
ENGROSSED SENATE BILL 6635

State of Washington 62nd Legislature 2012 2nd Special Session

By Senators Murray and Kline

Read first time 04/04/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to improving revenue and budget sustainability by
2 repealing, modifying, or revising tax preference and license fees;
3 amending RCW 82.04.4292, 82.04.4266, 82.04.4268, 82.04.4269, 82.04.260,
4 82.08.986, 82.08.986, 82.12.986, 66.24.630, 82.29A.020, 82.04.214, and
5 82.04.260; adding a new section to chapter 82.04 RCW; creating new
6 sections; providing an effective date; providing a contingent effective
7 date; providing expiration dates; and declaring an emergency.

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

9 **PART I**

10 **LIMITING THE FIRST INTEREST MORTGAGE B&O DEDUCTION TO COMMUNITY BANKS**

11 NEW SECTION. **Sec. 101.** A new section is added to chapter 82.04
12 RCW to read as follows:

13 (1) Amounts received as interest on loans originated by a person
14 located in more than ten states, or an affiliate of such person, and
15 primarily secured by first mortgages or trust deeds on nontransient
16 residential properties are subject to tax under RCW 82.04.290(2)(a).

17 (2) For the purposes of this subsection, a person is located in a
18 state if:

1 (a) The person or an affiliate of the person maintains a branch,
2 office, or one or more employees or representatives in the state; and

3 (b) Such in-state presence allows borrowers or potential borrowers
4 to contact the branch, office, employee, or representative concerning
5 the acquiring, negotiating, renegotiating, or restructuring of, or
6 making payments on, mortgages issued or to be issued by the person or
7 an affiliate of the person.

8 (3) For purposes of this section:

9 (a) "Affiliate" means a person is affiliated with another person,
10 and "affiliated" has the same meaning as in RCW 82.04.645; and

11 (b) "Interest" has the same meaning as in RCW 82.04.4292 and also
12 includes servicing fees described in RCW 82.04.4292(4).

13 **Sec. 102.** RCW 82.04.4292 and 2010 1st sp.s. c 23 s 301 are each
14 amended to read as follows:

15 (1) In computing tax there may be deducted from the measure of tax
16 by those engaged in banking, loan, security or other financial
17 businesses, interest received on investments or loans primarily secured
18 by first mortgages or trust deeds on nontransient residential
19 properties.

20 (2) Interest deductible under this section includes the portion of
21 fees charged to borrowers, including points and loan origination fees,
22 that is recognized over the life of the loan as an adjustment to yield
23 in the taxpayer's books and records according to generally accepted
24 accounting principles.

25 (3) Subsections (1) and (2) of this section notwithstanding, the
26 following is a nonexclusive list of items that are not deductible under
27 this section:

28 (a) Fees for specific services such as: Document preparation fees;
29 finder fees; brokerage fees; title examination fees; fees for credit
30 checks; notary fees; loan application fees; interest lock-in fees if
31 the loan is not made; servicing fees; and similar fees or amounts;

32 (b) Fees received in consideration for an agreement to make funds
33 available for a specific period of time at specified terms, commonly
34 referred to as commitment fees;

35 (c) Any other fees, or portion of a fee, that is not recognized
36 over the life of the loan as an adjustment to yield in the taxpayer's

1 books and records according to generally accepted accounting
2 principles;

3 (d) Gains on the sale of valuable rights such as service release
4 premiums, which are amounts received when servicing rights are sold;
5 and

6 (e) Gains on the sale of loans, except deferred loan origination
7 fees and points deductible under subsection (2) of this section, are
8 not to be considered part of the proceeds of sale of the loan.

9 (4) Notwithstanding subsection (3) of this section, in computing
10 tax there may be deducted from the measure of tax by those engaged in
11 banking, loan, security, or other financial businesses, amounts
12 received for servicing loans primarily secured by first mortgages or
13 trust deeds on nontransient residential properties, including such
14 loans that secure mortgage-backed or mortgage-related securities, but
15 only if:

16 (a)(i) The loans were originated by the person claiming a deduction
17 under this subsection (4) and that person either sold the loans on the
18 secondary market or securitized the loans and sold the securities on
19 the secondary market; or

20 (ii)(A) The person claiming a deduction under this subsection (4)
21 acquired the loans from the person that originated the loans through a
22 merger or acquisition of substantially all of the assets of the person
23 who originated the loans, or the person claiming a deduction under this
24 subsection (4) is affiliated with the person that originated the loans.
25 For purposes of this subsection, "affiliated" means under common
26 control. "Control" means the possession, directly or indirectly, of
27 more than fifty percent of the power to direct or cause the direction
28 of the management and policies of a person, whether through the
29 ownership of voting shares, by contract, or otherwise; and

30 (B) Either the person who originated the loans or the person
31 claiming a deduction under this subsection (4) sold the loans on the
32 secondary market or securitized the loans and sold the securities on
33 the secondary market; and

34 (b) The amounts received for servicing the loans are determined by
35 a percentage of the interest paid by the borrower and are only received
36 if the borrower makes interest payments.

37 (5) The deductions provided in this section do not apply to persons
38 subject to tax under section 101 of this act.

1 that the goods were transported by the purchaser in the ordinary course
2 of business out of this state.

3 (2) "Dairy products" means dairy products that as of September 20,
4 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
5 including byproducts from the manufacturing of the dairy products such
6 as whey and casein.

7 (3) A person claiming the exemption provided in this section must
8 file a complete annual survey with the department under RCW 82.32.585.

9 (4) This section expires July 1, (~~(2012)~~) 2015.

10 **Sec. 203.** RCW 82.04.4269 and 2010 c 114 s 113 are each amended to
11 read as follows:

12 (1) This chapter does not apply to the value of products or the
13 gross proceeds of sales derived from:

14 (a) Manufacturing seafood products that remain in a raw, raw
15 frozen, or raw salted state at the completion of the manufacturing by
16 that person; or

17 (b) Selling manufactured seafood products that remain in a raw, raw
18 frozen, or raw salted state to purchasers who transport in the ordinary
19 course of business the goods out of this state. A person taking an
20 exemption under this subsection (1)(b) must keep and preserve records
21 for the period required by RCW 82.32.070 establishing that the goods
22 were transported by the purchaser in the ordinary course of business
23 out of this state.

24 (2) A person claiming the exemption provided in this section must
25 file a complete annual survey with the department under RCW 82.32.585.

26 (3) This section expires July 1, (~~(2012)~~) 2015.

27 **Sec. 204.** RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No.
28 1107) are each amended to read as follows:

29 (1) Upon every person engaging within this state in the business of
30 manufacturing:

31 (a) Wheat into flour, barley into pearl barley, soybeans into
32 soybean oil, canola into canola oil, canola meal, or canola by-
33 products, or sunflower seeds into sunflower oil; as to such persons the
34 amount of tax with respect to such business is equal to the value of
35 the flour, pearl barley, oil, canola meal, or canola by-product
36 manufactured, multiplied by the rate of 0.138 percent;

1 (b) Beginning July 1, (~~2012~~) 2015, seafood products that remain
2 in a raw, raw frozen, or raw salted state at the completion of the
3 manufacturing by that person; or selling manufactured seafood products
4 that remain in a raw, raw frozen, or raw salted state at the completion
5 of the manufacturing, to purchasers who transport in the ordinary
6 course of business the goods out of this state; as to such persons the
7 amount of tax with respect to such business is equal to the value of
8 the products manufactured or the gross proceeds derived from such
9 sales, multiplied by the rate of 0.138 percent. Sellers must keep and
10 preserve records for the period required by RCW 82.32.070 establishing
11 that the goods were transported by the purchaser in the ordinary course
12 of business out of this state;

13 (c) Beginning July 1, (~~2012~~) 2015, dairy products that as of
14 September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131,
15 133, and 135, including by-products from the manufacturing of the dairy
16 products such as whey and casein; or selling the same to purchasers who
17 transport in the ordinary course of business the goods out of state; as
18 to such persons the tax imposed is equal to the value of the products
19 manufactured or the gross proceeds derived from such sales multiplied
20 by the rate of 0.138 percent. Sellers must keep and preserve records
21 for the period required by RCW 82.32.070 establishing that the goods
22 were transported by the purchaser in the ordinary course of business
23 out of this state;

24 (d) Beginning July 1, (~~2012~~) 2015, fruits or vegetables by
25 canning, preserving, freezing, processing, or dehydrating fresh fruits
26 or vegetables, or selling at wholesale fruits or vegetables
27 manufactured by the seller by canning, preserving, freezing,
28 processing, or dehydrating fresh fruits or vegetables and sold to
29 purchasers who transport in the ordinary course of business the goods
30 out of this state; as to such persons the amount of tax with respect to
31 such business is equal to the value of the products manufactured or the
32 gross proceeds derived from such sales multiplied by the rate of 0.138
33 percent. Sellers must keep and preserve records for the period
34 required by RCW 82.32.070 establishing that the goods were transported
35 by the purchaser in the ordinary course of business out of this state;

36 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
37 feedstock, as those terms are defined in RCW 82.29A.135; as to such

1 persons the amount of tax with respect to the business is equal to the
2 value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
3 manufactured, multiplied by the rate of 0.138 percent; and

4 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
5 persons the amount of tax with respect to the business is equal to the
6 value of wood biomass fuel manufactured, multiplied by the rate of
7 0.138 percent.

8 (2) Upon every person engaging within this state in the business of
9 splitting or processing dried peas; as to such persons the amount of
10 tax with respect to such business is equal to the value of the peas
11 split or processed, multiplied by the rate of 0.138 percent.

12 (3) Upon every nonprofit corporation and nonprofit association
13 engaging within this state in research and development, as to such
14 corporations and associations, the amount of tax with respect to such
15 activities is equal to the gross income derived from such activities
16 multiplied by the rate of 0.484 percent.

17 (4) Upon every person engaging within this state in the business of
18 slaughtering, breaking and/or processing perishable meat products
19 and/or selling the same at wholesale only and not at retail; as to such
20 persons the tax imposed is equal to the gross proceeds derived from
21 such sales multiplied by the rate of 0.138 percent.

22 (5) Upon every person engaging within this state in the business of
23 acting as a travel agent or tour operator; as to such persons the
24 amount of the tax with respect to such activities is equal to the gross
25 income derived from such activities multiplied by the rate of 0.275
26 percent.

27 (6) Upon every person engaging within this state in business as an
28 international steamship agent, international customs house broker,
29 international freight forwarder, vessel and/or cargo charter broker in
30 foreign commerce, and/or international air cargo agent; as to such
31 persons the amount of the tax with respect to only international
32 activities is equal to the gross income derived from such activities
33 multiplied by the rate of 0.275 percent.

34 (7) Upon every person engaging within this state in the business of
35 stevedoring and associated activities pertinent to the movement of
36 goods and commodities in waterborne interstate or foreign commerce; as
37 to such persons the amount of tax with respect to such business is
38 equal to the gross proceeds derived from such activities multiplied by

1 the rate of 0.275 percent. Persons subject to taxation under this
2 subsection are exempt from payment of taxes imposed by chapter 82.16
3 RCW for that portion of their business subject to taxation under this
4 subsection. Stevedoring and associated activities pertinent to the
5 conduct of goods and commodities in waterborne interstate or foreign
6 commerce are defined as all activities of a labor, service or
7 transportation nature whereby cargo may be loaded or unloaded to or
8 from vessels or barges, passing over, onto or under a wharf, pier, or
9 similar structure; cargo may be moved to a warehouse or similar holding
10 or storage yard or area to await further movement in import or export
11 or may move to a consolidation freight station and be stuffed,
12 unstuffed, containerized, separated or otherwise segregated or
13 aggregated for delivery or loaded on any mode of transportation for
14 delivery to its consignee. Specific activities included in this
15 definition are: Wharfage, handling, loading, unloading, moving of
16 cargo to a convenient place of delivery to the consignee or a
17 convenient place for further movement to export mode; documentation
18 services in connection with the receipt, delivery, checking, care,
19 custody and control of cargo required in the transfer of cargo;
20 imported automobile handling prior to delivery to consignee; terminal
21 stevedoring and incidental vessel services, including but not limited
22 to plugging and unplugging refrigerator service to containers,
23 trailers, and other refrigerated cargo receptacles, and securing ship
24 hatch covers.

25 (8) Upon every person engaging within this state in the business of
26 disposing of low-level waste, as defined in RCW 43.145.010; as to such
27 persons the amount of the tax with respect to such business is equal to
28 the gross income of the business, excluding any fees imposed under
29 chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

30 If the gross income of the taxpayer is attributable to activities
31 both within and without this state, the gross income attributable to
32 this state must be determined in accordance with the methods of
33 apportionment required under RCW 82.04.460.

34 (9) Upon every person engaging within this state as an insurance
35 producer or title insurance agent licensed under chapter 48.17 RCW or
36 a surplus line broker licensed under chapter 48.15 RCW; as to such
37 persons, the amount of the tax with respect to such licensed activities

1 is equal to the gross income of such business multiplied by the rate of
2 0.484 percent.

3 (10) Upon every person engaging within this state in business as a
4 hospital, as defined in chapter 70.41 RCW, that is operated as a
5 nonprofit corporation or by the state or any of its political
6 subdivisions, as to such persons, the amount of tax with respect to
7 such activities is equal to the gross income of the business multiplied
8 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent
9 thereafter.

10 (11)(a) Beginning October 1, 2005, upon every person engaging
11 within this state in the business of manufacturing commercial
12 airplanes, or components of such airplanes, or making sales, at retail
13 or wholesale, of commercial airplanes or components of such airplanes,
14 manufactured by the seller, as to such persons the amount of tax with
15 respect to such business is, in the case of manufacturers, equal to the
16 value of the product manufactured and the gross proceeds of sales of
17 the product manufactured, or in the case of processors for hire, equal
18 to the gross income of the business, multiplied by the rate of:

- 19 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and
- 20 (ii) 0.2904 percent beginning July 1, 2007.

21 (b) Beginning July 1, 2008, upon every person who is not eligible
22 to report under the provisions of (a) of this subsection (11) and is
23 engaging within this state in the business of manufacturing tooling
24 specifically designed for use in manufacturing commercial airplanes or
25 components of such airplanes, or making sales, at retail or wholesale,
26 of such tooling manufactured by the seller, as to such persons the
27 amount of tax with respect to such business is, in the case of
28 manufacturers, equal to the value of the product manufactured and the
29 gross proceeds of sales of the product manufactured, or in the case of
30 processors for hire, be equal to the gross income of the business,
31 multiplied by the rate of 0.2904 percent.

32 (c) For the purposes of this subsection (11), "commercial airplane"
33 and "component" have the same meanings as provided in RCW 82.32.550.

34 (d) In addition to all other requirements under this title, a
35 person reporting under the tax rate provided in this subsection (11)
36 must file a complete annual report with the department under RCW
37 82.32.534.

38 (e) This subsection (11) does not apply on and after July 1, 2024.

1 (12)(a) Until July 1, 2024, upon every person engaging within this
2 state in the business of extracting timber or extracting for hire
3 timber; as to such persons the amount of tax with respect to the
4 business is, in the case of extractors, equal to the value of products,
5 including by-products, extracted, or in the case of extractors for
6 hire, equal to the gross income of the business, multiplied by the rate
7 of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904
8 percent from July 1, 2007, through June 30, 2024.

9 (b) Until July 1, 2024, upon every person engaging within this
10 state in the business of manufacturing or processing for hire: (i)
11 Timber into timber products or wood products; or (ii) timber products
12 into other timber products or wood products; as to such persons the
13 amount of the tax with respect to the business is, in the case of
14 manufacturers, equal to the value of products, including by-products,
15 manufactured, or in the case of processors for hire, equal to the gross
16 income of the business, multiplied by the rate of 0.4235 percent from
17 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,
18 2007, through June 30, 2024.

19 (c) Until July 1, 2024, upon every person engaging within this
20 state in the business of selling at wholesale: (i) Timber extracted by
21 that person; (ii) timber products manufactured by that person from
22 timber or other timber products; or (iii) wood products manufactured by
23 that person from timber or timber products; as to such persons the
24 amount of the tax with respect to the business is equal to the gross
25 proceeds of sales of the timber, timber products, or wood products
26 multiplied by the rate of 0.4235 percent from July 1, 2006, through
27 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
28 2024.

29 (d) Until July 1, 2024, upon every person engaging within this
30 state in the business of selling standing timber; as to such persons
31 the amount of the tax with respect to the business is equal to the
32 gross income of the business multiplied by the rate of 0.2904 percent.
33 For purposes of this subsection (12)(d), "selling standing timber"
34 means the sale of timber apart from the land, where the buyer is
35 required to sever the timber within thirty months from the date of the
36 original contract, regardless of the method of payment for the timber
37 and whether title to the timber transfers before, upon, or after
38 severance.

1 (e) For purposes of this subsection, the following definitions
2 apply:

3 (i) "Biocomposite surface products" means surface material products
4 containing, by weight or volume, more than fifty percent recycled paper
5 and that also use nonpetroleum-based phenolic resin as a bonding agent.

6 (ii) "Paper and paper products" means products made of interwoven
7 cellulosic fibers held together largely by hydrogen bonding. "Paper
8 and paper products" includes newsprint; office, printing, fine, and
9 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
10 kraft bag, construction, and other kraft industrial papers; paperboard,
11 liquid packaging containers, containerboard, corrugated, and solid-
12 fiber containers including linerboard and corrugated medium; and
13 related types of cellulosic products containing primarily, by weight or
14 volume, cellulosic materials. "Paper and paper products" does not
15 include books, newspapers, magazines, periodicals, and other printed
16 publications, advertising materials, calendars, and similar types of
17 printed materials.

18 (iii) "Recycled paper" means paper and paper products having fifty
19 percent or more of their fiber content that comes from postconsumer
20 waste. For purposes of this subsection (12)(e)(iii), "postconsumer
21 waste" means a finished material that would normally be disposed of as
22 solid waste, having completed its life cycle as a consumer item.

23 (iv) "Timber" means forest trees, standing or down, on privately or
24 publicly owned land. "Timber" does not include Christmas trees that
25 are cultivated by agricultural methods or short-rotation hardwoods as
26 defined in RCW 84.33.035.

27 (v) "Timber products" means:

28 (A) Logs, wood chips, sawdust, wood waste, and similar products
29 obtained wholly from the processing of timber, short-rotation hardwoods
30 as defined in RCW 84.33.035, or both;

31 (B) Pulp, including market pulp and pulp derived from recovered
32 paper or paper products; and

33 (C) Recycled paper, but only when used in the manufacture of
34 biocomposite surface products.

35 (vi) "Wood products" means paper and paper products; dimensional
36 lumber; engineered wood products such as particleboard, oriented strand
37 board, medium density fiberboard, and plywood; wood doors; wood
38 windows; and biocomposite surface products.

1 (f) Except for small harvesters as defined in RCW 84.33.035, a
2 person reporting under the tax rate provided in this subsection (12)
3 must file a complete annual survey with the department under RCW
4 82.32.585.

5 (13) Upon every person engaging within this state in inspecting,
6 testing, labeling, and storing canned salmon owned by another person,
7 as to such persons, the amount of tax with respect to such activities
8 is equal to the gross income derived from such activities multiplied by
9 the rate of 0.484 percent.

10 (14)(a) Upon every person engaging within this state in the
11 business of printing a newspaper, publishing a newspaper, or both, the
12 amount of tax on such business is equal to the gross income of the
13 business multiplied by the rate of 0.2904 percent.

14 (b) A person reporting under the tax rate provided in this
15 subsection (14) must file a complete annual report with the department
16 under RCW 82.32.534.

17 PART III

18 AMENDING THE SALES AND USE TAX EXEMPTION FOR CERTAIN EQUIPMENT USED IN 19 COMPUTER DATA CENTERS

20 NEW SECTION. **Sec. 301.** (1) It is the legislature's intent to
21 encourage immediate investments in technology facilities that can
22 provide an economic stimulus, sustain long-term jobs that provide
23 living wages, and help build the digital infrastructure that can enable
24 the state to be competitive for additional technology investment and
25 jobs.

26 (2) There is currently an intense competition for data center
27 construction and operation in many states including: Oregon, Arizona,
28 North and South Carolina, North Dakota, Iowa, Virginia, Texas, and
29 Illinois. Unprecedented incentives are available as a result of the
30 desire of these states to attract investments that will serve as a
31 catalyst for additional clusters of economic activity.

32 (3) Data center technology has advanced rapidly, with marked
33 increases in energy efficiency. Large, commercial-grade data centers
34 leverage the economies of scale to reduce energy consumption.
35 Combining digitized processes with the economies of scale recognized at

1 these data centers, today's enterprises can materially reduce the
2 energy they consume and greatly improve their efficiency.

3 (4) The legislature finds that offering an exemption for server and
4 related electrical equipment and installation will act as a stimulus to
5 incent immediate investment. This investment will bring jobs, tax
6 revenues, and economic growth to some of our state's rural areas.

7 **Sec. 302.** RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each
8 amended to read as follows:

9 (1) An exemption from the tax imposed by RCW 82.08.020 is provided
10 for sales to qualifying businesses and to qualifying tenants of
11 eligible server equipment to be installed, without intervening use, in
12 an eligible computer data center, and to charges made for labor and
13 services rendered in respect to installing eligible server equipment.
14 The exemption also applies to sales to qualifying businesses and to
15 qualifying tenants of eligible power infrastructure, including labor
16 and services rendered in respect to constructing, installing,
17 repairing, altering, or improving eligible power infrastructure.

18 (2)(a) In order to claim the exemption under this section, a
19 qualifying business or a qualifying tenant must submit an application
20 to the department for an exemption certificate. The application must
21 include the information necessary, as required by the department, to
22 determine that a business or tenant qualifies for the exemption under
23 this section. The department must issue exemption certificates to
24 qualifying businesses and qualifying tenants. The department may
25 assign a unique identification number to each exemption certificate
26 issued under this section.

27 (b) A qualifying business or a qualifying tenant claiming the
28 exemption under this section must present the seller with an exemption
29 certificate in a form and manner prescribed by the department. The
30 seller must retain a copy of the certificate for the seller's files.

31 (3)(a) Within six years of the date that the department issued an
32 exemption certificate under this section to a qualifying business or a
33 qualifying tenant with respect to an eligible computer data center, the
34 qualifying business or qualifying tenant must establish that net
35 employment at the eligible computer data center has increased by a
36 minimum of:

37 (i) Thirty-five family wage employment positions; or

1 (ii) Three family wage employment positions for each twenty
2 thousand square feet of space or less that is newly dedicated to
3 housing working servers at the eligible computer data center. For
4 qualifying (~~((businesses that lease space at an eligible computer data~~
5 ~~center))~~) tenants, the number of family wage employment positions that
6 must be increased under this subsection (3)(a)(ii) is based only on the
7 space occupied by the (~~((lessee))~~) qualifying tenant in the eligible
8 computer data center.

9 (b) In calculating the net increase in family wage employment
10 positions:

11 (i) The owner of an eligible computer data center, in addition to
12 its own net increase in family wage employment positions, may include:

13 (A) The net increase in family wage employment positions employed
14 by qualifying (~~((businesses leasing space within the eligible computer~~
15 ~~data center from the owner))~~) tenants; and

16 (B) The net increase in family wage employment positions described
17 in (c)(ii)(B) of this subsection (3).

18 (ii)(A) (~~((Lessees of the owner of an eligible computer data~~
19 ~~center))~~) Qualifying tenants, in addition to their own net increase in
20 family wage employment positions, may include:

21 (I) A portion of the net increase in family wage employment
22 positions employed by the owner; and

23 (II) A portion of the net increase in family wage employment
24 positions described in (c)(ii)(B) of this subsection (3).

25 (B) The portion of the net increase in family wage employment
26 positions to be counted under this subsection (3)(b)(ii) by each
27 (~~((lessee))~~) qualifying tenant must be in proportion to the amount of
28 space in the eligible computer data center occupied by the (~~((lessee))~~)
29 qualifying tenant compared to the total amount of space in the eligible
30 computer data center occupied by all (~~((lessees that are qualifying~~
31 ~~businesses))~~) qualifying tenants.

32 (c)(i) For purposes of this subsection, family wage employment
33 positions are new permanent employment positions requiring forty hours
34 of weekly work, or their equivalent, on a full-time basis at the
35 eligible computer data center and receiving a wage equivalent to or
36 greater than one hundred fifty percent of the per capita personal
37 income of the county in which the qualified project is located. An
38 employment position may not be counted as a family wage employment

1 position unless the employment position is entitled to health insurance
2 coverage provided by the employer of the employment position. For
3 purposes of this subsection (3)(c), "new permanent employment position"
4 means an employment position that did not exist or that had not
5 previously been filled as of the date that the department issued an
6 exemption certificate to the owner or (~~lessee~~) qualifying tenant of
7 an eligible computer data center, as the case may be.

8 (ii)(A) Family wage employment positions include positions filled
9 by employees of the owner of the eligible computer data center and by
10 employees of qualifying (~~businesses leasing space from the owner of~~
11 ~~the eligible computer data center~~) tenants.

12 (B) Family wage employment positions also include individuals
13 performing work at an eligible computer data center as an independent
14 contractor hired by the owner of the eligible computer data center or
15 as an employee of an independent contractor hired by the owner of the
16 eligible computer data center, if the work is necessary for the
17 operation of the computer data center, such as security and building
18 maintenance, and provided that all of the requirements in (c)(i) of
19 this subsection (3) are met.

20 (d) All previously exempted sales and use taxes are immediately due
21 and payable for a qualifying business or qualifying tenant that does
22 not meet the requirements of this subsection.

23 (4) A qualifying business or a qualifying tenant claiming an
24 exemption under this section or RCW 82.12.986 must complete an annual
25 report with the department as required under RCW 82.32.534.

26 (5)(a) The exemption provided in this section does not apply to:

27 (i) Any person who has received the benefit of the deferral program
28 under chapter 82.60 RCW on: (A) The construction, renovation, or
29 expansion of a structure or structures used as a computer data center;
30 or (B) machinery or equipment used in a computer data center; and

31 (ii) Any person affiliated with a person within the scope of (a)(i)
32 of this subsection (5). (~~For purposes of this subsection,~~
33 ~~"affiliated" means that one person has a direct or indirect ownership~~
34 ~~interest of at least twenty percent in another person.))~~

35 (b) If a person claims an exemption under this section and
36 subsequently receives the benefit of the deferral program under chapter
37 82.60 RCW on either the construction, renovation, or expansion of a
38 structure or structures used as a computer data center or machinery or

1 equipment used in a computer data center, the person must repay the
2 amount of taxes exempted under this section. Interest as provided in
3 chapter 82.32 RCW applies to amounts due under this section until paid
4 in full.

5 (6) For purposes of this section the following definitions apply
6 unless the context clearly requires otherwise:

7 (a) "Affiliated" means that one person has a direct or indirect
8 ownership interest of at least twenty percent in another person.

9 (b)(i) "Computer data center" means a facility comprised of one or
10 more buildings, which may be comprised of multiple businesses,
11 constructed or refurbished specifically, and used primarily, to house
12 working servers, where the facility has the following characteristics:
13 (A) Uninterruptible power supplies, generator backup power, or both;
14 (B) sophisticated fire suppression and prevention systems; and (C)
15 enhanced physical security, such as: Restricted access to the facility
16 to selected personnel; permanent security guards; video camera
17 surveillance; an electronic system requiring passcodes, keycards, or
18 biometric scans, such as hand scans and retinal or fingerprint
19 recognition; or similar security features.

20 (ii) For a computer data center comprised of multiple buildings,
21 each separate building constructed or refurbished specifically, and
22 used primarily, to house working servers is considered a computer data
23 center if it has all of the characteristics listed in ~~((a))~~ (b)(i)(A)
24 through (C) of this subsection (6).

25 (iii) A facility comprised of one building or more than one
26 building must have a combined square footage of at least one hundred
27 thousand square feet.

28 ~~((b))~~ (c) "Electronic data storage and data management services"
29 include, but are not limited to: Providing data storage and backup
30 services, providing computer processing power, hosting enterprise
31 software applications, and hosting web sites. The term also includes
32 providing services such as e-mail, web browsing and searching, media
33 applications, and other online services, regardless of whether a charge
34 is made for such services.

35 ~~((e))~~ (d)(i) "Eligible computer data center" means a computer
36 data center:

37 (A) Located in a rural county as defined in RCW 82.14.370;

1 (B) Having at least twenty thousand square feet dedicated to
2 housing working servers, where the server space has not previously been
3 dedicated to housing working servers; and

4 (C) For which the commencement of construction occurs:

5 (I) After March 31, 2010, and before July 1, 2011; or

6 (II) After March 31, 2012, and before July 1, 2015.

7 (ii) For purposes of this section, "commencement of construction"
8 means the date that a building permit is issued under the building code
9 adopted under RCW 19.27.031 for construction of the computer data
10 center. The construction of a computer data center includes the
11 expansion, renovation, or other improvements made to existing
12 facilities, including leased or rented space. "Commencement of
13 construction" does not include soil testing, site clearing and grading,
14 site preparation, or any other related activities that are initiated
15 before the issuance of a building permit for the construction of the
16 foundation of a computer data center.

17 ~~((i))~~ (iii) With respect to facilities in existence on April 1,
18 2010, that are expanded, renovated, or otherwise improved after March
19 31, 2010, or facilities in existence on April 1, 2012, that are
20 expanded, renovated, or otherwise improved after March 31, 2012, an
21 eligible computer data center includes only the portion of the computer
22 data center meeting the requirements in ~~((e))~~ (d)(i)(B) of this
23 subsection (6).

24 ~~((d))~~ (e) "Eligible power infrastructure" means all fixtures and
25 equipment owned by a qualifying business or qualifying tenant and
26 necessary for the transformation, distribution, or management of
27 electricity that is required to operate eligible server equipment
28 within an eligible computer data center. The term includes
29 ~~((electrical — substations,))~~ generators((,)); wiring((— and));
30 cogeneration equipment; and associated fixtures and equipment, such as
31 electrical switches, batteries, and distribution, testing, and
32 monitoring equipment.

33 ~~((e))~~ (f) "Eligible server equipment" means:

34 (i) For a qualifying business whose computer data center qualifies
35 as an eligible computer data center under (d)(i)(C)(I) of this
36 subsection (6), the original server equipment installed in an eligible
37 computer data center on or after April 1, 2010, and replacement server

1 equipment. For purposes of this subsection (6)((+e)) (f)(i),
2 "replacement server equipment" means server equipment that:

3 ((+i)) (A) Replaces existing server equipment, if the sale or use
4 of the server equipment to be replaced qualified for an exemption under
5 this section or RCW 82.12.986; and

6 ((+ii)) (B) Is installed and put into regular use before April 1,
7 2018.

8 (ii) For a qualifying business whose computer data center qualifies
9 as an eligible computer data center under (d)(i)(C)(II) of this
10 subsection (6), "eligible server equipment" means the original server
11 equipment installed in an eligible computer data center on or after
12 April 1, 2012, and replacement server equipment. For purposes of this
13 subsection (6)(f)(ii), "replacement server equipment" means server
14 equipment that:

15 (A) Replaces existing server equipment, if the sale or use of the
16 server equipment to be replaced qualified for an exemption under this
17 section or RCW 82.12.986; and

18 (B) Is installed and put into regular use before April 1, 2020.

19 (iii) For a qualifying tenant who leases space within an eligible
20 computer data center, "eligible server equipment" means the original
21 server equipment installed within the space it leases from an eligible
22 computer data center on or after April 1, 2010, and replacement server
23 equipment. For purposes of this subsection (6)(f)(iii), "replacement
24 server equipment" means server equipment that:

25 (A) Replaces existing server equipment, if the sale or use of the
26 server equipment to be replaced qualified for an exemption under this
27 section or RCW 82.12.986; and

28 (B) Is installed and put into regular use before April 1, 2020.

29 ((+f)) (g) "Qualifying business" means a business entity that
30 exists for the primary purpose of engaging in commercial activity for
31 profit and that is the owner of an eligible computer data center (~~or~~
32 ~~the lessee of at least twenty thousand square feet within an eligible~~
33 ~~computer data center dedicated to housing working servers, where the~~
34 ~~server space has not previously been dedicated to housing working~~
35 ~~servers)).~~ The term does not include the state or federal government
36 or any of their departments, agencies, and institutions; tribal
37 governments; political subdivisions of this state; or any municipal,

1 quasi-municipal, public, or other corporation created by the state or
2 federal government, tribal government, municipality, or political
3 subdivision of the state.

4 ~~((g) "Server" means blade or rack mount server computers used in
5 a computer data center exclusively to provide electronic data storage
6 and data management services for internal use by the owner or lessee of
7 the computer data center, for clients of the owner or lessee of the
8 computer data center, or both. "Server" does not include personal
9 computers.~~

10 ~~(h) "Server equipment" means the server chassis and all computer
11 hardware contained within the server chassis. "Server equipment" also
12 includes computer software necessary to operate the server. "Server
13 equipment" does not include the racks upon which the server chassis is
14 installed, and computer peripherals such as keyboards, monitors,
15 printers, mice, and other devices that work outside of the computer.)~~

16 (h) "Qualifying tenant" means a business entity that exists for the
17 primary purpose of engaging in commercial activity for profit and that
18 leases space from a qualifying business within an eligible computer
19 data center. The term does not include the state or federal government
20 or any of their departments, agencies, and institutions; tribal
21 governments; political subdivisions of this state; or any municipal,
22 quasi-municipal, public, or other corporation created by the state or
23 federal government, tribal government, municipality, or political
24 subdivision of the state. The term also does not include a lessee of
25 space in an eligible computer data center under (d)(i)(C)(I) of this
26 subsection (6), if the lessee and lessor are affiliated and:

27 (i) That space will be used by the lessee to house server equipment
28 that replaces server equipment previously installed and operated in
29 that eligible computer data center by the lessor or another person
30 affiliated with the lessee; or

31 (ii) Prior to the effective date of this section, the primary use
32 of the server equipment installed in that eligible computer data center
33 was to provide electronic data storage and data management services for
34 the business purposes of either the lessor, persons affiliated with the
35 lessor, or both.

36 (i) "Server equipment" means the computer hardware located in an
37 eligible computer data center and used exclusively to provide
38 electronic data storage and data management services for internal use

1 by the owner or lessee of the computer data center, for clients of the
2 owner or lessee of the computer data center, or both. "Server
3 equipment" also includes computer software necessary to operate the
4 computer hardware. "Server equipment" does not include personal
5 computers, the racks upon which the server equipment is installed, and
6 computer peripherals such as keyboards, monitors, printers, and mice.

7 (7) This section expires April 1, (~~2018~~) 2020.

8 **Sec. 303.** RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each
9 amended to read as follows:

10 (1) An exemption from the tax imposed by RCW 82.08.020 is provided
11 for sales to qualifying businesses and to qualifying tenants of
12 eligible server equipment to be installed, without intervening use, in
13 an eligible computer data center, and to charges made for labor and
14 services rendered in respect to installing eligible server equipment.
15 The exemption also applies to sales to qualifying businesses and to
16 qualifying tenants of eligible power infrastructure, including labor
17 and services rendered in respect to constructing, installing,
18 repairing, altering, or improving eligible power infrastructure.

19 (2)(a) In order to claim the exemption under this section, a
20 qualifying business or a qualifying tenant must submit an application
21 to the department for an exemption certificate. The application must
22 include the information necessary, as required by the department, to
23 determine that a business or tenant qualifies for the exemption under
24 this section. The department must issue exemption certificates to
25 qualifying businesses and qualifying tenants. The department may
26 assign a unique identification number to each exemption certificate
27 issued under this section.

28 (b) A qualifying business or a qualifying tenant claiming the
29 exemption under this section must present the seller with an exemption
30 certificate in a form and manner prescribed by the department. The
31 seller must retain a copy of the certificate for the seller's files.

32 (3)(a) Within six years of the date that the department issued an
33 exemption certificate under this section to a qualifying business or a
34 qualifying tenant with respect to an eligible computer data center, the
35 qualifying business or qualifying tenant must establish that net
36 employment at the eligible computer data center has increased by a
37 minimum of:

1 (i) Thirty-five family wage employment positions; or
2 (ii) Three family wage employment positions for each twenty
3 thousand square feet of space or less that is newly dedicated to
4 housing working servers at the eligible computer data center. For
5 qualifying (~~((businesses that lease space at an eligible computer data~~
6 ~~center))~~ tenants, the number of family wage employment positions that
7 must be increased under this subsection (3)(a)(ii) is based only on the
8 space occupied by the (~~((lessee))~~ qualifying tenant in the eligible
9 computer data center.

10 (b) In calculating the net increase in family wage employment
11 positions:

12 (i) The owner of an eligible computer data center, in addition to
13 its own net increase in family wage employment positions, may include:

14 (A) The net increase in family wage employment positions employed
15 by qualifying (~~((businesses leasing space within the eligible computer~~
16 ~~data center from the owner))~~ tenants; and

17 (B) The net increase in family wage employment positions described
18 in (c)(ii)(B) of this subsection (3).

19 (ii)(A) (~~((Lessees of the owner of an eligible computer data~~
20 ~~center))~~ Qualifying tenants, in addition to their own net increase in
21 family wage employment positions, may include:

22 (I) A portion of the net increase in family wage employment
23 positions employed by the owner; and

24 (II) A portion of the net increase in family wage employment
25 positions described in (c)(ii)(B) of this subsection (3).

26 (B) The portion of the net increase in family wage employment
27 positions to be counted under this subsection (3)(b)(ii) by each
28 (~~((lessee))~~ qualifying tenant must be in proportion to the amount of
29 space in the eligible computer data center occupied by the (~~((lessee))~~
30 qualifying tenant compared to the total amount of space in the eligible
31 computer data center occupied by all (~~((lessees that are qualifying~~
32 ~~businesses))~~ qualifying tenants.

33 (c)(i) For purposes of this subsection, family wage employment
34 positions are new permanent employment positions requiring forty hours
35 of weekly work, or their equivalent, on a full-time basis at the
36 eligible computer data center and receiving a wage equivalent to or
37 greater than one hundred fifty percent of the per capita personal
38 income of the county in which the qualified project is located. An

1 employment position may not be counted as a family wage employment
2 position unless the employment position is entitled to health insurance
3 coverage provided by the employer of the employment position. For
4 purposes of this subsection (3)(c), "new permanent employment position"
5 means an employment position that did not exist or that had not
6 previously been filled as of the date that the department issued an
7 exemption certificate to the owner or (~~lessee~~) qualifying tenant of
8 an eligible computer data center, as the case may be.

9 (ii)(A) Family wage employment positions include positions filled
10 by employees of the owner of the eligible computer data center and by
11 employees of qualifying (~~businesses leasing space from the owner of~~
12 ~~the eligible computer data center~~) tenants.

13 (B) Family wage employment positions also include individuals
14 performing work at an eligible computer data center as an independent
15 contractor hired by the owner of the eligible computer data center or
16 as an employee of an independent contractor hired by the owner of the
17 eligible computer data center, if the work is necessary for the
18 operation of the computer data center, such as security and building
19 maintenance, and provided that all of the requirements in (c)(i) of
20 this subsection (3) are met.

21 (d) All previously exempted sales and use taxes are immediately due
22 and payable for a qualifying business or qualifying tenant that does
23 not meet the requirements of this subsection.

24 (4) A qualifying business or a qualifying tenant claiming an
25 exemption under this section or RCW 82.12.986 must complete an annual
26 (~~report~~) survey with the department as required under RCW
27 (~~82.32.534~~) 82.32.585.

28 (5)(a) The exemption provided in this section does not apply to:

29 (i) Any person who has received the benefit of the deferral program
30 under chapter 82.60 RCW on: (A) The construction, renovation, or
31 expansion of a structure or structures used as a computer data center;
32 or (B) machinery or equipment used in a computer data center; and

33 (ii) Any person affiliated with a person within the scope of (a)(i)
34 of this subsection (5). (~~For purposes of this subsection,~~
35 ~~"affiliated" means that one person has a direct or indirect ownership~~
36 ~~interest of at least twenty percent in another person.~~)

37 (b) If a person claims an exemption under this section and
38 subsequently receives the benefit of the deferral program under chapter

1 82.60 RCW on either the construction, renovation, or expansion of a
2 structure or structures used as a computer data center or machinery or
3 equipment used in a computer data center, the person must repay the
4 amount of taxes exempted under this section. Interest as provided in
5 chapter 82.32 RCW applies to amounts due under this section until paid
6 in full.

7 (6) For purposes of this section the following definitions apply
8 unless the context clearly requires otherwise:

9 (a) "Affiliated" means that one person has a direct or indirect
10 ownership interest of at least twenty percent in another person.

11 (b)(i) "Computer data center" means a facility comprised of one or
12 more buildings, which may be comprised of multiple businesses,
13 constructed or refurbished specifically, and used primarily, to house
14 working servers, where the facility has the following characteristics:
15 (A) Uninterruptible power supplies, generator backup power, or both;
16 (B) sophisticated fire suppression and prevention systems; and (C)
17 enhanced physical security, such as: Restricted access to the facility
18 to selected personnel; permanent security guards; video camera
19 surveillance; an electronic system requiring passcodes, keycards, or
20 biometric scans, such as hand scans and retinal or fingerprint
21 recognition; or similar security features.

22 (ii) For a computer data center comprised of multiple buildings,
23 each separate building constructed or refurbished specifically, and
24 used primarily, to house working servers is considered a computer data
25 center if it has all of the characteristics listed in ~~((a))~~ (b)(i)(A)
26 through (C) of this subsection (6).

27 (iii) A facility comprised of one building or more than one
28 building must have a combined square footage of at least one hundred
29 thousand square feet.

30 ~~((b))~~ (c) "Electronic data storage and data management services"
31 include, but are not limited to: Providing data storage and backup
32 services, providing computer processing power, hosting enterprise
33 software applications, and hosting web sites. The term also includes
34 providing services such as e-mail, web browsing and searching, media
35 applications, and other online services, regardless of whether a charge
36 is made for such services.

37 ~~((e))~~ (d)(i) "Eligible computer data center" means a computer
38 data center:

1 (A) Located in a rural county as defined in RCW 82.14.370;

2 (B) Having at least twenty thousand square feet dedicated to
3 housing working servers, where the server space has not previously been
4 dedicated to housing working servers; and

5 (C) For which the commencement of construction occurs:

6 (I) After March 31, 2010, and before July 1, 2011; or

7 (II) After March 31, 2012, and before July 1, 2015.

8 (ii) For purposes of this section, "commencement of construction"
9 means the date that a building permit is issued under the building code
10 adopted under RCW 19.27.031 for construction of the computer data
11 center. The construction of a computer data center includes the
12 expansion, renovation, or other improvements made to existing
13 facilities, including leased or rented space. "Commencement of
14 construction" does not include soil testing, site clearing and grading,
15 site preparation, or any other related activities that are initiated
16 before the issuance of a building permit for the construction of the
17 foundation of a computer data center.

18 ~~((+ii))~~ (iii) With respect to facilities in existence on April 1,
19 2010, that are expanded, renovated, or otherwise improved after March
20 31, 2010, or facilities in existence on April 1, 2012, that are
21 expanded, renovated, or otherwise improved after March 31, 2012, an
22 eligible computer data center includes only the portion of the computer
23 data center meeting the requirements in ~~((+e))~~ (d)(i)(B) of this
24 subsection (6).

25 ~~((+d))~~ (e) "Eligible power infrastructure" means all fixtures and
26 equipment owned by a qualifying business, or qualifying tenant and
27 necessary for the transformation, distribution, or management of
28 electricity that is required to operate eligible server equipment
29 within an eligible computer data center. The term includes
30 ~~((electrical — substations,))~~ generators~~((,))~~ wiring~~((, — and))~~ ;
31 cogeneration equipment; and associated fixtures and equipment, such as
32 electrical switches, batteries, and distribution, testing, and
33 monitoring equipment.

34 ~~((+e))~~ (f) "Eligible server equipment" means:

35 (i) For a qualifying business whose computer data center qualifies
36 as an eligible computer data center under (d)(i)(C)(I) of this
37 subsection (6), the original server equipment installed in an eligible

1 computer data center on or after April 1, 2010, and replacement server
2 equipment. For purposes of this subsection (6)((+e+)) (f)(i),
3 "replacement server equipment" means server equipment that:

4 ((+i+)) (A) Replaces existing server equipment, if the sale or use
5 of the server equipment to be replaced qualified for an exemption under
6 this section or RCW 82.12.986; and

7 ((+ii+)) (B) Is installed and put into regular use before April 1,
8 2018.

9 (ii) For a qualifying business whose computer data center qualifies
10 as an eligible computer data center under (d)(i)(C)(II) of this
11 subsection (6), "eligible server equipment" means the original server
12 equipment installed in an eligible computer data center on or after
13 April 1, 2012, and replacement server equipment. For purposes of this
14 subsection (6)(f)(ii), "replacement server equipment" means server
15 equipment that:

16 (A) Replaces existing server equipment, if the sale or use of the
17 server equipment to be replaced qualified for an exemption under this
18 section or RCW 82.12.986; and

19 (B) Is installed and put into regular use before April 1, 2020.

20 (iii) For a qualifying tenant who leases space within an eligible
21 computer data center, "eligible server equipment" means the original
22 server equipment installed within the space it leases from an eligible
23 computer data center on or after April 1, 2010, and replacement server
24 equipment. For purposes of this subsection (6)(f)(iii), "replacement
25 server equipment" means server equipment that:

26 (A) Replaces existing server equipment, if the sale or use of the
27 server equipment to be replaced qualified for an exemption under this
28 section or RCW 82.12.986; and

29 (B) Is installed and put into regular use before April 1, 2020.

30 ((+f+)) (g) "Qualifying business" means a business entity that
31 exists for the primary purpose of engaging in commercial activity for
32 profit and that is the owner of an eligible computer data center (~~or~~
33 ~~the lessee of at least twenty thousand square feet within an eligible~~
34 ~~computer data center dedicated to housing working servers, where the~~
35 ~~server space has not previously been dedicated to housing working~~
36 ~~servers)). The term does not include the state or federal government
37 or any of their departments, agencies, and institutions; tribal
38 governments; political subdivisions of this state; or any municipal,~~

1 quasi-municipal, public, or other corporation created by the state or
2 federal government, tribal government, municipality, or political
3 subdivision of the state.

4 ~~((g) "Server" means blade or rack mount server computers used in
5 a computer data center exclusively to provide electronic data storage
6 and data management services for internal use by the owner or lessee of
7 the computer data center, for clients of the owner or lessee of the
8 computer data center, or both. "Server" does not include personal
9 computers.~~

10 ~~(h) "Server equipment" means the server chassis and all computer
11 hardware contained within the server chassis. "Server equipment" also
12 includes computer software necessary to operate the server. "Server
13 equipment" does not include the racks upon which the server chassis is
14 installed, and computer peripherals such as keyboards, monitors,
15 printers, mice, and other devices that work outside of the computer.)~~

16 (h) "Qualifying tenant" means a business entity that exists for the
17 primary purpose of engaging in commercial activity for profit and that
18 leases space from a qualifying business within an eligible computer
19 data center. The term does not include the state or federal government
20 or any of their departments, agencies, and institutions; tribal
21 governments; political subdivisions of this state; or any municipal,
22 quasi-municipal, public, or other corporation created by the state or
23 federal government, tribal government, municipality, or political
24 subdivision of the state. The term also does not include a lessee of
25 space in an eligible computer data center under (d)(i)(C)(I) of this
26 subsection (6), if the lessee and lessor are affiliated and:

27 (i) That space will be used by the lessee to house server equipment
28 that replaces server equipment previously installed and operated in
29 that eligible computer data center by the lessor or another person
30 affiliated with the lessee; or

31 (ii) Prior to the effective date of this section, the primary use
32 of the server equipment installed in that eligible computer data center
33 was to provide electronic data storage and data management services for
34 the business purposes of either the lessor, persons affiliated with the
35 lessor, or both.

36 (i) "Server equipment" means the computer hardware located in an
37 eligible computer data center and used exclusively to provide
38 electronic data storage and data management services for internal use

1 by the owner or lessee of the computer data center, for clients of the
2 owner or lessee of the computer data center, or both. "Server
3 equipment" also includes computer software necessary to operate the
4 computer hardware. "Server equipment" does not include personal
5 computers, the racks upon which the server equipment is installed, and
6 computer peripherals such as keyboards, monitors, printers, and mice.

7 (7) This section expires April 1, ((2018)) 2020.

8 **Sec. 304.** RCW 82.12.986 and 2010 1st sp.s. c 23 s 1602 are each
9 amended to read as follows:

10 (1) An exemption from the tax imposed by RCW 82.12.020 is provided
11 for the use by qualifying businesses or qualifying tenants of eligible
12 server equipment to be installed, without intervening use, in an
13 eligible computer data center, and to the use of labor and services
14 rendered in respect to installing such server equipment. The exemption
15 also applies to the use ((of)) by a qualifying business or qualifying
16 tenant of eligible power infrastructure, including labor and services
17 rendered in respect to installing, repairing, altering, or improving
18 such infrastructure.

19 (2) A qualifying business or a qualifying tenant is not eligible
20 for the exemption under this section unless the department issued an
21 exemption certificate to the qualifying business or a qualifying tenant
22 for the exemption provided in RCW 82.08.986.

23 (3)(a) The exemption provided in this section does not apply to:

24 (i) Any person who has received the benefit of the deferral program
25 under chapter 82.60 RCW on: (A) The construction, renovation, or
26 expansion of a structure or structures used as a computer data center;
27 or (B) machinery or equipment used in a computer data center; and

28 (ii) Any person affiliated with a person within the scope of (a)(i)
29 of this subsection (3). ~~((For — purposes — of — this — subsection,~~
30 ~~"affiliated" means that one person has a direct or indirect ownership~~
31 ~~interest of at least twenty percent in another person.))~~

32 (b) If a person has received the benefit of the exemption under
33 this section and subsequently receives the benefit of the deferral
34 program under chapter 82.60 RCW on either the construction, renovation,
35 or expansion of a structure or structures used as a computer data
36 center or machinery or equipment used in a computer data center, the
37 person must repay the amount of taxes exempted under this section.

1 Interest as provided in chapter 82.32 RCW applies to amounts due under
2 this subsection (3)(b) until paid in full. A person is not required to
3 repay taxes under this subsection with respect to property and services
4 for which the person is required to repay taxes under RCW 82.08.986(5).

5 (4) The definitions and requirements in RCW 82.08.986 apply to this
6 section.

7 (5) This section expires April 1, (~~2018~~) 2020.

8 **PART IV**

9 **EXEMPTING CRAFT DISTILLERIES FROM CERTAIN LICENSE ISSUANCE FEES**

10 **Sec. 401.** RCW 66.24.630 and 2012 c 2 s 103 (Initiative Measure No.
11 1183) are each amended to read as follows:

12 (1) There is a spirits retail license to: Sell spirits in original
13 containers to consumers for consumption off the licensed premises and
14 to permit holders; sell spirits in original containers to retailers
15 licensed to sell spirits for consumption on the premises, for resale at
16 their licensed premises according to the terms of their licenses,
17 although no single sale may exceed twenty-four liters, unless the sale
18 is by a licensee that was a contract liquor store manager of a contract
19 liquor store at the location of its spirits retail licensed premises
20 from which it makes such sales; and export spirits.

21 (2) For the purposes of this title, a spirits retail license is a
22 retail license, and a sale by a spirits retailer is a retail sale only
23 if not for resale. Nothing in this title authorizes sales by on-sale
24 licensees to other retail licensees. The board must establish by rule
25 an obligation of on-sale spirits retailers to:

26 (a) Maintain a schedule by stock-keeping unit of all their
27 purchases of spirits from spirits retail licensees, indicating the
28 identity of the seller and the quantities purchased; and

29 (b) Provide, not more frequently than quarterly, a report for each
30 scheduled item containing the identity of the purchasing on-premise
31 licensee and the quantities of that scheduled item purchased since any
32 preceding report to:

33 (i) A distributor authorized by the distiller to distribute a
34 scheduled item in the on-sale licensee's geographic area; or

35 (ii) A distiller acting as distributor of the scheduled item in the
36 area.

1 (3)(a) Except as otherwise provided in (c) of this subsection (~~((e)~~
2 ~~of this section)~~), the board may issue spirits retail licenses only for
3 premises comprising at least ten thousand square feet of fully enclosed
4 retail space within a single structure, including storerooms and other
5 interior auxiliary areas but excluding covered or fenced exterior
6 areas, whether or not attached to the structure, and only to applicants
7 that the board determines will maintain systems for inventory
8 management, employee training, employee supervision, and physical
9 security of the product substantially as effective as those of stores
10 currently operated by the board with respect to preventing sales to or
11 pilferage by underage or inebriated persons.

12 (b) License issuances and renewals are subject to RCW 66.24.010 and
13 the regulations promulgated thereunder, including without limitation
14 rights of cities, towns, county legislative authorities, the public,
15 churches, schools, and public institutions to object to or prevent
16 issuance of local liquor licenses. However, existing grocery premises
17 licensed to sell beer and/or wine are deemed to be premises "now
18 licensed" under RCW 66.24.010(9)(a) for the purpose of processing
19 applications for spirits retail licenses.

20 (c) The board may not deny a spirits retail license to an otherwise
21 qualified contract liquor store at its contract location or to the
22 holder of former state liquor store operating rights sold at auction
23 under RCW 66.24.620 on the grounds of location, nature, or size of the
24 premises to be licensed. The board (~~shall~~) may not deny a spirits
25 retail license to applicants that are not contract liquor stores or
26 operating rights holders on the grounds of the size of the premises to
27 be licensed, if such applicant is otherwise qualified and the board
28 determines that:

29 (i) There is no retail spirits license holder in the trade area
30 that the applicant proposes to serve;

31 (ii) The applicant meets, or upon licensure will meet, the
32 operational requirements established by the board by rule; and

33 (iii) The licensee has not committed more than one public safety
34 violation within the three years preceding application.

35 (d) A retailer authorized to sell spirits for consumption on or off
36 the licensed premises may accept delivery of spirits at its licensed
37 premises or at one or more warehouse facilities registered with the
38 board, which facilities may also warehouse and distribute nonliquor

1 items, and from which the retailer may deliver to its own licensed
2 premises and, pursuant to sales permitted under subsection (1) of this
3 section:

4 (i) To other retailer premises licensed to sell spirits for
5 consumption on the licensed premises;

6 (ii) To other registered facilities; or

7 (iii) To lawful purchasers outside the state. The facilities may
8 be registered and utilized by associations, cooperatives, or comparable
9 groups of retailers, including at least one retailer licensed to sell
10 spirits.

11 (4)(a) Except as otherwise provided in (b) of this subsection, each
12 spirits retail licensee must pay to the board, for deposit into the
13 liquor revolving fund, a license issuance fee equivalent to seventeen
14 percent of all spirits sales revenues under the license, exclusive of
15 taxes collected by the licensee and of sales of items on which a
16 license fee payable under this section has otherwise been incurred.
17 The board must establish rules setting forth the timing of such
18 payments and reporting of sales dollar volume by the licensee, with
19 payments required quarterly in arrears. The first payment is due
20 October 1, 2012.

21 (b) This subsection (4) does not apply to craft distilleries.

22 (5) In addition to the payment required under subsection (4) of
23 this section, each licensee must pay an annual license renewal fee of
24 one hundred sixty-six dollars. The board must periodically review and
25 adjust the renewal fee as may be required to maintain it as comparable
26 to annual license renewal fees for licenses to sell beer and wine not
27 for consumption on the licensed premises. If required by law at the
28 time, any increase of the annual renewal fee becomes effective only
29 upon ratification by the legislature.

30 (6) As a condition to receiving and renewing a retail spirits
31 license the licensee must provide training as prescribed by the board
32 by rule for individuals who sell spirits or who manage others who sell
33 spirits regarding compliance with laws and regulations regarding sale
34 of spirits, including without limitation the prohibitions against sale
35 of spirits to individuals who are underage or visibly intoxicated. The
36 training must be provided before the individual first engages in the
37 sale of spirits and must be renewed at least every five years. The
38 licensee must maintain records documenting the nature and frequency of

1 the training provided. An employee training program is presumptively
2 sufficient if it incorporates a "responsible vendor program"
3 promulgated by the board.

4 (7) The maximum penalties prescribed by the board in WAC 314-29-020
5 through 314-29-040 relating to fines and suspensions are doubled for
6 violations relating to the sale of spirits by retail spirits licensees.

7 (8)(a) The board must promulgate regulations concerning the
8 adoption and administration of a compliance training program for
9 spirits retail licensees, to be known as a "responsible vendor
10 program," to reduce underage drinking, encourage licensees to adopt
11 specific best practices to prevent sales to minors, and provide
12 licensees with an incentive to give their employees ongoing training in
13 responsible alcohol sales and service.

14 (b) Licensees who join the responsible vendor program under this
15 section and maintain all of the program's requirements are not subject
16 to the doubling of penalties provided in this section for a single
17 violation in any period of twelve calendar months.

18 (c) The responsible vendor program must be free, voluntary, and
19 self-monitoring.

20 (d) To participate in the responsible vendor program, licensees
21 must submit an application form to the board. If the application
22 establishes that the licensee meets the qualifications to join the
23 program, the board must send the licensee a membership certificate.

24 (e) A licensee participating in the responsible vendor program must
25 at a minimum:

- 26 (i) Provide ongoing training to employees;
- 27 (ii) Accept only certain forms of identification for alcohol sales;
- 28 (iii) Adopt policies on alcohol sales and checking identification;
- 29 (iv) Post specific signs in the business; and
- 30 (v) Keep records verifying compliance with the program's
31 requirements.

32 **PART V**

33 **CLARIFYING THE DEFINITION OF LEASEHOLD INTEREST**

34 **Sec. 501.** RCW 82.29A.020 and 1999 c 220 s 2 are each amended to
35 read as follows:

1 (~~As used in this chapter the following terms shall be defined as~~
2 ~~follows,~~) The definitions in this section apply throughout this
3 chapter unless the context (~~otherwise~~) requires(~~+~~) otherwise.

4 (1) "Leasehold interest" (~~shall~~) means an interest in publicly
5 owned real or personal property which exists by virtue of any lease,
6 permit, license, or any other agreement, written or verbal, between the
7 public owner of the property and a person who would not be exempt from
8 property taxes if that person owned the property in fee, granting
9 possession and use, to a degree less than fee simple ownership(~~+~~
10 ~~PROVIDED, That~~). However, no interest in personal property (excluding
11 land or buildings) which is owned by the United States, whether or not
12 as trustee, or by any foreign government (~~shall~~) may constitute a
13 leasehold interest hereunder when the right to use such property is
14 granted pursuant to a contract solely for the manufacture or production
15 of articles for sale to the United States or any foreign government.
16 The term "leasehold interest" (~~shall~~) includes the rights of use or
17 occupancy by others of property which is owned in fee or held in trust
18 by a public corporation, commission, or authority created under RCW
19 35.21.730 or 35.21.660 if the property is listed on or is within a
20 district listed on any federal or state register of historical sites.
21 The term "leasehold interest" (~~shall~~) does not include road or
22 utility easements, rights of access, occupancy, or use granted solely
23 for the purpose of removing materials or products purchased from a
24 public owner or the lessee of a public owner, or rights of access,
25 occupancy, or use granted solely for the purpose of natural energy
26 resource exploration. "Leasehold interest" does not include the
27 preferential use of publicly owned cargo cranes and docks and
28 associated areas used in the loading and discharging of cargo located
29 at a port district marine facility. "Preferential use" means that
30 publicly owned real or personal property is used by a private party
31 under a written agreement with the public owner, but the public owner
32 or any third party maintains a right to use the property when not being
33 used by the private party.

34 (2)(a) "Taxable rent" (~~shall~~) means contract rent as defined in
35 (~~subsection (a)~~) (c) of this subsection in all cases where the lease
36 or agreement has been established or renegotiated through competitive
37 bidding, or negotiated or renegotiated in accordance with statutory
38 requirements regarding the rent payable, or negotiated or renegotiated

1 under circumstances, established by public record, clearly showing that
2 the contract rent was the maximum attainable by the lessor(~~(+ PROVIDED, That)~~). However, after January 1, 1986, with respect to any
3 lease which has been in effect for ten years or more without
4 renegotiation, taxable rent may be established by procedures set forth
5 in (~~(subsection-(b))~~) (g) of this subsection. All other leasehold
6 interests (~~(shall be)~~) are subject to the determination of taxable rent
7 under the terms of (~~(subsection-(b))~~) (g) of this subsection.
8

9 (b) For purposes of determining leasehold excise tax on any lands
10 on the Hanford reservation subleased to a private or public entity by
11 the department of ecology, taxable rent (~~(shall)~~) includes only the
12 annual cash rental payment made by such entity to the department of
13 ecology as specifically referred to as rent in the sublease agreement
14 between the parties and (~~(shall)~~) does not include any other fees,
15 assessments, or charges imposed on or collected by such entity
16 irrespective of whether the private or public entity pays or collects
17 such other fees, assessments, or charges as specified in the sublease
18 agreement.

19 (~~(+a)~~) (c) "Contract rent" (~~(shall)~~) means the amount of
20 consideration due as payment for a leasehold interest, including: The
21 total of cash payments made to the lessor or to another party for the
22 benefit of the lessor according to the requirements of the lease or
23 agreement, including any rents paid by a sublessee; expenditures for
24 the protection of the lessor's interest when required by the terms of
25 the lease or agreement; and expenditures for improvements to the
26 property to the extent that such improvements become the property of
27 the lessor. Where the consideration conveyed for the leasehold
28 interest is made in combination with payment for concession or other
29 rights granted by the lessor, only that portion of such payment which
30 represents consideration for the leasehold interest (~~(shall be)~~) is
31 part of contract rent.

32 (d) "Contract rent" (~~(shall)~~) does not include: (i) Expenditures
33 made by the lessee, which under the terms of the lease or agreement,
34 are to be reimbursed by the lessor to the lessee or expenditures for
35 improvements and protection made pursuant to a lease or an agreement
36 which requires that the use of the improved property be open to the
37 general public and that no profit will inure to the lessee from the
38 lease; (ii) expenditures made by the lessee for the replacement or

1 repair of facilities due to fire or other casualty including payments
2 for insurance to provide reimbursement for losses or payments to a
3 public or private entity for protection of such property from damage or
4 loss or for alterations or additions made necessary by an action of
5 government taken after the date of the execution of the lease or
6 agreement; (iii) improvements added to publicly owned property by a
7 sublessee under an agreement executed prior to January 1, 1976, which
8 have been taxed as personal property of the sublessee prior to January
9 1, 1976, or improvements made by a sublessee of the same lessee under
10 a similar agreement executed prior to January 1, 1976, and such
11 improvements (~~shall be~~) are taxable to the sublessee as personal
12 property; (iv) improvements added to publicly owned property if such
13 improvements are being taxed as personal property to any person.

14 (e) Any prepaid contract rent (~~shall be~~) is considered to have
15 been paid in the year due and not in the year actually paid with
16 respect to prepayment for a period of more than one year. Expenditures
17 for improvements with a useful life of more than one year which are
18 included as part of contract rent (~~shall~~) must be treated as prepaid
19 contract rent and prorated over the useful life of the improvement or
20 the remaining term of the lease or agreement if the useful life is in
21 excess of the remaining term of the lease or agreement. Rent prepaid
22 prior to January 1, 1976, (~~shall~~) must be prorated from the date of
23 prepayment.

24 (f) With respect to a "product lease", the value (~~shall be~~) is
25 that value determined at the time of sale under terms of the lease.

26 ~~((b))~~ (g) If it (~~shall be~~) is determined by the department of
27 revenue, upon examination of a lessee's accounts or those of a lessor
28 of publicly owned property, that a lessee is occupying or using
29 publicly owned property in such a manner as to create a leasehold
30 interest and that such leasehold interest has not been established
31 through competitive bidding, or negotiated in accordance with statutory
32 requirements regarding the rent payable, or negotiated under
33 circumstances, established by public record, clearly showing that the
34 contract rent was the maximum attainable by the lessor, the department
35 may establish a taxable rent computation for use in determining the tax
36 payable under authority granted in this chapter based upon the
37 following criteria: (i) Consideration (~~shall~~) must be given to
38 rental being paid to other lessors by lessees of similar property for

1 similar purposes over similar periods of time; (ii) consideration
2 (~~shall~~) must be given to what would be considered a fair rate of
3 return on the market value of the property leased less reasonable
4 deductions for any restrictions on use, special operating requirements
5 or provisions for concurrent use by the lessor, another person or the
6 general public.

7 (3) "Product lease" as used in this chapter (~~shall~~) means a lease
8 of property for use in the production of agricultural or marine
9 products to the extent that such lease provides for the contract rent
10 to be paid by the delivery of a stated percentage of the production of
11 such agricultural or marine products to the credit of the lessor or the
12 payment to the lessor of a stated percentage of the proceeds from the
13 sale of such products.

14 (4) "Renegotiated" means a change in the lease agreement which
15 changes the agreed time of possession, restrictions on use, the rate of
16 the cash rental or of any other consideration payable by the lessee to
17 or for the benefit of the lessor, other than any such change required
18 by the terms of the lease or agreement. In addition "renegotiated"
19 (~~shall~~) means a continuation of possession by the lessee beyond the
20 date when, under the terms of the lease agreement, the lessee had the
21 right to vacate the premises without any further liability to the
22 lessor.

23 (5) "City" means any city or town.

24 (6) "Products" includes natural resource products such as cut or
25 picked evergreen foliage, Cascara bark, wild edible mushrooms, native
26 ornamental trees and shrubs, ore and minerals, natural gas, geothermal
27 water and steam, and forage removed through the grazing of livestock.

28 **PART VI**
29 **NEWSPAPER BUSINESS AND OCCUPATION TAX**

30 **Sec. 601.** RCW 82.04.214 and 2008 c 273 s 1 are each amended to
31 read as follows:

32 (1)(~~(a) Until June 30, 2011,~~) "Newspaper" means:

33 (~~(i)~~) (a) A publication issued regularly at stated intervals at
34 least twice a month and printed on newsprint in tabloid or broadsheet
35 format folded loosely together without stapling, glue, or any other

1 binding of any kind, including any supplement of a printed newspaper;
2 and

3 ((+ii+)) (b) An electronic version of a printed newspaper that:

4 ((+A+)) (i) Shares content with the printed newspaper; and

5 ((+B+)) (ii) Is prominently identified by the same name as the
6 printed newspaper or otherwise conspicuously indicates that it is a
7 complement to the printed newspaper.

8 ((+b+)) (2) For purposes of this section, "supplement" means a
9 printed publication, including a magazine or advertising section, that
10 is:

11 ((+i+)) (a) Labeled and identified as part of the printed
12 newspaper; and

13 ((+ii+)) (b) Circulated or distributed:

14 ((+A+)) (i) As an insert or attachment to the printed newspaper; or

15 ((+B+)) (ii) Separate and apart from the printed newspaper so long
16 as the distribution is within the general circulation area of the
17 newspaper.

18 ~~((+2+)) Beginning July 1, 2011, "newspaper" means a publication~~
19 ~~issued regularly at stated intervals at least twice a month and printed~~
20 ~~on newsprint in tabloid or broadsheet format folded loosely together~~
21 ~~without stapling, glue, or any other binding of any kind, including any~~
22 ~~supplement of a printed newspaper as defined in subsection (1)(b) of~~
23 ~~this section.)~~

24 **Sec. 602.** RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No.
25 1107) are each amended to read as follows:

26 (1) Upon every person engaging within this state in the business of
27 manufacturing:

28 (a) Wheat into flour, barley into pearl barley, soybeans into
29 soybean oil, canola into canola oil, canola meal, or canola by-
30 products, or sunflower seeds into sunflower oil; as to such persons the
31 amount of tax with respect to such business is equal to the value of
32 the flour, pearl barley, oil, canola meal, or canola by-product
33 manufactured, multiplied by the rate of 0.138 percent;

34 (b) Beginning July 1, 2012, seafood products that remain in a raw,
35 raw frozen, or raw salted state at the completion of the manufacturing
36 by that person; or selling manufactured seafood products that remain in
37 a raw, raw frozen, or raw salted state at the completion of the

1 manufacturing, to purchasers who transport in the ordinary course of
2 business the goods out of this state; as to such persons the amount of
3 tax with respect to such business is equal to the value of the products
4 manufactured or the gross proceeds derived from such sales, multiplied
5 by the rate of 0.138 percent. Sellers must keep and preserve records
6 for the period required by RCW 82.32.070 establishing that the goods
7 were transported by the purchaser in the ordinary course of business
8 out of this state;

9 (c) Beginning July 1, 2012, dairy products that as of September 20,
10 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
11 including by-products from the manufacturing of the dairy products such
12 as whey and casein; or selling the same to purchasers who transport in
13 the ordinary course of business the goods out of state; as to such
14 persons the tax imposed is equal to the value of the products
15 manufactured or the gross proceeds derived from such sales multiplied
16 by the rate of 0.138 percent. Sellers must keep and preserve records
17 for the period required by RCW 82.32.070 establishing that the goods
18 were transported by the purchaser in the ordinary course of business
19 out of this state;

20 (d) Beginning July 1, 2012, fruits or vegetables by canning,
21 preserving, freezing, processing, or dehydrating fresh fruits or
22 vegetables, or selling at wholesale fruits or vegetables manufactured
23 by the seller by canning, preserving, freezing, processing, or
24 dehydrating fresh fruits or vegetables and sold to purchasers who
25 transport in the ordinary course of business the goods out of this
26 state; as to such persons the amount of tax with respect to such
27 business is equal to the value of the products manufactured or the
28 gross proceeds derived from such sales multiplied by the rate of 0.138
29 percent. Sellers must keep and preserve records for the period
30 required by RCW 82.32.070 establishing that the goods were transported
31 by the purchaser in the ordinary course of business out of this state;

32 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
33 feedstock, as those terms are defined in RCW 82.29A.135; as to such
34 persons the amount of tax with respect to the business is equal to the
35 value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
36 manufactured, multiplied by the rate of 0.138 percent; and

37 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such

1 persons the amount of tax with respect to the business is equal to the
2 value of wood biomass fuel manufactured, multiplied by the rate of
3 0.138 percent.

4 (2) Upon every person engaging within this state in the business of
5 splitting or processing dried peas; as to such persons the amount of
6 tax with respect to such business is equal to the value of the peas
7 split or processed, multiplied by the rate of 0.138 percent.

8 (3) Upon every nonprofit corporation and nonprofit association
9 engaging within this state in research and development, as to such
10 corporations and associations, the amount of tax with respect to such
11 activities is equal to the gross income derived from such activities
12 multiplied by the rate of 0.484 percent.

13 (4) Upon every person engaging within this state in the business of
14 slaughtering, breaking and/or processing perishable meat products
15 and/or selling the same at wholesale only and not at retail; as to such
16 persons the tax imposed is equal to the gross proceeds derived from
17 such sales multiplied by the rate of 0.138 percent.

18 (5) Upon every person engaging within this state in the business of
19 acting as a travel agent or tour operator; as to such persons the
20 amount of the tax with respect to such activities is equal to the gross
21 income derived from such activities multiplied by the rate of 0.275
22 percent.

23 (6) Upon every person engaging within this state in business as an
24 international steamship agent, international customs house broker,
25 international freight forwarder, vessel and/or cargo charter broker in
26 foreign commerce, and/or international air cargo agent; as to such
27 persons the amount of the tax with respect to only international
28 activities is equal to the gross income derived from such activities
29 multiplied by the rate of 0.275 percent.

30 (7) Upon every person engaging within this state in the business of
31 stevedoring and associated activities pertinent to the movement of
32 goods and commodities in waterborne interstate or foreign commerce; as
33 to such persons the amount of tax with respect to such business is
34 equal to the gross proceeds derived from such activities multiplied by
35 the rate of 0.275 percent. Persons subject to taxation under this
36 subsection are exempt from payment of taxes imposed by chapter 82.16
37 RCW for that portion of their business subject to taxation under this
38 subsection. Stevedoring and associated activities pertinent to the

1 conduct of goods and commodities in waterborne interstate or foreign
2 commerce are defined as all activities of a labor, service or
3 transportation nature whereby cargo may be loaded or unloaded to or
4 from vessels or barges, passing over, onto or under a wharf, pier, or
5 similar structure; cargo may be moved to a warehouse or similar holding
6 or storage yard or area to await further movement in import or export
7 or may move to a consolidation freight station and be stuffed,
8 unstuffed, containerized, separated or otherwise segregated or
9 aggregated for delivery or loaded on any mode of transportation for
10 delivery to its consignee. Specific activities included in this
11 definition are: Wharfage, handling, loading, unloading, moving of
12 cargo to a convenient place of delivery to the consignee or a
13 convenient place for further movement to export mode; documentation
14 services in connection with the receipt, delivery, checking, care,
15 custody and control of cargo required in the transfer of cargo;
16 imported automobile handling prior to delivery to consignee; terminal
17 stevedoring and incidental vessel services, including but not limited
18 to plugging and unplugging refrigerator service to containers,
19 trailers, and other refrigerated cargo receptacles, and securing ship
20 hatch covers.

21 (8) Upon every person engaging within this state in the business of
22 disposing of low-level waste, as defined in RCW 43.145.010; as to such
23 persons the amount of the tax with respect to such business is equal to
24 the gross income of the business, excluding any fees imposed under
25 chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

26 If the gross income of the taxpayer is attributable to activities
27 both within and without this state, the gross income attributable to
28 this state must be determined in accordance with the methods of
29 apportionment required under RCW 82.04.460.

30 (9) Upon every person engaging within this state as an insurance
31 producer or title insurance agent licensed under chapter 48.17 RCW or
32 a surplus line broker licensed under chapter 48.15 RCW; as to such
33 persons, the amount of the tax with respect to such licensed activities
34 is equal to the gross income of such business multiplied by the rate of
35 0.484 percent.

36 (10) Upon every person engaging within this state in business as a
37 hospital, as defined in chapter 70.41 RCW, that is operated as a
38 nonprofit corporation or by the state or any of its political

1 subdivisions, as to such persons, the amount of tax with respect to
2 such activities is equal to the gross income of the business multiplied
3 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent
4 thereafter.

5 (11)(a) Beginning October 1, 2005, upon every person engaging
6 within this state in the business of manufacturing commercial
7 airplanes, or components of such airplanes, or making sales, at retail
8 or wholesale, of commercial airplanes or components of such airplanes,
9 manufactured by the seller, as to such persons the amount of tax with
10 respect to such business is, in the case of manufacturers, equal to the
11 value of the product manufactured and the gross proceeds of sales of
12 the product manufactured, or in the case of processors for hire, equal
13 to the gross income of the business, multiplied by the rate of:

14 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

15 (ii) 0.2904 percent beginning July 1, 2007.

16 (b) Beginning July 1, 2008, upon every person who is not eligible
17 to report under the provisions of (a) of this subsection (11) and is
18 engaging within this state in the business of manufacturing tooling
19 specifically designed for use in manufacturing commercial airplanes or
20 components of such airplanes, or making sales, at retail or wholesale,
21 of such tooling manufactured by the seller, as to such persons the
22 amount of tax with respect to such business is, in the case of
23 manufacturers, equal to the value of the product manufactured and the
24 gross proceeds of sales of the product manufactured, or in the case of
25 processors for hire, be equal to the gross income of the business,
26 multiplied by the rate of 0.2904 percent.

27 (c) For the purposes of this subsection (11), "commercial airplane"
28 and "component" have the same meanings as provided in RCW 82.32.550.

29 (d) In addition to all other requirements under this title, a
30 person reporting under the tax rate provided in this subsection (11)
31 must file a complete annual report with the department under RCW
32 82.32.534.

33 (e) This subsection (11) does not apply on and after July 1, 2024.

34 (12)(a) Until July 1, 2024, upon every person engaging within this
35 state in the business of extracting timber or extracting for hire
36 timber; as to such persons the amount of tax with respect to the
37 business is, in the case of extractors, equal to the value of products,
38 including by-products, extracted, or in the case of extractors for

1 hire, equal to the gross income of the business, multiplied by the rate
2 of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904
3 percent from July 1, 2007, through June 30, 2024.

4 (b) Until July 1, 2024, upon every person engaging within this
5 state in the business of manufacturing or processing for hire: (i)
6 Timber into timber products or wood products; or (ii) timber products
7 into other timber products or wood products; as to such persons the
8 amount of the tax with respect to the business is, in the case of
9 manufacturers, equal to the value of products, including by-products,
10 manufactured, or in the case of processors for hire, equal to the gross
11 income of the business, multiplied by the rate of 0.4235 percent from
12 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,
13 2007, through June 30, 2024.

14 (c) Until July 1, 2024, upon every person engaging within this
15 state in the business of selling at wholesale: (i) Timber extracted by
16 that person; (ii) timber products manufactured by that person from
17 timber or other timber products; or (iii) wood products manufactured by
18 that person from timber or timber products; as to such persons the
19 amount of the tax with respect to the business is equal to the gross
20 proceeds of sales of the timber, timber products, or wood products
21 multiplied by the rate of 0.4235 percent from July 1, 2006, through
22 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
23 2024.

24 (d) Until July 1, 2024, upon every person engaging within this
25 state in the business of selling standing timber; as to such persons
26 the amount of the tax with respect to the business is equal to the
27 gross income of the business multiplied by the rate of 0.2904 percent.
28 For purposes of this subsection (12)(d), "selling standing timber"
29 means the sale of timber apart from the land, where the buyer is
30 required to sever the timber within thirty months from the date of the
31 original contract, regardless of the method of payment for the timber
32 and whether title to the timber transfers before, upon, or after
33 severance.

34 (e) For purposes of this subsection, the following definitions
35 apply:

36 (i) "Biocomposite surface products" means surface material products
37 containing, by weight or volume, more than fifty percent recycled paper
38 and that also use nonpetroleum-based phenolic resin as a bonding agent.

1 (ii) "Paper and paper products" means products made of interwoven
2 cellulosic fibers held together largely by hydrogen bonding. "Paper
3 and paper products" includes newsprint; office, printing, fine, and
4 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
5 kraft bag, construction, and other kraft industrial papers; paperboard,
6 liquid packaging containers, containerboard, corrugated, and solid-
7 fiber containers including linerboard and corrugated medium; and
8 related types of cellulosic products containing primarily, by weight or
9 volume, cellulosic materials. "Paper and paper products" does not
10 include books, newspapers, magazines, periodicals, and other printed
11 publications, advertising materials, calendars, and similar types of
12 printed materials.

13 (iii) "Recycled paper" means paper and paper products having fifty
14 percent or more of their fiber content that comes from postconsumer
15 waste. For purposes of this subsection (12)(e)(iii), "postconsumer
16 waste" means a finished material that would normally be disposed of as
17 solid waste, having completed its life cycle as a consumer item.

18 (iv) "Timber" means forest trees, standing or down, on privately or
19 publicly owned land. "Timber" does not include Christmas trees that
20 are cultivated by agricultural methods or short-rotation hardwoods as
21 defined in RCW 84.33.035.

22 (v) "Timber products" means:

23 (A) Logs, wood chips, sawdust, wood waste, and similar products
24 obtained wholly from the processing of timber, short-rotation hardwoods
25 as defined in RCW 84.33.035, or both;

26 (B) Pulp, including market pulp and pulp derived from recovered
27 paper or paper products; and

28 (C) Recycled paper, but only when used in the manufacture of
29 biocomposite surface products.

30 (vi) "Wood products" means paper and paper products; dimensional
31 lumber; engineered wood products such as particleboard, oriented strand
32 board, medium density fiberboard, and plywood; wood doors; wood
33 windows; and biocomposite surface products.

34 (f) Except for small harvesters as defined in RCW 84.33.035, a
35 person reporting under the tax rate provided in this subsection (12)
36 must file a complete annual survey with the department under RCW
37 82.32.585.

1 (13) Upon every person engaging within this state in inspecting,
2 testing, labeling, and storing canned salmon owned by another person,
3 as to such persons, the amount of tax with respect to such activities
4 is equal to the gross income derived from such activities multiplied by
5 the rate of 0.484 percent.

6 (14)(a) Upon every person engaging within this state in the
7 business of printing a newspaper, publishing a newspaper, or both, the
8 amount of tax on such business is equal to the gross income of the
9 business multiplied by the rate of (~~0.2904~~) 0.365 percent through
10 June 30, 2013, and beginning July 1, 2013, multiplied by the rate of
11 0.35 percent.

12 (b) A person reporting under the tax rate provided in this
13 subsection (14) must file a complete annual report with the department
14 under RCW 82.32.534.

15 **PART VII**
16 **MISCELLANEOUS PROVISIONS**

17 NEW SECTION. **Sec. 701.** This act does not affect any existing
18 right acquired or liability or obligation incurred under the sections
19 amended or repealed or under any rule or order adopted under those
20 sections, nor does it affect any proceeding instituted under those
21 sections.

22 NEW SECTION. **Sec. 702.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 703.** (1) Parts I, II, and V through VII of this
27 act are necessary for the immediate preservation of the public peace,
28 health, or safety, or support of the state government and its existing
29 public institutions, and take effect July 1, 2012.

30 (2) Section 302 of this act does not take effect if the contingency
31 in subsection (3) of this section occurs.

32 (3) Section 303 of this act takes effect if Substitute House Bill
33 No. 2530 or any other legislation repealing RCW 82.32.534 is enacted
34 during the 2012 1st special session and signed into law.

1 (4) Parts III and IV of this act are necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and take effect
4 immediately.

5 NEW SECTION. **Sec. 704.** Part VI of this act expires July 1, 2015.

--- END ---