to the value of products, including by-products,
29 manufactured, or in the case of processors for hire, equal to the
30 gross income of the business, multiplied by the rate of 0.4235
31 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent
32 from July 1, 2007, through June 30, 2024.

33 (c) Until July 1, 2024, upon every person engaging within this
34 state in the business of selling at wholesale: (i) Timber extracted
35 by that person; (ii) timber products manufactured by that person from
36 timber or other timber products; or (iii) wood products manufactured
37 by that person from timber or timber products; as to such persons the
38 amount of the tax with respect to the business is equal to the gross
39 proceeds of sales of the timber, timber products, or wood products
40 multiplied by the rate of 0.4235 percent from July 1, 2006, through

1 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
2 2024.

3 (d) Until July 1, 2024, upon every person engaging within this
4 state in the business of selling standing timber; as to such persons
5 the amount of the tax with respect to the business is equal to the
6 gross income of the business multiplied by the rate of 0.2904
7 percent. For purposes of this subsection (12)(d), "selling standing
8 timber" means the sale of timber apart from the land, where the buyer
9 is required to sever the timber within thirty months from the date of
10 the original contract, regardless of the method of payment for the
11 timber and whether title to the timber transfers before, upon, or
12 after severance.

13 (e) For purposes of this subsection, the following definitions
14 apply:

15 (i) "Biocomposite surface products" means surface material
16 products containing, by weight or volume, more than fifty percent
17 recycled paper and that also use nonpetroleum-based phenolic resin as
18 a bonding agent.

19 (ii) "Paper and paper products" means products made of interwoven
20 cellulosic fibers held together largely by hydrogen bonding. "Paper
21 and paper products" includes newsprint; office, printing, fine, and
22 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
23 kraft bag, construction, and other kraft industrial papers;
24 paperboard, liquid packaging containers, containerboard, corrugated,
25 and solid-fiber containers including linerboard and corrugated
26 medium; and related types of cellulosic products containing
27 primarily, by weight or volume, cellulosic materials. "Paper and
28 paper products" does not include books, newspapers, magazines,
29 periodicals, and other printed publications, advertising materials,
30 calendars, and similar types of printed materials.

31 (iii) "Recycled paper" means paper and paper products having
32 fifty percent or more of their fiber content that comes from
33 postconsumer waste. For purposes of this subsection (12)(e)(iii),
34 "postconsumer waste" means a finished material that would normally be
35 disposed of as solid waste, having completed its life cycle as a
36 consumer item.

37 (iv) "Timber" means forest trees, standing or down, on privately
38 or publicly owned land. "Timber" does not include Christmas trees
39 that are cultivated by agricultural methods or short-rotation
40 hardwoods as defined in RCW 84.33.035.

1 (v) "Timber products" means:
2 (A) Logs, wood chips, sawdust, wood waste, and similar products
3 obtained wholly from the processing of timber, short-rotation
4 hardwoods as defined in RCW 84.33.035, or both;
5 (B) Pulp, including market pulp and pulp derived from recovered
6 paper or paper products; and
7 (C) Recycled paper, but only when used in the manufacture of
8 biocomposite surface products.
9 (vi) "Wood products" means paper and paper products; dimensional
10 lumber; engineered wood products such as particleboard, oriented
11 strand board, medium density fiberboard, and plywood; wood doors;
12 wood windows; and biocomposite surface products.
13 (f) Except for small harvesters as defined in RCW 84.33.035, a
14 person reporting under the tax rate provided in this subsection (12)
15 must file a complete annual survey with the department under RCW
16 82.32.585.
17 (13) Upon every person engaging within this state in inspecting,
18 testing, labeling, and storing canned salmon owned by another person,
19 as to such persons, the amount of tax with respect to such activities
20 is equal to the gross income derived from such activities multiplied
21 by the rate of 0.484 percent.
22 (14)(a) Upon every person engaging within this state in the
23 business of printing a newspaper, publishing a newspaper, or both,
24 the amount of tax on such business is equal to the gross income of
25 the business multiplied by the rate of 0.35 percent until July 1,
26 2024, and 0.484 percent thereafter.
27 (b) A person reporting under the tax rate provided in this
28 subsection (14) must file a complete annual report with the
29 department under RCW 82.32.534.

30 **Sec. 3.** RCW 82.04.4461 and 2013 3rd sp.s. c 2 s 9 are each
31 amended to read as follows:

32 (1)(a)(i) In computing the tax imposed under this chapter, a
33 credit is allowed for each person for qualified aerospace product
34 development. For a person who is a manufacturer or processor for hire
35 of commercial airplanes or components of such airplanes, credit may
36 be earned for expenditures occurring after December 1, 2003. For all
37 other persons, credit may be earned only for expenditures occurring
38 after June 30, 2008.

1 (ii) For purposes of this subsection, "commercial airplane" and
2 "component" have the same meanings as provided in RCW 82.32.550.

3 (b) Before July 1, 2005, any credits earned under this section
4 must be accrued and carried forward and may not be used until July 1,
5 2005. These carryover credits may be used at any time thereafter, and
6 may be carried over until used. Refunds may not be granted in the
7 place of a credit.

8 (2) The credit is equal to the amount of qualified aerospace
9 product development expenditures of a person, multiplied by the rate
10 of 1.5 percent and is further multiplied by fifty percent if the
11 credit is claimed by a significant aerospace firm that has an
12 increased rate under RCW 82.04.260(11)(f)(ii)(A). No credit is
13 allowed for a significant aerospace firm that has an increased rate
14 under RCW 82.04.260(11)(f)(ii)(B).

15 (3) Except as provided in subsection (1)(b) of this section the
16 credit must be claimed against taxes due for the same calendar year
17 in which the qualified aerospace product development expenditures are
18 incurred. Credit earned on or after July 1, 2005, may not be carried
19 over. The credit for each calendar year may not exceed the amount of
20 tax otherwise due under this chapter for the calendar year. Refunds
21 may not be granted in the place of a credit.

22 (4) Any person claiming the credit must file a form prescribed by
23 the department that must include the amount of the credit claimed, an
24 estimate of the anticipated aerospace product development
25 expenditures during the calendar year for which the credit is
26 claimed, an estimate of the taxable amount during the calendar year
27 for which the credit is claimed, and such additional information as
28 the department may prescribe.

29 (5) The definitions in this subsection apply throughout this
30 section.

31 (a) "Aerospace product" has the meaning given in RCW 82.08.975.

32 (b) "Aerospace product development" means research, design, and
33 engineering activities performed in relation to the development of an
34 aerospace product or of a product line, model, or model derivative of
35 an aerospace product, including prototype development, testing, and
36 certification. The term includes the discovery of technological
37 information, the translating of technological information into new or
38 improved products, processes, techniques, formulas, or inventions,
39 and the adaptation of existing products and models into new products
40 or new models, or derivatives of products or models. The term does

1 not include manufacturing activities or other production-oriented
2 activities, however the term does include tool design and engineering
3 design for the manufacturing process. The term does not include
4 surveys and studies, social science and humanities research, market
5 research or testing, quality control, sale promotion and service,
6 computer software developed for internal use, and research in areas
7 such as improved style, taste, and seasonal design.

8 (c) "Qualified aerospace product development" means aerospace
9 product development performed within this state.

10 (d) "Qualified aerospace product development expenditures" means
11 operating expenses, including wages, compensation of a proprietor or
12 a partner in a partnership as determined by the department, benefits,
13 supplies, and computer expenses, directly incurred in qualified
14 aerospace product development by a person claiming the credit
15 provided in this section. The term does not include amounts paid to a
16 person or to the state and any of its departments and institutions,
17 other than a public educational or research institution to conduct
18 qualified aerospace product development. The term does not include
19 capital costs and overhead, such as expenses for land, structures, or
20 depreciable property.

21 (e) "Taxable amount" means the taxable amount subject to the tax
22 imposed in this chapter required to be reported on the person's tax
23 returns during the year in which the credit is claimed, less any
24 taxable amount for which a credit is allowed under RCW 82.04.440.

25 (6) In addition to all other requirements under this title, a
26 person claiming the credit under this section must file a complete
27 annual report with the department under RCW 82.32.534.

28 (7) Credit may not be claimed for expenditures for which a credit
29 is claimed under RCW 82.04.4452.

30 (8) This section expires July 1, 2040.

31 **Sec. 4.** RCW 82.32.534 and 2016 c 175 s 1 are each amended to
32 read as follows:

33 (1)(a) Every person claiming a tax preference that requires a
34 report under this section must file a complete annual report with the
35 department. The report is due by May 31st of the year following any
36 calendar year in which a person becomes eligible to claim the tax
37 preference that requires a report under this section. The department
38 may extend the due date for timely filing of annual reports under
39 this section as provided in RCW 82.32.590.

1 (b) The report must include information detailing employment,
2 wages, and employer-provided health and retirement benefits for
3 employment positions in Washington for the year that the tax
4 preference was claimed. (~~However, persons engaged in manufacturing~~
5 ~~commercial airplanes or components of such airplanes may report~~
6 ~~employment, wage, and benefit information per job at the~~
7 ~~manufacturing site for the year that the tax preference was~~
8 ~~claimed.~~) The report ((~~must~~)) may not include names of employees.
9 The report must also detail employment by the total number of full-
10 time, part-time, and temporary positions for the year that the tax
11 preference was claimed.

12 (c) Persons receiving the benefit of the tax preference provided
13 by RCW 82.16.0421 or claiming any of the tax preferences provided by
14 RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5)
15 must indicate on the annual report the quantity of product produced
16 in this state during the time period covered by the report.

17 (d) If a person filing a report under this section did not file a
18 report with the department in the previous calendar year, the report
19 filed under this section must also include employment, wage, and
20 benefit information for the calendar year immediately preceding the
21 calendar year for which a tax preference was claimed.

22 (2) As part of the annual report, the department may request
23 additional information necessary to measure the results of, or
24 determine eligibility for, the tax preference.

25 (3) Other than information requested under subsection (2) of this
26 section, the information contained in an annual report filed under
27 this section is not subject to the confidentiality provisions of RCW
28 82.32.330 and may be disclosed to the public upon request.

29 (4)(a) Except as otherwise provided by law, if a person claims a
30 tax preference that requires an annual report under this section but
31 fails to submit a complete report by the due date or any extension
32 under RCW 82.32.590, the department must declare:

33 (i) Thirty-five percent of the amount of the tax preference
34 claimed for the previous calendar year to be immediately due and
35 payable; and

36 (ii) An additional fifteen percent of the amount of the tax
37 preference claimed for the previous calendar year to be immediately
38 due and payable if the person has previously been assessed under this
39 subsection (4) for failure to submit a report under this section for
40 the same tax preference.

1 (b) The department may not assess interest or penalties on
2 amounts due under this subsection.

3 (5) The department must use the information from this section to
4 prepare summary descriptive statistics by category. No fewer than
5 three taxpayers may be included in any category. The department must
6 report these statistics to the legislature each year by December
7 31st.

8 (6) For the purposes of this section:

9 (a) "Person" has the meaning provided in RCW 82.04.030 and also
10 includes the state and its departments and institutions.

11 (b) "Tax preference" has the meaning provided in RCW 43.136.021
12 and includes only the tax preferences requiring a survey under this
13 section.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.32
15 RCW to read as follows:

16 (1) By the last workday of the third calendar quarter, the state
17 treasurer must transfer the amount specified in subsection (3) of
18 this section from the general fund to the education legacy trust
19 account created in RCW 83.100.230. The first transfer under this
20 subsection (1), if applicable, must occur by September 30, 2018.

21 (2) By the last workday of the third calendar quarter, the state
22 treasurer must transfer the amount specified in subsection (3) of
23 this section from the general fund to the small business tax credit
24 account created in section 6 of this act. The first transfer under
25 this subsection (2), if applicable, must occur by September 30, 2018.

26 (3) If the department determines that the rate adjustment
27 provisions in RCW 82.04.260(11)(f) are triggered, the department must
28 estimate the increase in state general fund revenue collections for
29 the prior fiscal year based on the rate adjustments. The department
30 must notify the state treasurer of this amount at least twenty days
31 prior to the September transfers under subsections (1) and (2) of
32 this section. This amount will be equally distributed between the
33 education legacy trust account and the small business tax credit
34 account.

35 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.32
36 RCW to read as follows:

37 The small business tax credit account is created in the state
38 treasury. All receipts received pursuant to section 5(2) of this act

1 must be deposited into this account. Moneys in the account may be
2 spent only after appropriation. Expenditures from the account may be
3 used only for small business tax credits authorized by section 8 of
4 this act. Any amounts remaining at the end of a biennium must revert
5 to the education legacy trust account.

6 NEW SECTION. **Sec. 7.** (1) This section is the tax preference
7 performance statement for the tax preference contained in section 8,
8 chapter . . . , Laws of 2017 (section 8 of this act). This performance
9 statement is only intended to be used for subsequent evaluation of
10 the tax preference. It is not intended to create a private right of
11 action by any party or to be used to determine eligibility for
12 preferential tax treatment.

13 (2) The legislature categorizes this tax preference as one
14 intended to induce certain designated taxpayers under RCW
15 82.32.808(2) (c) and (e).

16 (3) The legislature's public policy objective is to encourage job
17 growth by providing tax relief to small businesses in Washington.

18 (4) The measure of the effectiveness of the tax preference of the
19 following must be reviewed: The number of firms utilizing the credit,
20 the value of the credits awarded, and the growth of full-time
21 employees employed by small businesses. If the review finds that more
22 than twenty small businesses participate and the growth of employees
23 by all participating small businesses exceeds one thousand, then the
24 public policy objective is being met.

25 (5) In order to obtain the data necessary to perform the review
26 in subsection (4) of this section, the joint legislative audit and
27 review committee may refer to approved applications on file at the
28 department of revenue.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.04
30 RCW to read as follows:

31 (1) Subject to the limits of this section, a credit against the
32 tax owed under this chapter may be taken by a small business pursuant
33 to this section.

34 (2) The credit amount is one thousand dollars multiplied by the
35 net number of additional employees at the small business in the
36 calendar year for which the credit is claimed as compared to the
37 immediately preceding calendar year. This credit amount is per person

1 per calendar year and subject to an annual statewide maximum as set
2 by the department under subsection (3) of this section.

3 (3) By December 1st of each year, the department must notify
4 taxpayers if there are funds available for tax credits based on the
5 transfers in section 6 of this act. The amount available in the small
6 business tax credit account on November 1st of each calendar year
7 shall be the statewide maximum credit amount allowed for the
8 subsequent calendar year.

9 (4) The credit is available on a first in-time basis up to the
10 annual statewide maximum. Once the statewide maximum amount is
11 reached, the department shall notify taxpayers that the credit is no
12 longer available for that year. The department must disallow any
13 credits, or portion thereof, that would cause the total amount of the
14 credits claimed under this section in any calendar year to exceed the
15 statewide maximum as set in subsection (3) of this section.

16 (5) A tax credit claimed under this section may not be carried
17 over to another year.

18 (6) The credit is nonrefundable.

19 (7) To claim a credit under this section, a person must
20 electronically file with the department all returns, forms, and any
21 other information required by the department, in an electronic format
22 as provided or approved by the department. Any return, form, or
23 information required to be filed in an electronic format under this
24 section is not filed until received by the department in an
25 electronic format.

26 (8) The definitions in this subsection apply throughout this
27 section unless the context clearly requires otherwise.

28 (a) "Employee" means a person who is employed directly by a small
29 business and who works thirty-five hours per week, averaged over a
30 calendar year for the small business.

31 (b) "Small business" means any sole proprietorship, corporation,
32 partnership, or any other legal entity with gross revenue of less
33 than five million dollars as reported on the small business's
34 federal income tax return or its return filed with the department
35 over the previous three consecutive years.

36 (9) This section expires January 1, 2028.

37 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.135
38 RCW to read as follows:

1 RCW 43.135.034(4) does not apply to transfers under section 5 of
2 this act.

3 NEW SECTION. **Sec. 10.** This act may be known and cited as the
4 aerospace tax incentive accountability act.

5 NEW SECTION. **Sec. 11.** This act takes effect August 1, 2017.

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