**2117-S2 AMH FRAM H2385.5 - NOT FOR FLOOR USE**

**2SHB 2117** - H AMD **415**

By Representative Frame

**NOT CONSIDERED 12/23/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) The legislature finds that the Washington tax structure, developed at the turn of the twentieth century, is no longer aligned with our twenty-first century economy. Therefore the legislature intends to analyze if the tax structure is equitable, adequate, stable, transparent, and meeting the needs of the people of Washington state.

(a) In the early 1930s, the Washington supreme court overturned an initiative of the people that approved a tax intended to reduce the over-reliance on the property tax, in the midst of the great depression. In response to the court decision, the 1933 legislature adopted a gross receipts tax on businesses as a temporary measure to balance the state budget. This temporary tax measure, now referred to as the business and occupation tax, remains in law to this day. Because this tax does not allow a deduction for the cost of doing business, the tax penalizes small businesses, start-up businesses, and low margin businesses with high capital costs.

(b) Two years after the enactment of the temporary business tax and amidst deepening financial crisis, the legislature enacted the most comprehensive tax bill in state history, the revenue act of 1935. The act shifted the state's primary revenue source from property tax to excise taxes, making permanent the business and occupation tax and enacting the retail sales and use tax. Excise taxes have resulted in our state tax code being overly regressive. In other words, with a heavy reliance on sales tax and other excise taxes, households at the lowest end of the income spectrum pay more of their income in taxes compared to the wealthiest households in the state.

(c) Since the creation of our regressive tax structure, individual taxpayers and businesses have sought relief from the business and occupation tax, retail sales and use tax, property tax, and other taxes. Over the years, the legislature adopted approximately seven hundred tax preferences including exemptions, deductions, deferrals, credits, exclusions, and preferential tax rates. While some of those tax preferences have a broad and positive impact, such as the voter-approved decision not to charge sales tax on food, many of them benefit just a few at the expense of the majority. The reliance on tax preferences to mitigate the consequences of the state tax structure has resulted in structural deficits and a system that chooses "winners" and "losers" within the code. According to the 2016 tax exemption study completed by the department or revenue, these tax preferences forego 50.4 billion dollars in revenue per biennium. This means the state foregoes more revenue in tax preferences than it collects from its remaining revenue sources, leaving those taxpayers without preferential tax treatment to assume a disproportionate share of the responsibility to fund critical local and state investments.

(2) The legislature further finds that in 2001, the Washington state tax structure study committee under section 138, chapter 7, Laws of 2001 2nd sp. sess., was established to study the elasticity, equity, and adequacy of the state's tax structure.

(a) The tax structure study committee produced a comprehensive report of their research, economic modeling, and resulting tax policy prescriptions. The legislature has adopted some of the recommended changes, including establishing the budget stabilization account, limiting new tax preferences with ten-year expiration dates, and streamlining online retail sales tax administration. While these incremental changes were made, none of the major revenue replacement alternatives have been adopted, including the recommendation to replace the business and occupation tax with a business value added tax.

(b) Since the tax structure study committee's final report was published in November 2002, Washington's population, economy, and communities have changed dramatically. Our state population has increased by more than twenty percent (an estimated 1.3 million additional people). In the decade since the great recession, new economic sectors have been created and global markets have reshaped trade and commerce. Some business sectors have rebounded, stronger than ever, while some sectors have struggled. The evidence of unequal economic recovery is in the details. Five Washington counties have captured seventy-four percent of all new jobs created since 2001. Economic analysis indicates state revenues are decoupling from the state's economic activity, creating structural revenue declines that undermine the state's ability to provide essential services to the people and communities of the state. Washington state and local revenue collections as a share of personal income has dropped approximately ten percent since the late 1990s. Legislative policy choices, voter initiatives, consumer behavior, federal changes, globalization of the trade-based economy, and our transition from a manufacturing economy to a service and information technology-based economy have all contributed to the erosion of the tax base and, in turn, the state general fund revenue.

(3) The legislature further finds that in 2017, the Washington state house tax structure work group under section 101, chapter 1, Laws of 2017 3rd sp. sess., was established to facilitate public discussions throughout the state about the advantages and disadvantages of the state's current tax structure and potential options to improve the current structure for the benefit of individuals, families, and businesses in Washington state. Legislators traveled across the state to hear directly from taxpayers about key challenges in the tax structure that should be studied and addressed in the future.

(a) The taxpayers recommended finding solutions to address the:

(i) Regressive nature of the tax code;

(ii) Negative impact of the business and occupation tax on small, start-up, and low-margin businesses;

(iii) Need to modernize the tax structure to reflect the changing economy; and

(iv) Excessive number of tax preferences and exemptions;

(b) The taxpayers also recommended conducting economic modeling and comparative research of major alternatives to current revenue sources, including but not limited to replacing:

(i) The business and occupation tax with an alternative taxing mechanism such as corporate income tax or margins tax;

(ii) The one percent revenue growth limit on regular property taxes with a limit based on population growth and inflation;

(iii) A portion of the state property tax with a capital gains tax; and

(iv) Other existing revenue sources with alternative revenue sources.

(4) Therefore, it is the intent of the legislature to modernize and rebalance our state tax structure. To accomplish this, the legislature will:

(a) Directly engage in robust conversations with taxpayers, stakeholders, and experts across the state about how to ensure our tax structure is equitable, adequate, stable, and transparent;

(b) Implement the recommendations of the 2017 tax structure work group to continue direct engagement with taxpayers and other stakeholders by adopting a multiyear public engagement process with individuals, communities, and businesses across the state;

(c) Reevaluate the state tax structure, taking into particular consideration the modernizing economy and changing economic reality we currently face as individuals, communities, businesses, and the state as our population grows;

(d) Develop alternatives to our current tax structure for consideration by taxpayers and policymakers, considering the principles of equity, adequacy, stability, and transparency, while also taking into consideration the effect on economic vitality and the harmony with neighboring states' tax systems; and

(e) Recommend policies that consider the principles named in (d) of this subsection and reduce the tax burden on low-income and middle-class households and small, start-up, and low-margin businesses.

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

(1) The tax structure work group created within the 2017-2019 operating budget (chapter 1, Laws of 2017 3rd sp. sess. (Substitute Senate Bill No. 5883)) is reauthorized and expanded to include nine voting members, appointed as follows:

(a) The president of the senate must appoint two members from each of the two largest caucuses of the senate;

(b) The speaker of the house of representatives must appoint two members from each of the two largest caucuses of the house of representatives; and

(c) The governor must appoint one member who represents the office of the governor.

(2) The work group must also include the following nonvoting members:

(a) One representative of the department of revenue;

(b) One representative of the association of Washington cities; and

(c) One representative of the Washington state association of counties.

(3) All voting members of the work group must indicate, in writing, their interest in serving on the tax structure work group and provide a statement of understanding that the commitment to serve on the tax structure work group is through December 31, 2024. Elected officials not reelected to their respective offices may be relieved of their responsibilities on the tax structure work group.

(4) Vacancies on the tax structure work group must be filled within sixty days of notice of the vacancy.

(5) The work group must choose a chair or cochairs from among its legislative membership. The chair is, or cochairs are, responsible for convening the meetings of the work group no less than quarterly each year.

(6) Voting on recommendations and other decisions of the work group are to be agreed upon by a simple majority vote. All work group members may have a representative attend meetings of the tax structure work group in lieu of the member, but voting by proxy is not permitted.

(7) The duties of the department of revenue, with assistance of a technical advisory group(s), are to:

(a) With respect to the final report of findings and alternatives submitted by the Washington state tax structure study committee to the legislature under section 138, chapter 7, Laws of 2001 2nd sp. sess.:

(i) Update the data and research that informed the recommendations and other analysis contained in the final report;

(ii) Estimate how much revenue all the revenue replacement alternatives recommended in the final report would have generated for the 2017-2019 biennium if the state had implemented the alternatives on January 1, 2003;

(iii) Estimate the tax rates necessary to implement all recommended revenue replacement alternatives in order to achieve the revenues generated during the 2017-2019 biennium as reported by the economic and revenue forecast council;

(iv) Estimate the impact on taxpayers, including tax paid as a share of household income for various income levels, and tax paid as a share of total business revenue for various business activities, for (a)(ii) and (iii) of this subsection; and

(v) Estimate how much revenue would have been generated in the 2017-2019 biennium, if the incremental revenue alternatives recommended in the final report would have been implemented on January 1, 2003, excluding any recommendations implemented before the effective date of this section;

(b) With respect to the recommendations in the final report of the 2018 tax structure work group:

(i) Conduct economic modeling or comparable analysis of replacing the business and occupation tax with an alternative, such as corporate income tax or margins tax, and estimate the impact on taxpayers, such as tax paid as a share of total business revenue for various business activities, assuming the same revenues generated by business and occupation taxes during the 2017-2019 biennium as reported by the economic and revenue forecast council; and

(ii) Estimate how much revenue would have been generated for the 2017-2019 biennium if the one percent revenue growth limit on regular property taxes was replaced with a limit based on population growth and inflation if the state had implemented this policy on January 1, 2003;

(c) To analyze our economic competitiveness with border states:

(i) Estimate the revenues that would have been generated during the 2017-2019 biennium, had Washington adopted the tax structure of those states, assuming the economic tax base for the 2017-2019 biennium as reported by the economic and revenue forecast council; and

(ii) Estimate the impact on taxpayers, including tax paid as a share of household income for various income levels, and tax paid as a share of total business revenue for various business activities for (c)(i) of this subsection;

(d) To analyze our economic competitiveness in the context of a national and global economy, provide comparisons of the effective state and local tax rate of the tax structure during the 2017-2019 biennium and various alternatives under consideration, as they compare to other states and the federal government, as well as consider implications of recent changes to federal tax law;

(e) To the degree it is practicable, conduct tax incidence analysis of the various alternatives under consideration to account for the impacts of tax shifting, such as business taxes passed along to consumers and property taxes passed along to renters;

(f) To the degree it is practicable, present findings and alternatives by geographic area, in addition to statewide; and

(g) Conduct other analysis as directed by the work group.

(8) To assist the work group with its duties, the department of revenue must create one or more technical advisory group(s) that:

(a) Must include at least one:

(i) Academic scholar from research institutions in the fields of economics, taxation, business administration, public administration, public policy, or other relevant disciplines as determined by the work group;

(ii) Academic scholar or other recognized expert in the fields of artificial intelligence, the automated economy, or labor primarily provided on a freelance or temporary basis;

(iii) Expert in international trade;

(iv) Expert in economic theory; and

(v) Tax law practitioner, such as a certified public accountant, tax attorney, or other tax preparation professional; and

(b) May include academic scholars and experts from regional universities and community and technical colleges from diverse regions across the state in the fields of economics, taxation, business administration, public administration, and public policy. The department must ensure that the perspective of different regional economies are represented by members of the technical advisory group.

(9) Per the recommendations of the 2018 tax structure work group, the work group is required to develop policy proposals for consideration by the appropriate fiscal committees of the legislature. Any policy proposals developed by the work group may include the analysis done under subsection (7) of this section but proposals are not limited to only the analysis done by the department. Any policy proposals made to the legislature may not result in a loss of revenue to the state as compared to the most recent biennial revenue forecast published by the economic and revenue forecast council. In developing the policy proposals, the work group must be guided by principles for a well-designed tax system, namely, equity, adequacy, stability, and transparency, and address the following key challenges of the Washington state tax structure, as identified by the 2018 report of the tax structure work group:

(a) Regressive nature of the tax code;

(b) Negative impact of the business and occupation tax on small, start-up, and low-margin businesses;

(c) Need to modernize the tax structure to reflect the changing economy; and

(d) Excessive number of tax preferences and exemptions.

(10) The work group must complete its duties on the following schedule:

(a) By December 31, 2019, convene no less than one meeting to elect a chair, or cochairs, and conduct other business of the work group;

(b) By December 1, 2020, the department of revenue and technical advisory group must prepare a summary report of their preliminary findings and alternatives as described in subsection (7) of this section.

(c) By May 1, 2021, the work group must:

(i) Hold no less than one meeting in Olympia to review the preliminary findings described in subsection (7) of this section. At least one meeting must engage stakeholder groups. These stakeholder groups must include, at a minimum, organizations and individuals representing the following:

(A) Small, start-up, or low-margin business owners and employees and/or associations expressly dedicated to representing these businesses; and

(B) Individual taxpayers with income at or below one hundred percent of area median income in their county of residence and/or organizations expressly dedicated to representing low-income and middle-income taxpayers;

(ii) Begin to plan strategies to engage taxpayers and key stakeholder groups to encourage participation in the public meetings described in (d) of this subsection;

(iii) Present the summary report described in (b) of this subsection in compliance with RCW 43.01.036 to the appropriate committees of the legislature;

(iv) Be available to deliver a presentation to the appropriate committees of the legislature including:

(A) The findings and alternatives included in the summary report described in (b) of this subsection; and

(B) The preliminary plan to engage taxpayers directly in a robust conversation about the state's tax structure, including presenting the findings and alternatives described in (b) of this subsection, and collecting feedback to inform development of recommendations; and

(v) Finalize the logistics of the engagement strategies described in (d) of this subsection;

(d) Between the conclusion of the 2021 legislative session and December 31, 2021, the work group must:

(i) Hold no less than five public meetings in geographically dispersed areas of the state;

(ii) Present the findings described in (b) of this subsection and alternatives to the state's current tax structure at the public meetings;

(iii) Provide an opportunity at the public meetings for taxpayers to engage in a conversation about the state tax structure, including but not limited to, providing feedback on possible recommendations for changes to the state tax structure and asking questions about the report and findings and alternatives to the state's current tax structure presented by the work group;

(iv) Utilize methods to collect taxpayer feedback before, during, or after the public meetings that may include, but is not limited to: Small group discussions, in-person written surveys, in-person visual surveys, online surveys, written testimony, and public testimony;

(v) Encourage legislators to inform their constituents about the public meetings that occur within and near their legislative districts;

(vi) Inform local elected officials about the public meetings that occur within and near their communities; and

(vii) Summarize the feedback that taxpayers and other stakeholders communicated during the public meetings and other public engagement methods, and submit a final summary report, in accordance with RCW 43.01.036, to the appropriate committees of the legislature. This report may be submitted as an appendix or update to the summary report described in (b) of this subsection;

(e) During the 2022 legislative session, the work group must:

(i) Present the findings and reports described in (b) and (d) of this subsection to the appropriate committees of the legislature; and

(ii) Be available to deliver a presentation to and/or participate in a work session for the appropriate committees of the legislature;

(f)(i) Between the conclusion of the 2022 legislative session and December 31, 2022, the work group is directed to finalize policy recommendations and develop legislation to implement modifications to the tax structure, informed by the findings described in (b) of this subsection and the feedback received from taxpayers as reflected in the report described in (d) of this subsection;

(ii) During the 2023 legislative session, it is the intent of the legislature to consider the proposal described in (f)(i) of this subsection;

(iii) If the proposal is not adopted during the 2023 legislative session, the work group is directed to host no less than three public meetings to collect feedback on the legislation proposed in the 2023 session, and may also collect feedback on other proposals under consideration by the work group. The work group is directed to modify the proposal to address the feedback collected during the public meetings;

(iv) During the 2024 legislative session, it is the intent of the legislature to consider the modified proposal described in (f)(iii) of this subsection; and

(g) By December 31, 2024, the work group is directed to submit a final report that is a compilation of all other reports previously submitted since July 1, 2019, and may include additional content to summarize final activities of the tax structure work group and related legislation, in compliance with RCW 43.01.036, to the appropriate committees of the legislature.

(11) Staff support for the work group must be provided by the department of revenue, subject to the degree such support is funded through appropriation. The department of revenue may engage one or more outside consultant(s) to assist in providing support for the work group.

(12) Members of the work group must serve without compensation but may be reimbursed for travel expenses under RCW 44.04.120, 43.03.050, and 43.03.060.

(13) This section expires December 31, 2024.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

EFFECT: (1) Modifies the intent language.

(2) Provides additional detail and specificity about the required analysis from the Department of Revenue (Department) and the technical advisory group(s).

(3) Adds requirements for the technical advisory group(s):

(a) Each advisory group must include specific types of academic scholars, experts, and a tax practitioner, as provided by the bill.

(b) The Department must ensure that the perspective of different regional economies are represented by members of the technical advisory group.

(4) Makes the following modifications to the work group schedule:

(a) Requires no less than one meeting to elect a chair, or cochairs, and conduct other business of the work group by December 31, 2019.

(b) Changes the due date for the Department and the technical advisory group to submit a summary report of preliminary findings and alternatives from July 1, 2020, to December 1, 2020.

(c) By May 1, 2021, the work group must:

(i) Hold at least one meeting in Olympia, instead of requiring the work group to hold at least two meetings in Olympia between July 1, 2020, and December 31, 2020;

(ii) Present the summary report to appropriate committees of the legislature, instead of during the 2021 legislative session;

(iii) Be available to deliver a presentation to the appropriate committees of the legislature regarding the preliminary plan for taxpayer engagement, instead of during the 2021 legislative session; and

(iv) Finalize logistics on taxpayer engagement strategies, instead of during the 2021 legislative session.

(5) Removes the requirement that the expenses of the work group must be jointly paid by the senate and the house of representatives.