
ENGROSSED SUBSTITUTE SENATE BILL 6170

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hobbs and Prentice)

READ FIRST TIME 04/19/09.

1 AN ACT Relating to environmental tax incentives; amending RCW
2 81.104.170, 82.14.050, 82.14.060, 82.04.263, 82.04.294, 82.08.9651,
3 82.12.9651, 82.16.110, 82.16.120, 82.16.130, 82.08.890, 82.12.890,
4 82.16.010, 82.16.020, and 82.08.020; adding new sections to chapter
5 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new
6 section to chapter 82.14 RCW; adding a new section to chapter 82.04
7 RCW; creating new sections; repealing RCW 82.08.813 and 82.12.813;
8 providing effective dates; providing expiration dates; and declaring an
9 emergency.

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

11 **PART I**

12 **Renewable Energy**

13 NEW SECTION. **Sec. 101.** A new section is added to chapter 82.08
14 RCW to read as follows:

15 (1)(a) Except as provided in section 103 of this act, purchasers
16 who have paid the tax imposed by RCW 82.08.020 on machinery and
17 equipment used directly in generating electricity using fuel cells,
18 wind, sun, biomass energy, tidal or wave energy, geothermal resources,

1 anaerobic digestion, technology that converts otherwise lost energy
2 from exhaust, or landfill gas as the principal source of power, or to
3 sales of or charges made for labor and services rendered in respect to
4 installing such machinery and equipment, are eligible for an exemption
5 as provided in this section, but only if the purchaser develops with
6 such machinery, equipment, and labor a facility capable of generating
7 not less than one thousand watts of electricity.

8 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
9 levied by RCW 82.08.020 does not apply to the sale of machinery and
10 equipment described in (a) of this subsection that are used directly in
11 generating electricity or to sales of or charges made for labor and
12 services rendered in respect to installing such machinery and
13 equipment.

14 (c) Beginning on July 1, 2011, through June 30, 2013, the amount of
15 the exemption under this subsection (1) is equal to seventy-five
16 percent of the state and local sales tax paid. The purchaser is
17 eligible for an exemption under this subsection (1)(c) in the form of
18 a remittance.

19 (2) For purposes of this section and section 102 of this act, the
20 following definitions apply:

21 (a) "Biomass energy" includes: (i) Byproducts of pulping and wood
22 manufacturing process; (ii) animal waste; (iii) solid organic fuels
23 from wood; (iv) forest or field residues; (v) wooden demolition or
24 construction debris; (vi) food waste; (vii) liquors derived from algae
25 and other sources; (viii) dedicated energy crops; (ix) biosolids; and
26 (x) yard waste. "Biomass energy" does not include wood pieces that
27 have been treated with chemical preservatives such as creosote,
28 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
29 forests; or municipal solid waste.

30 (b) "Fuel cell" means an electrochemical reaction that generates
31 electricity by combining atoms of hydrogen and oxygen in the presence
32 of a catalyst.

33 (c) "Landfill gas" means biomass fuel, of the type qualified for
34 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal
35 internal revenue code, collected from a "landfill" as defined under RCW
36 70.95.030.

37 (d)(i) "Machinery and equipment" means fixtures, devices, and
38 support facilities that are integral and necessary to the generation of

1 electricity using fuel cells, wind, sun, biomass energy, tidal or wave
2 energy, geothermal resources, anaerobic digestion, technology that
3 converts otherwise lost energy from exhaust, or landfill gas as the
4 principal source of power.

5 (ii) "Machinery and equipment" does not include: (A) Hand-powered
6 tools; (B) property with a useful life of less than one year; (C)
7 repair parts required to restore machinery and equipment to normal
8 working order; (D) replacement parts that do not increase productivity,
9 improve efficiency, or extend the useful life of machinery and
10 equipment; (E) buildings; or (F) building fixtures that are not
11 integral and necessary to the generation of electricity that are
12 permanently affixed to and become a physical part of a building.

13 (3)(a) Machinery and equipment is "used directly" in generating
14 electricity by wind energy, solar energy, biomass energy, tidal or wave
15 energy, geothermal resources, anaerobic digestion, technology that
16 converts otherwise lost energy from exhaust, or landfill gas power if
17 it provides any part of the process that captures the energy of the
18 wind, sun, biomass energy, tidal or wave energy, geothermal resources,
19 anaerobic digestion, technology that converts otherwise lost energy
20 from exhaust, or landfill gas, converts that energy to electricity, and
21 stores, transforms, or transmits that electricity for entry into or
22 operation in parallel with electric transmission and distribution
23 systems.

24 (b) Machinery and equipment is "used directly" in generating
25 electricity by fuel cells if it provides any part of the process that
26 captures the energy of the fuel, converts that energy to electricity,
27 and stores, transforms, or transmits that electricity for entry into or
28 operation in parallel with electric transmission and distribution
29 systems.

30 (4)(a) A purchaser claiming an exemption in the form of a
31 remittance under subsection (1)(c) of this section must pay the tax
32 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
33 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
34 may then apply to the department for remittance in a form and manner
35 prescribed by the department. A purchaser may not apply for a
36 remittance under this section more frequently than once per quarter.
37 The purchaser must specify the amount of exempted tax claimed and the
38 qualifying purchases for which the exemption is claimed. The purchaser

1 must retain, in adequate detail, records to enable the department to
2 determine whether the purchaser is entitled to an exemption under this
3 section, including: Invoices; proof of tax paid; and documents
4 describing the machinery and equipment.

5 (b) The department must determine eligibility under this section
6 based on the information provided by the purchaser, which is subject to
7 audit verification by the department. The department must on a
8 quarterly basis remit exempted amounts to qualifying purchasers who
9 submitted applications during the previous quarter.

10 (5) This section expires July 1, 2013.

11 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.12
12 RCW to read as follows:

13 (1)(a) Except as provided in section 104 of this act, consumers who
14 have paid the tax imposed by RCW 82.12.020 on machinery and equipment
15 used directly in generating electricity using fuel cells, wind, sun,
16 biomass energy, tidal or wave energy, geothermal resources, anaerobic
17 digestion, technology that converts otherwise lost energy from exhaust,
18 or landfill gas as the principal source of power, or to sales of or
19 charges made for labor and services rendered in respect to installing
20 such machinery and equipment, are eligible for an exemption as provided
21 in this section, but only if the purchaser develops with such
22 machinery, equipment, and labor a facility capable of generating not
23 less than one thousand watts of electricity.

24 (b) Beginning on July 1, 2009, through June 30, 2011, the
25 provisions of this chapter do not apply in respect to the use of
26 machinery and equipment described in (a) of this subsection that are
27 used directly in generating electricity or to sales of or charges made
28 for labor and services rendered in respect to installing such machinery
29 and equipment.

30 (c) Beginning on July 1, 2011, through June 30, 2013, the amount of
31 the exemption under this subsection (1) is equal to seventy-five
32 percent of the state and local sales tax paid. The consumer is
33 eligible for an exemption under this subsection (1)(c) in the form of
34 a remittance.

35 (2)(a) A person claiming an exemption in the form of a remittance
36 under subsection (1)(c) of this section must pay the tax imposed by RCW
37 82.12.020 and all applicable local use taxes imposed under the

1 authority of chapters 82.14 and 81.104 RCW. The consumer may then
2 apply to the department for remittance in a form and manner prescribed
3 by the department. A consumer may not apply for a remittance under
4 this section more frequently than once per quarter. The consumer must
5 specify the amount of exempted tax claimed and the qualifying purchases
6 or acquisitions for which the exemption is claimed. The consumer must
7 retain, in adequate detail, records to enable the department to
8 determine whether the consumer is entitled to an exemption under this
9 section, including: Invoices; proof of tax paid; and documents
10 describing the machinery and equipment.

11 (b) The department must determine eligibility under this section
12 based on the information provided by the consumer, which is subject to
13 audit verification by the department. The department must on a
14 quarterly basis remit exempted amounts to qualifying consumers who
15 submitted applications during the previous quarter.

16 (3) Purchases exempt under section 101 of this act are also exempt
17 from the tax imposed under RCW 82.12.020.

18 (4) The definitions in section 101 of this act apply to this
19 section.

20 (5) This section expires June 30, 2013.

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

23 (1) The tax levied by RCW 82.08.020 does not apply to sales of
24 machinery and equipment used directly in generating electricity using
25 solar energy, or to sales of or charges made for labor and services
26 rendered in respect to installing such machinery and equipment, but
27 only if the purchaser develops with such machinery, equipment, and
28 labor a facility capable of generating not more than ten kilowatts of
29 electricity and provides the seller with an exemption certificate in a
30 form and manner prescribed by the department. The seller must retain
31 a copy of the certificate for the seller's files.

32 (2) For purposes of this section and section 104 of this act:

33 (a) "Machinery and equipment" means industrial fixtures, devices,
34 and support facilities that are integral and necessary to the
35 generation of electricity using solar energy;

36 (b) "Machinery and equipment" does not include: (i) Hand-powered
37 tools; (ii) property with a useful life of less than one year; (iii)

1 repair parts required to restore machinery and equipment to normal
2 working order; (iv) replacement parts that do not increase
3 productivity, improve efficiency, or extend the useful life of
4 machinery and equipment; (v) buildings; or (vi) building fixtures that
5 are not integral and necessary to the generation of electricity that
6 are permanently affixed to and become a physical part of a building;
7 and

8 (c) Machinery and equipment is "used directly" in generating
9 electricity with solar energy if it provides any part of the process
10 that captures the energy of the sun, converts that energy to
11 electricity, and stores, transforms, or transmits that electricity for
12 entry into or operation in parallel with electric transmission and
13 distribution systems.

14 (3) This section expires June 30, 2013.

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

17 (1) The provisions of this chapter do not apply with respect to
18 machinery and equipment used directly in generating not more than ten
19 kilowatts of electricity using solar energy, or to the use of labor and
20 services rendered in respect to installing such machinery and
21 equipment.

22 (2) The definitions in section 103 of this act apply to this
23 section.

24 (3) This section expires June 30, 2013.

25 NEW SECTION. **Sec. 105.** A new section is added to chapter 82.14
26 RCW to read as follows:

27 The exemptions in sections 101 through 104 of this act are for the
28 state and local sales and use taxes and include the sales and use taxes
29 imposed under the authority of this chapter.

30 **Sec. 106.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to
31 read as follows:

32 (1) Cities that operate transit systems, county transportation
33 authorities, metropolitan municipal corporations, public transportation
34 benefit areas, and regional transit authorities may submit an
35 authorizing proposition to the voters and if approved by a majority of

1 persons voting, fix and impose a sales and use tax in accordance with
2 the terms of this chapter, solely for the purpose of providing high
3 capacity transportation service.

4 (2) The tax authorized pursuant to this section shall be in
5 addition to the tax authorized by RCW 82.14.030 and shall be collected
6 from those persons who are taxable by the state pursuant to chapters
7 82.08 and 82.12 RCW upon the occurrence of any taxable event within the
8 taxing district. The maximum rate of such tax shall be approved by the
9 voters and shall not exceed one percent of the selling price (in the
10 case of a sales tax) or value of the article used (in the case of a use
11 tax). The maximum rate of such tax that may be imposed shall not
12 exceed nine-tenths of one percent in any county that imposes a tax
13 under RCW 82.14.340, or within a regional transit authority if any
14 county within the authority imposes a tax under RCW 82.14.340.

15 (3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the
16 state portion of the sales and use tax and do not extend to the tax
17 authorized in this section.

18 (b) The exemptions in sections 101 and 102 of this act are for the
19 state and local sales and use taxes and include the tax authorized by
20 this section.

21 **Sec. 107.** RCW 82.14.050 and 2005 c 336 s 20 are each amended to
22 read as follows:

23 (1) The counties, cities, and transportation authorities under RCW
24 82.14.045, public facilities districts under chapters 36.100 and 35.57
25 RCW, public transportation benefit areas under RCW 82.14.440, regional
26 transportation investment districts, and transportation benefit
27 districts under chapter 36.73 RCW shall contract, prior to the
28 effective date of a resolution or ordinance imposing a sales and use
29 tax, the administration and collection to the state department of
30 revenue, which shall deduct a percentage amount, as provided by
31 contract, not to exceed two percent of the taxes collected for
32 administration and collection expenses incurred by the department. The
33 remainder of any portion of any tax authorized by this chapter that is
34 collected by the department of revenue shall be deposited by the state
35 department of revenue in the local sales and use tax account hereby
36 created in the state treasury. Moneys in the local sales and use tax
37 account may be (~~spent~~) withdrawn only for:

1 (a) Distribution to counties, cities, transportation authorities,
2 public facilities districts, public transportation benefit areas,
3 regional transportation investment districts, and transportation
4 benefit districts imposing a sales and use tax; and

5 (b) Making refunds of taxes imposed under the authority of this
6 chapter and RCW 81.104.170 and exempted under sections 101 and 102 of
7 this act.

8 (2) All administrative provisions in chapters 82.03, 82.08, 82.12,
9 and 82.32 RCW, as they now exist or may hereafter be amended, shall,
10 insofar as they are applicable to state sales and use taxes, be
11 applicable to taxes imposed pursuant to this chapter.

12 (3) Counties, cities, transportation authorities, public facilities
13 districts, and regional transportation investment districts may not
14 conduct independent sales or use tax audits of sellers registered under
15 the streamlined sales tax agreement.

16 (4) Except as provided in RCW 43.08.190, all earnings of
17 investments of balances in the local sales and use tax account shall be
18 credited to the local sales and use tax account and distributed to the
19 counties, cities, transportation authorities, public facilities
20 districts, public transportation benefit areas, regional transportation
21 investment districts, and transportation benefit districts monthly.

22 **Sec. 108.** RCW 82.14.060 and 2005 c 336 s 21 are each amended to
23 read as follows:

24 (1)(a) Monthly, the state treasurer (~~(shall make distribution)~~)
25 must distribute from the local sales and use tax account to the
26 counties, cities, transportation authorities, public facilities
27 districts, and transportation benefit districts the amount of tax
28 collected on behalf of each taxing authority, less:

29 (i) The deduction provided for in RCW 82.14.050; and

30 (ii) The amount of any refunds of local sales and use taxes
31 exempted under sections 101 and 102 of this act, which must be made
32 without appropriation.

33 (b) The state treasurer shall make the distribution under this
34 section without appropriation.

35 (2) In the event that any ordinance or resolution imposes a sales
36 and use tax at a rate in excess of the applicable limits contained

1 herein, such ordinance or resolution shall not be considered void in
2 toto, but only with respect to that portion of the rate which is in
3 excess of the applicable limits contained herein.

4 NEW SECTION. **Sec. 109.** A new section is added to chapter 82.12
5 RCW to read as follows:

6 (1) Except as provided in subsection (2) of this section, the
7 expiration of RCW 82.12.02567 and section 102 of this act do not
8 require the payment of, or authorize the department to assess, use tax
9 imposed by or under the authority of RCW 82.12.020, 81.104.170, and
10 chapter 82.14 RCW, on the use of machinery and equipment, and labor and
11 services rendered in respect to installing such machinery and
12 equipment, if such use qualified for the exemption under RCW
13 82.12.02567 or section 102 of this act immediately preceding the
14 expiration date of the applicable exemption under RCW 82.12.02567 or
15 section 102 of this act.

16 (2) Subsection (1) of this section does not prohibit the department
17 from assessing, subject to the limitations period in RCW 82.32.050,
18 state and local use taxes on the use of machinery and equipment, and
19 labor and services rendered in respect to installing such machinery and
20 equipment, if, before the expiration of the applicable exemption
21 provided in RCW 82.12.02567 or section 102 of this act, the machinery
22 and equipment was put to a use that is outside of the scope of the
23 applicable exemption in RCW 82.12.02567 or section 102 of this act.

24 **PART II**
25 **Radioactive Waste Cleanup**

26 NEW SECTION. **Sec. 201.** (1) The legislature finds that the
27 cleaning up of radioactive waste at the Hanford site is crucial to the
28 environment in this state. The legislature intends to include services
29 supporting the cleanup within the radioactive waste clean-up business
30 and occupation tax classification, but it is not the legislature's
31 intent to extend the radioactive waste clean-up classification to all
32 business activities conducted at the Hanford site or performed for
33 persons engaged in the performance of cleanup.

34 (2) It is the legislature's intent in enacting this legislation to
35 ensure that the radioactive waste clean-up business and occupation tax

1 classification applies to all services contributing to the performance
2 of a clean-up project at the Hanford site other than services that are
3 routinely provided to any business, including businesses that are not
4 engaged in clean-up activities.

5 **Sec. 202.** RCW 82.04.263 and 1996 c 112 s 3 are each amended to
6 read as follows:

7 (1) Upon every person engaging within this state in the business of
8 cleaning up for the United States, or its instrumentalities,
9 radioactive waste and other by-products of weapons production and
10 nuclear research and development; as to such persons the amount of the
11 tax with respect to such business shall be equal to the ~~((value of~~
12 ~~the))~~ gross income of the business multiplied by the rate of 0.471
13 percent.

14 (2) For the purposes of this chapter, "cleaning up radioactive
15 waste and other by-products of weapons production and nuclear research
16 and development" means:

17 (a) The activities of handling, storing, treating, immobilizing,
18 stabilizing, or disposing of radioactive waste, radioactive tank waste
19 and capsules, nonradioactive hazardous solid and liquid wastes, or
20 spent nuclear fuel;

21 (b) Spent nuclear fuel conditioning;

22 (c) Removal of contamination in soils and groundwater;

23 (d) Decontamination and decommissioning of facilities; and
24 ~~((activities integral and necessary to the direct performance of~~
25 ~~cleanup))~~ (e) Services supporting the performance of cleanup. For the
26 purposes of this subsection (2)(e), a service supports the performance
27 of cleanup if it:

28 (i) Is within the scope of work under a clean-up contract with the
29 United States department of energy; or

30 (ii) Assists in the accomplishment of a requirement of a clean-up
31 project undertaken by the United States department of energy under a
32 subcontract entered into with the prime contractor or another
33 subcontractor in furtherance of a clean-up contract between the United
34 States department of energy and a prime contractor.

35 (3) A service does not assist in the accomplishment of a
36 requirement of a clean-up project undertaken by the United States
37 department of energy if the same services are routinely provided to

1 businesses not engaged in clean-up activities, except that the
2 following services are always deemed to contribute to the
3 accomplishment of a requirement of a clean-up project undertaken by the
4 United States department of energy:

5 (a) Information technology and computer support services;

6 (b) Services rendered in respect to infrastructure; and

7 (c) Security, safety, and health services.

8 (4) The legislature intends that the examples provided in this
9 subsection be used as a guideline when determining whether a service is
10 "routinely provided to businesses not engaged in clean-up activities"
11 as that phrase is used in subsection (3) of this section.

12 (a) The radioactive waste clean-up classification does not apply to
13 general accounting services but does apply to performance audits
14 performed for persons cleaning up radioactive waste.

15 (b) The radioactive waste clean-up classification does not apply to
16 general legal services but does apply to those legal services that
17 assist in the accomplishment of a requirement of a clean-up project
18 undertaken by the United States department of energy. Thus, legal
19 services provided to contest any local, state, or federal tax liability
20 or to defend a company against a workers' compensation claim arising
21 from a worksite injury do not qualify for the radioactive waste clean-
22 up classification. But, legal services related to the resolution of a
23 contractual dispute between the parties to a clean-up contract between
24 the United States department of energy and a prime contractor do
25 qualify.

26 (c) General office janitorial services do not qualify for the
27 radioactive waste clean-up classification, but the specialized cleaning
28 of equipment exposed to radioactive waste does qualify.

29 **PART III**

30 **Hog Fuel Tax Relief**

31 NEW SECTION. Sec. 301. A new section is added to chapter 82.08
32 RCW to read as follows:

33 (1) The tax levied by RCW 82.08.020 does not apply to sales of hog
34 fuel used to produce electricity, steam, heat, or biofuel. This
35 exemption is available only if the buyer provides the seller with an

1 exemption certificate in a form and manner prescribed by the
2 department. The seller must retain a copy of the certificate for the
3 seller's files.

4 (2) For the purposes of this section the following definitions
5 apply:

6 (a) "Hog fuel" means wood waste and other wood residuals including
7 forest derived biomass. "Hog fuel" does not include firewood or wood
8 pellets; and

9 (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

10 (3) This section expires June 30, 2013.

11 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.12
12 RCW to read as follows:

13 (1) The provisions of this chapter do not apply with respect to the
14 use of hog fuel for production of electricity, steam, heat, or biofuel.

15 (2) For the purposes of this section:

16 (a) "Hog fuel" has the same meaning as provided in section 301 of
17 this act; and

18 (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

19 (3) This section expires June 30, 2013.

20 **PART IV**

21 **Biomass Energy Incentives**

22 NEW SECTION. **Sec. 401.** A new section is added to chapter 82.04
23 RCW to read as follows:

24 (1) In computing the tax imposed under this chapter, harvesters are
25 allowed a credit against the amount of tax otherwise due under this
26 chapter, as provided in this section. The credit per harvested green
27 ton of forest derived biomass sold, transferred, or used for production
28 of electricity, steam, heat, or biofuel is as follows:

29 (a) For forest derived biomass harvested October 1, 2009, through
30 June 30, 2010, zero dollars;

31 (b) For forest derived biomass harvested July 1, 2010, through June
32 30, 2013, three dollars;

33 (c) For forest derived biomass harvested July 1, 2013, through June
34 30, 2015, five dollars.

1 (2) Credit may not be claimed for forest derived biomass sold,
2 transferred, or used before the effective date of this section. The
3 amount of credit allowed for a reporting period may not exceed the tax
4 otherwise due under this chapter for that reporting period. Any unused
5 excess credit in a reporting period may be carried forward to future
6 reporting periods for a maximum of two years.

7 (3) For the purposes of this section, "harvested" and "harvesters"
8 are defined in RCW 84.33.035, and "biofuel" is defined in RCW
9 43.325.010.

10 (4) This section expires June 30, 2015.

11 NEW SECTION. **Sec. 402.** A new section is added to chapter 82.08
12 RCW to read as follows:

13 (1) The tax levied by RCW 82.08.020 does not apply to sales of
14 forest derived biomass used to produce electricity, steam, heat, or
15 biofuel. This exemption is available only if the buyer provides the
16 seller with an exemption certificate in a form and manner prescribed by
17 the department. The seller must retain a copy of the certificate for
18 the seller's files.

19 (2) For purposes of this section, "biofuel" is defined in RCW
20 43.325.010.

21 (3) This section expires June 30, 2013.

22 NEW SECTION. **Sec. 403.** A new section is added to chapter 82.12
23 RCW to read as follows:

24 (1) The provisions of this chapter do not apply with respect to the
25 use of forest derived biomass for production of electricity, steam,
26 heat, or biofuel.

27 (2) For purposes of this section, "biofuel" is defined in RCW
28 43.325.010.

29 (3) This section expires June 30, 2013.

30 **PART V**

31 **Solar Energy Incentives**

32 **Sec. 501.** RCW 82.04.294 and 2007 c 54 s 8 are each amended to read
33 as follows:

34 (1)(a) Beginning October 1, 2005, upon every person engaging within

1 this state in the business of manufacturing solar energy systems using
2 photovoltaic modules, or of manufacturing solar grade silicon to be
3 used exclusively in components of such systems; as to such persons the
4 amount of tax with respect to such business shall, in the case of
5 manufacturers, be equal to the value of the product manufactured, or in
6 the case of processors for hire, be equal to the gross income of the
7 business, multiplied by the rate of 0.2904 percent.

8 (b) Beginning October 1, 2009, upon every person engaging within
9 this state in the business of manufacturing solar energy systems using
10 photovoltaic modules, or of manufacturing solar grade silicon, silicon
11 solar wafers, silicon solar cells, thin film solar devices, or compound
12 semiconductor solar wafers to be used exclusively in components of such
13 systems; as to such persons the amount of tax with respect to such
14 business is, in the case of manufacturers, equal to the value of the
15 product manufactured, or in the case of processors for hire, equal to
16 the gross income of the business, multiplied by the rate of 0.275
17 percent.

18 (2)(a) Beginning October 1, 2005, upon every person engaging within
19 this state in the business of making sales at wholesale of solar energy
20 systems using photovoltaic modules, or of solar grade silicon to be
21 used exclusively in components of such systems, manufactured by that
22 person; as to such persons the amount of tax with respect to such
23 business shall be equal to the gross proceeds of sales of the solar
24 energy systems using photovoltaic modules, or of the solar grade
25 silicon to be used exclusively in components of such systems,
26 multiplied by the rate of 0.2904 percent.

27 (b) Beginning October 1, 2009, upon every person engaging within
28 this state in the business of making sales at wholesale of solar energy
29 systems using photovoltaic modules, or of solar grade silicon, silicon
30 solar wafers, silicon solar cells, thin film solar devices, or compound
31 semiconductor solar wafers to be used exclusively in components of such
32 systems, manufactured by that person; as to such persons the amount of
33 tax with respect to such business is equal to the gross proceeds of
34 sales of the solar energy systems using photovoltaic modules, or of the
35 solar grade silicon to be used exclusively in components of such
36 systems, multiplied by the rate of 0.275 percent.

37 (3) Beginning October 1, 2009, silicon solar wafers, silicon solar

1 cells, thin film solar devices, or compound semiconductor solar wafers
2 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
3 82.12.9651.

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

6 (a) "Compound semiconductor solar wafers" means a semiconductor
7 solar wafer composed of elements from two or more different groups of
8 the periodic table.

9 (b) "Module" means the smallest nondivisible self-contained
10 physical structure housing interconnected photovoltaic cells and
11 providing a single direct current electrical output.

12 ~~((b))~~ (c) "Photovoltaic cell" means a device that converts light
13 directly into electricity without moving parts.

14 ~~((e))~~ (d) "Silicon solar cells" means a photovoltaic cell
15 manufactured from a silicon solar wafer.

16 (e) "Silicon solar wafers" means a silicon wafer manufactured for
17 solar conversion purposes.

18 (f) "Solar energy system" means any device or combination of
19 devices or elements that rely upon direct sunlight as an energy source
20 for use in the generation of electricity.

21 ~~((d))~~ (g) "Solar grade silicon" means high-purity silicon used
22 exclusively in components of solar energy systems using photovoltaic
23 modules to capture direct sunlight. "Solar grade silicon" does not
24 include silicon used in semiconductors.

25 ~~((4))~~ (h) "Thin film solar devices" means a nonparticipating
26 substrate on which various semiconducting materials are deposited to
27 produce a photovoltaic cell that is used to generate electricity.

28 (5) This section expires June 30, 2014.

29 **Sec. 502.** RCW 82.08.9651 and 2006 c 84 s 3 are each amended to
30 read as follows:

31 (1) The tax levied by RCW 82.08.020 ~~((shall))~~ does not apply to
32 sales of gases and chemicals used by a manufacturer or processor for
33 hire in the production of semiconductor materials. This exemption is
34 limited to gases and chemicals used in the production process to grow
35 the product, deposit or grow permanent or sacrificial layers on the
36 product, to etch or remove material from the product, to anneal the
37 product, to immerse the product, to clean the product, and other such

1 uses whereby the gases and chemicals come into direct contact with the
2 product during the production process, or uses of gases and chemicals
3 to clean the chambers and other like equipment in which such processing
4 takes place. For the purposes of this section, "semiconductor
5 materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

6 (2) A person taking the exemption under this section must report
7 under RCW 82.32.5351. No application is necessary for the tax
8 exemption. The person is subject to all of the requirements of chapter
9 82.32 RCW.

10 (3) This section expires twelve years after December 1, 2006.

11 **Sec. 503.** RCW 82.12.9651 and 2006 c 84 s 4 are each amended to
12 read as follows:

13 (1) The provisions of this chapter do not apply with respect to the
14 use of gases and chemicals used by a manufacturer or processor for hire
15 in the production of semiconductor materials. This exemption is
16 limited to gases and chemicals used in the production process to grow
17 the product, deposit or grow permanent or sacrificial layers on the
18 product, to etch or remove material from the product, to anneal the
19 product, to immerse the product, to clean the product, and other such
20 uses whereby the gases and chemicals come into direct contact with the
21 product during the production process, or uses of gases and chemicals
22 to clean the chambers and other like equipment in which such processing
23 takes place. For purposes of this section, "semiconductor materials"
24 has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

25 (2) A person taking the exemption under this section must report
26 under RCW 82.32.5351. No application is necessary for the tax
27 exemption. The person is subject to all of the requirements of chapter
28 82.32 RCW.

29 (3) This section expires twelve years after December 1, 2006.

30 **Sec. 504.** RCW 82.16.110 and 2005 c 300 s 2 are each amended to
31 read as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1)(a) "Community solar project" means:

35 (i) A solar energy system owned by local individuals, households,

1 nonprofit organizations, or nonutility businesses that is placed on the
2 property owned by a cooperating local governmental entity that is not
3 in the light and power business or in the gas distribution business; or

4 (ii) A utility-owned solar energy system that is voluntarily funded
5 by the utility's ratepayers where, in exchange for their financial
6 support, the utility gives contributors a payment or credit on their
7 utility bill for the value of the electricity produced by the project.

8 (b) For the purposes of "community solar project" as defined in (a)
9 of this subsection:

10 (i) "Nonprofit organization" means an organization exempt from
11 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
12 revenue code of 1986, as amended, as of January 1, 2009; and

13 (ii) "Utility" means a light and power business, an electric
14 cooperative, or a mutual corporation that provides electricity service.

15 (2) "Customer-generated electricity" means a community solar
16 project or the alternating current electricity that is generated from
17 a renewable energy system located on an individual's, businesses', or
18 local government's real property that is also provided electricity
19 generated by a light and power business. Except for community solar
20 projects, a system located on a leasehold interest does not qualify
21 under this definition. "Customer-generated electricity" does not
22 include electricity generated by a light and power business with
23 greater than one thousand megawatt hours of annual sales or a gas
24 distribution business.

25 ~~((+2))~~ (3) "Economic development kilowatt-hour" means the actual
26 kilowatt-hour measurement of customer-generated electricity multiplied
27 by the appropriate economic development factor.

28 ~~((+3))~~ (4) "Local governmental entity" means any unit of local
29 government of this state including, but not limited to, counties,
30 cities, towns, municipal corporations, quasi-municipal corporations,
31 special purpose districts, and school districts.

32 (5) "Photovoltaic cell" means a device that converts light directly
33 into electricity without moving parts.

34 ~~((+4))~~ (6) "Renewable energy system" means a solar energy system,
35 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
36 used for producing electricity.

37 ~~((+5))~~ (7) "Solar energy system" means any device or combination

1 of devices or elements that rely upon direct sunlight as an energy
2 source for use in the generation of electricity.

3 ~~((+6))~~ (8) "Solar inverter" means the device used to convert
4 direct current to alternating current in a photovoltaic cell system.

5 ~~((+7))~~ (9) "Solar module" means the smallest nondivisible self-
6 contained physical structure housing interconnected photovoltaic cells
7 and providing a single direct current electrical output.

8 ~~((+8) "Standards for interconnection to the electric distribution
9 system" — means — technical, — engineering, — operational, — safety, — and
10 procedural — requirements — for — interconnection — to — the — electric
11 distribution system of a light and power business.))~~

12 **Sec. 505.** RCW 82.16.120 and 2007 c 111 s 101 are each amended to
13 read as follows:

14 (1) Any individual, business, ~~((or))~~ local governmental entity, not
15 in the light and power business or in the gas distribution business, or
16 a participant in a community solar project may apply to the light and
17 power business serving the situs of the system, each fiscal year
18 beginning on July 1, 2005, for an investment cost recovery incentive
19 for each kilowatt-hour from a customer-generated electricity renewable
20 energy system ~~((installed on its property that is not interconnected to
21 the electric distribution system))~~. No incentive may be paid for
22 kilowatt-hours generated before July 1, 2005, or after June 30,
23 ~~((2014))~~ 2020.

24 (2) ~~((When light and power businesses serving eighty percent of the
25 total — customer — load — in — the — state — adopt — uniform — standards — for
26 interconnection to the electric distribution system, any individual,
27 business, — or — local — governmental — entity, — not — in — the — light — and — power
28 business or in the gas distribution business, may apply to the light
29 and power business serving the situs of the system, each fiscal year,
30 for an investment cost recovery incentive for each kilowatt hour from
31 a customer generated electricity renewable energy system installed on
32 its property that is not interconnected to the electric distribution
33 system — and — from — a — customer — generated — electricity — renewable — energy
34 system installed on its property that is interconnected to the electric
35 distribution system. — Uniform — standards — for — interconnection — to — the
36 electric distribution system means those standards established by light~~

1 and power businesses that have ninety percent of total requirements the
2 same. No incentive may be paid for kilowatt hours generated before
3 July 1, 2005, or after June 30, 2014.

4 ~~(3))~~(a) Before submitting for the first time the application for
5 the incentive allowed under subsection (4) of this section, the
6 applicant (~~shall~~) must submit to the department of revenue and to the
7 climate and rural energy development center at the Washington State
8 University, established under RCW 28B.30.642, a certification in a form
9 and manner prescribed by the department that includes, but is not
10 limited to, the following information:

11 (i) The name and address of the applicant and location of the
12 renewable energy system;

13 (ii) The applicant's tax registration number;

14 (iii) That the electricity produced by the applicant meets the
15 definition of "customer-generated electricity" and that the renewable
16 energy system produces electricity with:

17 (A) Any solar inverters and solar modules manufactured in
18 Washington state;

19 (B) A wind generator powered by blades manufactured in Washington
20 state;

21 (C) A solar inverter manufactured in Washington state;

22 (D) A solar module manufactured in Washington state; or

23 (E) Solar or wind equipment manufactured outside of Washington
24 state;

25 (iv) That the electricity can be transformed or transmitted for
26 entry into or operation in parallel with electricity transmission and
27 distribution systems;

28 (v) The date that the renewable energy system received its final
29 electrical permit from the applicable local jurisdiction.

30 (b) Within thirty days of receipt of the certification the
31 department of revenue (~~shall~~) must notify the applicant by mail, or
32 electronically as provided in RCW 82.32.135, whether the renewable
33 energy system qualifies for an incentive under this section. The
34 department may consult with the climate and rural energy development
35 center to determine eligibility for the incentive. System
36 certifications and the information contained therein are subject to
37 disclosure under RCW 82.32.330(3)(m).

1 (~~(4)~~) (3)(a) By August 1st of each year application for the
2 incentive shall be made to the light and power business serving the
3 situs of the system by certification in a form and manner prescribed by
4 the department that includes, but is not limited to, the following
5 information:

6 (i) The name and address of the applicant and location of the
7 renewable energy system;

8 (ii) The applicant's tax registration number;

9 (iii) The date of the notification from the department of revenue
10 stating that the renewable energy system is eligible for the incentives
11 under this section;

12 (iv) A statement of the amount of kilowatt-hours generated by the
13 renewable energy system in the prior fiscal year.

14 (b) Within sixty days of receipt of the incentive certification the
15 light and power business serving the situs of the system shall notify
16 the applicant in writing whether the incentive payment will be
17 authorized or denied. The business may consult with the climate and
18 rural energy development center to determine eligibility for the
19 incentive payment. Incentive certifications and the information
20 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

21 (c)(i) Persons receiving incentive payments shall keep and
22 preserve, for a period of five years, suitable records as may be
23 necessary to determine the amount of incentive applied for and
24 received. Such records shall be open for examination at any time upon
25 notice by the light and power business that made the payment or by the
26 department. If upon examination of any records or from other
27 information obtained by the business or department it appears that an
28 incentive has been paid in an amount that exceeds the correct amount of
29 incentive payable, the business may assess against the person for the
30 amount found to have been paid in excess of the correct amount of
31 incentive payable and shall add thereto interest on the amount.
32 Interest shall be assessed in the manner that the department assesses
33 interest upon delinquent tax under RCW 82.32.050.

34 (ii) If it appears that the amount of incentive paid is less than
35 the correct amount of incentive payable the business may authorize
36 additional payment.

37 (~~(5)~~) (4) Except for community solar projects, the investment
38 cost recovery incentive may be paid fifteen cents per economic

1 development kilowatt-hour unless requests exceed the amount authorized
2 for credit to the participating light and power business. For
3 community solar projects, the investment cost recovery incentive may be
4 paid thirty cents per economic development kilowatt-hour unless
5 requests exceed the amount authorized for credit to the participating
6 light and power business. For the purposes of this section, the rate
7 paid for the investment cost recovery incentive may be multiplied by
8 the following factors:

9 (a) For customer-generated electricity produced using solar modules
10 manufactured in Washington state, two and four-tenths;

11 (b) For customer-generated electricity produced using a solar or a
12 wind generator equipped with an inverter manufactured in Washington
13 state, one and two-tenths;

14 (c) For customer-generated electricity produced using an anaerobic
15 digester, or by other solar equipment or using a wind generator
16 equipped with blades manufactured in Washington state, one; and

17 (d) For all other customer-generated electricity produced by wind,
18 eight-tenths.

19 ~~((+6))~~ (5) No individual, household, business, or local
20 governmental entity is eligible for incentives provided under
21 subsection (4) of this section for more than ~~((two))~~ five thousand
22 dollars per year. Each applicant in a community solar project is
23 eligible for up to five thousand dollars per year.

24 ~~((+7))~~ (6) If requests for the investment cost recovery incentive
25 exceed the amount of funds available for credit to the participating
26 light and power business, the incentive payments shall be reduced
27 proportionately.

28 ~~((+8))~~ (7) The climate and rural energy development center at
29 Washington State University energy program may establish guidelines and
30 standards for technologies that are identified as Washington
31 manufactured and therefore most beneficial to the state's environment.

32 ~~((+9))~~ (8) The environmental attributes of the renewable energy
33 system belong to the applicant, and do not transfer to the state or the
34 light and power business upon receipt of the investment cost recovery
35 incentive.

36 **Sec. 506.** RCW 82.16.130 and 2005 c 300 s 4 are each amended to
37 read as follows:

1 (1) A light and power business shall be allowed a credit against
2 taxes due under this chapter in an amount equal to investment cost
3 recovery incentive payments made in any fiscal year under RCW
4 82.16.120. The credit shall be taken in a form and manner as required
5 by the department. The credit under this section for the fiscal year
6 ~~((shall))~~ may not exceed ~~((twenty-five one-hundredths of))~~ one percent
7 of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or
8 ~~((twenty-five))~~ one hundred thousand dollars, whichever is greater.
9 Incentive payments to participants in a utility-owned community solar
10 project as defined in RCW 82.16.110(1)(a)(ii) may only account for up
11 to twenty-five percent of the total allowable credit. The credit may
12 not exceed the tax that would otherwise be due under this chapter.
13 Refunds shall not be granted in the place of credits. Expenditures not
14 used to earn a credit in one fiscal year may not be used to earn a
15 credit in subsequent years.

16 (2) For any business that has claimed credit for amounts that
17 exceed the correct amount of the incentive payable under RCW 82.16.120,
18 the amount of tax against which credit was claimed for the excess
19 payments shall be immediately due and payable. The department shall
20 assess interest but not penalties on the taxes against which the credit
21 was claimed. Interest shall be assessed at the rate provided for
22 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
23 date the credit was claimed, and shall accrue until the taxes against
24 which the credit was claimed are repaid.

25 (3) The right to earn tax credits under this section expires June
26 30, ~~((2015))~~ 2020. Credits may not be claimed after June 30, ~~((2016))~~
27 2021.

28 **PART VI**
29 **Livestock Nutrient Incentives**

30 **Sec. 601.** RCW 82.08.890 and 2006 c 151 s 2 are each amended to
31 read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to sales to
33 eligible persons of:

- 34 (a) Qualifying livestock nutrient management equipment;
35 (b) Labor and services rendered in respect to installing,

1 repairing, cleaning, altering, or improving qualifying livestock
2 nutrient management equipment; and

3 (c)(i) Labor and services rendered in respect to (~~operating,~~)
4 repairing, cleaning, altering, or improving of qualifying livestock
5 nutrient management (~~equipment and~~) facilities, or to (~~sales of~~)
6 tangible personal property that becomes an ingredient or component of
7 (~~the equipment and~~) qualifying livestock nutrient management
8 facilities in the course of repairing, cleaning, altering, or improving
9 of such facilities.

10 (ii) The exemption provided in this subsection (1)(c) does not
11 apply to the sale of or charge made for: (A) Labor and services
12 rendered in respect to the constructing of new, or replacing previously
13 existing, qualifying livestock nutrient management facilities; or (B)
14 tangible personal property that becomes an ingredient or component of
15 qualifying livestock nutrient management facilities during the course
16 of constructing new, or replacing previously existing, qualifying
17 livestock nutrient management facilities.

18 ~~(2)((a) To be eligible, the equipment and facilities must be used~~
19 ~~exclusively for activities necessary to maintain a livestock nutrient~~
20 ~~management plan.~~

21 ~~(b))~~ The exemption provided in subsection (1) of this section
22 applies to sales made after the livestock nutrient management plan is:
23 ~~((i))~~ (a) Certified under chapter 90.64 RCW; ((ii)) (b) approved as
24 part of the permit issued under chapter 90.48 RCW; or ((iii)) (c)
25 approved as required under subsection (4)(c)(iii) of this section.

26 (3)(a) The department of revenue must provide an exemption
27 certificate to an eligible person upon application by that person. The
28 department of agriculture must provide a list of eligible persons, as
29 defined in subsection (4)(c)(i) and (ii) of this section, to the
30 department of revenue. Conservation districts must maintain lists of
31 eligible persons as defined in subsection (4)(c)(iii) of this section
32 to allow the department of revenue to verify eligibility. The
33 application must be in a form and manner prescribed by the department
34 and must contain information regarding the location of the dairy or
35 animal feeding operation and other information the department may
36 require.

37 (b) A person claiming an exemption under this section must keep
38 records necessary for the department to verify eligibility under this

1 section. The exemption is available only when the buyer provides the
2 seller with an exemption certificate in a form and manner prescribed by
3 the department. The seller must retain a copy of the certificate for
4 the seller's files.

5 (4) The definitions in this subsection apply to this section and
6 RCW 82.12.890 unless the context clearly requires otherwise:

7 (a) "Animal feeding operation" means a lot or facility, other than
8 an aquatic animal production facility, where the following conditions
9 are met:

10 (i) Animals, other than aquatic animals, have been, are, or will be
11 stabled or confined and fed or maintained for a total of forty-five
12 days or more in any twelve-month period; and

13 (ii) Crops, vegetation, forage growth, or postharvest residues are
14 not sustained in the normal growing season over any portion of the lot
15 or facility.

16 (b) "Conservation district" means a subdivision of state government
17 organized under chapter 89.08 RCW.

18 (c) "Eligible person" means a person: (i) Licensed to produce milk
19 under chapter 15.36 RCW who has a certified dairy nutrient management
20 plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding
21 operation and has a permit issued under chapter 90.48 RCW; or (iii) who
22 owns an animal feeding operation and has a nutrient management plan
23 approved by a conservation district as meeting natural resource
24 conservation service field office technical guide standards and who
25 possesses an exemption certificate under RCW 82.08.855.

26 (d) (~~("Livestock-nutrient-management-equipment-and-facilities"~~
27 ~~means machinery, equipment, and structures used in the handling and~~
28 ~~treatment of livestock manure, such as aerators, agitators, alley~~
29 ~~scrapers, augers, dams, gutter cleaners, loaders, lagoons, pipes,~~
30 ~~pumps, separators, and tanks. The term also includes tangible personal~~
31 ~~property that becomes an ingredient or component of the equipment and~~
32 ~~facilities, including repair and replacement parts)) "Handling and
33 treatment of livestock manure" means the activities of collecting,
34 storing, moving, or transporting livestock manure, separating livestock
35 manure solids from liquids, or applying livestock manure to the
36 agricultural lands of an eligible person other than through the use of
37 pivot or linear type traveling irrigation systems.~~

1 (e) "Permit" means either a state waste discharge permit or a
2 national pollutant discharge elimination system permit, or both.

3 (f) "Qualifying livestock nutrient management equipment" means the
4 following tangible personal property for exclusive use in the handling
5 and treatment of livestock manure, including repair and replacement
6 parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers;
7 (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler
8 irrigation systems; (vii) lagoon and pond liners and floating covers;
9 (viii) loaders; (ix) manure composting devices; (x) manure spreaders;
10 (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry
11 house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry
12 house washers; (xvi) poultry litter saver machines; (xvii) pipes;
13 (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors
14 and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

15 (g) "Qualifying livestock nutrient management facilities" means the
16 following structures and facilities for exclusive use in the handling
17 and treatment of livestock manure: (i) Flush systems; (ii) lagoons;
18 (iii) liquid livestock manure storage structures, such as concrete
19 tanks or glass-lined steel tanks; and (iv) structures used solely for
20 the dry storage of manure, including roofed stacking facilities.

21 **Sec. 602.** RCW 82.12.890 and 2006 c 151 s 3 are each amended to
22 read as follows:

23 (1) The provisions of this chapter do not apply with respect to the
24 use by an eligible person of (~~tangible personal property that becomes~~
25 ~~an ingredient or component of livestock nutrient management equipment~~
26 ~~and facilities, as defined in RCW 82.08.890, or to labor and services~~
27 ~~rendered in respect to repairing, cleaning, altering, or improving~~
28 ~~eligible tangible personal property)):~~

29 (a) Qualifying livestock nutrient management equipment;

30 (b) Labor and services rendered in respect to installing,
31 repairing, cleaning, altering, or improving qualifying livestock
32 nutrient management equipment; and

33 (c)(i) Tangible personal property that becomes an ingredient or
34 component of qualifying livestock nutrient management facilities in the
35 course of repairing, cleaning, altering, or improving of such
36 facilities.

1 (ii) The exemption provided in this subsection (1)(c) does not
2 apply to the use of tangible personal property that becomes an
3 ingredient or component of qualifying livestock nutrient management
4 facilities during the course of constructing new, or replacing
5 previously existing, qualifying livestock nutrient management
6 facilities.

7 (2)(a) To be eligible, the equipment and facilities must be used
8 exclusively for activities necessary to maintain a livestock nutrient
9 management plan.

10 (b) The exemption applies to the use of tangible personal property
11 ((or)) and labor and services made after the livestock nutrient
12 management plan is: (i) Certified under chapter 90.64 RCW; (ii)
13 approved as part of the permit issued under chapter 90.48 RCW; or (iii)
14 approved as required under RCW 82.08.890(4)(c)(iii).

15 (3) The exemption certificate and recordkeeping requirements of RCW
16 82.08.890 apply to this section. The definitions in RCW 82.08.890
17 apply to this section.

18 PART VII

19 Log Trucks

20 **Sec. 701.** RCW 82.16.010 and 2007 c 6 s 1023 are each amended to
21 read as follows:

22 For the purposes of this chapter, unless otherwise required by the
23 context:

24 (1) "Railroad business" means the business of operating any
25 railroad, by whatever power operated, for public use in the conveyance
26 of persons or property for hire. It shall not, however, include any
27 business herein defined as an urban transportation business.

28 (2) "Express business" means the business of carrying property for
29 public hire on the line of any common carrier operated in this state,
30 when such common carrier is not owned or leased by the person engaging
31 in such business.

32 (3) "Railroad car business" means the business of operating stock
33 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
34 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
35 other kinds of cars used for transportation of property or persons upon

1 the line of any railroad operated in this state when such railroad is
2 not owned or leased by the person engaging in such business.

3 (4) "Water distribution business" means the business of operating
4 a plant or system for the distribution of water for hire or sale.

5 (5) "Light and power business" means the business of operating a
6 plant or system for the generation, production or distribution of
7 electrical energy for hire or sale and/or for the wheeling of
8 electricity for others.

9 (6) "Telegraph business" means the business of affording
10 telegraphic communication for hire.

11 (7) "Gas distribution business" means the business of operating a
12 plant or system for the production or distribution for hire or sale of
13 gas, whether manufactured or natural.

14 (8) "Motor transportation business" means the business (except
15 urban transportation business) of operating any motor propelled vehicle
16 by which persons or property of others are conveyed for hire, and
17 includes, but is not limited to, the operation of any motor propelled
18 vehicle as an auto transportation company (except urban transportation
19 business), common carrier or contract carrier as defined by RCW
20 81.68.010 and 81.80.010(~~(:—PROVIDED, — That)~~). However, "motor
21 transportation business" shall not mean or include: (a) A log
22 transportation business; or (b) the transportation of logs or other
23 forest products exclusively upon private roads or private highways.

24 (9) "Urban transportation business" means the business of operating
25 any vehicle for public use in the conveyance of persons or property for
26 hire, insofar as (a) operating entirely within the corporate limits of
27 any city or town, or within five miles of the corporate limits thereof,
28 or (b) operating entirely within and between cities and towns whose
29 corporate limits are not more than five miles apart or within five
30 miles of the corporate limits of either thereof. Included herein, but
31 without limiting the scope hereof, is the business of operating
32 passenger vehicles of every type and also the business of operating
33 cartage, pickup, or delivery services, including in such services the
34 collection and distribution of property arriving from or destined to a
35 point within or without the state, whether or not such collection or
36 distribution be made by the person performing a local or interstate
37 line-haul of such property.

1 (10) "Log transportation business" means the business of
2 transporting logs by truck, other than exclusively upon private roads.

3 (11)(a) "Public service business" means any of the businesses
4 defined in subsections (1), (2), (3), (4), (5), (6), (7), (8), and (9)
5 of this section or any business subject to control by the state, or
6 having the powers of eminent domain and the duties incident thereto, or
7 any business hereafter declared by the legislature to be of a public
8 service nature, except telephone business and low-level radioactive
9 waste site operating companies as redefined in RCW 81.04.010. It
10 includes, among others, without limiting the scope hereof: Airplane
11 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
12 road, water transportation and wharf businesses.

13 (b) The definitions in this subsection (~~((+10+))~~) (11)(b) apply
14 throughout this subsection (~~((+10+))~~) (11).

15 (i) "Competitive telephone service" has the same meaning as in RCW
16 82.04.065.

17 (ii) "Network telephone service" means the providing by any person
18 of access to a telephone network, telephone network switching service,
19 toll service, or coin telephone services, or the providing of
20 telephonic, video, data, or similar communication or transmission for
21 hire, via a telephone network, toll line or channel, cable, microwave,
22 or similar communication or transmission system. "Network telephone
23 service" includes the provision of transmission to and from the site of
24 an internet provider via a telephone network, toll line or channel,
25 cable, microwave, or similar communication or transmission system.
26 "Network telephone service" does not include the providing of
27 competitive telephone service, the providing of cable television
28 service, the providing of broadcast services by radio or television
29 stations, nor the provision of internet service as defined in RCW
30 82.04.297, including the reception of dial-in connection, provided at
31 the site of the internet service provider.

32 (iii) "Telephone business" means the business of providing network
33 telephone service. It includes cooperative or farmer line telephone
34 companies or associations operating an exchange.

35 (iv) "Telephone service" means competitive telephone service or
36 network telephone service, or both, as defined in (b)(i) and (ii) of
37 this subsection.

1 (~~(11)~~) (12) "Tugboat business" means the business of operating
2 tugboats, towboats, wharf boats or similar vessels in the towing or
3 pushing of vessels, barges or rafts for hire.

4 (~~(12)~~) (13) "Gross income" means the value proceeding or accruing
5 from the performance of the particular public service or transportation
6 business involved, including operations incidental thereto, but without
7 any deduction on account of the cost of the commodity furnished or
8 sold, the cost of materials used, labor costs, interest, discount,
9 delivery costs, taxes, or any other expense whatsoever paid or accrued
10 and without any deduction on account of losses.

11 (~~(13)~~) (14) The meaning attributed, in chapter 82.04 RCW, to the
12 term "tax year," "person," "value proceeding or accruing," "business,"
13 "engaging in business," "in this state," "within this state," "cash
14 discount" and "successor" shall apply equally in the provisions of this
15 chapter.

16 **Sec. 702.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to
17 read as follows:

18 (1) There is levied and there shall be collected from every person
19 a tax for the act or privilege of engaging within this state in any one
20 or more of the businesses herein mentioned. The tax shall be equal to
21 the gross income of the business, multiplied by the rate set out after
22 the business, as follows:

23 (a) Express, sewerage collection, and telegraph businesses: Three
24 and six-tenths percent;

25 (b) Light and power business: Three and sixty-two one-hundredths
26 percent;

27 (c) Gas distribution business: Three and six-tenths percent;

28 (d) Urban transportation business: Six-tenths of one percent;

29 (e) Vessels under sixty-five feet in length, except tugboats,
30 operating upon the waters within the state: Six-tenths of one percent;

31 (f) Motor transportation, railroad, railroad car, and tugboat
32 businesses, and all public service businesses other than ones mentioned
33 above: One and eight-tenths of one percent;

34 (g) Water distribution business: Four and seven-tenths percent;

35 (h) Log transportation business: One and twenty-eight one-
36 hundredths percent.

1 (2) An additional tax is imposed equal to the rate specified in RCW
2 82.02.030 multiplied by the tax payable under subsection (1) of this
3 section.

4 (3) Twenty percent of the moneys collected under subsection (1) of
5 this section on water distribution businesses and sixty percent of the
6 moneys collected under subsection (1) of this section on sewerage
7 collection businesses shall be deposited in the public works assistance
8 account created in RCW 43.155.050.

9 **PART VIII**
10 **Hybrid Vehicles**

11 NEW SECTION. **Sec. 801.** The following acts or parts of acts are
12 each repealed:

13 (1) RCW 82.08.813 (Exemptions--High gas mileage vehicles) and 2005
14 c 296 s 2; and

15 (2) RCW 82.12.813 (Exemptions--High gas mileage vehicles) and 2005
16 c 296 s 4.

17 **Sec. 802.** RCW 82.08.020 and 2006 c 1 s 3 are each amended to read
18 as follows:

19 (1) There is levied and there shall be collected a tax on each
20 retail sale in this state equal to six and five-tenths percent of the
21 selling price.

22 (2) There is levied and there shall be collected an additional tax
23 on each retail car rental, regardless of whether the vehicle is
24 licensed in this state, equal to five and nine-tenths percent of the
25 selling price. The revenue collected under this subsection shall be
26 deposited in the multimodal transportation account created in RCW
27 47.66.070.

28 (3) Beginning July 1, 2003, there is levied and collected an
29 additional tax of three-tenths of one percent of the selling price on
30 each retail sale of a motor vehicle in this state, other than retail
31 car rentals taxed under subsection (2) of this section. The revenue
32 collected under this subsection shall be deposited in the multimodal
33 transportation account created in RCW 47.66.070.

34 (4) For purposes of subsection (3) of this section, "motor vehicle"
35 has the meaning provided in RCW 46.04.320, but does not include farm

1 tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181,
2 off-road and nonhighway vehicles as defined in RCW 46.09.020, and
3 snowmobiles as defined in RCW 46.10.010.

4 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
5 collected under subsection (1) of this section shall be dedicated to
6 funding comprehensive performance audits required under RCW 43.09.470.
7 The revenue identified in this subsection shall be deposited in the
8 performance audits of government account created in RCW 43.09.475.

9 (6) The taxes imposed under this chapter shall apply to successive
10 retail sales of the same property.

11 (7)(a) Until January 1, 2011, the tax imposed in subsection (3) of
12 this section and the dedication of revenue provided for in subsection
13 (5) of this section, do not apply with respect to the sales of new
14 passenger cars, light duty trucks, and medium duty passenger vehicles,
15 which utilize hybrid technology and have a United States environmental
16 protection agency estimated highway gasoline mileage rating of at least
17 forty miles per gallon.

18 (b) As used in this subsection, "hybrid technology" means
19 propulsion units powered by both electricity and gasoline.

20 (8) The rates provided in this section apply to taxes imposed under
21 chapter 82.12 RCW as provided in RCW 82.12.020.

22 **PART IX**
23 **Miscellaneous**

24 NEW SECTION. Sec. 901. Part headings used in this act are not any
25 part of the law.

26 NEW SECTION. Sec. 902. Except for sections 801 and 802 of this
27 act, this act is necessary for the immediate preservation of the public
28 peace, health, or safety, or support of the state government and its
29 existing public institutions, and takes effect July 1, 2009.

30 NEW SECTION. Sec. 903. Sections 801 and 802 of this act take
31 effect August 1, 2009.

32 NEW SECTION. Sec. 904. Section 802 of this act expires January 1,
33 2011.

1 NEW SECTION. **Sec. 905.** Sections 701 and 702 of this act expire
2 June 30, 2013.

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