

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6057

64th Legislature
2015 3rd Special Session

Passed by the Senate June 29, 2015
Yeas 38 Nays 10

President of the Senate

Passed by the House June 30, 2015
Yeas 77 Nays 21

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6057** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6057

Passed Legislature - 2015 3rd Special Session

State of Washington 64th Legislature 2015 2nd Special Session

By Senate Ways & Means (originally sponsored by Senator Hill)

READ FIRST TIME 06/27/15.

1 AN ACT Relating to stimulating economic development through the
2 use of tax preferences and streamlined tax administration; amending
3 RCW 82.04.4266, 82.04.4268, 82.04.4269, 82.08.986, 82.12.986,
4 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, 82.12.022, 82.16.020,
5 88.02.620, 88.02.640, 88.02.570, 82.48.080, 82.04.213, 82.04.330,
6 82.04.050, 82.04.050, 82.08.855, 82.21.040, 84.36.480, 82.29A.020,
7 82.29A.030, 82.29A.040, 63.29.020, 63.29.140, 63.29.170, 63.29.180,
8 63.29.290, 63.29.300, and 63.29.340; amending 2012 2nd sp.s. c 6 s
9 704 (uncodified); reenacting and amending RCW 82.04.260, 82.04.260,
10 82.16.010, 82.29A.020, and 63.29.190; adding a new section to chapter
11 82.32 RCW; adding a new section to chapter 82.04 RCW; adding a new
12 section to chapter 82.16 RCW; adding a new section to chapter 82.21
13 RCW; adding new sections to chapter 63.29 RCW; adding a new chapter
14 to Title 82 RCW; creating new sections; repealing RCW 82.04.629,
15 82.04.630, 82.08.0204, 82.12.0204, 82.08.200, 82.12.200, and
16 43.136.047; repealing 2010 c 225 s 4 (uncodified); providing
17 effective dates; providing a contingent effective date; providing
18 expiration dates; and declaring an emergency.

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

20

PART I

21

[NOT USED]

PART II

Extending the Expiration Date of Tax Preferences for Food Processing

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (b) Selling at wholesale fruits or vegetables manufactured by the
8 seller by canning, preserving, freezing, processing, or dehydrating
9 fresh fruits or vegetables and sold to purchasers who transport in
10 the ordinary course of business the goods out of this state. A person
11 taking an exemption under this subsection (1)(b) must keep and
12 preserve records for the period required by RCW 82.32.070
13 establishing that the goods were transported by the purchaser in the
14 ordinary course of business out of this state.

15 (2) For purposes of this section, "fruits" and "vegetables" do
16 not include marijuana, useable marijuana, or marijuana-infused
17 products.

18 (3) A person claiming the exemption provided in this section must
19 file a complete annual survey with the department under RCW
20 82.32.585.

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

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

24 (1) In computing tax there may be deducted from the measure of
25 tax, the value of products or the gross proceeds of sales derived
26 from:

27 (a) Manufacturing dairy products; or

28 (b) Selling dairy products manufactured by the seller to
29 purchasers who either transport in the ordinary course of business
30 the goods out of this state or purchasers who use such dairy products
31 as an ingredient or component in the manufacturing of a dairy
32 product. A person taking an exemption under this subsection (1)(b)
33 must keep and preserve records for the period required by RCW
34 82.32.070 establishing that the goods were transported by the
35 purchaser in the ordinary course of business out of this state or
36 sold to a manufacturer for use as an ingredient or component in the
37 manufacturing of a dairy product.

38 (2) "Dairy products" has the same meaning as provided in RCW
39 82.04.260.

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

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

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

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

9 (a) Manufacturing seafood products that remain in a raw, raw
10 frozen, or raw salted state at the completion of the manufacturing by
11 that person; or

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

19 (2) A person claiming the exemption provided in this section must
20 file a complete annual survey with the department under RCW
21 82.32.585.

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

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

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

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

33 (b) Beginning July 1, (~~2015~~) 2025, seafood products that remain
34 in a raw, raw frozen, or raw salted state at the completion of the
35 manufacturing by that person; or selling manufactured seafood
36 products that remain in a raw, raw frozen, or raw salted state at the
37 completion of the manufacturing, to purchasers who transport in the
38 ordinary course of business the goods out of this state; as to such

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

7 (c)(i) Beginning July 1, (~~2015~~) 2025, dairy products; or
8 selling dairy products that the person has manufactured to purchasers
9 who either transport in the ordinary course of business the goods out
10 of state or purchasers who use such dairy products as an ingredient
11 or component in the manufacturing of a dairy product; as to such
12 persons the tax imposed is equal to the value of the products
13 manufactured or the gross proceeds derived from such sales multiplied
14 by the rate of 0.138 percent. Sellers must keep and preserve records
15 for the period required by RCW 82.32.070 establishing that the goods
16 were transported by the purchaser in the ordinary course of business
17 out of this state or sold to a manufacturer for use as an ingredient
18 or component in the manufacturing of a dairy product.

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

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

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

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

33 (d)(i) Beginning July 1, (~~2015~~) 2025, fruits or vegetables by
34 canning, preserving, freezing, processing, or dehydrating fresh
35 fruits or vegetables, or selling at wholesale fruits or vegetables
36 manufactured by the seller by canning, preserving, freezing,
37 processing, or dehydrating fresh fruits or vegetables and sold to
38 purchasers who transport in the ordinary course of business the goods
39 out of this state; as to such persons the amount of tax with respect
40 to such business is equal to the value of the products manufactured

1 or the gross proceeds derived from such sales multiplied by the rate
2 of 0.138 percent. Sellers must keep and preserve records for the
3 period required by RCW 82.32.070 establishing that the goods were
4 transported by the purchaser in the ordinary course of business out
5 of this state.

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

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

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

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

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

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

32 (5) Upon every person engaging within this state in the business
33 of acting as a travel agent or tour operator; as to such persons the
34 amount of the tax with respect to such activities is equal to the
35 gross income derived from such activities multiplied by the rate of
36 0.275 percent.

37 (6) Upon every person engaging within this state in business as
38 an international steamship agent, international customs house broker,
39 international freight forwarder, vessel and/or cargo charter broker
40 in foreign commerce, and/or international air cargo agent; as to such

1 persons the amount of the tax with respect to only international
2 activities is equal to the gross income derived from such activities
3 multiplied by the rate of 0.275 percent.

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

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

38 If the gross income of the taxpayer is attributable to activities
39 both within and without this state, the gross income attributable to

1 this state must be determined in accordance with the methods of
2 apportionment required under RCW 82.04.460.

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

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

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

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

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

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

1 (c) For the purposes of this subsection (11), "commercial
2 airplane" and "component" have the same meanings as provided in RCW
3 82.32.550.

4 (d) In addition to all other requirements under this title, a
5 person reporting under the tax rate provided in this subsection (11)
6 must file a complete annual report with the department under RCW
7 82.32.534.

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

10 (ii) With respect to the manufacturing of commercial airplanes or
11 making sales, at retail or wholesale, of commercial airplanes, this
12 subsection (11) does not apply on and after July 1st of the year in
13 which the department makes a determination that any final assembly or
14 wing assembly of any version or variant of a commercial airplane that
15 is the basis of a siting of a significant commercial airplane
16 manufacturing program in the state under RCW 82.32.850 has been sited
17 outside the state of Washington. This subsection (11)(e)(ii) only
18 applies to the manufacturing or sale of commercial airplanes that are
19 the basis of a siting of a significant commercial airplane
20 manufacturing program in the state under RCW 82.32.850.

21 (12)(a) Until July 1, 2024, upon every person engaging within
22 this state in the business of extracting timber or extracting for
23 hire timber; as to such persons the amount of tax with respect to the
24 business is, in the case of extractors, equal to the value of
25 products, including by-products, extracted, or in the case of
26 extractors for hire, equal to the gross income of the business,
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 (b) Until July 1, 2024, upon every person engaging within this
31 state in the business of manufacturing or processing for hire: (i)
32 Timber into timber products or wood products; or (ii) timber products
33 into other timber products or wood products; as to such persons the
34 amount of the tax with respect to the business is, in the case of
35 manufacturers, equal to the value of products, including by-products,
36 manufactured, or in the case of processors for hire, equal to the
37 gross income of the business, multiplied by the rate of 0.4235
38 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent
39 from July 1, 2007, through June 30, 2024.

1 (c) Until July 1, 2024, upon every person engaging within this
2 state in the business of selling at wholesale: (i) Timber extracted
3 by that person; (ii) timber products manufactured by that person from
4 timber or other timber products; or (iii) wood products manufactured
5 by that person from timber or timber products; as to such persons the
6 amount of the tax with respect to the business is equal to the gross
7 proceeds of sales of the timber, timber products, or wood products
8 multiplied by the rate of 0.4235 percent from July 1, 2006, through
9 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
10 2024.

11 (d) Until July 1, 2024, upon every person engaging within this
12 state in the business of selling standing timber; as to such persons
13 the amount of the tax with respect to the business is equal to the
14 gross income of the business multiplied by the rate of 0.2904
15 percent. For purposes of this subsection (12)(d), "selling standing
16 timber" means the sale of timber apart from the land, where the buyer
17 is required to sever the timber within thirty months from the date of
18 the original contract, regardless of the method of payment for the
19 timber and whether title to the timber transfers before, upon, or
20 after severance.

21 (e) For purposes of this subsection, the following definitions
22 apply:

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

27 (ii) "Paper and paper products" means products made of interwoven
28 cellulosic fibers held together largely by hydrogen bonding. "Paper
29 and paper products" includes newsprint; office, printing, fine, and
30 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
31 kraft bag, construction, and other kraft industrial papers;
32 paperboard, liquid packaging containers, containerboard, corrugated,
33 and solid-fiber containers including linerboard and corrugated
34 medium; and related types of cellulosic products containing
35 primarily, by weight or volume, cellulosic materials. "Paper and
36 paper products" does not include books, newspapers, magazines,
37 periodicals, and other printed publications, advertising materials,
38 calendars, and similar types of printed materials.

39 (iii) "Recycled paper" means paper and paper products having
40 fifty percent or more of their fiber content that comes from

1 postconsumer waste. For purposes of this subsection (12)(e)(iii),
2 "postconsumer waste" means a finished material that would normally be
3 disposed of as solid waste, having completed its life cycle as a
4 consumer item.

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

9 (v) "Timber products" means:

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

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

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

17 (vi) "Wood products" means paper and paper products; dimensional
18 lumber; engineered wood products such as particleboard, oriented
19 strand board, medium density fiberboard, and plywood; wood doors;
20 wood windows; and biocomposite surface products.

21 (f) Except for small harvesters as defined in RCW 84.33.035, a
22 person reporting under the tax rate provided in this subsection (12)
23 must file a complete annual survey with the department under RCW
24 82.32.585.

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

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

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

37 **PART III**
38 **Providing a Sales and Use Tax Exemption for Eligible Server Equipment**
39 **Installed in Certain Data Centers**

1 NEW SECTION. **Sec. 301.** This section is the tax preference
2 performance statement for the sales and use tax exemption contained
3 in sections 302 and 303 of this act. This performance statement is
4 only intended to be used for subsequent evaluation of the tax
5 preferences in sections 302 and 303 of this act. It is not intended
6 to create a private right of action by any party or be used to
7 determine eligibility for preferential tax treatment.

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

11 (2) It is the legislature's specific public policy objective to
12 improve industry competitiveness. It is the legislature's intent to
13 provide a sales and use tax exemption on eligible server equipment
14 and power infrastructure installed in eligible computer data centers,
15 charges made for labor and services rendered in respect to installing
16 eligible server equipment, and for construction, installation,
17 repair, alteration, or improvement of eligible power infrastructures
18 in order to increase investment in data center construction in rural
19 Washington counties, thereby adding real and personal property to
20 state and local property tax rolls, thereby increasing the rural
21 county tax base.

22 (3) If a review finds that the rural county tax base is increased
23 as a result of the construction of computer data centers eligible for
24 the sales and use tax exemption in sections 302 and 303 of this act,
25 then the legislature intends to extend the expiration date of the tax
26 preference.

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

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

33 (1) An exemption from the tax imposed by RCW 82.08.020 is
34 provided for sales to qualifying businesses and to qualifying tenants
35 of eligible server equipment to be installed, without intervening
36 use, in an eligible computer data center, and to charges made for
37 labor and services rendered in respect to installing eligible server
38 equipment. The exemption also applies to sales to qualifying
39 businesses and to qualifying tenants of eligible power

1 infrastructure, including labor and services rendered in respect to
2 constructing, installing, repairing, altering, or improving eligible
3 power infrastructure.

4 (2)(a) In order to claim the exemption under this section, a
5 qualifying business or a qualifying tenant must submit an application
6 to the department for an exemption certificate. The application must
7 include the information necessary, as required by the department, to
8 determine that a business or tenant qualifies for the exemption under
9 this section. The department must issue exemption certificates to
10 qualifying businesses and qualifying tenants. The department may
11 assign a unique identification number to each exemption certificate
12 issued under this section.

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

18 (c) With respect to computer data centers for which the
19 commencement of construction occurs after July 1, 2015, but before
20 July 1, 2019, the exemption provided in this section is limited to no
21 more than eight computer data centers, with total eligible data
22 centers provided under this section limited to twelve from July 1,
23 2015, through July 1, 2025. Tenants of qualified data centers do not
24 constitute additional data centers under the limit. The exemption is
25 available on a first-in-time basis based on the date the application
26 required under this section is received by the department. Exemption
27 certificates expire two years after the date of issuance, unless
28 construction has been commenced.

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

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

36 (ii) Three family wage employment positions for each twenty
37 thousand square feet of space or less that is newly dedicated to
38 housing working servers at the eligible computer data center. For
39 qualifying tenants, the number of family wage employment positions
40 that must be increased under this subsection (3)(a)(ii) is based only

1 on the space occupied by the qualifying tenant in the eligible
2 computer data center.

3 (b) In calculating the net increase in family wage employment
4 positions:

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

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

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

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

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

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

18 (B) The portion of the net increase in family wage employment
19 positions to be counted under this subsection (3)(b)(ii) by each
20 qualifying tenant must be in proportion to the amount of space in the
21 eligible computer data center occupied by the qualifying tenant
22 compared to the total amount of space in the eligible computer data
23 center occupied by all qualifying tenants.

24 (c)(i) For purposes of this subsection, family wage employment
25 positions are new permanent employment positions requiring forty
26 hours of weekly work, or their equivalent, on a full-time basis at
27 the eligible computer data center and receiving a wage equivalent to
28 or greater than one hundred fifty percent of the per capita personal
29 income of the county in which the qualified project is located. An
30 employment position may not be counted as a family wage employment
31 position unless the employment position is entitled to health
32 insurance coverage provided by the employer of the employment
33 position. For purposes of this subsection (3)(c), "new permanent
34 employment position" means an employment position that did not exist
35 or that had not previously been filled as of the date that the
36 department issued an exemption certificate to the owner or qualifying
37 tenant of an eligible computer data center, as the case may be.

38 (ii)(A) Family wage employment positions include positions filled
39 by employees of the owner of the eligible computer data center and by
40 employees of qualifying tenants.

1 (B) Family wage employment positions also include individuals
2 performing work at an eligible computer data center as an independent
3 contractor hired by the owner of the eligible computer data center or
4 as an employee of an independent contractor hired by the owner of the
5 eligible computer data center, if the work is necessary for the
6 operation of the computer data center, such as security and building
7 maintenance, and provided that all of the requirements in (c)(i) of
8 this subsection (3) are met.

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

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

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

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

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

23 (b) If a person claims an exemption under this section and
24 subsequently receives the benefit of the deferral program under
25 chapter 82.60 RCW on either the construction, renovation, or
26 expansion of a structure or structures used as a computer data center
27 or machinery or equipment used in a computer data center, the person
28 must repay the amount of taxes exempted under this section. Interest
29 as provided in chapter 82.32 RCW applies to amounts due under this
30 section until paid in full.

31 (~~For purposes of this section the following definitions~~
32 ~~apply~~) The definitions in this subsection apply throughout this
33 section unless the context clearly requires otherwise((+)).

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

36 (b) "Building" means a fully enclosed structure with a weather
37 resistant exterior wall envelope or concrete or masonry walls
38 designed in accordance with the requirements for structures under
39 chapter 19.27 RCW. This definition of "building" only applies to

1 computer data centers for which commencement of construction occurs
2 on or after July 1, 2015.

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

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

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

22 ~~((e))~~ (d) "Electronic data storage and data management
23 services" include, but are not limited to: Providing data storage and
24 backup services, providing computer processing power, hosting
25 enterprise software applications, and hosting web sites. The term
26 also includes providing services such as e-mail, web browsing and
27 searching, media applications, and other online services, regardless
28 of whether a charge is made for such services.

29 ~~((d))~~ (e)(i) "Eligible computer data center" means a computer
30 data center:

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

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

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

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

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

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

39 (ii) For purposes of this section, "commencement of construction"
40 means the date that a building permit is issued under the building

1 code adopted under RCW 19.27.031 for construction of the computer
2 data center. The construction of a computer data center includes the
3 expansion, renovation, or other improvements made to existing
4 facilities, including leased or rented space. "Commencement of
5 construction" does not include soil testing, site clearing and
6 grading, site preparation, or any other related activities that are
7 initiated before the issuance of a building permit for the
8 construction of the foundation of a computer data center.

9 (iii) With respect to facilities in existence on April 1, 2010,
10 that are expanded, renovated, or otherwise improved after March 31,
11 2010, or facilities in existence on April 1, 2012, that are expanded,
12 renovated, or otherwise improved after March 31, 2012, or facilities
13 in existence on July 1, 2015, that are expanded, renovated, or
14 otherwise improved after June 30, 2015, an eligible computer data
15 center includes only the portion of the computer data center meeting
16 the requirements in ~~((d))~~ (e)(i)(B) of this subsection (6).

17 ~~((e))~~ (f) "Eligible power infrastructure" means all fixtures
18 and equipment owned by a qualifying business or qualifying tenant and
19 necessary for the transformation, distribution, or management of
20 electricity that is required to operate eligible server equipment
21 within an eligible computer data center. The term includes
22 generators; wiring; cogeneration equipment; and associated fixtures
23 and equipment, such as electrical switches, batteries, and
24 distribution, testing, and monitoring equipment. The term does not
25 include substations.

26 ~~((f))~~ (g) "Eligible server equipment" means:

27 (i) For a qualifying business whose computer data center
28 qualifies as an eligible computer data center under ~~((d))~~ (e)
29 (i)(C)(I) of this subsection (6), the original server equipment
30 installed in an eligible computer data center on or after April 1,
31 2010, and replacement server equipment. For purposes of this
32 subsection (6)~~((f))~~ (g)(i), "replacement server equipment" means
33 server equipment that:

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

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

38 (ii) For a qualifying business whose computer data center
39 qualifies as an eligible computer data center under ~~((d))~~ (e)
40 (i)(C)(II) of this subsection (6), "eligible server equipment" means

1 the original server equipment installed in an eligible computer data
2 center on or after April 1, 2012, and replacement server equipment.
3 For purposes of this subsection (6)((+f+)) (g)(ii), "replacement
4 server equipment" means server equipment that:

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

8 (B) Is installed and put into regular use before April 1,
9 ((2020)) 2024.

10 (iii)(A) For a qualifying business whose computer data center
11 qualifies as an eligible computer data center under (e)(i)(C)(III) of
12 this subsection (6), "eligible server equipment" means the original
13 server equipment installed in a building within an eligible computer
14 data center on or after July 1, 2015, and replacement server
15 equipment. Server equipment installed in movable or fixed stand-
16 alone, prefabricated, or modular units, including intermodal shipping
17 containers, is not "directly installed in a building." For purposes
18 of this subsection (6)(g)(iii)(A), "replacement server equipment"
19 means server equipment that replaces existing server equipment, if
20 the sale or use of the server equipment to be replaced qualified for
21 an exemption under this section or RCW 82.12.986; and

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

24 (iv) For a qualifying tenant who leases space within an eligible
25 computer data center, "eligible server equipment" means the original
26 server equipment installed within the space it leases from an
27 eligible computer data center on or after April 1, 2010, and
28 replacement server equipment. For purposes of this subsection (6)
29 ((+f+)(iii+)) (g)(iv), "replacement server equipment" means server
30 equipment that:

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

34 (B) Is installed and put into regular use before April 1,
35 ((2020)) 2024; and

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

1 (~~(g)~~) (h) "Qualifying business" means a business entity that
2 exists for the primary purpose of engaging in commercial activity for
3 profit and that is the owner of an eligible computer data center. The
4 term does not include the state or federal government or any of their
5 departments, agencies, and institutions; tribal governments;
6 political subdivisions of this state; or any municipal, quasi-
7 municipal, public, or other corporation created by the state or
8 federal government, tribal government, municipality, or political
9 subdivision of the state.

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

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

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

31 (~~(i)~~) (j) "Server equipment" means the computer hardware
32 located in an eligible computer data center and used exclusively to
33 provide electronic data storage and data management services for
34 internal use by the owner or lessee of the computer data center, for
35 clients of the owner or lessee of the computer data center, or both.
36 "Server equipment" also includes computer software necessary to
37 operate the computer hardware. "Server equipment" does not include
38 personal computers, the racks upon which the server equipment is
39 installed, and computer peripherals such as keyboards, monitors,
40 printers, and mice.

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

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

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

13 (2) A qualifying business or a qualifying tenant is not eligible
14 for the exemption under this section unless the department issued an
15 exemption certificate to the qualifying business or a qualifying
16 tenant for the exemption provided in RCW 82.08.986.

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

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

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

25 (b) If a person has received the benefit of the exemption under
26 this section and subsequently receives the benefit of the deferral
27 program under chapter 82.60 RCW on either the construction,
28 renovation, or expansion of a structure or structures used as a
29 computer data center or machinery or equipment used in a computer
30 data center, the person must repay the amount of taxes exempted under
31 this section. Interest as provided in chapter 82.32 RCW applies to
32 amounts due under this subsection (3)(b) until paid in full. A person
33 is not required to repay taxes under this subsection with respect to
34 property and services for which the person is required to repay taxes
35 under RCW 82.08.986(5).

36 (4) The definitions and requirements in RCW 82.08.986 apply to
37 this section.

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

PART IV

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

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

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

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

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

(d) To measure the effectiveness of the deferral provided in this part in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee should refer to information available from the employment security department and department of revenue. If a review finds that

1 each eligible investment project generated at least twenty full-time
2 jobs and increased training opportunities for manufacturing and
3 production jobs, then the legislature intends for the legislative
4 auditor to recommend extending the expiration date of the tax
5 preference. For purposes of this subsection (2)(d), full-time jobs
6 includes both temporary construction jobs and permanent full-time
7 employment positions created at the eligible investment project
8 within one year of the date that the facility became operationally
9 complete as determined by the department of revenue.

10 NEW SECTION. **Sec. 402.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires
12 otherwise.

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

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

22 (3) "Initiation of construction" has the same meaning as in RCW
23 82.63.010.

24 (4) "Investment project" means an investment in qualified
25 buildings or qualified machinery and equipment, including labor and
26 services rendered in the planning, installation, and construction of
27 the project.

28 (5) "Manufacturing" has the same meaning as provided in RCW
29 82.04.120.

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

31 (7) "Qualified buildings" means construction of new structures,
32 and expansion or renovation of existing structures for the purpose of
33 increasing floor space or production capacity, used for
34 manufacturing, including plant offices and warehouses or other
35 buildings for the storage of raw material or finished goods if such
36 facilities are an essential or an integral part of a factory, mill,
37 plant, or laboratory used for manufacturing. If a qualified building
38 is used partly for manufacturing and partly for other purposes, the

1 applicable tax deferral must be determined by apportionment of the
2 costs of construction under rules adopted by the department.

3 (8) "Qualified machinery and equipment" means all new industrial
4 fixtures, equipment, and support facilities that are an integral and
5 necessary part of a manufacturing operation. "Qualified machinery and
6 equipment" includes: Computers; software; data processing equipment;
7 laboratory equipment; manufacturing components such as belts,
8 pulleys, shafts, and moving parts; molds, tools, and dies; operating
9 structures; and all equipment used to control, monitor, or operate
10 the machinery.

11 (9) "Recipient" means a person receiving a tax deferral under
12 this chapter.

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

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

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

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

22 (c) The economic benefit of the deferral passed to the lessee is
23 no less than the amount of tax deferred by the lessor and is
24 evidenced by written documentation of any type of payment, credit, or
25 other financial arrangement between the lessor or owner of the
26 qualified building and the lessee.

27 NEW SECTION. **Sec. 404.** (1) Application for deferral of taxes
28 under this chapter must be made before initiation of the construction
29 of the investment project or acquisition of equipment or machinery.
30 The application must be made to the department in a form and manner
31 prescribed by the department. The deferrals are available on a first-
32 in-time basis. The application must contain information regarding the
33 location of the investment project, the applicant's average
34 employment in the state for the prior year, estimated or actual new
35 employment related to the project, estimated or actual wages of
36 employees related to the project, estimated or actual costs, time
37 schedules for completion and operation, and other information

1 required by the department. The department must rule on the
2 application within sixty days.

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

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

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

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

14 NEW SECTION. **Sec. 406.** (1) The recipient must begin paying the
15 deferred taxes in the fifth year after the date certified by the
16 department as the date on which the investment project has been
17 operationally completed. The first payment of ten percent of the
18 deferred taxes will be due on December 31st of the fifth calendar
19 year after such certified date, with subsequent annual payments of
20 ten percent of the deferred taxes due on December 31st for each of
21 the following nine years.

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

24 (3) Interest may not be charged on any taxes deferred under this
25 chapter for the period of deferral, although all other penalties and
26 interest applicable to delinquent excise taxes may be assessed and
27 imposed for delinquent payments under this chapter. The debt for
28 deferred taxes will not be extinguished by insolvency or other
29 failure of the recipient. Transfer of ownership does not terminate
30 the deferral. The deferral is transferred, subject to the successor
31 meeting the eligibility requirements of this chapter, for the
32 remaining periods of the deferral.

33 NEW SECTION. **Sec. 407.** (1) State taxes deferred and repaid
34 under this chapter, including any interest or penalties on such
35 amounts, must be deposited in the invest in Washington account
36 created in this section. The invest in Washington account is hereby
37 created in the state treasury must be used exclusively by the state

1 board for community and technical colleges for supporting customized
2 training programs, job skills programs, job readiness training,
3 workforce professional development, and to assist employers with
4 state-approved apprenticeship programs for manufacturing and
5 production occupations.

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

9 (3) By June 1, 2016, and by June 1st of every subsequent year,
10 the department must notify the state treasurer of the amount of tax,
11 interest, and penalties collected under this section since the
12 effective date of this chapter through May 1, 2016, in the case of
13 the first notification under this subsection (3), and since the
14 previous May 1st for subsequent notifications under this subsection
15 (3). The department may make adjustments to the annual notification
16 under this subsection (3) as may be necessary to correct errors in
17 the previous notification or offset previous amounts that did not
18 qualify for deferral under this section.

19 (4) By July 1, 2016, and by July 1st of every subsequent year,
20 the state treasurer must transfer the amount included in the
21 department's most recent notification under subsection (3) of this
22 section from the general fund to the invest in Washington
23 account. Money in the account may only be appropriated for the
24 purposes specified in subsection (1) of this section.

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

31 (2) If, on the basis of a survey under RCW 82.32.585 or other
32 information, the department finds that an investment project is not
33 eligible for tax deferral under this chapter due to the fact the
34 investment project is no longer used for qualified activities, the
35 amount of deferred taxes outstanding for the investment project is
36 immediately due and payable.

37 (3) If the economic benefits of a tax deferral under this chapter
38 are passed to a lessee as provided in section 403 of this act, the

1 lessee is responsible for payment to the extent the lessee has
2 received the economic benefit.

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

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

7 NEW SECTION. **Sec. 411.** The expiration provisions of RCW
8 82.32.805(1)(a) do not apply to sections 406 through 409 of this act.

9 **PART V**

10 **Continuing Tax Preferences for Aluminum Smelters**

11 NEW SECTION. **Sec. 501.** (1) The legislature finds that the
12 aluminum industry in Washington employs over one thousand people. The
13 legislature further finds that average annual wages and benefits for
14 these employment positions exceed one hundred thousand dollars and
15 that each of these employment positions indirectly generates an
16 additional two to three jobs within the state. The legislature
17 further finds that the aluminum industry generates substantial taxes
18 for local jurisdictions. The legislature further finds that the
19 aluminum industry was severely impacted by the global economic
20 recession. The legislature further finds that the London metal
21 exchange, where aluminum is traded as a commodity, is extremely
22 volatile and substantially impacts the profitability of the aluminum
23 industry. The legislature further finds that for the aforementioned
24 reasons, the industry continues to struggle with profitability,
25 putting the continued employment of its Washington workforce in
26 jeopardy.

27 (2)(a) This subsection is the tax preference performance
28 statement for the aluminum industry tax preferences in RCW
29 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, and 82.12.022, as
30 amended in this Part V. The performance statement is only intended to
31 be used for subsequent evaluation of the tax preference. It is not
32 intended to create a private right of action by any party or be used
33 to determine eligibility for preferential tax treatment.

1 (b) The legislature categorizes this tax preference as one
2 intended to accomplish the general purposes indicated in RCW
3 82.32.808(2) (c) and (d).

4 (c) It is the legislature's specific public policy objective to
5 promote the preservation of employment positions within the
6 Washington aluminum manufacturing industry as the industry continues
7 to grapple with the lingering effects of the economic recession and
8 the volatility of the London metal exchange.

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

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

16 (1) Upon every person who is an aluminum smelter engaging within
17 this state in the business of manufacturing aluminum; as to such
18 persons the amount of tax with respect to such business is, in the
19 case of manufacturers, equal to the value of the product
20 manufactured, or in the case of processors for hire, equal to the
21 gross income of the business, multiplied by the rate of .2904
22 percent.

23 (2) Upon every person who is an aluminum smelter engaging within
24 this state in the business of making sales at wholesale of aluminum
25 manufactured by that person, as to such persons the amount of tax
26 with respect to such business is equal to the gross proceeds of sales
27 of the aluminum multiplied by the rate of .2904 percent.

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

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

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

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

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

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

10 (4) A person claiming the credit provided in this section must
11 file a complete annual report with the department under RCW
12 82.32.534.

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

15 (1) A person who has paid tax under RCW 82.08.020 for personal
16 property used at an aluminum smelter, tangible personal property that
17 will be incorporated as an ingredient or component of buildings or
18 other structures at an aluminum smelter, or for labor and services
19 rendered with respect to such buildings, structures, or personal
20 property, is eligible for an exemption from the state share of the
21 tax in the form of a credit, as provided in this section. A person
22 claiming an exemption must pay the tax and may then take a credit
23 equal to the state share of retail sales tax paid under RCW
24 82.08.020. The person must submit information, in a form and manner
25 prescribed by the department, specifying the amount of qualifying
26 purchases or acquisitions for which the exemption is claimed and the
27 amount of exempted tax.

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

30 (3) A person claiming the tax preference provided in this section
31 must file a complete annual report with the department under RCW
32 82.32.534.

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

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

37 (1) A person who is subject to tax under RCW 82.12.020 for
38 personal property used at an aluminum smelter, or for tangible

1 personal property that will be incorporated as an ingredient or
2 component of buildings or other structures at an aluminum smelter, or
3 for labor and services rendered with respect to such buildings,
4 structures, or personal property, is eligible for an exemption from
5 the state share of the tax in the form of a credit, as provided in
6 this section. The amount of the credit equals the state share of use
7 tax computed to be due under RCW 82.12.020. The person must submit
8 information, in a form and manner prescribed by the department,
9 specifying the amount of qualifying purchases or acquisitions for
10 which the exemption is claimed and the amount of exempted tax.

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

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

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

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

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

24 (2) The tax must be levied and collected in an amount equal to
25 the value of the article used by the taxpayer multiplied by the rate
26 in effect for the public utility tax on gas distribution businesses
27 under RCW 82.16.020. The "value of the article used" does not include
28 any amounts that are paid for the hire or use of a gas distribution
29 business as defined in RCW 82.16.010(2) in transporting the gas
30 subject to tax under this subsection if those amounts are subject to
31 tax under that chapter.

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

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

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

4 (b) A person claiming the exemption provided in this subsection
5 (5) must file a complete annual report with the department under RCW
6 82.32.534.

7 (6) The tax imposed by this section does not apply to the use of
8 natural gas, compressed natural gas, or liquefied natural gas, if the
9 consumer uses the gas for transportation fuel as defined in RCW
10 82.16.310.

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

13 (a) The person who sold the gas to the consumer when that tax is
14 a gross receipts tax similar to that imposed pursuant to RCW
15 82.16.020 by another state with respect to the gas for which a credit
16 is sought under this subsection; or

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

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

23 (9) There is imposed a reporting requirement on the person who
24 delivered the gas to the consumer to make a quarterly report to the
25 department. Such report must contain the volume of gas delivered,
26 name of the consumer to whom delivered, and such other information as
27 the department may require by rule.

28 (10) The department may adopt rules under chapter 34.05 RCW for
29 the administration and enforcement of sections 1 through 6, chapter
30 384, Laws of 1989.

31 **PART VI**

32 **Clarifying the Definition of a Newspaper and Extending the B&O**
33 **Newspaper Preferential Tax Rate**

34 NEW SECTION. **Sec. 601.** (1) The legislature finds that over the
35 last fifteen years, technological transformation and other
36 developments have radically changed the newspaper industry business
37 model, which remains in transition. The legislature further finds
38 that the economic hardship wrought by this digital transformation has

1 been substantial. The legislature finds that a strong and vibrant
2 newspaper industry in Washington is beneficial to the state's
3 citizens and to the conduct of good government at every level. The
4 legislature further finds that advertising revenue of all United
5 States newspapers fell from 63.5 billion dollars in 2000 to about
6 twenty-three billion dollars in 2013, and is still falling. The
7 legislature further finds that traditional news organizations'
8 ability to support high quality news gathering and reporting relied
9 primarily on a model in which advertisers paid to reach mass
10 audiences attracted by newspapers. The legislature further finds that
11 advertisers found it advantageous to pay to reach a mass audience
12 because other advertising mediums were limited and less effective.
13 The digital era has greatly fractured traditional spending by
14 advertisers and turned this model on its head such that newspapers
15 continue to require time to adapt so they may continue their public
16 service mission. The legislature also finds that the business and
17 occupation tax rate for the newspaper industry was pegged to the
18 general manufacturing and wholesaling rate from 1937 until 2009, when
19 the legislature extended tax relief to the industry due to this
20 shift. It is the legislature's intent to extend this tax relief to
21 the industry until its revenues and business model have stabilized.
22 It is the legislature's further intent to provide a uniform tax rate
23 for the industry to minimize the burden of reporting state business
24 and occupation taxes for different types of revenue, which often
25 times are impossible to account for separately by the taxpayer.

26 (2)(a) This subsection is the tax preference performance
27 statement for the newspaper tax preferences in section 602 of this
28 act. The performance statement is only intended to be used for
29 subsequent evaluation of the tax preference. It is not intended to
30 create a private right of action by any party or be used to determine
31 eligibility for preferential tax treatment.

32 (b) The legislature categorizes this tax preference as one
33 intended to provide temporary tax relief as described in RCW
34 82.32.808(2)(e).

35 (c) It is the legislature's specific public policy objective to
36 provide business and occupation tax relief to the newspaper industry
37 as it continues to adjust to significant revenue shifts and
38 technological changes. As a secondary public policy objective, it is
39 the legislature's intent to provide a permanent uniform rate for the
40 industry.

1 (d) To measure the effectiveness of the preference provided in
2 this act in achieving the specific public policy objective described
3 in (c) of this subsection, the joint legislative audit and review
4 committee must evaluate year-to-year changes in gross revenue derived
5 from all sources for newspaper firms claiming the preferential tax
6 rate under RCW 82.04.260(14). If the average year-to-year change in
7 gross revenue is positive, including the last three years included in
8 the tax preference review by the joint legislative audit and review
9 committee, it is the legislature's intent to allow the tax preference
10 to expire and to reinstate the traditional rate of 0.484 percent.

11 (e)(i) The information provided in the annual tax preference
12 accountability report submitted by taxpayers as required by the
13 department of revenue and taxpayer data provided by the department of
14 revenue is intended to provide the informational basis for the
15 evaluation under (d) of this subsection.

16 (ii) In addition to the data source described under (e)(i) of
17 this subsection, the joint legislative audit and review committee may
18 use any other data it deems necessary in performing the evaluation
19 under (d) of this subsection.

20 **Sec. 602.** RCW 82.04.260 and 2014 c 140 s 6 and 2014 c 140 s 4
21 are each reenacted and amended to read as follows:

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

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

30 (b) Beginning July 1, 2015, seafood products that remain in a
31 raw, raw frozen, or raw salted state at the completion of the
32 manufacturing by that person; or selling manufactured seafood
33 products that remain in a raw, raw frozen, or raw salted state at the
34 completion of the manufacturing, to purchasers who transport in the
35 ordinary course of business the goods out of this state; as to such
36 persons the amount of tax with respect to such business is equal to
37 the value of the products manufactured or the gross proceeds derived
38 from such sales, multiplied by the rate of 0.138 percent. Sellers
39 must keep and preserve records for the period required by RCW

1 82.32.070 establishing that the goods were transported by the
2 purchaser in the ordinary course of business out of this state;

3 (c)(i) Beginning July 1, 2015, dairy products; or selling dairy
4 products that the person has manufactured to purchasers who either
5 transport in the ordinary course of business the goods out of state
6 or purchasers who use such dairy products as an ingredient or
7 component in the manufacturing of a dairy product; as to such persons
8 the tax imposed is equal to the value of the products manufactured or
9 the gross proceeds derived from such sales multiplied by the rate of
10 0.138 percent. Sellers must keep and preserve records for the period
11 required by RCW 82.32.070 establishing that the goods were
12 transported by the purchaser in the ordinary course of business out
13 of this state or sold to a manufacturer for use as an ingredient or
14 component in the manufacturing of a dairy product.

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

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

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

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

29 (d)(i) Beginning July 1, 2015, fruits or vegetables by canning,
30 preserving, freezing, processing, or dehydrating fresh fruits or
31 vegetables, or selling at wholesale fruits or vegetables manufactured
32 by the seller by canning, preserving, freezing, processing, or
33 dehydrating fresh fruits or vegetables and sold to purchasers who
34 transport in the ordinary course of business the goods out of this
35 state; as to such persons the amount of tax with respect to such
36 business is equal to the value of the products manufactured or the
37 gross proceeds derived from such sales multiplied by the rate of
38 0.138 percent. Sellers must keep and preserve records for the period
39 required by RCW 82.32.070 establishing that the goods were

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

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

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

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

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

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

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

29 (5) Upon every person engaging within this state in the business
30 of acting as a travel agent or tour operator; as to such persons the
31 amount of the tax with respect to such activities is equal to the
32 gross income derived from such activities multiplied by the rate of
33 0.275 percent.

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

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

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

35 If the gross income of the taxpayer is attributable to activities
36 both within and without this state, the gross income attributable to
37 this state must be determined in accordance with the methods of
38 apportionment required under RCW 82.04.460.

39 (9) Upon every person engaging within this state as an insurance
40 producer or title insurance agent licensed under chapter 48.17 RCW or

1 a surplus line broker licensed under chapter 48.15 RCW; as to such
2 persons, the amount of the tax with respect to such licensed
3 activities is equal to the gross income of such business multiplied
4 by the rate of 0.484 percent.

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

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

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

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

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

36 (c) For the purposes of this subsection (11), "commercial
37 airplane" and "component" have the same meanings as provided in RCW
38 82.32.550.

39 (d) In addition to all other requirements under this title, a
40 person reporting under the tax rate provided in this subsection (11)

1 must file a complete annual report with the department under RCW
2 82.32.534.

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

5 (ii) With respect to the manufacturing of commercial airplanes or
6 making sales, at retail or wholesale, of commercial airplanes, this
7 subsection (11) does not apply on and after July 1st of the year in
8 which the department makes a determination that any final assembly or
9 wing assembly of any version or variant of a commercial airplane that
10 is the basis of a siting of a significant commercial airplane
11 manufacturing program in the state under RCW 82.32.850 has been sited
12 outside the state of Washington. This subsection (11)(e)(ii) only
13 applies to the manufacturing or sale of commercial airplanes that are
14 the basis of a siting of a significant commercial airplane
15 manufacturing program in the state under RCW 82.32.850.

16 (12)(a) Until July 1, 2024, upon every person engaging within
17 this state in the business of extracting timber or extracting for
18 hire timber; as to such persons the amount of tax with respect to the
19 business is, in the case of extractors, equal to the value of
20 products, including by-products, extracted, or in the case of
21 extractors for hire, equal to the gross income of the business,
22 multiplied by the rate of 0.4235 percent from July 1, 2006, through
23 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
24 2024.

25 (b) Until July 1, 2024, upon every person engaging within this
26 state in the business of manufacturing or processing for hire: (i)
27 Timber into timber products or wood products; or (ii) timber products
28 into other timber products or wood products; as to such persons the
29 amount of the tax with respect to the business is, in the case of
30 manufacturers, equal to the value of products, including by-products,
31 manufactured, or in the case of processors for hire, equal to the
32 gross income of the business, multiplied by the rate of 0.4235
33 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent
34 from July 1, 2007, through June 30, 2024.

35 (c) Until July 1, 2024, upon every person engaging within this
36 state in the business of selling at wholesale: (i) Timber extracted
37 by that person; (ii) timber products manufactured by that person from
38 timber or other timber products; or (iii) wood products manufactured
39 by that person from timber or timber products; as to such persons the
40 amount of the tax with respect to the business is equal to the gross

1 proceeds of sales of the timber, timber products, or wood products
2 multiplied by the rate of 0.4235 percent from July 1, 2006, through
3 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
4 2024.

5 (d) Until July 1, 2024, upon every person engaging within this
6 state in the business of selling standing timber; as to such persons
7 the amount of the tax with respect to the business is equal to the
8 gross income of the business multiplied by the rate of 0.2904
9 percent. For purposes of this subsection (12)(d), "selling standing
10 timber" means the sale of timber apart from the land, where the buyer
11 is required to sever the timber within thirty months from the date of
12 the original contract, regardless of the method of payment for the
13 timber and whether title to the timber transfers before, upon, or
14 after severance.

15 (e) For purposes of this subsection, the following definitions
16 apply:

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

21 (ii) "Paper and paper products" means products made of interwoven
22 cellulosic fibers held together largely by hydrogen bonding. "Paper
23 and paper products" includes newsprint; office, printing, fine, and
24 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
25 kraft bag, construction, and other kraft industrial papers;
26 paperboard, liquid packaging containers, containerboard, corrugated,
27 and solid-fiber containers including linerboard and corrugated
28 medium; and related types of cellulosic products containing
29 primarily, by weight or volume, cellulosic materials. "Paper and
30 paper products" does not include books, newspapers, magazines,
31 periodicals, and other printed publications, advertising materials,
32 calendars, and similar types of printed materials.

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

39 (iv) "Timber" means forest trees, standing or down, on privately
40 or publicly owned land. "Timber" does not include Christmas trees

1 that are cultivated by agricultural methods or short-rotation
2 hardwoods as defined in RCW 84.33.035.

3 (v) "Timber products" means:

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

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

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

11 (vi) "Wood products" means paper and paper products; dimensional
12 lumber; engineered wood products such as particleboard, oriented
13 strand board, medium density fiberboard, and plywood; wood doors;
14 wood windows; and biocomposite surface products.

15 (f) Except for small harvesters as defined in RCW 84.33.035, a
16 person reporting under the tax rate provided in this subsection (12)
17 must file a complete annual survey with the department under RCW
18 82.32.585.

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

24 (14)(a) Upon every person engaging within this state in the
25 business of printing a newspaper, publishing a newspaper, or both,
26 the amount of tax on such business is equal to the gross income of
27 the business multiplied by the rate of (~~0.2904 percent~~) 0.35
28 percent until July 1, 2024, and 0.484 percent thereafter.

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

32 NEW SECTION. Sec. 603. 2012 2nd sp.s. c 6 s 704 (uncodified) is
33 amended to read as follows:

34 (~~Part VI~~) Section 602 of this act expires July 1, 2015.

35 **PART VII**
36 **Providing a Reduced Public Utility Tax for Log Transportation**
37 **Businesses**

1 NEW SECTION. **Sec. 701.** This section is the tax preference
2 performance statement for the tax preference contained in sections
3 702 and 703 of this act. This performance statement is only intended
4 to be used for subsequent evaluation of the tax preference. It is not
5 intended to create a private right of action by any party or be used
6 to determine eligibility for preferential tax treatment.

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

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

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

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

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

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

31 (3) "Gross income" means the value proceeding or accruing from
32 the performance of the particular public service or transportation
33 business involved, including operations incidental thereto, but
34 without any deduction on account of the cost of the commodity
35 furnished or sold, the cost of materials used, labor costs, interest,
36 discount, delivery costs, taxes, or any other expense whatsoever paid
37 or accrued and without any deduction on account of losses.

38 (4) "Light and power business" means the business of operating a
39 plant or system for the generation, production or distribution of

1 electrical energy for hire or sale and/or for the wheeling of
2 electricity for others.

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

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

17 ((+6+)) (7)(a) "Public service business" means any of the
18 businesses defined in subsections (1), (2), (4), ((+5+), (7+)) (6),
19 (8), (9), ((+11+), and)) (10), (12), and (13) of this section or any
20 business subject to control by the state, or having the powers of
21 eminent domain and the duties incident thereto, or any business
22 hereafter declared by the legislature to be of a public service
23 nature, except telephone business and low-level radioactive waste
24 site operating companies as redefined in RCW 81.04.010. It includes,
25 among others, without limiting the scope hereof: Airplane
26 transportation, boom, dock, ferry, pipe line, toll bridge, toll
27 logging road, water transportation and wharf businesses.

28 (b) The definitions in this subsection ((+6+)) (7)(b) apply
29 throughout this subsection ((+6+)) (7).

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

32 (ii) "Network telephone service" means the providing by any
33 person of access to a telephone network, telephone network switching
34 service, toll service, or coin telephone services, or the providing
35 of telephonic, video, data, or similar communication or transmission
36 for hire, via a telephone network, toll line or channel, cable,
37 microwave, or similar communication or transmission system. "Network
38 telephone service" includes the provision of transmission to and from
39 the site of an internet provider via a telephone network, toll line
40 or channel, cable, microwave, or similar communication or

1 transmission system. "Network telephone service" does not include the
2 providing of competitive telephone service, the providing of cable
3 television service, the providing of broadcast services by radio or
4 television stations, nor the provision of internet access as defined
5 in RCW 82.04.297, including the reception of dial-in connection,
6 provided at the site of the internet service provider.

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

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

13 (~~(7)~~) (8) "Railroad business" means the business of operating
14 any railroad, by whatever power operated, for public use in the
15 conveyance of persons or property for hire. It shall not, however,
16 include any business herein defined as an urban transportation
17 business.

18 (~~(8)~~) (9) "Railroad car business" means the business of
19 operating stock cars, furniture cars, refrigerator cars, fruit cars,
20 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
21 tourist cars, or any other kinds of cars used for transportation of
22 property or persons upon the line of any railroad operated in this
23 state when such railroad is not owned or leased by the person
24 engaging in such business.

25 (~~(9)~~) (10) "Telegraph business" means the business of affording
26 telegraphic communication for hire.

27 (~~(10)~~) (11) "Tugboat business" means the business of operating
28 tugboats, towboats, wharf boats or similar vessels in the towing or
29 pushing of vessels, barges or rafts for hire.

30 (~~(11)~~) (12) "Urban transportation business" means the business
31 of operating any vehicle for public use in the conveyance of persons
32 or property for hire, insofar as (a) operating entirely within the
33 corporate limits of any city or town, or within five miles of the
34 corporate limits thereof, or (b) operating entirely within and
35 between cities and towns whose corporate limits are not more than
36 five miles apart or within five miles of the corporate limits of
37 either thereof. Included herein, but without limiting the scope
38 hereof, is the business of operating passenger vehicles of every type
39 and also the business of operating cartage, pickup, or delivery
40 services, including in such services the collection and distribution

1 of property arriving from or destined to a point within or without
2 the state, whether or not such collection or distribution be made by
3 the person performing a local or interstate line-haul of such
4 property.

5 ~~((+12))~~ (13) "Water distribution business" means the business of
6 operating a plant or system for the distribution of water for hire or
7 sale.

8 ~~((+13))~~ (14) The meaning attributed, in chapter 82.04 RCW, to
9 the term "tax year," "person," "value proceeding or accruing,"
10 "business," "engaging in business," "in this state," "within this
11 state," "cash discount" and "successor" shall apply equally in the
12 provisions of this chapter.

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

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

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

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

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

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

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

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

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

33 (h) Log transportation business: One and twenty-eight one-
34 hundredths percent. The reduced rate established in this subsection
35 (1)(h) is not subject to the ten-year expiration provision in RCW
36 82.32.805(1)(a).

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

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

8 **PART VIII**

9 **Increasing Jobs in the Maritime Trades Industry**

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

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

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

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

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

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

27 (b) Therefore, the legislature intends to:

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

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

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

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

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

12 (c) It is the legislature's specific public policy objective to
13 increase economic activity and jobs related to the maritime industry
14 by providing a tax preference for large entity-owned nonresident
15 vessels to increase the length of time these vessels cruise
16 Washington waters in turn strengthening the maritime economy in the
17 state.

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

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

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

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

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

35 (A) The cost for each permit by strata of vessel length;

36 (B) The jurisdiction of ownership for the nonresident vessel; and

37 (C) The amount of use tax that would have been due based on the
38 estimated value of the vessel;

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

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

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

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

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

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

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

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

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

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

28 (c) The department of revenue has provided the nonresident vessel
29 owner written approval authorizing the permit as provided in section
30 805 of this act.

31 (3) A nonresident vessel permit:

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

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

36 (c) Is valid for two months; and

37 (d) May not be issued after December 31, 2025, to a nonresident
38 vessel owner that is not a natural person.

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

5 (~~(4)~~) (5) A nonresident vessel permit is not required under
6 this section if the vessel is used in conducting temporary business
7 activity within Washington state.

8 (~~(5)~~) (6) For any permits issued under this section to a
9 nonresident vessel owner that is not a natural person, the department
10 must maintain a record of the following information and provide it to
11 the department of revenue quarterly or as otherwise mutually agreed
12 to by the department and department of revenue:

13 (a) The name of the record owner of the vessel;

14 (b) The vessel's hull identification number;

15 (c) The amount of the fee paid under RCW 88.02.640(5);

16 (d) The date the vessel first entered the waters of this state;

17 (e) The expiration date for the permit; and

18 (f) Any other information mutually agreed to by the department
19 and department of revenue.

20 (7) The department (~~(shall)~~) must adopt rules to implement this
21 section, including rules on issuing and displaying the nonresident
22 vessel permit.

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

25 (1) In addition to any other fees and taxes required by law, the
26 department, county auditor or other agent, or subagent appointed by
27 the director (~~(shall)~~) must charge the following vessel fees and
28 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
(c) Derelict vessel removal surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section
(d) Duplicate certificate of title	\$1.25	RCW 88.02.530(1)(c)	General fund

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

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

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

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

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

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

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

29 (4) In addition to other fees required in this section, an annual
30 derelict vessel removal surcharge of one dollar must be charged with
31 each vessel registration. The surcharge is to address the significant
32 backlog of derelict vessels accumulated in Washington waters that
33 pose a threat to the health and safety of the people and to the
34 environment and must be deposited into the derelict vessel removal
35 account created in RCW 79.100.100.

36 (5) ~~((The twenty five dollar nonresident vessel permit fee must
37 be paid by the vessel owner to the department for the cost of~~

1 ~~providing the identification document by the department))~~ (a) The
2 amount of the nonresident vessel permit fee is:

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

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

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

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

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

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

19 (c) A nonresident vessel owner that is not a natural person may
20 not obtain more than two nonresident vessel permits under RCW
21 88.02.620 within any thirty-six month period.

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

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

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

28 (c) Any moneys remaining must be allocated to counties by the
29 state treasurer for approved boating safety programs under RCW
30 88.02.650; and

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

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

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

38 (ii) If the fee is paid to the participating county auditor or
39 other agent or subagent appointed by the director, twenty-five
40 dollars must be deposited to the general fund. The remainder must be

1 retained by the county treasurer in the same manner as other fees
2 collected by the county auditor.

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

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

7 Vessel registration is required under this chapter except for the
8 following:

9 (1) A military vessel owned by the United States government;

10 (2) A public vessel owned by the United States government, unless
11 the vessel is a type used for recreation;

12 (3) A vessel clearly identified as being:

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

14 (b) Used primarily for governmental purposes;

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

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

29 (6)~~(a)~~ A vessel owned by a nonresident if:

30 ~~((a))~~ (i) The vessel is located upon the waters of this state
31 exclusively for repairs, alteration, or reconstruction, or any
32 testing related to these services;

33 ~~((b))~~ (ii) An employee of the facility providing these services
34 is on board the vessel during any testing; and

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

38 (b) The nonresident ~~((shall))~~ must continue to file an affidavit
39 every sixty days thereafter, as long as the vessel is located upon

1 the waters of this state exclusively for repairs, alteration,
2 reconstruction, or testing;

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

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

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

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

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

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

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

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

27 (12) A vessel owned by a nonresident (~~natural~~) person brought
28 into the state for use or enjoyment while temporarily within the
29 state for not more than six months in any continuous twelve-month
30 period that (a) is currently registered or numbered under the laws of
31 the state of principal use or (b) has been issued a valid number
32 under federal law. This type of vessel is exempt from registration
33 only for the first sixty days of use on Washington state waters. On
34 or before the sixty-first day of use on Washington state waters, any
35 vessel under this subsection must obtain a nonresident vessel permit
36 as required under RCW 88.02.620;

37 (13) A vessel used in this state by a nonresident individual
38 possessing a valid use permit issued under RCW 82.08.700 or
39 82.12.700; and

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

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

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

8 (a) The name of the record owner of the vessel;

9 (b) The name, address, and telephone number of the individual
10 that applied for the permit on behalf of the nonresident person;

11 (c) The record owner's address and telephone number;

12 (d) The vessel's hull identification number;

13 (e) The vessel year, make, and model;

14 (f) The vessel length;

15 (g) The vessel's registration or numbering under the state of
16 principal operation or the valid number under federal law;

17 (h) Proof of the person's current nonresident status, including
18 certified copies of the filed articles of incorporation, a
19 certificate of formation, or similar filings;

20 (i) Proof of the identity and current residency of all principals
21 of the nonresident person. Such proof may include a valid driver's
22 license verifying out-of-state residency or a valid identification
23 card that has a photograph of the holder and is issued by an out-of-
24 state jurisdiction;

25 (j) An affidavit signed by a principal of the nonresident vessel
26 owner certifying that no Washington residents are principals of the
27 nonresident vessel owner; and

28 (k) Any other information the department may require.

29 (2) The department must determine the nonresident vessel owner's
30 eligibility for the permit, as provided in RCW 88.02.620, and may
31 request additional information as needed directly from the
32 nonresident vessel owner.

33 (3)(a) If the nonresident vessel owner appears eligible for the
34 permit, the department must provide written approval to the
35 nonresident vessel owner that authorizes issuance of the permit and
36 includes the name of the nonresident vessel owner, the name of the
37 vessel, and the hull identification number. After November 30, 2025,
38 the department may not provide written approval for any permits under
39 this subsection.

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

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

9 (b) If the department finds the nonresident person was not
10 eligible for the permit, the department must assess against the
11 nonresident person state and local use tax on the value of the vessel
12 according to the "value of the article used" as defined in RCW
13 82.12.010. The department must also assess against the nonresident
14 person any watercraft excise tax due under chapter 82.49 RCW.
15 Penalties and interest as provided in this chapter and chapter 82.49
16 RCW apply to taxes assessed under this subsection (4).

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

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

22 PART IX

23 Concerning Distribution and Use of Aircraft Excise Taxes

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

26 The secretary (~~shall~~) must regularly pay to the state treasurer
27 the excise taxes collected under this chapter, which (~~shall~~) must
28 be credited by the state treasurer (~~as follows: Ninety percent to~~
29 ~~the general fund and ten percent~~) to the aeronautics account (~~in~~
30 ~~the transportation fund~~) for state grants to airports and the
31 administrative expenses associated with grant execution and the
32 collection of excise taxes under this chapter.

33 PART X

34 Providing a Business and Occupation Tax Credit for Businesses That 35 Hire Veterans

1 NEW SECTION. **Sec. 1001.** This section is the tax preference
2 performance statement for the tax preference contained in sections
3 1002 and 1003 of this act. This performance statement is only
4 intended to be used for subsequent evaluation of the tax preference.
5 It is not intended to create a private right of action by any party
6 or be used to determine eligibility for preferential tax treatment.

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

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

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

24 (4) In order to obtain the data necessary to perform the review
25 in subsection (3) of this section, the joint legislative audit and
26 review committee should refer to the veteran unemployment rates
27 available from the employment security department and the bureau of
28 labor statistics.

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

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

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

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

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

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

33 (6) Credits earned under this section may be claimed only on
34 returns filed electronically with the department using the
35 department's online tax filing service or other method of electronic
36 reporting as the department may authorize. No application is required
37 to claim the credit, but the taxpayer must keep records necessary for
38 the department to determine eligibility under this section including
39 records establishing the person's status as a veteran and status as
40 unemployed when hired by the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

35 (3) Credits are available on a first-in-time basis. The
36 department must keep a running total of all credits allowed under
37 this section and section 1002 of this act during each fiscal year.
38 The department may not allow any credits that would cause the total
39 credits allowed under this section and section 1002 of this act to

1 exceed five hundred thousand dollars in any fiscal year. If all or
2 part of a claim for credit is disallowed under this subsection, the
3 disallowed portion is carried over to the next fiscal year. However,
4 the carryover into the next fiscal year is only permitted to the
5 extent that the cap for the next fiscal year is not exceeded.
6 Priority must be given to credits carried over from a previous fiscal
7 year. The department must provide written notice to any person who
8 has claimed tax credits in excess of the limitation in this
9 subsection. The notice must indicate the amount of tax due and
10 provide that the tax be paid within thirty days from the date of the
11 notice. The department may not assess penalties and interest as
12 provided in chapter 82.32 RCW on the amount due in the initial notice
13 if the amount due is paid by the due date specified in the notice, or
14 any extension thereof.

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

19 (5) If an employer discharges a qualified employee for whom the
20 employer has claimed a credit under this section, the employer may
21 not claim a new credit under this section for a period of one year
22 from the date the qualified employee was discharged. However, this
23 subsection (5) does not apply if the qualified employee was
24 discharged for misconduct, as defined in RCW 50.04.294, connected
25 with his or her work or discharged due to a felony or gross
26 misdemeanor conviction, and the employer contemporaneously documents
27 the reason for discharge.

28 (6) Credits earned under this section may be claimed only on
29 returns filed electronically with the department using the
30 department's online tax filing service or other method of electronic
31 reporting as the department may authorize. No application is required
32 to claim the credit, but the taxpayer must keep records necessary for
33 the department to determine eligibility under this section including
34 records establishing the person's status as a veteran and status as
35 unemployed when hired by the taxpayer.

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

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

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

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

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

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

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

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

21 PART XI

22 Defining Honey Bee Products and Services as an Agricultural Product

23 NEW SECTION. **Sec. 1101.** This section is the tax preference
24 performance statement for the tax preference contained in this Part
25 XI. This performance statement is only intended to be used for
26 subsequent evaluation of the tax preference. It is not intended to
27 create a private right of action by any party or be used to determine
28 eligibility for preferential tax treatment.

29 It is the legislature's specific public policy objective to
30 support the honey bee industry and provide tax relief to eligible
31 apiarists. Honey bees pollinate eighty percent of the nation's
32 flowering crops, which include agricultural crops. They are vitally
33 important to agriculture and an integral part of food production.
34 Therefore, the legislature intends to permanently include eligible
35 apiarists within the definition of farmer and define honey bee
36 products as agricultural products so that they may receive the same
37 tax relief as that provided to other sectors of agriculture. Because
38 the legislature intends for the changes in this Part XI to be

1 permanent, they are exempt from the ten-year expiration provision in
2 RCW 82.32.805.

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

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

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

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

30 (c) "Honey bee products" means queen honey bees, packaged honey
31 bees, honey, pollen, bees wax, propolis, or other substances obtained
32 from honey bees. "Honey bee products" does not include manufactured
33 substances or articles.

34 (3) The terms "agriculture," "farming," "horticulture,"
35 "horticultural," and "horticultural product" may not be construed to
36 include or relate to marijuana, useable marijuana, or marijuana-
37 infused products unless the applicable term is explicitly defined to
38 include marijuana, useable marijuana, or marijuana-infused products.

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

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

5 (1) This chapter does not apply to any farmer in respect to the
6 sale of any agricultural product at wholesale or to any farmer who
7 grows, raises, or produces agricultural products owned by others,
8 such as custom feed operations. This exemption does not apply to any
9 person selling such products at retail or to any person selling
10 manufactured substances or articles. This chapter does not apply to
11 bee pollination services provided to a farmer by an eligible
12 apiarist.

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

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

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

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

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

35 (iii) Purchases for the purpose of consuming the property
36 purchased in producing for sale as a new article of tangible personal
37 property or substance, of which such property becomes an ingredient
38 or component or is a chemical used in processing, when the primary

1 purpose of such chemical is to create a chemical reaction directly
2 through contact with an ingredient of a new article being produced
3 for sale; or

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

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

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

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

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

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

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

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

1 charges made for the clearing of land and the moving of earth
2 excepting the mere leveling of land used in commercial farming or
3 agriculture;

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

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

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

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

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

37 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
38 of this subsection when such sales or charges are for property, labor
39 and services which are used or consumed in whole or in part by such
40 persons in the performance of any activity defined as a "sale at

1 retail" or "retail sale" even though such property, labor and
2 services may be resold after such use or consumption. Nothing
3 contained in this subsection may be construed to modify subsection
4 (1) of this section and nothing contained in subsection (1) of this
5 section may be construed to modify this subsection.

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

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

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

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

19 (A) "Cover charge" means a charge, regardless of its label, to
20 enter an establishment or added to the purchaser's bill by an
21 establishment or otherwise collected after entrance to the
22 establishment, and the purchaser is provided the opportunity to dance
23 in exchange for payment of the charge.

24 (B) "Opportunity to dance" means that an establishment provides a
25 designated physical space, on either a temporary or permanent basis,
26 where customers are allowed to dance and the establishment either
27 advertises or otherwise makes customers aware that it has an area for
28 dancing;

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

30 (c) Credit bureau services;

31 (d) Automobile parking and storage garage services;

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

37 (f) Service charges associated with tickets to professional
38 sporting events; and

1 (g) The following personal services: Physical fitness services,
2 tanning salon services, tattoo parlor services, steam bath services,
3 turkish bath services, escort services, and dating services.

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

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

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

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

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

23 (i) Custom software; or

24 (ii) The customization of prewritten computer software.

25 (~~(b)~~) (c)(i) The term also includes the charge made to
26 consumers for the right to access and use prewritten computer
27 software, where possession of the software is maintained by the
28 seller or a third party, regardless of whether the charge for the
29 service is on a per use, per user, per license, subscription, or some
30 other basis.

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

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

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

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

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

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

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

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

25 (b) A retail sale of digital goods, digital codes, or digital
26 automated services under this subsection (8) includes any services
27 provided by the seller exclusively in connection with the digital
28 goods, digital codes, or digital automated services, whether or not a
29 separate charge is made for such services.

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

36 (9) The term also includes the charge made for providing tangible
37 personal property along with an operator for a fixed or indeterminate
38 period of time. A consideration of this is that the operator is
39 necessary for the tangible personal property to perform as designed.

1 For the purpose of this subsection (9), an operator must do more than
2 maintain, inspect, or set up the tangible personal property.

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

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

28 (12) The term does not include the sale of or charge made for
29 labor and services rendered in respect to the constructing,
30 repairing, decorating, or improving of new or existing buildings or
31 other structures under, upon, or above real property of or for the
32 United States, any instrumentality thereof, or a county or city
33 housing authority created pursuant to chapter 35.82 RCW, including
34 the installing, or attaching of any article of tangible personal
35 property therein or thereto, whether or not such personal property
36 becomes a part of the realty by virtue of installation. Nor does the
37 term include the sale of services or charges made for the clearing of
38 land and the moving of earth of or for the United States, any
39 instrumentality thereof, or a county or city housing authority. Nor
40 does the term include the sale of services or charges made for

1 cleaning up for the United States, or its instrumentalities,
2 radioactive waste and other by-products of weapons production and
3 nuclear research and development.

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

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

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

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

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

26 (ii) Installs, repairs, cleans, alters, imprints, improves,
27 constructs, or decorates real or personal property of or for
28 consumers, if such tangible personal property becomes an ingredient
29 or component of such real or personal property without intervening
30 use by such person; or

31 (iii) Purchases for the purpose of consuming the property
32 purchased in producing for sale as a new article of tangible personal
33 property or substance, of which such property becomes an ingredient
34 or component or is a chemical used in processing, when the primary
35 purpose of such chemical is to create a chemical reaction directly
36 through contact with an ingredient of a new article being produced
37 for sale; or

38 (iv) Purchases for the purpose of consuming the property
39 purchased in producing ferrosilicon which is subsequently used in

1 producing magnesium for sale, if the primary purpose of such property
2 is to create a chemical reaction directly through contact with an
3 ingredient of ferrosilicon; or

4 (v) Purchases for the purpose of providing the property to
5 consumers as part of competitive telephone service, as defined in RCW
6 82.04.065; or

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

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

17 (c) The term also means every sale of tangible personal property
18 to persons engaged in any business that is taxable under RCW
19 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

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

30 (b) The constructing, repairing, decorating, or improving of new
31 or existing buildings or other structures under, upon, or above real
32 property of or for consumers, including the installing or attaching
33 of any article of tangible personal property therein or thereto,
34 whether or not such personal property becomes a part of the realty by
35 virtue of installation, and also includes the sale of services or
36 charges made for the clearing of land and the moving of earth
37 excepting the mere leveling of land used in commercial farming or
38 agriculture;

39 (c) The constructing, repairing, or improving of any structure
40 upon, above, or under any real property owned by an owner who conveys

1 the property by title, possession, or any other means to the person
2 performing such construction, repair, or improvement for the purpose
3 of performing such construction, repair, or improvement and the
4 property is then reconveyed by title, possession, or any other means
5 to the original owner;

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

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

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

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

32 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
33 of this subsection when such sales or charges are for property, labor
34 and services which are used or consumed in whole or in part by such
35 persons in the performance of any activity defined as a "sale at
36 retail" or "retail sale" even though such property, labor and
37 services may be resold after such use or consumption. Nothing
38 contained in this subsection may be construed to modify subsection
39 (1) of this section and nothing contained in subsection (1) of this
40 section may be construed to modify this subsection.

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

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

7 (b) Credit bureau services;

8 (c) Automobile parking and storage garage services;

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

14 (e) Service charges associated with tickets to professional
15 sporting events;

16 (f) The following personal services: Tanning salon services,
17 tattoo parlor services, steam bath services, turkish bath services,
18 escort services, and dating services; and

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

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

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

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

32 (C) Separately stated charges for services, such as advertising,
33 massage, nutritional consulting, and body composition testing, that
34 do not require the customer to engage in physical fitness activities
35 to receive the service. The exclusion in this subsection
36 (3)(g)(ii)(C) does not apply to personal training services and
37 instruction in a physical fitness activity;

38 (D) Separately stated charges for physical therapy provided by a
39 physical therapist, as those terms are defined in RCW 18.74.010, or
40 occupational therapy provided by an occupational therapy

1 practitioner, as those terms are defined in RCW 18.59.020, when
2 performed pursuant to a referral from an authorized health care
3 practitioner or in consultation with an authorized health care
4 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an
5 authorized health care practitioner means a health care practitioner
6 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or
7 18.71A RCW;

8 (E) Rent or association fees charged by a landlord or residential
9 association to a tenant or residential owner with access to an
10 athletic or fitness facility maintained by the landlord or
11 residential association, unless the rent or fee varies depending on
12 whether the tenant or owner has access to the facility;

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

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

25 (H) Yoga, tai chi, or chi gong classes held at a community
26 center, park, gymnasium, college or university, hospital or other
27 medical facility, private residence, or any facility that is not
28 primarily used for physical fitness activities other than yoga, tai
29 chi, or chi gong classes.

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

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

36 (A) "Athletic or fitness facility" means an indoor or outdoor
37 facility or portion of a facility that is primarily used for:
38 Exercise classes; strength and conditioning programs; personal
39 training services; tennis, racquetball, handball, squash, or
40 pickleball; yoga; boxing, kickboxing, wrestling, martial arts, or

1 mixed martial arts training; or other activities requiring the use of
2 exercise or strength training equipment, such as treadmills,
3 elliptical machines, stair climbers, stationary cycles, rowing
4 machines, pilates equipment, balls, climbing ropes, jump ropes, and
5 weightlifting equipment.

6 (B) "Physical fitness activities" means activities that involve
7 physical exertion for the purpose of improving or maintaining the
8 general fitness, strength, flexibility, conditioning, or health of
9 the participant.

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

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

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

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

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

29 (i) Custom software; or

30 (ii) The customization of prewritten computer software.

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

37 (ii)(A) The service described in (~~(b)~~) (c)(i) of this
38 subsection (6) includes the right to access and use prewritten
39 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 ~~((e))~~ (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 (15)(a) The term "sale at retail" or "retail sale" includes
20 amounts charged, however labeled, to consumers to engage in any of
21 the activities listed in this subsection (15)(a), including the
22 furnishing of any associated equipment or, except as otherwise
23 provided in this subsection, providing instruction in such
24 activities, where such charges are not otherwise defined as a "sale
25 at retail" or "retail sale" in this section:

26 (i)(A) Golf, including any variant in which either golf balls or
27 golf clubs are used, such as miniature golf, hitting golf balls at a
28 driving range, and golf simulators, and including fees charged by a
29 golf course to a player for using his or her own cart. However,
30 charges for golf instruction are not a retail sale, provided that if
31 the instruction involves the use of a golfing facility that would
32 otherwise require the payment of a fee, such as green fees or driving
33 range fees, such fees, including the applicable retail sales tax,
34 must be separately identified and charged by the golfing facility
35 operator to the instructor or the person receiving the instruction.

36 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except
37 as otherwise provided in this subsection (15)(a)(i)(B), the term
38 "sale at retail" or "retail sale" does not include amounts charged to
39 participate in, or conduct, a golf tournament or other competitive
40 event. However, amounts paid by event participants to the golf

1 facility operator are retail sales under this subsection (15)(a)(i).
2 Likewise, amounts paid by the event organizer to the golf facility
3 are retail sales under this subsection (15)(a)(i), if such amounts
4 vary based on the number of event participants;

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

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

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

20 (v) Batting cage activities;

21 (vi) Bowling, but not including competitive events, except that
22 amounts paid by the event participants to the bowling alley operator
23 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
24 paid by the event organizer to the operator of the bowling alley are
25 retail sales under this subsection (15)(a)(vi), if such amounts vary
26 based on the number of event participants;

27 (vii) Climbing on artificial climbing structures, whether indoors
28 or outdoors;

29 (viii) Day trips for sightseeing purposes;

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

32 (x) Horseback riding offered to the public, where the seller
33 furnishes the horse to the buyer and providing instruction is not the
34 primary focus of the activity, including guided rides, but not
35 including therapeutic horseback riding provided by an instructor
36 certified by a nonprofit organization that offers national or
37 international certification for therapeutic riding instructors;

38 (xi) Fishing, including providing access to private fishing areas
39 and charter or guided fishing, except that fishing contests and

1 license fees imposed by a government entity are not a retail sale
2 under this subsection;

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

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

14 (xiv) Go-karting, bumper cars, and other motorized activities
15 where the seller provides the vehicle and the premises where the
16 buyer will operate the vehicle;

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

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

31 (xvii) Paintball and airsoft activities;

32 (xviii) Skating, including ice skating, roller skating, and
33 inline skating, but only in respect to discrete charges to members of
34 the public to engage in skating activities, but not including skating
35 lessons, competitive events, team activities, or fees to join or
36 renew a membership at a skating facility, club, or other
37 organization;

38 (xix) Nonmotorized snow sports and activities, such as downhill
39 and cross-country skiing, snowboarding, ski jumping, sledding, snow
40 tubing, snowshoeing, and similar snow sports and activities, whether

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

13 (xx) Scuba diving; snorkeling; river rafting; surfing;
14 kiteboarding; flyboarding; water slides; inflatables, such as water
15 pillows, water trampolines, and water rollers; and similar water
16 sports and activities.

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

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

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

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

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

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

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

5 (a) Replacement parts for qualifying farm machinery and
6 equipment;

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

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

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

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

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

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

39 (A) The eligible farmer having gross sales or a harvested value
40 of agricultural products grown, raised, or produced by that person or

1 gross sales of bee pollination services of at least ten thousand
2 dollars in the first full tax year in which the person engages in
3 business as a farmer; or

4 (B) The eligible farmer, during the first full tax year in which
5 that person engages in business as a farmer, growing, raising, or
6 producing agricultural products or bee pollination services having an
7 estimated value at any time during that year of at least ten thousand
8 dollars, if the person will not sell or harvest an agricultural
9 product or bee pollination service during the first full tax year in
10 which the person engages in business as a farmer.

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

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

25 (a) "Agricultural products" has the meaning provided in RCW
26 82.04.213.

27 (b) "Eligible farmer" means:

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

32 (ii) A farmer as defined in RCW 82.04.213 whose agricultural
33 products had an estimated value of at least ten thousand dollars for
34 the immediately preceding tax year, if the person did not sell or
35 harvest an agricultural product or bee pollination service during
36 that year;

37 (iii) A farmer as defined in RCW 82.04.213 who has merely changed
38 identity or the form of ownership of an entity that was an eligible
39 farmer, where there was no change in beneficial ownership, and the
40 combined gross sales, harvested value, or estimated value of

1 agricultural products or bee pollination services by both entities
2 met the requirements of (b)(i) or (ii) of this subsection for the
3 immediately preceding tax year;

4 (iv) A farmer as defined in RCW 82.04.213((7)) who does not meet
5 the definition of "eligible farmer" in (b)(i), (ii), or (iii) of this
6 subsection, and who did not engage in farming for the entire
7 immediately preceding tax year, because the farmer is either new to
8 farming or newly returned to farming; or

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

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

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

28 (e) "Qualifying farm machinery and equipment" means machinery and
29 equipment used primarily by an eligible farmer for growing, raising,
30 or producing agricultural products, providing bee pollination
31 services, or both. "Qualifying farm machinery and equipment" does not
32 include:

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

40 (ii) Aircraft;

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

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

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

6 (ii) Paint, fuel, oil, hydraulic fluids, antifreeze, and similar
7 items are not replacement parts except when installed, incorporated,
8 or placed in qualifying farm machinery and equipment during the
9 course of installing replacement parts as defined in (f)(i) of this
10 subsection or making repairs as described in subsection (1)(c) of
11 this section.

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

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

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

21 (2) RCW 82.04.630 (Exemptions—Bee pollination services) and 2013
22 2nd sp.s. c 13 s 307 & 2008 c 314 s 3;

23 (3) RCW 82.08.0204 (Exemptions—Honey bees) and 2013 2nd sp.s. c
24 13 s 308 & 2008 c 314 s 4;

25 (4) RCW 82.12.0204 (Exemptions—Honey bees) and 2013 2nd sp.s. c
26 13 s 309 & 2008 c 314 s 5;

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

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

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

33 NEW SECTION. **Sec. 1108.** The legislature intends for the
34 amendments in this act to be permanent. Therefore, the amendments in
35 Part XI of this act are exempt from the provision in RCW 82.32.805
36 and 82.32.808.

1 **PART XII**

2 **Concerning the Taxation of Wax and Ceramic Materials Used to Make**
3 **Molds**

4 NEW SECTION. **Sec. 1201.** (1) This section is the tax preference
5 performance statement for the tax preference contained in section
6 1202 of this act. It is not intended to create a private right of
7 action by any party or be used to determine eligibility for
8 preferential tax treatment.

9 (2) The legislature categorizes the tax preference created in
10 this act as one intended to reduce structural inefficiencies in the
11 tax structure as indicated in RCW 82.32.808(2)(d).

12 (3) It is the legislature's specific public policy objective to
13 provide permanent tax relief that corrects the structural
14 inefficiencies under RCW 82.08.983 with regard to wax and ceramic
15 materials used to create molds during the process of creating ferrous
16 and nonferrous investment castings used in industrial applications.

17 NEW SECTION. **Sec. 1202.** 2010 c 225 s 4 (uncodified) is
18 repealed.

19 NEW SECTION. **Sec. 1203.** As this part is intended to create a
20 permanent tax exemption, the tax preference in this act is not
21 subject to the expiration date requirements in RCW 82.32.805 and is
22 not subject to the requirements in RCW 82.32.808(4).

23 **PART XIII**

24 **[NOT USED]**

25 **PART XIV**

26 **[NOT USED]**

27 **PART XV**

28 **[NOT USED]**

29 **PART XVI**

30 **[NOT USED]**

31 **PART XVII**

32 **[NOT USED]**

1 **PART XVIII**

2 **[NOT USED]**

3 **PART XIX**

4 **Concerning a Hazardous Substance Tax Exemption for Certain Hazardous**
5 **Substances that Are Used as Agricultural Crop Protection Products and**
6 **Warehoused but not Otherwise Used, Manufactured, Packaged, or Sold in**
7 **this State**

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

10 (1) The legislature categorizes the tax preference in section
11 1902 of this act as one intended to improve industry competitiveness,
12 as indicated in RCW 82.32.808(2)(b).

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

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

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

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

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

11 (1) Any successive possession of a previously taxed hazardous
12 substance. If tax due under this chapter has not been paid with
13 respect to a hazardous substance, the department may collect the tax
14 from any person who has had possession of the hazardous substance. If
15 the tax is paid by any person other than the first person having
16 taxable possession of a hazardous substance, the amount of tax paid
17 shall constitute a debt owed by the first person having taxable
18 possession to the person who paid the tax.

19 (2) Any possession of a hazardous substance by a natural person
20 under circumstances where the substance is used, or is to be used,
21 for a personal or domestic purpose (and not for any business purpose)
22 by that person or a relative of, or person residing in the same
23 dwelling as, that person.

24 (3) Any possession of a hazardous substance amount which is
25 determined as minimal by the department of ecology and which is
26 possessed by a retailer for the purpose of making sales to ultimate
27 consumers. This exemption does not apply to pesticide or petroleum
28 products.

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

30 (5)(a) Any possession of a hazardous substance as defined in RCW
31 82.21.020(1)(c) that is solely for use by a farmer or certified
32 applicator as an agricultural crop protection product and warehoused
33 in this state or transported to or from this state, provided that the
34 person possessing the substance does not otherwise use, manufacture,
35 package for sale, or sell the substance in this state.

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

38 (i) "Agricultural crop protection product" means a chemical
39 regulated under the federal insecticide, fungicide, and rodenticide

1 act, 7 U.S.C. Sec. 136 as amended as of the effective date of this
2 section, when used to prevent, destroy, repel, mitigate, or control
3 predators, diseases, weeds, or other pests.

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

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

7 (iv) "Manufacturing" includes mixing or combining agricultural
8 crop protection products with other chemicals or other agricultural
9 crop protection products.

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

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

15 (6) Persons or activities which the state is prohibited from
16 taxing under the United States Constitution.

17 ~~((6) Any persons possessing a hazardous substance where such~~
18 ~~possession first occurred before March 1, 1989.))~~

19 **PART XX**

20 **Concerning the Taxation of Certain Rented Property Owned by Nonprofit**
21 **Fair Associations**

22 NEW SECTION. Sec. 2001. (1) This section is the tax preference
23 performance statement for the tax preference contained in section
24 2002 of this act. This performance statement is only intended to be
25 used for subsequent evaluation of the tax preference. It is not
26 intended to create a private right of action by any party or be used
27 to determine eligibility for preferential tax treatment.

28 (2) The legislature categorizes this tax preference as intended
29 to accomplish a general purpose not identified in RCW 82.32.808(2)
30 (a) through (e).

31 (3) It is the legislature's specific public policy objective to
32 support nonprofit fairs that obtained a majority of their property
33 from a city or county between 1995 and 1998. The legislature intends
34 to make their property tax exemption permanent, while requiring the
35 collection of leasehold excise tax on any rentals of their exempt
36 property that exceed fifty consecutive days. Because the legislature
37 intends for the changes in this Part XX to be permanent, they are
38 exempt from the ten-year expiration provision in RCW 82.32.805(1)(a).

1 **Sec. 2002.** RCW 84.36.480 and 2013 c 212 s 2 are each amended to
2 read as follows:

3 (1) Except as provided otherwise in subsections (2) and (3) of
4 this section, the real and personal property of a nonprofit fair
5 association that sponsors or conducts a fair or fairs that is
6 eligible to receive support from the fair fund, as created in RCW
7 15.76.115 and allocated by the director of the department of
8 agriculture, is exempt from taxation. To be exempt under this
9 subsection (1), the property must be used exclusively for fair
10 purposes, except as provided in RCW 84.36.805. However, the loan or
11 rental of property otherwise exempt under this section to a private
12 concessionaire or to any person for use as a concession in
13 conjunction with activities permitted under this section (~~shall~~) do
14 not nullify the exemption if the concession charges are subject to
15 agreement and the rental income, if any, is reasonable and is devoted
16 solely to the operation and maintenance of the property.

17 (2)(a) Except as provided otherwise in this subsection and
18 subsection (3) of this section, the real and personal property owned
19 by a nonprofit fair association organized under chapter 24.06 RCW and
20 used for fair purposes is exempt from taxation if the majority of
21 such property, as determined by assessed value, was purchased or
22 acquired by the same nonprofit fair association from a county or a
23 city between 1995 and 1998.

24 (b) (~~The exemption under this subsection (2) may not be claimed~~
25 ~~for taxes levied for collection in 2019 and thereafter.~~) The use of
26 exempt property for rental purposes does not negate the exemption
27 under this subsection. However, any rental exceeding fifty
28 consecutive days during any calendar year is subject to leasehold
29 excise tax under chapter 82.29A RCW. For purposes of this subsection,
30 "rental" means a lease, permit, license, or any other agreement
31 granting possession and use, to a degree less than fee simple
32 ownership, between the nonprofit fair association and a person who
33 would not be exempt from property taxes if that person owned the
34 property in fee.

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

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

1 The definitions in this section apply throughout this chapter
2 unless the context requires otherwise.

3 (1)(a) "Leasehold interest" means an interest in publicly owned,
4 or specified privately owned, real or personal property which exists
5 by virtue of any lease, permit, license, or any other agreement,
6 written or verbal, between the ((public)) owner of the property and a
7 person who would not be exempt from property taxes if that person
8 owned the property in fee, granting possession and use, to a degree
9 less than fee simple ownership. However, no interest in personal
10 property (excluding land or buildings) which is owned by the United
11 States, whether or not as trustee, or by any foreign government may
12 constitute a leasehold interest hereunder when the right to use such
13 property is granted pursuant to a contract solely for the manufacture
14 or production of articles for sale to the United States or any
15 foreign government. The term "leasehold interest" includes the rights
16 of use or occupancy by others of property which is owned in fee or
17 held in trust by a public corporation, commission, or authority
18 created under RCW 35.21.730 or 35.21.660 if the property is listed on
19 or is within a district listed on any federal or state register of
20 historical sites.

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

22 (i) Road or utility easements, rights of access, occupancy, or
23 use granted solely for the purpose of removing materials or products
24 purchased from ((a-public)) an owner or the lessee of ((a-public)) an
25 owner, or rights of access, occupancy, or use granted solely for the
26 purpose of natural energy resource exploration; or

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

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

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

1 regarding the rent payable, or negotiated or renegotiated under
2 circumstances, established by public record, clearly showing that the
3 contract rent was the maximum attainable by the lessor. With respect
4 to a leasehold interest in privately owned property, "taxable rent"
5 means contract rent. However, after January 1, 1986, with respect to
6 any lease which has been in effect for ten years or more without
7 renegotiation, taxable rent may be established by procedures set
8 forth in (g) of this subsection. All other leasehold interests are
9 subject to the determination of taxable rent under the terms of (g)
10 of this subsection.

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

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

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

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

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

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

25 (g) If it is determined by the department of revenue, upon
26 examination of a lessee's accounts or those of a lessor of publicly
27 owned property, that a lessee is occupying or using publicly owned
28 property in such a manner as to create a leasehold interest and that
29 such leasehold interest has not been established through competitive
30 bidding, or negotiated in accordance with statutory requirements
31 regarding the rent payable, or negotiated under circumstances,
32 established by public record, clearly showing that the contract rent
33 was the maximum attainable by the lessor, the department may
34 establish a taxable rent computation for use in determining the tax
35 payable under authority granted in this chapter based upon the
36 following criteria: (i) Consideration must be given to rental being
37 paid to other lessors by lessees of similar property for similar
38 purposes over similar periods of time; (ii) consideration must be
39 given to what would be considered a fair rate of return on the market
40 value of the property leased less reasonable deductions for any

1 restrictions on use, special operating requirements or provisions for
2 concurrent use by the lessor, another person or the general public.

3 (3) "Product lease" as used in this chapter means a lease of
4 property for use in the production of agricultural or marine
5 products, not including the production of marijuana as defined in RCW
6 69.50.101, to the extent that such lease provides for the contract
7 rent to be paid by the delivery of a stated percentage of the
8 production of such agricultural or marine products to the credit of
9 the lessor or the payment to the lessor of a stated percentage of the
10 proceeds from the sale of such products.

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

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

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

26 (7) "Publicly owned, or specified privately owned, real or
27 personal property" includes real or personal property:

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

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

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

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

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

3 The definitions in this section apply throughout this chapter
4 unless the context requires otherwise.

5 (1)(a) "Leasehold interest" means an interest in publicly owned,
6 or specified privately owned, real or personal property which exists
7 by virtue of any lease, permit, license, or any other agreement,
8 written or verbal, between the ((public)) owner of the property and a
9 person who would not be exempt from property taxes if that person
10 owned the property in fee, granting possession and use, to a degree
11 less than fee simple ownership. However, no interest in personal
12 property (excluding land or buildings) which is owned by the United
13 States, whether or not as trustee, or by any foreign government may
14 constitute a leasehold interest hereunder when the right to use such
15 property is granted pursuant to a contract solely for the manufacture
16 or production of articles for sale to the United States or any
17 foreign government. The term "leasehold interest" includes the rights
18 of use or occupancy by others of property which is owned in fee or
19 held in trust by a public corporation, commission, or authority
20 created under RCW 35.21.730 or 35.21.660 if the property is listed on
21 or is within a district listed on any federal or state register of
22 historical sites.

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

24 (i) Road or utility easements, rights of access, occupancy, or
25 use granted solely for the purpose of removing materials or products
26 purchased from ((a public)) an owner or the lessee of ((a public)) an
27 owner, or rights of access, occupancy, or use granted solely for the
28 purpose of natural energy resource exploration(~~(("Leasehold~~
29 ~~interest" does not include))~~); or

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

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

1 regarding the rent payable, or negotiated or renegotiated under
2 circumstances, established by public record, clearly showing that the
3 contract rent was the maximum attainable by the lessor. With respect
4 to a leasehold interest in privately owned property, "taxable rent"
5 means contract rent. However, after January 1, 1986, with respect to
6 any lease which has been in effect for ten years or more without
7 renegotiation, taxable rent may be established by procedures set
8 forth in (g) of this subsection. All other leasehold interests are
9 subject to the determination of taxable rent under the terms of (g)
10 of this subsection.

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

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

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

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

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

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

25 (g) If it is determined by the department of revenue, upon
26 examination of a lessee's accounts or those of a lessor of publicly
27 owned property, that a lessee is occupying or using publicly owned
28 property in such a manner as to create a leasehold interest and that
29 such leasehold interest has not been established through competitive
30 bidding, or negotiated in accordance with statutory requirements
31 regarding the rent payable, or negotiated under circumstances,
32 established by public record, clearly showing that the contract rent
33 was the maximum attainable by the lessor, the department may
34 establish a taxable rent computation for use in determining the tax
35 payable under authority granted in this chapter based upon the
36 following criteria: (i) Consideration must be given to rental being
37 paid to other lessors by lessees of similar property for similar
38 purposes over similar periods of time; (ii) consideration must be
39 given to what would be considered a fair rate of return on the market
40 value of the property leased less reasonable deductions for any

1 restrictions on use, special operating requirements or provisions for
2 concurrent use by the lessor, another person or the general public.

3 (3) "Product lease" as used in this chapter means a lease of
4 property for use in the production of agricultural or marine
5 products, not including the production of marijuana as defined in RCW
6 69.50.101, to the extent that such lease provides for the contract
7 rent to be paid by the delivery of a stated percentage of the
8 production of such agricultural or marine products to the credit of
9 the lessor or the payment to the lessor of a stated percentage of the
10 proceeds from the sale of such products.

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

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

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

26 (7) "Publicly owned, or specified privately owned, real or
27 personal property" includes real or personal property:

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

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

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

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

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

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

9 (2) Property, with the exception of unredeemed Washington state
10 lottery tickets and unrepresented winning parimutuel tickets, is
11 payable and distributable for the purpose of this chapter
12 notwithstanding the owner's failure to make demand or to present any
13 instrument or document required to receive payment.

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

17 (4) This chapter does not apply to property covered by chapter
18 63.26 RCW.

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

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

24 (b) The property is donated to a bona fide charity.

25 (6) This chapter does not apply to a gift certificate (~~subject~~
26 ~~to the prohibition against expiration dates under RCW 19.240.020 or~~
27 ~~to a gift certificate subject to RCW 19.240.030 through 19.240.060.~~
28 ~~However, this chapter applies to~~) lawfully issued under chapter
29 19.240 RCW, except lawfully issued gift certificates presumed
30 abandoned under RCW 63.29.110. Nothing in this section limits the
31 application of chapter 19.240 RCW.

32 (7) Except as provided in RCW 63.29.350, this chapter does not
33 apply to excess proceeds held by counties, cities, towns, and other
34 municipal or quasi-municipal corporations from foreclosures for
35 delinquent property taxes, assessments, or other liens.

36 (8)(a) This chapter does not apply to a premium paid by an
37 agricultural fair by check.

38 (b) For the purposes of this subsection the following definitions
39 apply:

1 (i) "Agricultural fair" means a fair or exhibition that is
2 intended to promote agriculture by including a balanced variety of
3 exhibits of livestock and agricultural products, as well as related
4 manufactured products and arts, including: Products of the farm home
5 and educational contests, displays, and demonstrations designed to
6 train youth and to promote the welfare of farmers and rural living;
7 and

8 (ii) "Premium" means an amount paid for exhibits and educational
9 contests, displays, and demonstrations of an educational nature. A
10 "premium" does not include judges' fees and expenses; livestock sale
11 revenues; or prizes or amounts paid for promotion or entertainment
12 activities such as queen contests, parades, dances, rodeos, and
13 races.

14 **Sec. 2102.** RCW 63.29.140 and 2004 c 168 s 15 are each amended to
15 read as follows:

16 (1) A gift certificate or a credit memo issued in the ordinary
17 course of an issuer's business which remains unclaimed by the owner
18 for more than three years after becoming payable or distributable is
19 presumed abandoned.

20 (2) In the case of a gift certificate, the amount presumed
21 abandoned is the price paid by the purchaser for the gift
22 certificate. In the case of a credit memo, the amount presumed
23 abandoned is the amount credited to the recipient of the memo.

24 (3) A gift certificate that is lawfully issued under chapter
25 19.240 RCW and that is presumed abandoned under this section may, but
26 need not be, included in the report as provided under RCW
27 63.29.170(4). (~~(If a gift certificate that is presumed abandoned~~
28 ~~under this section is not timely reported as provided under RCW~~
29 ~~63.29.170(4), RCW 19.240.005 through 19.240.110 apply to the gift~~
30 ~~certificate.))~~

31 **Sec. 2103.** RCW 63.29.170 and 2004 c 168 s 16 are each amended to
32 read as follows:

33 (1) A person holding property presumed abandoned and subject to
34 custody as unclaimed property under this chapter (~~shall~~) must
35 report to the department concerning the property as provided in this
36 section.

37 (2) The report must be verified and must include:

1 (a) Except with respect to travelers checks and money orders, the
2 name, if known, and last known address, if any, of each person
3 appearing from the records of the holder to be the owner of property
4 with a value of more than fifty dollars presumed abandoned under this
5 chapter;

6 (b) In the case of unclaimed funds of more than fifty dollars
7 held or owing under any life or endowment insurance policy or annuity
8 contract, the full name and last known address of the insured or
9 annuitant and of the beneficiary according to the records of the
10 insurance company holding or owing the funds;

11 (c) In the case of the contents of a safe deposit box or other
12 safekeeping repository or in the case of other tangible property, a
13 description of the property and the place where it is held and where
14 it may be inspected by the department, and any amounts owing to the
15 holder;

16 (d) The nature and identifying number, if any, or description of
17 the property and the amount appearing from the records to be due, but
18 items with a value of fifty dollars or less each may be reported in
19 the aggregate;

20 (e) The date the property became payable, demandable, or
21 returnable, and the date of the last transaction with the apparent
22 owner with respect to the property; and

23 (f) Other information the department prescribes by rule as
24 necessary for the administration of this chapter.

25 (3) If the person holding property presumed abandoned and subject
26 to custody as unclaimed property is a successor to other persons who
27 previously held the property for the apparent owner or the holder has
28 changed his or her name while holding the property, the holder shall
29 file with the report all known names and addresses of each previous
30 holder of the property.

31 (4) The report must be filed before November 1st of each year and
32 shall include, except as provided in RCW 63.29.140(3), all property
33 presumed abandoned and subject to custody as unclaimed property under
34 this chapter that is in the holder's possession as of the preceding
35 June 30th. On written request by any person required to file a
36 report, the department may postpone the reporting date.

37 (5)(a) Beginning July 1, 2016, reports due under this section
38 must be filed electronically in a form or manner provided or
39 authorized by the department. However, the department, upon request
40 or its own initiative, may relieve any holder or class of holders

1 from the electronic filing requirement under this subsection for good
2 cause as determined by the department.

3 (b) For purposes of this subsection, "good cause" means:

4 (i) A circumstance or condition exists that, in the department's
5 judgment, prevents the holder from electronically filing the report
6 due under this section; or

7 (ii) The department determines that relief from the electronic
8 filing requirement under this subsection supports the efficient or
9 effective administration of this chapter.

10 (6) After May 1st, but before August 1st, of each year in which a
11 report is required by this section, the holder in possession of
12 property presumed abandoned and subject to custody as unclaimed
13 property under this chapter (~~shall~~) must send written notice to the
14 apparent owner at the last known address informing him or her that
15 the holder is in possession of property subject to this chapter if:

16 (a) The holder has in its records an address for the apparent
17 owner which the holder's records do not disclose to be inaccurate;

18 (b) The claim of the apparent owner is not barred by the statute
19 of limitations; and

20 (c) The property has a value of more than seventy-five dollars.

21 **Sec. 2104.** RCW 63.29.180 and 2005 c 367 s 2 are each amended to
22 read as follows:

23 (1) The department (~~shall~~) must cause a notice to be published
24 not later than November 1st, immediately following the report
25 required by RCW 63.29.170 in the printed or online version of a
26 newspaper of general circulation within this state, which the
27 department determines is most likely to give notice to the apparent
28 owner of the property.

29 (2) The published notice must be entitled "Notice to Owners of
30 Unclaimed Property" and contain a summary explanation of how owners
31 may obtain information about unclaimed property reported to the
32 department.

33 (3) Not later than September 1st, immediately following the
34 report required by RCW 63.29.170, the department (~~shall~~) must mail
35 a notice to each person whose last known address is listed in the
36 report and who appears to be entitled to property with a value of
37 more than seventy-five dollars presumed abandoned under this chapter
38 and any beneficiary of a life or endowment insurance policy or
39 annuity contract for whom the department has a last known address.

1 The department is not required to mail notice under this subsection
2 if the address listed in the report appears to the department to be
3 insufficient for the purpose of the delivery of mail.

4 (4) The mailed notice must contain:

5 (a) A statement that, according to a report filed with the
6 department, property is being held to which the addressee appears
7 entitled; and

8 (b) The name of the person reporting the property and the type of
9 property described in the report.

10 (5) This section is not applicable to sums payable on travelers
11 checks, money orders, and other written instruments presumed
12 abandoned under RCW 63.29.040.

13 **Sec. 2105.** RCW 63.29.190 and 2005 c 502 s 4, 2005 c 367 s 3, and
14 2005 c 285 s 2 are each reenacted and amended to read as follows:

15 (1)(a) Except as otherwise provided in subsections (2) and (3) of
16 this section, a person who is required to file a report under RCW
17 63.29.170 (~~shall~~) must pay or deliver to the department all
18 abandoned property required to be reported at the time of filing the
19 report. Beginning July 1, 2016, holders who are required to file a
20 report electronically under this chapter must remit payments under
21 this section by electronic funds transfer or other form of electronic
22 payment acceptable to the department. However, the department, upon
23 request or its own initiative, may relieve any holder or class of
24 holders from the electronic payment requirement under this subsection
25 for good cause as determined by the department.

26 (b) For purposes of this subsection, "good cause" means:

27 (i) A circumstance or condition exists that, in the department's
28 judgment, prevents the holder from remitting payments due under this
29 section electronically; or

30 (ii) The department determines that relief from the electronic
31 payment requirement under this subsection supports the efficient or
32 effective administration of this chapter.

33 (2)(a) Counties, cities, towns, and other municipal and quasi-
34 municipal corporations that hold funds representing warrants canceled
35 pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, and
36 property tax overpayments or refunds may retain the funds until the
37 owner notifies them and establishes ownership as provided in RCW
38 63.29.135. Counties, cities, towns, or other municipal or quasi-
39 municipal corporations (~~shall~~) must provide to the department a

1 report of property it is holding pursuant to this section. The report
2 (~~shall~~) must identify the property and owner in the manner provided
3 in RCW 63.29.170 and the department (~~shall~~) must publish the
4 information as provided in RCW 63.29.180.

5 (b)(i) A public transportation authority that holds funds
6 representing value on abandoned fare cards may retain the funds until
7 the owner notifies the authority and establishes ownership as
8 provided in RCW 63.29.135.

9 (ii) For the purposes of this subsection (2)(b), "public
10 transportation authority" means a municipality, as defined in RCW
11 35.58.272, a regional transit authority authorized by chapter 81.112
12 RCW, a public mass transportation system authorized by chapter 47.60
13 RCW, or a city transportation authority authorized by chapter 35.95A
14 RCW.

15 (3)(a) The contents of a safe deposit box or other safekeeping
16 repository presumed abandoned under RCW 63.29.160 and reported under
17 RCW 63.29.170 (~~shall~~) must be paid or delivered to the department
18 within six months after the final date for filing the report required
19 by RCW 63.29.170.

20 (b) If the owner establishes the right to receive the abandoned
21 property to the satisfaction of the holder before the property has
22 been delivered or it appears that for some other reason the
23 presumption of abandonment is erroneous, the holder need not pay or
24 deliver the property to the department, and the property will no
25 longer be presumed abandoned. In that case, the holder (~~shall~~) must
26 file with the department a verified written explanation of the proof
27 of claim or of the error in the presumption of abandonment.

28 (4) The holder of an interest under RCW 63.29.100 (~~shall~~) must
29 deliver a duplicate certificate or other evidence of ownership if the
30 holder does not issue certificates of ownership to the department.
31 Upon delivery of a duplicate certificate to the department, the
32 holder and any transfer agent, registrar, or other person acting for
33 or on behalf of a holder in executing or delivering the duplicate
34 certificate is relieved of all liability of every kind in accordance
35 with RCW 63.29.200 to every person, including any person acquiring
36 the original certificate or the duplicate of the certificate issued
37 to the department, for any losses or damages resulting to any person
38 by the issuance and delivery to the department of the duplicate
39 certificate.

1 **Sec. 2106.** RCW 63.29.290 and 1983 c 179 s 29 are each amended to
2 read as follows:

3 (1) The expiration, after September 1, 1979, of any period of
4 time specified by contract, statute, or court order, during which a
5 claim for money or property can be made or during which an action or
6 proceeding may be commenced or enforced to obtain payment of a claim
7 for money or to recover property, does not prevent the money or
8 property from being presumed abandoned or affect any duty to file a
9 report or to pay or deliver abandoned property to the department as
10 required by this chapter.

11 (2) Except as otherwise provided in this section, no action or
12 proceeding may be commenced by the department with respect to any
13 duty of a holder under this chapter more than six years after the
14 duty arose.

15 (3) No action or proceeding may be commenced by the department
16 with respect to any assessment under this chapter more than three
17 years after the later of (a) the due date for payment of the
18 assessment including any extension granted by the department or (b)
19 thirty days after the final decision on any petition for review under
20 section 2111 of this act.

21 **Sec. 2107.** RCW 63.29.300 and 1983 c 179 s 30 are each amended to
22 read as follows:

23 (1) The department may require any person who has not filed a
24 report to file a verified report stating whether or not the person is
25 holding any unclaimed property reportable or deliverable under this
26 chapter. Nothing in this chapter requires reporting of property which
27 is not subject to payment or delivery.

28 (2) The department, at reasonable times and upon reasonable
29 notice, may examine the records of any person to determine whether
30 the person has complied with the provisions of this chapter. The
31 department may conduct the examination even if the person believes it
32 is not in possession of any property reportable or deliverable under
33 this chapter.

34 (3) If a person is treated under RCW 63.29.120 as the holder of
35 the property only insofar as the interest of the business association
36 in the property is concerned, the department, pursuant to subsection
37 (2) of this section, may examine the records of the person if the
38 department has given the notice required by subsection (2) of this

1 section to both the person and the business association at least
2 ninety days before the examination.

3 (4) Material obtained by any person during any examination
4 authorized under this chapter, or whether the holder was, is being,
5 or will be examined or subject to an examination, is confidential
6 information and may not be disclosed to any person except as provided
7 in RCW 63.29.380.

8 (5) If an examination of the records of a person results in the
9 disclosure of property reportable and payable or deliverable under
10 this chapter, the department must assess against the person the
11 amount that should have been reported and paid as determined or
12 approved by the department. An assessment must also include a demand
13 to deliver any property that should have been reported and delivered
14 to the department under this chapter. The assessment must include
15 interest and penalties as provided in RCW 63.29.340. The department
16 may assess the cost of the examination against the holder at the rate
17 of one hundred forty dollars a day for each examiner, but in no case
18 may the charges exceed the lesser of three thousand dollars or the
19 value of the property found to be reportable and payable or
20 deliverable. No assessment ((shall)) for costs may be imposed
21 ((where)) when the person proves that failure to report and deliver
22 property was inadvertent. The cost of examination made pursuant to
23 subsection (3) of this section may be imposed only against the
24 business association.

25 ~~((+5))~~ (6) If a holder fails after June 30, 1983, to maintain
26 the records required by RCW 63.29.310 and the records of the holder
27 available for the periods subject to this chapter are insufficient to
28 permit the preparation of a report, the department may ((require the
29 holder to report and pay)) assess such amounts as may reasonably be
30 estimated from any available records.

31 (7)(a) Except as provided in (b) of this subsection, all amounts
32 and property identified in any assessment issued by the department
33 under this section must be paid or delivered to the department within
34 thirty days of issuance.

35 (b) If a timely petition for review of an assessment is filed
36 with the department as provided in section 2111 of this act, only the
37 uncontested amounts and property must be paid or delivered to the
38 department within thirty days of the issuance of the assessment.

1 **Sec. 2108.** RCW 63.29.340 and 2011 c 96 s 45 are each amended to
2 read as follows:

3 (1) A person who fails to pay or deliver property (~~(within the~~
4 ~~time prescribed by this chapter shall be)~~) when due is required to
5 pay to the department interest at the rate as computed under RCW
6 82.32.050(2) from the date the property should have been paid or
7 delivered until the property is paid or delivered(~~(, unless)~~).
8 However, the department must waive or cancel interest imposed under
9 this subsection if:

10 (a) The department finds that the failure to pay or deliver the
11 property within the time prescribed by this chapter was the result of
12 circumstances beyond the person's control sufficient for waiver or
13 cancellation of interest under RCW 82.32.105;

14 (b) The failure to timely pay or deliver the property within the
15 time prescribed by this chapter was the direct result of written
16 instructions given to the person by the department; or

17 (c) The extension of a due date for payment or delivery under an
18 assessment issued by the department was not at the person's request
19 and was for the sole convenience of the department.

20 (2) (~~(A person who willfully fails to render any report, to pay~~
21 ~~or deliver property, or to perform other duties required under this~~
22 ~~chapter shall pay a civil penalty of one hundred dollars for each day~~
23 ~~the report is withheld or the duty is not performed, but not more~~
24 ~~than five thousand dollars, plus one hundred percent of the value of~~
25 ~~the property which should have been reported, paid or delivered.~~

26 ~~(3) A person who willfully refuses after written demand by the~~
27 ~~department to pay or deliver property to the department as required~~
28 ~~under this chapter or who enters into a contract to avoid the duties~~
29 ~~of this chapter is guilty of a gross misdemeanor and upon conviction~~
30 ~~may be punished by a fine of not more than one thousand dollars or~~
31 ~~imprisonment for up to three hundred sixty four days, or both.)~~ If a
32 person fails to file any report or to pay or deliver any amounts or
33 property when due under a report required under this chapter, there
34 is assessed a penalty equal to ten percent of the amount unpaid and
35 the value of any property not delivered.

36 (3) If an examination results in an assessment for amounts unpaid
37 or property not delivered, there is assessed a penalty equal to ten
38 percent of the amount unpaid and the value of any property not
39 delivered.

1 (4) If a person fails to pay or deliver to the department by the
2 due date any amounts or property due under an assessment issued by
3 the department to the person, there is assessed an additional penalty
4 of five percent of the amount unpaid and the value of any property
5 not delivered.

6 (5) Penalties under subsections (2) through (4) of this section
7 may be waived or canceled only if the department finds that the
8 failure to pay or deliver within the time prescribed by this chapter
9 was the result of circumstances beyond the person's control
10 sufficient for waiver or cancellation of penalties under RCW
11 82.32.105.

12 (6) If a person willfully fails to file a report or to provide
13 written notice to apparent owners as required under this chapter, the
14 department may assess a civil penalty of one hundred dollars for each
15 day the report is withheld or the notice is not sent, but not more
16 than five thousand dollars.

17 (7) If a holder, having filed a report, failed to file the report
18 electronically as required by RCW 63.29.170, or failed to pay
19 electronically any amounts due under the report as required by RCW
20 63.29.190, the department must assess a penalty equal to five percent
21 of the amount payable or deliverable under the report, unless the
22 department grants the taxpayer relief from the electronic filing and
23 payment requirements. Total penalties assessed under this subsection
24 may not exceed five percent of the amount payable and value of
25 property deliverable under the report.

26 (8) The penalties imposed in this section are cumulative.

27 NEW SECTION. Sec. 2109. A new section is added to chapter 63.29
28 RCW to read as follows:

29 (1) Except as otherwise provided in subsections (2) through (4)
30 of this section, the department must waive all penalties and interest
31 on amounts payable or property deliverable under this chapter if
32 before November 1, 2016, the holder:

33 (a) Completes an application for a penalty and interest waiver
34 under this section in the form and manner prescribed by the
35 department;

36 (b) Files a report as required by this chapter that includes all
37 property for which the penalty and interest waiver is requested; and

38 (c) Pays and delivers all amounts and property identified on that
39 report.

1 (2) This section does not apply to any amounts or property that
2 have been paid, delivered, or reported to the department before July
3 1, 2015.

4 (3) This section does not apply to any amounts or property
5 included in an assessment or that have otherwise been identified
6 through an investigation or examination.

7 (4) Except as authorized under RCW 63.29.200, a holder may not
8 seek a refund for any amounts or property paid or delivered to the
9 department under this section, or otherwise challenge whether such
10 amounts or property were properly due under this chapter.

11 (5) All amounts reported, paid, and delivered under this section
12 are subject to verification by the department. A grant by the
13 department of any waiver under this section does not preclude
14 assessment for amounts due or property deliverable that have not been
15 paid or delivered to the department.

16 (6) After October 31, 2016, if the department determines it is
17 unable to effectively implement any of the mandatory penalty
18 provisions of RCW 63.29.340 as amended by section 2108 of this act,
19 the department may waive all mandatory penalties and interest under
20 RCW 63.29.340 for all holders until October 31, 2017.

21 (7) The department must publicize the availability of the penalty
22 waivers provided in this section.

23 (8) This section expires January 1, 2018.

24 NEW SECTION. **Sec. 2110.** A new section is added to chapter 63.29
25 RCW to read as follows:

26 (1)(a) If, upon receipt of an application by a holder for a
27 refund or return of property, or upon an examination of the report or
28 records of any holder, it is determined by the department that any
29 amount, interest, or penalty has been paid in excess of that properly
30 due under this chapter or that any property was delivered to the
31 department under this chapter in error, then with the exception of
32 amounts delivered by the department to a claimant under RCW
33 63.29.240, the excess amount must be refunded to the holder, or the
34 property delivered in error returned to the holder, as the case may
35 be.

36 (b)(i) Except as otherwise provided in RCW 63.29.200(2) or this
37 section, no refund or return of property may be made for any amount
38 or property paid or delivered, or for any interest or penalty paid,

1 more than six years after the end of the calendar year in which the
2 payment or delivery occurred.

3 (ii) The expiration of the limitations period in this subsection
4 will not bar a refund or the return of property if a complete
5 application for such refund or return of property was received by the
6 department before the expiration of such limitations period.

7 (2) The execution of a written waiver signed by the holder and
8 the department will extend the time for making a refund of any
9 amounts paid, or a return of property delivered in error, during, or
10 attributable to, the years covered by the waiver if, prior to the
11 expiration of the waiver period, a complete application for refund or
12 return of such amounts or property is made by the holder or the
13 department discovers a refund is due or a return of property under
14 this section is required.

15 (3) For purposes of subsections (1) and (2) of this section, an
16 application for a refund or return of property is complete if it
17 includes information the department deems sufficient to substantiate
18 the holder's claim for a refund or return of property. If the
19 department receives an incomplete application before the expiration
20 of the limitations period in subsection (1)(b)(i) of this section or
21 before the expiration of an applicable waiver period as authorized
22 under subsection (2) of this section, the department must provide the
23 holder written notice of the deficiencies of information in the
24 application and grant the holder thirty days from the date of such
25 notice to provide sufficient documentation to substantiate the
26 holder's claim for a refund or return of property. The department
27 may, at its sole discretion, grant a holder up to an additional
28 ninety days to substantiate its claim and specify in a written notice
29 the expiration date of such additional period. If the holder provides
30 sufficient substantiation documentation to the department within the
31 additional time granted but after the expiration of the limitations
32 period in subsection (1)(b)(i) of this section or an applicable
33 waiver period as authorized under subsection (2) of this section, the
34 holder will be deemed to have provided a complete application before
35 the expiration of such limitations or waiver period. This subsection
36 (3) may not be interpreted as governing the administration of
37 applications for refund or return of property other than for purposes
38 of the limitations period established in this section.

39 (4) Any such refunds must be made by means of vouchers approved
40 by the department and by the issuance of state warrants drawn upon

1 and payable from such funds as the legislature may provide. However,
2 persons who are required to pay amounts due under this chapter
3 electronically must have any refunds paid by electronic funds
4 transfer if the department has the necessary account information to
5 facilitate a refund by electronic funds transfer.

6 (5) Any judgment for which a recovery is granted by any court of
7 competent jurisdiction, not appealed from, for amounts, penalties, or
8 interest paid by the holder, and costs, in a suit by any holder must
9 be paid in the same manner, as provided in subsection (4) of this
10 section, upon the filing with the department of a certified copy of
11 the order or judgment of the court.

12 (6) Interest at the rate computed under RCW 82.32.050(2) must be
13 added to the amount of any refund allowed by the department or any
14 court. Interest must be computed from the date the department
15 received the excess payment, until the date the refund is issued.

16 NEW SECTION. **Sec. 2111.** A new section is added to chapter 63.29
17 RCW to read as follows:

18 Any person having been issued an assessment by the department, or
19 a denial of an application for a refund or return of property, under
20 the provisions of this chapter is entitled to a review by the
21 department conducted in accordance with the provisions of RCW
22 34.05.410 through 34.05.494, subject to judicial review under RCW
23 34.05.510 through 34.05.598. A petition for review under this section
24 is timely if received in writing by the department before the due
25 date of the assessment, including any extension of the due date
26 granted by the department, or in the case of a refund or return
27 application, thirty days after the department rejects the application
28 in writing, regardless of any subsequent action by the department to
29 reconsider its initial decision. The period for filing a petition for
30 review under this section may be extended as provided in a rule
31 adopted by the department under chapter 34.05 RCW or upon a written
32 agreement signed by the holder and the department.

33 NEW SECTION. **Sec. 2112.** A new section is added to chapter 63.29
34 RCW to read as follows:

35 (1) Any person who has paid or delivered property to the
36 department under the provisions of this chapter, except one who has
37 failed to keep and preserve records as required in this chapter,
38 feeling aggrieved by such payment or delivery, may appeal to the

1 superior court of Thurston county. The person filing a notice of
2 appeal under this section is deemed the plaintiff, and the
3 department, the defendant.

4 (2) An appeal under this section must be made within:

5 (a) The time limitation for a refund provided in section 2110 of
6 this act; or

7 (b) Thirty days after the department rejects in writing an
8 application for refund or return of property, regardless of any
9 subsequent action by the department to reconsider its initial
10 decision, if:

11 (i) An application for refund or return of property has been made
12 to the department within the time limitation provided in (a) of this
13 subsection (2) or the limitation provided in RCW 63.29.200(2), as
14 applicable; and

15 (ii) The time limitation provided under this subsection (2)(b) is
16 later than the time limitation provided in (a) of this subsection
17 (2).

18 (3)(a) In an appeal filed under this section, the plaintiff must
19 set forth the amount or property, if any, payable or deliverable on
20 the report or assessment that the plaintiff is contesting, which the
21 holder concedes to be the correct amount payable or deliverable, and
22 the reason why the amount payable or deliverable should be reduced or
23 abated.

24 (b) The appeal is perfected only by serving a copy of the notice
25 of appeal upon the department and filing the original with proof of
26 service with the clerk of the superior court of Thurston county,
27 within the time specified in subsection (2) of this section.

28 (4)(a) The trial in the superior court on appeal must be de novo
29 and without the necessity of any pleadings other than the notice of
30 appeal. At trial, the burden is on the plaintiff to (i) prove that
31 the amount paid by that person is incorrect, either in whole or in
32 part, or the property in question was delivered in error to the
33 department, and (ii) establish the correct amount payable or the
34 property required to be delivered to the department, if any.

35 (b) Both parties are entitled to subpoena the attendance of
36 witnesses as in other civil actions and to produce evidence that is
37 competent, relevant, and material to determine the correct amount
38 due, if any, that should be paid by the plaintiff.

39 (c) Either party may seek appellate review in the same manner as
40 other civil actions are appealed to the appellate courts.

1 (5) An appeal may be maintained under this section without the
2 need for the plaintiff to first:

3 (a) Protest against the payment of any amount due or reportable
4 under this chapter or to make any demand to have such amount refunded
5 or returned; or

6 (b) Petition the department for a refund, return of property, or
7 a review of its action as authorized in section 2111 of this act.

8 (6) No court action or proceeding of any kind may be maintained
9 by the plaintiff to recover any amount paid, delivered, or reported
10 to the department under this chapter, except as provided in this
11 section or as may be available to the plaintiff under RCW 34.05.510
12 through 34.05.598.

13 (7) No appeal may be maintained under this section with respect
14 to matters reviewed by the department under the provisions of chapter
15 34.05 RCW.

16 NEW SECTION. **Sec. 2113.** A new section is added to chapter 63.29
17 RCW to read as follows:

18 (1) The department may enter into an agreement in writing with
19 any holder with respect to any duties under this chapter or any
20 property or amounts due under this chapter, including penalties and
21 interest.

22 (2) Upon its execution by all parties, the agreement is final and
23 conclusive as to the periods, property, and any other matters
24 expressly covered by the agreement. Except upon a showing of fraud or
25 malfeasance, or of misrepresentation of a material fact:

26 (a) The agreement may not be reopened as to the matters agreed
27 upon, nor may the agreement be modified, by any officer, employee, or
28 agent of the state, or the holder; and

29 (b) In any suit, action, or proceeding, such agreement, or any
30 determination, assessment, collection, payment, abatement, or refund,
31 or credit made in accordance with the agreement, may not be annulled,
32 modified, set aside, or disregarded.

33 (3) No agreement under this section may affect a holder's
34 obligations to an owner or an owner's rights against a holder, except
35 as expressly provided in RCW 63.29.200.

36 (4) No agreement under this section may include any
37 indemnification of any holder for amounts or property that has not
38 been paid or delivered to the department. Nothing in this subsection
39 (4) may be construed to affect the finality and conclusiveness of any

1 agreement under this section to the extent provided in subsection (2)
2 of this section.

3 NEW SECTION. **Sec. 2114.** (1) Section 2101 of this act applies
4 only with respect to gift certificates issued on or after the
5 effective date of section 2101 of this act.

6 (2) Section 2102 of this act applies only with respect to gift
7 certificates issued on or after the effective date of section 2102 of
8 this act.

9 (3) Section 2106 of this act applies only with respect to
10 original assessments issued on or after the effective date of section
11 2106 of this act.

12 (4) Section 2108 of this act applies only with respect to reports
13 initially due, or property initially payable or deliverable, or other
14 duties that arise initially on or after the effective date of section
15 2108 of this act.

16 (5) Section 2110 of this act applies only with respect to (a)
17 requests for refund or the return of property, where the request is
18 originally received by the department on or after the effective date
19 of section 2110 of this act, and (b) excess payments or property
20 improperly delivered, where such excess payments or improper delivery
21 are discovered by the department on or after the effective date of
22 section 2110 of this act.

23 **PART XXII**
24 **[NOT USED]**

25 **PART XXIII**
26 **Miscellaneous Provisions**

27 NEW SECTION. **Sec. 2301.** (1) Except as provided otherwise in
28 this section, this act is necessary for the immediate preservation of
29 the public peace, health, or safety, or support of the state
30 government and its existing public institutions, and takes effect
31 July 1, 2015.

32 (2) Parts IV, VI, VIII, and XIX of this act are necessary for the
33 immediate preservation of the public peace, health, or safety, or
34 support of the state government and its existing public institutions,
35 and take effect September 1, 2015.

36 (3) Part X of this act takes effect October 1, 2016.

1 (4) Section 1105 of this act takes effect January 1, 2016.

2 (5) Except for section 2004 of this act, Part XX of this act
3 takes effect January 1, 2019.

4 (6) Section 2004 of this act takes effect January 1, 2022.

5 NEW SECTION. **Sec. 2302.** Part VII of this act is necessary for
6 the immediate preservation of the public peace, health, or safety, or
7 support of the state government and its existing public institutions,
8 and takes effect August 1, 2015.

9 NEW SECTION. **Sec. 2303.** Part VIII of this act expires July 1,
10 2019.

11 NEW SECTION. **Sec. 2304.** Section 1104 of this act expires
12 January 1, 2016.

13 NEW SECTION. **Sec. 2305.** Part XII of this act takes effect June
14 30, 2015.

15 NEW SECTION. **Sec. 2306.** Section 2003 of this act expires
16 January 1, 2022.

17 NEW SECTION. **Sec. 2307.** (1) Section 2108 of this act takes
18 effect July 1, 2016, unless the department of revenue determines that
19 it is unable to efficiently and effectively implement any of the
20 provisions of section 2108 of this act, in which case section 2108 of
21 this act takes effect July 1, 2017.

22 (2) The department of revenue must provide written notice of the
23 effective date of section 2108 of this act to the chief clerk of the
24 house of representatives, the secretary of the senate, the office of
25 the code reviser, and others as deemed appropriate by the department,
26 as well as post notice of the effective date on its public web site.
27 The notice must be provided no later than June 1, 2016.

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