

## PROPOSED SUBSTITUTE BILL MEMORANDUM

TO: Appropriations Committee Members

FROM: Jeff Mitchell, Staff, Finance Committee  
Catrina Lucero, Staff, Appropriations Committee  
Jessica Harrell, Staff, Appropriations Committee  
Meghan Bunch, Staff, Appropriations Committee

RE: **Proposed Substitute House Bill 2269 (H-2876.8)**  
by Representative Hunter

DATE: June 22, 2015

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### **Brief Summary of Proposed Substitute Bill:**

- Eliminates the preferential B&O tax rate of 0.138 percent for resellers of prescription drugs.
- Repeals the sales and use tax exemption for bottled water.
- Changes the nonresident sales and use tax exemption for tangible personal property into a remittance program.
- Narrows the use tax exemption for extracted fuel.
- Eliminates the preferential B&O tax rate of 0.484 percent for royalty income.
- Establishes a nexus standard for out-of-state sellers that derive income from making retail sales into the state through agreements with Washington residents.
- Establishes an economic nexus standard for wholesale transactions attributable to Washington by out-of-state businesses.
- Limits the availability of a real estate foreclosure exemption.
- Requires local governments that issue building permits to supply subcontractor information to the Department of Revenue.
- Increases late payment penalties for state excise taxes.
- Makes appropriations from the Education Legacy Trust Account, the State General Fund, and other funds for K-12, higher education, the Department of Early Learning, the Secretary of State, the Department of Revenue, and debt service.

### **Background:**

#### Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property,

digital products, or services when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary from 0.5 percent to 3.0 percent, depending on the location.

#### Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss. A business may have more than one B&O tax rate, depending on the types of activities conducted. Major tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services, and activities not classified elsewhere. Several lower rates also apply to specific business activities. A B&O tax credit is provided for businesses whose B&O tax liability is below a certain level. The credit varies depending on the amount of B&O tax due (the total of all classifications) after all other B&O tax credits have been taken. The amount of the small business B&O credit for service-related business is \$840 per year, which completely exempts a service business with annual B&O gross income below \$56,000 and provides a partial reduction in B&O liability for a service business with gross income at or below \$112,000.

#### Preferential B&O Tax Rate for Resellers of Prescription Drugs.

A preferential B&O tax rate of 0.138 percent is provided to persons that warehouse and resell prescription drugs to retailers, hospitals, clinics, health care providers, or other providers of health care services. This tax preference was enacted to help Washington wholesalers that compete with out-of-state firms that are not subject to B&O tax due to a lack of sufficient nexus with the state. The state was unable to restrict the preferential rate only to companies with in-state warehouses. Therefore, out-of-state wholesalers with nexus in Washington also qualify for the preferential B&O tax rate. Without the preferential B&O tax rate, these businesses would pay the wholesaling B&O tax rate of 0.484 percent.

#### Sales and Use Tax Exemption for Food and Food Ingredients, Including Bottled Water.

Washington specifically exempts "food and food ingredients" from state and local sales and use taxes. Therefore, any food product included within the definition of "food and food ingredients" is exempt from sales and use tax. "Food and food ingredients" is defined to mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Prepared food, soft drinks, and dietary supplements are excluded from the definition and therefore subject to sales and use tax. However, bottled water is included within the definition and therefore exempt from sales and use tax.

#### Preferential B&O Tax Rate for Royalty Income.

Currently, royalty receipts are apportioned using a single factor receipts method and taxed at a rate of 0.484 percent. The 0.484 percent rate was adopted in 1998 (lowered from 1.5 percent) to align software royalty receipts with the rates for software manufacturing. Royalty income is compensation for the use of intangible personal property such as copyrights, patents, licenses, franchises, trademarks, and similar items.

### Nonresident Sales Tax Exemption.

A sales tax exemption is allowed to a resident of a state, possession, or Canadian province that does not impose a retail sales tax, use tax, value-added tax, gross receipts tax, or similar generally applicable tax of 3 percent or more on purchases of goods for use outside the state. The exemption does not apply to items or services consumed in the state such as hotel stays or meals at restaurants. Retailers are not required to make tax exempt sales to qualifying nonresidents. A vendor may choose to collect sales tax on purchases made by qualifying nonresidents or to sell merchandise tax free.

### Use Tax Exemption for Extracted Fuel.

Fuel consumed by manufacturers or extractors is exempt from use tax when the fuel is used in the process of manufacturing or extracting at the same plant. The fuels for which the exemption generally applies are to wood by-products, also referred to as "hog fuel," and to refinery fuel gas. A court decision made shortly before the Legislature created the preference in 1949 dealt with the taxability of a wood product manufacturer, the initial primary user of the exemption. There were no refineries operating in Washington when this preference was enacted in 1949. There are currently five active refineries in Washington.

### Nexus.

As currently interpreted by the United States Supreme Court, the commerce clause of the United States Constitution prohibits states from imposing sales or use tax collection obligations on out-of-state businesses unless the business has a substantial nexus with the taxing state. Under the Court's decision in *Quill Corp. v. North Dakota* (1992), a substantial nexus for sales and use tax collection purposes requires that the taxpayer have a physical presence in the taxing state. Physical presence can be established through a taxpayer's own activities in the taxing state, or indirectly, through independent contractors, agents, or other representatives that act on behalf of the taxpayer in the taxing state.

Currently, Washington cannot impose wholesaling B&O tax on sales of goods that originate outside the state unless the goods are:

- received by the purchaser in this state; and
- the out-of-state seller has physical presence nexus (i.e. the same physical nexus requirement that is used for sales tax purposes).

Both the criteria must be met for the seller to be subject to Washington B&O taxation.

In 2010 Washington adopted an economic presence test for nexus with respect to service-related activities but not wholesaling or retailing activities. For these classifications, a business does not need to have a physical presence to have nexus and be subject to Washington tax. Economic nexus is established by having sales in excess of \$267,000 to Washington customers. (The threshold is adjusted from year-to-year based on inflation.)

### Real Estate Excise Tax (REET) Foreclosure Exemption.

The REET is imposed on each sale of real property, including transfers of ownership and transfers of controlling interests in entities that own property in the state. Real property includes

any interest in land or anything affixed to land. The state tax rate is 1.28 percent. Additional local rates are allowed. The combined state and local rate in most areas is 1.78 percent.

The REET does not apply to transfers made in foreclosure proceedings or through enforcement of a judgment, including foreclosures that occur through auction without court oversight. The REET also does not apply to a deed given in lieu of foreclosure to satisfy a mortgage or deed of trust.

#### Local Government Data with Respect to Building Permits.

Building permit applicants must provide information to a local government in which a building permit is sought regarding the general contractor, but not subcontractors. This information is not shared by all localities with state agencies.

#### Late Payment Penalties.

Under current law, late excise tax returns receive a penalty of:

- 5 percent from one day after the due date to the last day of the month following the due date;
- 15 percent from the first day of the second month following the due date to the last day of that month; and
- 25 percent from the first day of the third month and thereafter.

#### Deposit of Sales and B&O Taxes.

Almost all revenues derived from sales and B&O taxes are deposited into the State General Fund. The Education Legacy Trust Account (ELTA) was created in 2005. Currently, the Washington estate tax is the sole source of revenue for the ELTA. Money in the ELTA can only be used for K-12 and higher education.

#### State Expenditure Limit.

First enacted in 1993 by Initiative 601, the state expenditure limit allows expenditures from the State General Fund to grow each fiscal year by the fiscal growth factor, which is the average annual growth in state personal income over the prior 10 fiscal years. Whenever the cost of any state program or function is shifted from the State General Fund or moneys are transferred from the State General Fund to another fund or account, the state expenditure limit must be lowered to reflect the shift or transfer.

#### State Debt Limit.

The state constitution limits the issuance of state general obligation debt. The State Treasurer may not issue a general obligation bond if the amount of interest and principal payments in any year, along with debt payments for existing bonds, would exceed 9.0 percent of the average of the annual general state revenue collections for the previous six fiscal years. The constitutional debt limit is reduced over time from 9.0 percent to 8.0 percent by July 1, 2034. It is set at 8.5 percent starting July 1, 2014; 8.25 percent starting July 1, 2016; and 8.0 percent starting July 1, 2034. The definition of general state revenues includes the state property tax because it is deposited in the State General Fund.

## **Summary of Proposed Substitute Bill:**

### Preferential B&O Tax Rate for Prescription Drug Resellers.

The preferential rate for resellers of prescription drugs is repealed. Resellers of prescription drugs are subject to the 0.484 percent wholesaling rate.

### Sales Taxes on Bottled Water.

State and local sales and use taxes are extended to bottled water by removing bottled water from the food and food ingredients sales tax exemption. Exemptions are provided for bottled water dispensed by

### Preferential B&O Tax Rate for Royalty Income.

Currently, royalty receipts are apportioned using a single factor receipts method and taxed at a rate of 0.484 percent. The 0.484 percent rate was adopted in 1998 (lowered from 1.5 percent) to align software royalty receipts with the rates for software manufacturing. Royalty income is compensation for the use of intangible personal property such as copyrights, patents, licenses, franchises, trademarks, and similar items.

### Nonresident Sales Tax Exemption.

A sales tax exemption is allowed to a resident of a state, possession, or Canadian province that does not impose a retail sales tax, use tax, value-added tax, gross receipts tax, or similar generally applicable tax of 3 percent or more on purchases of goods for use outside the state. The exemption does not apply to items or services consumed in the state such as hotel stays or meals at restaurants. Retailers are not required to make tax exempt sales to qualifying nonresidents. A vendor may choose to collect sales tax on purchases made by qualifying nonresidents or to sell merchandise tax free.

### Use Tax Exemption for Extracted Fuel.

Fuel consumed by manufacturers or extractors is exempt from use tax when the fuel is used in the process of manufacturing or extracting at the same plant. The fuels for which the exemption generally applies are to wood by-products, also referred to as "hog fuel," and to refinery fuel gas. A court decision made shortly before the Legislature created the preference in 1949 dealt with the taxability of a wood product manufacturer, the initial primary user of the exemption. There were no refineries operating in Washington when this preference was enacted in 1949. There are currently five active refineries in Washington.

### Nexus.

As currently interpreted by the United States Supreme Court, the commerce clause of the United States Constitution prohibits states from imposing sales or use tax collection obligations on out-of-state businesses unless the business has a substantial nexus with the taxing state. Under the Court's decision in *Quill Corp. v. North Dakota* (1992), a substantial nexus for sales and use tax collection purposes requires that the taxpayer have a physical presence in the taxing state. Physical presence can be established through a taxpayer's own activities in the taxing state, or indirectly, through independent contractors, agents, or other representatives that act on behalf of the taxpayer in the taxing state.

In 2010 Washington adopted an economic presence test for nexus with respect to service-related activities. For these classifications, a business does not need to have a physical presence to have nexus and be subject to Washington tax. Economic nexus is established by having sales in excess of \$267,000 to Washington customers. (The threshold is adjusted from year-to-year.)

This proposal eliminates the "physical presence" standard and replaces it with an "economic nexus" standard for wholesaling activities. Wholesale businesses that lack physical nexus but gross \$267,000 or more in sales to Washington customers in any calendar year will become subject to B&O tax.

#### Real Estate Excise Tax (REET) Foreclosure Exemption.

The REET is imposed on each sale of real property, including transfers of ownership and transfers of controlling interests in entities that own property in the state. Real property includes any interest in land or anything affixed to land. The state tax rate is 1.28 percent. Additional local rates are allowed. The combined state and local rate in most areas is 1.78 percent.

The REET does not apply to transfers made in foreclosure proceedings or through enforcement of a judgment, including foreclosures that occur through auction without court oversight. The REET also does not apply to a deed given in lieu of foreclosure to satisfy a mortgage or deed of trust.

#### Local Government Data with Respect to Building Permits.

Building permit applicants must provide information to a local government in which a building permit is sought regarding the general contractor, but not subcontractors. This information is not shared by all localities with state agencies.

#### Late Payment Penalties.

Under current law, late excise tax returns are subject to a penalty of:

- 5 percent from one day after the due date to the last day of the month following the due date;
- 15 percent from the first day of the second month following the due date to the last day of that month; and
- 25 percent from the first day of the third month and thereafter.

#### Deposit of Additional Tax Revenues.

Because new B&O and sales tax revenues in the bill cannot be directly tracked, these additional amounts are estimated twice a year by the DOR and transferred from the State General Fund to the ELTA. Early learning is added as an authorized use of the ELTA.

#### State Expenditure Limit.

The transfers from the State General Fund to the ELTA are exempted from the requirement to lower the state expenditure limit.

#### State Debt Limit.

New tax revenues initially deposited in the State General Fund are explicitly excluded from the calculation of general state revenues for purposes of the state debt limit determination.

Appropriations.

Appropriations are made for the 2015-17 fiscal biennium.

- A total of \$12.9 million from the State General Fund for the Secretary of State and the Department of Revenue.
- A total of \$159.2 million from the ELTA for K-12 programs and compensation.
- A total of \$103.6 million from the ELTA for higher education institutions and financial aid.
- A total of \$32.0 million from the Building Construction fund for the University of Washington.
- A total of \$28.3 million for the Department of Early Learning.
- A total of \$37.2 million from various funds for debt service.

Effective Date.

The bill contains an emergency clause and takes effect August 1, 2015, except section 1004 and Part IX, relating to the Education Legacy Trust Account and appropriations from it and other accounts, which take effect July 1, 2015, and Parts I, VI, and VII, relating to excise taxes, which take effect September 1, 2015.

**Proposed Substitute House Bill 2269**

Near General Fund Plus Opportunity Pathways

(Dollars In Millions)

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>Four Years</u>
<b>Beginning Balance</b>	0.0	53.1	15.5	3.8	<b>0.0</b>
<b>Additional Revenues</b>	145.1	211.2	229.8	244.6	<b>830.7</b>
<b>Additional Spending</b>					
K-12	56.5	102.7	117.6	122.1	398.8
Higher Education	10.3	93.3	69.5	69.7	242.9
Early Learning	14.1	14.1	14.2	14.3	56.7
Debt Service (15-17 Cap Budget)	4.0	32.8	34.3	35.8	106.9
All Other Items	<u>7.0</u>	<u>5.9</u>	<u>5.9</u>	<u>5.9</u>	<u>24.7</u>
<b>Total Spending</b>	92.0	248.8	241.5	247.8	<b>830.1</b>
<b>Ending Balance</b>	53.1	15.5	3.8	0.6	<b>0.6</b>

**2015-17 Omnibus Operating Budget**  
**PSHB 2269 (June 22)**  
(Dollars in Thousands)

	FTEs	NGF+OpPth	Total
<b>Governmental Operations</b>			
<b>Office of the Secretary of State</b>			
1. Information Technology Academy	0.0	1,543	1,543
<b>Department of Revenue</b>			
2. Revenue Implementation Funding	54.0	11,369	11,369
<b>Total Governmental Operations</b>	<b><u>54.0</u></b>	<b><u>12,912</u></b>	<b><u>12,912</u></b>
<b>Public Schools</b>			
<b>OSPI &amp; Statewide Programs</b>			
3. Computer Science Grants	0.0	2,000	2,000
4. College Success	<u>0.0</u>	<u>2,867</u>	<u>2,867</u>
Total	0.0	4,867	4,867
<b>Education Reform</b>			
5. Microsoft IT Academy	0.0	2,000	2,000
<b>Compensation Adjustments</b>			
6. Additional COLA	0.0	152,294	152,294
<b>Total Public Schools</b>	<b><u>0.0</u></b>	<b><u>159,161</u></b>	<b><u>159,161</u></b>
<b>Higher Education</b>			
<b>Student Achievement Council</b>			
7. Opportunity Scholarship	0.0	24,000	24,000
<b>University of Washington</b>			
8. Computer Science Building	0.0	0	32,000
9. Computer Science Enrollments	0.0	12,000	12,000
10. Medical Residencies	0.0	8,000	8,000
11. Freeze Tuition/State Support	<u>0.0</u>	<u>18,084</u>	<u>0</u>
Total	0.0	38,084	52,000
<b>Washington State University</b>			
12. WSU Medical School	0.0	2,500	2,500
13. Freeze Tuition/State Support	<u>0.0</u>	<u>10,349</u>	<u>0</u>
Total	0.0	12,849	2,500
<b>Eastern Washington University</b>			
14. Freeze Tuition/State Support	0.0	3,228	0
<b>Central Washington University</b>			
15. Freeze Tuition/State Support	0.0	2,806	0
<b>The Evergreen State College</b>			
16. Freeze Tuition/State Support	0.0	1,393	0

**2015-17 Omnibus Operating Budget**  
**PSHB 2269 (June 22)**  
(Dollars in Thousands)

	FTEs	NGF+OpPth	Total
<b>Western Washington University</b>			
17. Freeze Tuition/State Support	0.0	4,178	0
<b>Community &amp; Technical College System</b>			
18. MESA Expansion	0.0	2,500	2,500
19. Freeze Tuition/State Support	0.0	14,609	0
Total	0.0	17,109	2,500
<b>Total Higher Education</b>	<b>0.0</b>	<b>103,647</b>	<b>81,000</b>
<b>Other Education</b>			
<b>Department of Early Learning</b>			
20. ECEAP Expansion	3.5	24,250	24,250
21. Early Intervention	0.0	4,000	4,000
Total	3.5	28,250	28,250
<b>Total Other Education</b>	<b>3.5</b>	<b>28,250</b>	<b>28,250</b>
<b>Special Appropriations</b>			
<b>Bond Retirement and Interest</b>			
22. Debt Service on New Projects	0.0	36,800	37,209
<b>Total Special Appropriations</b>	<b>0.0</b>	<b>36,800</b>	<b>37,209</b>
<b>Total</b>	<b>57.5</b>	<b>340,770</b>	<b>318,532</b>

*Comments:*

**Governmental Operations**

**Office of the Secretary of State**

1. **INFORMATION TECHNOLOGY ACADEMY** - Funding is provided for the State Library to purchase statewide online access to the Information Technology Academy to allow public access to online courses and learning resources through public libraries.

**Department of Revenue**

2. **REVENUE IMPLEMENTATION FUNDING** - Funding is provided for the implementation of legislation impacting the Department of Revenue. (General Fund-State)

**Public Schools**

**OSPI & Statewide Programs**

3. **COMPUTER SCIENCE GRANTS** - Funding is provided for a computer science and education grant program to support three purposes: train and credential teachers in computer sciences; provide and upgrade technology needed to learn computer science; and for computer science frontiers grants to introduce students to and engage them in computer science. The Office of the Superintendent of Public Instruction is directed to use the computer science learning standards adopted pursuant to Chapter 3, Laws of 2015 1st sp. sess. (cop. science ed) in implementing the grant.

**2015-17 Omnibus Operating Budget  
PSHB 2269 (June 22)**

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4. **COLLEGE SUCCESS** - Washington Achievers Scholars supports community involvement officers in the recruitment, training, and matching of community volunteer mentors with students selected as achievers scholars, providing mentorship to low income high school juniors and seniors through their freshman year of college. The College Bound Scholarship program provides annual college tuition and a book allowance for low income Washington Students. Funding is provided to expand the Washington Achievers Scholars program within King and Pierce counties. Additionally, funding is provided to replace federal and private dollars that are no longer available to the College Bound Scholarship program.

**Education Reform**

5. **MICROSOFT IT ACADEMY** - Additional funding is provided to expand the Microsoft IT Academy in middle schools.

**Compensation Adjustments**

6. **ADDITIONAL COLA** - Consistent with the increases provided to state employees, the school employee cost-of-living increases are funded at 3.0 percent for the 2015-16 school year and 1.8 percent for the 2016-17 school year. These increases are inclusive of the Initiative 732 cost-of-living increase estimated at 1.8 percent for the 2015-16 school year and 1.2 percent for the 2016-17 school year, as provided in the omnibus appropriations act.

**Higher Education**

**Student Achievement Council**

7. **OPPORTUNITY SCHOLARSHIP** - Funding is provided for state match requirements in FY 2016 and expected state match requirements in FY 2017. (Education Legacy Trust Account-State)

**University of Washington**

8. **COMPUTER SCIENCE BUILDING** - Funding is provided for the computer science and engineering building at the University of Washington. (State Building Construction Account-State)
9. **COMPUTER SCIENCE ENROLLMENTS** - Funding is provided to expand computer science and engineering enrollments in the Department of Computer Science and Engineering at the Seattle campus. (Education Legacy Trust Account-State)
10. **MEDICAL RESIDENCIES** - Additional funding is provided to the Family Practice Medicine Residency Network at the UW to expand the number of residency slots available in Washington. (Education Legacy Trust Account-State)
11. **FREEZE TUITION/STATE SUPPORT** - Funding is provided to freeze resident undergraduate tuition and increase state support. (Education Legacy Trust Account-State)

**Washington State University**

12. **WSU MEDICAL SCHOOL** - Funding is provided for Washington State University to establish a medical school in Spokane. (Education Legacy Trust Account-State)
13. **FREEZE TUITION/STATE SUPPORT** - Funding is provided to freeze resident undergraduate tuition and increase state support. (Education Legacy Trust Account-State)

**Eastern Washington University**

14. **FREEZE TUITION/STATE SUPPORT** - Funding is provided to freeze resident undergraduate tuition and increase state support. (Education Legacy Trust Account-State)

**Central Washington University**

15. **FREEZE TUITION/STATE SUPPORT** - Funding is provided to freeze resident undergraduate tuition and increase state support. (Education Legacy Trust Account-State)

**The Evergreen State College**

16. **FREEZE TUITION/STATE SUPPORT** - Funding is provided to freeze resident undergraduate tuition and increase state support. (Education Legacy Trust Account-State)

**2015-17 Omnibus Operating Budget  
PSHB 2269 (June 22)**

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**Western Washington University**

17. **FREEZE TUITION/STATE SUPPORT** - Funding is provided to freeze resident undergraduate tuition and increase state support. (Education Legacy Trust Account-State)

**Community & Technical College System**

18. **MESA EXPANSION** - The Mathematics, Engineering, Science Achievement (MESA) program improves math outcomes for community and technical college students from under-represented communities. Funding is provided to expand the presence of the Mathematics, Engineering, Science Achievement (MESA) community college program on campuses throughout Washington. (Education Legacy Trust Account-State)
19. **FREEZE TUITION/STATE SUPPORT** - Funding is provided to freeze resident tuition and increase state support. (Education Legacy Trust Account-State)

**Other Education**

**Department of Early Learning**

20. **ECEAP EXPANSION** - Additional slots are added to the Early Childhood Education and Assistance program (ECEAP), which provides pre-school and wrap-around services to low-income children. An additional 1,600 2.5 hour standard ECEAP slots are provided in FY 2016 and maintained in FY 2017. All new slots are funded at the current rate of \$7,578 per slot per year. (Education Legacy Trust Account-State)
21. **EARLY INTERVENTION** - Funding for early intervention assessment and services, such as physical and speech therapy, is increased. Increased funding will support approximately 1,500 more children. (Education Legacy Trust Account-State)

**Special Appropriations**

**Bond Retirement and Interest**

22. **DEBT SERVICE ON NEW PROJECTS** - Funding is provided for debt service incurred from issuing new debt to fund the 2015-17 biennial capital budget. (General Fund-State, various other accounts)

Estimate \$'s in millions		Revenues					
Bill HB		15-17			17-19		
2269	Description of Revenues	FY 2016	FY 2017	Biennium	FY 2018	FY 2019	Biennium
1	Extend the sales tax to bottled water	\$17.5	\$23.0	\$40.5	\$22.6	\$22.2	\$44.8
2	Refund state sales tax if nonresident pays \$25 or more sales tax in a year (states, possessions, and provinces <3.0% sales tax)	\$21.9	\$27.4	\$49.3	\$28.5	\$29.4	\$57.9
3	Repeal preferential B&O tax rate for prescription drug resellers (0.484%)	\$14.7	\$18.5	\$33.2	\$19.3	\$20.1	\$39.4
4	Narrowing the use tax exemption for extracted fuel	\$13.1	\$15.9	\$29.0	\$16.1	\$16.2	\$32.3
5	Repeal preferential B&O rate for royalty income	\$13.9	\$17.4	\$31.3	\$18.3	\$19.2	\$37.5
6	Click-through Nexus only	\$11.8	\$16.5	\$28.3	\$17.3	\$18.0	\$35.3
7	Limit REET exemption for foreclosures	\$30.0	\$43.9	\$73.9	\$45.6	\$47.3	\$92.9
8	Increase late payment penalties: 5% to 8%, 15% to 18% and 25% to 28%	\$7.8	\$9.4	\$17.2	\$9.4	\$9.4	\$18.8
9	Improve DOR data collection from local government	\$2.4	\$5.8	\$8.2	\$8.6	\$8.6	\$17.2
10	Extend economic nexus to wholesaling	\$12.0	\$33.4	\$45.4	\$44.1	\$54.2	\$98.3
	<b>GRAND TOTAL</b>	\$145.1	\$211.2	\$356.3	\$229.8	\$244.6	\$474.4



# Proposed Substitute House Bill 2269

## by Representative Hunter

1 AN ACT Relating to investing in education and essential public  
 2 services by modifying and improving the fairness of Washington's tax  
 3 system; amending RCW 82.08.0293, 82.12.0293, 82.08.0273, 82.12.0263,  
 4 82.04.2907, 82.04.066, 82.04.067, 82.04.424, 82.45.010, 82.45.080,  
 5 82.32.090, 18.27.110, 18.27.200, and 83.100.230; reenacting and  
 6 amending RCW 82.04.280 and 82.32.790; adding new sections to chapter  
 7 82.08 RCW; adding new sections to chapter 82.12 RCW; adding new  
 8 sections to chapter 82.32 RCW; adding a new section to chapter 43.135  
 9 RCW; adding a new section to chapter 39.42 RCW; creating new  
 10 sections; repealing RCW 82.04.272; repealing 2010 c 106 s 206, 2009 c  
 11 461 s 3, 2006 c 300 s 7, and 2003 c 149 s 4; prescribing penalties;  
 12 making appropriations; providing effective dates; and declaring an  
 13 emergency.

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

15 **PART I**  
 16 **Eliminating the Sales and Use Tax Exemption for Bottled Water**

17 **Sec. 101.** RCW 82.08.0293 and 2014 c 140 s 22 are each amended to  
 18 read as follows:

19 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
 20 food and food ingredients. "Food and food ingredients" means

1 substances, whether in liquid, concentrated, solid, frozen, dried, or  
2 dehydrated form, that are sold for ingestion or chewing by humans and  
3 are consumed for their taste or nutritional value. "Food and food  
4 ingredients" does not include:

5 (a) "Alcoholic beverages," which means beverages that are  
6 suitable for human consumption and contain one-half of one percent or  
7 more of alcohol by volume;

8 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe  
9 tobacco, or any other item that contains tobacco; and

10 (c) Marijuana, useable marijuana, or marijuana-infused products.

11 (2) The exemption of "food and food ingredients" provided for in  
12 subsection (1) of this section does not apply to prepared food, soft  
13 drinks, bottled water, or dietary supplements. (~~For purposes of this~~  
14 ~~subsection, the following definitions apply:~~) The definitions in  
15 this subsection apply throughout this section unless the context  
16 clearly requires otherwise.

17 (a) "Bottled water" means water that is placed in a safety sealed  
18 container or package for human consumption. Bottled water is calorie  
19 free and does not contain sweeteners or other additives except that  
20 it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)  
21 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;  
22 (vi) preservatives; and (vii) only those flavors, extracts, or  
23 essences derived from a spice or fruit. "Bottled water" includes  
24 water that is delivered to the buyer in a reusable container that is  
25 not sold with the water.

26 (b) "Dietary supplement" means any product, other than tobacco,  
27 intended to supplement the diet that:

28 (i) Contains one or more of the following dietary ingredients:

29 (A) A vitamin;

30 (B) A mineral;

31 (C) An herb or other botanical;

32 (D) An amino acid;

33 (E) A dietary substance for use by humans to supplement the diet  
34 by increasing the total dietary intake; or

35 (F) A concentrate, metabolite, constituent, extract, or  
36 combination of any ingredient described in this subsection;

37 (ii) Is intended for ingestion in tablet, capsule, powder,  
38 softgel, gelcap, or liquid form, or if not intended for ingestion in  
39 such form, is not represented as conventional food and is not  
40 represented for use as a sole item of a meal or of the diet; and

1 (iii) Is required to be labeled as a dietary supplement,  
2 identifiable by the "supplement facts" box found on the label as  
3 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered  
4 as of January 1, 2003.

5 ~~((b))~~ (c)(i) "Prepared food" means:

6 (A) Food sold in a heated state or heated by the seller;

7 (B) Food sold with eating utensils provided by the seller,  
8 including plates, knives, forks, spoons, glasses, cups, napkins, or  
9 straws. A plate does not include a container or packaging used to  
10 transport the food; or

11 (C) Two or more food ingredients mixed or combined by the seller  
12 for sale as a single item, except:

13 (I) Food that is only cut, repackaged, or pasteurized by the  
14 seller; or

15 (II) Raw eggs, fish, meat, poultry, and foods containing these  
16 raw animal foods requiring cooking by the consumer as recommended by  
17 the federal food and drug administration in chapter 3, part 401.11 of  
18 The Food Code, published by the food and drug administration, as  
19 amended or renumbered as of January 1, 2003, so as to prevent  
20 foodborne illness.

21 (ii) "Prepared food" does not include the following food or food  
22 ingredients, if the food or food ingredients are sold without eating  
23 utensils provided by the seller:

24 (A) Food sold by a seller whose proper primary North American  
25 industry classification system (NAICS) classification is  
26 manufacturing in sector 311, except subsector 3118 (bakeries), as  
27 provided in the "North American industry classification system—United  
28 States, 2002";

29 (B) Food sold in an unheated state by weight or volume as a  
30 single item; or

31 (C) Bakery items. The term "bakery items" includes bread, rolls,  
32 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,  
33 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

34 ~~((e))~~ (d) "Soft drinks" means nonalcoholic beverages that  
35 contain natural or artificial sweeteners. Soft drinks do not include  
36 beverages that contain: Milk or milk products; soy, rice, or similar  
37 milk substitutes; or greater than fifty percent of vegetable or fruit  
38 juice by volume.

39 (3) Notwithstanding anything in this section to the contrary, the  
40 exemption of "food and food ingredients" provided in this section

1 applies to food and food ingredients that are furnished, prepared, or  
2 served as meals:

3 (a) Under a state administered nutrition program for the aged as  
4 provided for in the older Americans act (P.L. 95-478 Title III) and  
5 RCW 74.38.040(6);

6 (b) That are provided to senior citizens, individuals with  
7 disabilities, or low-income persons by a not-for-profit organization  
8 organized under chapter 24.03 or 24.12 RCW; or

9 (c) That are provided to residents, sixty-two years of age or  
10 older, of a qualified low-income senior housing facility by the  
11 lessor or operator of the facility. The sale of a meal that is billed  
12 to both spouses of a marital community or both domestic partners of a  
13 domestic partnership meets the age requirement in this subsection  
14 (3)(c) if at least one of the spouses or domestic partners is at  
15 least sixty-two years of age. For purposes of this subsection,  
16 "qualified low-income senior housing facility" means a facility:

17 (i) That meets the definition of a qualified low-income housing  
18 project under 26 U.S.C. Sec. 42 of the federal internal revenue code,  
19 as existing on August 1, 2009;

20 (ii) That has been partially funded under 42 U.S.C. Sec. 1485;  
21 and

22 (iii) For which the lessor or operator has at any time been  
23 entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42  
24 of the federal internal revenue code.

25 (4)(a) Subsection (1) of this section notwithstanding, the retail  
26 sale of food and food ingredients is subject to sales tax under RCW  
27 82.08.020 if the food and food ingredients are sold through a vending  
28 machine. Except as provided in (b) of this subsection, the selling  
29 price of food and food ingredients sold through a vending machine for  
30 purposes of RCW 82.08.020 is fifty-seven percent of the gross  
31 receipts.

32 (b) For soft drinks, bottled water, and hot prepared food and  
33 food ingredients, other than food and food ingredients which are  
34 heated after they have been dispensed from the vending machine, the  
35 selling price is the total gross receipts of such sales divided by  
36 the sum of one plus the sales tax rate expressed as a decimal.

37 (c) For tax collected under this subsection (4), the requirements  
38 that the tax be collected from the buyer and that the amount of tax  
39 be stated as a separate item are waived.

1       **Sec. 102.** RCW 82.12.0293 and 2011 c 2 s 303 are each amended to  
2 read as follows:

3       (1) The provisions of this chapter do not apply in respect to the  
4 use of food and food ingredients for human consumption. "Food and  
5 food ingredients" has the same meaning as in RCW 82.08.0293.

6       (2) The exemption of "food and food ingredients" provided for in  
7 subsection (1) of this section does not apply to prepared food, soft  
8 drinks, bottled water, or dietary supplements. "Prepared food," "soft  
9 drinks," "bottled water," and "dietary supplements" have the same  
10 meanings as in RCW 82.08.0293.

11       (3) Notwithstanding anything in this section to the contrary, the  
12 exemption of "food and food ingredients" provided in this section  
13 applies to food and food ingredients which are furnished, prepared,  
14 or served as meals:

15       (a) Under a state administered nutrition program for the aged as  
16 provided for in the older Americans act (P.L. 95-478 Title III) and  
17 RCW 74.38.040(6);

18       (b) Which are provided to senior citizens, individuals with  
19 disabilities, or low-income persons by a not-for-profit organization  
20 organized under chapter 24.03 or 24.12 RCW; or

21       (c) That are provided to residents, sixty-two years of age or  
22 older, of a qualified low-income senior housing facility by the  
23 lessor or operator of the facility. The sale of a meal that is billed  
24 to both spouses of a marital community or both domestic partners of a  
25 domestic partnership meets the age requirement in this subsection  
26 (3)(c) if at least one of the spouses or domestic partners is at  
27 least sixty-two years of age. For purposes of this subsection,  
28 "qualified low-income senior housing facility" has the same meaning  
29 as in RCW 82.08.0293.

30       NEW SECTION.   **Sec. 103.** A new section is added to chapter 82.08  
31 RCW to read as follows:

32       (1) Subject to the conditions in this section, the tax levied by  
33 RCW 82.08.020 does not apply to sales of bottled water dispensed or  
34 to be dispensed to patients, pursuant to a prescription for use in  
35 the cure, mitigation, treatment, or prevention of disease or other  
36 medical condition.

37       (2) For purposes of this section, "prescription" means an order,  
38 formula, or recipe issued in any form of oral, written, electronic,

1 or other means of transmission by a duly licensed practitioner  
2 authorized by the laws of this state to prescribe.

3 (3) Except for sales of bottled water delivered to the buyer in a  
4 reusable container that is not sold with the water, sellers must  
5 collect tax on sales subject to this exemption. Any buyer that has  
6 paid at least twenty-five dollars in state and local sales taxes on  
7 purchases of bottled water subject to this exemption may apply for a  
8 refund of the taxes directly from the department in a form and manner  
9 prescribed by the department. The department must deny any refund  
10 application if the amount of the refund requested is less than  
11 twenty- five dollars. No refund may be made for taxes paid more than  
12 four years after the end of the calendar year in which the tax was  
13 paid to the seller.

14 (4) The provisions of RCW 82.32.060 apply to refunds authorized  
15 under this section.

16 (5) With respect to sales of bottled water delivered to the buyer  
17 in a reusable container that is not sold with the water, buyers  
18 claiming the exemption provided in this section must provide the  
19 seller with an exemption certificate in a form and manner prescribed  
20 by the department. The seller must retain a copy of the certificate  
21 for the seller's files. In lieu of an exemption certificate, a seller  
22 may capture the relevant data elements as allowed under the  
23 streamlined sales and use tax agreement.

24 NEW SECTION. **Sec. 104.** A new section is added to chapter 82.12  
25 RCW to read as follows:

26 (1) The provisions of this chapter do not apply in respect to the  
27 use of bottled water dispensed or to be dispensed to patients,  
28 pursuant to a prescription for use in the cure, mitigation,  
29 treatment, or prevention of disease or medical condition.

30 (2) For the purposes of this section, "prescription" has the same  
31 meaning as provided in section 103 of this act.

32 NEW SECTION. **Sec. 105.** A new section is added to chapter 82.08  
33 RCW to read as follows:

34 (1)(a) Subject to the conditions in this section, the tax levied  
35 by RCW 82.08.020 does not apply to sales of bottled water to persons  
36 whose primary source of drinking water is unsafe or to a government  
37 entity or charitable organization when the bottled water will be

1 donated by the purchaser to persons whose primary source of drinking  
2 water is unsafe.

3 (b) For purposes of this subsection and section 106 of this act,  
4 a person's primary source of drinking water is unsafe if:

5 (i) The public water system providing the drinking water has  
6 issued a public notification that the drinking water may pose a  
7 health risk, and the notification is still in effect on the date that  
8 the bottled water was purchased;

9 (ii) Test results on the person's drinking water, which are no  
10 more than twelve months old, from a laboratory certified to perform  
11 drinking water testing show that the person's drinking water does not  
12 meet safe drinking water standards applicable to public water  
13 systems; or

14 (iii) The person otherwise establishes, to the department's  
15 satisfaction, that the person's drinking water does not meet safe  
16 drinking water standards applicable to public water systems.

17 (2) Except for sales of bottled water delivered to the buyer in a  
18 reusable container that is not sold with the water, sellers must  
19 collect tax on sales subject to this exemption. Any buyer that has  
20 paid at least twenty-five dollars in state and local sales taxes on  
21 purchases of bottled water subject to this exemption may apply for a  
22 refund of the taxes directly from the department in a form and manner  
23 prescribed by the department. The department must deny any refund  
24 application if the amount of the refund requested is less than  
25 twenty-five dollars. No refund may be made for taxes paid more than  
26 four years after the end of the calendar year in which the tax was  
27 paid to the seller.

28 (3) The provisions of RCW 82.32.060 apply to refunds authorized  
29 under this section.

30 (4)(a) With respect to sales of bottled water delivered to the  
31 buyer in a reusable container that is not sold with the water, buyers  
32 claiming the exemption provided in this section must provide the  
33 seller with an exemption certificate in a form and manner prescribed  
34 by the department. The seller must retain a copy of the certificate  
35 for the seller's files. In lieu of an exemption certificate, a seller  
36 may capture the relevant data elements as allowed under the  
37 streamlined sales and use tax agreement.

38 (b) The department may waive the requirement for an exemption  
39 certificate in the event of disaster or similar circumstance.

1 NEW SECTION. Sec. 106. A new section is added to chapter 82.12  
2 RCW to read as follows:

3 The provisions of this chapter do not apply in respect to the use  
4 of bottled water by persons whose primary source of drinking water is  
5 unsafe as provided in section 105 of this act or to bottled water  
6 donated by a government entity or charitable organization to persons  
7 whose primary source of drinking water is unsafe as provided in  
8 section 105 of this act.

9 NEW SECTION. Sec. 107. RCW 82.32.805 and 82.32.808 do not apply  
10 to sections 103 through 106 of this act.

## 11 PART II

### 12 Establishing a Refund Requirement for the Nonresident Sales and Use 13 Tax Exemption

14 **Sec. 201.** RCW 82.08.0273 and 2014 c 140 s 17 are each amended to  
15 read as follows:

16 (1) Subject to the conditions and limitations in this section,  
17 the tax levied by RCW 82.08.020 (~~does not apply to~~) in the form of  
18 a remittance from the department is provided for sales to  
19 nonresidents of this state of tangible personal property, digital  
20 goods, and digital codes(~~, when~~). The exemption only applies if:

21 (a) The property is for use outside this state;

22 (b) The purchaser is a bona fide resident of a province or  
23 territory of Canada or a state, territory, or possession of the  
24 United States, other than the state of Washington; and

25 (i) Such state, possession, territory, or province does not  
26 impose, or have imposed on its behalf, a generally applicable retail  
27 sales tax, use tax, value added tax, gross receipts tax on retailing  
28 activities, or similar generally applicable tax, of three percent or  
29 more; or

30 (ii) If imposing a tax described in (b)(i) of this subsection,  
31 provides an exemption for sales to Washington residents by reason of  
32 their residence; and

33 (c) The purchaser agrees, when requested, to grant the department  
34 of revenue access to such records and other forms of verification at  
35 (~~his or her~~) the purchaser's place of residence to assure that such  
36 purchases are not first used substantially in the state of  
37 Washington.

1 (2) Notwithstanding anything to the contrary in this chapter, if  
2 parts or other tangible personal property are installed by the seller  
3 during the course of repairing, cleaning, altering, or improving  
4 motor vehicles, trailers, or campers and the seller makes a separate  
5 charge for the tangible personal property, the tax levied by RCW  
6 82.08.020 does not apply to the separately stated charge to a  
7 nonresident purchaser for the tangible personal property but only if  
8 the seller certifies in writing to the purchaser that the separately  
9 stated charge does not exceed either the seller's current publicly  
10 stated retail price for the tangible personal property or, if no  
11 publicly stated retail price is available, the seller's cost for the  
12 tangible personal property. However, the exemption provided by this  
13 section does not apply if tangible personal property is installed by  
14 the seller during the course of repairing, cleaning, altering, or  
15 improving motor vehicles, trailers, or campers and the seller makes a  
16 single nonitemized charge for providing the tangible personal  
17 property and service. All of the ((requirements)) provisions in  
18 subsections (1) and (3) through ((+6+)) (7) of this section apply to  
19 this subsection.

20 (3)(a) Any person claiming exemption from retail sales tax under  
21 the provisions of this section must ~~((display proof of his or her~~  
22 ~~current nonresident status as provided in this section)) pay the~~  
23 state and local sales tax to the seller at the time of purchase and  
24 then request a remittance from the department in accordance with this  
25 subsection and subsection (4) of this section. A request for  
26 remittance must include proof of the person's status as a nonresident  
27 at the time of the purchase for which a remittance is requested. The  
28 request for a remittance must also include any additional information  
29 and documentation as required by the department, which may include a  
30 description of the item purchased for which a remittance is  
31 requested, the sales price of the item, the amount of state sales tax  
32 paid on the item, the date of the purchase, the name of the seller  
33 and the physical address where the sale took place, a copy of the  
34 certification required in subsection (2) of this section, and copies  
35 of sales receipts showing the qualified purchases.

36 (b) Acceptable proof of a nonresident person's status includes  
37 one piece of identification such as a valid driver's license from the  
38 jurisdiction in which the out-of-state residency is claimed or a  
39 valid identification card which has a photograph of the holder and is  
40 issued by the out-of-state jurisdiction. Identification under this

1 subsection (3)(b) must show the holder's residential address and have  
2 as one of its legal purposes the establishment of residency in that  
3 out-of-state jurisdiction.

4 ~~((c) In lieu of furnishing proof of a person's nonresident  
5 status under (b) of this subsection (3), a person claiming exemption  
6 from retail sales tax under the provisions of this section may  
7 provide the seller with an exemption certificate in compliance with  
8 subsection (4)(b) of this section.))~~

9 (4)(a) ~~((Nothing in this section requires the vendor to make tax  
10 exempt retail sales to nonresidents. A vendor may choose to make  
11 sales to nonresidents, collect the sales tax, and remit the amount of  
12 sales tax collected to the state as otherwise provided by law. If the  
13 vendor chooses to make a sale to a nonresident without collecting the  
14 sales tax, the vendor must examine the purchaser's proof of  
15 nonresidence, determine whether the proof is acceptable under  
16 subsection (3)(b) of this section, and maintain records for each  
17 nontaxable sale which must show the type of proof accepted, including  
18 any identification numbers where appropriate, and the expiration  
19 date, if any.~~

20 ~~(b) In lieu of using the method provided in (a) of this  
21 subsection to document an exempt sale to a nonresident, a seller may  
22 accept from the purchaser a properly completed uniform exemption  
23 certificate approved by the streamlined sales and use tax agreement  
24 governing board or any other exemption certificate as may be  
25 authorized by the department and properly completed by the purchaser.  
26 A nonresident purchaser who uses an exemption certificate authorized  
27 in this subsection (4)(b) must include the purchaser's driver's  
28 license number or other state issued identification number and the  
29 state of issuance.~~

30 ~~(c) In lieu of using the methods provided in (a) and (b) of this  
31 subsection to document an exempt sale to a nonresident, a seller may  
32 capture the relevant data elements as allowed under the streamlined  
33 sales and use tax agreement.~~

34 ~~(5)(a) Any person making fraudulent statements, which includes  
35 the offer of fraudulent identification or fraudulently procured  
36 identification to a vendor, in order to purchase goods without paying  
37 retail sales tax is guilty of perjury under chapter 9A.72 RCW.~~

38 ~~(b) Any person making tax exempt purchases under this section by  
39 displaying proof of identification not his or her own, or counterfeit  
40 identification, with intent to violate the provisions of this~~

~~section, is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.~~

~~(6)(a) Any vendor who makes sales without collecting the tax and who fails to maintain records of sales to nonresidents as provided in this section is personally liable for the amount of tax due.~~

~~(b) Any vendor who makes sales without collecting the retail sales tax under this section and who has actual knowledge that the purchaser's proof of identification establishing out-of-state residency is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the purchaser and the vendor are liable for any penalties and interest assessable under chapter 82.32 RCW))~~ (i) Beginning January 1, 2016, through December 31, 2016, a person may request a remittance from the department for state sales taxes paid by the person on qualified retail purchases made in Washington between July 1, 2015, and December 31, 2015.

(ii) Beginning January 1, 2017, a person may request a remittance from the department during any calendar year for state sales taxes paid by the person on qualified retail purchases made in Washington during the immediately preceding calendar year only. No application may be made with respect to purchases made before the immediately preceding calendar year.

(b) The remittance request, including proof of nonresident status and any other documentation and information required by the department, must be made in a form and manner as prescribed by the department. Only one remittance request may be made by a person per calendar year.

(c) The total amount of a remittance request must be at least twenty-five dollars. The department must deny any request for a remittance that is less than twenty-five dollars.

(d) The department will examine the applicant's proof of nonresident status and any other documentation and information as required in the application to determine whether the applicant is entitled to a remittance under this section.

(5)(a) Any person making fraudulent statements to the department, which includes the offer of fraudulent or fraudulently procured identification or fraudulent sales receipts, in order to receive a

1 remittance of retail sales tax is guilty of perjury under chapter  
2 9A.72 RCW.

3 (b) Any person requesting a remittance of sales tax from the  
4 department by providing proof of identification or sales receipts not  
5 the person's own, or counterfeit identification or sales receipts,  
6 with intent to violate the provisions of this section, is guilty of a  
7 misdemeanor and, in addition, is liable for the tax and subject to a  
8 penalty equal to the greater of one hundred dollars or the tax due on  
9 such purchases.

10 (6) The exemption provided by this section is for state sales  
11 taxes only.

12 (7) A nonresident who receives a refund of sales tax from the  
13 seller for any reason with respect to a purchase made in this state  
14 is not entitled to a remittance for the tax paid on the purchase. A  
15 person who receives both a remittance under this section and a refund  
16 from the seller with respect to the same purchase must immediately  
17 repay the remittance to the department. Interest as provided in  
18 chapter 82.32 RCW applies to amounts due under this section from the  
19 date that the department made the remittance until the amount due  
20 under this subsection is paid to the department. A person who  
21 receives a remittance with respect to a purchase for which the person  
22 had, at the time the person submitted the application for a  
23 remittance, already received a refund of sales tax from the seller is  
24 also liable for the evasion penalty in RCW 82.32.090(7) and is  
25 ineligible to receive any further remittances from the department  
26 under this section.

27 ((+7)) (8) The exemption in this section does not apply to sales  
28 of marijuana, useable marijuana, or marijuana-infused products.

### PART III

#### **Repealing the Preferential B&O Tax Rate for Sellers of Prescription Drugs**

32 NEW SECTION. Sec. 301. RCW 82.04.272 (Tax on warehousing and  
33 reselling prescription drugs) and 2013 c 19 s 127, 2003 c 168 s 401,  
34 & 1998 c 343 s 1 are each repealed.

35 Sec. 302. RCW 82.04.280 and 2010 c 106 s 205 are each reenacted  
36 and amended to read as follows:

1           (1) Upon every person engaging within this state in the business  
2 of: (a) Printing materials other than newspapers, and of publishing  
3 periodicals or magazines; (b) building, repairing or improving any  
4 street, place, road, highway, easement, right-of-way, mass public  
5 transportation terminal or parking facility, bridge, tunnel, or  
6 trestle which is owned by a municipal corporation or political  
7 subdivision of the state or by the United States and which is used or  
8 to be used, primarily for foot or vehicular traffic including mass  
9 transportation vehicles of any kind and including any readjustment,  
10 reconstruction or relocation of the facilities of any public, private  
11 or cooperatively owned utility or railroad in the course of such  
12 building, repairing or improving, the cost of which readjustment,  
13 reconstruction, or relocation, is the responsibility of the public  
14 authority whose street, place, road, highway, easement, right-of-way,  
15 mass public transportation terminal or parking facility, bridge,  
16 tunnel, or trestle is being built, repaired or improved; (c)  
17 extracting for hire or processing for hire, except persons taxable as  
18 extractors for hire or processors for hire under another section of  
19 this chapter; (d) operating a cold storage warehouse or storage  
20 warehouse, but not including the rental of cold storage lockers; (e)  
21 representing and performing services for fire or casualty insurance  
22 companies as an independent resident managing general agent licensed  
23 under the provisions of chapter 48.17 RCW; (f) radio and television  
24 broadcasting, excluding network, national and regional advertising  
25 computed as a standard deduction based on the national average  
26 thereof as annually reported by the federal communications  
27 commission, or in lieu thereof by itemization by the individual  
28 broadcasting station, and excluding that portion of revenue  
29 represented by the out-of-state audience computed as a ratio to the  
30 station's total audience as measured by the 100 micro-volt signal  
31 strength and delivery by wire, if any; (g) engaging in activities  
32 which bring a person within the definition of consumer contained in  
33 RCW 82.04.190(6); as to such persons, the amount of tax on such  
34 business is equal to the gross income of the business multiplied by  
35 the rate of 0.484 percent.

36           (2) For the purposes of this section, the following definitions  
37 apply unless the context clearly requires otherwise.

38           (a) "Cold storage warehouse" means a storage warehouse used to  
39 store fresh and/or frozen perishable fruits or vegetables, meat,  
40 seafood, dairy products, or fowl, or any combination thereof, at a

1 desired temperature to maintain the quality of the product for  
2 orderly marketing.

3 (b) "Storage warehouse" means a building or structure, or any  
4 part thereof, in which goods, wares, or merchandise are received for  
5 storage for compensation, except field warehouses, fruit warehouses,  
6 fruit packing plants, warehouses licensed under chapter 22.09 RCW,  
7 public garages storing automobiles, railroad freight sheds, docks and  
8 wharves, and "self-storage" or "mini storage" facilities whereby  
9 customers have direct access to individual storage areas by separate  
10 entrance. (~~("Storage warehouse" does not include a building or  
11 structure, or that part of such building or structure, in which an  
12 activity taxable under RCW 82.04.272 is conducted.)~~)

13 (c) "Periodical or magazine" means a printed publication, other  
14 than a newspaper, issued regularly at stated intervals at least once  
15 every three months, including any supplement or special edition of  
16 the publication.

17 **Sec. 303.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s  
18 401 are each reenacted and amended to read as follows:

19 (1)(a) (~~(Section 206, chapter 106, Laws of 2010,)~~) Sections 104,  
20 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010(~~(  
21 section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of  
22 2006, and section 4, chapter 149, Laws of 2003)~~) are contingent upon  
23 the siting and commercial operation of a significant semiconductor  
24 microchip fabrication facility in the state of Washington.

25 (b) For the purposes of this section:

26 (i) "Commercial operation" means the same as "commencement of  
27 commercial production" as used in RCW 82.08.965.

28 (ii) "Semiconductor microchip fabrication" means "manufacturing  
29 semiconductor microchips" as defined in RCW 82.04.426.

30 (iii) "Significant" means the combined investment of new  
31 buildings and new machinery and equipment in the buildings, at the  
32 commencement of commercial production, will be at least one billion  
33 dollars.

34 (2) Chapter 149, Laws of 2003 takes effect the first day of the  
35 month in which a contract for the construction of a significant  
36 semiconductor fabrication facility is signed, as determined by the  
37 director of the department of revenue.

38 (3)(a) The department of revenue must provide notice of the  
39 effective date of sections 104, 110, 117, 123, 125, 129, 131, and

1 150, chapter 114, Laws of 2010(~~([, ] section 3, chapter 461, Laws of~~  
 2 ~~2009, section 7, chapter 300, Laws of 2006, and section 4, chapter~~  
 3 ~~149, Laws of 2003)) to affected taxpayers, the legislature, and  
 4 others as deemed appropriate by the department.~~

5 (b) If, after making a determination that a contract has been  
 6 signed and chapter 149, Laws of 2003 is effective, the department  
 7 discovers that commencement of commercial production did not take  
 8 place within three years of the date the contract was signed, the  
 9 department must make a determination that chapter 149, Laws of 2003  
 10 is no longer effective, and all taxes that would have been otherwise  
 11 due are deemed deferred taxes and are immediately assessed and  
 12 payable from any person reporting tax under RCW 82.04.240(2) or  
 13 claiming an exemption or credit under section 2 or 5 through 10,  
 14 chapter 149, Laws of 2003. The department is not authorized to make a  
 15 second determination regarding the effective date of chapter 149,  
 16 Laws of 2003.

17 NEW SECTION. **Sec. 304.** The following acts or parts of acts are  
 18 each repealed:

- 19 (1) 2010 c 106 s 206;  
 20 (2) 2009 c 461 s 3;  
 21 (3) 2006 c 300 s 7; and  
 22 (4) 2003 c 149 s 4.

23 NEW SECTION. **Sec. 305.** Section 301 of this act applies to taxes  
 24 due for reporting periods beginning on or after the effective date of  
 25 section 301 of this act.

#### 26 **PART IV**

#### 27 **Narrowing the Use Tax Exemption for Extracted Fuel**

28 **Sec. 401.** RCW 82.12.0263 and 1980 c 37 s 62 are each amended to  
 29 read as follows:

30 The provisions of this chapter (~~shall~~) do not apply in respect  
 31 to the use of biomass fuel by the extractor or manufacturer thereof  
 32 when used directly in the operation of the particular extractive  
 33 operation or manufacturing plant which produced or manufactured the  
 34 same. For purposes of this section, "biomass fuel" means wood waste  
 35 and other wood residuals, including forest derived biomass, but does  
 36 not include firewood or wood pellets. "Biomass fuel" also includes

1 partially organic by-products of pulp, paper, and wood manufacturing  
 2 processes.

3 NEW SECTION. **Sec. 402.** A new section is added to chapter 82.12  
 4 RCW to read as follows:

5 (1) The value of the article used with respect to refinery fuel  
 6 gas under this chapter is the most recent monthly United States  
 7 natural gas wellhead price, as published by the federal energy  
 8 information administration.

9 (2) A credit is allowed against the tax otherwise due under RCW  
 10 82.12.020 on the use of refinery fuel gas by the manufacturer of the  
 11 gas. The credit is equal to the value of the refinery fuel gas used  
 12 multiplied by 2.648 percent.

13 (3) This section is exempt from the provisions of RCW 82.32.805  
 14 and 82.32.808.

#### 15 **PART V**

#### 16 **Repealing the Preferential B&O Tax Rate for Royalty Income**

17 **Sec. 501.** RCW 82.04.2907 and 2010 1st sp.s. c 23 s 107 are each  
 18 amended to read as follows:

19 (1) Upon every person engaging within this state in the business  
 20 of receiving income from royalties, the amount of tax with respect to  
 21 the business is equal to the gross income from royalties multiplied  
 22 by the rate (~~(of 0.484 percent)~~) provided in RCW 82.04.290(2)(a).

23 (2) For the purposes of this section, "gross income from  
 24 royalties" means compensation for the use of intangible property,  
 25 including charges in the nature of royalties, regardless of where the  
 26 intangible property will be used. For purposes of this subsection,  
 27 "intangible property" includes copyrights, patents, licenses,  
 28 franchises, trademarks, trade names, and similar items. "Gross income  
 29 from royalties" does not include compensation for any natural  
 30 resource, the licensing of prewritten computer software to the end  
 31 user, or the licensing of digital goods, digital codes, or digital  
 32 automated services to the end user as defined in RCW 82.04.190(11).

#### 33 **PART VI**

#### 34 **Nexus for Excise Tax Purposes**

1        NEW SECTION.    **Sec. 601.**    (1) The commerce clause of the United  
2 States Constitution as currently interpreted by the United States  
3 supreme court prohibits states from imposing sales or use tax  
4 collection obligations on out-of-state businesses unless the business  
5 has a substantial nexus with the taxing state.

6        (2) The legislature recognizes that under the United States  
7 supreme court's decision in *Quill Corp. v. North Dakota*, 504 U.S. 298  
8 (1992), a substantial nexus for sales and use tax collection purposes  
9 requires that the taxpayer have a physical presence in the taxing  
10 state.

11        (3) The legislature further recognizes that the requisite  
12 physical presence can be established directly through a taxpayer's  
13 own activities in the taxing state, or indirectly, through  
14 independent contractors, agents, or other representatives who act on  
15 behalf of the taxpayer in the taxing state.

16        (4) However, the legislature finds that because the United States  
17 supreme court has not clearly defined the circumstances under which a  
18 physical presence is sufficient to establish a substantial nexus for  
19 tax purposes, frequent conflicts have arisen throughout the country  
20 among state taxing authorities, taxpayers, tax practitioners, and  
21 courts.

22        (5) Therefore, the legislature intends to provide more clarity  
23 for out-of-state sellers that compensate Washington residents for  
24 referring customers to the out-of-state seller by providing clear  
25 statutory guidelines for determining when these out-of-state sellers  
26 are required to collect Washington's retail sales tax.

27        (6) Nothing in part II of this act may be construed as relieving  
28 in-state businesses and other businesses having a substantial nexus  
29 with Washington through a direct physical presence in this state from  
30 their Washington sales and use tax collection obligations.

31        NEW SECTION.    **Sec. 602.**    A new section is added to chapter 82.08  
32 RCW to be codified between RCW 82.08.050 and 82.08.054 to read as  
33 follows:

34        (1) For purposes of this chapter, a remote seller is presumed to  
35 have a substantial nexus with this state and is obligated to collect  
36 retail sales tax if the remote seller enters into an agreement with a  
37 resident of this state under which the resident, for a commission or  
38 other consideration, directly or indirectly refers potential  
39 customers, whether by a link on an internet web site or otherwise, to

1 the remote seller, if the cumulative gross receipts from sales by the  
2 remote seller to customers in this state who are referred to the  
3 remote seller by all residents with this type of an agreement with  
4 the remote seller exceed ten thousand dollars during the preceding  
5 calendar year. This presumption may be rebutted by proof that the  
6 resident with whom the remote seller has an agreement did not engage  
7 in any solicitation in this state on behalf of the remote seller that  
8 would satisfy the nexus requirement of the United States Constitution  
9 during the calendar year in question. Proof may be shown by (a)  
10 establishing, in a manner acceptable to the department, that (i) each  
11 in-state person with whom the remote seller has an agreement is  
12 prohibited from engaging in any solicitation activities in this state  
13 that refer potential customers to the remote seller, and (ii) such  
14 in-state person or persons have complied with that prohibition; or  
15 (b) any other means as may be approved by the department.

16 (2) "Remote seller" means a seller that makes retail sales in  
17 this state through one or more agreements described in subsection (1)  
18 of this section, and the seller's other physical presence in this  
19 state, if any, is not sufficient to establish a retail sales or use  
20 tax collection obligation under the commerce clause of the United  
21 States Constitution.

22 (3) Nothing in this section may be construed to affect in any way  
23 RCW 82.04.424, 82.08.050(11), or 82.12.040(5).

24 (4) This section is subject to section 605 of this act.

25 **Sec. 603.** RCW 82.04.066 and 2010 1st sp.s. c 23 s 103 are each  
26 amended to read as follows:

27 "Engaging within this state" and "engaging within the state,"  
28 when used in connection with any apportionable activity as defined in  
29 RCW 82.04.460 or wholesale sales taxable under RCW 82.04.257(1) or  
30 82.04.270, means that a person generates gross income of the business  
31 from sources within this state, such as customers or intangible  
32 property located in this state, regardless of whether the person is  
33 physically present in this state.

34 **Sec. 604.** RCW 82.04.067 and 2010 1st sp.s. c 23 s 104 are each  
35 amended to read as follows:

36 (1) A person engaging in business is deemed to have substantial  
37 nexus with this state if the person is:

38 (a) An individual and is a resident or domiciliary of this state;

1 (b) A business entity and is organized or commercially domiciled  
2 in this state; or

3 (c) A nonresident individual or a business entity that is  
4 organized or commercially domiciled outside this state, and in  
5 (~~any~~) the immediately preceding tax year the person (~~has~~) had:

6 (i) More than fifty thousand dollars of property in this state;

7 (ii) More than fifty thousand dollars of payroll in this state;

8 (iii) More than two hundred fifty thousand dollars of receipts  
9 from this state; or

10 (iv) At least twenty-five percent of the person's total property,  
11 total payroll, or total receipts in this state.

12 (2)(a) Property counting toward the thresholds in subsection  
13 (1)(c)(i) and (iv) of this section is the average value of the  
14 taxpayer's property, including intangible property, owned or rented  
15 and used in this state during the immediately preceding tax year.

16 (b)(i) Property owned by the taxpayer, other than loans and  
17 credit card receivables owned by the taxpayer, is valued at its  
18 original cost basis. Loans and credit card receivables owned by the  
19 taxpayer are valued at their outstanding principal balance, without  
20 regard to any reserve for bad debts. However, if a loan or credit  
21 card receivable is charged off in whole or in part for federal income  
22 tax purposes, the portion of the loan or credit card receivable  
23 charged off is deducted from the outstanding principal balance.

24 (ii) Property rented by the taxpayer is valued at eight times the  
25 net annual rental rate. For purposes of this subsection, "net annual  
26 rental rate" means the annual rental rate paid by the taxpayer less  
27 any annual rental rate received by the taxpayer from subrentals.

28 (c) The average value of property must be determined by averaging  
29 the values at the beginning and ending of the tax year; but the  
30 department may require the averaging of monthly values during the tax  
31 year if reasonably required to properly reflect the average value of  
32 the taxpayer's property.

33 (d)(i) For purposes of this subsection (2), loans and credit card  
34 receivables are deemed owned and used in this state as follows:

35 (A) Loans secured by real property, personal property, or both  
36 real and personal property(~~7~~) are deemed owned and used in the  
37 state if the real property or personal property securing the loan is  
38 located within this state. If the property securing the loan is  
39 located both within this state and one or more other states, the loan  
40 is deemed owned and used in this state if more than fifty percent of

1 the fair market value of the real or personal property is located  
2 within this state. If more than fifty percent of the fair market  
3 value of the real or personal property is not located within any one  
4 state, then the loan is deemed owned and used in this state if the  
5 borrower is located in this state. The determination of whether the  
6 real or personal property securing a loan is located within this  
7 state must be made, as of the time the original agreement was made,  
8 and any and all subsequent substitutions of collateral must be  
9 disregarded.

10 (B) Loans not secured by real or personal property are deemed  
11 owned and used in this state if the borrower is located in this  
12 state.

13 (C) Credit card receivables are deemed owned and used in this  
14 state if the billing address of the cardholder is in this state.

15 (ii)(A) Except as otherwise provided in (d)(ii)(B) of this  
16 subsection (2), the definitions in the multistate tax commission's  
17 recommended formula for the apportionment and allocation of net  
18 income of financial institutions as existing on June 1, 2010, or such  
19 subsequent date as may be provided by the department by rule,  
20 consistent with the purposes of this section, apply to this section.

21 (B) "Credit card" means a card or device existing for the purpose  
22 of obtaining money, property, labor, or services on credit.

23 (e) Notwithstanding anything else to the contrary in this  
24 subsection, property counting toward the thresholds in subsection  
25 (1)(c)(i) and (iv) of this section does not include a person's  
26 ownership of, or rights in, computer software as defined in RCW  
27 82.04.215, including computer software used in providing a digital  
28 automated service; master copies of software; and digital goods and  
29 digital codes residing on servers located in this state.

30 (3)(a) Payroll counting toward the thresholds in subsection  
31 (1)(c)(ii) and (iv) of this section is the total amount paid by the  
32 taxpayer for compensation in this state during the immediately  
33 preceding tax year plus nonemployee compensation paid to  
34 representative third parties in this state. Nonemployee compensation  
35 paid to representative third parties includes the gross amount paid  
36 to nonemployees who represent the taxpayer in interactions with the  
37 taxpayer's clients and includes sales commissions.

38 (b) Employee compensation is paid in this state if the  
39 compensation is properly reportable to this state for unemployment

1 compensation tax purposes, regardless of whether the compensation was  
2 actually reported to this state.

3 (c) Nonemployee compensation is paid in this state if the service  
4 performed by the representative third party occurs entirely or  
5 primarily within this state.

6 (d) For purposes of this subsection, "compensation" means wages,  
7 salaries, commissions, and any other form of remuneration paid to  
8 employees or nonemployees and defined as gross income under 26 U.S.C.  
9 Sec. 61 of the federal internal revenue code of 1986, as existing on  
10 June 1, 2010.

11 (4) Receipts counting toward the thresholds in subsection  
12 (1)(c)(iii) and (iv) of this section are:

13 (a) Those amounts included in the numerator of the receipts  
14 factor under RCW 82.04.462(~~and~~);

15 (b) For financial institutions, those amounts included in the  
16 numerator of the receipts factor under the rule adopted by the  
17 department as authorized in RCW 82.04.460(2); and

18 (c) For persons taxable under RCW 82.04.257(1) or 82.04.270 with  
19 respect to wholesale sales, the gross proceeds of sales taxable under  
20 those statutory provisions and sourced to this state in accordance  
21 with RCW 82.32.730.

22 (5)(a) Each December, the department must review the cumulative  
23 percentage change in the consumer price index. The department must  
24 adjust the thresholds in subsection (1)(c)(i) through (iii) of this  
25 section if the consumer price index has changed by five percent or  
26 more since the later of June 1, 2010, or the date that the thresholds  
27 were last adjusted under this subsection. For purposes of determining  
28 the cumulative percentage change in the consumer price index, the  
29 department must compare the consumer price index available as of  
30 December 1st of the current year with the consumer price index as of  
31 the later of June 1, 2010, or the date that the thresholds were last  
32 adjusted under this subsection. The thresholds must be adjusted to  
33 reflect that cumulative percentage change in the consumer price  
34 index. The adjusted thresholds must be rounded to the nearest one  
35 thousand dollars. Any adjustment will apply to tax periods that begin  
36 after the adjustment is made.

37 (b) As used in this subsection, "consumer price index" means the  
38 consumer price index for all urban consumers (CPI-U) available from  
39 the bureau of labor statistics of the United States department of  
40 labor.

1       (6)(a) Subsections (1) through (5) of this section only apply  
2 with respect to the taxes (~~imposed under this chapter~~) on persons  
3 engaged in apportionable activities as defined in RCW 82.04.460 or  
4 making wholesale sales taxable under RCW 82.04.257(1) or 82.04.270.  
5 For purposes of the taxes imposed under this chapter on any activity  
6 not included in the definition of apportionable activities in RCW  
7 82.04.460, other than the business of making wholesale sales taxed  
8 under RCW 82.04.257(1) or 82.04.270, a person is deemed to have a  
9 substantial nexus with this state if the person has a physical  
10 presence in this state during the tax year, which need only be  
11 demonstrably more than a slightest presence.

12       (b) For purposes of this subsection, a person is physically  
13 present in this state if the person has property or employees in this  
14 state.

15       (c)(i) A person is also physically present in this state for the  
16 purposes of this subsection if the person, either directly or through  
17 an agent or other representative, engages in activities in this state  
18 that are significantly associated with the person's ability to  
19 establish or maintain a market for its products in this state.

20       (ii) A remote seller as defined in section 602 of this act is  
21 presumed to be engaged in activities in this state that are  
22 significantly associated with the remote seller's ability to  
23 establish or maintain a market for its products in this state if the  
24 remote seller is presumed to have a substantial nexus with this state  
25 under section 602 of this act. The presumption in this subsection  
26 (6)(c)(ii) may be rebutted as provided in section 602 of this act. To  
27 the extent that the presumption in section 602 of this act is no  
28 longer operative pursuant to section 605 of this act, the presumption  
29 in this subsection (6)(c)(ii) is no longer operative. Nothing in this  
30 section may be construed to affect in any way RCW 82.04.424,  
31 82.08.050(11), or 82.12.040(5) or to narrow the scope of the terms  
32 "agent" or "other representative" in this subsection (6)(c).

33       **NEW SECTION. Sec. 605.** A new section is added to chapter 82.32  
34 RCW to read as follows:

35       (1) If the department determines that a change, taking effect  
36 after the effective date of this section, in the streamlined sales  
37 and use tax agreement or federal law creates a conflict with any  
38 provision of section 602 of this act, such conflicting provision or  
39 provisions of section 602 of this act, including any related

1 provisions that would not function as originally intended, have no  
2 further force and effect as of the date the change in the streamlined  
3 sales and use tax agreement or federal law becomes effective.

4 (2) For purposes of this section:

5 (a) A change in federal law conflicts with section 602 of this  
6 act if the change clearly allows states to impose greater sales and  
7 use tax collection obligations on remote sellers than provided for,  
8 or clearly prevents states from imposing sales and use tax collection  
9 obligations on remote sellers to the extent provided for, under  
10 section 602 of this act.

11 (b) A change in the streamlined sales and use tax agreement  
12 conflicts with section 602 of this act if one or more provisions of  
13 section 602 of this act causes this state to be found out of  
14 compliance with the streamlined sales and use tax agreement by its  
15 governing board.

16 (3) If the department makes a determination under this section  
17 that a change in federal law or the streamlined sales and use tax  
18 agreement conflicts with one or more provisions of section 602 of  
19 this act, the department:

20 (a) May adopt rules in accordance with chapter 34.05 RCW that are  
21 consistent with the streamlined sales and use tax agreement and that  
22 impose sales and use tax collection obligations on remote sellers to  
23 the fullest extent allowed under state and federal law; and

24 (b) Must include information on its web site informing taxpayers  
25 and the public (i) of the provision or provisions of section 602 of  
26 this act that will have no further force and effect, (ii) when such  
27 change will become effective, and (iii) about how to participate in  
28 any rule making conducted by the department in accordance with (a) of  
29 this subsection (3).

30 (4) For purposes of this section, "remote seller" has the same  
31 meaning as in section 602 of this act.

32 **Sec. 606.** RCW 82.04.424 and 2003 c 76 s 2 are each amended to  
33 read as follows:

34 (1) This chapter does not apply to a person making retail sales  
35 in Washington if:

36 (a) The person's activities in this state, whether conducted  
37 directly or through another person, are limited to:

38 (i) The storage, dissemination, or display of advertising;

39 (ii) The taking of orders; or

1 (iii) The processing of payments; and

2 (b) The activities are conducted electronically via a web site on  
3 a server or other computer equipment located in Washington that is  
4 not owned or operated by the person making sales into this state nor  
5 owned or operated by an affiliated person. For purposes of this  
6 section, persons are "affiliated persons" with respect to each other  
7 where one of the persons has an ownership interest of more than five  
8 percent, whether direct or indirect, in the other, or where an  
9 ownership interest of more than five percent, whether direct or  
10 indirect, is held in each of the persons by another person or by a  
11 group of other persons which are affiliated with respect to each  
12 other.

13 (2)(a) This section expires when: ((+a+)) (i) The United States  
14 congress grants individual states the authority to impose sales and  
15 use tax collection duties on remote sellers; or ((+b+)) (ii) it is  
16 determined by a court of competent jurisdiction, in a judgment not  
17 subject to review, that a state can impose sales and use tax  
18 collection duties on remote sellers.

19 (b) The department of revenue must provide notice of the  
20 expiration date of this section to affected parties, the chief clerk  
21 of the house of representatives, the secretary of the senate, the  
22 office of the code reviser, and others as deemed appropriate by the  
23 department.

## 24 PART VII

### 25 Real Estate Excise Tax on Foreclosures

26 NEW SECTION. **Sec. 701.** The legislature finds that the existing  
27 real estate excise tax exemption for transfers occurring in the  
28 context of bank foreclosures and the enforcement of judgments by  
29 creditors does not benefit distressed homeowners except in limited  
30 circumstances. The exemption has been broadly used to exempt sales  
31 made to third-party buyers by combining an unrelated sales  
32 transaction into the foreclosure proceeding. In addition, there have  
33 been questions raised in litigation whether the exemption applies to  
34 orders of sales arising in any court context, rather than those  
35 expressly identified in the existing exemption. It is the intent of  
36 the legislature to (1) eliminate the real estate excise tax exemption  
37 for transfers that occur in foreclosures except in circumstances  
38 where the tax would impact the owner of the property, and (2)

1 restructure the existing statute to preserve the exemption for deeds  
2 given in lieu of the foreclosure process and transfers made to  
3 extinguish existing security interests. Because this restructuring is  
4 intended only to clarify and preserve existing exemptions, the  
5 legislature does not intend for the provisions of RCW 82.32.805 or  
6 82.32.808 to apply to sections 702 and 703 of this act.

7 **Sec. 702.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to  
8 read as follows:

9 (1) As used in this chapter, the term "sale" has its ordinary  
10 meaning and includes any conveyance, grant, assignment, quitclaim, or  
11 transfer of the ownership of or title to real property, including  
12 standing timber, or any estate or interest therein for a valuable  
13 consideration, and any contract for such conveyance, grant,  
14 assignment, quitclaim, or transfer, and any lease with an option to  
15 purchase real property, including standing timber, or any estate or  
16 interest therein or other contract under which possession of the  
17 property is given to the purchaser, or any other person at the  
18 purchaser's direction, and title to the property is retained by the  
19 vendor as security for the payment of the purchase price. The term  
20 also includes the grant, assignment, quitclaim, sale, or transfer of  
21 improvements constructed upon leased land.

22 (2)(a) The term "sale" also includes the transfer or acquisition  
23 within any twelve-month period of a controlling interest in any  
24 entity with an interest in real property located in this state for a  
25 valuable consideration.

26 (b) For the sole purpose of determining whether, pursuant to the  
27 exercise of an option, a controlling interest was transferred or  
28 acquired within a twelve-month period, the date that the option  
29 agreement was executed is the date on which the transfer or  
30 acquisition of the controlling interest is deemed to occur. For all  
31 other purposes under this chapter, the date upon which the option is  
32 exercised is the date of the transfer or acquisition of the  
33 controlling interest.

34 (c) For purposes of this subsection, all acquisitions of persons  
35 acting in concert must be aggregated for purposes of determining  
36 whether a transfer or acquisition of a controlling interest has taken  
37 place. The department must adopt standards by rule to determine when  
38 persons are acting in concert. In adopting a rule for this purpose,  
39 the department must consider the following:

1 (i) Persons must be treated as acting in concert when they have a  
2 relationship with each other such that one person influences or  
3 controls the actions of another through common ownership; and

4 (ii) When persons are not commonly owned or controlled, they must  
5 be treated as acting in concert only when the unity with which the  
6 purchasers have negotiated and will consummate the transfer of  
7 ownership interests supports a finding that they are acting as a  
8 single entity. If the acquisitions are completely independent, with  
9 each purchaser buying without regard to the identity of the other  
10 purchasers, then the acquisitions are considered separate  
11 acquisitions.

12 (3) The term "sale" does not include:

13 (a) A transfer by gift, devise, or inheritance.

14 (b) A transfer by transfer on death deed, to the extent that it  
15 is not in satisfaction of a contractual obligation of the decedent  
16 owed to the recipient of the property.

17 (c) A transfer of any leasehold interest other than of the type  
18 mentioned above.

19 (d) A cancellation or forfeiture of a vendee's interest in a  
20 contract for the sale of real property, whether or not such contract  
21 contains a forfeiture clause, or deed in lieu of foreclosure of (~~a~~  
22 ~~mortgage~~) either a mortgage or deed of trust, except to the extent  
23 of any additional consideration provided to the grantor.

24 (e) The partition of property by tenants in common by agreement  
25 or as the result of a court decree.

26 (f) The assignment of property or interest in property from one  
27 spouse or one domestic partner to the other spouse or other domestic  
28 partner in accordance with the terms of a decree of dissolution of  
29 marriage or state registered domestic partnership or in fulfillment  
30 of a property settlement agreement.

31 (g) The assignment or other transfer of a vendor's interest in a  
32 contract for the sale of real property, even though accompanied by a  
33 conveyance of the vendor's interest in the real property involved.

34 (h) Transfers by appropriation or decree in condemnation  
35 proceedings brought by the United States, the state or any political  
36 subdivision thereof, or a municipal corporation.

37 (i) A mortgage, deed of trust, or other transfer of an interest  
38 in real property merely to secure a debt, or the assignment,  
39 reconveyance, or release thereof.

1 (j) Any transfer or conveyance made pursuant to a foreclosure of  
2 a mortgage or deed of trust, or an order of sale by the court in any  
3 mortgage, deed of trust, or lien foreclosure proceeding or upon  
4 execution of a judgment(~~(, or deed in lieu of foreclosure to satisfy~~  
5 ~~a mortgage or deed of trust))~~ pursuant to chapter 6.17 RCW, when:

6 (i) The transfer or conveyance is to other than the mortgagee,  
7 beneficiary of the deed of trust, lienholder, or judgment creditor,  
8 and the selling price exceeds the amount of the lien, security  
9 interest, or judgment that is the subject of the foreclosure or  
10 execution; or

11 (ii) The transfer or conveyance is to the United States, this  
12 state, or any political subdivision thereof, or a municipal  
13 corporation of this state.

14 (k) A conveyance to the federal housing administration or  
15 veterans administration by an authorized mortgagee made pursuant to a  
16 contract of insurance or guaranty with the federal housing  
17 administration or veterans administration.

18 (l) A transfer in compliance with the terms of any lease or  
19 contract upon which the tax as imposed by this chapter has been paid  
20 or where the lease or contract was entered into prior to the date  
21 this tax was first imposed.

22 (m) The sale of any grave or lot in an established cemetery.

23 (n) A sale by the United States, this state or any political  
24 subdivision thereof, or a municipal corporation of this state.

25 (o) A sale to a regional transit authority or public corporation  
26 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
27 81.112.300.

28 (p) A transfer of real property, however effected, if it consists  
29 of a mere change in identity or form of ownership of an entity where  
30 there is no change in the beneficial ownership. These include  
31 transfers to a corporation or partnership which is wholly owned by  
32 the transferor and/or the transferor's spouse or domestic partner or  
33 children of the transferor or the transferor's spouse or domestic  
34 partner. However, if thereafter such transferee corporation or  
35 partnership voluntarily transfers such real property, or such  
36 transferor, spouse or domestic partner, or children of the transferor  
37 or the transferor's spouse or domestic partner voluntarily transfer  
38 stock in the transferee corporation or interest in the transferee  
39 partnership capital, as the case may be, to other than (i) the  
40 transferor and/or the transferor's spouse or domestic partner or

1 children of the transferor or the transferor's spouse or domestic  
2 partner, (ii) a trust having the transferor and/or the transferor's  
3 spouse or domestic partner or children of the transferor or the  
4 transferor's spouse or domestic partner as the only beneficiaries at  
5 the time of the transfer to the trust, or (iii) a corporation or  
6 partnership wholly owned by the original transferor and/or the  
7 transferor's spouse or domestic partner or children of the transferor  
8 or the transferor's spouse or domestic partner, within three years of  
9 the original transfer to which this exemption applies, and the tax on  
10 the subsequent transfer has not been paid within sixty days of  
11 becoming due, excise taxes become due and payable on the original  
12 transfer as otherwise provided by law.

13 (q)(i) A transfer that for federal income tax purposes does not  
14 involve the recognition of gain or loss for entity formation,  
15 liquidation or dissolution, and reorganization, including but not  
16 limited to nonrecognition of gain or loss because of application of  
17 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
18 revenue code of 1986, as amended.

19 (ii) However, the transfer described in (q)(i) of this subsection  
20 cannot be preceded or followed within a twelve-month period by  
21 another transfer or series of transfers, that, when combined with the  
22 otherwise exempt transfer or transfers described in (q)(i) of this  
23 subsection, results in the transfer of a controlling interest in the  
24 entity for valuable consideration, and in which one or more persons  
25 previously holding a controlling interest in the entity receive cash  
26 or property in exchange for any interest the person or persons acting  
27 in concert hold in the entity. This subsection (3) (q)(ii) does not  
28 apply to that part of the transfer involving property received that  
29 is the real property interest that the person or persons originally  
30 contributed to the entity or when one or more persons who did not  
31 contribute real property or belong to the entity at a time when real  
32 property was purchased receive cash or personal property in exchange  
33 for that person or persons' interest in the entity. The real estate  
34 excise tax under this subsection (3)(q)(ii) is imposed upon the  
35 person or persons who previously held a controlling interest in the  
36 entity.

37 (r) A qualified sale of a manufactured/mobile home community, as  
38 defined in RCW 59.20.030, that takes place on or after June 12, 2008,  
39 but before December 31, 2018.



1 is assessed a total penalty of (~~twenty-five~~) twenty-eight percent  
2 of the amount of the tax under this subsection. No penalty so added  
3 may be less than five dollars.

4 (2) If the department of revenue determines that any tax has been  
5 substantially underpaid, there is assessed a penalty of five percent  
6 of the amount of the tax determined by the department to be due. If  
7 payment of any tax determined by the department to be due is not  
8 received by the department by the due date specified in the notice,  
9 or any extension thereof, there is assessed a total penalty of  
10 fifteen percent of the amount of the tax under this subsection; and  
11 if payment of any tax determined by the department to be due is not  
12 received on or before the thirtieth day following the due date  
13 specified in the notice of tax due, or any extension thereof, there  
14 is assessed a total penalty of twenty-five percent of the amount of  
15 the tax under this subsection. No penalty so added may be less than  
16 five dollars. As used in this section, "substantially underpaid"  
17 means that the taxpayer has paid less than eighty percent of the  
18 amount of tax determined by the department to be due for all of the  
19 types of taxes included in, and for the entire period of time covered  
20 by, the department's examination, and the amount of underpayment is  
21 at least one thousand dollars.

22 (3) If a warrant is issued by the department of revenue for the  
23 collection of taxes, increases, and penalties, there is added thereto  
24 a penalty of ten percent of the amount of the tax, but not less than  
25 ten dollars.

26 (4) If the department finds that a person has engaged in any  
27 business or performed any act upon which a tax is imposed under this  
28 title and that person has not obtained from the department a  
29 registration certificate as required by RCW 82.32.030, the department  
30 must impose a penalty of five percent of the amount of tax due from  
31 that person for the period that the person was not registered as  
32 required by RCW 82.32.030. The department may not impose the penalty  
33 under this subsection (4) if a person who has engaged in business  
34 taxable under this title without first having registered as required  
35 by RCW 82.32.030, prior to any notification by the department of the  
36 need to register, obtains a registration certificate from the  
37 department.

38 (5) If the department finds that a taxpayer has disregarded  
39 specific written instructions as to reporting or tax liabilities, or  
40 willfully disregarded the requirement to file returns or remit

1 payment electronically, as provided by RCW 82.32.080, the department  
2 must add a penalty of ten percent of the amount of the tax that  
3 should have been reported and/or paid electronically or the  
4 additional tax found due if there is a deficiency because of the  
5 failure to follow the instructions. A taxpayer disregards specific  
6 written instructions when the department has informed the taxpayer in  
7 writing of the taxpayer's tax obligations and the taxpayer fails to  
8 act in accordance with those instructions unless, in the case of a  
9 deficiency, the department has not issued final instructions because  
10 the matter is under appeal pursuant to this chapter or departmental  
11 regulations. The department may not assess the penalty under this  
12 section upon any taxpayer who has made a good faith effort to comply  
13 with the specific written instructions provided by the department to  
14 that taxpayer. A taxpayer will be considered to have made a good  
15 faith effort to comply with specific written instructions to file  
16 returns and/or remit taxes electronically only if the taxpayer can  
17 show good cause, as defined in RCW 82.32.080, for the failure to  
18 comply with such instructions. A taxpayer will be considered to have  
19 willfully disregarded the requirement to file returns or remit  
20 payment electronically if the department has mailed or otherwise  
21 delivered the specific written instructions to the taxpayer on at  
22 least two occasions. Specific written instructions may be given as a  
23 part of a tax assessment, audit, determination, closing agreement, or  
24 other written communication, provided that such specific written  
25 instructions apply only to the taxpayer addressed or referenced on  
26 such communication. Any specific written instructions by the  
27 department must be clearly identified as such and must inform the  
28 taxpayer that failure to follow the instructions may subject the  
29 taxpayer to the penalties imposed by this subsection. If the  
30 department determines that it is necessary to provide specific  
31 written instructions to a taxpayer that does not comply with the  
32 requirement to file returns or remit payment electronically as  
33 provided in RCW 82.32.080, the specific written instructions must  
34 provide the taxpayer with a minimum of forty-five days to come into  
35 compliance with its electronic filing and/or payment obligations  
36 before the department may impose the penalty authorized in this  
37 subsection.

38 (6) If the department finds that all or any part of a deficiency  
39 resulted from engaging in a disregarded transaction, as described in  
40 RCW 82.32.655(3), the department must assess a penalty of thirty-five

1 percent of the additional tax found to be due as a result of engaging  
 2 in a transaction disregarded by the department under RCW  
 3 82.32.655(2). The penalty provided in this subsection may be assessed  
 4 together with any other applicable penalties provided in this section  
 5 on the same tax found to be due, except for the evasion penalty  
 6 provided in subsection (7) of this section. The department may not  
 7 assess the penalty under this subsection if, before the department  
 8 discovers the taxpayer's use of a transaction described under RCW  
 9 82.32.655(3), the taxpayer discloses its participation in the  
 10 transaction to the department.

11 (7) If the department finds that all or any part of the  
 12 deficiency resulted from an intent to evade the tax payable  
 13 hereunder, a further penalty of fifty percent of the additional tax  
 14 found to be due must be added.

15 (8) The penalties imposed under subsections (1) through (4) of  
 16 this section can each be imposed on the same tax found to be due.  
 17 This subsection does not prohibit or restrict the application of  
 18 other penalties authorized by law.

19 (9) The department may not impose the evasion penalty in  
 20 combination with the penalty for disregarding specific written  
 21 instructions or the penalty provided in subsection (6) of this  
 22 section on the same tax found to be due.

23 (10) For the purposes of this section, "return" means any  
 24 document a person is required by the state of Washington to file to  
 25 satisfy or establish a tax or fee obligation that is administered or  
 26 collected by the department, and that has a statutorily defined due  
 27 date.

28 NEW SECTION. **Sec. 802.** Section 801 of this act applies  
 29 beginning with tax returns due on or after the effective date of this  
 30 section.

### 31 **PART IX**

#### 32 **Requiring Local Governments that Issue Building Permits to Supply** 33 **Contractor Information to the Department of Revenue**

34 **Sec. 901.** RCW 18.27.110 and 1997 c 314 s 11 are each amended to  
 35 read as follows:

36 (1)(a) No city, town or county (~~shall~~) may issue a construction  
 37 building permit for work which is to be done by any contractor

1 required to be registered under this chapter without verification  
2 (~~that such contractor is currently registered as required by law.~~  
3 ~~When such verification is made, nothing contained in this section is~~  
4 ~~intended to be, nor shall be construed to create, or form the basis~~  
5 ~~for any liability under this chapter on the part of any city, town or~~  
6 ~~county, or its officers, employees or agents. However, failure to~~  
7 ~~verify the contractor registration number results in liability to the~~  
8 ~~city, town, or county to a penalty to be imposed according to RCW~~  
9 ~~18.27.100(7)(a)) of the contractor's unified business identifier  
10 number and that such contractor is currently registered as required  
11 by law. Information regarding the contractor must be obtained at the  
12 time the building permit is applied for. The requirement in this  
13 subsection (1)(a) to verify a contractor's registration and unified  
14 business identifier number does not apply with respect to  
15 subcontractors.~~

16 (b)(i) When a general contractor, including a property owner  
17 acting as a general contractor, requests a final inspection, the  
18 city, town, or county that issued the building permit must request  
19 from the general contractor the name, unified business identifier  
20 number, and contractor registration number of any subcontractors that  
21 performed any portion of the work under the building permit. The  
22 department of revenue must develop a form for this purpose and make  
23 it available, at no cost, to the cities, towns, and counties.

24 (ii) Cities, towns, and counties may charge general contractors  
25 and property owners acting as a general contractor a fee of five  
26 dollars to defray the cost of collecting the information required in  
27 this subsection (1)(b) and providing the information to the  
28 department of revenue as required in (f) of this subsection (1).

29 (iii) This subsection (1)(b) only applies with respect to  
30 construction on single-family dwellings and multifamily residential  
31 buildings as defined in RCW 19.27.015.

32 (c) A general contractor or building permit applicant must  
33 provide a city, town, or county with complete and accurate  
34 information about the contractor and any subcontractors as requested  
35 by the city, town, or county pursuant to (a) and (b) of this  
36 subsection (1).

37 (d) When the verification is made and the information requested,  
38 as required in (a) and (b) of this subsection (1), nothing contained  
39 in this section is intended to be, nor shall be construed to create,

1 or form the basis for any liability under this chapter on the part of  
2 any city, town, or county, or its officers, employees, or agents.

3 (e) However, failure to comply with the provisions of (a) and (b)  
4 of this subsection (1) results in liability to the city, town, or  
5 county to a penalty to be imposed according to RCW 18.27.100(8)(a).

6 (f) Cities, towns, and counties must furnish the information  
7 collected pursuant to (a) and (b) of this subsection (1) to the  
8 department of revenue monthly at no charge to the department. The  
9 information must be provided in a format requested by the department.  
10 The department of revenue must, upon request, share such information  
11 with the department of labor and industries and the employment  
12 security department.

13 (2) At the time of issuing the building permit, all cities,  
14 towns, or counties are responsible for:

15 (a) Printing the contractor registration number on the building  
16 permit; and

17 (b) Providing a written notice to the building permit applicant  
18 informing them of contractor registration laws and the potential risk  
19 and monetary liability to the homeowner for using an unregistered  
20 contractor.

21 (3) If a building permit is obtained by an applicant or  
22 contractor who falsifies information to obtain an exemption provided  
23 under RCW 18.27.090 or who violates subsection (1)(c) of this section  
24 by providing materially incomplete or inaccurate information to a  
25 city, town, or county, the building permit ((shall)) must be  
26 forfeited.

27 **Sec. 902.** RCW 18.27.200 and 2007 c 436 s 9 are each amended to  
28 read as follows:

29 (1) It is a violation of this chapter and an infraction for any  
30 contractor to:

31 (a) Advertise, offer to do work, submit a bid, or perform any  
32 work as a contractor without being registered as required by this  
33 chapter;

34 (b) Advertise, offer to do work, submit a bid, or perform any  
35 work as a contractor when the contractor's registration is suspended  
36 or revoked;

37 (c) Transfer a valid registration to an unregistered contractor  
38 or allow an unregistered contractor to work under a registration  
39 issued to another contractor;

1 (d) If the contractor is a contractor as defined in RCW  
2 18.106.010, violate RCW 18.106.320; ((~~or~~))

3 (e) Subcontract to, or use, an unregistered contractor; or

4 (f) Provide materially incomplete or inaccurate information to a  
5 city, town, or county pursuant to a request for information as  
6 required by RCW 18.27.110.

7 (2) Each day that a contractor works without being registered as  
8 required by this chapter, works while the contractor's registration  
9 is suspended or revoked, or works under a registration issued to  
10 another contractor is a separate infraction. Each worksite at which a  
11 contractor works without being registered as required by this  
12 chapter, works while the contractor's registration is suspended or  
13 revoked, or works under a registration issued to another contractor  
14 is a separate infraction.

## 15 PART X

### 16 Transfers to Education Legacy Trust Account

17 NEW SECTION. Sec. 1001. A new section is added to chapter 82.32  
18 RCW to read as follows:

19 (1) By the last workday of the second and fourth calendar  
20 quarters, the state treasurer must transfer the amount specified in  
21 subsection (2) of this section from the general fund to the education  
22 legacy trust account. The first transfer under this subsection (1)  
23 must occur by December 31, 2015.

24 (2) By December 15th and by June 15th of each year, the  
25 department must estimate the increase in state general fund revenues  
26 from the changes made under parts I through IX of this act for the  
27 current and prior calendar quarters and notify the state treasurer of  
28 the increase.

29 NEW SECTION. Sec. 1002. A new section is added to chapter  
30 43.135 RCW to read as follows:

31 RCW 43.135.034(4) does not apply to the transfers under section  
32 1001 of this act.

33 NEW SECTION. Sec. 1003. A new section is added to chapter 39.42  
34 RCW to read as follows:

35 The purpose of repealing or narrowing tax preferences and  
36 increasing late payment penalties for not reporting excise taxes in a

1 timely manner in this act is to support education-related  
2 expenditures from the education legacy trust account. For this  
3 reason, general state revenues transferred to the education legacy  
4 trust account under section 1001 of this act are excluded from the  
5 calculation of general state revenues for purposes of Article VIII,  
6 section 1 of the state Constitution and RCW 39.42.130 and 39.42.140.

7 **Sec. 1004.** RCW 83.100.230 and 2012 1st sp.s. c 10 s 7 are each  
8 amended to read as follows:

9 The education legacy trust account is created in the state  
10 treasury. Money in the account may be spent only after appropriation.  
11 Expenditures from the account may be used only for support of the  
12 common schools, for support of early learning programs, and for  
13 expanding access to higher education through funding for new  
14 enrollments and financial aid, and other educational improvement  
15 efforts.

16 **PART XI**  
17 **Appropriations**

18 NEW SECTION. **Sec. 1101. FOR THE SECRETARY OF STATE**

19	General Fund—State Appropriation (FY 2016) . . . . .	\$771,000
20	General Fund—State Appropriation (FY 2017) . . . . .	\$772,000
21	TOTAL APPROPRIATION. . . . .	\$1,543,000

22 The appropriations in this section are subject to the following  
23 conditions and limitations: The appropriations are provided solely  
24 for the state library to purchase statewide online access to the  
25 information technology academy to allow public access to online  
26 courses and learning resources through public libraries.

27 NEW SECTION. **Sec. 1102. FOR THE DEPARTMENT OF REVENUE**

28	General Fund—State Appropriation (FY 2016) . . . . .	\$6,270,000
29	General Fund—State Appropriation (FY 2017) . . . . .	\$5,099,000
30	TOTAL APPROPRIATION. . . . .	\$11,369,000

31 The appropriations in this section are subject to the following  
32 conditions and limitations: The appropriations are provided solely  
33 for the implementation of legislation impacting the department.

1        NEW SECTION.        **Sec. 1103.        FOR THE SUPERINTENDENT OF PUBLIC**

2        **INSTRUCTION**

3        Education Legacy Trust Account—State Appropriation . . . . \$4,867,000

4        The appropriation in this section is subject to the following  
5        conditions and limitations:

6        (1) \$1,000,000 of the general fund—state appropriation for fiscal  
7        year 2016 and \$1,000,000 of the general fund—state appropriation for  
8        fiscal year 2017 are provided solely for the implementation of the  
9        computer science and education grant program, adopted pursuant to  
10       chapter 3, Laws of 2015 1st sp. sess. (Substitute House Bill No.  
11       1813) (computer science).

12       (2) \$674,000 of the general fund—state appropriation for fiscal  
13       year 2016 and \$1,485,000 of the general fund—state appropriation for  
14       fiscal year 2017 are provided solely for the Washington state  
15       achievers scholarship and Washington higher education readiness  
16       program. The funds shall be used to: (a) Support community  
17       involvement officers that recruit, train, and match community  
18       volunteer mentors with students selected as achievers scholars; and  
19       (b) identify and reduce barriers to college for low-income and  
20       underserved middle and high school students.

21       (3) \$354,000 of the general fund—state appropriation for fiscal  
22       year 2016 and \$354,000 of the general fund—state appropriation for  
23       fiscal year 2017 are provided solely for contracting with a college  
24       scholarship organization with expertise in conducting outreach to  
25       students concerning eligibility for the Washington college bound  
26       scholarship consistent with chapter 405, Laws of 2007.

27       NEW SECTION.        **Sec. 1104.        FOR THE SUPERINTENDENT OF PUBLIC**

28       **INSTRUCTION—EDUCATION REFORM PROGRAMS**

29       Education Legacy Trust Account—State Appropriation . . . . \$2,000,000

30       The appropriation in this section is subject to the following  
31       conditions and limitations: The appropriation is provided solely for  
32       a statewide information technology (IT) academy program. This public-  
33       private partnership will provide educational software, as well as IT  
34       certification and software training opportunities for students and  
35       staff in public middle schools.

1        NEW SECTION.        **Sec. 1105.        FOR THE SUPERINTENDENT OF PUBLIC**

2        **INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION**

3        (1) The LEAP documents and tables in this section supersede the  
4 LEAP documents and tables in section 503, chapter . . . (Engrossed  
5 House Bill No. 1106), Laws of 2015 2nd sp. sess.

6        (2) For the purposes of the section:

7        (a) "LEAP Document 1" means the staff mix factors for  
8 certificated instructional staff according to education and years of  
9 experience, as developed by the legislative evaluation and  
10 accountability program committee on June 19, 2015, at 12:15 hours;  
11 and

12        (b) "LEAP Document 2" means the school year salary allocations  
13 for certificated administrative staff and classified staff and  
14 derived and total base salaries for certificated instructional staff  
15 as developed by the legislative evaluation and accountability program  
16 committee on June 19, 2015, at 12:15 hours.

17        (3) Pursuant to RCW 28A.150.410, the following state-wide salary  
18 allocation schedules for certificated instructional staff are  
19 established for basic education salary allocations:

20        [PLACEHOLDER]

21        NEW SECTION.        **Sec. 1106.        FOR THE SUPERINTENDENT OF PUBLIC**

22        **INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

23        Education Legacy Trust Account—State Appropriation . . . \$152,294,000

24        The appropriation in this section is subject to the following  
25 conditions and limitations: When added to amounts provided in section  
26 504, chapter . . . (Engrossed House Bill No. 1106), Laws of 2015 2nd  
27 sp. sess. for Initiative Measure No. 732 salary percentage increases  
28 of 1.8 percent effective September 1, 2015, and 1.2 percent effective  
29 September 1, 2016, the amount in this section is sufficient to  
30 provide total salary increase percentages of 3.0 percent effective  
31 September 1, 2015, and 1.8 percent effective September 1, 2016.

32        NEW SECTION.        **Sec. 1107.        FOR THE SUPERINTENDENT OF PUBLIC**

33        **INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

34        For purposes of RCW 84.52.0531, the increase per full-time  
35 equivalent student is 3.17 percent from the 2015-16 to the 2016-17  
36 school year. This amount supersedes the increase specified in section

1 509, chapter . . . (Engrossed House Bill No. 1106), Laws of 2015 2nd  
2 sp. sess.

3 NEW SECTION. **Sec. 1108.**

4 **Table Of Total Base Salaries For Certificated Instructional Staff**

5 **For School Year 2015-16**

6 \*\*\* Education Experience \*\*\*

7	<b>Years</b>										<b>MA+90</b>
8	<b>of</b>										<b>OR</b>
9	<b>Service</b>	<b>BA</b>	<b>BA+15</b>	<b>BA+30</b>	<b>BA+45</b>	<b>BA+90</b>	<b>BA+135</b>	<b>MA</b>	<b>MA+45</b>	<b>Ph.D.</b>	
10	0	35,069	36,016	36,997	37,981	41,137	43,170	42,045	45,201	47,235	
11	1	35,541	36,501	37,495	38,522	41,711	43,732	42,512	45,701	47,722	
12	2	35,991	36,960	37,965	39,071	42,250	44,293	42,983	46,162	48,205	
13	3	36,454	37,433	38,448	39,589	42,763	44,855	43,429	46,600	48,693	
14	4	36,909	37,931	38,952	40,133	43,325	45,432	43,896	47,089	49,197	
15	5	37,378	38,405	39,436	40,683	43,863	46,013	44,371	47,553	49,703	
16	6	37,861	38,865	39,932	41,240	44,405	46,566	44,859	48,024	50,184	
17	7	38,709	39,728	40,809	42,188	45,401	47,621	45,771	48,982	51,204	
18	8	39,950	41,025	42,131	43,625	46,881	49,183	47,206	50,463	52,764	
19	9		42,368	43,529	45,077	48,409	50,789	48,657	51,991	54,371	
20	10			44,944	46,604	49,979	52,439	50,185	53,562	56,021	
21	11				48,175	51,624	54,133	51,756	55,207	57,714	
22	12				49,696	53,313	55,897	53,389	56,895	59,479	
23	13					55,043	57,704	55,079	58,624	61,285	
24	14					56,781	59,579	56,819	60,477	63,161	
25	15					58,259	61,129	58,296	62,049	64,803	
26	16 or					59,423	62,351	59,462	63,290	66,099	
27	more										

28

29 **Table Of Total Base Salaries For Certificated Instructional Staff**

30 **For School Year 2016-17**

31 \*\*\* Education Experience \*\*\*

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	Ph.D.
0	35,700	36,664	37,663	38,665	41,877	43,946	42,801	46,014	48,085
1	36,181	37,158	38,170	39,215	42,461	44,519	43,277	46,523	48,580
2	36,638	37,625	38,648	39,774	43,011	45,090	43,756	46,993	49,073
3	37,110	38,107	39,140	40,302	43,533	45,662	44,210	47,439	49,569
4	37,573	38,613	39,653	40,855	44,104	46,250	44,686	47,936	50,082
5	38,051	39,096	40,146	41,415	44,652	46,841	45,170	48,409	50,597
6	38,542	39,565	40,650	41,982	45,204	47,404	45,666	48,888	51,087
7	39,405	40,443	41,543	42,947	46,218	48,478	46,595	49,863	52,125
8	40,669	41,763	42,889	44,410	47,724	50,068	48,056	51,371	53,714
9		43,131	44,313	45,888	49,280	51,703	49,533	52,926	55,350
10			45,752	47,442	50,879	53,383	51,088	54,526	57,029
11				49,041	52,553	55,107	52,687	56,200	58,753
12				50,590	54,272	56,903	54,350	57,918	60,550
13					56,033	58,742	56,070	59,679	62,388
14					57,803	60,651	57,842	61,565	64,297
15					59,307	62,229	59,345	63,165	65,969
16 or more					60,493	63,472	60,532	64,429	67,288

**NEW SECTION. Sec. 1109. FOR THE STUDENT ACHIEVEMENT COUNCIL—  
OFFICE OF STUDENT FINANCIAL ASSISTANCE**

Education Legacy Trust Account—State Appropriation . . . \$24,000,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to meet state match requirements associated with the opportunity scholarship program.

**NEW SECTION. Sec. 1110. FOR THE DEPARTMENT OF EARLY LEARNING**

Education Legacy Trust Account—State Appropriation. . . . \$28,250,000

The appropriation in this section is subject to the following conditions and limitations:

1 (1) \$24,250,000 of the appropriation is provided solely for the  
2 early childhood education and assistance program. This amount shall  
3 support at least 1,600 slots in fiscal year 2016 and 1,600 slots in  
4 fiscal year 2017.

5 (2) \$4,000,000 of the appropriation is provided solely for early  
6 intervention assessment and services.

7 NEW SECTION. **Sec. 1111. FOR THE UNIVERSITY OF WASHINGTON**

8	Education Legacy Trust Account—State Appropriation . . .	\$38,084,000
9	State Building Construction Account Appropriation . . . .	\$32,000,000
10	TOTAL APPROPRIATION. . . . .	\$70,084,000

11 The appropriations in this section are subject to the following  
12 conditions and limitations:

13 (1) \$12,000,000 of the education legacy trust account—state  
14 appropriation is provided solely for the expansion of degrees in the  
15 department of computer science and engineering at the Seattle campus.

16 (2) \$8,000,000 of the education legacy trust account—state  
17 appropriation is provided solely for the family medicine residency  
18 network at the university to expand the number of residency slots  
19 available in Washington.

20 (3) \$18,084,000 of the education legacy trust account—state  
21 appropriation is provided to freeze resident undergraduate tuition  
22 and provide additional state support to the university.

23 (4) \$32,000,000 of the state building construction account  
24 appropriation is provided solely to create expansion space for the  
25 university's computer science and engineering program.

26 NEW SECTION. **Sec. 1112. FOR THE WASHINGTON STATE UNIVERSITY**

27	Education Legacy Trust Account—State Appropriation . . .	\$12,849,000
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28 The appropriation in this section is subject to the following  
29 conditions and limitations:

30 (1) \$2,500,000 of the appropriation is provided solely for the  
31 university to establish a medical school.

32 (2) \$10,349,000 of the appropriation is provided to freeze  
33 resident undergraduate tuition and provide additional state support  
34 to the university.

35 NEW SECTION. **Sec. 1113. FOR THE EASTERN WASHINGTON UNIVERSITY**

36	Education Legacy Trust Account—State Appropriation . . . .	\$3,228,000
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1 The appropriation in this section is subject to the following  
 2 conditions and limitations: The appropriation is provided to freeze  
 3 resident undergraduate tuition and provide additional state support  
 4 to the university.

5 NEW SECTION. **Sec. 1114. FOR THE CENTRAL WASHINGTON UNIVERSITY**

6 Education Legacy Trust Account—State Appropriation . . . . \$2,806,000

7 The appropriation in this section is subject to the following  
 8 conditions and limitations: The appropriation is provided to freeze  
 9 resident undergraduate tuition and provide additional state support  
 10 to the university.

11 NEW SECTION. **Sec. 1115. FOR THE EVERGREEN STATE COLLEGE**

12 Education Legacy Trust Account—State Appropriation . . . . \$1,393,000

13 The appropriation in this section is subject to the following  
 14 conditions and limitations: The appropriation is provided to freeze  
 15 resident undergraduate tuition and provide additional state support  
 16 to the college.

17 NEW SECTION. **Sec. 1116. FOR THE WESTERN WASHINGTON UNIVERSITY**

18 Education Legacy Trust Account—State Appropriation . . . . \$4,178,000

19 The appropriation in this section is subject to the following  
 20 conditions and limitations: The appropriation is provided to freeze  
 21 resident undergraduate tuition and provide additional state support  
 22 to the university.

23 NEW SECTION. **Sec. 1117. FOR THE STATE BOARD FOR COMMUNITY AND**  
 24 **TECHNICAL COLLEGES**

25 Education Legacy Trust Account—State Appropriation . . . . \$17,109,000

26 The appropriation in this section is subject to the following  
 27 conditions and limitations:

28 (1) \$2,500,000 of the appropriation is provided solely for the  
 29 expansion of the mathematics, engineering, and science achievement  
 30 program. The state board shall report back to the appropriate  
 31 committees of the legislature on the number of campuses and students  
 32 served by December 31, 2018.

1 (2) \$14,609,000 of the appropriation is provided to freeze  
2 resident tuition and provide additional state support for the  
3 community and technical colleges.

4 NEW SECTION. **Sec. 1118. FOR THE STATE TREASURER—BOND RETIREMENT**  
5 **AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR**  
6 **DEBT SUBJECT TO THE DEBT LIMIT**

7	General Fund—State Appropriation (FY 2016) . . . . .	\$3,955,000
8	General Fund—State Appropriation (FY 2017) . . . . .	\$32,845,000
9	Columbia River Basin Water Supply Development	
10	Account—State Appropriation. . . . .	\$24,000
11	State Taxable Building Construction Account—State	
12	Appropriation. . . . .	\$262,000
13	Columbia River Basin Taxable Bond Water Supply Development	
14	Account—State Appropriation. . . . .	\$53,000
15	TOTAL APPROPRIATION. . . . .	\$37,139,000

16 The appropriations in this section support capital budget  
17 appropriations for the 2015-2017 fiscal biennium and are subject to  
18 the following conditions and limitations: The general fund  
19 appropriations are for expenditure into the debt-limit general fund  
20 bond retirement account.

21 NEW SECTION. **Sec. 1119. FOR THE STATE TREASURER—BOND RETIREMENT**  
22 **AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR**  
23 **BOND SALE EXPENSES**

24	Columbia River Basin Water Supply Development Account—State	
25	Appropriation. . . . .	\$6,000
26	State Taxable Building Construction Account—State	
27	Appropriation. . . . .	\$53,000
28	Columbia River Basin Taxable Bond Water Supply Development	
29	Account—State Appropriation. . . . .	\$11,000
30	TOTAL APPROPRIATION. . . . .	\$70,000

31 **PART XII**

32 **Miscellaneous Technical Provisions**

33 NEW SECTION. **Sec. 1201.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 1202.** (1) Except as provided otherwise in  
4 this section, this act is necessary for the immediate preservation of  
5 the public peace, health, or safety, or support of the state  
6 government and its existing public institutions, and takes effect  
7 August 1, 2015.

8 (2) Section 1004 of this act and part XI of this act are  
9 necessary for the immediate preservation of the public peace, health,  
10 or safety, or support of the state government and its existing public  
11 institutions, and take effect July 1, 2015.

12 (3) Parts I, VI, and VII of this act are necessary for the  
13 immediate preservation of the public peace, health, or safety, or  
14 support of the state government and its existing public institutions,  
15 and take effect September 1, 2015.

(End of Bill)

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STATE TREASURER

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