

SSB 6057 - S AMD 497

By Senators Hill, Hargrove

ADOPTED AS AMENDED 6/29/2015

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

3 "PART I
4 [NOT USED]

5 PART II

6 **Extending the Expiration Date of Tax Preferences for Food Processing**

7 NEW SECTION. **Sec. 201.** This section is the tax preference
8 performance statement for the agricultural processor tax exemptions
9 in sections 202 through 205 of this act. The performance statement is
10 only intended to be used for subsequent evaluation of the tax
11 preference. It is not intended to create a private right of action by
12 any party or be used to determine eligibility for preferential tax
13 treatment.

14 (1) The legislature categorizes this tax preference as one
15 intended to accomplish the general purposes indicated in RCW
16 82.32.808(2) (c) and (e).

17 (2) It is the legislature's specific public policy objective to
18 create and retain jobs and continue providing tax relief to the food
19 processing industry.

20 (3) To measure the effectiveness of the exemptions in sections
21 202 through 205 of this act in achieving the public policy objectives
22 described in subsection (2) of this section, the joint legislative
23 audit and review committee must evaluate the following:

24 (a) The number of businesses that claim the exemptions in
25 sections 202 through 205 of this act;

26 (b) The change in total taxable income for taxpayers claiming the
27 exemptions under sections 202 through 205 of this act;

28 (c) The change in total employment for taxpayers claiming the
29 exemptions under sections 202 through 205 of this act; and

1 (d) For each calendar year, the total amount of exemptions
2 claimed under sections 202 through 205 of this act as a percentage of
3 total taxable income for taxpayers within taxable income categories.

4 (4) The information provided in the annual survey submitted by
5 the taxpayers under RCW 82.32.585, tax data collected by the
6 department of revenue, and data collected by the employment security
7 department is intended to provide the informational basis for the
8 evaluation under subsection (3) of this section.

9 (5) In addition to the data sources described under subsection
10 (4) of this section, the joint legislative audit and review committee
11 may use any other data it deems necessary in performing the
12 evaluation under subsection (3) of this section.

13 **Sec. 202.** RCW 82.04.4266 and 2014 c 140 s 9 are each amended to
14 read as follows:

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

17 (a) Manufacturing fruits or vegetables by canning, preserving,
18 freezing, processing, or dehydrating fresh fruits or vegetables; or

19 (b) Selling at wholesale fruits or vegetables manufactured by the
20 seller by canning, preserving, freezing, processing, or dehydrating
21 fresh fruits or vegetables and sold to purchasers who transport in
22 the ordinary course of business the goods out of this state. A person
23 taking an exemption under this subsection (1)(b) must keep and
24 preserve records for the period required by RCW 82.32.070
25 establishing that the goods were transported by the purchaser in the
26 ordinary course of business out of this state.

27 (2) For purposes of this section, "fruits" and "vegetables" do
28 not include marijuana, useable marijuana, or marijuana-infused
29 products.

30 (3) A person claiming the exemption provided in this section must
31 file a complete annual survey with the department under RCW
32 82.32.585.

33 (4) This section expires July 1, (~~2015~~) 2025.

34 **Sec. 203.** RCW 82.04.4268 and 2013 2nd sp.s. c 13 s 204 are each
35 amended to read as follows:

36 (1) In computing tax there may be deducted from the measure of
37 tax, the value of products or the gross proceeds of sales derived
38 from:

1 (a) Manufacturing dairy products; or
2 (b) Selling dairy products manufactured by the seller to
3 purchasers who either transport in the ordinary course of business
4 the goods out of this state or purchasers who use such dairy products
5 as an ingredient or component in the manufacturing of a dairy
6 product. A person taking an exemption under this subsection (1)(b)
7 must keep and preserve records for the period required by RCW
8 82.32.070 establishing that the goods were transported by the
9 purchaser in the ordinary course of business out of this state or
10 sold to a manufacturer for use as an ingredient or component in the
11 manufacturing of a dairy product.

12 (2) "Dairy products" has the same meaning as provided in RCW
13 82.04.260.

14 (3) A person claiming the exemption provided in this section must
15 file a complete annual survey with the department under RCW
16 82.32.585.

17 (4) This section expires July 1, ((2015)) 2025.

18 **Sec. 204.** RCW 82.04.4269 and 2012 2nd sp.s. c 6 s 203 are each
19 amended to read as follows:

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

22 (a) Manufacturing seafood products that remain in a raw, raw
23 frozen, or raw salted state at the completion of the manufacturing by
24 that person; or

25 (b) Selling manufactured seafood products that remain in a raw,
26 raw frozen, or raw salted state to purchasers who transport in the
27 ordinary course of business the goods out of this state. A person
28 taking an exemption under this subsection (1)(b) must keep and
29 preserve records for the period required by RCW 82.32.070
30 establishing that the goods were transported by the purchaser in the
31 ordinary course of business out of this state.

32 (2) A person claiming the exemption provided in this section must
33 file a complete annual survey with the department under RCW
34 82.32.585.

35 (3) This section expires July 1, ((2015)) 2025.

36 **Sec. 205.** RCW 82.04.260 and 2014 c 140 s 6 and 2014 c 140 s 4
37 are each reenacted and amended to read as follows:

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

3 (a) Wheat into flour, barley into pearl barley, soybeans into
4 soybean oil, canola into canola oil, canola meal, or canola by-
5 products, or sunflower seeds into sunflower oil; as to such persons
6 the amount of tax with respect to such business is equal to the value
7 of the flour, pearl barley, oil, canola meal, or canola by-product
8 manufactured, multiplied by the rate of 0.138 percent;

9 (b) Beginning July 1, ((2015)) 2025, seafood products that remain
10 in a raw, raw frozen, or raw salted state at the completion of the
11 manufacturing by that person; or selling manufactured seafood
12 products that remain in a raw, raw frozen, or raw salted state at the
13 completion of the manufacturing, to purchasers who transport in the
14 ordinary course of business the goods out of this state; as to such
15 persons the amount of tax with respect to such business is equal to
16 the value of the products manufactured or the gross proceeds derived
17 from such sales, multiplied by the rate of 0.138 percent. Sellers
18 must keep and preserve records for the period required by RCW
19 82.32.070 establishing that the goods were transported by the
20 purchaser in the ordinary course of business out of this state;

21 (c)(i) Beginning July 1, ((2015)) 2025, dairy products; or
22 selling dairy products that the person has manufactured to purchasers
23 who either transport in the ordinary course of business the goods out
24 of state or purchasers who use such dairy products as an ingredient
25 or component in the manufacturing of a dairy product; as to such
26 persons the tax imposed is equal to the value of the products
27 manufactured or the gross proceeds derived from such sales multiplied
28 by the rate of 0.138 percent. Sellers must keep and preserve records
29 for the period required by RCW 82.32.070 establishing that the goods
30 were transported by the purchaser in the ordinary course of business
31 out of this state or sold to a manufacturer for use as an ingredient
32 or component in the manufacturing of a dairy product.

33 (ii) For the purposes of this subsection (1)(c), "dairy products"
34 means:

35 (A) Products, not including any marijuana-infused product, that
36 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,
37 parts 131, 133, and 135, including by-products from the manufacturing
38 of the dairy products, such as whey and casein; and

1 (B) Products comprised of not less than seventy percent dairy
2 products that qualify under (c)(ii)(A) of this subsection, measured
3 by weight or volume.

4 (iii) The preferential tax rate provided to taxpayers under this
5 subsection (1)(c) does not apply to sales of dairy products on or
6 after July 1, 2023, where a dairy product is used by the purchaser as
7 an ingredient or component in the manufacturing in Washington of a
8 dairy product;

9 (d)(i) Beginning July 1, (~~2015~~) 2025, fruits or vegetables by
10 canning, preserving, freezing, processing, or dehydrating fresh
11 fruits or vegetables, or selling at wholesale fruits or vegetables
12 manufactured by the seller by canning, preserving, freezing,
13 processing, or dehydrating fresh fruits or vegetables and sold to
14 purchasers who transport in the ordinary course of business the goods
15 out of this state; as to such persons the amount of tax with respect
16 to such business is equal to the value of the products manufactured
17 or the gross proceeds derived from such sales multiplied by the rate
18 of 0.138 percent. Sellers must keep and preserve records for the
19 period required by RCW 82.32.070 establishing that the goods were
20 transported by the purchaser in the ordinary course of business out
21 of this state.

22 (ii) For purposes of this subsection (1)(d), "fruits" and
23 "vegetables" do not include marijuana, useable marijuana, or
24 marijuana-infused products;

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

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

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

38 (3) Upon every nonprofit corporation and nonprofit association
39 engaging within this state in research and development, as to such
40 corporations and associations, the amount of tax with respect to such

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

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

8 (5) Upon every person engaging within this state in the business
9 of acting as a travel agent or tour operator; as to such persons the
10 amount of the tax with respect to such activities is equal to the
11 gross income derived from such activities multiplied by the rate of
12 0.275 percent.

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

20 (7) Upon every person engaging within this state in the business
21 of stevedoring and associated activities pertinent to the movement of
22 goods and commodities in waterborne interstate or foreign commerce;
23 as to such persons the amount of tax with respect to such business is
24 equal to the gross proceeds derived from such activities multiplied
25 by the rate of 0.275 percent. Persons subject to taxation under this
26 subsection are exempt from payment of taxes imposed by chapter 82.16
27 RCW for that portion of their business subject to taxation under this
28 subsection. Stevedoring and associated activities pertinent to the
29 conduct of goods and commodities in waterborne interstate or foreign
30 commerce are defined as all activities of a labor, service or
31 transportation nature whereby cargo may be loaded or unloaded to or
32 from vessels or barges, passing over, onto or under a wharf, pier, or
33 similar structure; cargo may be moved to a warehouse or similar
34 holding or storage yard or area to await further movement in import
35 or export or may move to a consolidation freight station and be
36 stuffed, unstuffed, containerized, separated or otherwise segregated
37 or aggregated for delivery or loaded on any mode of transportation
38 for delivery to its consignee. Specific activities included in this
39 definition are: Wharfage, handling, loading, unloading, moving of
40 cargo to a convenient place of delivery to the consignee or a

1 convenient place for further movement to export mode; documentation
2 services in connection with the receipt, delivery, checking, care,
3 custody and control of cargo required in the transfer of cargo;
4 imported automobile handling prior to delivery to consignee; terminal
5 stevedoring and incidental vessel services, including but not limited
6 to plugging and unplugging refrigerator service to containers,
7 trailers, and other refrigerated cargo receptacles, and securing ship
8 hatch covers.

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

14 If the gross income of the taxpayer is attributable to activities
15 both within and without this state, the gross income attributable to
16 this state must be determined in accordance with the methods of
17 apportionment required under RCW 82.04.460.

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

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

31 (11)(a) Beginning October 1, 2005, upon every person engaging
32 within this state in the business of manufacturing commercial
33 airplanes, or components of such airplanes, or making sales, at
34 retail or wholesale, of commercial airplanes or components of such
35 airplanes, manufactured by the seller, as to such persons the amount
36 of tax with respect to such business is, in the case of
37 manufacturers, equal to the value of the product manufactured and the
38 gross proceeds of sales of the product manufactured, or in the case
39 of processors for hire, equal to the gross income of the business,
40 multiplied by the rate of:

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

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

4 (b) Beginning July 1, 2008, upon every person who is not eligible
5 to report under the provisions of (a) of this subsection (11) and is
6 engaging within this state in the business of manufacturing tooling
7 specifically designed for use in manufacturing commercial airplanes
8 or components of such airplanes, or making sales, at retail or
9 wholesale, of such tooling manufactured by the seller, as to such
10 persons the amount of tax with respect to such business is, in the
11 case of manufacturers, equal to the value of the product manufactured
12 and the gross proceeds of sales of the product manufactured, or in
13 the case of processors for hire, be equal to the gross income of the
14 business, multiplied by the rate of 0.2904 percent.

15 (c) For the purposes of this subsection (11), "commercial
16 airplane" and "component" have the same meanings as provided in RCW
17 82.32.550.

18 (d) In addition to all other requirements under this title, a
19 person reporting under the tax rate provided in this subsection (11)
20 must file a complete annual report with the department under RCW
21 82.32.534.

22 (e)(i) Except as provided in (e)(ii) of this subsection (11),
23 this subsection (11) does not apply on and after July 1, 2040.

24 (ii) With respect to the manufacturing of commercial airplanes or
25 making sales, at retail or wholesale, of commercial airplanes, this
26 subsection (11) does not apply on and after July 1st of the year in
27 which the department makes a determination that any final assembly or
28 wing assembly of any version or variant of a commercial airplane that
29 is the basis of a siting of a significant commercial airplane
30 manufacturing program in the state under RCW 82.32.850 has been sited
31 outside the state of Washington. This subsection (11)(e)(ii) only
32 applies to the manufacturing or sale of commercial airplanes that are
33 the basis of a siting of a significant commercial airplane
34 manufacturing program in the state under RCW 82.32.850.

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

1 multiplied by the rate of 0.4235 percent from July 1, 2006, through
2 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
3 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
11 gross income of the business, multiplied by the rate of 0.4235
12 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent
13 from July 1, 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
16 by that person; (ii) timber products manufactured by that person from
17 timber or other timber products; or (iii) wood products manufactured
18 by 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
28 percent. For purposes of this subsection (12)(d), "selling standing
29 timber" means the sale of timber apart from the land, where the buyer
30 is required to sever the timber within thirty months from the date of
31 the original contract, regardless of the method of payment for the
32 timber and whether title to the timber transfers before, upon, or
33 after severance.

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

36 (i) "Biocomposite surface products" means surface material
37 products containing, by weight or volume, more than fifty percent
38 recycled paper and that also use nonpetroleum-based phenolic resin as
39 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;
6 paperboard, liquid packaging containers, containerboard, corrugated,
7 and solid-fiber containers including linerboard and corrugated
8 medium; and related types of cellulosic products containing
9 primarily, by weight or volume, cellulosic materials. "Paper and
10 paper products" does not include books, newspapers, magazines,
11 periodicals, and other printed publications, advertising materials,
12 calendars, and similar types of printed materials.

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

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

23 (v) "Timber products" means:

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

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

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

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

35 (f) Except for small harvesters as defined in RCW 84.33.035, a
36 person reporting under the tax rate provided in this subsection (12)
37 must file a complete annual survey with the department under RCW
38 82.32.585.

39 (13) Upon every person engaging within this state in inspecting,
40 testing, labeling, and storing canned salmon owned by another person,

1 as to such persons, the amount of tax with respect to such activities
2 is equal to the gross income derived from such activities multiplied
3 by the rate of 0.484 percent.

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

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

11 PART III

12 **Providing a Sales and Use Tax Exemption for Eligible Server Equipment** 13 **Installed in Certain Data Centers**

14 NEW SECTION. **Sec. 301.** This section is the tax preference
15 performance statement for the sales and use tax exemption contained
16 in sections 302 and 303 of this act. This performance statement is
17 only intended to be used for subsequent evaluation of the tax
18 preferences in sections 302 and 303 of this act. It is not intended
19 to create a private right of action by any party or be used to
20 determine eligibility for preferential tax treatment.

21 (1) The legislature categorizes this sales and use tax exemption
22 as one intended to improve industry competitiveness, as indicated in
23 RCW 82.32.808(2)(b).

24 (2) It is the legislature's specific public policy objective to
25 improve industry competitiveness. It is the legislature's intent to
26 provide a sales and use tax exemption on eligible server equipment
27 and power infrastructure installed in eligible computer data centers,
28 charges made for labor and services rendered in respect to installing
29 eligible server equipment, and for construction, installation,
30 repair, alteration, or improvement of eligible power infrastructures
31 in order to increase investment in data center construction in rural
32 Washington counties, thereby adding real and personal property to
33 state and local property tax rolls, thereby increasing the rural
34 county tax base.

35 (3) If a review finds that the rural county tax base is increased
36 as a result of the construction of computer data centers eligible for
37 the sales and use tax exemption in sections 302 and 303 of this act,

1 then the legislature intends to extend the expiration date of the tax
2 preference.

3 (4) In order to obtain the data necessary to perform the review
4 in subsection (3) of this section, the joint legislative audit and
5 review committee may refer to data available from the department of
6 revenue regarding rural county property tax assessments.

7 **Sec. 302.** RCW 82.08.986 and 2012 2nd sp.s. c 6 s 302 are each
8 amended to read as follows:

9 (1) An exemption from the tax imposed by RCW 82.08.020 is
10 provided for sales to qualifying businesses and to qualifying tenants
11 of eligible server equipment to be installed, without intervening
12 use, in an eligible computer data center, and to charges made for
13 labor and services rendered in respect to installing eligible server
14 equipment. The exemption also applies to sales to qualifying
15 businesses and to qualifying tenants of eligible power
16 infrastructure, including labor and services rendered in respect to
17 constructing, installing, repairing, altering, or improving eligible
18 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
30 exemption certificate in a form and manner prescribed by the
31 department. The seller must retain a copy of the certificate for the
32 seller's files.

33 (c) With respect to computer data centers for which the
34 commencement of construction occurs after July 1, 2015, but before
35 July 1, 2019, the exemption provided in this section is limited to no
36 more than eight computer data centers, with total eligible data
37 centers provided under this section limited to twelve from July 1,
38 2015, through July 1, 2025. Tenants of qualified data centers do not
39 constitute additional data centers under the limit. The exemption is

1 available on a first-in-time basis based on the date the application
2 required under this section is received by the department. Exemption
3 certificates expire two years after the date of issuance, unless
4 construction has been commenced.

5 (3)(a) Within six years of the date that the department issued an
6 exemption certificate under this section to a qualifying business or
7 a qualifying tenant with respect to an eligible computer data center,
8 the qualifying business or qualifying tenant must establish that net
9 employment at the eligible computer data center has increased by a
10 minimum of:

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

12 (ii) Three family wage employment positions for each twenty
13 thousand square feet of space or less that is newly dedicated to
14 housing working servers at the eligible computer data center. For
15 qualifying tenants, the number of family wage employment positions
16 that must be increased under this subsection (3)(a)(ii) is based only
17 on the space occupied by the qualifying tenant in the eligible
18 computer data center.

19 (b) In calculating the net increase in family wage employment
20 positions:

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

24 (A) The net increase in family wage employment positions employed
25 by qualifying tenants; and

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

28 (ii)(A) Qualifying tenants, in addition to their own net increase
29 in family wage employment positions, may include:

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

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

34 (B) The portion of the net increase in family wage employment
35 positions to be counted under this subsection (3)(b)(ii) by each
36 qualifying tenant must be in proportion to the amount of space in the
37 eligible computer data center occupied by the qualifying tenant
38 compared to the total amount of space in the eligible computer data
39 center occupied by all qualifying tenants.

1 (c)(i) For purposes of this subsection, family wage employment
2 positions are new permanent employment positions requiring forty
3 hours of weekly work, or their equivalent, on a full-time basis at
4 the eligible computer data center and receiving a wage equivalent to
5 or greater than one hundred fifty percent of the per capita personal
6 income of the county in which the qualified project is located. An
7 employment position may not be counted as a family wage employment
8 position unless the employment position is entitled to health
9 insurance coverage provided by the employer of the employment
10 position. For purposes of this subsection (3)(c), "new permanent
11 employment position" means an employment position that did not exist
12 or that had not previously been filled as of the date that the
13 department issued an exemption certificate to the owner or qualifying
14 tenant of an eligible computer data center, as the case may be.

15 (ii)(A) Family wage employment positions include positions filled
16 by employees of the owner of the eligible computer data center and by
17 employees of qualifying tenants.

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

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

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

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

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

38 (ii) Any person affiliated with a person within the scope of
39 (a)(i) of this subsection (5).

1 (b) If a person claims an exemption under this section and
2 subsequently receives the benefit of the deferral program under
3 chapter 82.60 RCW on either the construction, renovation, or
4 expansion of a structure or structures used as a computer data center
5 or machinery or equipment used in a computer data center, the person
6 must repay the amount of taxes exempted under this section. Interest
7 as provided in chapter 82.32 RCW applies to amounts due under this
8 section until paid in full.

9 ~~((For purposes of this section the following definitions
10 apply))~~ The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise((+)).

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

14 (b) "Building" means a fully enclosed structure with a weather
15 resistant exterior wall envelope or concrete or masonry walls
16 designed in accordance with the requirements for structures under
17 chapter 19.27 RCW. This definition of "building" only applies to
18 computer data centers for which commencement of construction occurs
19 on or after July 1, 2015.

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

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

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

39 ~~((e))~~ (d) "Electronic data storage and data management
40 services" include, but are not limited to: Providing data storage and

1 backup services, providing computer processing power, hosting
2 enterprise software applications, and hosting web sites. The term
3 also includes providing services such as e-mail, web browsing and
4 searching, media applications, and other online services, regardless
5 of whether a charge is made for such services.

6 ~~((d))~~ (e)(i) "Eligible computer data center" means a computer
7 data center:

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

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

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

13 (I) After March 31, 2010, and before July 1, 2011; ~~((e))~~

14 (II) After March 31, 2012, and before July 1, 2015; or

15 (III) After June 30, 2015, and before July 1, 2025.

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

26 (iii) With respect to facilities in existence on April 1, 2010,
27 that are expanded, renovated, or otherwise improved after March 31,
28 2010, or facilities in existence on April 1, 2012, that are expanded,
29 renovated, or otherwise improved after March 31, 2012, or facilities
30 in existence on July 1, 2015, that are expanded, renovated, or
31 otherwise improved after June 30, 2015, an eligible computer data
32 center includes only the portion of the computer data center meeting
33 the requirements in ~~((d))~~ (e)(i)(B) of this subsection (6).

34 ~~((e))~~ (f) "Eligible power infrastructure" means all fixtures
35 and equipment owned by a qualifying business or qualifying tenant and
36 necessary for the transformation, distribution, or management of
37 electricity that is required to operate eligible server equipment
38 within an eligible computer data center. The term includes
39 generators; wiring; cogeneration equipment; and associated fixtures
40 and equipment, such as electrical switches, batteries, and

1 distribution, testing, and monitoring equipment. The term does not
2 include substations.

3 ((f)) (g) "Eligible server equipment" means:

4 (i) For a qualifying business whose computer data center
5 qualifies as an eligible computer data center under ((d)) (e)
6 (i)(C)(I) of this subsection (6), the original server equipment
7 installed in an eligible computer data center on or after April 1,
8 2010, and replacement server equipment. For purposes of this
9 subsection (6)((f)) (g)(i), "replacement server equipment" means
10 server equipment that:

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

14 (B) Is installed and put into regular use before April 1, 2018.

15 (ii) For a qualifying business whose computer data center
16 qualifies as an eligible computer data center under ((d)) (e)
17 (i)(C)(II) of this subsection (6), "eligible server equipment" means
18 the original server equipment installed in an eligible computer data
19 center on or after April 1, 2012, and replacement server equipment.
20 For purposes of this subsection (6)((f)) (g)(ii), "replacement
21 server equipment" means server equipment that:

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

25 (B) Is installed and put into regular use before April 1,
26 ((2020)) 2024.

27 (iii)(A) For a qualifying business whose computer data center
28 qualifies as an eligible computer data center under (e)(i)(C)(III) of
29 this subsection (6), "eligible server equipment" means the original
30 server equipment installed in a building within an eligible computer
31 data center on or after July 1, 2015, and replacement server
32 equipment. Server equipment installed in movable or fixed stand-
33 alone, prefabricated, or modular units, including intermodal shipping
34 containers, is not "directly installed in a building." For purposes
35 of this subsection (6)(g)(iii)(A), "replacement server equipment"
36 means server equipment that replaces existing server equipment, if
37 the sale or use of the server equipment to be replaced qualified for
38 an exemption under this section or RCW 82.12.986; and

39 (B) Is installed and put into regular use no later than twelve
40 years after the date of the certificate of occupancy.

1 (iv) For a qualifying tenant who leases space within an eligible
2 computer data center, "eligible server equipment" means the original
3 server equipment installed within the space it leases from an
4 eligible computer data center on or after April 1, 2010, and
5 replacement server equipment. For purposes of this subsection (6)
6 ~~((f)(iii))~~ (g)(iv), "replacement server equipment" means server
7 equipment that:

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

11 (B) Is installed and put into regular use before April 1,
12 ~~((2020))~~ 2024; and

13 (C) For tenants leasing space in an eligible computer data center
14 built after July 1, 2015, is installed and put into regular use no
15 later than twelve years after the date of the certificate of
16 occupancy.

17 ~~((g))~~ (h) "Qualifying business" means a business entity that
18 exists for the primary purpose of engaging in commercial activity for
19 profit and that is the owner of an eligible computer data center. The
20 term does not include the state or federal government or any of their
21 departments, agencies, and institutions; tribal governments;
22 political subdivisions of this state; or any municipal, quasi-
23 municipal, public, or other corporation created by the state or
24 federal government, tribal government, municipality, or political
25 subdivision of the state.

26 ~~((h))~~ (i) "Qualifying tenant" means a business entity that
27 exists for the primary purpose of engaging in commercial activity for
28 profit and that leases space from a qualifying business within an
29 eligible computer data center. The term does not include the state or
30 federal government or any of their departments, agencies, and
31 institutions; tribal governments; political subdivisions of this
32 state; or any municipal, quasi-municipal, public, or other
33 corporation created by the state or federal government, tribal
34 government, municipality, or political subdivision of the state. The
35 term also does not include a lessee of space in an eligible computer
36 data center under ~~((d))~~ (e)(i)(C)(I) of this subsection (6), if the
37 lessee and lessor are affiliated and:

38 (i) That space will be used by the lessee to house server
39 equipment that replaces server equipment previously installed and

1 operated in that eligible computer data center by the lessor or
2 another person affiliated with the lessee; or

3 (ii) Prior to May 2, 2012, the primary use of the server
4 equipment installed in that eligible computer data center was to
5 provide electronic data storage and data management services for the
6 business purposes of either the lessor, persons affiliated with the
7 lessor, or both.

8 ~~((i))~~ (j) "Server equipment" means the computer hardware
9 located in an eligible computer data center and used exclusively to
10 provide electronic data storage and data management services for
11 internal use by the owner or lessee of the computer data center, for
12 clients of the owner or lessee of the computer data center, or both.
13 "Server equipment" also includes computer software necessary to
14 operate the computer hardware. "Server equipment" does not include
15 personal computers, the racks upon which the server equipment is
16 installed, and computer peripherals such as keyboards, monitors,
17 printers, and mice.

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

19 **Sec. 303.** RCW 82.12.986 and 2012 2nd sp.s. c 6 s 304 are each
20 amended to read as follows:

21 (1) An exemption from the tax imposed by RCW 82.12.020 is
22 provided for the use by qualifying businesses or qualifying tenants
23 of eligible server equipment to be installed, without intervening
24 use, in an eligible computer data center, and to the use of labor and
25 services rendered in respect to installing such server equipment. The
26 exemption also applies to the use by a qualifying business or
27 qualifying tenant of eligible power infrastructure, including labor
28 and services rendered in respect to installing, repairing, altering,
29 or improving such infrastructure.

30 (2) A qualifying business or a qualifying tenant is not eligible
31 for the exemption under this section unless the department issued an
32 exemption certificate to the qualifying business or a qualifying
33 tenant for the exemption provided in RCW 82.08.986.

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

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

1 (ii) Any person affiliated with a person within the scope of
2 (a)(i) of this subsection (3).

3 (b) If a person has received the benefit of the exemption under
4 this section and subsequently receives the benefit of the deferral
5 program under chapter 82.60 RCW on either the construction,
6 renovation, or expansion of a structure or structures used as a
7 computer data center or machinery or equipment used in a computer
8 data center, the person must repay the amount of taxes exempted under
9 this section. Interest as provided in chapter 82.32 RCW applies to
10 amounts due under this subsection (3)(b) until paid in full. A person
11 is not required to repay taxes under this subsection with respect to
12 property and services for which the person is required to repay taxes
13 under RCW 82.08.986(5).

14 (4) The definitions and requirements in RCW 82.08.986 apply to
15 this section.

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

17 PART IV

18 Creating a Pilot Program that Provides Incentives for Investments in 19 Washington State Job Creation and Economic Development

20 NEW SECTION. **Sec. 401.** (1) Businesses that invest capital
21 create jobs and generate economic activity that supports a healthy
22 Washington economy. The legislature finds that these investments
23 result in future revenues that support schools and our communities.
24 Therefore, the legislature finds that a pilot program must be
25 conducted to evaluate the effectiveness of a program that invests
26 business taxes from new investments into workforce training programs
27 that support manufacturing businesses in the state of Washington
28 thereby creating jobs and capital investments in the state for the
29 benefit of its citizens.

30 (2)(a) This subsection is the tax preference performance
31 statement for the sales and use tax deferral provided in section 404
32 of this act on expenditures made to build or expand qualified
33 investment projects and purchases of machinery and equipment. This
34 performance statement is only intended to be used for subsequent
35 evaluation of the tax preference. It is not intended to create a
36 private right of action by any party or be used to determine
37 eligibility for preferential tax treatment.

1 (b) The legislature categorizes the tax preference as one
2 intended to create or retain jobs and to provide funding to support
3 job readiness training, professional development, or apprenticeship
4 programs in manufacturing or production occupations, as indicated in
5 RCW 82.32.808(2) (c) and (f).

6 (c) It is the legislature's specific public policy objective to
7 provide a pilot program that would provide a sales tax deferral on
8 the construction and expenditure costs of up to five new
9 manufacturing facilities, two of which must be located in eastern
10 Washington. When deferred taxes are repaid, the deferred taxes are
11 reinvested to support job readiness training, professional
12 development, or apprenticeship programs in manufacturing or
13 production occupations.

14 (d) To measure the effectiveness of the deferral provided in this
15 part in achieving the specific public policy objective described in
16 (c) of this subsection, the joint legislative audit and review
17 committee should refer to information available from the employment
18 security department and department of revenue. If a review finds that
19 each eligible investment project generated at least twenty full-time
20 jobs and increased training opportunities for manufacturing and
21 production jobs, then the legislature intends for the legislative
22 auditor to recommend extending the expiration date of the tax
23 preference. For purposes of this subsection (2)(d), full-time jobs
24 includes both temporary construction jobs and permanent full-time
25 employment positions created at the eligible investment project
26 within one year of the date that the facility became operationally
27 complete as determined by the department of revenue.

28 NEW SECTION. **Sec. 402.** The definitions in this section apply
29 throughout this chapter unless the context clearly requires
30 otherwise.

31 (1) "Applicant" means a person applying for a tax deferral under
32 this chapter.

33 (2) "Eligible investment project" means an investment project for
34 qualified buildings and machinery and equipment on five new,
35 renovated, or expanded manufacturing operations, at least two of
36 which must be located east of the crest of the Cascade mountains. The
37 deferral provided in this section only applies to the state and local
38 sales and use taxes due on the first ten million dollars in costs for
39 qualified buildings and machinery and equipment.

1 (3) "Initiation of construction" has the same meaning as in RCW
2 82.63.010.

3 (4) "Investment project" means an investment in qualified
4 buildings or qualified machinery and equipment, including labor and
5 services rendered in the planning, installation, and construction of
6 the project.

7 (5) "Manufacturing" has the same meaning as provided in RCW
8 82.04.120.

9 (6) "Person" has the same meaning as provided in RCW 82.04.030.

10 (7) "Qualified buildings" means construction of new structures,
11 and expansion or renovation of existing structures for the purpose of
12 increasing floor space or production capacity, used for
13 manufacturing, including plant offices and warehouses or other
14 buildings for the storage of raw material or finished goods if such
15 facilities are an essential or an integral part of a factory, mill,
16 plant, or laboratory used for manufacturing. If a qualified building
17 is used partly for manufacturing and partly for other purposes, the
18 applicable tax deferral must be determined by apportionment of the
19 costs of construction under rules adopted by the department.

20 (8) "Qualified machinery and equipment" means all new industrial
21 fixtures, equipment, and support facilities that are an integral and
22 necessary part of a manufacturing operation. "Qualified machinery and
23 equipment" includes: Computers; software; data processing equipment;
24 laboratory equipment; manufacturing components such as belts,
25 pulleys, shafts, and moving parts; molds, tools, and dies; operating
26 structures; and all equipment used to control, monitor, or operate
27 the machinery.

28 (9) "Recipient" means a person receiving a tax deferral under
29 this chapter.

30 NEW SECTION. **Sec. 403.** The lessor or owner of a qualified
31 building is not eligible for a deferral unless:

32 (1) The underlying ownership of the building, machinery, and
33 equipment vests exclusively in the same person; or

34 (2)(a) The lessor by written contract agrees to pass the economic
35 benefit of the deferral to the lessee;

36 (b) The lessee that receives the economic benefit of the deferral
37 agrees in writing with the department to complete the annual survey
38 required under RCW 82.32.585; and

1 (c) The economic benefit of the deferral passed to the lessee is
2 no less than the amount of tax deferred by the lessor and is
3 evidenced by written documentation of any type of payment, credit, or
4 other financial arrangement between the lessor or owner of the
5 qualified building and the lessee.

6 NEW SECTION. **Sec. 404.** (1) Application for deferral of taxes
7 under this chapter must be made before initiation of the construction
8 of the investment project or acquisition of equipment or machinery.
9 The application must be made to the department in a form and manner
10 prescribed by the department. The deferrals are available on a first-
11 in-time basis. The application must contain information regarding the
12 location of the investment project, the applicant's average
13 employment in the state for the prior year, estimated or actual new
14 employment related to the project, estimated or actual wages of
15 employees related to the project, estimated or actual costs, time
16 schedules for completion and operation, and other information
17 required by the department. The department must rule on the
18 application within sixty days.

19 (2) The department may not approve applications for more than
20 five eligible investment projects.

21 NEW SECTION. **Sec. 405.** (1) Except as otherwise provided in
22 subsection (2) of this section, the department must issue a sales and
23 use tax deferral certificate for state and local sales and use taxes
24 due under chapters 82.08, 82.12, 82.14, and 81.104 RCW on each
25 eligible investment project.

26 (2) No certificate may be issued for an investment project that
27 has already received a deferral under this part or chapter 82.60 RCW.

28 (3) The department must keep a running total of all deferrals
29 granted under this chapter during each fiscal biennium.

30 NEW SECTION. **Sec. 406.** (1) The recipient must begin paying the
31 deferred taxes in the fifth year after the date certified by the
32 department as the date on which the investment project has been
33 operationally completed. The first payment of ten percent of the
34 deferred taxes will be due on December 31st of the fifth calendar
35 year after such certified date, with subsequent annual payments of
36 ten percent of the deferred taxes due on December 31st for each of
37 the following nine years.

1 (2) The department may authorize an accelerated repayment
2 schedule upon request of the recipient.

3 (3) Interest may not be charged on any taxes deferred under this
4 chapter for the period of deferral, although all other penalties and
5 interest applicable to delinquent excise taxes may be assessed and
6 imposed for delinquent payments under this chapter. The debt for
7 deferred taxes will not be extinguished by insolvency or other
8 failure of the recipient. Transfer of ownership does not terminate
9 the deferral. The deferral is transferred, subject to the successor
10 meeting the eligibility requirements of this chapter, for the
11 remaining periods of the deferral.

12 NEW SECTION. **Sec. 407.** (1) State taxes deferred and repaid
13 under this chapter, including any interest or penalties on such
14 amounts, must be deposited in the invest in Washington account
15 created in this section. The invest in Washington account is hereby
16 created in the state treasury must be used exclusively by the state
17 board for community and technical colleges for supporting customized
18 training programs, job skills programs, job readiness training,
19 workforce professional development, and to assist employers with
20 state-approved apprenticeship programs for manufacturing and
21 production occupations.

22 (2) Revenues to the invest in Washington account consist of
23 amounts transferred by the state treasurer as provided in subsection
24 (3) of this section.

25 (3) By June 1, 2016, and by June 1st of every subsequent year,
26 the department must notify the state treasurer of the amount of tax,
27 interest, and penalties collected under this section since the
28 effective date of this chapter through May 1, 2016, in the case of
29 the first notification under this subsection (3), and since the
30 previous May 1st for subsequent notifications under this subsection
31 (3). The department may make adjustments to the annual notification
32 under this subsection (3) as may be necessary to correct errors in
33 the previous notification or offset previous amounts that did not
34 qualify for deferral under this section.

35 (4) By July 1, 2016, and by July 1st of every subsequent year,
36 the state treasurer must transfer the amount included in the
37 department's most recent notification under subsection (3) of this
38 section from the general fund to the invest in Washington

1 account. Money in the account may only be appropriated for the
2 purposes specified in subsection (1) of this section.

3 NEW SECTION. **Sec. 408.** (1) Each recipient of a deferral of
4 taxes granted under this chapter must file a complete annual survey
5 with the department under RCW 82.32.585. If the economic benefits of
6 the deferral are passed to a lessee as provided in section 403 of
7 this act, the lessee must file a complete annual survey, and the
8 applicant is not required to file a complete annual survey.

9 (2) If, on the basis of a survey under RCW 82.32.585 or other
10 information, the department finds that an investment project is not
11 eligible for tax deferral under this chapter due to the fact the
12 investment project is no longer used for qualified activities, the
13 amount of deferred taxes outstanding for the investment project is
14 immediately due and payable.

15 (3) If the economic benefits of a tax deferral under this chapter
16 are passed to a lessee as provided in section 403 of this act, the
17 lessee is responsible for payment to the extent the lessee has
18 received the economic benefit.

19 NEW SECTION. **Sec. 409.** This part may be known and cited as the
20 invest in Washington act.

21 NEW SECTION. **Sec. 410.** Sections 401 through 408 of this act
22 constitute a new chapter in Title 82 RCW.

23 NEW SECTION. **Sec. 411.** The expiration provisions of RCW
24 82.32.805(1)(a) do not apply to sections 406 through 409 of this act.

25 **PART V**
26 **Continuing Tax Preferences for Aluminum Smelters**

27 NEW SECTION. **Sec. 501.** (1) The legislature finds that the
28 aluminum industry in Washington employs over one thousand people. The
29 legislature further finds that average annual wages and benefits for
30 these employment positions exceed one hundred thousand dollars and
31 that each of these employment positions indirectly generates an
32 additional two to three jobs within the state. The legislature
33 further finds that the aluminum industry generates substantial taxes
34 for local jurisdictions. The legislature further finds that the

1 aluminum industry was severely impacted by the global economic
2 recession. The legislature further finds that the London metal
3 exchange, where aluminum is traded as a commodity, is extremely
4 volatile and substantially impacts the profitability of the aluminum
5 industry. The legislature further finds that for the aforementioned
6 reasons, the industry continues to struggle with profitability,
7 putting the continued employment of its Washington workforce in
8 jeopardy.

9 (2)(a) This subsection is the tax preference performance
10 statement for the aluminum industry tax preferences in RCW
11 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, and 82.12.022, as
12 amended in this Part V. The performance statement is only intended to
13 be used for subsequent evaluation of the tax preference. It is not
14 intended to create a private right of action by any party or be used
15 to determine eligibility for preferential tax treatment.

16 (b) The legislature categorizes this tax preference as one
17 intended to accomplish the general purposes indicated in RCW
18 82.32.808(2) (c) and (d).

19 (c) It is the legislature's specific public policy objective to
20 promote the preservation of employment positions within the
21 Washington aluminum manufacturing industry as the industry continues
22 to grapple with the lingering effects of the economic recession and
23 the volatility of the London metal exchange.

24 (d) To measure the effectiveness of the exemption provided in
25 this Part V in achieving the specific public policy objective
26 described in (c) of this subsection, the joint legislative audit and
27 review committee must evaluate the changes in the number of statewide
28 employment positions for the aluminum industry in Washington.

29 **Sec. 502.** RCW 82.04.2909 and 2011 c 174 s 301 are each amended
30 to read as follows:

31 (1) Upon every person who is an aluminum smelter engaging within
32 this state in the business of manufacturing aluminum; as to such
33 persons the amount of tax with respect to such business is, in the
34 case of manufacturers, equal to the value of the product
35 manufactured, or in the case of processors for hire, equal to the
36 gross income of the business, multiplied by the rate of .2904
37 percent.

38 (2) Upon every person who is an aluminum smelter engaging within
39 this state in the business of making sales at wholesale of aluminum

1 manufactured by that person, as to such persons the amount of tax
2 with respect to such business is equal to the gross proceeds of sales
3 of the aluminum multiplied by the rate of .2904 percent.

4 (3) A person reporting under the tax rate provided in this
5 section must file a complete annual report with the department under
6 RCW 82.32.534.

7 (4) This section expires January 1, ((2017)) 2027.

8 **Sec. 503.** RCW 82.04.4481 and 2011 c 174 s 302 are each amended
9 to read as follows:

10 (1) In computing the tax imposed under this chapter, a credit is
11 allowed for all property taxes paid during the calendar year on
12 property owned by a direct service industrial customer and reasonably
13 necessary for the purposes of an aluminum smelter.

14 (2) A person claiming the credit under this section is subject to
15 all the requirements of chapter 82.32 RCW. A credit earned during one
16 calendar year may be carried over to be credited against taxes
17 incurred in the subsequent calendar year, but may not be carried over
18 a second year. Credits carried over must be applied to tax liability
19 before new credits. No refunds may be granted for credits under this
20 section.

21 (3) Credits may not be claimed under this section for property
22 taxes levied for collection in ((2017)) 2027 and thereafter.

23 (4) A person claiming the credit provided in this section must
24 file a complete annual report with the department under RCW
25 82.32.534.

26 **Sec. 504.** RCW 82.08.805 and 2011 c 174 s 303 are each amended to
27 read as follows:

28 (1) A person who has paid tax under RCW 82.08.020 for personal
29 property used at an aluminum smelter, tangible personal property that
30 will be incorporated as an ingredient or component of buildings or
31 other structures at an aluminum smelter, or for labor and services
32 rendered with respect to such buildings, structures, or personal
33 property, is eligible for an exemption from the state share of the
34 tax in the form of a credit, as provided in this section. A person
35 claiming an exemption must pay the tax and may then take a credit
36 equal to the state share of retail sales tax paid under RCW
37 82.08.020. The person must submit information, in a form and manner
38 prescribed by the department, specifying the amount of qualifying

1 purchases or acquisitions for which the exemption is claimed and the
2 amount of exempted tax.

3 (2) For the purposes of this section, "aluminum smelter" has the
4 same meaning as provided in RCW 82.04.217.

5 (3) A person claiming the tax preference provided in this section
6 must file a complete annual report with the department under RCW
7 82.32.534.

8 (4) Credits may not be claimed under this section for taxable
9 events occurring on or after January 1, ((2017)) 2027.

10 **Sec. 505.** RCW 82.12.805 and 2011 c 174 s 305 are each amended to
11 read as follows:

12 (1) A person who is subject to tax under RCW 82.12.020 for
13 personal property used at an aluminum smelter, or for tangible
14 personal property that will be incorporated as an ingredient or
15 component of buildings or other structures at an aluminum smelter, or
16 for labor and services rendered with respect to such buildings,
17 structures, or personal property, is eligible for an exemption from
18 the state share of the tax in the form of a credit, as provided in
19 this section. The amount of the credit equals the state share of use
20 tax computed to be due under RCW 82.12.020. The person must submit
21 information, in a form and manner prescribed by the department,
22 specifying the amount of qualifying purchases or acquisitions for
23 which the exemption is claimed and the amount of exempted tax.

24 (2) For the purposes of this section, "aluminum smelter" has the
25 same meaning as provided in RCW 82.04.217.

26 (3) A person reporting under the tax rate provided in this
27 section must file a complete annual report with the department under
28 RCW 82.32.534.

29 (4) Credits may not be claimed under this section for taxable
30 events occurring on or after January 1, ((2017)) 2027.

31 **Sec. 506.** RCW 82.12.022 and 2014 c 216 s 304 are each amended to
32 read as follows:

33 (1) A use tax is levied on every person in this state for the
34 privilege of using natural gas or manufactured gas, including
35 compressed natural gas and liquefied natural gas, within this state
36 as a consumer.

37 (2) The tax must be levied and collected in an amount equal to
38 the value of the article used by the taxpayer multiplied by the rate

1 in effect for the public utility tax on gas distribution businesses
2 under RCW 82.16.020. The "value of the article used" does not include
3 any amounts that are paid for the hire or use of a gas distribution
4 business as defined in RCW 82.16.010(2) in transporting the gas
5 subject to tax under this subsection if those amounts are subject to
6 tax under that chapter.

7 (3) The tax levied in this section does not apply to the use of
8 natural or manufactured gas delivered to the consumer by other means
9 than through a pipeline.

10 (4) The tax levied in this section does not apply to the use of
11 natural or manufactured gas if the person who sold the gas to the
12 consumer has paid a tax under RCW 82.16.020 with respect to the gas
13 for which exemption is sought under this subsection.

14 (5)(a) The tax levied in this section does not apply to the use
15 of natural or manufactured gas by an aluminum smelter as that term is
16 defined in RCW 82.04.217 before January 1, (~~2017~~) 2027.

17 (b) A person claiming the exemption provided in this subsection
18 (5) must file a complete annual report with the department under RCW
19 82.32.534.

20 (6) The tax imposed by this section does not apply to the use of
21 natural gas, compressed natural gas, or liquefied natural gas, if the
22 consumer uses the gas for transportation fuel as defined in RCW
23 82.16.310.

24 (7) There is a credit against the tax levied under this section
25 in an amount equal to any tax paid by:

26 (a) The person who sold the gas to the consumer when that tax is
27 a gross receipts tax similar to that imposed pursuant to RCW
28 82.16.020 by another state with respect to the gas for which a credit
29 is sought under this subsection; or

30 (b) The person consuming the gas upon which a use tax similar to
31 the tax imposed by this section was paid to another state with
32 respect to the gas for which a credit is sought under this
33 subsection.

34 (8) The use tax imposed in this section must be paid by the
35 consumer to the department.

36 (9) There is imposed a reporting requirement on the person who
37 delivered the gas to the consumer to make a quarterly report to the
38 department. Such report must contain the volume of gas delivered,
39 name of the consumer to whom delivered, and such other information as
40 the department may require by rule.

1 (10) The department may adopt rules under chapter 34.05 RCW for
2 the administration and enforcement of sections 1 through 6, chapter
3 384, Laws of 1989.

4 **PART VI**

5 **Concerning the Definition of a Newspaper**

6 NEW SECTION. **Sec. 601.** This section is the tax preference
7 performance statement for the tax preference contained in this part.
8 Except for the intent expressed in subsections (3) and (4) of this
9 section, this performance statement is only intended to be used for
10 subsequent evaluation of the tax preference. It is not intended to
11 create a private right of action by any party or be used to determine
12 eligibility for preferential tax treatment. The legislature
13 categorizes this tax preference as one intended to reduce structural
14 inefficiencies in the tax structure, as indicated in RCW
15 82.32.808(2)(d).

16 (1) The legislature finds that printing and publishing a
17 newspaper and publishing an electronic version of a newspaper are
18 becoming increasingly integrated activities.

19 (2) For the administrative ease of both the department of revenue
20 and taxpayers, it is the legislature's specific public policy
21 objective to modernize the state's tax code by imposing an
22 integrated, blended rate on those engaged primarily in printing and
23 publishing of a printed newspaper, yet who also publish an electronic
24 version of a newspaper. Secondly, the legislature's public policy
25 objective is to help preserve printed newspapers by limiting the tax
26 preference to those that are at least primarily engaged in printing
27 and publishing of a printed newspaper.

28 (3) If a taxpayer's subscription revenues from publishing an
29 electronic newspaper, whether a stand-alone electronic newspaper or
30 an electronic version of a printed newspaper, exceed the taxpayer's
31 subscription revenues from a printed newspaper, then the legislature
32 intends for all of the taxpayer's newspaper printing activity to be
33 taxed under the manufacturing business and occupation tax
34 classification and all of its publishing and sales revenues to be
35 taxed under the service and other business activities, wholesaling,
36 or retailing business and occupation tax classifications, as
37 applicable. Under this scenario, the taxpayer's advertising revenues
38 would be subject to the service tax rate in RCW 82.04.290(2),

1 wholesale sales of newspapers would be taxed under RCW 82.04.270, and
2 subscription revenues would be subject to the tax on retailers under
3 RCW 82.04.250(1) for the printed newspaper and RCW 82.04.257(1) for
4 the electronic newspaper.

5 (4) The legislature intends for the tax preference contained in
6 section 603(14) of this act to be permanent.

7 **Sec. 602.** RCW 82.04.214 and 2008 c 273 s 1 are each amended to
8 read as follows:

9 (1) ~~((a) Until June 30, 2011, "newspaper" means:~~

10 ~~(i) A publication issued regularly at stated intervals at least~~
11 ~~twice a month and printed on newsprint in tabloid or broadsheet~~
12 ~~format folded loosely together without stapling, glue, or any other~~
13 ~~binding of any kind, including any supplement of a printed newspaper;~~
14 ~~and~~

15 ~~(ii) An electronic version of a printed newspaper that:~~

16 ~~(A) Shares content with the printed newspaper; and~~

17 ~~(B) Is prominently identified by the same name as the printed~~
18 ~~newspaper or otherwise conspicuously indicates that it is a~~
19 ~~complement to the printed newspaper.~~

20 ~~(b))~~ "Newspaper" means a publication issued regularly at stated
21 intervals at least twice a month and printed on newsprint in tabloid
22 or broadsheet format folded loosely together without stapling, glue,
23 or any other binding of any kind, including any supplement of a
24 printed newspaper.

25 (2) For purposes of this section, "supplement" means a printed
26 publication, including a magazine or advertising section, that is:

27 ((i)) (a) Labeled and identified as part of the printed
28 newspaper; and

29 ((ii)) (b) Circulated or distributed:

30 ((A)) (i) As an insert or attachment to the printed newspaper;
31 or

32 ((B)) (ii) Separate and apart from the printed newspaper so
33 long as the distribution is within the general circulation area of
34 the newspaper.

35 ~~((2) Beginning July 1, 2011, "newspaper" means a publication~~
36 ~~issued regularly at stated intervals at least twice a month and~~
37 ~~printed on newsprint in tabloid or broadsheet format folded loosely~~
38 ~~together without stapling, glue, or any other binding of any kind,~~

1 ~~including any supplement of a printed newspaper as defined in~~
2 ~~subsection (1)(b) of this section.)~~

3 **Sec. 603.** RCW 82.04.260 and 2014 c 140 s 6 and 2014 c 140 s 4
4 are each reenacted and amended to read as follows:

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

7 (a) Wheat into flour, barley into pearl barley, soybeans into
8 soybean oil, canola into canola oil, canola meal, or canola by-
9 products, or sunflower seeds into sunflower oil; as to such persons
10 the amount of tax with respect to such business is equal to the value
11 of the flour, pearl barley, oil, canola meal, or canola by-product
12 manufactured, multiplied by the rate of 0.138 percent;

13 (b) Beginning July 1, 2015, seafood products that remain in a
14 raw, raw frozen, or raw salted state at the completion of the
15 manufacturing by that person; or selling manufactured seafood
16 products that remain in a raw, raw frozen, or raw salted state at the
17 completion of the manufacturing, to purchasers who transport in the
18 ordinary course of business the goods out of this state; as to such
19 persons the amount of tax with respect to such business is equal to
20 the value of the products manufactured or the gross proceeds derived
21 from such sales, multiplied by the rate of 0.138 percent. Sellers
22 must keep and preserve records for the period required by RCW
23 82.32.070 establishing that the goods were transported by the
24 purchaser in the ordinary course of business out of this state;

25 (c)(i) Beginning July 1, 2015, dairy products; or selling dairy
26 products that the person has manufactured to purchasers who either
27 transport in the ordinary course of business the goods out of state
28 or purchasers who use such dairy products as an ingredient or
29 component in the manufacturing of a dairy product; as to such persons
30 the tax imposed is equal to the value of the products manufactured or
31 the gross proceeds derived from such sales multiplied by the rate of
32 0.138 percent. Sellers must keep and preserve records for the period
33 required by RCW 82.32.070 establishing that the goods were
34 transported by the purchaser in the ordinary course of business out
35 of this state or sold to a manufacturer for use as an ingredient or
36 component in the manufacturing of a dairy product.

37 (ii) For the purposes of this subsection (1)(c), "dairy products"
38 means:

1 (A) Products, not including any marijuana-infused product, that
2 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,
3 parts 131, 133, and 135, including by-products from the manufacturing
4 of the dairy products, such as whey and casein; and

5 (B) Products comprised of not less than seventy percent dairy
6 products that qualify under (c)(ii)(A) of this subsection, measured
7 by weight or volume.

8 (iii) The preferential tax rate provided to taxpayers under this
9 subsection (1)(c) does not apply to sales of dairy products on or
10 after July 1, 2023, where a dairy product is used by the purchaser as
11 an ingredient or component in the manufacturing in Washington of a
12 dairy product;

13 (d)(i) Beginning July 1, 2015, fruits or vegetables by canning,
14 preserving, freezing, processing, or dehydrating fresh fruits or
15 vegetables, or selling at wholesale fruits or vegetables manufactured
16 by the seller by canning, preserving, freezing, processing, or
17 dehydrating fresh fruits or vegetables and sold to purchasers who
18 transport in the ordinary course of business the goods out of this
19 state; as to such persons the amount of tax with respect to such
20 business is equal to the value of the products manufactured or the
21 gross proceeds derived from such sales multiplied by the rate of
22 0.138 percent. Sellers must keep and preserve records for the period
23 required by RCW 82.32.070 establishing that the goods were
24 transported by the purchaser in the ordinary course of business out
25 of this state.

26 (ii) For purposes of this subsection (1)(d), "fruits" and
27 "vegetables" do not include marijuana, useable marijuana, or
28 marijuana-infused products;

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

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

38 (2) Upon every person engaging within this state in the business
39 of splitting or processing dried peas; as to such persons the amount

1 of tax with respect to such business is equal to the value of the
2 peas split or processed, multiplied by the rate of 0.138 percent.

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

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

13 (5) Upon every person engaging within this state in the business
14 of acting as a travel agent or tour operator; as to such persons the
15 amount of the tax with respect to such activities is equal to the
16 gross income derived from such activities multiplied by the rate of
17 0.275 percent.

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

25 (7) Upon every person engaging within this state in the business
26 of stevedoring and associated activities pertinent to the movement of
27 goods and commodities in waterborne interstate or foreign commerce;
28 as to such persons the amount of tax with respect to such business is
29 equal to the gross proceeds derived from such activities multiplied
30 by the rate of 0.275 percent. Persons subject to taxation under this
31 subsection are exempt from payment of taxes imposed by chapter 82.16
32 RCW for that portion of their business subject to taxation under this
33 subsection. Stevedoring and associated activities pertinent to the
34 conduct of goods and commodities in waterborne interstate or foreign
35 commerce are defined as all activities of a labor, service or
36 transportation nature whereby cargo may be loaded or unloaded to or
37 from vessels or barges, passing over, onto or under a wharf, pier, or
38 similar structure; cargo may be moved to a warehouse or similar
39 holding or storage yard or area to await further movement in import
40 or export or may move to a consolidation freight station and be

1 stuffed, unstuffed, containerized, separated or otherwise segregated
2 or aggregated for delivery or loaded on any mode of transportation
3 for delivery to its consignee. Specific activities included in this
4 definition are: Wharfage, handling, loading, unloading, moving of
5 cargo to a convenient place of delivery to the consignee or a
6 convenient place for further movement to export mode; documentation
7 services in connection with the receipt, delivery, checking, care,
8 custody and control of cargo required in the transfer of cargo;
9 imported automobile handling prior to delivery to consignee; terminal
10 stevedoring and incidental vessel services, including but not limited
11 to plugging and unplugging refrigerator service to containers,
12 trailers, and other refrigerated cargo receptacles, and securing ship
13 hatch covers.

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

19 If the gross income of the taxpayer is attributable to activities
20 both within and without this state, the gross income attributable to
21 this state must be determined in accordance with the methods of
22 apportionment required under RCW 82.04.460.

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

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

36 (11)(a) Beginning October 1, 2005, upon every person engaging
37 within this state in the business of manufacturing commercial
38 airplanes, or components of such airplanes, or making sales, at
39 retail or wholesale, of commercial airplanes or components of such
40 airplanes, manufactured by the seller, as to such persons the amount

1 of tax with respect to such business is, in the case of
2 manufacturers, equal to the value of the product manufactured and the
3 gross proceeds of sales of the product manufactured, or in the case
4 of processors for hire, equal to the gross income of the business,
5 multiplied by the rate of:

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

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

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

20 (c) For the purposes of this subsection (11), "commercial
21 airplane" and "component" have the same meanings as provided in RCW
22 82.32.550.

23 (d) In addition to all other requirements under this title, a
24 person reporting under the tax rate provided in this subsection (11)
25 must file a complete annual report with the department under RCW
26 82.32.534.

27 (e)(i) Except as provided in (e)(ii) of this subsection (11),
28 this subsection (11) does not apply on and after July 1, 2040.

29 (ii) With respect to the manufacturing of commercial airplanes or
30 making sales, at retail or wholesale, of commercial airplanes, this
31 subsection (11) does not apply on and after July 1st of the year in
32 which the department makes a determination that any final assembly or
33 wing assembly of any version or variant of a commercial airplane that
34 is the basis of a siting of a significant commercial airplane
35 manufacturing program in the state under RCW 82.32.850 has been sited
36 outside the state of Washington. This subsection (11)(e)(ii) only
37 applies to the manufacturing or sale of commercial airplanes that are
38 the basis of a siting of a significant commercial airplane
39 manufacturing program in the state under RCW 82.32.850.

1 (12)(a) Until July 1, 2024, upon every person engaging within
2 this state in the business of extracting timber or extracting for
3 hire 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
5 products, including by-products, extracted, or in the case of
6 extractors for hire, equal to the gross income of the business,
7 multiplied by the rate of 0.4235 percent from July 1, 2006, through
8 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
9 2024.

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

20 (c) Until July 1, 2024, upon every person engaging within this
21 state in the business of selling at wholesale: (i) Timber extracted
22 by that person; (ii) timber products manufactured by that person from
23 timber or other timber products; or (iii) wood products manufactured
24 by that person from timber or timber products; as to such persons the
25 amount of the tax with respect to the business is equal to the gross
26 proceeds of sales of the timber, timber products, or wood products
27 multiplied by the rate of 0.4235 percent from July 1, 2006, through
28 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
29 2024.

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

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

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

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

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

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

29 (v) "Timber products" means:

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

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

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

37 (vi) "Wood products" means paper and paper products; dimensional
38 lumber; engineered wood products such as particleboard, oriented
39 strand board, medium density fiberboard, and plywood; wood doors;
40 wood 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
9 by the rate of 0.484 percent.

10 (14)(a) Upon every person engaging within this state primarily in
11 the business of printing a newspaper, publishing a newspaper, or
12 both, the amount of tax on such business and on the business of
13 publishing an electronic version of a newspaper, is equal to the
14 gross income of the business multiplied by the rate of ((0.2904))
15 0.35 percent.

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

19 (c) For the purposes of (a) of this subsection, the following
20 definitions apply:

21 (i) "Electronic version of a newspaper" and "electronic version
22 of the newspaper" mean an electronic version of a newspaper that
23 shares content with the newspaper and is prominently identified by
24 the same name as the newspaper or otherwise conspicuously indicates
25 that it is a complement to the newspaper.

26 (ii) "Primarily" means the subscription revenue from a newspaper
27 exceeds the subscription revenue, if any, from an electronic version
28 of the newspaper. Revenue received from a subscriber of both a
29 newspaper and an electronic version of the newspaper must be
30 considered subscription revenue from a newspaper and not from an
31 electronic version of the newspaper. If a taxpayer prints or
32 publishes a newspaper but does not publish an electronic version of a
33 newspaper, the person will be deemed to be engaging within this state
34 primarily in the business of printing a newspaper, publishing a
35 newspaper, or both.

36 NEW SECTION. Sec. 604. The legislature intends for the
37 amendments in section 603 of this act to be permanent. Therefore, the
38 amendments in section 603 of this act are exempt from the ten-year
39 expiration provision in RCW 82.32.805(1)(a) and 82.32.808.

1 **PART VII**

2 **Providing a Reduced Public Utility Tax for Log Transportation**
3 **Businesses**

4 NEW SECTION. **Sec. 701.** This section is the tax preference
5 performance statement for the tax preference contained in sections
6 702 and 703 of this act. This performance statement is only intended
7 to be used for subsequent evaluation of the tax preference. It is not
8 intended to create a private right of action by any party or be used
9 to determine eligibility for preferential tax treatment.

10 (1) The legislature categorizes this tax preference as one
11 intended to provide tax relief for certain businesses or individuals,
12 as indicated in RCW 82.32.808(2)(e).

13 (2) It is the legislature's specific public policy objective to
14 support the forest products industry due in part to the industry's
15 efforts to support the local economy by focusing on Washington state
16 based resources thereby reducing global environmental impacts through
17 the manufacturing and use of wood. It is the legislature's intent to
18 provide the forest products industry permanent tax relief by lowering
19 the public utility tax rate attributable to log transportation
20 businesses. Because this reduced public utility rate is intended to
21 be permanent, the reduced rate established in this Part VII is not
22 subject to the ten-year expiration provision in RCW 82.32.805(1)(a).

23 **Sec. 702.** RCW 82.16.010 and 2009 c 535 s 1110 are each reenacted
24 and amended to read as follows:

25 For the purposes of this chapter, unless otherwise required by
26 the context:

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

31 (2) "Gas distribution business" means the business of operating a
32 plant or system for the production or distribution for hire or sale
33 of gas, whether manufactured or natural.

34 (3) "Gross income" means the value proceeding or accruing from
35 the performance of the particular public service or transportation
36 business involved, including operations incidental thereto, but
37 without any deduction on account of the cost of the commodity
38 furnished or sold, the cost of materials used, labor costs, interest,

1 discount, delivery costs, taxes, or any other expense whatsoever paid
2 or accrued and without any deduction on account of losses.

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

7 (5) "Log transportation business" means the business of
8 transporting logs by truck, except when such transportation meets the
9 definition of urban transportation business or occurs exclusively
10 upon private roads.

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

21 ((+6+)) (7)(a) "Public service business" means any of the
22 businesses defined in subsections (1), (2), (4), ((+5+), (7+)) (6),
23 (8), (9), ((+11+), and)) (10), (12), and (13) of this section or any
24 business subject to control by the state, or having the powers of
25 eminent domain and the duties incident thereto, or any business
26 hereafter declared by the legislature to be of a public service
27 nature, except telephone business and low-level radioactive waste
28 site operating companies as redefined in RCW 81.04.010. It includes,
29 among others, without limiting the scope hereof: Airplane
30 transportation, boom, dock, ferry, pipe line, toll bridge, toll
31 logging road, water transportation and wharf businesses.

32 (b) The definitions in this subsection ((+6+)) (7)(b) apply
33 throughout this subsection ((+6+)) (7).

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

36 (ii) "Network telephone service" means the providing by any
37 person of access to a telephone network, telephone network switching
38 service, toll service, or coin telephone services, or the providing
39 of telephonic, video, data, or similar communication or transmission
40 for hire, via a telephone network, toll line or channel, cable,

1 microwave, or similar communication or transmission system. "Network
2 telephone service" includes the provision of transmission to and from
3 the site of an internet provider via a telephone network, toll line
4 or channel, cable, microwave, or similar communication or
5 transmission system. "Network telephone service" does not include the
6 providing of competitive telephone service, the providing of cable
7 television service, the providing of broadcast services by radio or
8 television stations, nor the provision of internet access as defined
9 in RCW 82.04.297, including the reception of dial-in connection,
10 provided at the site of the internet service provider.

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

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

17 (~~(7)~~) (8) "Railroad business" means the business of operating
18 any railroad, by whatever power operated, for public use in the
19 conveyance of persons or property for hire. It shall not, however,
20 include any business herein defined as an urban transportation
21 business.

22 (~~(8)~~) (9) "Railroad car business" means the business of
23 operating stock cars, furniture cars, refrigerator cars, fruit cars,
24 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
25 tourist cars, or any other kinds of cars used for transportation of
26 property or persons upon the line of any railroad operated in this
27 state when such railroad is not owned or leased by the person
28 engaging in such business.

29 (~~(9)~~) (10) "Telegraph business" means the business of affording
30 telegraphic communication for hire.

31 (~~(10)~~) (11) "Tugboat business" means the business of operating
32 tugboats, towboats, wharf boats or similar vessels in the towing or
33 pushing of vessels, barges or rafts for hire.

34 (~~(11)~~) (12) "Urban transportation business" means the business
35 of operating any vehicle for public use in the conveyance of persons
36 or property for hire, insofar as (a) operating entirely within the
37 corporate limits of any city or town, or within five miles of the
38 corporate limits thereof, or (b) operating entirely within and
39 between cities and towns whose corporate limits are not more than
40 five miles apart or within five miles of the corporate limits of

1 either thereof. Included herein, but without limiting the scope
2 hereof, is the business of operating passenger vehicles of every type
3 and also the business of operating cartage, pickup, or delivery
4 services, including in such services the collection and distribution
5 of property arriving from or destined to a point within or without
6 the state, whether or not such collection or distribution be made by
7 the person performing a local or interstate line-haul of such
8 property.

9 ~~((12))~~ (13) "Water distribution business" means the business of
10 operating a plant or system for the distribution of water for hire or
11 sale.

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

17 **Sec. 703.** RCW 82.16.020 and 2013 2nd sp.s. c 9 s 7 are each
18 amended to read as follows:

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

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

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

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

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

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

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

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

37 (h) Log transportation business: One and twenty-eight one-
38 hundredths percent. The reduced rate established in this subsection

1 (1)(h) is not subject to the ten-year expiration provision in RCW
2 82.32.805(1)(a).

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

6 (3) Twenty percent of the moneys collected under subsection (1)
7 of this section on water distribution businesses and sixty percent of
8 the moneys collected under subsection (1) of this section on sewerage
9 collection businesses (~~shall~~) must be deposited in the education
10 legacy trust account created in RCW 83.100.230 from July 1, 2013,
11 through June 30, 2019, and thereafter in the public works assistance
12 account created in RCW 43.155.050.

13 PART VIII

14 Increasing Jobs in the Maritime Trades Industry

15 NEW SECTION. **Sec. 801.** (1)(a) The legislature finds that a
16 robust maritime industry is crucial for the state's economic
17 vitality. The legislature further finds that:

18 (i) The joint task force for economic resilience of maritime and
19 manufacturing established policy goals to continue efforts towards
20 developing a robust maritime industry in the state;

21 (ii) The maritime industry has a direct and indirect impact on
22 jobs in the state;

23 (iii) Many of the cities and towns impacted by the maritime
24 industry are often small with limited resources to encourage economic
25 growth, heavily relying on the maritime industry for local jobs and
26 revenues in the community;

27 (iv) Keeping Washington competitive with other cruising
28 destinations is essential to continue to build a robust maritime
29 economy in the state; and

30 (v) Tax incentives are an imperative component to improve the
31 state's overall competitiveness in this sector.

32 (b) Therefore, the legislature intends to:

33 (i) Bolster the maritime industry in the state by incentivizing
34 larger vessel owners to use Washington waters for recreational
35 boating to increase economic activity and jobs in coastal communities
36 and inland water regions of the state;

1 (ii) Achieve this objective in a fiscally responsible manner and
2 require analysis of specific metrics to ensure valuable state
3 resources are being used to accomplish the intended goal; and

4 (iii) Provide limited, short-term tax relief to entity-owned
5 nonresident vessel owners that currently are not afforded the same
6 benefits as other nonresident vessel owners.

7 (2)(a) This subsection is the tax preference performance
8 statement for the entity-owned nonresident vessel tax preference
9 established in section 803 of this act. The performance statement is
10 only intended to be used for subsequent evaluation of the tax
11 preference. It is not intended to create a private right of action by
12 any party or be used to determine eligibility for preferential tax
13 treatment.

14 (b) The legislature categorizes this tax preference as one
15 intended to accomplish the purposes indicated in RCW 82.32.808(2)(c)
16 and one intended to improve the state's competitiveness with other
17 nearby cruising destinations.

18 (c) It is the legislature's specific public policy objective to
19 increase economic activity and jobs related to the maritime industry
20 by providing a tax preference for large entity-owned nonresident
21 vessels to increase the length of time these vessels cruise
22 Washington waters in turn strengthening the maritime economy in the
23 state.

24 (d) To measure the effectiveness of the tax preference provided
25 in part XII of this act in achieving the public policy objective in
26 (c) of this subsection, the joint legislative audit and review
27 committee must provide the following in a published evaluation of
28 this tax preference by December 31, 2024:

29 (i) A comparison of the gross and taxable revenue generated by
30 businesses that sell or provide maintenance or repair of vessels,
31 prior to and after the enactment of this tax preference;

32 (ii) Analysis of retail sales taxes collected from the restaurant
33 and service industries in coastal and inlet coastal jurisdictions,
34 for both counties and cities, for periods prior to and after the
35 enactment of this tax preference;

36 (iii) Employment and wage trends for businesses described in
37 (d)(i) and (ii) of this subsection, for periods prior to and after
38 the enactment of this tax preference;

39 (iv) Descriptive statistics for the number of permits sold each
40 year in addition to the following information:

1 (A) The cost for each permit by strata of vessel length;
2 (B) The jurisdiction of ownership for the nonresident vessel; and
3 (C) The amount of use tax that would have been due based on the
4 estimated value of the vessel;

5 (v) A comparison of the number of registered entity-owned and
6 individually owned vessels registered in Washington prior to and
7 after the enactment of this tax preference; and

8 (vi) Data and analysis for Washington's main cruising destination
9 competitors, specifically looking at tax preferences provided in
10 those jurisdictions, vessel industry income data, and any additional
11 relevant information to compare Washington's maritime climate with
12 its competitors.

13 (e) The provision of RCW 82.32.808(5) does not apply to this tax
14 preference.

15 **Sec. 802.** RCW 88.02.620 and 2011 c 171 s 133 are each amended to
16 read as follows:

17 (1) A vessel owner who is a nonresident (~~((natural))~~) person
18 (~~((shall apply for))~~) must obtain a nonresident vessel permit on or
19 before the sixty-first day of use in Washington state if the vessel:

20 (a) Is currently registered or numbered under the laws of the
21 state of principal operation or has been issued a valid number under
22 federal law; and

23 (b) Has been brought into Washington state for personal use for
24 not more than six months in any continuous twelve-month period.

25 (2) In addition to the requirements in subsection (1) of this
26 section, a nonresident vessel owner that is not a natural person may
27 only obtain a nonresident vessel permit if:

28 (a) The vessel is at least thirty feet in length, but no more
29 than one hundred sixty-four feet in length;

30 (b) No Washington state resident is a principal, as defined in
31 section 805 of this act, of the nonresident person; and

32 (c) The department of revenue has provided the nonresident vessel
33 owner written approval authorizing the permit as provided in section
34 805 of this act.

35 (3) A nonresident vessel permit:

36 (a) May be obtained from the department, county auditor or other
37 agent, or subagent appointed by the director;

38 (b) Must show the date the vessel first came into Washington
39 state; (~~and~~))

1 (c) Is valid for two months; and
2 (d) May not be issued after December 31, 2025, to a nonresident
3 vessel owner that is not a natural person.

4 ((+3)) (4) The department, county auditor or other agent, or
5 subagent appointed by the director ((shall)) must collect the fee
6 required in RCW 88.02.640(1)((+h)) (i) when issuing nonresident
7 vessel permits.

8 ((+4)) (5) A nonresident vessel permit is not required under
9 this section if the vessel is used in conducting temporary business
10 activity within Washington state.

11 ((+5)) (6) For any permits issued under this section to a
12 nonresident vessel owner that is not a natural person, the department
13 must maintain a record of the following information and provide it to
14 the department of revenue quarterly or as otherwise mutually agreed
15 to by the department and department of revenue:

- 16 (a) The name of the record owner of the vessel;
17 (b) The vessel's hull identification number;
18 (c) The amount of the fee paid under RCW 88.02.640(5);
19 (d) The date the vessel first entered the waters of this state;
20 (e) The expiration date for the permit; and
21 (f) Any other information mutually agreed to by the department
22 and department of revenue.

23 (7) The department ((shall)) must adopt rules to implement this
24 section, including rules on issuing and displaying the nonresident
25 vessel permit.

26 **Sec. 803.** RCW 88.02.640 and 2013 c 291 s 1 are each amended to
27 read as follows:

28 (1) In addition to any other fees and taxes required by law, the
29 department, county auditor or other agent, or subagent appointed by
30 the director ((shall)) must charge the following vessel fees and
31 surcharge:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section

1	(c) Derelict vessel removal	\$1.00	Subsection (4) of this	Subsection (4) of this
2	surcharge		section	section
3	(d) Duplicate certificate of	\$1.25	RCW 88.02.530(1)(c)	General fund
4	title			
5	(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
6	(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
7	(g) License plate technology	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
8	(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220
9	(i) Nonresident vessel	(\$25.00) Subsection (5) of	RCW 88.02.620((3)) (4)	Subsection (5) of this
10	permit	<u>this section</u>		section
11	(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this
12				section
13	(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
14	(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
15	(m) Title application	\$5.00	RCW 88.02.515	General fund
16	(n) Transfer	\$1.00	RCW 88.02.560(7)	General fund
17	(o) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this
18				section

19 (2) The five dollar dealer temporary permit fee required in
20 subsection (1) of this section must be credited to the payment of
21 registration fees at the time application for registration is made.

22 (3) The derelict vessel and invasive species removal fee required
23 in subsection (1) of this section is five dollars and must be
24 distributed as follows:

25 (a) One dollar and fifty cents must be deposited in the aquatic
26 invasive species prevention account created in RCW 77.12.879;

27 (b) One dollar must be deposited into the aquatic algae control
28 account created in RCW 43.21A.667;

29 (c) Fifty cents must be deposited into the aquatic invasive
30 species enforcement account created in RCW 43.43.400; and

31 (d) Two dollars must be deposited in the derelict vessel removal
32 account created in RCW 79.100.100.

33 (4) In addition to other fees required in this section, an annual
34 derelict vessel removal surcharge of one dollar must be charged with
35 each vessel registration. The surcharge is to address the significant
36 backlog of derelict vessels accumulated in Washington waters that

1 pose a threat to the health and safety of the people and to the
2 environment and must be deposited into the derelict vessel removal
3 account created in RCW 79.100.100.

4 ~~(5) ((The twenty five dollar nonresident vessel permit fee must~~
5 ~~be paid by the vessel owner to the department for the cost of~~
6 ~~providing the identification document by the department))~~ (a) The
7 amount of the nonresident vessel permit fee is:

8 (i) For a vessel owned by a nonresident natural person, twenty-
9 five dollars; and

10 (ii) For a nonresident vessel owner that is not a natural person,
11 the fee is equal to:

12 (A) Twenty-five dollars per foot for vessels between thirty and
13 ninety-nine feet in length;

14 (B) Thirty dollars per foot for vessels between one hundred and
15 one hundred twenty feet in length; and

16 (C) Thirty-seven dollars and fifty cents per foot for vessels
17 between one hundred twenty-one and one hundred sixty-four feet in
18 length. The fee must be multiplied by the extreme length of the
19 vessel in feet, rounded up to the nearest whole foot.

20 (b) The fee must be paid by the vessel owner to the department.
21 Any moneys remaining from the fee after the payment of costs to
22 administer the permit must be allocated to counties by the state
23 treasurer for approved boating safety programs under RCW 88.02.650.

24 (c) A nonresident vessel owner that is not a natural person may
25 not obtain more than two nonresident vessel permits under RCW
26 88.02.620 within any thirty-six month period.

27 (6) The thirty dollar vessel visitor permit fee must be
28 distributed as follows:

29 (a) Five dollars must be deposited in the derelict vessel removal
30 account created in RCW 79.100.100;

31 (b) The department may keep an amount to cover costs for
32 providing the vessel visitor permit;

33 (c) Any moneys remaining must be allocated to counties by the
34 state treasurer for approved boating safety programs under RCW
35 88.02.650; and

36 (d) Any fees required for licensing agents under RCW 46.17.005
37 are in addition to any other fee or tax due for the titling and
38 registration of vessels.

39 (7)(a) The fifty dollar quick title service fee must be
40 distributed as follows:

1 (i) If the fee is paid to the director, the fee must be deposited
2 to the general fund.

3 (ii) If the fee is paid to the participating county auditor or
4 other agent or subagent appointed by the director, twenty-five
5 dollars must be deposited to the general fund. The remainder must be
6 retained by the county treasurer in the same manner as other fees
7 collected by the county auditor.

8 (b) For the purposes of this subsection, "quick title" has the
9 same meaning as in RCW 88.02.540.

10 **Sec. 804.** RCW 88.02.570 and 2010 c 161 s 1018 are each amended
11 to read as follows:

12 Vessel registration is required under this chapter except for the
13 following:

14 (1) A military vessel owned by the United States government;
15 (2) A public vessel owned by the United States government, unless
16 the vessel is a type used for recreation;

17 (3) A vessel clearly identified as being:

18 (a) Owned by a state, county, or city; and

19 (b) Used primarily for governmental purposes;

20 (4) A vessel either (a) registered or numbered under the laws of
21 a country other than the United States or (b) having a valid United
22 States customs service cruising license issued pursuant to 19 C.F.R.
23 Sec. 4.94. Either vessel is exempt from registration only for the
24 first sixty days of use on Washington state waters. On or before the
25 sixty-first day of use on Washington state waters, any vessel in the
26 state under this subsection must obtain a vessel visitor permit as
27 required under RCW 88.02.610;

28 (5) A vessel that is currently registered or numbered under the
29 laws of the state of principal operation or that has been issued a
30 valid number under federal law. However, either vessel must be
31 registered in Washington state if the state of principal operation
32 changes to Washington state by the sixty-first day after the vessel
33 arrives in Washington state;

34 (6)(a) A vessel owned by a nonresident if:

35 ((+a)) (i) The vessel is located upon the waters of this state
36 exclusively for repairs, alteration, or reconstruction, or any
37 testing related to these services;

38 ((+b)) (ii) An employee of the facility providing these services
39 is on board the vessel during any testing; and

1 (~~(e)~~) (iii) The nonresident files an affidavit with the
2 department of revenue by the sixty-first day verifying that the
3 vessel is located upon the waters of this state for these services.

4 (b) The nonresident (~~(shall)~~) must continue to file an affidavit
5 every sixty days thereafter, as long as the vessel is located upon
6 the waters of this state exclusively for repairs, alteration,
7 reconstruction, or testing;

8 (7) A vessel equipped with propulsion machinery of less than ten
9 horsepower that:

10 (a) Is owned by the owner of a vessel for which a valid vessel
11 number has been issued;

12 (b) Displays the number of that numbered vessel followed by the
13 suffix "1" in the manner prescribed by the department; and

14 (c) Is used as a tender for direct transportation between the
15 numbered vessel and the shore and for no other purpose;

16 (8) A vessel under sixteen feet in overall length that has no
17 propulsion machinery of any type or that is not used on waters
18 subject to the jurisdiction of the United States or on the high seas
19 beyond the territorial seas for vessels owned in the United States
20 and are powered by propulsion machinery of ten or less horsepower;

21 (9) A vessel with no propulsion machinery of any type for which
22 the primary mode of propulsion is human power;

23 (10) A vessel primarily engaged in commerce that has or is
24 required to have a valid marine document as a vessel of the United
25 States. A commercial vessel that the department of revenue determines
26 has the external appearance of a vessel that would otherwise be
27 required to register under this chapter, must display decals issued
28 annually by the department of revenue that indicate the vessel's
29 exempt status;

30 (11) A vessel primarily engaged in commerce that is owned by a
31 resident of a country other than the United States;

32 (12) A vessel owned by a nonresident (~~(natural)~~) person brought
33 into the state for use or enjoyment while temporarily within the
34 state for not more than six months in any continuous twelve-month
35 period that (a) is currently registered or numbered under the laws of
36 the state of principal use or (b) has been issued a valid number
37 under federal law. This type of vessel is exempt from registration
38 only for the first sixty days of use on Washington state waters. On
39 or before the sixty-first day of use on Washington state waters, any

1 vessel under this subsection must obtain a nonresident vessel permit
2 as required under RCW 88.02.620;

3 (13) A vessel used in this state by a nonresident individual
4 possessing a valid use permit issued under RCW 82.08.700 or
5 82.12.700; and

6 (14) A vessel held for sale by any licensed dealer.

7 NEW SECTION. **Sec. 805.** A new section is added to chapter 82.32
8 RCW to read as follows:

9 (1) A nonresident vessel owner that is not a natural person must
10 apply directly to the department for written approval to obtain a
11 nonresident vessel permit under RCW 88.02.620. The application must
12 be made to the department in a form and manner prescribed by the
13 department and must include:

- 14 (a) The name of the record owner of the vessel;
- 15 (b) The name, address, and telephone number of the individual
16 that applied for the permit on behalf of the nonresident person;
- 17 (c) The record owner's address and telephone number;
- 18 (d) The vessel's hull identification number;
- 19 (e) The vessel year, make, and model;
- 20 (f) The vessel length;
- 21 (g) The vessel's registration or numbering under the state of
22 principal operation or the valid number under federal law;
- 23 (h) Proof of the person's current nonresident status, including
24 certified copies of the filed articles of incorporation, a
25 certificate of formation, or similar filings;
- 26 (i) Proof of the identity and current residency of all principals
27 of the nonresident person. Such proof may include a valid driver's
28 license verifying out-of-state residency or a valid identification
29 card that has a photograph of the holder and is issued by an out-of-
30 state jurisdiction;
- 31 (j) An affidavit signed by a principal of the nonresident vessel
32 owner certifying that no Washington residents are principals of the
33 nonresident vessel owner; and
- 34 (k) Any other information the department may require.

35 (2) The department must determine the nonresident vessel owner's
36 eligibility for the permit, as provided in RCW 88.02.620, and may
37 request additional information as needed directly from the
38 nonresident vessel owner.

1 (3)(a) If the nonresident vessel owner appears eligible for the
2 permit, the department must provide written approval to the
3 nonresident vessel owner that authorizes issuance of the permit and
4 includes the name of the nonresident vessel owner, the name of the
5 vessel, and the hull identification number. After November 30, 2025,
6 the department may not provide written approval for any permits under
7 this subsection.

8 (b) The department must also provide the information in the
9 written approval to the department of licensing.

10 (4)(a) If, after a permit has been issued under RCW 88.02.620,
11 the department has reason to believe that the nonresident vessel
12 owner was not eligible for the permit approved under subsection (3)
13 of this section, the department may request such information from the
14 nonresident vessel owner as the department determines is necessary to
15 conduct a review of the nonresident vessel owner's eligibility.

16 (b) If the department finds the nonresident person was not
17 eligible for the permit, the department must assess against the
18 nonresident person state and local use tax on the value of the vessel
19 according to the "value of the article used" as defined in RCW
20 82.12.010. The department must also assess against the nonresident
21 person any watercraft excise tax due under chapter 82.49 RCW.
22 Penalties and interest as provided in this chapter and chapter 82.49
23 RCW apply to taxes assessed under this subsection (4).

24 (5) For purposes of this section, "principal" means a natural
25 person that owns, directly or indirectly, including through any
26 tiered ownership structure, more than a one percent interest in the
27 nonresident person applying for a nonresident vessel permit.

28 (6) The department may adopt rules to implement this section.

29 PART IX

30 Concerning Distribution and Use of Aircraft Excise Taxes

31 **Sec. 901.** RCW 82.48.080 and 1995 c 170 s 2 are each amended to
32 read as follows:

33 The secretary (~~shall~~) must regularly pay to the state treasurer
34 the excise taxes collected under this chapter, which (~~shall~~) must
35 be credited by the state treasurer (~~as follows: Ninety percent to~~
36 ~~the general fund and ten percent~~) to the aeronautics account (~~in~~
37 ~~the transportation fund~~) for state grants to airports and the

1 administrative expenses associated with grant execution and the
2 collection of excise taxes under this chapter.

3 **PART X**

4 **Providing a Business and Occupation Tax Credit for Businesses That**
5 **Hire Veterans**

6 NEW SECTION. **Sec. 1001.** This section is the tax preference
7 performance statement for the tax preference contained in sections
8 1002 and 1003 of this act. This performance statement is only
9 intended to be used for subsequent evaluation of the tax preference.
10 It is not intended to create a private right of action by any party
11 or be used to determine eligibility for preferential tax treatment.

12 (1) The legislature categorizes the tax preferences as those
13 intended to induce certain designated behavior by taxpayers and
14 create or retain jobs, as indicated in RCW 82.32.808(2) (a) and (c).

15 (2) It is the legislature's specific public policy objective to
16 provide employment for unemployed veterans. It is the legislature's
17 intent to provide employers a credit against the business and
18 occupation tax or public utility tax for hiring unemployed veterans
19 which would reduce an employer's tax burden thereby inducing
20 employers to hire and create jobs for unemployed veterans. Pursuant
21 to chapter 43.136 RCW, the joint legislative audit and review
22 committee must review the business and occupation tax and public
23 utility tax credit established under sections 1002 and 1003 of this
24 act by December 31, 2022.

25 (3) If a review finds that the number of unemployed veterans
26 decreased by thirty percent, then the legislature intends for the
27 legislative auditor to recommend extending the expiration date of the
28 tax preference.

29 (4) In order to obtain the data necessary to perform the review
30 in subsection (3) of this section, the joint legislative audit and
31 review committee should refer to the veteran unemployment rates
32 available from the employment security department and the bureau of
33 labor statistics.

34 NEW SECTION. **Sec. 1002.** A new section is added to chapter 82.04
35 RCW to read as follows:

36 (1) A person is allowed a credit against the tax due under this
37 chapter as provided in this section. The credit equals twenty percent

1 of wages and benefits paid to or on behalf of a qualified employee up
2 to a maximum of one thousand five hundred dollars for each qualified
3 employee hired on or after October 1, 2016.

4 (2) No credit may be claimed under this section until a qualified
5 employee has been employed for at least two consecutive full calendar
6 quarters.

7 (3) Credits are available on a first-in-time basis. The
8 department must keep a running total of all credits allowed under
9 this section and section 1003 of this act during each fiscal year.
10 The department may not allow any credits that would cause the total
11 credits allowed under this section and section 1003 of this act to
12 exceed five hundred thousand dollars in any fiscal year. If all or
13 part of a claim for credit is disallowed under this subsection, the
14 disallowed portion is carried over to the next fiscal year. However,
15 the carryover into the next fiscal year is only permitted to the
16 extent that the cap for the next fiscal year is not exceeded.
17 Priority must be given to credits carried over from a previous fiscal
18 year. The department must provide written notice to any person who
19 has claimed tax credits in excess of the limitation in this
20 subsection. The notice must indicate the amount of tax due and
21 provide that the tax be paid within thirty days from the date of the
22 notice. The department may not assess penalties and interest as
23 provided in chapter 82.32 RCW on the amount due in the initial notice
24 if the amount due is paid by the due date specified in the notice, or
25 any extension thereof.

26 (4) The credit may be used against any tax due under this
27 chapter, and may be carried over until used, except as provided in
28 subsection (9) of this section. No refunds may be granted for credits
29 under this section.

30 (5) If an employer discharges a qualified employee for whom the
31 employer has claimed a credit under this section, the employer may
32 not claim a new credit under this section for a period of one year
33 from the date the qualified employee was discharged. However, this
34 subsection (5) does not apply if the qualified employee was
35 discharged for misconduct, as defined in RCW 50.04.294, connected
36 with his or her work or discharged due to a felony or gross
37 misdemeanor conviction, and the employer contemporaneously documents
38 the reason for discharge.

39 (6) Credits earned under this section may be claimed only on
40 returns filed electronically with the department using the

1 department's online tax filing service or other method of electronic
2 reporting as the department may authorize. No application is required
3 to claim the credit, but the taxpayer must keep records necessary for
4 the department to determine eligibility under this section including
5 records establishing the person's status as a veteran and status as
6 unemployed when hired by the taxpayer.

7 (7) No person may claim a credit against taxes due under both
8 this chapter and chapter 82.16 RCW for the same qualified employee.

9 (8) The definitions in this subsection apply throughout this
10 section unless the context clearly requires otherwise.

11 (a)(i) "Qualified employee" means an unemployed veteran who is
12 employed in a permanent full-time position for at least two
13 consecutive full calendar quarters. For seasonal employers,
14 "qualified employee" also includes the equivalent of a full-time
15 employee in work hours for two consecutive full calendar quarters.

16 (ii) For purposes of this subsection (8)(a), "full time" means a
17 normal work week of at least thirty-five hours.

18 (b) "Unemployed" means that the veteran was unemployed as defined
19 in RCW 50.04.310 for at least thirty days immediately preceding the
20 date that the veteran was hired by the person claiming credit under
21 this section for hiring the veteran.

22 (c) "Veteran" means every person who has received an honorable
23 discharge or received a general discharge under honorable conditions
24 or is currently serving honorably, and who has served as a member in
25 any branch of the armed forces of the United States, including the
26 national guard and armed forces reserves.

27 (9) Credits allowed under this section can be earned for tax
28 reporting periods through June 30, 2022. No credits can be claimed
29 after June 30, 2023.

30 (10) This section expires July 1, 2023.

31 NEW SECTION. **Sec. 1003.** A new section is added to chapter 82.16
32 RCW to read as follows:

33 (1) A person is allowed a credit against the tax due under this
34 chapter as provided in this section. The credit equals twenty percent
35 of wages and benefits paid to or on behalf of a qualified employee up
36 to a maximum of one thousand five hundred dollars for each qualified
37 employee hired on or after October 1, 2016.

1 (2) No credit may be claimed under this section until a qualified
2 employee has been employed for at least two consecutive full calendar
3 quarters.

4 (3) Credits are available on a first-in-time basis. The
5 department must keep a running total of all credits allowed under
6 this section and section 1002 of this act during each fiscal year.
7 The department may not allow any credits that would cause the total
8 credits allowed under this section and section 1002 of this act to
9 exceed five hundred thousand dollars in any fiscal year. If all or
10 part of a claim for credit is disallowed under this subsection, the
11 disallowed portion is carried over to the next fiscal year. However,
12 the carryover into the next fiscal year is only permitted to the
13 extent that the cap for the next fiscal year is not exceeded.
14 Priority must be given to credits carried over from a previous fiscal
15 year. The department must provide written notice to any person who
16 has claimed tax credits in excess of the limitation in this
17 subsection. The notice must indicate the amount of tax due and
18 provide that the tax be paid within thirty days from the date of the
19 notice. The department may not assess penalties and interest as
20 provided in chapter 82.32 RCW on the amount due in the initial notice
21 if the amount due is paid by the due date specified in the notice, or
22 any extension thereof.

23 (4) The credit may be used against any tax due under this
24 chapter, and may be carried over until used, except as provided in
25 subsection (9) of this section. No refunds may be granted for credits
26 under this section.

27 (5) If an employer discharges a qualified employee for whom the
28 employer has claimed a credit under this section, the employer may
29 not claim a new credit under this section for a period of one year
30 from the date the qualified employee was discharged. However, this
31 subsection (5) does not apply if the qualified employee was
32 discharged for misconduct, as defined in RCW 50.04.294, connected
33 with his or her work or discharged due to a felony or gross
34 misdemeanor conviction, and the employer contemporaneously documents
35 the reason for discharge.

36 (6) Credits earned under this section may be claimed only on
37 returns filed electronically with the department using the
38 department's online tax filing service or other method of electronic
39 reporting as the department may authorize. No application is required
40 to claim the credit, but the taxpayer must keep records necessary for

1 the department to determine eligibility under this section including
2 records establishing the person's status as a veteran and status as
3 unemployed when hired by the taxpayer.

4 (7) No person may claim a credit against taxes due under both
5 chapter 82.04 RCW and this chapter for the same qualified employee.

6 (8) The definitions in this subsection apply throughout this
7 section unless the context clearly requires otherwise.

8 (a)(i) "Qualified employee" means an unemployed veteran who is
9 employed in a permanent full-time position for at least two
10 consecutive full calendar quarters. For seasonal employers,
11 "qualified employee" also includes the equivalent of a full-time
12 employee in work hours for two consecutive full calendar quarters.

13 (ii) For purposes of this subsection (8)(a), "full time" means a
14 normal work week of at least thirty-five hours.

15 (b) "Unemployed" means that the veteran was unemployed as defined
16 in RCW 50.04.310 for at least thirty days immediately preceding the
17 date that the veteran was hired by the person claiming credit under
18 this section for hiring the veteran.

19 (c) "Veteran" means every person who has received an honorable
20 discharge or received a general discharge under honorable conditions
21 or is currently serving honorably, and who has served as a member in
22 any branch of the armed forces of the United States, including the
23 national guard and armed forces reserves.

24 (9) Credits allowed under this section can be earned for tax
25 reporting periods through June 30, 2022. No credits can be claimed
26 after June 30, 2023.

27 (10) This section expires July 1, 2023.

28 PART XI

29 Defining Honey Bee Products and Services as an Agricultural Product

30 NEW SECTION. **Sec. 1101.** This section is the tax preference
31 performance statement for the tax preference contained in this Part
32 XI. This performance statement is only intended to be used for
33 subsequent evaluation of the tax preference. It is not intended to
34 create a private right of action by any party or be used to determine
35 eligibility for preferential tax treatment.

36 It is the legislature's specific public policy objective to
37 support the honey bee industry and provide tax relief to eligible
38 apiarists. Honey bees pollinate eighty percent of the nation's

1 flowering crops, which include agricultural crops. They are vitally
2 important to agriculture and an integral part of food production.
3 Therefore, the legislature intends to permanently include eligible
4 apiarists within the definition of farmer and define honey bee
5 products as agricultural products so that they may receive the same
6 tax relief as that provided to other sectors of agriculture. Because
7 the legislature intends for the changes in this Part XI to be
8 permanent, they are exempt from the ten-year expiration provision in
9 RCW 82.32.805.

10 **Sec. 1102.** RCW 82.04.213 and 2014 c 140 s 2 are each amended to
11 read as follows:

12 (1) "Agricultural product" means any product of plant cultivation
13 or animal husbandry including, but not limited to: A product of
14 horticulture, grain cultivation, vermiculture, viticulture, or
15 aquaculture as defined in RCW 15.85.020; plantation Christmas trees;
16 short-rotation hardwoods as defined in RCW 84.33.035; turf; or any
17 animal including but not limited to an animal that is a private
18 sector cultured aquatic product as defined in RCW 15.85.020, or a
19 bird, or insect, or the substances obtained from such an animal
20 including honey bee products. "Agricultural product" does not include
21 marijuana, useable marijuana, or marijuana-infused products, or
22 animals defined as pet animals under RCW 16.70.020.

23 (2)(a) "Farmer" means any person engaged in the business of
24 growing, raising, or producing, upon the person's own lands or upon
25 the lands in which the person has a present right of possession, any
26 agricultural product to be sold, and the growing, raising, or
27 producing honey bee products for sale, or providing bee pollination
28 services, by an eligible apiarist. "Farmer" does not include a person
29 growing, raising, or producing such products for the person's own
30 consumption; a person selling any animal or substance obtained
31 therefrom in connection with the person's business of operating a
32 stockyard or a slaughter or packing house; or a person in respect to
33 the business of taking, cultivating, or raising timber.

34 (b) "Eligible apiarist" means a person who owns or keeps one or
35 more bee colonies and who grows, raises, or produces honey bee
36 products for sale at wholesale and is registered under RCW 15.60.021.

37 (c) "Honey bee products" means queen honey bees, packaged honey
38 bees, honey, pollen, bees wax, propolis, or other substances obtained

1 from honey bees. "Honey bee products" does not include manufactured
2 substances or articles.

3 (3) The terms "agriculture," "farming," "horticulture,"
4 "horticultural," and "horticultural product" may not be construed to
5 include or relate to marijuana, useable marijuana, or marijuana-
6 infused products unless the applicable term is explicitly defined to
7 include marijuana, useable marijuana, or marijuana-infused products.

8 (4) "Marijuana," "useable marijuana," and "marijuana-infused
9 products" have the same meaning as in RCW 69.50.101.

10 **Sec. 1103.** RCW 82.04.330 and 2014 c 140 s 7 are each amended to
11 read as follows:

12 (1) This chapter does not apply to any farmer in respect to the
13 sale of any agricultural product at wholesale or to any farmer who
14 grows, raises, or produces agricultural products owned by others,
15 such as custom feed operations. This exemption does not apply to any
16 person selling such products at retail or to any person selling
17 manufactured substances or articles. This chapter does not apply to
18 bee pollination services provided to a farmer by an eligible
19 apiarist.

20 (2) This chapter also does not apply to any persons who
21 participate in the federal conservation reserve program or its
22 successor administered by the United States department of agriculture
23 with respect to land enrolled in that program.

24 **Sec. 1104.** RCW 82.04.050 and 2013 2nd sp.s. c 13 s 802 are each
25 amended to read as follows:

26 (1)(a) "Sale at retail" or "retail sale" means every sale of
27 tangible personal property (including articles produced, fabricated,
28 or imprinted) to all persons irrespective of the nature of their
29 business and including, among others, without limiting the scope
30 hereof, persons who install, repair, clean, alter, improve,
31 construct, or decorate real or personal property of or for consumers
32 other than a sale to a person who:

33 (i) Purchases for the purpose of resale as tangible personal
34 property in the regular course of business without intervening use by
35 such person, but a purchase for the purpose of resale by a regional
36 transit authority under RCW 81.112.300 is not a sale for resale; or

37 (ii) Installs, repairs, cleans, alters, imprints, improves,
38 constructs, or decorates real or personal property of or for

1 consumers, if such tangible personal property becomes an ingredient
2 or component of such real or personal property without intervening
3 use by such person; or

4 (iii) Purchases for the purpose of consuming the property
5 purchased in producing for sale as a new article of tangible personal
6 property or substance, of which such property becomes an ingredient
7 or component or is a chemical used in processing, when the primary
8 purpose of such chemical is to create a chemical reaction directly
9 through contact with an ingredient of a new article being produced
10 for sale; or

11 (iv) Purchases for the purpose of consuming the property
12 purchased in producing ferrosilicon which is subsequently used in
13 producing magnesium for sale, if the primary purpose of such property
14 is to create a chemical reaction directly through contact with an
15 ingredient of ferrosilicon; or

16 (v) Purchases for the purpose of providing the property to
17 consumers as part of competitive telephone service, as defined in RCW
18 82.04.065; or

19 (vi) Purchases for the purpose of satisfying the person's
20 obligations under an extended warranty as defined in subsection (7)
21 of this section, if such tangible personal property replaces or
22 becomes an ingredient or component of property covered by the
23 extended warranty without intervening use by such person.

24 (b) The term includes every sale of tangible personal property
25 that is used or consumed or to be used or consumed in the performance
26 of any activity defined as a "sale at retail" or "retail sale" even
27 though such property is resold or used as provided in (a)(i) through
28 (vi) of this subsection following such use.

29 (c) The term also means every sale of tangible personal property
30 to persons engaged in any business that is taxable under RCW
31 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

32 (2) The term "sale at retail" or "retail sale" includes the sale
33 of or charge made for tangible personal property consumed and/or for
34 labor and services rendered in respect to the following:

35 (a) The installing, repairing, cleaning, altering, imprinting, or
36 improving of tangible personal property of or for consumers,
37 including charges made for the mere use of facilities in respect
38 thereto, but excluding charges made for the use of self-service
39 laundry facilities, and also excluding sales of laundry service to

1 nonprofit health care facilities, and excluding services rendered in
2 respect to live animals, birds and insects;

3 (b) The constructing, repairing, decorating, or improving of new
4 or existing buildings or other structures under, upon, or above real
5 property of or for consumers, including the installing or attaching
6 of any article of tangible personal property therein or thereto,
7 whether or not such personal property becomes a part of the realty by
8 virtue of installation, and also includes the sale of services or
9 charges made for the clearing of land and the moving of earth
10 excepting the mere leveling of land used in commercial farming or
11 agriculture;

12 (c) The constructing, repairing, or improving of any structure
13 upon, above, or under any real property owned by an owner who conveys
14 the property by title, possession, or any other means to the person
15 performing such construction, repair, or improvement for the purpose
16 of performing such construction, repair, or improvement and the
17 property is then reconveyed by title, possession, or any other means
18 to the original owner;

19 (d) The cleaning, fumigating, razing, or moving of existing
20 buildings or structures, but does not include the charge made for
21 janitorial services; and for purposes of this section the term
22 "janitorial services" means those cleaning and caretaking services
23 ordinarily performed by commercial janitor service businesses
24 including, but not limited to, wall and window washing, floor
25 cleaning and waxing, and the cleaning in place of rugs, drapes and
26 upholstery. The term "janitorial services" does not include painting,
27 papering, repairing, furnace or septic tank cleaning, snow removal or
28 sandblasting;

29 (e) Automobile towing and similar automotive transportation
30 services, but not in respect to those required to report and pay
31 taxes under chapter 82.16 RCW;

32 (f) The furnishing of lodging and all other services by a hotel,
33 rooming house, tourist court, motel, trailer camp, and the granting
34 of any similar license to use real property, as distinguished from
35 the renting or leasing of real property, and it is presumed that the
36 occupancy of real property for a continuous period of one month or
37 more constitutes a rental or lease of real property and not a mere
38 license to use or enjoy the same. For the purposes of this
39 subsection, it is presumed that the sale of and charge made for the
40 furnishing of lodging for a continuous period of one month or more to

1 a person is a rental or lease of real property and not a mere license
2 to enjoy the same;

3 (g) The installing, repairing, altering, or improving of digital
4 goods for consumers;

5 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
6 of this subsection when such sales or charges are for property, labor
7 and services which are used or consumed in whole or in part by such
8 persons in the performance of any activity defined as a "sale at
9 retail" or "retail sale" even though such property, labor and
10 services may be resold after such use or consumption. Nothing
11 contained in this subsection may be construed to modify subsection
12 (1) of this section and nothing contained in subsection (1) of this
13 section may be construed to modify this subsection.

14 (3) The term "sale at retail" or "retail sale" includes the sale
15 of or charge made for personal, business, or professional services
16 including amounts designated as interest, rents, fees, admission, and
17 other service emoluments however designated, received by persons
18 engaging in the following business activities:

19 (a)(i) Amusement and recreation services including but not
20 limited to golf, pool, billiards, skating, bowling, ski lifts and
21 tows, day trips for sightseeing purposes, and others, when provided
22 to consumers.

23 (ii) Until July 1, 2017, amusement and recreation services do not
24 include the opportunity to dance provided by an establishment in
25 exchange for a cover charge.

26 (iii) For purposes of this subsection (3)(a):

27 (A) "Cover charge" means a charge, regardless of its label, to
28 enter an establishment or added to the purchaser's bill by an
29 establishment or otherwise collected after entrance to the
30 establishment, and the purchaser is provided the opportunity to dance
31 in exchange for payment of the charge.

32 (B) "Opportunity to dance" means that an establishment provides a
33 designated physical space, on either a temporary or permanent basis,
34 where customers are allowed to dance and the establishment either
35 advertises or otherwise makes customers aware that it has an area for
36 dancing;

37 (b) Abstract, title insurance, and escrow services;

38 (c) Credit bureau services;

39 (d) Automobile parking and storage garage services;

1 (e) Landscape maintenance and horticultural services but
2 excluding (i) horticultural services provided to farmers and (ii)
3 pruning, trimming, repairing, removing, and clearing of trees and
4 brush near electric transmission or distribution lines or equipment,
5 if performed by or at the direction of an electric utility;

6 (f) Service charges associated with tickets to professional
7 sporting events; and

8 (g) The following personal services: Physical fitness services,
9 tanning salon services, tattoo parlor services, steam bath services,
10 turkish bath services, escort services, and dating services.

11 (4)(a) The term also includes the renting or leasing of tangible
12 personal property to consumers.

13 (b) The term does not include the renting or leasing of tangible
14 personal property where the lease or rental is for the purpose of
15 sublease or subrent.

16 (5) The term also includes the providing of "competitive
17 telephone service," "telecommunications service," or "ancillary
18 services," as those terms are defined in RCW 82.04.065, to consumers.

19 (6)(a) The term also includes the sale of prewritten computer
20 software to a consumer, regardless of the method of delivery to the
21 end user. For purposes of ~~((this subsection (6))~~ (a) and (b) of this
22 subsection, the sale of prewritten computer software includes the
23 sale of or charge made for a key or an enabling or activation code,
24 where the key or code is required to activate prewritten computer
25 software and put the software into use. There is no separate sale of
26 the key or code from the prewritten computer software, regardless of
27 how the sale may be characterized by the vendor or by the purchaser.

28 (b) The term "retail sale" does not include the sale of or charge
29 made for:

30 (i) Custom software; or

31 (ii) The customization of prewritten computer software.

32 ~~((b))~~ (c)(i) The term also includes the charge made to
33 consumers for the right to access and use prewritten computer
34 software, where possession of the software is maintained by the
35 seller or a third party, regardless of whether the charge for the
36 service is on a per use, per user, per license, subscription, or some
37 other basis.

38 (ii)(A) The service described in ~~((b))~~ (c)(i) of this
39 subsection (6) includes the right to access and use prewritten
40 computer software to perform data processing.

1 (B) For purposes of this subsection (6)((~~b~~)) (c)(ii), "data
2 processing" means the systematic performance of operations on data to
3 extract the required information in an appropriate form or to convert
4 the data to usable information. Data processing includes check
5 processing, image processing, form processing, survey processing,
6 payroll processing, claim processing, and similar activities.

7 (7) The term also includes the sale of or charge made for an
8 extended warranty to a consumer. For purposes of this subsection,
9 "extended warranty" means an agreement for a specified duration to
10 perform the replacement or repair of tangible personal property at no
11 additional charge or a reduced charge for tangible personal property,
12 labor, or both, or to provide indemnification for the replacement or
13 repair of tangible personal property, based on the occurrence of
14 specified events. The term "extended warranty" does not include an
15 agreement, otherwise meeting the definition of extended warranty in
16 this subsection, if no separate charge is made for the agreement and
17 the value of the agreement is included in the sales price of the
18 tangible personal property covered by the agreement. For purposes of
19 this subsection, "sales price" has the same meaning as in RCW
20 82.08.010.

21 (8)(a) The term also includes the following sales to consumers of
22 digital goods, digital codes, and digital automated services:

23 (i) Sales in which the seller has granted the purchaser the right
24 of permanent use;

25 (ii) Sales in which the seller has granted the purchaser a right
26 of use that is less than permanent;

27 (iii) Sales in which the purchaser is not obligated to make
28 continued payment as a condition of the sale; and

29 (iv) Sales in which the purchaser is obligated to make continued
30 payment as a condition of the sale.

31 (b) A retail sale of digital goods, digital codes, or digital
32 automated services under this subsection (8) includes any services
33 provided by the seller exclusively in connection with the digital
34 goods, digital codes, or digital automated services, whether or not a
35 separate charge is made for such services.

36 (c) For purposes of this subsection, "permanent" means perpetual
37 or for an indefinite or unspecified length of time. A right of
38 permanent use is presumed to have been granted unless the agreement
39 between the seller and the purchaser specifies or the circumstances

1 surrounding the transaction suggest or indicate that the right to use
2 terminates on the occurrence of a condition subsequent.

3 (9) The term also includes the charge made for providing tangible
4 personal property along with an operator for a fixed or indeterminate
5 period of time. A consideration of this is that the operator is
6 necessary for the tangible personal property to perform as designed.
7 For the purpose of this subsection (9), an operator must do more than
8 maintain, inspect, or set up the tangible personal property.

9 (10) The term does not include the sale of or charge made for
10 labor and services rendered in respect to the building, repairing, or
11 improving of any street, place, road, highway, easement, right-of-
12 way, mass public transportation terminal or parking facility, bridge,
13 tunnel, or trestle which is owned by a municipal corporation or
14 political subdivision of the state or by the United States and which
15 is used or to be used primarily for foot or vehicular traffic
16 including mass transportation vehicles of any kind.

17 (11) The term also does not include sales of chemical sprays or
18 washes to persons for the purpose of postharvest treatment of fruit
19 for the prevention of scald, fungus, mold, or decay, nor does it
20 include sales of feed, seed, seedlings, fertilizer, agents for
21 enhanced pollination including insects such as bees, and spray
22 materials to: (a) Persons who participate in the federal conservation
23 reserve program, the environmental quality incentives program, the
24 wetlands reserve program, and the wildlife habitat incentives
25 program, or their successors administered by the United States
26 department of agriculture; (b) farmers for the purpose of producing
27 for sale any agricultural product; (c) farmers for the purpose of
28 providing bee pollination services; and (~~(c)~~) (d) farmers acting
29 under cooperative habitat development or access contracts with an
30 organization exempt from federal income tax under 26 U.S.C. Sec.
31 501(c)(3) of the federal internal revenue code or the Washington
32 state department of fish and wildlife to produce or improve wildlife
33 habitat on land that the farmer owns or leases.

34 (12) The term does not include the sale of or charge made for
35 labor and services rendered in respect to the constructing,
36 repairing, decorating, or improving of new or existing buildings or
37 other structures under, upon, or above real property of or for the
38 United States, any instrumentality thereof, or a county or city
39 housing authority created pursuant to chapter 35.82 RCW, including
40 the installing, or attaching of any article of tangible personal

1 property therein or thereto, whether or not such personal property
2 becomes a part of the realty by virtue of installation. Nor does the
3 term include the sale of services or charges made for the clearing of
4 land and the moving of earth of or for the United States, any
5 instrumentality thereof, or a county or city housing authority. Nor
6 does the term include the sale of services or charges made for
7 cleaning up for the United States, or its instrumentalities,
8 radioactive waste and other by-products of weapons production and
9 nuclear research and development.

10 (13) The term does not include the sale of or charge made for
11 labor, services, or tangible personal property pursuant to agreements
12 providing maintenance services for bus, rail, or rail fixed guideway
13 equipment when a regional transit authority is the recipient of the
14 labor, services, or tangible personal property, and a transit agency,
15 as defined in RCW 81.104.015, performs the labor or services.

16 (14) The term does not include the sale for resale of any service
17 described in this section if the sale would otherwise constitute a
18 "sale at retail" and "retail sale" under this section.

19 **Sec. 1105.** RCW 82.04.050 and 2015 c 169 s 1 are each amended to
20 read as follows:

21 (1)(a) "Sale at retail" or "retail sale" means every sale of
22 tangible personal property (including articles produced, fabricated,
23 or imprinted) to all persons irrespective of the nature of their
24 business and including, among others, without limiting the scope
25 hereof, persons who install, repair, clean, alter, improve,
26 construct, or decorate real or personal property of or for consumers
27 other than a sale to a person who:

28 (i) Purchases for the purpose of resale as tangible personal
29 property in the regular course of business without intervening use by
30 such person, but a purchase for the purpose of resale by a regional
31 transit authority under RCW 81.112.300 is not a sale for resale; or

32 (ii) Installs, repairs, cleans, alters, imprints, improves,
33 constructs, or decorates real or personal property of or for
34 consumers, if such tangible personal property becomes an ingredient
35 or component of such real or personal property without intervening
36 use by such person; or

37 (iii) Purchases for the purpose of consuming the property
38 purchased in producing for sale as a new article of tangible personal
39 property or substance, of which such property becomes an ingredient

1 or component or is a chemical used in processing, when the primary
2 purpose of such chemical is to create a chemical reaction directly
3 through contact with an ingredient of a new article being produced
4 for sale; or

5 (iv) Purchases for the purpose of consuming the property
6 purchased in producing ferrosilicon which is subsequently used in
7 producing magnesium for sale, if the primary purpose of such property
8 is to create a chemical reaction directly through contact with an
9 ingredient of ferrosilicon; or

10 (v) Purchases for the purpose of providing the property to
11 consumers as part of competitive telephone service, as defined in RCW
12 82.04.065; or

13 (vi) Purchases for the purpose of satisfying the person's
14 obligations under an extended warranty as defined in subsection (7)
15 of this section, if such tangible personal property replaces or
16 becomes an ingredient or component of property covered by the
17 extended warranty without intervening use by such person.

18 (b) The term includes every sale of tangible personal property
19 that is used or consumed or to be used or consumed in the performance
20 of any activity defined as a "sale at retail" or "retail sale" even
21 though such property is resold or used as provided in (a)(i) through
22 (vi) of this subsection following such use.

23 (c) The term also means every sale of tangible personal property
24 to persons engaged in any business that is taxable under RCW
25 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

26 (2) The term "sale at retail" or "retail sale" includes the sale
27 of or charge made for tangible personal property consumed and/or for
28 labor and services rendered in respect to the following:

29 (a) The installing, repairing, cleaning, altering, imprinting, or
30 improving of tangible personal property of or for consumers,
31 including charges made for the mere use of facilities in respect
32 thereto, but excluding charges made for the use of self-service
33 laundry facilities, and also excluding sales of laundry service to
34 nonprofit health care facilities, and excluding services rendered in
35 respect to live animals, birds and insects;

36 (b) The constructing, repairing, decorating, or improving of new
37 or existing buildings or other structures under, upon, or above real
38 property of or for consumers, including the installing or attaching
39 of any article of tangible personal property therein or thereto,
40 whether or not such personal property becomes a part of the realty by

1 virtue of installation, and also includes the sale of services or
2 charges made for the clearing of land and the moving of earth
3 excepting the mere leveling of land used in commercial farming or
4 agriculture;

5 (c) The constructing, repairing, or improving of any structure
6 upon, above, or under any real property owned by an owner who conveys
7 the property by title, possession, or any other means to the person
8 performing such construction, repair, or improvement for the purpose
9 of performing such construction, repair, or improvement and the
10 property is then reconveyed by title, possession, or any other means
11 to the original owner;

12 (d) The cleaning, fumigating, razing, or moving of existing
13 buildings or structures, but does not include the charge made for
14 janitorial services; and for purposes of this section the term
15 "janitorial services" means those cleaning and caretaking services
16 ordinarily performed by commercial janitor service businesses
17 including, but not limited to, wall and window washing, floor
18 cleaning and waxing, and the cleaning in place of rugs, drapes and
19 upholstery. The term "janitorial services" does not include painting,
20 papering, repairing, furnace or septic tank cleaning, snow removal or
21 sandblasting;

22 (e) Automobile towing and similar automotive transportation
23 services, but not in respect to those required to report and pay
24 taxes under chapter 82.16 RCW;

25 (f) The furnishing of lodging and all other services by a hotel,
26 rooming house, tourist court, motel, trailer camp, and the granting
27 of any similar license to use real property, as distinguished from
28 the renting or leasing of real property, and it is presumed that the
29 occupancy of real property for a continuous period of one month or
30 more constitutes a rental or lease of real property and not a mere
31 license to use or enjoy the same. For the purposes of this
32 subsection, it is presumed that the sale of and charge made for the
33 furnishing of lodging for a continuous period of one month or more to
34 a person is a rental or lease of real property and not a mere license
35 to enjoy the same;

36 (g) The installing, repairing, altering, or improving of digital
37 goods for consumers;

38 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
39 of this subsection when such sales or charges are for property, labor
40 and services which are used or consumed in whole or in part by such

1 persons in the performance of any activity defined as a "sale at
2 retail" or "retail sale" even though such property, labor and
3 services may be resold after such use or consumption. Nothing
4 contained in this subsection may be construed to modify subsection
5 (1) of this section and nothing contained in subsection (1) of this
6 section may be construed to modify this subsection.

7 (3) The term "sale at retail" or "retail sale" includes the sale
8 of or charge made for personal, business, or professional services
9 including amounts designated as interest, rents, fees, admission, and
10 other service emoluments however designated, received by persons
11 engaging in the following business activities:

12 (a) Abstract, title insurance, and escrow services;

13 (b) Credit bureau services;

14 (c) Automobile parking and storage garage services;

15 (d) Landscape maintenance and horticultural services but
16 excluding (i) horticultural services provided to farmers and (ii)
17 pruning, trimming, repairing, removing, and clearing of trees and
18 brush near electric transmission or distribution lines or equipment,
19 if performed by or at the direction of an electric utility;

20 (e) Service charges associated with tickets to professional
21 sporting events;

22 (f) The following personal services: Tanning salon services,
23 tattoo parlor services, steam bath services, turkish bath services,
24 escort services, and dating services; and

25 (g)(i) Operating an athletic or fitness facility, including all
26 charges for the use of such a facility or for any associated services
27 and amenities, except as provided in (g)(ii) of this subsection.

28 (ii) Notwithstanding anything to the contrary in (g)(i) of this
29 subsection (3), the term "sale at retail" and "retail sale" under
30 this subsection does not include:

31 (A) Separately stated charges for the use of an athletic or
32 fitness facility where such use is primarily for a purpose other than
33 engaging in or receiving instruction in a physical fitness activity;

34 (B) Separately stated charges for the use of a discrete portion
35 of an athletic or fitness facility, other than a pool, where such
36 discrete portion of the facility does not by itself meet the
37 definition of "athletic or fitness facility" in this subsection;

38 (C) Separately stated charges for services, such as advertising,
39 massage, nutritional consulting, and body composition testing, that
40 do not require the customer to engage in physical fitness activities

1 to receive the service. The exclusion in this subsection
2 (3)(g)(ii)(C) does not apply to personal training services and
3 instruction in a physical fitness activity;

4 (D) Separately stated charges for physical therapy provided by a
5 physical therapist, as those terms are defined in RCW 18.74.010, or
6 occupational therapy provided by an occupational therapy
7 practitioner, as those terms are defined in RCW 18.59.020, when
8 performed pursuant to a referral from an authorized health care
9 practitioner or in consultation with an authorized health care
10 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an
11 authorized health care practitioner means a health care practitioner
12 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or
13 18.71A RCW;

14 (E) Rent or association fees charged by a landlord or residential
15 association to a tenant or residential owner with access to an
16 athletic or fitness facility maintained by the landlord or
17 residential association, unless the rent or fee varies depending on
18 whether the tenant or owner has access to the facility;

19 (F) Services provided in the regular course of employment by an
20 employee with access to an athletic or fitness facility maintained by
21 the employer for use without charge by its employees or their family
22 members;

23 (G) The provision of access to an athletic or fitness facility by
24 an educational institution to its students and staff. However,
25 charges made by an educational institution to its alumni or other
26 members of the public for the use of any of the educational
27 institution's athletic or fitness facilities are a retail sale under
28 this subsection (3)(g). For purposes of this subsection
29 (3)(g)(ii)(G), "educational institution" has the same meaning as in
30 RCW 82.04.170; and

31 (H) Yoga, tai chi, or chi gong classes held at a community
32 center, park, gymnasium, college or university, hospital or other
33 medical facility, private residence, or any facility that is not
34 primarily used for physical fitness activities other than yoga, tai
35 chi, or chi gong classes.

36 (iii) Nothing in (g)(ii) of this subsection (3) may be construed
37 to affect the taxation of sales made by the operator of an athletic
38 or fitness facility, where such sales are defined as a retail sale
39 under any provision of this section other than this subsection (3).

1 (iv) For the purposes of this subsection (3)(g), the following
2 definitions apply:

3 (A) "Athletic or fitness facility" means an indoor or outdoor
4 facility or portion of a facility that is primarily used for:
5 Exercise classes; strength and conditioning programs; personal
6 training services; tennis, racquetball, handball, squash, or
7 pickleball; yoga; boxing, kickboxing, wrestling, martial arts, or
8 mixed martial arts training; or other activities requiring the use of
9 exercise or strength training equipment, such as treadmills,
10 elliptical machines, stair climbers, stationary cycles, rowing
11 machines, pilates equipment, balls, climbing ropes, jump ropes, and
12 weightlifting equipment.

13 (B) "Physical fitness activities" means activities that involve
14 physical exertion for the purpose of improving or maintaining the
15 general fitness, strength, flexibility, conditioning, or health of
16 the participant.

17 (4)(a) The term also includes the renting or leasing of tangible
18 personal property to consumers.

19 (b) The term does not include the renting or leasing of tangible
20 personal property where the lease or rental is for the purpose of
21 sublease or subrent.

22 (5) The term also includes the providing of "competitive
23 telephone service," "telecommunications service," or "ancillary
24 services," as those terms are defined in RCW 82.04.065, to consumers.

25 (6)(a) The term also includes the sale of prewritten computer
26 software to a consumer, regardless of the method of delivery to the
27 end user. For purposes of ~~((this subsection (6))~~(a) and (b) of this
28 subsection, the sale of prewritten computer software includes the
29 sale of or charge made for a key or an enabling or activation code,
30 where the key or code is required to activate prewritten computer
31 software and put the software into use. There is no separate sale of
32 the key or code from the prewritten computer software, regardless of
33 how the sale may be characterized by the vendor or by the purchaser.

34 (b) The term "retail sale" does not include the sale of or charge
35 made for:

36 (i) Custom software; or

37 (ii) The customization of prewritten computer software.

38 ~~((b))~~ (c)(i) The term also includes the charge made to
39 consumers for the right to access and use prewritten computer
40 software, where possession of the software is maintained by the

1 seller or a third party, regardless of whether the charge for the
2 service is on a per use, per user, per license, subscription, or some
3 other basis.

4 (ii)(A) The service described in (~~(b)~~) (c)(i) of this
5 subsection (6) includes the right to access and use prewritten
6 computer software to perform data processing.

7 (B) For purposes of this subsection (6)(~~(b)~~) (c)(ii), "data
8 processing" means the systematic performance of operations on data to
9 extract the required information in an appropriate form or to convert
10 the data to usable information. Data processing includes check
11 processing, image processing, form processing, survey processing,
12 payroll processing, claim processing, and similar activities.

13 (7) The term also includes the sale of or charge made for an
14 extended warranty to a consumer. For purposes of this subsection,
15 "extended warranty" means an agreement for a specified duration to
16 perform the replacement or repair of tangible personal property at no
17 additional charge or a reduced charge for tangible personal property,
18 labor, or both, or to provide indemnification for the replacement or
19 repair of tangible personal property, based on the occurrence of
20 specified events. The term "extended warranty" does not include an
21 agreement, otherwise meeting the definition of extended warranty in
22 this subsection, if no separate charge is made for the agreement and
23 the value of the agreement is included in the sales price of the
24 tangible personal property covered by the agreement. For purposes of
25 this subsection, "sales price" has the same meaning as in RCW
26 82.08.010.

27 (8)(a) The term also includes the following sales to consumers of
28 digital goods, digital codes, and digital automated services:

29 (i) Sales in which the seller has granted the purchaser the right
30 of permanent use;

31 (ii) Sales in which the seller has granted the purchaser a right
32 of use that is less than permanent;

33 (iii) Sales in which the purchaser is not obligated to make
34 continued payment as a condition of the sale; and

35 (iv) Sales in which the purchaser is obligated to make continued
36 payment as a condition of the sale.

37 (b) A retail sale of digital goods, digital codes, or digital
38 automated services under this subsection (8) includes any services
39 provided by the seller exclusively in connection with the digital

1 goods, digital codes, or digital automated services, whether or not a
2 separate charge is made for such services.

3 (c) For purposes of this subsection, "permanent" means perpetual
4 or for an indefinite or unspecified length of time. A right of
5 permanent use is presumed to have been granted unless the agreement
6 between the seller and the purchaser specifies or the circumstances
7 surrounding the transaction suggest or indicate that the right to use
8 terminates on the occurrence of a condition subsequent.

9 (9) The term also includes the charge made for providing tangible
10 personal property along with an operator for a fixed or indeterminate
11 period of time. A consideration of this is that the operator is
12 necessary for the tangible personal property to perform as designed.
13 For the purpose of this subsection (9), an operator must do more than
14 maintain, inspect, or set up the tangible personal property.

15 (10) The term does not include the sale of or charge made for
16 labor and services rendered in respect to the building, repairing, or
17 improving of any street, place, road, highway, easement, right-of-
18 way, mass public transportation terminal or parking facility, bridge,
19 tunnel, or trestle which is owned by a municipal corporation or
20 political subdivision of the state or by the United States and which
21 is used or to be used primarily for foot or vehicular traffic
22 including mass transportation vehicles of any kind.

23 (11) The term also does not include sales of chemical sprays or
24 washes to persons for the purpose of postharvest treatment of fruit
25 for the prevention of scald, fungus, mold, or decay, nor does it
26 include sales of feed, seed, seedlings, fertilizer, agents for
27 enhanced pollination including insects such as bees, and spray
28 materials to: (a) Persons who participate in the federal conservation
29 reserve program, the environmental quality incentives program, the
30 wetlands reserve program, and the wildlife habitat incentives
31 program, or their successors administered by the United States
32 department of agriculture; (b) farmers for the purpose of producing
33 for sale any agricultural product; (c) farmers for the purpose of
34 providing bee pollination services; and ~~((e))~~ (d) farmers acting
35 under cooperative habitat development or access contracts with an
36 organization exempt from federal income tax under 26 U.S.C. Sec.
37 501(c)(3) of the federal internal revenue code or the Washington
38 state department of fish and wildlife to produce or improve wildlife
39 habitat on land that the farmer owns or leases.

1 (12) The term does not include the sale of or charge made for
2 labor and services rendered in respect to the constructing,
3 repairing, decorating, or improving of new or existing buildings or
4 other structures under, upon, or above real property of or for the
5 United States, any instrumentality thereof, or a county or city
6 housing authority created pursuant to chapter 35.82 RCW, including
7 the installing, or attaching of any article of tangible personal
8 property therein or thereto, whether or not such personal property
9 becomes a part of the realty by virtue of installation. Nor does the
10 term include the sale of services or charges made for the clearing of
11 land and the moving of earth of or for the United States, any
12 instrumentality thereof, or a county or city housing authority. Nor
13 does the term include the sale of services or charges made for
14 cleaning up for the United States, or its instrumentalities,
15 radioactive waste and other by-products of weapons production and
16 nuclear research and development.

17 (13) The term does not include the sale of or charge made for
18 labor, services, or tangible personal property pursuant to agreements
19 providing maintenance services for bus, rail, or rail fixed guideway
20 equipment when a regional transit authority is the recipient of the
21 labor, services, or tangible personal property, and a transit agency,
22 as defined in RCW 81.104.015, performs the labor or services.

23 (14) The term does not include the sale for resale of any service
24 described in this section if the sale would otherwise constitute a
25 "sale at retail" and "retail sale" under this section.

26 (15)(a) The term "sale at retail" or "retail sale" includes
27 amounts charged, however labeled, to consumers to engage in any of
28 the activities listed in this subsection (15)(a), including the
29 furnishing of any associated equipment or, except as otherwise
30 provided in this subsection, providing instruction in such
31 activities, where such charges are not otherwise defined as a "sale
32 at retail" or "retail sale" in this section:

33 (i)(A) Golf, including any variant in which either golf balls or
34 golf clubs are used, such as miniature golf, hitting golf balls at a
35 driving range, and golf simulators, and including fees charged by a
36 golf course to a player for using his or her own cart. However,
37 charges for golf instruction are not a retail sale, provided that if
38 the instruction involves the use of a golfing facility that would
39 otherwise require the payment of a fee, such as green fees or driving
40 range fees, such fees, including the applicable retail sales tax,

1 must be separately identified and charged by the golfing facility
2 operator to the instructor or the person receiving the instruction.

3 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except
4 as otherwise provided in this subsection (15)(a)(i)(B), the term
5 "sale at retail" or "retail sale" does not include amounts charged to
6 participate in, or conduct, a golf tournament or other competitive
7 event. However, amounts paid by event participants to the golf
8 facility operator are retail sales under this subsection (15)(a)(i).
9 Likewise, amounts paid by the event organizer to the golf facility
10 are retail sales under this subsection (15)(a)(i), if such amounts
11 vary based on the number of event participants;

12 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,
13 paragliding, parasailing, and similar activities;

14 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,
15 ping pong, and similar games;

16 (iv) Access to amusement park, theme park, and water park
17 facilities, including but not limited to charges for admission and
18 locker or cabana rentals. Discrete charges for rides or other
19 attractions or entertainment that are in addition to the charge for
20 admission are not a retail sale under this subsection (15)(a)(iv).
21 For the purposes of this subsection, an amusement park or theme park
22 is a location that provides permanently affixed amusement rides,
23 games, and other entertainment, but does not include parks or zoos
24 for which the primary purpose is the exhibition of wildlife, or
25 fairs, carnivals, and festivals as defined in (b)(i) of this
26 subsection;

27 (v) Batting cage activities;

28 (vi) Bowling, but not including competitive events, except that
29 amounts paid by the event participants to the bowling alley operator
30 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
31 paid by the event organizer to the operator of the bowling alley are
32 retail sales under this subsection (15)(a)(vi), if such amounts vary
33 based on the number of event participants;

34 (vii) Climbing on artificial climbing structures, whether indoors
35 or outdoors;

36 (viii) Day trips for sightseeing purposes;

37 (ix) Bungee jumping, zip lining, and riding inside a ball,
38 whether inflatable or otherwise;

39 (x) Horseback riding offered to the public, where the seller
40 furnishes the horse to the buyer and providing instruction is not the

1 primary focus of the activity, including guided rides, but not
2 including therapeutic horseback riding provided by an instructor
3 certified by a nonprofit organization that offers national or
4 international certification for therapeutic riding instructors;

5 (xi) Fishing, including providing access to private fishing areas
6 and charter or guided fishing, except that fishing contests and
7 license fees imposed by a government entity are not a retail sale
8 under this subsection;

9 (xii) Guided hunting and hunting at game farms and shooting
10 preserves, except that hunting contests and license fees imposed by a
11 government entity are not a retail sale under this subsection;

12 (xiii) Swimming, but only in respect to (A) recreational or
13 fitness swimming that is open to the public, such as open swim, lap
14 swimming, and special events like kids night out and pool parties
15 during open swim time, and (B) pool parties for private events, such
16 as birthdays, family gatherings, and employee outings. Fees for
17 swimming lessons, to participate in swim meets and other
18 competitions, or to join a swim team, club, or aquatic facility are
19 not retail sales under this subsection (15)(a)(xiii);

20 (xiv) Go-karting, bumper cars, and other motorized activities
21 where the seller provides the vehicle and the premises where the
22 buyer will operate the vehicle;

23 (xv) Indoor or outdoor playground activities, such as inflatable
24 bounce structures and other inflatables; mazes; trampolines; slides;
25 ball pits; games of tag, including laser tag and soft-dart tag; and
26 human gyroscope rides, regardless of whether such activities occur at
27 the seller's place of business, but not including playground
28 activities provided for children by a licensed child day care center
29 or licensed family day care provider as those terms are defined in
30 RCW 43.215.010;

31 (xvi) Shooting sports and activities, such as target shooting,
32 skeet, trap, sporting clays, "5" stand, and archery, but only in
33 respect to discrete charges to members of the public to engage in
34 these activities, but not including fees to enter a competitive
35 event, instruction that is entirely or predominately classroom based,
36 or to join or renew a membership at a club, range, or other facility;

37 (xvii) Paintball and airsoft activities;

38 (xviii) Skating, including ice skating, roller skating, and
39 inline skating, but only in respect to discrete charges to members of
40 the public to engage in skating activities, but not including skating

1 lessons, competitive events, team activities, or fees to join or
2 renew a membership at a skating facility, club, or other
3 organization;

4 (xix) Nonmotorized snow sports and activities, such as downhill
5 and cross-country skiing, snowboarding, ski jumping, sledding, snow
6 tubing, snowshoeing, and similar snow sports and activities, whether
7 engaged in outdoors or in an indoor facility with or without snow,
8 but only in respect to discrete charges to the public for the use of
9 land or facilities to engage in nonmotorized snow sports and
10 activities, such as fees, however labeled, for the use of ski lifts
11 and tows and daily or season passes for access to trails or other
12 areas where nonmotorized snow sports and activities are conducted.
13 However, fees for the following are not retail sales under this
14 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits
15 issued by a governmental entity to park a vehicle on or access public
16 lands; and (C) permits or leases granted by an owner of private
17 timberland for recreational access to areas used primarily for
18 growing and harvesting timber; and

19 (xx) Scuba diving; snorkeling; river rafting; surfing;
20 kiteboarding; flyboarding; water slides; inflatables, such as water
21 pillows, water trampolines, and water rollers; and similar water
22 sports and activities.

23 (b) Notwithstanding anything to the contrary in this subsection
24 (15), the term "sale at retail" or "retail sale" does not include
25 charges:

26 (i) Made for admission to, and rides or attractions at, fairs,
27 carnivals, and festivals. For the purposes of this subsection, fairs,
28 carnivals, and festivals are events that do not exceed twenty-one
29 days and a majority of the amusement rides, if any, are not affixed
30 to real property;

31 (ii) Made by an educational institution to its students and staff
32 for activities defined as retail sales by (a)(i) through (xx) of this
33 subsection. However, charges made by an educational institution to
34 its alumni or other members of the general public for these
35 activities are a retail sale under this subsection (15). For purposes
36 of this subsection (15)(b)(ii), "educational institution" has the
37 same meaning as in RCW 82.04.170;

38 (iii) Made by a vocational school for commercial diver training
39 that is licensed by the workforce training and education coordinating
40 board under chapter 28C.10 RCW; or

1 (iv) Made for day camps offered by a nonprofit organization or
2 state or local governmental entity that provide youth not older than
3 age eighteen, or that are focused on providing individuals with
4 disabilities or mental illness, the opportunity to participate in a
5 variety of supervised activities.

6 **Sec. 1106.** RCW 82.08.855 and 2014 c 97 s 601 are each amended to
7 read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to the sale to
9 an eligible farmer of:

10 (a) Replacement parts for qualifying farm machinery and
11 equipment;

12 (b) Labor and services rendered in respect to the installing of
13 replacement parts; and

14 (c) Labor and services rendered in respect to the repairing of
15 qualifying farm machinery and equipment, provided that during the
16 course of repairing no tangible personal property is installed,
17 incorporated, or placed in, or becomes an ingredient or component of,
18 the qualifying farm machinery and equipment other than replacement
19 parts.

20 (2)(a) Notwithstanding anything to the contrary in this chapter,
21 if a single transaction involves services that are not exempt under
22 this section and services that would be exempt under this section if
23 provided separately, the exemptions provided in subsection (1)(b) and
24 (c) of this section apply if: (i) The seller makes a separately
25 itemized charge for labor and services described in subsection (1)(b)
26 or (c) of this section; and (ii) the separately itemized charge does
27 not exceed the seller's usual and customary charge for such services.

28 (b) If the requirements in (a)(i) and (ii) of this subsection (2)
29 are met, the exemption provided in subsection (1)(b) or (c) of this
30 section applies to the separately itemized charge for labor and
31 services described in subsection (1)(b) or (c) of this section.

32 (3)(a) A purchaser claiming an exemption under this section must
33 keep records necessary for the department to verify eligibility under
34 this section. Sellers making tax-exempt sales under this section must
35 obtain an exemption certificate from the purchaser in a form and
36 manner prescribed by the department. In lieu of an exemption
37 certificate, a seller may capture the relevant data elements as
38 allowed under the streamlined sales and use tax agreement. The seller

1 must retain a copy of the certificate or the data elements for the
2 seller's files.

3 (b)(i) For a person who is an eligible farmer as defined in
4 subsection (4)(b)(iv) of this section, the exemption is conditioned
5 upon:

6 (A) The eligible farmer having gross sales or a harvested value
7 of agricultural products grown, raised, or produced by that person or
8 gross sales of bee pollination services of at least ten thousand
9 dollars in the first full tax year in which the person engages in
10 business as a farmer; or

11 (B) The eligible farmer, during the first full tax year in which
12 that person engages in business as a farmer, growing, raising, or
13 producing agricultural products or bee pollination services having an
14 estimated value at any time during that year of at least ten thousand
15 dollars, if the person will not sell or harvest an agricultural
16 product or bee pollination service during the first full tax year in
17 which the person engages in business as a farmer.

18 (ii) If a person fails to meet the condition provided in
19 (b)(i)(A) or (B) of this subsection, the person must repay any taxes
20 exempted under this section. Any taxes for which an exemption under
21 this section was claimed are due and payable to the department within
22 thirty days of the end of the first full tax year in which the person
23 engages in business as a farmer. The department must assess interest
24 on the taxes for which the exemption was claimed as provided in
25 chapter 82.32 RCW, retroactively to the date the exemption was
26 claimed, and accrues until the taxes for which the exemption was
27 claimed are paid. Penalties may not be imposed on any tax required to
28 be paid under this subsection (3) (b)(ii) if full payment is received
29 by the due date.

30 (4) The definitions in this subsection apply throughout this
31 section unless the context clearly requires otherwise.

32 (a) "Agricultural products" has the meaning provided in RCW
33 82.04.213.

34 (b) "Eligible farmer" means:

35 (i) A farmer as defined in RCW 82.04.213 whose gross sales or
36 harvested value of agricultural products grown, raised, or produced
37 by that person or gross sales of bee pollination services was at
38 least ten thousand dollars for the immediately preceding tax year;

39 (ii) A farmer as defined in RCW 82.04.213 whose agricultural
40 products had an estimated value of at least ten thousand dollars for

1 the immediately preceding tax year, if the person did not sell or
2 harvest an agricultural product or bee pollination service during
3 that year;

4 (iii) A farmer as defined in RCW 82.04.213 who has merely changed
5 identity or the form of ownership of an entity that was an eligible
6 farmer, where there was no change in beneficial ownership, and the
7 combined gross sales, harvested value, or estimated value of
8 agricultural products or bee pollination services by both entities
9 met the requirements of (b)(i) or (ii) of this subsection for the
10 immediately preceding tax year;

11 (iv) A farmer as defined in RCW 82.04.213(~~(v)~~) who does not meet
12 the definition of "eligible farmer" in (b)(i), (ii), or (iii) of this
13 subsection, and who did not engage in farming for the entire
14 immediately preceding tax year, because the farmer is either new to
15 farming or newly returned to farming; or

16 (v) Anyone who otherwise meets the definition of "eligible
17 farmer" in this subsection except that they are not a "person" as
18 defined in RCW 82.04.030.

19 (c) "Farm vehicle" has the same meaning as in RCW 46.04.181.

20 (d) "Harvested value" means the number of units of the
21 agricultural product that were grown, raised, or produced, multiplied
22 by the average sales price of the agricultural product. For purposes
23 of this subsection (4)(d), "average sales price" means the average
24 price per unit of agricultural product received by farmers in this
25 state as reported by the United States department of agriculture's
26 national agricultural statistics service for the twelve-month period
27 that coincides with, or that ends closest to, the end of the relevant
28 tax year, regardless of whether the prices are subject to revision.
29 If the price per unit of an agricultural product received by farmers
30 in this state is not available from the national agricultural
31 statistics service, average sales price may be determined by using
32 the average price per unit of agricultural product received by
33 farmers in this state as reported by a recognized authority for the
34 agricultural product.

35 (e) "Qualifying farm machinery and equipment" means machinery and
36 equipment used primarily by an eligible farmer for growing, raising,
37 or producing agricultural products, providing bee pollination
38 services, or both. "Qualifying farm machinery and equipment" does not
39 include:

1 (i) Vehicles as defined in RCW 46.04.670, other than farm
2 tractors as defined in RCW 46.04.180, farm vehicles, and other farm
3 implements. For purposes of this subsection (4)(e)(i), "farm
4 implement" means machinery or equipment manufactured, designed, or
5 reconstructed for agricultural purposes and used primarily by an
6 eligible farmer to grow, raise, or produce agricultural products, but
7 does not include lawn tractors and all-terrain vehicles;

8 (ii) Aircraft;

9 (iii) Hand tools and hand-powered tools; and

10 (iv) Property with a useful life of less than one year.

11 (f)(i) "Replacement parts" means those parts that replace an
12 existing part, or which are essential to maintain the working
13 condition, of a piece of qualifying farm machinery or equipment.

14 (ii) Paint, fuel, oil, hydraulic fluids, antifreeze, and similar
15 items are not replacement parts except when installed, incorporated,
16 or placed in qualifying farm machinery and equipment during the
17 course of installing replacement parts as defined in (f)(i) of this
18 subsection or making repairs as described in subsection (1)(c) of
19 this section.

20 (g) "Tax year" means the period for which a person files its
21 federal income tax return, irrespective of whether the period
22 represents a calendar year, fiscal year, or some other consecutive
23 twelve-month period. If a person is not required to file a federal
24 income tax return, "tax year" means a calendar year.

25 NEW SECTION. **Sec. 1107.** The following acts or parts of acts are
26 each repealed:

27 (1) RCW 82.04.629 (Exemptions—Honey bee products) and 2013 2nd
28 sp.s. c 13 s 306 & 2008 c 314 s 2;

29 (2) RCW 82.04.630 (Exemptions—Bee pollination services) and 2013
30 2nd sp.s. c 13 s 307 & 2008 c 314 s 3;

31 (3) RCW 82.08.0204 (Exemptions—Honey bees) and 2013 2nd sp.s. c
32 13 s 308 & 2008 c 314 s 4;

33 (4) RCW 82.12.0204 (Exemptions—Honey bees) and 2013 2nd sp.s. c
34 13 s 309 & 2008 c 314 s 5;

35 (5) RCW 82.08.200 (Exemptions—Honey beekeepers) and 2013 2nd
36 sp.s. c 13 s 302;

37 (6) RCW 82.12.200 (Exemptions—Honey beekeepers) and 2013 2nd
38 sp.s. c 13 s 303; and

1 (7) RCW 43.136.047 (Beekeeper evaluation) and 2013 2nd sp.s. c 13
2 s 304.

3 NEW SECTION. **Sec. 1108.** The legislature intends for the
4 amendments in this act to be permanent. Therefore, the amendments in
5 Part XI of this act are exempt from the provision in RCW 82.32.805
6 and 82.32.808.

7 **PART XII**
8 **[NOT USED]**

9 **PART XIII**
10 **[NOT USED]**

11 **PART XIV**
12 **[NOT USED]**

13 **PART XV**
14 **[NOT USED]**

15 **PART XVI**
16 **[NOT USED]**

17 **PART XVII**
18 **[NOT USED]**

19 **PART XVIII**
20 **[NOT USED]**

21 **PART XIX**

22 **Concerning a Hazardous Substance Tax Exemption for Certain Hazardous**
23 **Substances that Are Used as Agricultural Crop Protection Products and**
24 **Warehoused but not Otherwise Used, Manufactured, Packaged, or Sold in**
25 **this State**

26 NEW SECTION. **Sec. 1901.** A new section is added to chapter 82.21
27 RCW to read as follows:

28 (1) The legislature categorizes the tax preference in section
29 1902 of this act as one intended to improve industry competitiveness,
30 as indicated in RCW 82.32.808(2)(b).

1 (2) The legislature's specific public policy objective is to
2 clarify an existing exemption from the hazardous substance tax for
3 agricultural crop protection products to incentivize storing products
4 in Washington state as they are engaged in interstate commerce. The
5 legislature finds that the agricultural industry is a vital component
6 of Washington's economy, providing thousands of jobs throughout the
7 state. The legislature further finds that Washington state is the
8 ideal location for distribution centers for agricultural crop
9 protection products because Washington is an efficient transportation
10 hub for Pacific Northwest farmers, and encourages crop protection
11 products to be managed in the most protective facilities, and
12 transported using the most sound environmental means. However,
13 products being warehoused in the state are diminishing because
14 agricultural crop protection products are being redirected to out-of-
15 state distribution centers as a direct result of Washington's tax
16 burden. Relocation of this economic activity is detrimental to
17 Washington's economy through the direct loss of jobs and hazardous
18 substance tax revenue, thereby negatively impacting the supply chain
19 for Washington farmers, thereby causing increased transportation
20 usage and risk of spillage, thereby failing to encourage the most
21 environmentally protective measures. Therefore, it is the intent of
22 the legislature to encourage the regional competitiveness of
23 agricultural distribution by clarifying an exemption from the
24 hazardous substance tax for agricultural crop protection products
25 that are manufactured out-of-state, warehoused or transported into
26 the state, but ultimately shipped and sold out of Washington state.

27 (3) If a review finds an average increase in revenue of the
28 hazardous substance tax, then the legislature intends to extend the
29 expiration date of the tax preference.

30 (4) In order to obtain the data necessary to perform the review
31 in subsection (3) of this section, the joint legislative audit and
32 review committee may refer to data available from the department of
33 revenue.

34 **Sec. 1902.** RCW 82.21.040 and 1989 c 2 s 11 are each amended to
35 read as follows:

36 The following are exempt from the tax imposed in this chapter:

37 (1) Any successive possession of a previously taxed hazardous
38 substance. If tax due under this chapter has not been paid with
39 respect to a hazardous substance, the department may collect the tax

1 from any person who has had possession of the hazardous substance. If
2 the tax is paid by any person other than the first person having
3 taxable possession of a hazardous substance, the amount of tax paid
4 shall constitute a debt owed by the first person having taxable
5 possession to the person who paid the tax.

6 (2) Any possession of a hazardous substance by a natural person
7 under circumstances where the substance is used, or is to be used,
8 for a personal or domestic purpose (and not for any business purpose)
9 by that person or a relative of, or person residing in the same
10 dwelling as, that person.

11 (3) Any possession of a hazardous substance amount which is
12 determined as minimal by the department of ecology and which is
13 possessed by a retailer for the purpose of making sales to ultimate
14 consumers. This exemption does not apply to pesticide or petroleum
15 products.

16 (4) Any possession of alumina or natural gas.

17 (5)(a) Any possession of a hazardous substance as defined in RCW
18 82.21.020(1)(c) that is solely for use by a farmer or certified
19 applicator as an agricultural crop protection product and warehoused
20 in this state or transported to or from this state, provided that the
21 person possessing the substance does not otherwise use, manufacture,
22 package for sale, or sell the substance in this state.

23 (b) The definitions in this subsection apply throughout this
24 section unless the context clearly requires otherwise.

25 (i) "Agricultural crop protection product" means a chemical
26 regulated under the federal insecticide, fungicide, and rodenticide
27 act, 7 U.S.C. Sec. 136 as amended as of the effective date of this
28 section, when used to prevent, destroy, repel, mitigate, or control
29 predators, diseases, weeds, or other pests.

30 (ii) "Certified applicator" has the same meaning as provided in
31 RCW 17.21.020.

32 (iii) "Farmer" has the same meaning as in RCW 82.04.213.

33 (iv) "Manufacturing" includes mixing or combining agricultural
34 crop protection products with other chemicals or other agricultural
35 crop protection products.

36 (v) "Package for sale" includes transferring agricultural crop
37 protection products from one container to another, including the
38 transfer of fumigants and other liquid or gaseous chemicals from one
39 tank to another.

40 (vi) "Use" has the same meaning as in RCW 82.12.010.

1 not nullify the exemption if the concession charges are subject to
2 agreement and the rental income, if any, is reasonable and is devoted
3 solely to the operation and maintenance of the property.

4 (2)(a) Except as provided otherwise in this subsection and
5 subsection (3) of this section, the real and personal property owned
6 by a nonprofit fair association organized under chapter 24.06 RCW and
7 used for fair purposes is exempt from taxation if the majority of
8 such property, as determined by assessed value, was purchased or
9 acquired by the same nonprofit fair association from a county or a
10 city between 1995 and 1998.

11 (b) (~~The exemption under this subsection (2) may not be claimed~~
12 ~~for taxes levied for collection in 2019 and thereafter.~~) The use of
13 exempt property for rental purposes does not negate the exemption
14 under this subsection. However, any rental exceeding fifty
15 consecutive days during any calendar year is subject to leasehold
16 excise tax under chapter 82.29A RCW. For purposes of this subsection,
17 "rental" means a lease, permit, license, or any other agreement
18 granting possession and use, to a degree less than fee simple
19 ownership, between the nonprofit fair association and a person who
20 would not be exempt from property taxes if that person owned the
21 property in fee.

22 (3) A nonprofit fair association with real and personal property
23 having an assessed value of more than fifteen million dollars is not
24 eligible for the exemptions under this section.

25 **Sec. 2003.** RCW 82.29A.020 and 2014 c 207 s 3 and 2014 c 140 s 26
26 are each reenacted and amended to read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context requires otherwise.

29 (1)(a) "Leasehold interest" means an interest in publicly owned,
30 or specified privately owned, real or personal property which exists
31 by virtue of any lease, permit, license, or any other agreement,
32 written or verbal, between the (~~public~~) owner of the property and a
33 person who would not be exempt from property taxes if that person
34 owned the property in fee, granting possession and use, to a degree
35 less than fee simple ownership. However, no interest in personal
36 property (excluding land or buildings) which is owned by the United
37 States, whether or not as trustee, or by any foreign government may
38 constitute a leasehold interest hereunder when the right to use such
39 property is granted pursuant to a contract solely for the manufacture

1 or production of articles for sale to the United States or any
2 foreign government. The term "leasehold interest" includes the rights
3 of use or occupancy by others of property which is owned in fee or
4 held in trust by a public corporation, commission, or authority
5 created under RCW 35.21.730 or 35.21.660 if the property is listed on
6 or is within a district listed on any federal or state register of
7 historical sites.

8 (b) The term "leasehold interest" does not include:

9 (i) Road or utility easements, rights of access, occupancy, or
10 use granted solely for the purpose of removing materials or products
11 purchased from ~~((a public))~~ an owner or the lessee of ~~((a public))~~ an
12 owner, or rights of access, occupancy, or use granted solely for the
13 purpose of natural energy resource exploration; or

14 (ii) The preferential use of publicly owned cargo cranes and
15 docks and associated areas used in the loading and discharging of
16 cargo located at a port district marine facility. "Preferential use"
17 means that publicly owned real or personal property is used by a
18 private party under a written agreement with the public owner, but
19 the public owner or any third party maintains a right to use the
20 property when not being used by the private party.

21 ~~((c) "Publicly owned real or personal property" includes real or
22 personal property owned by a federally recognized Indian tribe in the
23 state and exempt from tax under RCW 84.36.010.))~~

24 (2)(a) "Taxable rent" means contract rent as defined in (c) of
25 this subsection in all cases where the lease or agreement has been
26 established or renegotiated through competitive bidding, or
27 negotiated or renegotiated in accordance with statutory requirements
28 regarding the rent payable, or negotiated or renegotiated under
29 circumstances, established by public record, clearly showing that the
30 contract rent was the maximum attainable by the lessor. With respect
31 to a leasehold interest in privately owned property, "taxable rent"
32 means contract rent. However, after January 1, 1986, with respect to
33 any lease which has been in effect for ten years or more without
34 renegotiation, taxable rent may be established by procedures set
35 forth in (g) of this subsection. All other leasehold interests are
36 subject to the determination of taxable rent under the terms of (g)
37 of this subsection.

38 (b) For purposes of determining leasehold excise tax on any lands
39 on the Hanford reservation subleased to a private or public entity by
40 the department of ecology, taxable rent includes only the annual cash

1 rental payment made by such entity to the department of ecology as
2 specifically referred to as rent in the sublease agreement between
3 the parties and does not include any other fees, assessments, or
4 charges imposed on or collected by such entity irrespective of
5 whether the private or public entity pays or collects such other
6 fees, assessments, or charges as specified in the sublease agreement.

7 (c) "Contract rent" means the amount of consideration due as
8 payment for a leasehold interest, including: The total of cash
9 payments made to the lessor or to another party for the benefit of
10 the lessor according to the requirements of the lease or agreement,
11 including any rents paid by a sublessee; expenditures for the
12 protection of the lessor's interest when required by the terms of the
13 lease or agreement; and expenditures for improvements to the property
14 to the extent that such improvements become the property of the
15 lessor. Where the consideration conveyed for the leasehold interest
16 is made in combination with payment for concession or other rights
17 granted by the lessor, only that portion of such payment which
18 represents consideration for the leasehold interest is part of
19 contract rent.

20 (d) "Contract rent" does not include: (i) Expenditures made by
21 the lessee, which under the terms of the lease or agreement, are to
22 be reimbursed by the lessor to the lessee or expenditures for
23 improvements and protection made pursuant to a lease or an agreement
24 which requires that the use of the improved property be open to the
25 general public and that no profit will inure to the lessee from the
26 lease; (ii) expenditures made by the lessee for the replacement or
27 repair of facilities due to fire or other casualty including payments
28 for insurance to provide reimbursement for losses or payments to a
29 public or private entity for protection of such property from damage
30 or loss or for alterations or additions made necessary by an action
31 of government taken after the date of the execution of the lease or
32 agreement; (iii) improvements added to publicly owned property by a
33 sublessee under an agreement executed prior to January 1, 1976, which
34 have been taxed as personal property of the sublessee prior to
35 January 1, 1976, or improvements made by a sublessee of the same
36 lessee under a similar agreement executed prior to January 1, 1976,
37 and such improvements are taxable to the sublessee as personal
38 property; (iv) improvements added to publicly owned property if such
39 improvements are being taxed as personal property to any person.

1 (e) Any prepaid contract rent is considered to have been paid in
2 the year due and not in the year actually paid with respect to
3 prepayment for a period of more than one year. Expenditures for
4 improvements with a useful life of more than one year which are
5 included as part of contract rent must be treated as prepaid contract
6 rent and prorated over the useful life of the improvement or the
7 remaining term of the lease or agreement if the useful life is in
8 excess of the remaining term of the lease or agreement. Rent prepaid
9 prior to January 1, 1976, must be prorated from the date of
10 prepayment.

11 (f) With respect to a "product lease", the value is that value
12 determined at the time of sale under terms of the lease.

13 (g) If it is determined by the department of revenue, upon
14 examination of a lessee's accounts or those of a lessor of publicly
15 owned property, that a lessee is occupying or using publicly owned
16 property in such a manner as to create a leasehold interest and that
17 such leasehold interest has not been established through competitive
18 bidding, or negotiated in accordance with statutory requirements
19 regarding the rent payable, or negotiated under circumstances,
20 established by public record, clearly showing that the contract rent
21 was the maximum attainable by the lessor, the department may
22 establish a taxable rent computation for use in determining the tax
23 payable under authority granted in this chapter based upon the
24 following criteria: (i) Consideration must be given to rental being
25 paid to other lessors by lessees of similar property for similar
26 purposes over similar periods of time; (ii) consideration must be
27 given to what would be considered a fair rate of return on the market
28 value of the property leased less reasonable deductions for any
29 restrictions on use, special operating requirements or provisions for
30 concurrent use by the lessor, another person or the general public.

31 (3) "Product lease" as used in this chapter means a lease of
32 property for use in the production of agricultural or marine
33 products, not including the production of marijuana as defined in RCW
34 69.50.101, to the extent that such lease provides for the contract
35 rent to be paid by the delivery of a stated percentage of the
36 production of such agricultural or marine products to the credit of
37 the lessor or the payment to the lessor of a stated percentage of the
38 proceeds from the sale of such products.

39 (4) "Renegotiated" means a change in the lease agreement which
40 changes the agreed time of possession, restrictions on use, the rate

1 of the cash rental or of any other consideration payable by the
2 lessee to or for the benefit of the lessor, other than any such
3 change required by the terms of the lease or agreement. In addition
4 "renegotiated" means a continuation of possession by the lessee
5 beyond the date when, under the terms of the lease agreement, the
6 lessee had the right to vacate the premises without any further
7 liability to the lessor.

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

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

14 (7) "Publicly owned, or specified privately owned, real or
15 personal property" includes real or personal property:

16 (a) Owned in fee or held in trust by a public entity and exempt
17 from property tax under the laws or Constitution of this state or the
18 Constitution of the United States;

19 (b) Owned by a federally recognized Indian tribe in the state and
20 exempt from property tax under RCW 84.36.010;

21 (c) Owned by a nonprofit fair association exempt from property
22 tax under RCW 84.36.480(2), but only with respect to that portion of
23 the fair's property subject to the tax imposed in this chapter
24 pursuant to RCW 84.36.480(2)(b); or

25 (d) Owned by a community center exempt from property tax under
26 RCW 84.36.010.

27 **Sec. 2004.** RCW 82.29A.020 and 2014 c 140 s 26 are each amended
28 to read as follows:

29 The definitions in this section apply throughout this chapter
30 unless the context requires otherwise.

31 (1)(a) "Leasehold interest" means an interest in publicly owned,
32 or specified privately owned, real or personal property which exists
33 by virtue of any lease, permit, license, or any other agreement,
34 written or verbal, between the ((public)) owner of the property and a
35 person who would not be exempt from property taxes if that person
36 owned the property in fee, granting possession and use, to a degree
37 less than fee simple ownership. However, no interest in personal
38 property (excluding land or buildings) which is owned by the United
39 States, whether or not as trustee, or by any foreign government may

1 constitute a leasehold interest hereunder when the right to use such
2 property is granted pursuant to a contract solely for the manufacture
3 or production of articles for sale to the United States or any
4 foreign government. The term "leasehold interest" includes the rights
5 of use or occupancy by others of property which is owned in fee or
6 held in trust by a public corporation, commission, or authority
7 created under RCW 35.21.730 or 35.21.660 if the property is listed on
8 or is within a district listed on any federal or state register of
9 historical sites.

10 (b) The term "leasehold interest" does not include:

11 (i) Road or utility easements, rights of access, occupancy, or
12 use granted solely for the purpose of removing materials or products
13 purchased from (~~(a public)~~) an owner or the lessee of (~~(a public)~~) an
14 owner, or rights of access, occupancy, or use granted solely for the
15 purpose of natural energy resource exploration(~~(.—"Leasehold~~
16 ~~interest" does not include))~~); or

17 (ii) The preferential use of publicly owned cargo cranes and
18 docks and associated areas used in the loading and discharging of
19 cargo located at a port district marine facility. "Preferential use"
20 means that publicly owned real or personal property is used by a
21 private party under a written agreement with the public owner, but
22 the public owner or any third party maintains a right to use the
23 property when not being used by the private party.

24 (2)(a) "Taxable rent" means contract rent as defined in (c) of
25 this subsection in all cases where the lease or agreement has been
26 established or renegotiated through competitive bidding, or
27 negotiated or renegotiated in accordance with statutory requirements
28 regarding the rent payable, or negotiated or renegotiated under
29 circumstances, established by public record, clearly showing that the
30 contract rent was the maximum attainable by the lessor. With respect
31 to a leasehold interest in privately owned property, "taxable rent"
32 means contract rent. However, after January 1, 1986, with respect to
33 any lease which has been in effect for ten years or more without
34 renegotiation, taxable rent may be established by procedures set
35 forth in (g) of this subsection. All other leasehold interests are
36 subject to the determination of taxable rent under the terms of (g)
37 of this subsection.

38 (b) For purposes of determining leasehold excise tax on any lands
39 on the Hanford reservation subleased to a private or public entity by
40 the department of ecology, taxable rent includes only the annual cash

1 rental payment made by such entity to the department of ecology as
2 specifically referred to as rent in the sublease agreement between
3 the parties and does not include any other fees, assessments, or
4 charges imposed on or collected by such entity irrespective of
5 whether the private or public entity pays or collects such other
6 fees, assessments, or charges as specified in the sublease agreement.

7 (c) "Contract rent" means the amount of consideration due as
8 payment for a leasehold interest, including: The total of cash
9 payments made to the lessor or to another party for the benefit of
10 the lessor according to the requirements of the lease or agreement,
11 including any rents paid by a sublessee; expenditures for the
12 protection of the lessor's interest when required by the terms of the
13 lease or agreement; and expenditures for improvements to the property
14 to the extent that such improvements become the property of the
15 lessor. Where the consideration conveyed for the leasehold interest
16 is made in combination with payment for concession or other rights
17 granted by the lessor, only that portion of such payment which
18 represents consideration for the leasehold interest is part of
19 contract rent.

20 (d) "Contract rent" does not include: (i) Expenditures made by
21 the lessee, which under the terms of the lease or agreement, are to
22 be reimbursed by the lessor to the lessee or expenditures for
23 improvements and protection made pursuant to a lease or an agreement
24 which requires that the use of the improved property be open to the
25 general public and that no profit will inure to the lessee from the
26 lease; (ii) expenditures made by the lessee for the replacement or
27 repair of facilities due to fire or other casualty including payments
28 for insurance to provide reimbursement for losses or payments to a
29 public or private entity for protection of such property from damage
30 or loss or for alterations or additions made necessary by an action
31 of government taken after the date of the execution of the lease or
32 agreement; (iii) improvements added to publicly owned property by a
33 sublessee under an agreement executed prior to January 1, 1976, which
34 have been taxed as personal property of the sublessee prior to
35 January 1, 1976, or improvements made by a sublessee of the same
36 lessee under a similar agreement executed prior to January 1, 1976,
37 and such improvements are taxable to the sublessee as personal
38 property; (iv) improvements added to publicly owned property if such
39 improvements are being taxed as personal property to any person.

1 (e) Any prepaid contract rent is considered to have been paid in
2 the year due and not in the year actually paid with respect to
3 prepayment for a period of more than one year. Expenditures for
4 improvements with a useful life of more than one year which are
5 included as part of contract rent must be treated as prepaid contract
6 rent and prorated over the useful life of the improvement or the
7 remaining term of the lease or agreement if the useful life is in
8 excess of the remaining term of the lease or agreement. Rent prepaid
9 prior to January 1, 1976, must be prorated from the date of
10 prepayment.

11 (f) With respect to a "product lease", the value is that value
12 determined at the time of sale under terms of the lease.

13 (g) If it is determined by the department of revenue, upon
14 examination of a lessee's accounts or those of a lessor of publicly
15 owned property, that a lessee is occupying or using publicly owned
16 property in such a manner as to create a leasehold interest and that
17 such leasehold interest has not been established through competitive
18 bidding, or negotiated in accordance with statutory requirements
19 regarding the rent payable, or negotiated under circumstances,
20 established by public record, clearly showing that the contract rent
21 was the maximum attainable by the lessor, the department may
22 establish a taxable rent computation for use in determining the tax
23 payable under authority granted in this chapter based upon the
24 following criteria: (i) Consideration must be given to rental being
25 paid to other lessors by lessees of similar property for similar
26 purposes over similar periods of time; (ii) consideration must be
27 given to what would be considered a fair rate of return on the market
28 value of the property leased less reasonable deductions for any
29 restrictions on use, special operating requirements or provisions for
30 concurrent use by the lessor, another person or the general public.

31 (3) "Product lease" as used in this chapter means a lease of
32 property for use in the production of agricultural or marine
33 products, not including the production of marijuana as defined in RCW
34 69.50.101, to the extent that such lease provides for the contract
35 rent to be paid by the delivery of a stated percentage of the
36 production of such agricultural or marine products to the credit of
37 the lessor or the payment to the lessor of a stated percentage of the
38 proceeds from the sale of such products.

39 (4) "Renegotiated" means a change in the lease agreement which
40 changes the agreed time of possession, restrictions on use, the rate

1 of the cash rental or of any other consideration payable by the
2 lessee to or for the benefit of the lessor, other than any such
3 change required by the terms of the lease or agreement. In addition
4 "renegotiated" means a continuation of possession by the lessee
5 beyond the date when, under the terms of the lease agreement, the
6 lessee had the right to vacate the premises without any further
7 liability to the lessor.

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

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

14 (7) "Publicly owned, or specified privately owned, real or
15 personal property" includes real or personal property:

16 (a) Owned in fee or held in trust by a public entity and exempt
17 from property tax under the laws or Constitution of this state or the
18 Constitution of the United States;

19 (b) Owned by a federally recognized Indian tribe in the state and
20 exempt from property tax under RCW 84.36.010;

21 (c) Owned by a nonprofit fair association exempt from property
22 tax under RCW 84.36.480(2), but only with respect to that portion of
23 the fair's property subject to the tax imposed in this chapter
24 pursuant to RCW 84.36.480(2)(b); or

25 (d) Owned by a community center exempt from property tax under
26 RCW 84.36.010.

27 **Sec. 2005.** RCW 82.29A.030 and 2010 c 281 s 3 are each amended to
28 read as follows:

29 (1)((+a)) There is levied and collected a leasehold excise tax
30 on the act or privilege of occupying or using publicly owned, or
31 specified privately owned, real or personal property ((~~or real or~~
32 ~~personal property of a community center~~)) through a leasehold
33 interest on and after January 1, 1976, at a rate of twelve percent of
34 taxable rent. However, after the computation of the tax a credit is
35 allowed for any tax collected pursuant to RCW 82.29A.040.

36 ((~~b~~) For the purposes of this subsection, "~~community center~~" has
37 the same meaning as provided in RCW 84.36.010.))

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

4 **Sec. 2006.** RCW 82.29A.040 and 1975-'76 2nd ex.s. c 61 s 4 are
5 each amended to read as follows:

6 (1) The legislative body of any county or city is hereby
7 authorized to levy and collect a leasehold excise tax on the act or
8 privilege of occupying or using publicly owned, or specified
9 privately owned, real or personal property through a leasehold
10 interest in publicly owned property within the territorial limits of
11 such county or city. The tax levied by a county under authority of
12 this section shall not exceed six percent and the tax levied by a
13 city shall not exceed four percent of taxable rent(~~(+—PROVIDED,~~
14 ~~That~~)). However, any county ordinance levying such tax shall contain
15 a provision allowing a credit against the county tax for the full
16 amount of any city tax imposed upon the same taxable event.

17 (2) The department of revenue shall perform the collection of
18 such taxes on behalf of such county or city.

19 NEW SECTION. **Sec. 2007.** Sections 2003, 2005, and 2006 of this
20 act apply with respect to taxable rent, as defined in RCW 82.29A.020,
21 payable on or after the effective date of this section.

22 NEW SECTION. **Sec. 2008.** Section 2002 of this act applies to
23 taxes levied for collection in 2019 and thereafter.

24 **PART XXI**
25 **Improving the Administration of Unclaimed Property Laws**

26 **Sec. 2101.** RCW 63.29.020 and 2011 c 116 s 1 are each amended to
27 read as follows:

28 (1) Except as otherwise provided by this chapter, all intangible
29 property, including any income or increment derived therefrom, less
30 any lawful charges, that is held, issued, or owing in the ordinary
31 course of the holder's business and has remained unclaimed by the
32 owner for more than three years after it became payable or
33 distributable is presumed abandoned.

34 (2) Property, with the exception of unredeemed Washington state
35 lottery tickets and unrepresented winning parimutuel tickets, is

1 payable and distributable for the purpose of this chapter
2 notwithstanding the owner's failure to make demand or to present any
3 instrument or document required to receive payment.

4 (3) This chapter does not apply to claims drafts issued by
5 insurance companies representing offers to settle claims unliquidated
6 in amount or settled by subsequent drafts or other means.

7 (4) This chapter does not apply to property covered by chapter
8 63.26 RCW.

9 (5) This chapter does not apply to used clothing, umbrellas,
10 bags, luggage, or other used personal effects if such property is
11 disposed of by the holder as follows:

12 (a) In the case of personal effects of negligible value, the
13 property is destroyed; or

14 (b) The property is donated to a bona fide charity.

15 (6) This chapter does not apply to a gift certificate (~~subject~~
16 ~~to the prohibition against expiration dates under RCW 19.240.020 or~~
17 ~~to a gift certificate subject to RCW 19.240.030 through 19.240.060.~~
18 ~~However, this chapter applies to~~) lawfully issued under chapter
19 19.240 RCW, except lawfully issued gift certificates presumed
20 abandoned under RCW 63.29.110. Nothing in this section limits the
21 application of chapter 19.240 RCW.

22 (7) Except as provided in RCW 63.29.350, this chapter does not
23 apply to excess proceeds held by counties, cities, towns, and other
24 municipal or quasi-municipal corporations from foreclosures for
25 delinquent property taxes, assessments, or other liens.

26 (8)(a) This chapter does not apply to a premium paid by an
27 agricultural fair by check.

28 (b) For the purposes of this subsection the following definitions
29 apply:

30 (i) "Agricultural fair" means a fair or exhibition that is
31 intended to promote agriculture by including a balanced variety of
32 exhibits of livestock and agricultural products, as well as related
33 manufactured products and arts, including: Products of the farm home
34 and educational contests, displays, and demonstrations designed to
35 train youth and to promote the welfare of farmers and rural living;
36 and

37 (ii) "Premium" means an amount paid for exhibits and educational
38 contests, displays, and demonstrations of an educational nature. A
39 "premium" does not include judges' fees and expenses; livestock sale
40 revenues; or prizes or amounts paid for promotion or entertainment

1 activities such as queen contests, parades, dances, rodeos, and
2 races.

3 **Sec. 2102.** RCW 63.29.140 and 2004 c 168 s 15 are each amended to
4 read as follows:

5 (1) A gift certificate or a credit memo issued in the ordinary
6 course of an issuer's business which remains unclaimed by the owner
7 for more than three years after becoming payable or distributable is
8 presumed abandoned.

9 (2) In the case of a gift certificate, the amount presumed
10 abandoned is the price paid by the purchaser for the gift
11 certificate. In the case of a credit memo, the amount presumed
12 abandoned is the amount credited to the recipient of the memo.

13 (3) A gift certificate that is lawfully issued under chapter
14 19.240 RCW and that is presumed abandoned under this section may, but
15 need not be, included in the report as provided under RCW
16 63.29.170(4). ((If a gift certificate that is presumed abandoned
17 under this section is not timely reported as provided under RCW
18 63.29.170(4), RCW 19.240.005 through 19.240.110 apply to the gift
19 certificate.))

20 **Sec. 2103.** RCW 63.29.170 and 2004 c 168 s 16 are each amended to
21 read as follows:

22 (1) A person holding property presumed abandoned and subject to
23 custody as unclaimed property under this chapter ((shall)) must
24 report to the department concerning the property as provided in this
25 section.

26 (2) The report must be verified and must include:

27 (a) Except with respect to travelers checks and money orders, the
28 name, if known, and last known address, if any, of each person
29 appearing from the records of the holder to be the owner of property
30 with a value of more than fifty dollars presumed abandoned under this
31 chapter;

32 (b) In the case of unclaimed funds of more than fifty dollars
33 held or owing under any life or endowment insurance policy or annuity
34 contract, the full name and last known address of the insured or
35 annuitant and of the beneficiary according to the records of the
36 insurance company holding or owing the funds;

37 (c) In the case of the contents of a safe deposit box or other
38 safekeeping repository or in the case of other tangible property, a

1 description of the property and the place where it is held and where
2 it may be inspected by the department, and any amounts owing to the
3 holder;

4 (d) The nature and identifying number, if any, or description of
5 the property and the amount appearing from the records to be due, but
6 items with a value of fifty dollars or less each may be reported in
7 the aggregate;

8 (e) The date the property became payable, demandable, or
9 returnable, and the date of the last transaction with the apparent
10 owner with respect to the property; and

11 (f) Other information the department prescribes by rule as
12 necessary for the administration of this chapter.

13 (3) If the person holding property presumed abandoned and subject
14 to custody as unclaimed property is a successor to other persons who
15 previously held the property for the apparent owner or the holder has
16 changed his or her name while holding the property, the holder shall
17 file with the report all known names and addresses of each previous
18 holder of the property.

19 (4) The report must be filed before November 1st of each year and
20 shall include, except as provided in RCW 63.29.140(3), all property
21 presumed abandoned and subject to custody as unclaimed property under
22 this chapter that is in the holder's possession as of the preceding
23 June 30th. On written request by any person required to file a
24 report, the department may postpone the reporting date.

25 (5)(a) Beginning July 1, 2016, reports due under this section
26 must be filed electronically in a form or manner provided or
27 authorized by the department. However, the department, upon request
28 or its own initiative, may relieve any holder or class of holders
29 from the electronic filing requirement under this subsection for good
30 cause as determined by the department.

31 (b) For purposes of this subsection, "good cause" means:

32 (i) A circumstance or condition exists that, in the department's
33 judgment, prevents the holder from electronically filing the report
34 due under this section; or

35 (ii) The department determines that relief from the electronic
36 filing requirement under this subsection supports the efficient or
37 effective administration of this chapter.

38 (6) After May 1st, but before August 1st, of each year in which a
39 report is required by this section, the holder in possession of
40 property presumed abandoned and subject to custody as unclaimed

1 property under this chapter (~~shall~~) must send written notice to the
2 apparent owner at the last known address informing him or her that
3 the holder is in possession of property subject to this chapter if:

4 (a) The holder has in its records an address for the apparent
5 owner which the holder's records do not disclose to be inaccurate;

6 (b) The claim of the apparent owner is not barred by the statute
7 of limitations; and

8 (c) The property has a value of more than seventy-five dollars.

9 **Sec. 2104.** RCW 63.29.180 and 2005 c 367 s 2 are each amended to
10 read as follows:

11 (1) The department (~~shall~~) must cause a notice to be published
12 not later than November 1st, immediately following the report
13 required by RCW 63.29.170 in the printed or online version of a
14 newspaper of general circulation within this state, which the
15 department determines is most likely to give notice to the apparent
16 owner of the property.

17 (2) The published notice must be entitled "Notice to Owners of
18 Unclaimed Property" and contain a summary explanation of how owners
19 may obtain information about unclaimed property reported to the
20 department.

21 (3) Not later than September 1st, immediately following the
22 report required by RCW 63.29.170, the department (~~shall~~) must mail
23 a notice to each person whose last known address is listed in the
24 report and who appears to be entitled to property with a value of
25 more than seventy-five dollars presumed abandoned under this chapter
26 and any beneficiary of a life or endowment insurance policy or
27 annuity contract for whom the department has a last known address.
28 The department is not required to mail notice under this subsection
29 if the address listed in the report appears to the department to be
30 insufficient for the purpose of the delivery of mail.

31 (4) The mailed notice must contain:

32 (a) A statement that, according to a report filed with the
33 department, property is being held to which the addressee appears
34 entitled; and

35 (b) The name of the person reporting the property and the type of
36 property described in the report.

37 (5) This section is not applicable to sums payable on travelers
38 checks, money orders, and other written instruments presumed
39 abandoned under RCW 63.29.040.

1 **Sec. 2105.** RCW 63.29.190 and 2005 c 502 s 4, 2005 c 367 s 3, and
2 2005 c 285 s 2 are each reenacted and amended to read as follows:

3 (1)(a) Except as otherwise provided in subsections (2) and (3) of
4 this section, a person who is required to file a report under RCW
5 63.29.170 (~~shall~~) must pay or deliver to the department all
6 abandoned property required to be reported at the time of filing the
7 report. Beginning July 1, 2016, holders who are required to file a
8 report electronically under this chapter must remit payments under
9 this section by electronic funds transfer or other form of electronic
10 payment acceptable to the department. However, the department, upon
11 request or its own initiative, may relieve any holder or class of
12 holders from the electronic payment requirement under this subsection
13 for good cause as determined by the department.

14 (b) For purposes of this subsection, "good cause" means:

15 (i) A circumstance or condition exists that, in the department's
16 judgment, prevents the holder from remitting payments due under this
17 section electronically; or

18 (ii) The department determines that relief from the electronic
19 payment requirement under this subsection supports the efficient or
20 effective administration of this chapter.

21 (2)(a) Counties, cities, towns, and other municipal and quasi-
22 municipal corporations that hold funds representing warrants canceled
23 pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, and
24 property tax overpayments or refunds may retain the funds until the
25 owner notifies them and establishes ownership as provided in RCW
26 63.29.135. Counties, cities, towns, or other municipal or quasi-
27 municipal corporations (~~shall~~) must provide to the department a
28 report of property it is holding pursuant to this section. The report
29 (~~shall~~) must identify the property and owner in the manner provided
30 in RCW 63.29.170 and the department (~~shall~~) must publish the
31 information as provided in RCW 63.29.180.

32 (b)(i) A public transportation authority that holds funds
33 representing value on abandoned fare cards may retain the funds until
34 the owner notifies the authority and establishes ownership as
35 provided in RCW 63.29.135.

36 (ii) For the purposes of this subsection (2)(b), "public
37 transportation authority" means a municipality, as defined in RCW
38 35.58.272, a regional transit authority authorized by chapter 81.112
39 RCW, a public mass transportation system authorized by chapter 47.60

1 RCW, or a city transportation authority authorized by chapter 35.95A
2 RCW.

3 (3)(a) The contents of a safe deposit box or other safekeeping
4 repository presumed abandoned under RCW 63.29.160 and reported under
5 RCW 63.29.170 (~~shall~~) must be paid or delivered to the department
6 within six months after the final date for filing the report required
7 by RCW 63.29.170.

8 (b) If the owner establishes the right to receive the abandoned
9 property to the satisfaction of the holder before the property has
10 been delivered or it appears that for some other reason the
11 presumption of abandonment is erroneous, the holder need not pay or
12 deliver the property to the department, and the property will no
13 longer be presumed abandoned. In that case, the holder (~~shall~~) must
14 file with the department a verified written explanation of the proof
15 of claim or of the error in the presumption of abandonment.

16 (4) The holder of an interest under RCW 63.29.100 (~~shall~~) must
17 deliver a duplicate certificate or other evidence of ownership if the
18 holder does not issue certificates of ownership to the department.
19 Upon delivery of a duplicate certificate to the department, the
20 holder and any transfer agent, registrar, or other person acting for
21 or on behalf of a holder in executing or delivering the duplicate
22 certificate is relieved of all liability of every kind in accordance
23 with RCW 63.29.200 to every person, including any person acquiring
24 the original certificate or the duplicate of the certificate issued
25 to the department, for any losses or damages resulting to any person
26 by the issuance and delivery to the department of the duplicate
27 certificate.

28 **Sec. 2106.** RCW 63.29.290 and 1983 c 179 s 29 are each amended to
29 read as follows:

30 (1) The expiration, after September 1, 1979, of any period of
31 time specified by contract, statute, or court order, during which a
32 claim for money or property can be made or during which an action or
33 proceeding may be commenced or enforced to obtain payment of a claim
34 for money or to recover property, does not prevent the money or
35 property from being presumed abandoned or affect any duty to file a
36 report or to pay or deliver abandoned property to the department as
37 required by this chapter.

38 (2) Except as otherwise provided in this section, no action or
39 proceeding may be commenced by the department with respect to any

1 duty of a holder under this chapter more than six years after the
2 duty arose.

3 (3) No action or proceeding may be commenced by the department
4 with respect to any assessment under this chapter more than three
5 years after the later of (a) the due date for payment of the
6 assessment including any extension granted by the department or (b)
7 thirty days after the final decision on any petition for review under
8 section 2110 of this act.

9 **Sec. 2107.** RCW 63.29.300 and 1983 c 179 s 30 are each amended to
10 read as follows:

11 (1) The department may require any person who has not filed a
12 report to file a verified report stating whether or not the person is
13 holding any unclaimed property reportable or deliverable under this
14 chapter. Nothing in this chapter requires reporting of property which
15 is not subject to payment or delivery.

16 (2) The department, at reasonable times and upon reasonable
17 notice, may examine the records of any person to determine whether
18 the person has complied with the provisions of this chapter. The
19 department may conduct the examination even if the person believes it
20 is not in possession of any property reportable or deliverable under
21 this chapter.

22 (3) If a person is treated under RCW 63.29.120 as the holder of
23 the property only insofar as the interest of the business association
24 in the property is concerned, the department, pursuant to subsection
25 (2) of this section, may examine the records of the person if the
26 department has given the notice required by subsection (2) of this
27 section to both the person and the business association at least
28 ninety days before the examination.

29 (4) Material obtained by any person during any examination
30 authorized under this chapter, or whether the holder was, is being,
31 or will be examined or subject to an examination, is confidential
32 information and may not be disclosed to any person except as provided
33 in RCW 63.29.380.

34 (5) If an examination of the records of a person results in the
35 disclosure of property reportable and payable or deliverable under
36 this chapter, the department must assess against the person the
37 amount that should have been reported and paid as determined or
38 approved by the department. An assessment must also include a demand
39 to deliver any property that should have been reported and delivered

1 to the department under this chapter. The assessment must include
2 interest and penalties as provided in RCW 63.29.340. The department
3 may assess the cost of the examination against the holder at the rate
4 of one hundred forty dollars a day for each examiner, but in no case
5 may the charges exceed the lesser of three thousand dollars or the
6 value of the property found to be reportable and payable or
7 deliverable. No assessment (~~shall~~) for costs may be imposed
8 (~~where~~) when the person proves that failure to report and deliver
9 property was inadvertent. The cost of examination made pursuant to
10 subsection (3) of this section may be imposed only against the
11 business association.

12 ~~((+5))~~ (6) If a holder fails after June 30, 1983, to maintain
13 the records required by RCW 63.29.310 and the records of the holder
14 available for the periods subject to this chapter are insufficient to
15 permit the preparation of a report, the department may (~~require the~~
16 holder to report and pay)) assess such amounts as may reasonably be
17 estimated from any available records.

18 (7)(a) Except as provided in (b) of this subsection, all amounts
19 and property identified in any assessment issued by the department
20 under this section must be paid or delivered to the department within
21 thirty days of issuance.

22 (b) If a timely petition for review of an assessment is filed
23 with the department as provided in section 2110 of this act, only the
24 uncontested amounts and property must be paid or delivered to the
25 department within thirty days of the issuance of the assessment.

26 **Sec. 2108.** RCW 63.29.340 and 2011 c 96 s 45 are each amended to
27 read as follows:

28 (1) A person who fails to pay or deliver property (~~within the~~
29 ~~time prescribed by this chapter shall be~~) when due is required to
30 pay to the department interest at the rate as computed under RCW
31 82.32.050(2) from the date the property should have been paid or
32 delivered until the property is paid or delivered(~~, unless~~),
33 However, the department must waive or cancel interest imposed under
34 this subsection if:

35 (a) The department finds that the failure to pay or deliver the
36 property within the time prescribed by this chapter was the result of
37 circumstances beyond the person's control sufficient for waiver or
38 cancellation of interest under RCW 82.32.105;

1 (b) The failure to timely pay or deliver the property within the
2 time prescribed by this chapter was the direct result of written
3 instructions given to the person by the department; or

4 (c) The extension of a due date for payment or delivery under an
5 assessment issued by the department was not at the person's request
6 and was for the sole convenience of the department.

7 ~~(2) ((A person who willfully fails to render any report, to pay~~
8 ~~or deliver property, or to perform other duties required under this~~
9 ~~chapter shall pay a civil penalty of one hundred dollars for each day~~
10 ~~the report is withheld or the duty is not performed, but not more~~
11 ~~than five thousand dollars, plus one hundred percent of the value of~~
12 ~~the property which should have been reported, paid or delivered.~~

13 ~~(3) A person who willfully refuses after written demand by the~~
14 ~~department to pay or deliver property to the department as required~~
15 ~~under this chapter or who enters into a contract to avoid the duties~~
16 ~~of this chapter is guilty of a gross misdemeanor and upon conviction~~
17 ~~may be punished by a fine of not more than one thousand dollars or~~
18 ~~imprisonment for up to three hundred sixty four days, or both.)) If a~~
19 person fails to file any report or to pay or deliver any amounts or
20 property when due under a report required under this chapter, there
21 is assessed a penalty equal to ten percent of the amount unpaid and
22 the value of any property not delivered.

23 (3) If an examination results in an assessment for amounts unpaid
24 or property not delivered, there is assessed a penalty equal to ten
25 percent of the amount unpaid and the value of any property not
26 delivered.

27 (4) If a person fails to pay or deliver to the department by the
28 due date any amounts or property due under an assessment issued by
29 the department to the person, there is assessed an additional penalty
30 of five percent of the amount unpaid and the value of any property
31 not delivered.

32 (5) Penalties under subsections (2) through (4) of this section
33 may be waived or canceled only if the department finds that the
34 failure to pay or deliver within the time prescribed by this chapter
35 was the result of circumstances beyond the person's control
36 sufficient for waiver or cancellation of penalties under RCW
37 82.32.105.

38 (6) If a person willfully fails to file a report or to provide
39 written notice to apparent owners as required under this chapter, the
40 department may assess a civil penalty of one hundred dollars for each

1 day the report is withheld or the notice is not sent, but not more
2 than five thousand dollars.

3 (7) If a holder, having filed a report, failed to file the report
4 electronically as required by RCW 63.29.170, or failed to pay
5 electronically any amounts due under the report as required by RCW
6 63.29.190, the department must assess a penalty equal to five percent
7 of the amount payable or deliverable under the report, unless the
8 department grants the taxpayer relief from the electronic filing and
9 payment requirements. Total penalties assessed under this subsection
10 may not exceed five percent of the amount payable and value of
11 property deliverable under the report.

12 (8) The penalties imposed in this section are cumulative.

13 NEW SECTION. Sec. 2109. A new section is added to chapter 63.29
14 RCW to read as follows:

15 (1)(a) If, upon receipt of an application by a holder for a
16 refund or return of property, or upon an examination of the report or
17 records of any holder, it is determined by the department that any
18 amount, interest, or penalty has been paid in excess of that properly
19 due under this chapter or that any property was delivered to the
20 department under this chapter in error, then with the exception of
21 amounts delivered by the department to a claimant under RCW
22 63.29.240, the excess amount must be refunded to the holder, or the
23 property delivered in error returned to the holder, as the case may
24 be.

25 (b)(i) Except as otherwise provided in RCW 63.29.200(2) or this
26 section, no refund or return of property may be made for any amount
27 or property paid or delivered, or for any interest or penalty paid,
28 more than six years after the end of the calendar year in which the
29 payment or delivery occurred.

30 (ii) The expiration of the limitations period in this subsection
31 will not bar a refund or the return of property if a complete
32 application for such refund or return of property was received by the
33 department before the expiration of such limitations period.

34 (2) The execution of a written waiver signed by the holder and
35 the department will extend the time for making a refund of any
36 amounts paid, or a return of property delivered in error, during, or
37 attributable to, the years covered by the waiver if, prior to the
38 expiration of the waiver period, a complete application for refund or
39 return of such amounts or property is made by the holder or the

1 department discovers a refund is due or a return of property under
2 this section is required.

3 (3) For purposes of subsections (1) and (2) of this section, an
4 application for a refund or return of property is complete if it
5 includes information the department deems sufficient to substantiate
6 the holder's claim for a refund or return of property. If the
7 department receives an incomplete application before the expiration
8 of the limitations period in subsection (1)(b)(i) of this section or
9 before the expiration of an applicable waiver period as authorized
10 under subsection (2) of this section, the department must provide the
11 holder written notice of the deficiencies of information in the
12 application and grant the holder thirty days from the date of such
13 notice to provide sufficient documentation to substantiate the
14 holder's claim for a refund or return of property. The department
15 may, at its sole discretion, grant a holder up to an additional
16 ninety days to substantiate its claim and specify in a written notice
17 the expiration date of such additional period. If the holder provides
18 sufficient substantiation documentation to the department within the
19 additional time granted but after the expiration of the limitations
20 period in subsection (1)(b)(i) of this section or an applicable
21 waiver period as authorized under subsection (2) of this section, the
22 holder will be deemed to have provided a complete application before
23 the expiration of such limitations or waiver period. This subsection
24 (3) may not be interpreted as governing the administration of
25 applications for refund or return of property other than for purposes
26 of the limitations period established in this section.

27 (4) Any such refunds must be made by means of vouchers approved
28 by the department and by the issuance of state warrants drawn upon
29 and payable from such funds as the legislature may provide. However,
30 persons who are required to pay amounts due under this chapter
31 electronically must have any refunds paid by electronic funds
32 transfer if the department has the necessary account information to
33 facilitate a refund by electronic funds transfer.

34 (5) Any judgment for which a recovery is granted by any court of
35 competent jurisdiction, not appealed from, for amounts, penalties, or
36 interest paid by the holder, and costs, in a suit by any holder must
37 be paid in the same manner, as provided in subsection (4) of this
38 section, upon the filing with the department of a certified copy of
39 the order or judgment of the court.

1 (6) Interest at the rate computed under RCW 82.32.050(2) must be
2 added to the amount of any refund allowed by the department or any
3 court. Interest must be computed from the date the department
4 received the excess payment, until the date the refund is issued.

5 NEW SECTION. **Sec. 2110.** A new section is added to chapter 63.29
6 RCW to read as follows:

7 Any person having been issued an assessment by the department, or
8 a denial of an application for a refund or return of property, under
9 the provisions of this chapter is entitled to a review by the
10 department conducted in accordance with the provisions of RCW
11 34.05.410 through 34.05.494, subject to judicial review under RCW
12 34.05.510 through 34.05.598. A petition for review under this section
13 is timely if received in writing by the department before the due
14 date of the assessment, including any extension of the due date
15 granted by the department, or in the case of a refund or return
16 application, thirty days after the department rejects the application
17 in writing, regardless of any subsequent action by the department to
18 reconsider its initial decision. The period for filing a petition for
19 review under this section may be extended as provided in a rule
20 adopted by the department under chapter 34.05 RCW or upon a written
21 agreement signed by the holder and the department.

22 NEW SECTION. **Sec. 2111.** A new section is added to chapter 63.29
23 RCW to read as follows:

24 (1) Any person who has paid or delivered property to the
25 department under the provisions of this chapter, except one who has
26 failed to keep and preserve records as required in this chapter,
27 feeling aggrieved by such payment or delivery, may appeal to the
28 superior court of Thurston county. The person filing a notice of
29 appeal under this section is deemed the plaintiff, and the
30 department, the defendant.

31 (2) An appeal under this section must be made within:

32 (a) The time limitation for a refund provided in section 2109 of
33 this act; or

34 (b) Thirty days after the department rejects in writing an
35 application for refund or return of property, regardless of any
36 subsequent action by the department to reconsider its initial
37 decision, if:

1 (i) An application for refund or return of property has been made
2 to the department within the time limitation provided in (a) of this
3 subsection (2) or the limitation provided in RCW 63.29.200(2), as
4 applicable; and

5 (ii) The time limitation provided under this subsection (2)(b) is
6 later than the time limitation provided in (a) of this subsection
7 (2).

8 (3)(a) In an appeal filed under this section, the plaintiff must
9 set forth the amount or property, if any, payable or deliverable on
10 the report or assessment that the plaintiff is contesting, which the
11 holder concedes to be the correct amount payable or deliverable, and
12 the reason why the amount payable or deliverable should be reduced or
13 abated.

14 (b) The appeal is perfected only by serving a copy of the notice
15 of appeal upon the department and filing the original with proof of
16 service with the clerk of the superior court of Thurston county,
17 within the time specified in subsection (2) of this section.

18 (4)(a) The trial in the superior court on appeal must be de novo
19 and without the necessity of any pleadings other than the notice of
20 appeal. At trial, the burden is on the plaintiff to (i) prove that
21 the amount paid by that person is incorrect, either in whole or in
22 part, or the property in question was delivered in error to the
23 department, and (ii) establish the correct amount payable or the
24 property required to be delivered to the department, if any.

25 (b) Both parties are entitled to subpoena the attendance of
26 witnesses as in other civil actions and to produce evidence that is
27 competent, relevant, and material to determine the correct amount
28 due, if any, that should be paid by the plaintiff.

29 (c) Either party may seek appellate review in the same manner as
30 other civil actions are appealed to the appellate courts.

31 (5) An appeal may be maintained under this section without the
32 need for the plaintiff to first:

33 (a) Protest against the payment of any amount due or reportable
34 under this chapter or to make any demand to have such amount refunded
35 or returned; or

36 (b) Petition the department for a refund, return of property, or
37 a review of its action as authorized in section 2110 of this act.

38 (6) No court action or proceeding of any kind may be maintained
39 by the plaintiff to recover any amount paid, delivered, or reported
40 to the department under this chapter, except as provided in this

1 section or as may be available to the plaintiff under RCW 34.05.510
2 through 34.05.598.

3 (7) No appeal may be maintained under this section with respect
4 to matters reviewed by the department under the provisions of chapter
5 34.05 RCW.

6 NEW SECTION. **Sec. 2112.** A new section is added to chapter 63.29
7 RCW to read as follows:

8 (1) The department may enter into an agreement in writing with
9 any holder with respect to any duties under this chapter or any
10 property or amounts due under this chapter, including penalties and
11 interest.

12 (2) Upon its execution by all parties, the agreement is final and
13 conclusive as to the periods, property, and any other matters
14 expressly covered by the agreement. Except upon a showing of fraud or
15 malfeasance, or of misrepresentation of a material fact:

16 (a) The agreement may not be reopened as to the matters agreed
17 upon, nor may the agreement be modified, by any officer, employee, or
18 agent of the state, or the holder; and

19 (b) In any suit, action, or proceeding, such agreement, or any
20 determination, assessment, collection, payment, abatement, or refund,
21 or credit made in accordance with the agreement, may not be annulled,
22 modified, set aside, or disregarded.

23 (3) No agreement under this section may affect a holder's
24 obligations to an owner or an owner's rights against a holder, except
25 as expressly provided in RCW 63.29.200.

26 (4) No agreement under this section may include any
27 indemnification of any holder for amounts or property that has not
28 been paid or delivered to the department. Nothing in this subsection
29 (4) may be construed to affect the finality and conclusiveness of any
30 agreement under this section to the extent provided in subsection (2)
31 of this section.

32 NEW SECTION. **Sec. 2113.** (1) Section 2101 of this act applies
33 only with respect to gift certificates issued on or after the
34 effective date of section 2101 of this act.

35 (2) Section 2102 of this act applies only with respect to gift
36 certificates issued on or after the effective date of section 2102 of
37 this act.

1 (3) Section 2106 of this act applies only with respect to
2 original assessments issued on or after the effective date of section
3 2106 of this act.

4 (4) Section 2108 of this act applies only with respect to reports
5 initially due, or property initially payable or deliverable, or other
6 duties that arise initially on or after the effective date of section
7 2108 of this act.

8 (5) Section 2109 of this act applies only with respect to (a)
9 requests for refund or the return of property, where the request is
10 originally received by the department on or after the effective date
11 of section 2109 of this act, and (b) excess payments or property
12 improperly delivered, where such excess payments or improper delivery
13 are discovered by the department on or after the effective date of
14 section 2109 of this act.

15 **PART XXII**
16 **[NOT USED]**

17 **PART XXIII**
18 **Miscellaneous Provisions**

19 NEW SECTION. **Sec. 2301.** (1) Except as provided otherwise in
20 this section, this act is necessary for the immediate preservation of
21 the public peace, health, or safety, or support of the state
22 government and its existing public institutions, and takes effect
23 July 1, 2015.

24 (2) Parts II, IV, VI, VIII, and XIX of this act are necessary for
25 the immediate preservation of the public peace, health, or safety, or
26 support of the state government and its existing public institutions,
27 and take effect September 1, 2015.

28 (3) Part X of this act takes effect October 1, 2016.

29 (4) Section 1105 of this act takes effect January 1, 2016.

30 (5) Except for section 2004 of this act, Part XX of this act
31 takes effect January 1, 2019.

32 (6) Section 2004 of this act takes effect January 1, 2022.

33 NEW SECTION. **Sec. 2302.** Part VII of this act takes effect
34 August 1, 2015.

1 NEW SECTION. **Sec. 2303.** Part VIII of this act expires July 1,
2 2019.

3 NEW SECTION. **Sec. 2304.** Section 1104 of this act expires
4 January 1, 2016.

5 NEW SECTION. **Sec. 2305.** Section 2003 of this act expires
6 January 1, 2022.

7 NEW SECTION. **Sec. 2306.** (1) Section 2108 of this act takes
8 effect July 1, 2016, unless the department of revenue determines that
9 it is unable to efficiently and effectively implement any of the
10 provisions of section 2108 of this act, in which case section 2108 of
11 this act takes effect July 1, 2017.

12 (2) The department of revenue must provide written notice of the
13 effective date of section 2108 of this act to the chief clerk of the
14 house of representatives, the secretary of the senate, the office of
15 the code reviser, and others as deemed appropriate by the department,
16 as well as post notice of the effective date on its public web site.
17 The notice must be provided no later than June 1, 2016."

SSB 6057 - S AMD 497
By Senators Hill, Hargrove

ADOPTED AS AMENDED 6/29/2015

18 On page 1, line 2 of the title, after "administration;" strike
19 the remainder of the title and insert "amending RCW 82.04.4266,
20 82.04.4268, 82.04.4269, 82.08.986, 82.12.986, 82.04.2909, 82.04.4481,
21 82.08.805, 82.12.805, 82.12.022, 82.04.214, 82.16.020, 88.02.620,
22 88.02.640, 88.02.570, 82.48.080, 82.04.213, 82.04.330, 82.04.050,
23 82.04.050, 82.08.855, 82.21.040, 84.36.480, 82.29A.020, 82.29A.030,
24 82.29A.040, 63.29.020, 63.29.140, 63.29.170, 63.29.180, 63.29.290,
25 63.29.300, and 63.29.340; reenacting and amending RCW 82.04.260,
26 82.04.260, 82.16.010, 82.29A.020, and 63.29.190; adding a new section
27 to chapter 82.32 RCW; adding a new section to chapter 82.04 RCW;
28 adding a new section to chapter 82.16 RCW; adding a new section to
29 chapter 82.21 RCW; adding new sections to chapter 63.29 RCW; adding a
30 new chapter to Title 82 RCW; creating new sections; repealing RCW
31 82.04.629, 82.04.630, 82.08.0204, 82.12.0204, 82.08.200, 82.12.200,
32 and 43.136.047; providing effective dates; providing a contingent

1 effective date; providing expiration dates; and declaring an
2 emergency."

EFFECT: Removes the following sections:

(1) High-Tech R&D, which reenacted the high-tech R&D B&O tax credit and deferral program.

(2) Conversion to Natural Gas or Biomass Facility, which provided a sales and use tax exemption, in the form of a remittance, for the construction of new structures or renovation of existing structures for the purpose of converting a coal-fired electric generation facility into a natural gas-fired or biomass energy facility.

(3) Charitable Use Tax, which permanently provided a total exemption from the use tax for those who purchased or received as a prize an article of personal property from a nonprofit organization or library for a fund-raising activity, regardless of the value of the property.

(4) Veterans with Disabilities Property Tax, which provided certain veterans, and their surviving spouse or domestic partner, with a total property tax exemption.

(5) Senior Property Tax, which permanently increased the combined disposable income by \$5,000 for senior citizens, persons retired due to disability, and 100 percent disabled veterans who qualified for a property tax exemption or deferral.

(6) Local Sales Tax Changes, which reduced the amount of times that locals could change their tax rate from four times per year to three times per year.

(7) PUD Privilege Tax, which made changes to the administration of the tax.

(8) Removes the limit of just 20 vessels per year to receive a vessel permit for nonresident entities. Sets a fee structure for nonresident entities with vessels under 164 feet to obtain a vessel permit to use in Washington.

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