

SSB 6492 - S AMD 919

By Senator Pedersen

ADOPTED AS AMENDED 01/29/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 28C.18.200 and 2019 c 406 s 3 are each amended to
4 read as follows:

5 (1) The workforce education investment accountability and
6 oversight board is established. The board consists of seventeen
7 members, as provided in this subsection:

8 (a) Four members of the legislature consisting of the chairs and
9 ranking minority members of the respective higher education and
10 workforce development committees of the senate and house of
11 representatives, ex officio; and

12 (b) The following members appointed by the governor with the
13 consent of the senate:

14 (i) Five members representing the businesses described in RCW
15 82.04.299 or subject to the tax rate under RCW 82.04.290(2)(a)(i);

16 (ii) Two members representing labor organizations, one of which
17 must have expertise in registered apprenticeships and training a
18 high-demand workforce and one of which must represent faculty at the
19 four-year institutions of higher education;

20 (iii) Two members representing the institutions of higher
21 education, as defined in RCW 28B.10.016, one of which must be from
22 the four-year sector and one of which must be from the community and
23 technical college sector;

24 (iv) Two members representing students, one of which must be a
25 community and technical college student;

26 (v) One member representing the independent, not-for-profit
27 higher education institutions; and

28 (vi) One member representing the student achievement council,
29 established under chapter 28B.77 RCW.

30 (2) Except for ex officio and student members, board members
31 shall hold their offices for a term of three years until their

1 successors are appointed. Student board members shall hold one-year
2 terms.

3 (3) The board shall have two cochairs. One cochair shall be one
4 of the chairs of the respective higher education and workforce
5 development committees of the legislature and the other cochair shall
6 be one of the board members representing the businesses described in
7 RCW 82.04.299 or subject to the tax rate under RCW
8 82.04.290(2)(a)(i). The cochairs shall hold the position for a one-
9 year term. The board members shall elect the cochairs annually.

10 (4) Nine voting members of the board constitute a quorum for the
11 transaction of business. The board shall meet four times a year.

12 (5) Staff support for the board shall be provided by the
13 workforce training and education coordinating board established in
14 this chapter (~~(28C.18 RCW)~~).

15 (6) The purposes of the board are to:

16 (a) Provide guidance and recommendations to the legislature on
17 what workforce education priorities should be funded with the
18 workforce education investment account; and

19 (b) Ensure accountability that the workforce education
20 investments funded with the workforce education investment account
21 are producing the intended results and are effectively increasing
22 student success and career readiness, such as by increasing
23 retention, completion, and job placement rates.

24 (7) The board shall consult data from the education data center
25 established under RCW 43.41.400 and the workforce training and
26 education coordinating board established under this chapter (~~(28C.18~~
27 ~~RCW)~~) when reviewing and determining whether workforce education
28 investments funded from the workforce education investment account
29 are effectively increasing student success and career readiness.

30 (8) The board shall report its recommendations to the appropriate
31 committees of the legislature by August 1st of each year.

32 (9) For the purposes of this section, "board" means the workforce
33 education investment accountability and oversight board established
34 in this section.

35 **Sec. 2.** RCW 43.79.195 and 2019 c 406 s 2 are each amended to
36 read as follows:

37 (1) The workforce education investment account is created in the
38 state treasury. All revenues from the workforce investment
39 surcharge(~~s~~) created in RCW 82.04.299 and those revenues as

1 specified under RCW 82.04.290(2)(c) must be deposited directly into
2 the account. Moneys in the account may be spent only after
3 appropriation. Expenditures from the account may be used only for
4 higher education programs, higher education operations, higher
5 education compensation, and state-funded student aid programs. For
6 the 2019-2021 biennium, expenditures from the account may be used for
7 kindergarten through twelfth grade if used for career connected
8 learning as provided for in chapter 406, Laws of 2019.

9 (2) Expenditures from the workforce education investment account
10 must be used to supplement, not supplant, other federal, state, and
11 local funding for higher education.

12 **Sec. 3.** RCW 82.04.290 and 2019 c 426 s 2 are each amended to
13 read as follows:

14 (1) Upon every person engaging within this state in the business
15 of providing qualifying international investment management services,
16 as to such persons, the amount of tax with respect to such business
17 is equal to the gross income or gross proceeds of sales of the
18 business multiplied by a rate of 0.275 percent.

19 (2)(a) Upon every person engaging within this state in any
20 business activity other than or in addition to an activity taxed
21 explicitly under another section in this chapter or subsection (1) or
22 (3) of this section; as to such persons the amount of tax on account
23 of such activities is equal to the gross income of the business
24 multiplied by the rate of:

25 (i) 1.75 percent; or

26 (ii) 1.5 percent for:

27 (A) Any person subject to the surcharge imposed under RCW
28 82.04.299;

29 (B) Any person whose gross income of the business subject to the
30 tax imposed under this subsection (2), for the immediately preceding
31 calendar year, was less than one million dollars, unless (I) the
32 person is affiliated with one or more other persons, and (II) the
33 aggregate gross income of the business subject to the tax imposed
34 under this subsection (2) for all affiliated persons was greater than
35 or equal to one million dollars for the immediately preceding
36 calendar year; and

37 (C) Hospitals as defined in RCW 70.41.020, including any hospital
38 that comes within the scope of chapter 71.12 RCW if the hospital is

1 also licensed under chapter 70.41 RCW. This subsection (2)(a)(ii)(C)
2 must not be construed as modifying RCW 82.04.260(10).

3 (b) This subsection (2) includes, among others, and without
4 limiting the scope hereof (whether or not title to materials used in
5 the performance of such business passes to another by accession,
6 confusion or other than by outright sale), persons engaged in the
7 business of rendering any type of service which does not constitute a
8 "sale at retail" or a "sale at wholesale." The value of advertising,
9 demonstration, and promotional supplies and materials furnished to an
10 agent by his or her principal or supplier to be used for
11 informational, educational, and promotional purposes is not
12 considered a part of the agent's remuneration or commission and is
13 not subject to taxation under this section.

14 (c) 14.3 percent of the revenues collected under (a)(i) of this
15 subsection (2) must be deposited into the workforce education
16 investment account created in RCW 43.79.195.

17 (d)(i) To aid in the effective administration of this subsection
18 (2), the department may require a person claiming to be subject to
19 the 1.5 percent tax rate under (a)(ii)(B) of this subsection (2) to
20 identify all of the person's affiliates, including their department
21 tax registration number or unified business identifier number, as may
22 be applicable, or to certify that the person is not affiliated with
23 any other person. Requests under this subsection (2)(d)(i) must be in
24 writing and may be made electronically.

25 (ii) If the department establishes, by clear, cogent, and
26 convincing evidence, that a person, with intent to evade the
27 additional taxes due under the 1.75 percent tax rate in (a)(i) of
28 this subsection (2), failed to provide the department with complete
29 and accurate information in response to a written request under
30 (d)(i) of this subsection (2) within thirty days of such request, the
31 person is ineligible for the 1.5 percent tax rate in (a)(ii) of this
32 subsection (2) for the entire current calendar year and the following
33 four calendar years. However, the department must waive the
34 provisions of this subsection (2)(d)(ii) for any tax reporting period
35 that the person is otherwise eligible for the 1.5 percent tax rate in
36 (a)(ii) of this subsection (2) if (A) the department has not
37 previously determined that the person failed to fully comply with
38 (d)(i) of this subsection (2), and (B) within thirty days of the
39 notice of additional tax due as a result of the person's failure to
40 fully comply with (d)(i) of this subsection (2) the department

1 determines that the person has come into full compliance with (d) (i)
2 of this subsection (2). This subsection (2) (d) applies only with
3 respect to persons claiming entitlement to the 1.5 percent tax rate
4 solely by reason of (a) (ii) (B) of this subsection (2).

5 (e) For the purposes of (a) (ii) (B) of this subsection (2), if a
6 taxpayer is subject to the reconciliation provisions of RCW
7 82.04.462(4), and calculates gross income of the business subject to
8 the tax imposed under this subsection (2) for the immediately
9 preceding calendar year, or aggregate gross income of the business
10 subject to the tax imposed under this subsection (2) for the
11 immediately preceding calendar year for all affiliated persons, based
12 on incomplete information, the taxpayer must correct the reporting
13 for the current calendar year when complete information for the
14 immediately preceding calendar year is available.

15 (f) For purposes of this subsection (2), the definitions in this
16 subsection (2) (f) apply:

17 (i) "Affiliate" means a person that directly or indirectly,
18 through one or more intermediaries, controls, is controlled by, or is
19 under common control with another person; and

20 (ii) "Control" means the possession, directly or indirectly, of
21 more than eighty percent of the power to direct or cause the
22 direction of the management and policies of a person, whether through
23 the ownership of voting shares, by contract, or otherwise.

24 (3) (a) Until July 1, 2040, upon every person engaging within this
25 state in the business of performing aerospace product development for
26 others, as to such persons, the amount of tax with respect to such
27 business is equal to the gross income of the business multiplied by a
28 rate of 0.9 percent.

29 (b) A person reporting under the tax rate provided in this
30 subsection (3) must file a complete annual report with the department
31 under RCW 82.32.534.

32 (c) "Aerospace product development" has the meaning as provided
33 in RCW 82.04.4461.

34 **Sec. 4.** RCW 82.04.299 and 2019 c 406 s 74 are each amended to
35 read as follows:

36 ~~((The legislature intends to secure additional revenue via~~
37 ~~surcharges targeted towards certain industries including select~~
38 ~~advanced computing businesses.~~

1 ~~The legislature intends the provisions of chapter 406, Laws of~~
2 ~~2019 to be applied broadly in favor of application of the surcharges.~~
3 ~~To achieve this intent, any provision within chapter 406, Laws of~~
4 ~~2019 that is deemed to be ambiguous by a court of competent~~
5 ~~jurisdiction, the board of tax appeals, or any other judicial or~~
6 ~~administrative body, should be construed in favor of application of~~
7 ~~the surcharges. The rule of statutory construction in favor of the~~
8 ~~application of the surcharge under this paragraph does not apply on~~
9 ~~or after January 1, 2022.~~

10 ~~(1) (a) Beginning with business activities occurring on or after~~
11 ~~January 1, 2020, in addition to the taxes imposed under RCW~~
12 ~~82.04.290(2), a workforce education investment surcharge is imposed~~
13 ~~on specified persons. The surcharge is equal to the total amount of~~
14 ~~tax payable by the person on business activities taxed under RCW~~
15 ~~82.04.290(2), before application of any tax credits, multiplied by~~
16 ~~the rate of twenty percent.~~

17 ~~(b) For specified persons who report under one or more tax~~
18 ~~classifications, this surcharge applies only to business activities~~
19 ~~taxed under RCW 82.04.290(2).~~

20 ~~(c) The surcharge imposed under this subsection (1) must be~~
21 ~~reported and paid in a manner and frequency as required by the~~
22 ~~department.~~

23 ~~(2) For the purposes of this section, "specified person" means a~~
24 ~~person who is not subject to the surcharge under subsection (4) of~~
25 ~~this section and who is primarily engaged within this state in any~~
26 ~~combination of the following activities:~~

27 ~~(a) Computer software publishing or publishing and reproduction.~~
28 ~~Establishments in this industry carry out operations necessary for~~
29 ~~producing and distributing computer software, such as designing,~~
30 ~~providing documentation, assisting in installation, and providing~~
31 ~~support services to software purchasers. These establishments may~~
32 ~~design, develop, and publish, or publish only. These establishments~~
33 ~~may publish and distribute software remotely through subscriptions~~
34 ~~and downloads;~~

35 ~~(b) Conducting original investigation undertaken on a systematic~~
36 ~~basis to gain new knowledge or the application of research findings~~
37 ~~or other scientific knowledge for the creation of new or~~
38 ~~significantly improved products or processes. Techniques may include~~
39 ~~modeling and simulation. The industries within this industry group~~

1 are defined on the basis of the domain of research and on scientific
2 expertise of the establishment;

3 (c) Putting capital at risk in the process of underwriting
4 securities issues or in making markets for securities and commodities
5 and those acting as agents or brokers between buyers and sellers of
6 securities and commodities, usually charging a commission;

7 (d) Providing expertise in the field of information technologies
8 through one or more of the following activities: (i) Writing,
9 modifying, testing, and supporting computer software to meet the
10 needs of a particular customer; (ii) planning and designing computer
11 systems that integrate computer hardware, computer software, and
12 communication technologies; (iii) on-site management and operation of
13 clients' computer systems and data processing facilities; or (iv)
14 other professional and technical computer-related advice and
15 services;

16 (e) Performing central banking functions, such as issuing
17 currency, managing the nation's money supply and international
18 reserves, holding deposits that represent the reserves of other banks
19 and other central banks, and acting as a fiscal agent for the central
20 government;

21 (f) (i) Purchasing access and network capacity from owners and
22 operators of telecommunications networks and reselling wired and
23 wireless telecommunications services, except satellite, to businesses
24 and households; (ii) providing specialized telecommunications
25 services, such as satellite tracking, communications telemetry, and
26 radar station operation; (iii) providing satellite terminal stations
27 and associated facilities connected with one or more terrestrial
28 systems and capable of transmitting telecommunications to, and
29 receiving telecommunications from, satellite systems; or (iv)
30 providing internet access services or voice over internet protocol
31 services via client-supplied telecommunications connections.
32 Establishments in this industry do not operate as telecommunications
33 carriers. Mobile virtual network operators are included in this
34 industry;

35 (g) (i) Acting as principals in buying or selling financial
36 contracts, except investment bankers, securities dealers, and
37 commodity contracts dealers; (ii) acting as agents or brokers, except
38 securities brokerages and commodity contracts brokerages, in buying
39 or selling financial contracts; or (iii) providing other investment
40 services except securities and commodity exchanges, such as portfolio

1 management, investment advice, and trust, fiduciary, and custody
2 services;

3 (h) Supplying information, such as news reports, articles,
4 pictures, and features, to the news media. This industry comprises
5 establishments primarily engaged in providing library or archive
6 services. These establishments are engaged in maintaining collections
7 of documents and facilitating the use of these documents as required
8 to meet the informational, research, educational, or recreational
9 needs of their user. These establishments may also acquire, research,
10 store, preserve, and generally make accessible to the public
11 historical documents, photographs, maps, audio material, audiovisual
12 material, and other archival material of historical interest. All or
13 portions of these collections may be accessible electronically. This
14 industry comprises establishments engaged in: (i) Publishing and
15 broadcasting content on the internet exclusively; or (ii) operating
16 web sites that use a search engine to generate and maintain extensive
17 databases of internet addresses and content in an easily searchable
18 format, known as web search portals. The publishing and broadcasting
19 establishments in this industry do not provide traditional versions
20 of the content they publish or broadcast. They provide textual,
21 audio, or video content of general or specific interest on the
22 internet exclusively. Establishments known as web search portals
23 often provide additional internet services, such as email,
24 connections to other web sites, auctions, news, and other limited
25 content, and serve as a home base for internet users. This industry
26 comprises establishments primarily engaged in providing other
27 information services, except news syndicates, libraries, archives,
28 internet publishing and broadcasting, and web search portals;

29 (i) Architectural, engineering, and related services, such as
30 drafting services, building inspection services, geophysical
31 surveying and mapping services, surveying and mapping, except
32 geophysical services and testing services;

33 (j) Retailing all types of merchandise using nonstore means, such
34 as catalogs, toll-free telephone numbers, electronic media, such as
35 interactive television or the internet, or selling directly to
36 consumers in a nonretail, physical environment. Included in this
37 industry are establishments primarily engaged in retailing from
38 catalog showrooms of mail-order houses;

1 ~~(k) Providing advice and assistance to businesses and other~~
2 ~~organizations on management, environmental, scientific, and technical~~
3 ~~issues;~~

4 ~~(l) Providing infrastructure for hosting or data processing~~
5 ~~services. These establishments may provide specialized hosting~~
6 ~~activities, such as web hosting, streaming services, or application~~
7 ~~hosting, or they may provide general time-share mainframe facilities~~
8 ~~to clients. Data processing establishments provide complete~~
9 ~~processing and specialized reports from data supplied by clients or~~
10 ~~provide automated data processing and data entry services;~~

11 ~~(m) Facilitating credit intermediation by performing activities,~~
12 ~~such as arranging loans by bringing borrowers and lenders together~~
13 ~~and clearing checks and credit card transactions;~~

14 ~~(n) Offering legal services, such as those offered by offices of~~
15 ~~lawyers, offices of notaries, and title abstract and settlement~~
16 ~~offices, and paralegal services;~~

17 ~~(o) Operating or providing access to transmission facilities and~~
18 ~~infrastructure that they own or lease for the transmission of voice,~~
19 ~~data, text, sound, and video using wired telecommunications networks.~~
20 ~~Transmission facilities may be based on a single technology or a~~
21 ~~combination of technologies. Establishments in this industry use the~~
22 ~~wired telecommunications network facilities that they operate to~~
23 ~~provide a variety of services, such as wired telephony services,~~
24 ~~including voice over internet protocol services, wired audio and~~
25 ~~video programming distribution, and wired broadband internet~~
26 ~~services. By exception, establishments providing satellite television~~
27 ~~distribution services using facilities and infrastructure that they~~
28 ~~operate are included in this industry;~~

29 ~~(p) Providing telecommunications services to other establishments~~
30 ~~in the telecommunications and broadcasting industries by forwarding~~
31 ~~and receiving communications signals via a system of satellites or~~
32 ~~reselling satellite telecommunications;~~

33 ~~(q) Operating and maintaining switching and transmission~~
34 ~~facilities to provide communications via the airwaves. Establishments~~
35 ~~in this industry have spectrum licenses and provide services using~~
36 ~~that spectrum, such as cellular phone services, paging services,~~
37 ~~wireless internet access, and wireless video services;~~

38 ~~(r) Extending credit or lending funds raised by credit market~~
39 ~~borrowing, such as issuing commercial paper or other debt instruments~~
40 ~~or by borrowing from other financial intermediaries;~~

1 ~~(s) Underwriting annuities and insurance policies and investing~~
2 ~~premiums to build up a portfolio of financial assets to be used~~
3 ~~against future claims. Direct insurance carriers are establishments~~
4 ~~that are primarily engaged in initially underwriting and assuming the~~
5 ~~risk of annuities and insurance policies. Reinsurance carriers are~~
6 ~~establishments that are primarily engaged in assuming all or part of~~
7 ~~the risk associated with an existing insurance policy originally~~
8 ~~underwritten by another insurance carrier. Industries are defined in~~
9 ~~terms of the type of risk being insured against, such as death, loss~~
10 ~~of employment because of age or disability, or property damage.~~
11 ~~Contributions and premiums are set on the basis of actuarial~~
12 ~~calculations of probable payouts based on risk factors from~~
13 ~~experience tables and expected investment returns on reserves;~~

14 ~~(t) Merchant wholesale distribution of photographic equipment and~~
15 ~~supplies and office, computer, and computer peripheral equipment and~~
16 ~~medical, dental, hospital, ophthalmic, and other commercial and~~
17 ~~professional equipment and supplies;~~

18 ~~(u) Operating studios and facilities for the broadcasting of~~
19 ~~programs on a subscription or fee basis. The broadcast programming is~~
20 ~~typically narrowcast in nature. These establishments produce~~
21 ~~programming in their own facilities or acquire programming from~~
22 ~~external sources. The programming material is usually delivered to a~~
23 ~~third party, such as cable systems or direct-to-home satellite~~
24 ~~systems, for transmission to viewers;~~

25 ~~(v) Publishing newspapers, magazines, other periodicals, books,~~
26 ~~directories and mailing lists, and other works, such as calendars,~~
27 ~~greeting cards, and maps. These works are characterized by the~~
28 ~~intellectual creativity required in their development and are usually~~
29 ~~protected by copyright. Publishers distribute or arrange for the~~
30 ~~distribution of these works. Publishing establishments may create the~~
31 ~~works in-house, or contract for, purchase, or compile works that were~~
32 ~~originally created by others. These works may be published in one or~~
33 ~~more formats, such as print or electronic form, including proprietary~~
34 ~~electronic networks. Establishments in this industry may print,~~
35 ~~reproduce, or offer direct access to the works themselves or may~~
36 ~~arrange with others to carry out such functions. Establishments that~~
37 ~~both print and publish may fill excess capacity with commercial or~~
38 ~~job printing. However, the publishing activity is still considered to~~
39 ~~be the primary activity of these establishments;~~

1 ~~(w) Generating, transmitting, or distributing electric power.~~
2 ~~Establishments in this industry group may perform one or more of the~~
3 ~~following activities: (i) Operate generation facilities that produce~~
4 ~~electric energy; (ii) operate transmission systems that convey the~~
5 ~~electricity from the generation facility to the distribution system;~~
6 ~~or (iii) operate distribution systems that convey electric power~~
7 ~~received from the generation facility or the transmission system to~~
8 ~~the final consumer;~~

9 ~~(x) Providing specialized design services including interior~~
10 ~~design, industrial design, graphic design, and others, but not~~
11 ~~including architectural, engineering, and computer systems design;~~

12 ~~(y) Assigning rights to assets, such as patents, trademarks,~~
13 ~~brand names, or franchise agreements, for which a royalty payment or~~
14 ~~licensing fee is paid to the asset holder;~~

15 ~~(z) Acting as agents in selling annuities and insurance policies~~
16 ~~or providing other employee benefits and insurance related services,~~
17 ~~such as claims adjustment and third-party administration;~~

18 ~~(aa) Business-to-business electronic markets that bring together~~
19 ~~buyers and sellers of goods using the internet or other electronic~~
20 ~~means and generally receive a commission or fee for the service.~~
21 ~~Business-to-business electronic markets for durable and nondurable~~
22 ~~goods are included in this industry. This industry comprises~~
23 ~~wholesale trade agents and brokers acting on behalf of buyers or~~
24 ~~sellers in the wholesale distribution of goods. Agents and brokers do~~
25 ~~not take title to the goods being sold but rather receive a~~
26 ~~commission or fee for their service. Agents and brokers for all~~
27 ~~durable and nondurable goods are included in this industry;~~

28 ~~(bb) Accepting deposits or share deposits and in lending funds~~
29 ~~from these deposits. Within this group, industries are defined on the~~
30 ~~basis of differences in the types of deposit liabilities assumed and~~
31 ~~in the nature of the credit extended;~~

32 ~~(cc) (i) Manufacturing complete aircraft, missiles, or space~~
33 ~~vehicles; (ii) manufacturing aerospace engines, propulsion units,~~
34 ~~auxiliary equipment or parts; (iii) developing and making prototypes~~
35 ~~of aerospace products; (iv) aircraft conversion; or (v) complete~~
36 ~~aircraft or propulsion systems overhaul and rebuilding;~~

37 ~~(dd) Advertising, public relations, and related services, such as~~
38 ~~media buying, independent media representation, outdoor advertising,~~
39 ~~direct mail advertising, advertising material distribution services,~~
40 ~~and other services related to advertising;~~

1 ~~(ee) Providing services, such as auditing of accounting records,~~
2 ~~designing accounting systems, preparing financial statements,~~
3 ~~developing budgets, preparing tax returns, processing payrolls,~~
4 ~~bookkeeping, and billing;~~

5 ~~(ff) The independent practice of general or specialized medicine~~
6 ~~or surgery by businesses comprised of one or more health~~
7 ~~practitioners having the degree of doctor of medicine or doctor of~~
8 ~~osteopathy. These practitioners operate private or group practices in~~
9 ~~their own offices or in the facilities of others, such as hospitals~~
10 ~~or health maintenance organization medical centers;~~

11 ~~(gg) Providing a range of outpatient services, such as family~~
12 ~~planning, diagnosis and treatment of mental health disorders and~~
13 ~~alcohol and other substance abuse, and other general or specialized~~
14 ~~outpatient care by businesses with medical staff;~~

15 ~~(hh) Pooling securities or other assets, except insurance and~~
16 ~~employee benefit funds, on behalf of shareholders, unit holders, or~~
17 ~~beneficiaries, by legal entities such as investment pools or funds;~~

18 ~~(ii) Promoting the interests of an organization's members, except~~
19 ~~religious organizations, social advocacy organizations, and civic and~~
20 ~~social organizations. Examples of establishments in this industry are~~
21 ~~business associations, professional organizations, labor unions, and~~
22 ~~political organizations;~~

23 ~~(jj) Holding the securities of or other equity interests in~~
24 ~~companies and enterprises for the purpose of owning a controlling~~
25 ~~interest or influencing management decisions or businesses that~~
26 ~~administer, oversee, and manage other establishments of the company~~
27 ~~or enterprise and that normally undertake the strategic or~~
28 ~~organizational planning and decision-making role of the company or~~
29 ~~enterprise. Establishments that administer, oversee, and manage may~~
30 ~~hold the securities of the company or enterprise;~~

31 ~~(kk) For medical and diagnostic laboratories, providing analytic~~
32 ~~or diagnostic services, including body fluid analysis and diagnostic~~
33 ~~imaging, generally to the medical profession or to the patient on~~
34 ~~referral from a health practitioner;~~

35 ~~(ll) Serving as offices of chief executives and their advisory~~
36 ~~committees and commissions. This industry includes offices of the~~
37 ~~president, governors, and mayors, in addition to executive advisory~~
38 ~~commissions. This industry comprises government establishments~~
39 ~~serving as legislative bodies and their advisory committees and~~
40 ~~commissions. Included in this industry are legislative bodies, such~~

1 as congress, state legislatures, and advisory and study legislative
2 commissions. This industry comprises government establishments
3 primarily engaged in public finance, taxation, and monetary policy.
4 Included are financial administration activities, such as monetary
5 policy, tax administration and collection, custody and disbursement
6 of funds, debt and investment administration, auditing activities,
7 and government employee retirement trust fund administration. This
8 industry comprises government establishments serving as councils and
9 boards of commissioners or supervisors and such bodies where the
10 chief executive is a member of the legislative body itself. This
11 industry comprises American Indian and Alaska Native governing
12 bodies. Establishments in this industry perform legislative,
13 judicial, and administrative functions for their American Indian and
14 Alaska Native lands. Included in this industry are American Indian
15 and Alaska Native councils, courts, and law enforcement bodies. This
16 industry comprises government establishments primarily engaged in
17 providing general support for government. Such support services
18 include personnel services, election boards, and other general
19 government support establishments that are not classified elsewhere
20 in public administration;

21 (mm) Providing a range of office administrative services, such as
22 financial planning, billing and recordkeeping, personnel, and
23 physical distribution and logistics, for others on a contract or fee
24 basis. These establishments do not provide operating staff to carry
25 out the complete operations of a business;

26 (nn) Providing professional, scientific, or technical services
27 including marketing research, public opinion polling, photographic
28 services, translation and interpretation services, and veterinary
29 services. This category does not include legal services, accounting,
30 tax preparation, bookkeeping, architectural, engineering, and related
31 services, specialized design services, computer systems design,
32 management, scientific and technical consulting services, scientific
33 research and development services, or advertising services;

34 (oo) The independent practice of general or specialized dentistry
35 or dental surgery by businesses comprised of one or more health
36 practitioners having the degree of doctor of dental medicine, doctor
37 of dental surgery, or doctor of dental science. These practitioners
38 operate private or group practices in their own offices or in the
39 facilities of others, such as hospitals or health maintenance
40 organization medical centers. They may provide either comprehensive

1 ~~preventive, cosmetic, or emergency care, or specialize in a single~~
2 ~~field of dentistry;~~

3 ~~(pp) The independent practice of general or specialized medicine~~
4 ~~or surgery, or general or specialized dentistry or dental surgery, by~~
5 ~~businesses comprised of one or more independent health practitioners,~~
6 ~~other than physicians and dentists;~~

7 ~~(qq) Providing ambulatory health care services.~~

8 ~~(3) (a) (i) For the purposes of this section, a person is primarily~~
9 ~~engaged within this state in any combination of the activities~~
10 ~~described in subsection (2) of this section if more than fifty~~
11 ~~percent of the person's cumulative gross amount reportable under this~~
12 ~~chapter during the entire current or immediately preceding calendar~~
13 ~~year was generated from engaging in any one or more of the activities~~
14 ~~described in subsection (2) of this section. For purposes of this~~
15 ~~subsection, "gross amount reportable" means the total value of~~
16 ~~products, gross proceeds of sales, and gross income of the business,~~
17 ~~reportable to the department before application of any tax~~
18 ~~deductions.~~

19 ~~(ii) If a person was not primarily engaged within this state in~~
20 ~~any combination of the activities described in subsection (2) of this~~
21 ~~section during the immediately preceding year, and the person is~~
22 ~~unsure whether the person will be subject to the workforce investment~~
23 ~~surcharge for the current calendar year until the close of the~~
24 ~~current calendar year, the person must, if necessary, file corrected~~
25 ~~returns with the department of revenue to pay any additional tax due~~
26 ~~under this section for the current calendar year. Payment of~~
27 ~~additional tax, along with corrected returns, is due and payable when~~
28 ~~the person's last return for the calendar year during which the tax~~
29 ~~liability accrued is due and payable. Additional tax due under this~~
30 ~~section is subject to penalties and interest as provided under~~
31 ~~chapter 82.32 RCW only if the tax is not paid in full by the date due~~
32 ~~as provided in this subsection (3) (a) (ii).~~

33 ~~(b) The entire amount of gross income of the business received by~~
34 ~~a person pursuant to a contract under which the person is obligated~~
35 ~~to perform any activity described under subsection (2) of this~~
36 ~~section is deemed to be generated from engaging in any one or more of~~
37 ~~the activities described in subsection (2) of this section.~~

38 ~~(4)) (1) (a) Beginning with business activities occurring on or~~
39 ~~after ((January)) April 1, 2020, in addition to the taxes imposed~~

1 under RCW 82.04.290(2), a workforce education investment surcharge is
2 imposed on select advanced computing businesses (~~as follows:~~

3 ~~(i) For an affiliated group that has worldwide gross revenue of~~
4 ~~more than twenty-five billion dollars, but not more than one hundred~~
5 ~~billion dollars, during the entire current or immediately preceding~~
6 ~~calendar year, the surcharge is equal to the total amount of tax~~
7 ~~payable by each member of the affiliated group on all business~~
8 ~~activities taxed under RCW 82.04.290(2), before application of any~~
9 ~~tax credits, multiplied by the rate of thirty-three and one-third~~
10 ~~percent.~~

11 ~~(ii) For an affiliated group that has worldwide gross revenue of~~
12 ~~more than one hundred billion dollars during the entire current or~~
13 ~~immediately preceding calendar year, the surcharge is equal to the~~
14 ~~total amount of tax payable by each member of the affiliated group on~~
15 ~~all business activities taxed under RCW 82.04.290(2), before~~
16 ~~application of any tax credits, multiplied by the rate of sixty-six~~
17 ~~and two-thirds percent)). The surcharge is equal to the gross income~~
18 ~~of the business subject to the tax under RCW 82.04.290(2), multiplied~~
19 ~~by the rate of 1.22 percent.~~

20 (b) (~~FN~~) Except as provided in (e) of this subsection (1), in
21 no case will the combined surcharge imposed under this subsection
22 (~~(4)~~) (1) paid by all members of an affiliated group be (~~less than~~
23 ~~four million dollars or~~) more than (~~seven~~) nine million dollars
24 annually.

25 (c) For persons subject to the surcharge imposed under this
26 subsection (~~(4)~~) (1) that report under one or more tax
27 classifications, the surcharge applies only to business activities
28 taxed under RCW 82.04.290(2).

29 (d) The surcharge imposed under this subsection (~~(4)~~) (1) must
30 be reported and paid on a quarterly basis in a manner (~~and~~
31 ~~frequency~~) as required by the department. Returns and amounts
32 payable under this subsection (1) are due by the last day of the
33 month immediately following the end of the reporting period covered
34 by the return. All other taxes must be reported and paid as required
35 under RCW 82.32.045.

36 (e) (i) To aid in the effective administration of the surcharge in
37 this subsection (~~(4)~~) (1), the department may require persons
38 believed to be engaging in advanced computing or affiliated with a
39 person believed to be engaging in advanced computing to disclose
40 whether they are a member of an affiliated group and, if so, to

1 identify all other members of the affiliated group subject to the
2 surcharge.

3 (ii) If the department (~~determines~~) establishes, by clear,
4 cogent, and convincing evidence, that (~~a person~~) one or more
5 members of an affiliated group, with intent to evade the surcharge
6 under this subsection (~~(4)~~) (1), failed to fully comply with this
7 subsection (~~(4)~~) (1)(e), the (~~seven million dollar limitation in~~
8 ~~(b) of this subsection (4) does not apply to the person's affiliated~~
9 group)) department must assess against that person, or those persons
10 collectively, a penalty equal to fifty percent of the amount of the
11 total surcharge payable by all members of that affiliated group for
12 the calendar year during which the person or persons failed to fully
13 comply with this subsection (1)(e). The penalty under this subsection
14 (1)(e) is in lieu of and not in addition to the evasion penalty under
15 RCW 82.32.090(7).

16 (f) For the purposes of this subsection (~~(4)~~) (1) the following
17 definitions apply:

18 (i) "Advanced computing" means designing or developing computer
19 software or computer hardware, whether directly or contracting with
20 another person, including modifications to computer software or
21 computer hardware, cloud computing services, or operating an online
22 marketplace, an online search engine, or online social networking
23 platform;

24 (ii) "Affiliate" and "affiliated" means a person that directly or
25 indirectly, through one or more intermediaries, controls, is
26 controlled by, or is under common control with another person;

27 (iii) "Affiliated group" means a group of two or more persons
28 that are affiliated with each other;

29 (iv) "Cloud computing services" means on-demand delivery of
30 computing resources, such as networks, servers, storage,
31 applications, and services, over the internet;

32 (v) "Control" means the possession, directly or indirectly, of
33 more than fifty percent of the power to direct or cause the direction
34 of the management and policies of a person, whether through the
35 ownership of voting shares, by contract, or otherwise; and

36 (vi) "Select advanced computing business" means a person who is a
37 member of an affiliated group with at least one member of the
38 affiliated group engaging in the business of advanced computing, and
39 the affiliated group has worldwide gross revenue of more than twenty-
40 five billion dollars during the (~~entire current or~~) immediately

1 preceding calendar year. A person who is primarily engaged within
2 this state in the provision of commercial mobile service, as that
3 term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered
4 a select advanced computing business. A person who is primarily
5 engaged in this state in the operation and provision of access to
6 transmission facilities and infrastructure that the person owns or
7 leases for the transmission of voice, data, text, sound, and video
8 using wired telecommunications networks shall not be considered a
9 select advanced computing business. A person that is a "bank," "bank
10 holding company," or "financial holding company," as those terms are
11 defined in RCW 30A.04.010, shall not be considered a select advanced
12 computing business.

13 ~~((5))~~ (2) The workforce education investment surcharge~~((s))~~
14 under this section ~~((d))~~ does not apply to any hospital as defined
15 in RCW 70.41.020, including any hospital that comes within the scope
16 of chapter 71.12 RCW if the hospital is also licensed under chapter
17 70.41 RCW.

18 ~~((6))~~ (3) Revenues from the surcharge~~((s))~~ under this section
19 must be deposited directly into the workforce education investment
20 account established in RCW 43.79.195.

21 ~~((7))~~ (4) The department has the authority to determine through
22 an audit or other investigation whether a person is subject to the
23 surcharge~~((s))~~ imposed in this section. ~~((The department's~~
24 ~~determination that a person is subject to the surcharge is presumed~~
25 ~~to be correct unless the person shows by clear, cogent, and~~
26 ~~convincing evidence that the department's determination was~~
27 ~~incorrect. The increased evidentiary standard under this subsection~~
28 ~~(7) does not apply after January 1, 2022.))~~

29 NEW SECTION. Sec. 5. If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. Sec. 6. The provisions of RCW 82.32.805 and
34 82.32.808 do not apply to this act.

35 NEW SECTION. Sec. 7. This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect April 1, 2020.

3 NEW SECTION. **Sec. 8.** Section 3 of this act applies beginning
4 with gross income of the business, as defined in RCW 82.04.080,
5 received or accrued by taxpayers, on or after April 1, 2020."

SSB 6492 - S AMD 919
By Senator Pedersen

ADOPTED AS AMENDED 01/29/2020

6 On page 1, line 2 of the title, after "reform;" strike the
7 remainder of the title and insert "amending RCW 28C.18.200,
8 43.79.195, 82.04.290, and 82.04.299; creating new sections; providing
9 an effective date; and declaring an emergency."

EFFECT: Lowers the tax rate from 1.8 percent to 1.75 percent.
Removes the sections of the draft increasing the small business
credit and filing threshold. Clarifies that the advanced computing
surcharge does not apply to financial institutions.

Clarifies that if the department of revenue establishes by clear,
cogent, and convincing evidence that a person intended to evade
paying the higher 1.75% service and other activities B&O tax rate by
not providing affiliate information, that person is required to
report at the higher 1.75% for the current year and next four years
as a consequence for not providing affiliate information to the
department.

Clarifies that if the department of revenue establishes by clear,
cogent, and convincing evidence that one or more members of an
affiliated group intended to evade paying the surcharge by not
providing affiliate information, the department must impose a penalty
on that taxpayer. The penalty is equal to 50% of the total surcharge
payable by all members of that affiliated group for the calendar year
in which the person failed to provide the affiliate information to
the department of revenue.

--- END ---