

2 **SSB 5763** - H COMM AMD **ADOPTED 4-10-97**
3 By Committee on Energy & Utilities

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that the newly
8 emerging business of providing internet service is providing widespread
9 benefits to all levels of society. The legislature further finds that
10 this business is important to our state's continued growth in the high-
11 technology sector of the economy and that, as this industry emerges, it
12 should not be burdened by new taxes that might not be appropriate for
13 the type of service being provided. The legislature further finds that
14 there is no clear statutory guidance as to how internet services should
15 be classified for tax purposes and intends to ratify the state's
16 current treatment of such services.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW
18 to read as follows:

19 Until July 1, 1999, a city or town may not impose any new taxes or
20 fees specific to internet service providers. A city or town may tax
21 internet service providers under generally applicable business taxes or
22 fees, at a rate not to exceed the rate applied to a general service
23 classification. For the purposes of this section, "internet service"
24 has the same meaning as in section 4 of this act.

25 **Sec. 3.** RCW 82.04.055 and 1993 sp.s. c 25 s 201 are each amended
26 to read as follows:

27 (1) "Selected business services" means:

28 (a) Stenographic, secretarial, and clerical services.

29 (b) Computer services, including but not limited to computer
30 programming, custom software modification, custom software
31 installation, custom software maintenance, custom software repair,
32 training in the use of custom software, computer systems design, and
33 custom software update services.

1 (c) Data processing services, including but not limited to word
2 processing, data entry, data retrieval, data search, information
3 compilation, payroll processing, business accounts processing, data
4 production, and other computerized data and information storage or
5 manipulation. Data processing services also includes the use of a
6 computer or computer time for data processing whether the processing is
7 performed by the provider of the computer or by the purchaser or other
8 beneficiary of the service.

9 (d) Information services, including but not limited to electronic
10 data retrieval or research that entails furnishing financial or legal
11 information, data or research, internet service as defined in section
12 4 of this act, general or specialized news, or current information
13 unless such news or current information is furnished to a newspaper
14 publisher or to a radio or television station licensed by the federal
15 communications commission.

16 (e) Legal, arbitration, and mediation services, including but not
17 limited to paralegal services, legal research services, and court
18 reporting services.

19 (f) Accounting, auditing, actuarial, bookkeeping, tax preparation,
20 and similar services.

21 (g) Design services whether or not performed by persons licensed or
22 certified, including but not limited to the following:

23 (i) Engineering services, including civil, electrical, mechanical,
24 petroleum, marine, nuclear, and design engineering, machine designing,
25 machine tool designing, and sewage disposal system designing;

26 (ii) Architectural services, including but not limited to:
27 Structural or landscape design or architecture, interior design,
28 building design, building program management, and space planning.

29 (h) Business consulting services. Business consulting services are
30 those primarily providing operating counsel, advice, or assistance to
31 the management or owner of any business, private, nonprofit, or public
32 organization, including but not limited to those in the following
33 areas: Administrative management consulting, general management
34 consulting, human resource consulting or training, management
35 engineering consulting, management information systems consulting,
36 manufacturing management consulting, marketing consulting, operations
37 research consulting, personnel management consulting, physical
38 distribution consulting, site location consulting, economic consulting,

1 motel, hotel, and resort consulting, restaurant consulting, government
2 affairs consulting, and lobbying.

3 (i) Business management services, including but not limited to
4 administrative management, business management, and office management,
5 but not including property management or property leasing, motel,
6 hotel, and resort management, or automobile parking management.

7 (j) Protective services, including but not limited to detective
8 agency services and private investigating services, armored car
9 services, guard or protective services, lie detection or polygraph
10 services, and security system, burglar, or fire alarm monitoring and
11 maintenance services.

12 (k) Public relations or advertising services, including but not
13 limited to layout, art direction, graphic design, copy writing,
14 mechanical preparation, opinion research, marketing research,
15 marketing, or production supervision, but excluding services provided
16 as part of broadcast or print advertising.

17 (l) Aerial and land surveying, geological consulting, and real
18 estate appraising.

19 (2) Subsection (1) of this section notwithstanding, the term
20 "selected business services" does not include:

21 (a) The provision of either permanent or temporary employees.

22 (b) Services provided by a public benefit nonprofit organization,
23 as defined in RCW 82.04.366, to the state of Washington, its political
24 subdivisions, municipal corporations, or quasi-municipal corporations.

25 (c) Services related to the identification, investigation, or
26 cleanup arising out of the release or threatened release of hazardous
27 substances when the services are remedial or response actions performed
28 under federal or state law, or when the services are performed to
29 determine if a release of hazardous substances has occurred or is
30 likely to occur.

31 (d) Services provided to or performed for, on behalf of, or for the
32 benefit of a collective investment fund such as: (i) A mutual fund or
33 other regulated investment company as defined in section 851(a) of the
34 Internal Revenue Code of 1986, as amended; (ii) an "investment company"
35 as that term is used in section 3(a) of the Investment Company Act of
36 1940 as well as an entity that would be an investment company under
37 section 3(a) of the Investment Company Act of 1940 except for the
38 section 3(c)(1) or (11) exemptions, or except that it is a foreign
39 investment company organized under laws of a foreign country; (iii) an

1 "employee benefit plan," which includes any plan, trust, commingled
2 employee benefit trusts, or custodial arrangement that is subject to
3 the Employee Retirement Income Security Act of 1974, as amended, 29
4 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401,
5 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal
6 Revenue Code of 1986, as amended, or similar plan maintained by state
7 or local governments, or plans, trusts, or custodial arrangements
8 established to self-insure benefits required by federal, state, or
9 local law; (iv) a fund maintained by a tax exempt organization as
10 defined in section 501(c)(3) or 509(a) of the Internal Revenue Code of
11 1986, as amended, for operating, quasi-endowment, or endowment
12 purposes; or (v) funds that are established for the benefit of such tax
13 exempt organization such as charitable remainder trusts, charitable
14 lead trusts, charitable annuity trusts, or other similar trusts.

15 (e) Research or experimental services eligible for expense
16 treatment under section 174 of the Internal Revenue Code of 1986, as
17 amended.

18 (f) Financial services provided by a financial institution. The
19 term "financial institution" means a corporation, partnership, or other
20 business organization chartered under Title 30, 31, 32, or 33 RCW, or
21 under the National Bank Act, as amended, the Homeowners Loan Act, as
22 amended, or the Federal Credit Union Act, as amended, or a holding
23 company of any such business organization that is subject to the Bank
24 Holding Company Act, as amended, or the Homeowners Loan Act, as
25 amended, or a subsidiary or affiliate wholly owned or controlled by one
26 or more financial institutions, as well as a lender approved by the
27 United States secretary of housing and urban development for
28 participation in any mortgage insurance program under the National
29 Housing Act, as amended. The term "financial services" means those
30 activities authorized by the laws cited in this subsection (2)(f) and
31 includes services such as mortgage servicing, contract collection
32 servicing, finance leasing, and services provided in a fiduciary
33 capacity to a trust or estate.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04 RCW
35 to read as follows:

36 (1) The provision of internet services is a selected business
37 service activity and subject to tax under RCW 82.04.290(1), but if RCW
38 82.04.055 is repealed then the provision of internet services is

1 taxable under the general service business and occupation tax
2 classification of RCW 82.04.290.

3 (2) "Internet" means the international computer network of both
4 federal and nonfederal interoperable packet switched data networks,
5 including the graphical subnetwork called the world wide web.

6 (3) "Internet service" means a service that includes computer
7 processing applications, provides the user with additional or
8 restructured information, or permits the user to interact with stored
9 information through the internet or a proprietary subscriber network.
10 "Internet service" includes provision of internet electronic mail,
11 access to the internet for information retrieval, and hosting of
12 information for retrieval over the internet or the graphical subnetwork
13 called the world wide web.

14 **Sec. 5.** RCW 82.04.065 and 1983 2nd ex.s. c 3 s 24 are each amended
15 to read as follows:

16 (1) "Competitive telephone service" means the providing by any
17 person of telecommunications equipment or apparatus, or service related
18 to that equipment or apparatus such as repair or maintenance service,
19 if the equipment or apparatus is of a type which can be provided by
20 persons that are not subject to regulation as telephone companies under
21 Title 80 RCW and for which a separate charge is made.

22 (2) "Network telephone service" means the providing by any person
23 of access to a local telephone network, local telephone network
24 switching service, toll service, or coin telephone services, or the
25 providing of telephonic, video, data, or similar communication or
26 transmission for hire, via a local telephone network, toll line or
27 channel, cable, microwave, or similar communication or transmission
28 system. "Network telephone service" includes interstate service,
29 including toll service, originating from or received on
30 telecommunications equipment or apparatus in this state if the charge
31 for the service is billed to a person in this state. "Network
32 telephone service" includes the provision of transmission to and from
33 the site of an internet provider via a local telephone network, toll
34 line or channel, cable, microwave, or similar communication or
35 transmission system. "Network telephone service" does not include the
36 providing of competitive telephone service, the providing of cable
37 television service, ((~~nor~~)) the providing of broadcast services by
38 radio or television stations, nor the provision of internet service as

1 defined in section 4 of this act, including the reception of dial-in
2 connection, provided at the site of the internet service provider.

3 (3) "Telephone service" means competitive telephone service or
4 network telephone service, or both, as defined in subsections (1) and
5 (2) of this section.

6 (4) "Telephone business" means the business of providing network
7 telephone service, as defined in subsection (2) of this section. It
8 includes cooperative or farmer line telephone companies or associations
9 operating an exchange.

10 NEW SECTION. **Sec. 6.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately."

18 Correct the title.

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