
SUBSTITUTE SENATE BILL 6057

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 82.63.020, 82.63.045, 82.04.4266, 82.04.4268, 82.04.4269,
4 82.08.986, 82.12.986, 82.04.2909, 82.04.4481, 82.08.805, 82.12.805,
5 82.12.022, 82.04.214, 82.16.020, 88.02.620, 82.08.700, 82.12.700,
6 82.48.080, 82.42.090, 82.04.213, 82.04.330, 82.04.050, 82.04.050,
7 82.08.855, 82.14.050, 82.14.060, 82.12.225, 84.36.381, 84.36.381,
8 84.38.030, 82.14.055, 54.28.030, 54.28.040, 54.28.050, 54.28.055,
9 82.32.050, 82.32.060, 82.32.100, 82.32.105, 82.32.160, 82.32.350,
10 82.21.040, 84.36.480, 82.29A.020, 82.29A.030, 82.29A.040, 63.29.020,
11 63.29.140, 63.29.170, 63.29.180, 63.29.290, 63.29.300, and 63.29.340;
12 reenacting and amending RCW 82.63.010, 82.04.260, 82.04.260,
13 82.16.010, 82.29A.020, and 63.29.190; adding new sections to chapter
14 82.04 RCW; adding a new section to chapter 82.63 RCW; adding a new
15 section to chapter 82.16 RCW; adding a new section to chapter 82.08
16 RCW; adding a new section to chapter 82.12 RCW; adding a new section
17 to chapter 54.28 RCW; adding a new section to chapter 82.21 RCW;
18 adding new sections to chapter 63.29 RCW; adding a new chapter to
19 Title 82 RCW; creating new sections; repealing RCW 82.04.629,
20 82.04.630, 82.08.0204, 82.12.0204, 82.08.200, 82.12.200, and
21 43.136.047; providing effective dates; providing a contingent
22 effective date; providing expiration dates; and declaring an
23 emergency.

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

2 **PART I**

3 **Reinstating Tax Preferences for High-technology Research and**
4 **Development**

5 NEW SECTION. **Sec. 101.** (1) This section is the tax preference
6 performance statement for the tax credit contained in section 102 of
7 this act and the tax deferrals contained in sections 103 through 106
8 of this act. This performance statement is only intended to be used
9 for subsequent evaluation of the tax preferences. It is not intended
10 to create a private right of action by any party or be used to
11 determine eligibility for preferential tax treatment.

12 (2) The legislature categorizes these tax preferences as intended
13 to improve industry competitiveness and create or retain jobs, as
14 indicated in RCW 82.32.808(2) (b) and (c).

15 (3) It is the legislature's specific public policy objective to
16 improve industry competitiveness and create or retain more jobs. It
17 is the legislature's intent to provide a business and occupation tax
18 credit for high-technology companies performing research and
19 development and a sales and use tax deferral for certain construction
20 for new and expanding high-technology companies conducting research
21 and development in the fields of advanced computing, advanced
22 materials, biotechnology, electronic device technology, or
23 environmental technology, in order to reduce the business costs of
24 performing research and development and to reduce the cost of certain
25 construction and equipment purchases used for research and
26 development in specified areas, thereby encouraging investments in
27 research and development, thereby increasing the number of firms in
28 the industry performing research and development activities, thereby
29 increasing the number of jobs performing research and development in
30 the high-technology industry.

31 (4) If a review finds that the number of businesses participating
32 in the credit and deferral programs, and the overall number of jobs
33 for businesses participating in the credit and deferral programs
34 performing research and development, have increased compared to the
35 number at the time of enactment, then the legislature intends to
36 extend the expiration date of the tax preferences.

1 (5) In order to obtain the data necessary to perform the review
2 in subsection (3) of this section, the joint legislative audit and
3 review committee may refer to: (a) Employment data available from the
4 employment security department; and (b) North American industrial
5 code system (NAICS) from the department of revenue.

6 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.04
7 RCW to read as follows:

8 (1) In computing the tax imposed under this chapter, a credit is
9 allowed for each person whose research and development spending
10 during the year in which the credit is claimed exceeds 0.92 percent
11 of the person's taxable amount during the same calendar year.

12 (2) The credit is calculated as follows:

13 (a) Determine the greater of the amount of qualified research and
14 development expenditures of a person or eighty percent of amounts
15 received by a person other than a public educational or research
16 institution in compensation for the conduct of qualified research and
17 development;

18 (b) Subtract 0.92 percent of the person's taxable amount from the
19 amount determined under (a) of this subsection;

20 (c) Multiply the amount determined under (b) of this subsection
21 by 1.50 percent.

22 (3) Any person entitled to the credit provided in subsection (2)
23 of this section as a result of qualified research and development
24 conducted under contract may assign all or any portion of the credit
25 to the person contracting for the performance of the qualified
26 research and development.

27 (4) The credit, including any credit assigned to a person under
28 subsection (3) of this section, must be claimed against taxes due for
29 the same calendar year in which the qualified research and
30 development expenditures are incurred. The credit, including any
31 credit assigned to a person under subsection (3) of this section, for
32 each calendar year may not exceed the lesser of five hundred thousand
33 dollars or the amount of tax otherwise due under this chapter for the
34 calendar year.

35 (5) For any person claiming the credit, including any credit
36 assigned to a person under subsection (3) of this section, whose
37 research and development spending during the calendar year in which
38 the credit is claimed fails to exceed 0.92 percent of the person's
39 taxable amount during the same calendar year or who is otherwise

1 ineligible, the department must declare the taxes against which the
2 credit was claimed to be immediately due and payable. The department
3 must assess interest, but not penalties, on the taxes against which
4 the credit was claimed. Interest must be assessed at the rate
5 provided for delinquent excise taxes under chapter 82.32 RCW,
6 retroactively to the date the credit was claimed, and accrues until
7 the taxes against which the credit was claimed are repaid. Any credit
8 assigned to a person under subsection (3) of this section that is
9 disallowed as a result of this section may be claimed by the person
10 who performed the qualified research and development subject to the
11 limitations set forth in subsection (4) of this section.

12 (6) A person claiming the credit provided in this section must
13 file a complete annual survey with the department under RCW
14 82.32.585.

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

17 (a) "Qualified research and development" has the same meaning as
18 in RCW 82.63.010.

19 (b) "Qualified research and development expenditures" means
20 operating expenses, including wages, compensation of a proprietor or
21 a partner in a partnership as determined under rules adopted by the
22 department, benefits, supplies, and computer expenses, directly
23 incurred in qualified research and development by a person claiming
24 the credit provided in this section. The term does not include
25 amounts paid to a person other than a public educational or research
26 institution to conduct qualified research and development. Nor does
27 the term include capital costs and overhead, such as expenses for
28 land, structures, or depreciable property.

29 (c) "Research and development spending" means qualified research
30 and development expenditures plus eighty percent of amounts paid to a
31 person other than a public educational or research institution to
32 conduct qualified research and development.

33 (d) "Taxable amount" means the taxable amount subject to the tax
34 imposed in this chapter required to be reported on the person's
35 combined excise tax returns for the calendar year for which the
36 credit is claimed, less any taxable amount for which a credit is
37 allowed under RCW 82.04.440.

38 (8) This section expires January 1, 2025.

1 **Sec. 103.** RCW 82.63.010 and 2009 c 268 s 2 are each reenacted
2 and amended to read as follows:

3 (~~Unless the context clearly requires otherwise,~~) The
4 definitions in this section apply throughout this chapter unless the
5 context clearly requires otherwise.

6 (1) "Advanced computing" means technologies used in the designing
7 and developing of computing hardware and software, including
8 innovations in designing the full spectrum of hardware from hand-held
9 calculators to super computers, and peripheral equipment.

10 (2) "Advanced materials" means materials with engineered
11 properties created through the development of specialized processing
12 and synthesis technology, including ceramics, high value-added
13 metals, electronic materials, composites, polymers, and biomaterials.

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

16 (4) "Biotechnology" means the application of technologies, such
17 as recombinant DNA techniques, biochemistry, molecular and cellular
18 biology, genetics and genetic engineering, cell fusion techniques,
19 and new bioprocesses, using living organisms, or parts of organisms,
20 to produce or modify products, to improve plants or animals, to
21 develop microorganisms for specific uses, to identify targets for
22 small molecule pharmaceutical development, or to transform biological
23 systems into useful processes and products or to develop
24 microorganisms for specific uses.

25 (5) "Department" means the department of revenue.

26 (6) "Electronic device technology" means technologies involving
27 microelectronics; semiconductors; electronic equipment and
28 instrumentation; radio frequency, microwave, and millimeter
29 electronics; optical and optic-electrical devices; and data and
30 digital communications and imaging devices.

31 (7) "Eligible investment project" means an investment project
32 (~~which~~) that either initiates a new operation, or expands or
33 diversifies a current operation by expanding, renovating, or
34 equipping an existing facility. The lessor or owner of the qualified
35 building is not eligible for a deferral unless:

36 (a) The underlying ownership of the buildings, machinery, and
37 equipment vests exclusively in the same person; or

38 (b)(i) The lessor by written contract agrees to pass the economic
39 benefit of the deferral to the lessee;

1 (ii) The lessee that receives the economic benefit of the
2 deferral agrees in writing with the department to complete the annual
3 survey required under RCW 82.63.020(~~((+2))~~) (4); and

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

9 (8) "Environmental technology" means assessment and prevention of
10 threats or damage to human health or the environment, environmental
11 cleanup, and the development of alternative energy sources.

12 (9)(a) "Initiation of construction" means the date that a
13 building permit is issued under the building code adopted under RCW
14 19.27.031 for:

15 (i) Construction of the qualified building, if the underlying
16 ownership of the building vests exclusively with the person receiving
17 the economic benefit of the deferral;

18 (ii) Construction of the qualified building, if the economic
19 benefits of the deferral are passed to a lessee as provided in
20 subsection (7) of this section; or

21 (iii) Tenant improvements for a qualified building, if the
22 economic benefits of the deferral are passed to a lessee as provided
23 in subsection (7) of this section.

24 (b) "Initiation of construction" does not include soil testing,
25 site clearing and grading, site preparation, or any other related
26 activities that are initiated before the issuance of a building
27 permit for the construction of the foundation of the building.

28 (c) If the investment project is a phased project, "initiation of
29 construction" (~~((shall apply))~~) applies separately to each phase.

30 (10) "Investment project" means an investment in qualified
31 buildings or qualified machinery and equipment, including labor and
32 services rendered in the planning, installation, and construction or
33 improvement of the project.

34 (11) "Meaningful construction" means an active construction site,
35 where excavation of a building site, laying of a building foundation,
36 or other tangible signs of construction are taking place and that
37 clearly shows a progression in the construction process, at the
38 location designated by the taxpayer in the application for deferral.
39 Planning, permitting, or land clearing before excavation of the

1 building site, without more, does not constitute meaningful
2 construction.

3 (12) "Multiple qualified buildings" means qualified buildings
4 leased to the same person when such structures: (a) Are located
5 within a five-mile radius; and (b) the initiation of construction of
6 each building begins within a sixty-month period.

7 ~~((12))~~ (13) "Person" has the meaning given in RCW 82.04.030 and
8 includes state universities as defined in RCW 28B.10.016. Person also
9 includes any affiliate of a person. For purposes of this subsection
10 (13), (a) "affiliate" means a person who controls, is controlled by,
11 or is under common control with another person, and (b) "control"
12 means the possession, directly or indirectly, of more than twenty
13 percent of the power to direct or cause the direction of the
14 management and policies of a person, whether through the ownership of
15 voting shares, by contract, or otherwise.

16 ~~((13))~~ (14) "Pilot scale manufacturing" means design,
17 construction, and testing of preproduction prototypes and models in
18 the fields of biotechnology, advanced computing, electronic device
19 technology, advanced materials, and environmental technology other
20 than for commercial sale. As used in this subsection, "commercial
21 sale" excludes sales of prototypes or sales for market testing if the
22 total gross receipts from such sales of the product, service, or
23 process do not exceed one million dollars.

24 ~~((14))~~ (15) "Qualified buildings" means construction of new
25 structures, and expansion or renovation of existing structures for
26 the purpose of increasing floor space or production capacity used for
27 pilot scale manufacturing or qualified research and development,
28 including plant offices and other facilities that are an essential or
29 an integral part of a structure used for pilot scale manufacturing or
30 qualified research and development. Areas used for amusement and
31 recreational activities, physical fitness activities, parking, the
32 selling or furnishing of meals or other food and beverages, or
33 similar commercial and noncommercial activities are not essential or
34 integral to pilot scale manufacturing or qualified research and
35 development. If a building or buildings are used partly for pilot
36 scale manufacturing or qualified research and development, and partly
37 for other purposes, the applicable tax deferral shall be determined
38 by apportionment of the costs of construction under rules adopted by
39 the department. Such rules may include provisions for determining the
40 amount of the deferral based on apportionment of costs of

1 construction of an investment project consisting of a building or
2 multiple buildings, where qualified research and development or pilot
3 scale manufacturing activities are shifted within a building or from
4 one building to another building.

5 ~~((15))~~ (16) "Qualified machinery and equipment" means fixtures,
6 equipment, and support facilities that are an integral and necessary
7 part of a pilot scale manufacturing or qualified research and
8 development operation. "Qualified machinery and equipment" includes:
9 Computers; software; data processing equipment; laboratory equipment,
10 instrumentation, and other devices used in a process of
11 experimentation to develop a new or improved pilot model, plant
12 process, product, formula, invention, or similar property;
13 manufacturing components such as belts, pulleys, shafts, and moving
14 parts; molds, tools, and dies; vats, tanks, and fermenters; operating
15 structures; and all other equipment used to control, monitor, or
16 operate the machinery. For purposes of this chapter, qualified
17 machinery and equipment must be either new to the taxing jurisdiction
18 of the state or new to the certificate holder, except that used
19 machinery and equipment may be treated as qualified machinery and
20 equipment if the certificate holder either brings the machinery and
21 equipment into Washington or makes a retail purchase of the machinery
22 and equipment in Washington or elsewhere.

23 ~~((16))~~ (17) "Qualified research and development" means research
24 and development performed within this state in the fields of advanced
25 computing, advanced materials, biotechnology, electronic device
26 technology, and environmental technology.

27 ~~((17))~~ (18) "Recipient" means a person receiving a tax deferral
28 under this chapter.

29 ~~((18))~~ (19) "Research and development" means activities
30 performed to discover technological information, and technical and
31 nonroutine activities concerned with translating technological
32 information into new or improved products, processes, techniques,
33 formulas, inventions, or software. The term includes exploration of a
34 new use for an existing drug, device, or biological product if the
35 new use requires separate licensing by the federal food and drug
36 administration under chapter 21, C.F.R., as amended. The term does
37 not include adaptation or duplication of existing products where the
38 products are not substantially improved by application of the
39 technology, nor does the term include surveys and studies, social
40 science and humanities research, market research or testing, quality

1 control, sale promotion and service, computer software developed for
2 internal use, and research in areas such as improved style, taste,
3 and seasonal design.

4 **Sec. 104.** RCW 82.63.020 and 2010 c 114 s 140 are each amended to
5 read as follows:

6 (1)(a) Application for deferral of taxes under this chapter must
7 be made to the department before initiation of construction of, or
8 acquisition of equipment or machinery for, the investment project. In
9 the case of an investment project involving multiple qualified
10 buildings, applications must be made for, and before the initiation
11 of construction of, each qualified building. The application must be
12 made ~~((to the department))~~ in a form and manner prescribed by the
13 department. The application must contain information regarding the
14 location of the investment project, the applicant's average
15 employment in the state for the prior year, estimated or actual new
16 employment related to the project, estimated or actual wages of
17 employees related to the project, estimated or actual costs, time
18 schedules for completion and operation, and other information
19 required by the department. The department must rule on the
20 application within sixty days.

21 ~~((+2))~~ (b) Nothing in this subsection (1)(b) may be construed to
22 allow a tax deferral for an investment project for which an
23 application for deferral under this chapter was denied by the
24 department before January 1, 2015.

25 (2) The department will approve applications that indicate
26 meaningful construction of an eligible investment project will occur
27 within five years of the date of application. Applications indicating
28 that meaningful construction of an eligible investment project will
29 not occur within two years of the date of the application may be
30 required to include additional documentation about the investment
31 project, such as project milestones and other information the
32 department may require. Applications that do not indicate meaningful
33 construction will occur within five years of the date of application
34 must be denied.

35 (3)(a) Recipients may amend an approved deferral application to
36 update the completion date, estimated expenses, the square footage of
37 the investment project, or other information about the investment
38 project. Amendments must be made in a form and manner prescribed by
39 the department.

1 (b) Requests to amend a previously approved application for an
2 investment project for which meaningful construction has not
3 commenced within five years of the date of the initial application
4 must be denied.

5 (4) Each recipient of a deferral of taxes under this chapter must
6 file a complete annual survey with the department under RCW
7 82.32.585. If the economic benefits of the deferral are passed to a
8 lessee as provided in RCW 82.63.010(7), the lessee must file a
9 complete annual survey, and the applicant is not required to file the
10 annual survey.

11 ~~((+3))~~ (5) The department must use the information reported on
12 the annual survey required by this section to study the tax deferral
13 program authorized under this chapter. The department must report to
14 the legislature by December 1, 2009, and December 1, 2013. The
15 reports must measure the effect of the program on job creation, the
16 number of jobs created for Washington residents, company growth, the
17 introduction of new products, the diversification of the state's
18 economy, growth in research and development investment, the movement
19 of firms or the consolidation of firms' operations into the state,
20 and such other factors as the department selects.

21 ~~((+4))~~ (6) A recipient who must repay deferred taxes under RCW
22 82.63.045 ~~((because the department has found that an investment~~
23 ~~project is used for purposes other than research and development~~
24 ~~performed within this state in the fields of advanced computing,~~
25 ~~advanced materials, biotechnology, electronic device technology, and~~
26 ~~environmental technology))~~ is no longer required to file annual
27 surveys under RCW 82.32.585 ~~((beginning on the date an investment~~
28 ~~project is used for nonqualifying purposes)).~~

29 NEW SECTION. Sec. 105. A new section is added to chapter 82.63
30 RCW to read as follows:

31 (1) Except as provided in subsection (2) of this section, the
32 department must issue a sales and use tax deferral certificate for
33 state and local sales and use taxes due under chapters 82.08, 82.12,
34 82.14, and 81.104 RCW on each eligible investment project. The amount
35 of tax imposed under chapters 82.08 and 82.12 RCW eligible for
36 deferral under this chapter is limited to one million dollars per
37 eligible investment project per person. Only one eligible investment
38 project per person qualifies for a deferral under this chapter during
39 a calendar year.

1 (2) No certificate may be issued for an investment project that
2 has already received a deferral under chapter 82.60 RCW or this
3 chapter, except that an investment project for qualified research and
4 development that has already received a deferral may also receive an
5 additional deferral certificate for adapting the investment project
6 for use in pilot scale manufacturing.

7 (3) This section expires January 1, 2025.

8 **Sec. 106.** RCW 82.63.045 and 2010 c 114 s 141 are each amended to
9 read as follows:

10 (1) Except as provided in subsection (2) of this section and RCW
11 82.32.585, taxes deferred under this chapter need not be repaid.

12 (2)(a) If, on the basis of the survey under RCW 82.32.585 or
13 other information, the department finds that an investment project is
14 used for purposes other than qualified research and development or
15 pilot scale manufacturing at any time during the calendar year in
16 which the investment project is certified by the department as having
17 been operationally completed, or at any time during any of the seven
18 succeeding calendar years, a portion of deferred taxes is immediately
19 due according to the following schedule:

Year in which use occurs	% of deferred taxes due
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

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29 (b) If the department finds that meaningful construction of an
30 investment project did not begin within five years of the date of the
31 application or that an investment project is not operationally
32 complete within ten years of the date of the initial application for
33 deferral, the full amount of deferred taxes is immediately due.

34 (c) If the economic benefits of the deferral are passed to a
35 lessee as provided in RCW 82.63.010(7), the lessee is responsible for
36 payment to the extent the lessee has received the economic benefit.

1 (3)(a) Notwithstanding subsection (2) of this section, in the
2 case of an investment project consisting of multiple qualified
3 buildings, the lessee is solely liable for payment of any deferred
4 tax determined by the department to be due and payable under this
5 section beginning on the date the department certifies that the
6 project is operationally complete.

7 (b) This subsection does not relieve the lessors of its
8 obligation to the lessee under RCW 82.63.010(7) to pass the economic
9 benefit of the deferral to the lessee.

10 (4) The department must assess interest at the rate provided for
11 delinquent taxes, but not penalties, retroactively to the date of
12 deferral. The debt for deferred taxes will not be extinguished by
13 insolvency or other failure of the recipient. Transfer of ownership
14 does not terminate the deferral. The deferral is transferred, subject
15 to the successor meeting the eligibility requirements of this
16 chapter, for the remaining periods of the deferral.

17 (5) Notwithstanding subsection (2) of this section or RCW
18 82.32.585, deferred taxes on the following need not be repaid:

19 (a) Machinery and equipment, and sales of or charges made for
20 labor and services, which at the time of purchase would have
21 qualified for exemption under RCW 82.08.02565; and

22 (b) Machinery and equipment which at the time of first use would
23 have qualified for exemption under RCW 82.12.02565.

24 PART II

25 Extending the Expiration Date of Tax Preferences for Food Processing

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

33 (1) The legislature categorizes this tax preference as one
34 intended to accomplish the general purposes indicated in RCW
35 82.32.808(2) (c) and (e).

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

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

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

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

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

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

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

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

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

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

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

29 (b) Selling at wholesale fruits or vegetables manufactured by the
30 seller by canning, preserving, freezing, processing, or dehydrating
31 fresh fruits or vegetables and sold to purchasers who transport in
32 the ordinary course of business the goods out of this state. A person
33 taking an exemption under this subsection (1)(b) must keep and
34 preserve records for the period required by RCW 82.32.070
35 establishing that the goods were transported by the purchaser in the
36 ordinary course of business out of this state.

37 (2) For purposes of this section, "fruits" and "vegetables" do
38 not include marijuana, useable marijuana, or marijuana-infused
39 products.

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

7 (1) In computing tax there may be deducted from the measure of
8 tax, the value of products or the gross proceeds of sales derived
9 from:

10 (a) Manufacturing dairy products; or

11 (b) Selling dairy products manufactured by the seller to
12 purchasers who either transport in the ordinary course of business
13 the goods out of this state or purchasers who use such dairy products
14 as an ingredient or component in the manufacturing of a dairy
15 product. A person taking an exemption under this subsection (1)(b)
16 must keep and preserve records for the period required by RCW
17 82.32.070 establishing that the goods were transported by the
18 purchaser in the ordinary course of business out of this state or
19 sold to a manufacturer for use as an ingredient or component in the
20 manufacturing of a dairy product.

21 (2) "Dairy products" has the same meaning as provided in RCW
22 82.04.260.

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

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

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

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

31 (a) Manufacturing seafood products that remain in a raw, raw
32 frozen, or raw salted state at the completion of the manufacturing by
33 that person; or

34 (b) Selling manufactured seafood products that remain in a raw,
35 raw frozen, or raw salted state to purchasers who transport in the
36 ordinary course of business the goods out of this state. A person
37 taking an exemption under this subsection (1)(b) must keep and
38 preserve records for the period required by RCW 82.32.070

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

3 (2) A person claiming the exemption provided in this section must
4 file a complete annual survey with the department under RCW
5 82.32.585.

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

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

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

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

17 (b) Beginning July 1, (~~2015~~) 2025, seafood products that remain
18 in a raw, raw frozen, or raw salted state at the completion of the
19 manufacturing by that person; or selling manufactured seafood
20 products that remain in a raw, raw frozen, or raw salted state at the
21 completion of the manufacturing, to purchasers who transport in the
22 ordinary course of business the goods out of this state; as to such
23 persons the amount of tax with respect to such business is equal to
24 the value of the products manufactured or the gross proceeds derived
25 from such sales, multiplied by the rate of 0.138 percent. Sellers
26 must keep and preserve records for the period required by RCW
27 82.32.070 establishing that the goods were transported by the
28 purchaser in the ordinary course of business out of this state;

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

1 out of this state or sold to a manufacturer for use as an ingredient
2 or component in the manufacturing of a dairy product.

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

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

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

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

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

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

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

38 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
39 persons the amount of tax with respect to the business is equal to

1 the value of wood biomass fuel manufactured, multiplied by the rate
2 of 0.138 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 outside the state of Washington. This subsection (11)(e)(ii) only
2 applies to the manufacturing or sale of commercial airplanes that are
3 the basis of a siting of a significant commercial airplane
4 manufacturing program in the state under RCW 82.32.850.

5 (12)(a) Until July 1, 2024, upon every person engaging within
6 this state in the business of extracting timber or extracting for
7 hire timber; as to such persons the amount of tax with respect to the
8 business is, in the case of extractors, equal to the value of
9 products, including by-products, extracted, or in the case of
10 extractors for hire, equal to the gross income of the business,
11 multiplied by the rate of 0.4235 percent from July 1, 2006, through
12 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
13 2024.

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

24 (c) Until July 1, 2024, upon every person engaging within this
25 state in the business of selling at wholesale: (i) Timber extracted
26 by that person; (ii) timber products manufactured by that person from
27 timber or other timber products; or (iii) wood products manufactured
28 by that person from timber or timber products; as to such persons the
29 amount of the tax with respect to the business is equal to the gross
30 proceeds of sales of the timber, timber products, or wood products
31 multiplied by the rate of 0.4235 percent from July 1, 2006, through
32 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
33 2024.

34 (d) Until July 1, 2024, upon every person engaging within this
35 state in the business of selling standing timber; as to such persons
36 the amount of the tax with respect to the business is equal to the
37 gross income of the business multiplied by the rate of 0.2904
38 percent. For purposes of this subsection (12)(d), "selling standing
39 timber" means the sale of timber apart from the land, where the buyer
40 is required to sever the timber within thirty months from the date of

1 the original contract, regardless of the method of payment for the
2 timber and whether title to the timber transfers before, upon, or
3 after severance.

4 (e) For purposes of this subsection, the following definitions
5 apply:

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

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

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

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

32 (v) "Timber products" means:

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

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

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

1 (vi) "Wood products" means paper and paper products; dimensional
2 lumber; engineered wood products such as particleboard, oriented
3 strand board, medium density fiberboard, and plywood; wood doors;
4 wood windows; and biocomposite surface products.

5 (f) Except for small harvesters as defined in RCW 84.33.035, a
6 person reporting under the tax rate provided in this subsection (12)
7 must file a complete annual survey with the department under RCW
8 82.32.585.

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

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

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

21 PART III

22 Providing a Sales and Use Tax Exemption for Eligible Server Equipment 23 Installed in Certain Data Centers

24 NEW SECTION. **Sec. 301.** This section is the tax preference
25 performance statement for the sales and use tax exemption contained
26 in sections 302 and 303 of this act. This performance statement is
27 only intended to be used for subsequent evaluation of the tax
28 preferences in sections 302 and 303 of this act. It is not intended
29 to create a private right of action by any party or be used to
30 determine eligibility for preferential tax treatment.

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

34 (2) It is the legislature's specific public policy objective to
35 improve industry competitiveness. It is the legislature's intent to
36 provide a sales and use tax exemption on eligible server equipment
37 and power infrastructure installed in eligible computer data centers,
38 charges made for labor and services rendered in respect to installing

1 eligible server equipment, and for construction, installation,
2 repair, alteration, or improvement of eligible power infrastructures
3 in order to increase investment in data center construction in rural
4 Washington counties, thereby adding real and personal property to
5 state and local property tax rolls, thereby increasing the rural
6 county tax base.

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

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

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

18 (1) An exemption from the tax imposed by RCW 82.08.020 is
19 provided for sales to qualifying businesses and to qualifying tenants
20 of eligible server equipment to be installed, without intervening
21 use, in an eligible computer data center, and to charges made for
22 labor and services rendered in respect to installing eligible server
23 equipment. The exemption also applies to sales to qualifying
24 businesses and to qualifying tenants of eligible power
25 infrastructure, including labor and services rendered in respect to
26 constructing, installing, repairing, altering, or improving eligible
27 power infrastructure.

28 (2)(a) In order to claim the exemption under this section, a
29 qualifying business or a qualifying tenant must submit an application
30 to the department for an exemption certificate. The application must
31 include the information necessary, as required by the department, to
32 determine that a business or tenant qualifies for the exemption under
33 this section. The department must issue exemption certificates to
34 qualifying businesses and qualifying tenants. The department may
35 assign a unique identification number to each exemption certificate
36 issued under this section.

37 (b) A qualifying business or a qualifying tenant claiming the
38 exemption under this section must present the seller with an
39 exemption certificate in a form and manner prescribed by the

1 department. The seller must retain a copy of the certificate for the
2 seller's files.

3 (c) With respect to computer data centers for which the
4 commencement of construction occurs after July 1, 2015, but before
5 July 1, 2019, the exemption provided in this section is limited to no
6 more than eight computer data centers, with total eligible data
7 centers provided under this section limited to twelve from July 1,
8 2015, through July 1, 2025. Tenants of qualified data centers do not
9 constitute additional data centers under the limit. The exemption is
10 available on a first-in-time basis based on the date the application
11 required under this section is received by the department. Exemption
12 certificates expire two years after the date of issuance, unless
13 construction has been commenced.

14 (3)(a) Within six years of the date that the department issued an
15 exemption certificate under this section to a qualifying business or
16 a qualifying tenant with respect to an eligible computer data center,
17 the qualifying business or qualifying tenant must establish that net
18 employment at the eligible computer data center has increased by a
19 minimum of:

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

21 (ii) Three family wage employment positions for each twenty
22 thousand square feet of space or less that is newly dedicated to
23 housing working servers at the eligible computer data center. For
24 qualifying tenants, the number of family wage employment positions
25 that must be increased under this subsection (3)(a)(ii) is based only
26 on the space occupied by the qualifying tenant in the eligible
27 computer data center.

28 (b) In calculating the net increase in family wage employment
29 positions:

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

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

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

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

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

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

3 (B) The portion of the net increase in family wage employment
4 positions to be counted under this subsection (3)(b)(ii) by each
5 qualifying tenant must be in proportion to the amount of space in the
6 eligible computer data center occupied by the qualifying tenant
7 compared to the total amount of space in the eligible computer data
8 center occupied by all qualifying tenants.

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

23 (ii)(A) Family wage employment positions include positions filled
24 by employees of the owner of the eligible computer data center and by
25 employees of qualifying tenants.

26 (B) Family wage employment positions also include individuals
27 performing work at an eligible computer data center as an independent
28 contractor hired by the owner of the eligible computer data center or
29 as an employee of an independent contractor hired by the owner of the
30 eligible computer data center, if the work is necessary for the
31 operation of the computer data center, such as security and building
32 maintenance, and provided that all of the requirements in (c)(i) of
33 this subsection (3) are met.

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

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

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

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

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

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

16 (6) (~~For purposes of this section the following definitions~~
17 ~~apply~~) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise((+)).

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

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

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

38 (ii) For a computer data center comprised of multiple buildings,
39 each separate building constructed or refurbished specifically, and
40 used primarily, to house working servers is considered a computer

1 data center if it has all of the characteristics listed in ~~((b))~~
2 (c)(i)(A) through (C) of this subsection (6).

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

6 ~~((e))~~ (d) "Electronic data storage and data management
7 services" include, but are not limited to: Providing data storage and
8 backup services, providing computer processing power, hosting
9 enterprise software applications, and hosting web sites. The term
10 also includes providing services such as e-mail, web browsing and
11 searching, media applications, and other online services, regardless
12 of whether a charge is made for such services.

13 ~~((d))~~ (e)(i) "Eligible computer data center" means a computer
14 data center:

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

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

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

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

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

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

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

33 (iii) With respect to facilities in existence on April 1, 2010,
34 that are expanded, renovated, or otherwise improved after March 31,
35 2010, or facilities in existence on April 1, 2012, that are expanded,
36 renovated, or otherwise improved after March 31, 2012, or facilities
37 in existence on July 1, 2015, that are expanded, renovated, or
38 otherwise improved after June 30, 2015, an eligible computer data
39 center includes only the portion of the computer data center meeting
40 the requirements in ~~((d))~~ (e)(i)(B) of this subsection (6).

1 ~~((e))~~ (f) "Eligible power infrastructure" means all fixtures
2 and equipment owned by a qualifying business or qualifying tenant and
3 necessary for the transformation, distribution, or management of
4 electricity that is required to operate eligible server equipment
5 within an eligible computer data center. The term includes
6 generators; wiring; cogeneration equipment; and associated fixtures
7 and equipment, such as electrical switches, batteries, and
8 distribution, testing, and monitoring equipment. The term does not
9 include substations.

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

11 (i) For a qualifying business whose computer data center
12 qualifies as an eligible computer data center under ~~((d))~~ (e)
13 (i)(C)(I) of this subsection (6), the original server equipment
14 installed in an eligible computer data center on or after April 1,
15 2010, and replacement server equipment. For purposes of this
16 subsection (6)~~((f))~~ (g)(i), "replacement server equipment" means
17 server equipment that:

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

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

22 (ii) For a qualifying business whose computer data center
23 qualifies as an eligible computer data center under ~~((d))~~ (e)
24 (i)(C)(II) of this subsection (6), "eligible server equipment" means
25 the original server equipment installed in an eligible computer data
26 center on or after April 1, 2012, and replacement server equipment.
27 For purposes of this subsection (6)~~((f))~~ (g)(ii), "replacement
28 server equipment" means server equipment that:

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

32 (B) Is installed and put into regular use before April 1,
33 ~~((2020))~~ 2024.

34 (iii)(A) For a qualifying business whose computer data center
35 qualifies as an eligible computer data center under (e)(i)(C)(III) of
36 this subsection (6), "eligible server equipment" means the original
37 server equipment installed in a building within an eligible computer
38 data center on or after July 1, 2015, and replacement server
39 equipment. Server equipment installed in movable or fixed stand-
40 alone, prefabricated, or modular units, including intermodal shipping

1 containers, is not "directly installed in a building." For purposes
2 of this subsection (6)(g)(iii)(A), "replacement server equipment"
3 means server equipment that replaces existing server equipment, if
4 the sale or use of the server equipment to be replaced qualified for
5 an exemption under this section or RCW 82.12.986; and

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

8 (iv) For a qualifying tenant who leases space within an eligible
9 computer data center, "eligible server equipment" means the original
10 server equipment installed within the space it leases from an
11 eligible computer data center on or after April 1, 2010, and
12 replacement server equipment. For purposes of this subsection (6)
13 ~~((f)(iii))~~ (g)(iv), "replacement server equipment" means server
14 equipment that:

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

18 (B) Is installed and put into regular use before April 1,
19 ~~((2020))~~ 2024; and

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

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

33 ~~((h))~~ (i) "Qualifying tenant" means a business entity that
34 exists for the primary purpose of engaging in commercial activity for
35 profit and that leases space from a qualifying business within an
36 eligible computer data center. The term does not include the state or
37 federal government or any of their departments, agencies, and
38 institutions; tribal governments; political subdivisions of this
39 state; or any municipal, quasi-municipal, public, or other
40 corporation created by the state or federal government, tribal

1 government, municipality, or political subdivision of the state. The
2 term also does not include a lessee of space in an eligible computer
3 data center under ~~((d))~~ (e)(i)(C)(I) of this subsection (6), if the
4 lessee and lessor are affiliated and:

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

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

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

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

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

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

36 (2) A qualifying business or a qualifying tenant is not eligible
37 for the exemption under this section unless the department issued an
38 exemption certificate to the qualifying business or a qualifying
39 tenant for the exemption provided in RCW 82.08.986.

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

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

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

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

20 (4) The definitions and requirements in RCW 82.08.986 apply to
21 this section.

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

23 PART IV

24 Creating a Pilot Program that Provides Incentives for Investments in 25 Washington State Job Creation and Economic Development

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

36 (2)(a) This subsection is the tax preference performance
37 statement for the sales and use tax deferral provided in section 404
38 of this act on expenditures made to build or expand qualified

1 investment projects and purchases of machinery and equipment. This
2 performance statement is only intended to be used for subsequent
3 evaluation of the tax preference. It is not intended to create a
4 private right of action by any party or be used to determine
5 eligibility for preferential tax treatment.

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

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

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

33 NEW SECTION. **Sec. 402.** The definitions in this section apply
34 throughout this chapter unless the context clearly requires
35 otherwise.

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

38 (2) "Eligible investment project" means an investment project for
39 qualified buildings and machinery and equipment on five new,

1 renovated, or expanded manufacturing operations, at least two of
2 which must be located east of the crest of the Cascade mountains. The
3 deferral provided in this section only applies to the state and local
4 sales and use taxes due on the first ten million dollars in costs for
5 qualified buildings and machinery and equipment.

6 (3) "Initiation of construction" has the same meaning as in RCW
7 82.63.010.

8 (4) "Investment project" means an investment in qualified
9 buildings or qualified machinery and equipment, including labor and
10 services rendered in the planning, installation, and construction of
11 the project.

12 (5) "Manufacturing" has the same meaning as provided in RCW
13 82.04.120.

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

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

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

33 (9) "Recipient" means a person receiving a tax deferral under
34 this chapter.

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

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

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

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

6 (c) The economic benefit of the deferral passed to the lessee is
7 no less than the amount of tax deferred by the lessor and is
8 evidenced by written documentation of any type of payment, credit, or
9 other financial arrangement between the lessor or owner of the
10 qualified building and the lessee.

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

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

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

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

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

35 NEW SECTION. **Sec. 406.** (1) The recipient must begin paying the
36 deferred taxes in the fifth year after the date certified by the
37 department as the date on which the investment project has been

1 operationally completed. The first payment of ten percent of the
2 deferred taxes will be due on December 31st of the fifth calendar
3 year after such certified date, with subsequent annual payments of
4 ten percent of the deferred taxes due on December 31st for each of
5 the following nine years.

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

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

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

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 411.** The expiration provisions of RCW
28 82.32.805(1)(a) do not apply to sections 406 through 409 of this act.

29 **PART V**

30 **Continuing Tax Preferences for Aluminum Smelters**

31 NEW SECTION. **Sec. 501.** (1) The legislature finds that the
32 aluminum industry in Washington employs over one thousand people. The
33 legislature further finds that average annual wages and benefits for
34 these employment positions exceed one hundred thousand dollars and

1 that each of these employment positions indirectly generates an
2 additional two to three jobs within the state. The legislature
3 further finds that the aluminum industry generates substantial taxes
4 for local jurisdictions. The legislature further finds that the
5 aluminum industry was severely impacted by the global economic
6 recession. The legislature further finds that the London metal
7 exchange, where aluminum is traded as a commodity, is extremely
8 volatile and substantially impacts the profitability of the aluminum
9 industry. The legislature further finds that for the aforementioned
10 reasons, the industry continues to struggle with profitability,
11 putting the continued employment of its Washington workforce in
12 jeopardy.

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

20 (b) The legislature categorizes this tax preference as one
21 intended to accomplish the general purposes indicated in RCW
22 82.32.808(2) (c) and (d).

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

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

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

35 (1) Upon every person who is an aluminum smelter engaging within
36 this state in the business of manufacturing aluminum; as to such
37 persons the amount of tax with respect to such business is, in the
38 case of manufacturers, equal to the value of the product
39 manufactured, or in the case of processors for hire, equal to the

1 gross income of the business, multiplied by the rate of .2904
2 percent.

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

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

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

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

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

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

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

27 (4) A person claiming the credit provided in this section must
28 file a complete annual report with the department under RCW
29 82.32.534.

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

32 (1) A person who has paid tax under RCW 82.08.020 for personal
33 property used at an aluminum smelter, tangible personal property that
34 will be incorporated as an ingredient or component of buildings or
35 other structures at an aluminum smelter, or for labor and services
36 rendered with respect to such buildings, structures, or personal
37 property, is eligible for an exemption from the state share of the
38 tax in the form of a credit, as provided in this section. A person

1 claiming an exemption must pay the tax and may then take a credit
2 equal to the state share of retail sales tax paid under RCW
3 82.08.020. The person must submit information, in a form and manner
4 prescribed by the department, specifying the amount of qualifying
5 purchases or acquisitions for which the exemption is claimed and the
6 amount of exempted tax.

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

9 (3) A person claiming the tax preference provided in this section
10 must file a complete annual report with the department under RCW
11 82.32.534.

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

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

16 (1) A person who is subject to tax under RCW 82.12.020 for
17 personal property used at an aluminum smelter, or for tangible
18 personal property that will be incorporated as an ingredient or
19 component of buildings or other structures at an aluminum smelter, or
20 for labor and services rendered with respect to such buildings,
21 structures, or personal property, is eligible for an exemption from
22 the state share of the tax in the form of a credit, as provided in
23 this section. The amount of the credit equals the state share of use
24 tax computed to be due under RCW 82.12.020. The person must submit
25 information, in a form and manner prescribed by the department,
26 specifying the amount of qualifying purchases or acquisitions for
27 which the exemption is claimed and the 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 reporting under the tax rate provided in this
31 section must file a complete annual report with the department under
32 RCW 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. 506.** RCW 82.12.022 and 2014 c 216 s 304 are each amended to
36 read as follows:

37 (1) A use tax is levied on every person in this state for the
38 privilege of using natural gas or manufactured gas, including

1 compressed natural gas and liquefied natural gas, within this state
2 as a consumer.

3 (2) The tax must be levied and collected in an amount equal to
4 the value of the article used by the taxpayer multiplied by the rate
5 in effect for the public utility tax on gas distribution businesses
6 under RCW 82.16.020. The "value of the article used" does not include
7 any amounts that are paid for the hire or use of a gas distribution
8 business as defined in RCW 82.16.010(2) in transporting the gas
9 subject to tax under this subsection if those amounts are subject to
10 tax under that chapter.

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

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

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

21 (b) A person claiming the exemption provided in this subsection
22 (5) must file a complete annual report with the department under RCW
23 82.32.534.

24 (6) The tax imposed by this section does not apply to the use of
25 natural gas, compressed natural gas, or liquefied natural gas, if the
26 consumer uses the gas for transportation fuel as defined in RCW
27 82.16.310.

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

30 (a) The person who sold the gas to the consumer when that tax is
31 a gross receipts tax similar to that imposed pursuant to RCW
32 82.16.020 by another state with respect to the gas for which a credit
33 is sought under this subsection; or

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

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

1 (9) There is imposed a reporting requirement on the person who
2 delivered the gas to the consumer to make a quarterly report to the
3 department. Such report must contain the volume of gas delivered,
4 name of the consumer to whom delivered, and such other information as
5 the department may require by rule.

6 (10) The department may adopt rules under chapter 34.05 RCW for
7 the administration and enforcement of sections 1 through 6, chapter
8 384, Laws of 1989.

9 **PART VI**

10 **Concerning the Definition of a Newspaper**

11 NEW SECTION. **Sec. 601.** This section is the tax preference
12 performance statement for the tax preference contained in this part.
13 Except for the intent expressed in subsections (3) and (4) of this
14 section, this performance statement is only intended to be used for
15 subsequent evaluation of the tax preference. It is not intended to
16 create a private right of action by any party or be used to determine
17 eligibility for preferential tax treatment. The legislature
18 categorizes this tax preference as one intended to reduce structural
19 inefficiencies in the tax structure, as indicated in RCW
20 82.32.808(2)(d).

21 (1) The legislature finds that printing and publishing a
22 newspaper and publishing an electronic version of a newspaper are
23 becoming increasingly integrated activities.

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

33 (3) If a taxpayer's subscription revenues from publishing an
34 electronic newspaper, whether a stand-alone electronic newspaper or
35 an electronic version of a printed newspaper, exceed the taxpayer's
36 subscription revenues from a printed newspaper, then the legislature
37 intends for all of the taxpayer's newspaper printing activity to be
38 taxed under the manufacturing business and occupation tax

1 classification and all of its publishing and sales revenues to be
2 taxed under the service and other business activities, wholesaling,
3 or retailing business and occupation tax classifications, as
4 applicable. Under this scenario, the taxpayer's advertising revenues
5 would be subject to the service tax rate in RCW 82.04.290(2),
6 wholesale sales of newspapers would be taxed under RCW 82.04.270, and
7 subscription revenues would be subject to the tax on retailers under
8 RCW 82.04.250(1) for the printed newspaper and RCW 82.04.257(1) for
9 the electronic newspaper.

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

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

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

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

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

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

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

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

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

32 ~~((i))~~ (a) Labeled and identified as part of the printed
33 newspaper; and

34 ~~((ii))~~ (b) Circulated or distributed:

35 ~~((A))~~ (i) As an insert or attachment to the printed newspaper;
36 or

37 ~~((B))~~ (ii) Separate and apart from the printed newspaper so
38 long as the distribution is within the general circulation area of
39 the newspaper.

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

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

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

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

17 (b) Beginning July 1, 2015, seafood products that remain in a
18 raw, raw frozen, or raw salted state at the completion of the
19 manufacturing by that person; or selling manufactured seafood
20 products that remain in a raw, raw frozen, or raw salted state at the
21 completion of the manufacturing, to purchasers who transport in the
22 ordinary course of business the goods out of this state; as to such
23 persons the amount of tax with respect to such business is equal to
24 the value of the products manufactured or the gross proceeds derived
25 from such sales, multiplied by the rate of 0.138 percent. Sellers
26 must keep and preserve records for the period required by RCW
27 82.32.070 establishing that the goods were transported by the
28 purchaser in the ordinary course of business out of this state;

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

1 of this state or sold to a manufacturer for use as an ingredient or
2 component in the manufacturing of a dairy product.

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

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

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

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

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

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

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

38 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
39 persons the amount of tax with respect to the business is equal to

1 the value of wood biomass fuel manufactured, multiplied by the rate
2 of 0.138 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 outside the state of Washington. This subsection (11)(e)(ii) only
2 applies to the manufacturing or sale of commercial airplanes that are
3 the basis of a siting of a significant commercial airplane
4 manufacturing program in the state under RCW 82.32.850.

5 (12)(a) Until July 1, 2024, upon every person engaging within
6 this state in the business of extracting timber or extracting for
7 hire timber; as to such persons the amount of tax with respect to the
8 business is, in the case of extractors, equal to the value of
9 products, including by-products, extracted, or in the case of
10 extractors for hire, equal to the gross income of the business,
11 multiplied by the rate of 0.4235 percent from July 1, 2006, through
12 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
13 2024.

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

24 (c) Until July 1, 2024, upon every person engaging within this
25 state in the business of selling at wholesale: (i) Timber extracted
26 by that person; (ii) timber products manufactured by that person from
27 timber or other timber products; or (iii) wood products manufactured
28 by that person from timber or timber products; as to such persons the
29 amount of the tax with respect to the business is equal to the gross
30 proceeds of sales of the timber, timber products, or wood products
31 multiplied by the rate of 0.4235 percent from July 1, 2006, through
32 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
33 2024.

34 (d) Until July 1, 2024, upon every person engaging within this
35 state in the business of selling standing timber; as to such persons
36 the amount of the tax with respect to the business is equal to the
37 gross income of the business multiplied by the rate of 0.2904
38 percent. For purposes of this subsection (12)(d), "selling standing
39 timber" means the sale of timber apart from the land, where the buyer
40 is required to sever the timber within thirty months from the date of

1 the original contract, regardless of the method of payment for the
2 timber and whether title to the timber transfers before, upon, or
3 after severance.

4 (e) For purposes of this subsection, the following definitions
5 apply:

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

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

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

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

32 (v) "Timber products" means:

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

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

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

1 (vi) "Wood products" means paper and paper products; dimensional
2 lumber; engineered wood products such as particleboard, oriented
3 strand board, medium density fiberboard, and plywood; wood doors;
4 wood windows; and biocomposite surface products.

5 (f) Except for small harvesters as defined in RCW 84.33.035, a
6 person reporting under the tax rate provided in this subsection (12)
7 must file a complete annual survey with the department under RCW
8 82.32.585.

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

14 (14)(a) Upon every person engaging within this state primarily in
15 the business of printing a newspaper, publishing a newspaper, or
16 both, the amount of tax on such business and on the business of
17 publishing an electronic version of a newspaper, is equal to the
18 gross income of the business multiplied by the rate of ~~((0.2904))~~
19 0.35 percent.

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

23 (c) For the purposes of (a) of this subsection, the following
24 definitions apply:

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

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

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

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

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

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

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

37 (b) The definitions in this subsection ~~((+6+))~~ (7)(b) apply
38 throughout this subsection ~~((+6+))~~ (7).

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

1 (ii) "Network telephone service" means the providing by any
2 person of access to a telephone network, telephone network switching
3 service, toll service, or coin telephone services, or the providing
4 of telephonic, video, data, or similar communication or transmission
5 for hire, via a telephone network, toll line or channel, cable,
6 microwave, or similar communication or transmission system. "Network
7 telephone service" includes the provision of transmission to and from
8 the site of an internet provider via a telephone network, toll line
9 or channel, cable, microwave, or similar communication or
10 transmission system. "Network telephone service" does not include the
11 providing of competitive telephone service, the providing of cable
12 television service, the providing of broadcast services by radio or
13 television stations, nor the provision of internet access as defined
14 in RCW 82.04.297, including the reception of dial-in connection,
15 provided at the site of the internet service provider.

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

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

22 (~~(7)~~) (8) "Railroad business" means the business of operating
23 any railroad, by whatever power operated, for public use in the
24 conveyance of persons or property for hire. It shall not, however,
25 include any business herein defined as an urban transportation
26 business.

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

34 (~~(9)~~) (10) "Telegraph business" means the business of affording
35 telegraphic communication for hire.

36 (~~(10)~~) (11) "Tugboat business" means the business of operating
37 tugboats, towboats, wharf boats or similar vessels in the towing or
38 pushing of vessels, barges or rafts for hire.

39 (~~(11)~~) (12) "Urban transportation business" means the business
40 of operating any vehicle for public use in the conveyance of persons

1 or property for hire, insofar as (a) operating entirely within the
2 corporate limits of any city or town, or within five miles of the
3 corporate limits thereof, or (b) operating entirely within and
4 between cities and towns whose corporate limits are not more than
5 five miles apart or within five miles of the corporate limits of
6 either thereof. Included herein, but without limiting the scope
7 hereof, is the business of operating passenger vehicles of every type
8 and also the business of operating cartage, pickup, or delivery
9 services, including in such services the collection and distribution
10 of property arriving from or destined to a point within or without
11 the state, whether or not such collection or distribution be made by
12 the person performing a local or interstate line-haul of such
13 property.

14 ~~((12))~~ (13) "Water distribution business" means the business of
15 operating a plant or system for the distribution of water for hire or
16 sale.

17 ~~((13))~~ (14) The meaning attributed, in chapter 82.04 RCW, to
18 the term "tax year," "person," "value proceeding or accruing,"
19 "business," "engaging in business," "in this state," "within this
20 state," "cash discount" and "successor" shall apply equally in the
21 provisions of this chapter.

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

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

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

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

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

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

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

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

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

5 (h) Log transportation business: One and twenty-eight one-
6 hundredths percent. The reduced rate established in this subsection
7 (1)(h) is not subject to the ten-year expiration provision in RCW
8 82.32.805(1)(a).

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

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

19 PART VIII

20 Concerning Nonresident Vessel Permits and Taxation

21 **Sec. 801.** RCW 88.02.620 and 2011 c 171 s 133 are each amended to
22 read as follows:

23 (1) Subject to the limitations provided in subsection (5) of this
24 section, a vessel owner who is a nonresident (~~((natural))~~) person
25 (~~((shall))~~) must apply for a nonresident vessel permit on or before the
26 sixty-first day of use in Washington state if the vessel:

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

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

32 (2) A nonresident vessel permit:

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

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

37 (c) Is valid for two months.

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

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

7 (5) If the applicant is not a natural person, application for a
8 nonresident vessel permit under this section must be made by mail.
9 The department may not issue more than twenty nonresident vessel
10 permits annually per calendar year under this section to applicants
11 who are not natural persons. The department may only issue a
12 nonresident vessel permit to a person who is not a natural person, if
13 such person is otherwise eligible under this section and is among the
14 first twenty persons who are not natural persons to submit a permit
15 application under this section. For the purposes of determining which
16 applications are received first, the application's postmark date is
17 determinative and only complete and otherwise eligible applications
18 may be considered.

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

22 **Sec. 802.** RCW 82.08.700 and 2010 c 106 s 219 are each amended to
23 read as follows:

24 (1) The tax levied by RCW 82.08.020 does not apply to sales to
25 nonresident (~~(individuals)~~) persons of vessels thirty feet or longer
26 if (~~(an individual)~~) a person purchasing a vessel purchases and
27 displays a valid use permit.

28 (2)(a) (~~(An individual)~~) A person claiming exemption from retail
29 sales tax under this section must display proof of (~~(his or her)~~) the
30 person's current nonresident status at the time of purchase.

31 (b) Acceptable proof of a nonresident (~~(individual's)~~) person's
32 status for an individual includes one piece of identification such as
33 a valid driver's license from the jurisdiction in which the out-of-
34 state residency is claimed or a valid identification card that has a
35 photograph of the holder and is issued by the out-of-state
36 jurisdiction. Identification under this subsection (2)(b) must show
37 the holder's residential address and have as one of its legal
38 purposes the establishment of residency in that out-of-state
39 jurisdiction.

1 (c) Acceptable proof of a nonresident person's status, for a
2 person who is not an individual, such as a limited liability company,
3 corporation, or limited partnership, includes:

4 (i) A current certificate of good standing for the entity from
5 the out-of-state jurisdiction claimed by the person;

6 (ii) A current list of all principals of the person;

7 (iii) A copy of the person's certificate of incorporation or the
8 articles of incorporation;

9 (iv) A completed affidavit of out-of-state residency;

10 (v) One piece of identification provided by the person, such as a
11 valid driver's license verifying out-of-state residency or a valid
12 identification card that has a photograph of the holder and is issued
13 by an out-of-state jurisdiction; and

14 (vi) A written and notarized statement signed by a principal of
15 the person's entity that states:

16 "The entity agrees to make all records available to
17 representatives of the Washington State Department of Revenue for
18 verification of nonresidency status of all principals of the entity.
19 This includes any corporate or ownership documents filed with any and
20 all state, federal, and/or foreign agencies provided for title,
21 documentation, or registry purposes."

22 (3) Nothing in this section requires the vessel dealer to make
23 tax exempt retail sales to nonresidents. A dealer may choose to make
24 sales to nonresidents, collect the sales tax, and remit the amount of
25 sales tax collected to the state as otherwise provided by law. If the
26 dealer chooses to make a sale to a nonresident without collecting the
27 sales tax, the vendor must examine the proof of nonresidence,
28 determine whether the proof is acceptable under subsection (2)(b) of
29 this section, and maintain records for each nontaxable sale that
30 shows the type of proof accepted, including any identification
31 numbers where appropriate, and the expiration date, if any.

32 (4)(a) Subject to the limitations provided in (b) of this
33 subsection, a vessel dealer (~~shall~~) must issue a use permit to a
34 buyer if the dealer is satisfied that the buyer is a nonresident. The
35 use permit must be in a form and manner required by the department
36 and must include an affidavit, signed by the purchaser, declaring
37 that the vessel will be used in a manner consistent with this
38 section. The fee for the issuance of a use permit is five hundred
39 dollars for vessels fifty feet in length or less and eight hundred
40 dollars for vessels greater than fifty feet in length. Funds

1 collected under this section and RCW 82.12.700 must be reported on
2 the dealer's excise tax return and remitted to the department in
3 accordance with RCW 82.32.045. The department must transmit the fees
4 to the state treasurer to be deposited in the state general fund. The
5 use permit must be displayed on the vessel and is valid for twelve
6 consecutive months from the date of issuance. A use permit is not
7 renewable. A purchaser at the time of purchase must make an
8 irrevocable election to take the exemption authorized in this section
9 or the exemption in either RCW 82.08.0266 or 82.08.02665. A vessel
10 dealer must maintain a copy of the use permit for the dealer's
11 records. Vessel dealers must provide copies of use permits issued by
12 the dealer under this section and RCW 82.12.700 to the department on
13 a quarterly basis.

14 (b) A vessel dealer may not issue a use permit to a nonresident
15 person who is not an individual. If the nonresident person is not an
16 individual, the person must apply to the department by mail for a use
17 permit under this section in the form and manner required by the
18 department. The department may not issue more than twenty nonresident
19 use permits annually per calendar year under this section to persons
20 who are not individuals. The department may only issue a nonresident
21 use permit to a person who is not an individual, if such person is
22 otherwise eligible under this section and is among the first twenty
23 persons who are not individuals to submit a permit application under
24 this section. For the purposes of determining which applications are
25 received first, the application's postmark date is determinative and
26 only complete and otherwise eligible applications may be considered.

27 (5) A nonresident person who claims an exemption under this
28 section and who uses a vessel in this state after his or her use
29 permit for that vessel has expired is liable for the tax imposed
30 under RCW 82.08.020 on the original selling price of the vessel and
31 must pay the tax directly to the department. Interest at the rate
32 provided in RCW 82.32.050 applies to amounts due under this
33 subsection, retroactively to the date the vessel was purchased, and
34 accrues until the full amount of tax due is paid to the department.

35 (6) Any vessel dealer who makes sales without collecting the tax
36 to a person who does not hold valid identification establishing out-
37 of-state residency, and any dealer who fails to maintain records of
38 sales to nonresident(~~s~~) persons as provided in this section, is
39 personally liable for the amount of tax due.

1 (7) Chapter 82.32 RCW applies to the administration of the fee
2 imposed in this section and RCW 82.12.700.

3 (8) A vessel dealer that issues use permits under this section
4 and RCW 82.12.700 must file with the department all returns in an
5 electronic format as provided or approved by the department. As used
6 in this subsection, "returns" has the same meaning as "return" in RCW
7 82.32.050.

8 (a) Any return required to be filed in an electronic format under
9 this subsection is not filed until received by the department in an
10 electronic format provided or approved by the department.

11 (b) The electronic filing requirement in this subsection ends
12 when a vessel dealer no longer issues use permits, and the dealer has
13 electronically filed all of its returns reporting the fees collected
14 under this section and RCW 82.12.700.

15 (c) The department may waive the electronic filing requirement in
16 this subsection for good cause shown.

17 **Sec. 803.** RCW 82.12.700 and 2007 c 22 s 2 are each amended to
18 read as follows:

19 (1) The provisions of this chapter do not apply in respect to the
20 use of a vessel thirty feet or longer if a nonresident (~~((individual))~~)
21 person:

22 (a) Purchased the vessel from a vessel dealer in accordance with
23 RCW 82.08.700;

24 (b) Purchased the vessel in the state from a person other than a
25 vessel dealer, but the nonresident (~~((individual))~~) person purchases
26 and displays a valid use permit from a vessel dealer under this
27 section within fourteen days of the date that the vessel is purchased
28 in this state; or

29 (c) Acquired the vessel outside the state, but purchases and
30 displays a valid use permit from a vessel dealer under this section
31 within fourteen days of the date that the vessel is first brought
32 into this state.

33 (2)(a) Subject to the limitations provided in (b) of this
34 subsection, any vessel dealer that makes tax exempt sales under RCW
35 82.08.700 (~~((shall))~~) must issue use permits under this section. A
36 vessel dealer (~~((shall))~~) must issue a use permit under this section if
37 the dealer is satisfied that the (~~((individual))~~) person purchasing the
38 permit is a nonresident. The use permit is valid for twelve
39 consecutive months from the date of issuance. A use permit is not

1 renewable, and (~~an individual~~) a person may only purchase one use
2 permit for a particular vessel. A person who has been issued a use
3 permit under RCW 82.08.700 for a particular vessel may not purchase a
4 use permit under this section for the same vessel after the use
5 permit issued under RCW 82.08.700 expires.

6 (b) A vessel dealer may not issue a use permit to a nonresident
7 person who is not an individual. If the nonresident person is not an
8 individual, the person must apply to the department by mail for a use
9 permit under this section in the form and manner required by the
10 department. The department may not issue more than twenty nonresident
11 use permits annually per calendar year under this section to persons
12 who are not individuals. The department may only issue a nonresident
13 use permit to a person who is not an individual, if such person is
14 otherwise eligible under this section and is among the first twenty
15 persons who are not individuals to submit a permit application under
16 this section. For the purposes of determining which applications are
17 received first, the application's postmark date is determinative and
18 only complete and otherwise eligible applications may be considered.

19 (c) All other requirements and conditions, not inconsistent with
20 the provisions of this section, relating to use permits in RCW
21 82.08.700, apply to use permits under this section.

22 (d) A person may not claim an exemption under RCW 82.12.0251(1)
23 within twenty-four months after a use permit, issued under this
24 section or RCW 82.08.700, for the same vessel, has expired.

25 (3)(a) Except as provided in (b) of this subsection, a
26 nonresident who claims an exemption under this section and who uses a
27 vessel in this state after his or her use permit for that vessel has
28 expired is liable for the tax imposed under RCW 82.12.020 based on
29 the value of the vessel at the time that the vessel was either
30 purchased in this state under circumstances in which the exemption
31 under RCW 82.08.700 did not apply or was first brought into this
32 state, as the case may be. Interest at the rate provided in RCW
33 82.32.050 applies to amounts due under this subsection, retroactively
34 to the date that the vessel was purchased in this state or first
35 brought into the state, and accrues until the full amount of tax due
36 is paid to the department.

37 (b) A nonresident (~~individual~~) person who is exempt under both
38 this section and RCW 82.08.700 and who uses a vessel in this state
39 after (~~his or her~~) the use permit for that vessel expires is liable
40 for tax and interest as provided in RCW 82.08.700(5).

1 (4)(a) Any vessel dealer that issues a use permit to ((an
2 individual)) a person who does not hold valid identification
3 establishing out-of-state residency, and any dealer that fails to
4 maintain records for each use permit issued that shows the type of
5 proof accepted, including any identification numbers where
6 appropriate, and the expiration date, if any, is personally liable
7 for the amount of tax due.

8 (b) Acceptable proof of a nonresident person's status, for a
9 person who is not an individual, such as a limited liability company,
10 corporation, or limited partnership, is the same as provided in RCW
11 82.08.700.

12 PART IX

13 Concerning Distribution and Use of Aircraft Excise Taxes

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

16 The secretary ((shall)) must regularly pay to the state treasurer
17 the excise taxes collected under this chapter, which ((shall)) must
18 be credited by the state treasurer ((as follows: Ninety percent to
19 the general fund and ten percent)) to the aeronautics account ((in
20 the transportation fund)) for state grants to airports and the
21 administrative expenses associated with grant execution and the
22 collection of excise taxes under this chapter.

23 **Sec. 902.** RCW 82.42.090 and 2013 c 225 s 305 are each amended to
24 read as follows:

25 All taxes, interest, and penalties collected under this chapter
26 must be deposited into the aeronautics account hereby created in the
27 state treasury. All taxes, interest, and penalties collected from the
28 consumer or user of aircraft fuel from either the use tax imposed by
29 RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020 must
30 be deposited into the state general fund.

31 PART X

32 Providing a Business and Occupation Tax Credit for Businesses That 33 Hire Veterans

34 NEW SECTION. **Sec. 1001.** This section is the tax preference
35 performance statement for the tax preference contained in sections

1 1002 and 1003 of this act. This performance statement is only
2 intended to be used for subsequent evaluation of the tax preference.
3 It is not intended to create a private right of action by any party
4 or be used to determine eligibility for preferential tax treatment.

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

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

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

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

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

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

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

37 (3) Credits are available on a first-in-time basis. The
38 department must keep a running total of all credits allowed under
39 this section and section 1003 of this act during each fiscal year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (3) Credits are available on a first-in-time basis. The
34 department must keep a running total of all credits allowed under
35 this section and section 1002 of this act during each fiscal year.
36 The department may not allow any credits that would cause the total
37 credits allowed under this section and section 1002 of this act to
38 exceed five hundred thousand dollars in any fiscal year. If all or
39 part of a claim for credit is disallowed under this subsection, the

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

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

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

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

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

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

38 (a)(i) "Qualified employee" means an unemployed veteran who is
39 employed in a permanent full-time position for at least two
40 consecutive full calendar quarters. For seasonal employers,

1 "qualified employee" also includes the equivalent of a full-time
2 employee in work hours for two consecutive full calendar quarters.

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

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

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

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

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

18 PART XI

19 Defining Honey Bee Products and Services as an Agricultural Product

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

26 It is the legislature's specific public policy objective to
27 support the honey bee industry and provide tax relief to eligible
28 apiarists. Honey bees pollinate eighty percent of the nation's
29 flowering crops, which include agricultural crops. They are vitally
30 important to agriculture and an integral part of food production.
31 Therefore, the legislature intends to permanently include eligible
32 apiarists within the definition of farmer and define honey bee
33 products as agricultural products so that they may receive the same
34 tax relief as that provided to other sectors of agriculture. Because
35 the legislature intends for the changes in this Part XI to be
36 permanent, they are exempt from the ten-year expiration provision in
37 RCW 82.32.805.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (v) Purchases for the purpose of providing the property to
7 consumers as part of competitive telephone service, as defined in RCW
8 82.04.065; or

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

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

19 (c) The term also means every sale of tangible personal property
20 to persons engaged in any business that is taxable under RCW
21 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

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

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

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

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

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

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

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

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

1 (1) of this section and nothing contained in subsection (1) of this
2 section may be construed to modify this subsection.

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

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

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

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

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

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

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

27 (c) Credit bureau services;

28 (d) Automobile parking and storage garage services;

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

34 (f) Service charges associated with tickets to professional
35 sporting events; and

36 (g) The following personal services: Physical fitness services,
37 tanning salon services, tattoo parlor services, steam bath services,
38 turkish bath services, escort services, and dating services.

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

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

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

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

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

18 (i) Custom software; or

19 (ii) The customization of prewritten computer software.

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

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

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

35 (7) The term also includes the sale of or charge made for an
36 extended warranty to a consumer. For purposes of this subsection,
37 "extended warranty" means an agreement for a specified duration to
38 perform the replacement or repair of tangible personal property at no
39 additional charge or a reduced charge for tangible personal property,
40 labor, or both, or to provide indemnification for the replacement or

1 repair of tangible personal property, based on the occurrence of
2 specified events. The term "extended warranty" does not include an
3 agreement, otherwise meeting the definition of extended warranty in
4 this subsection, if no separate charge is made for the agreement and
5 the value of the agreement is included in the sales price of the
6 tangible personal property covered by the agreement. For purposes of
7 this subsection, "sales price" has the same meaning as in RCW
8 82.08.010.

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

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

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

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

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

19 (b) A retail sale of digital goods, digital codes, or digital
20 automated services under this subsection (8) includes any services
21 provided by the seller exclusively in connection with the digital
22 goods, digital codes, or digital automated services, whether or not a
23 separate charge is made for such services.

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

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

36 (10) The term does not include the sale of or charge made for
37 labor and services rendered in respect to the building, repairing, or
38 improving of any street, place, road, highway, easement, right-of-
39 way, mass public transportation terminal or parking facility, bridge,
40 tunnel, or trestle which is owned by a municipal corporation or

1 political subdivision of the state or by the United States and which
2 is used or to be used primarily for foot or vehicular traffic
3 including mass transportation vehicles of any kind.

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

21 (12) The term does not include the sale of or charge made for
22 labor and services rendered in respect to the constructing,
23 repairing, decorating, or improving of new or existing buildings or
24 other structures under, upon, or above real property of or for the
25 United States, any instrumentality thereof, or a county or city
26 housing authority created pursuant to chapter 35.82 RCW, including
27 the installing, or attaching of any article of tangible personal
28 property therein or thereto, whether or not such personal property
29 becomes a part of the realty by virtue of installation. Nor does the
30 term include the sale of services or charges made for the clearing of
31 land and the moving of earth of or for the United States, any
32 instrumentality thereof, or a county or city housing authority. Nor
33 does the term include the sale of services or charges made for
34 cleaning up for the United States, or its instrumentalities,
35 radioactive waste and other by-products of weapons production and
36 nuclear research and development.

37 (13) The term does not include the sale of or charge made for
38 labor, services, or tangible personal property pursuant to agreements
39 providing maintenance services for bus, rail, or rail fixed guideway
40 equipment when a regional transit authority is the recipient of the

1 labor, services, or tangible personal property, and a transit agency,
2 as defined in RCW 81.104.015, performs the labor or services.

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

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

8 (1)(a) "Sale at retail" or "retail sale" means every sale of
9 tangible personal property (including articles produced, fabricated,
10 or imprinted) to all persons irrespective of the nature of their
11 business and including, among others, without limiting the scope
12 hereof, persons who install, repair, clean, alter, improve,
13 construct, or decorate real or personal property of or for consumers
14 other than a sale to a person who:

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

19 (ii) Installs, repairs, cleans, alters, imprints, improves,
20 constructs, or decorates real or personal property of or for
21 consumers, if such tangible personal property becomes an ingredient
22 or component of such real or personal property without intervening
23 use by such person; or

24 (iii) Purchases for the purpose of consuming the property
25 purchased in producing for sale as a new article of tangible personal
26 property or substance, of which such property becomes an ingredient
27 or component or is a chemical used in processing, when the primary
28 purpose of such chemical is to create a chemical reaction directly
29 through contact with an ingredient of a new article being produced
30 for sale; or

31 (iv) Purchases for the purpose of consuming the property
32 purchased in producing ferrosilicon which is subsequently used in
33 producing magnesium for sale, if the primary purpose of such property
34 is to create a chemical reaction directly through contact with an
35 ingredient of ferrosilicon; or

36 (v) Purchases for the purpose of providing the property to
37 consumers as part of competitive telephone service, as defined in RCW
38 82.04.065; or

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

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

11 (c) The term also means every sale of tangible personal property
12 to persons engaged in any business that is taxable under RCW
13 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

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

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

33 (c) The constructing, repairing, or improving of any structure
34 upon, above, or under any real property owned by an owner who conveys
35 the property by title, possession, or any other means to the person
36 performing such construction, repair, or improvement for the purpose
37 of performing such construction, repair, or improvement and the
38 property is then reconveyed by title, possession, or any other means
39 to the original owner;

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

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

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

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

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

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

1 (a) Abstract, title insurance, and escrow services;
2 (b) Credit bureau services;
3 (c) Automobile parking and storage garage services;
4 (d) Landscape maintenance and horticultural services but
5 excluding (i) horticultural services provided to farmers and (ii)
6 pruning, trimming, repairing, removing, and clearing of trees and
7 brush near electric transmission or distribution lines or equipment,
8 if performed by or at the direction of an electric utility;
9 (e) Service charges associated with tickets to professional
10 sporting events;
11 (f) The following personal services: Tanning salon services,
12 tattoo parlor services, steam bath services, turkish bath services,
13 escort services, and dating services; and
14 (g)(i) Operating an athletic or fitness facility, including all
15 charges for the use of such a facility or for any associated services
16 and amenities, except as provided in (g)(ii) of this subsection.
17 (ii) Notwithstanding anything to the contrary in (g)(i) of this
18 subsection (3), the term "sale at retail" and "retail sale" under
19 this subsection does not include:
20 (A) Separately stated charges for the use of an athletic or
21 fitness facility where such use is primarily for a purpose other than
22 engaging in or receiving instruction in a physical fitness activity;
23 (B) Separately stated charges for the use of a discrete portion
24 of an athletic or fitness facility, other than a pool, where such
25 discrete portion of the facility does not by itself meet the
26 definition of "athletic or fitness facility" in this subsection;
27 (C) Separately stated charges for services, such as advertising,
28 massage, nutritional consulting, and body composition testing, that
29 do not require the customer to engage in physical fitness activities
30 to receive the service. The exclusion in this subsection
31 (3)(g)(ii)(C) does not apply to personal training services and
32 instruction in a physical fitness activity;
33 (D) Separately stated charges for physical therapy provided by a
34 physical therapist, as those terms are defined in RCW 18.74.010, or
35 occupational therapy provided by an occupational therapy
36 practitioner, as those terms are defined in RCW 18.59.020, when
37 performed pursuant to a referral from an authorized health care
38 practitioner or in consultation with an authorized health care
39 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an
40 authorized health care practitioner means a health care practitioner

1 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or
2 18.71A RCW;

3 (E) Rent or association fees charged by a landlord or residential
4 association to a tenant or residential owner with access to an
5 athletic or fitness facility maintained by the landlord or
6 residential association, unless the rent or fee varies depending on
7 whether the tenant or owner has access to the facility;

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

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

20 (H) Yoga, tai chi, or chi gong classes held at a community
21 center, park, gymnasium, college or university, hospital or other
22 medical facility, private residence, or any facility that is not
23 primarily used for physical fitness activities other than yoga, tai
24 chi, or chi gong classes.

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

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

31 (A) "Athletic or fitness facility" means an indoor or outdoor
32 facility or portion of a facility that is primarily used for:
33 Exercise classes; strength and conditioning programs; personal
34 training services; tennis, racquetball, handball, squash, or
35 pickleball; yoga; boxing, kickboxing, wrestling, martial arts, or
36 mixed martial arts training; or other activities requiring the use of
37 exercise or strength training equipment, such as treadmills,
38 elliptical machines, stair climbers, stationary cycles, rowing
39 machines, pilates equipment, balls, climbing ropes, jump ropes, and
40 weightlifting equipment.

1 (B) "Physical fitness activities" means activities that involve
2 physical exertion for the purpose of improving or maintaining the
3 general fitness, strength, flexibility, conditioning, or health of
4 the participant.

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

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

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

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

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

24 (i) Custom software; or

25 (ii) The customization of prewritten computer software.

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

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

35 (B) For purposes of this subsection (6)~~((b))~~ (c)(ii), "data
36 processing" means the systematic performance of operations on data to
37 extract the required information in an appropriate form or to convert
38 the data to usable information. Data processing includes check
39 processing, image processing, form processing, survey processing,
40 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 (15)(a) The term "sale at retail" or "retail sale" includes
14 amounts charged, however labeled, to consumers to engage in any of
15 the activities listed in this subsection (15)(a), including the
16 furnishing of any associated equipment or, except as otherwise
17 provided in this subsection, providing instruction in such
18 activities, where such charges are not otherwise defined as a "sale
19 at retail" or "retail sale" in this section:

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

30 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except
31 as otherwise provided in this subsection (15)(a)(i)(B), the term
32 "sale at retail" or "retail sale" does not include amounts charged to
33 participate in, or conduct, a golf tournament or other competitive
34 event. However, amounts paid by event participants to the golf
35 facility operator are retail sales under this subsection (15)(a)(i).
36 Likewise, amounts paid by the event organizer to the golf facility
37 are retail sales under this subsection (15)(a)(i), if such amounts
38 vary based on the number of event participants;

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

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

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

14 (v) Batting cage activities;

15 (vi) Bowling, but not including competitive events, except that
16 amounts paid by the event participants to the bowling alley operator
17 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
18 paid by the event organizer to the operator of the bowling alley are
19 retail sales under this subsection (15)(a)(vi), if such amounts vary
20 based on the number of event participants;

21 (vii) Climbing on artificial climbing structures, whether indoors
22 or outdoors;

23 (viii) Day trips for sightseeing purposes;

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

26 (x) Horseback riding offered to the public, where the seller
27 furnishes the horse to the buyer and providing instruction is not the
28 primary focus of the activity, including guided rides, but not
29 including therapeutic horseback riding provided by an instructor
30 certified by a nonprofit organization that offers national or
31 international certification for therapeutic riding instructors;

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

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

39 (xiii) Swimming, but only in respect to (A) recreational or
40 fitness swimming that is open to the public, such as open swim, lap

1 swimming, and special events like kids night out and pool parties
2 during open swim time, and (B) pool parties for private events, such
3 as birthdays, family gatherings, and employee outings. Fees for
4 swimming lessons, to participate in swim meets and other
5 competitions, or to join a swim team, club, or aquatic facility are
6 not retail sales under this subsection (15)(a)(xiii);

7 (xiv) Go-karting, bumper cars, and other motorized activities
8 where the seller provides the vehicle and the premises where the
9 buyer will operate the vehicle;

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

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

24 (xvii) Paintball and airsoft activities;

25 (xviii) Skating, including ice skating, roller skating, and
26 inline skating, but only in respect to discrete charges to members of
27 the public to engage in skating activities, but not including skating
28 lessons, competitive events, team activities, or fees to join or
29 renew a membership at a skating facility, club, or other
30 organization;

31 (xix) Nonmotorized snow sports and activities, such as downhill
32 and cross-country skiing, snowboarding, ski jumping, sledding, snow
33 tubing, snowshoeing, and similar snow sports and activities, whether
34 engaged in outdoors or in an indoor facility with or without snow,
35 but only in respect to discrete charges to the public for the use of
36 land or facilities to engage in nonmotorized snow sports and
37 activities, such as fees, however labeled, for the use of ski lifts
38 and tows and daily or season passes for access to trails or other
39 areas where nonmotorized snow sports and activities are conducted.
40 However, fees for the following are not retail sales under this

1 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits
2 issued by a governmental entity to park a vehicle on or access public
3 lands; and (C) permits or leases granted by an owner of private
4 timberland for recreational access to areas used primarily for
5 growing and harvesting timber; and

6 (xx) Scuba diving; snorkeling; river rafting; surfing;
7 kiteboarding; flyboarding; water slides; inflatables, such as water
8 pillows, water trampolines, and water rollers; and similar water
9 sports and activities.

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

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

18 (ii) Made by an educational institution to its students and staff
19 for activities defined as retail sales by (a)(i) through (xx) of this
20 subsection. However, charges made by an educational institution to
21 its alumni or other members of the general public for these
22 activities are a retail sale under this subsection (15). For purposes
23 of this subsection (15)(b)(ii), "educational institution" has the
24 same meaning as in RCW 82.04.170;

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

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

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

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

37 (a) Replacement parts for qualifying farm machinery and
38 equipment;

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

3 (c) Labor and services rendered in respect to the repairing of
4 qualifying farm machinery and equipment, provided that during the
5 course of repairing no tangible personal property is installed,
6 incorporated, or placed in, or becomes an ingredient or component of,
7 the qualifying farm machinery and equipment other than replacement
8 parts.

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

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

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

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

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

38 (B) The eligible farmer, during the first full tax year in which
39 that person engages in business as a farmer, growing, raising, or
40 producing agricultural products or bee pollination services having an

1 estimated value at any time during that year of at least ten thousand
2 dollars, if the person will not sell or harvest an agricultural
3 product or bee pollination service during the first full tax year in
4 which the person engages in business as a farmer.

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

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

19 (a) "Agricultural products" has the meaning provided in RCW
20 82.04.213.

21 (b) "Eligible farmer" means:

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

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

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

38 (iv) A farmer as defined in RCW 82.04.213((~~7~~)) who does not meet
39 the definition of "eligible farmer" in (b)(i), (ii), or (iii) of this
40 subsection, and who did not engage in farming for the entire

1 immediately preceding tax year, because the farmer is either new to
2 farming or newly returned to farming; or

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

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

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

22 (e) "Qualifying farm machinery and equipment" means machinery and
23 equipment used primarily by an eligible farmer for growing, raising,
24 or producing agricultural products, providing bee pollination
25 services, or both. "Qualifying farm machinery and equipment" does not
26 include:

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

34 (ii) Aircraft;

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

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

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

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

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

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

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

16 (2) RCW 82.04.630 (Exemptions—Bee pollination services) and 2013
17 2nd sp.s. c 13 s 307 & 2008 c 314 s 3;

18 (3) RCW 82.08.0204 (Exemptions—Honey bees) and 2013 2nd sp.s. c
19 13 s 308 & 2008 c 314 s 4;

20 (4) RCW 82.12.0204 (Exemptions—Honey bees) and 2013 2nd sp.s. c
21 13 s 309 & 2008 c 314 s 5;

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

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

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

28 NEW SECTION. **Sec. 1108.** The legislature intends for the
29 amendments in this act to be permanent. Therefore, the amendments in
30 Part XI of this act are exempt from the provision in RCW 82.32.805
31 and 82.32.808.

32 **PART XII**

33 **Providing Sales and Use Tax Exemptions to Encourage Coal-Fired** 34 **Electric Generation Plants or Biomass Energy Facilities to Convert to** 35 **Natural Gas-Fired Plants**

1 NEW SECTION. **Sec. 1201.** This section is the tax preference
2 performance statement for the tax preference contained in sections
3 1202 and 1203 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 this tax preference as one
8 intended to create or retain jobs, as indicated in RCW
9 82.32.808(2)(c).

10 (2) It is the legislature's specific public policy objective to
11 retain jobs at existing coal-fired electric generation facilities by
12 providing a tax exemption to allow these facilities to convert into
13 natural gas-fired generation plants or biomass energy facilities
14 rather than shut down entirely. It is the legislature's intent to
15 provide a tax exemption for the conversion of a coal-fired electric
16 generation facility into a natural gas-fired generation plant or
17 biomass energy facility, in order to reduce the costs recently
18 imposed by the legislature on companies that operate coal-fired
19 electric generation facilities, thereby increasing the ability of
20 these companies to continue their operations in Washington state,
21 thereby retaining jobs that otherwise would be lost if a coal-fired
22 electric generation facility were to shut down.

23 (3) This tax preference is created to provide an opportunity for
24 coal-fired electric generation facilities to convert into natural
25 gas-fired generation plants or biomass energy facilities. This tax
26 preference is meant to expire and, therefore, the joint legislative
27 audit and review committee is exempt from reviewing this tax
28 preference as required in chapter 43.136 RCW.

29 NEW SECTION. **Sec. 1202.** A new section is added to chapter 82.08
30 RCW to read as follows:

31 (1) Subject to the requirements in subsection (2) of this
32 section, a taxpayer is eligible for an exemption from the tax imposed
33 by RCW 82.08.020 on the sale of or charge made for:

34 (a) Labor and services rendered in respect to the constructing of
35 new structures, and expansion or renovation of existing structures,
36 for the purpose of converting a coal-fired electric generation
37 facility into a natural gas-fired plant or biomass energy facility;

1 (b) Materials that will be incorporated as an ingredient or
2 component of new or existing structures during the course of such
3 constructing, expanding, or renovating; or

4 (c) Machinery and equipment that is required to convert a coal-
5 fired electric generation facility into a natural gas-fired plant or
6 biomass energy facility, including labor and services rendered in
7 respect to installing such machinery and equipment.

8 (2)(a) The exemption in this section is in the form of a
9 remittance. A purchaser claiming an exemption from the tax in the
10 form of a remittance under this section must pay all applicable state
11 and local sales taxes imposed under RCW 82.08.020 and chapter 82.14
12 RCW on all purchases qualifying for the exemption. After the
13 conversion of a coal-fired electric generation facility into a
14 natural gas-fired plant or biomass energy facility is operationally
15 complete, but not earlier than April 1, 2019, the purchaser may then
16 apply to the department for a remittance of one hundred percent of
17 the state and local sales taxes paid under RCW 82.08.020 and chapter
18 82.14 RCW for purchases qualifying under subsection (1) of this
19 section. The purchaser must specify the amount of exempted tax
20 claimed and the qualifying purchases for which the exemption is
21 claimed. The purchaser must retain, in adequate detail, records to
22 enable the department to determine whether the purchaser is entitled
23 to an exemption under this section, including: Invoices; proof of tax
24 paid; and construction contracts.

25 (b) The department may not accept any application for a
26 remittance that it does not receive by the later of July 1, 2019, or
27 within one year after the department determines that the conversion
28 of a coal-fired electric generation facility into a natural gas-fired
29 plant or biomass energy facility is operationally complete.

30 (c) The department must determine eligibility under this section
31 based on information provided by the purchaser, which is subject to
32 audit verification by the department. The department must remit
33 exempted amounts to qualifying purchasers who submitted timely
34 applications during the previous calendar quarter. No remittances may
35 be paid before July 1, 2019.

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

38 (a)(i) "Machinery and equipment" means industrial fixtures,
39 devices, and support facilities that are integral and necessary to

1 the generation of electricity using natural gas or biomass, including
2 repair parts and replacement parts.

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

11 (iii) "Biomass energy" means energy derived from solid organic
12 fuels from wood or forest or field residues.

13 (b) "Operationally complete" means constructed or improved to the
14 point of being functionally capable of generating electricity using
15 natural gas or biomass.

16 (4) This section expires July 1, 2025.

17 NEW SECTION. **Sec. 1203.** A new section is added to chapter 82.12
18 RCW to read as follows:

19 (1) Subject to the requirements in subsection (2) of this
20 section, a taxpayer is eligible for an exemption from the tax imposed
21 by RCW 82.12.020 on the use of:

22 (a) Materials that will be incorporated as an ingredient or
23 component of new or existing structures during the course of the
24 constructing of new structures, or expansion or renovation of
25 existing structures, for the purpose of converting a coal-fired
26 electric generation facility into a natural gas-fired plant or
27 biomass energy facility; and

28 (b) Machinery and equipment that is required to convert a coal-
29 fired electric generation facility into a natural gas-fired plant or
30 biomass energy facility, including labor and services rendered in
31 respect to installing such machinery and equipment.

32 (2)(a) A taxpayer is exempt from the tax imposed by RCW 82.12.020
33 on the use of materials, machinery and equipment, or installation
34 labor, if the taxpayer received a remittance under section 1202 of
35 this act with respect to the purchase of the materials, machinery and
36 equipment, or installation labor.

37 (b) With respect to materials, machinery and equipment, or
38 installation labor qualifying for the exemption in this section and
39 acquired by the taxpayer without the payment of the sales tax imposed

1 by RCW 82.08.020, the exemption in this section is in the form of a
2 remittance of the state and local use taxes paid under RCW 82.12.020
3 and chapter 82.14 RCW. All of the provisions applicable to
4 remittances under section 1202 of this act apply to remittances under
5 this section.

6 (3) The exemption in this section does not apply to the use of
7 materials, machinery and equipment, and installation labor for
8 machinery and equipment, when first use within this state of such
9 materials, machinery and equipment, and installation labor occurred
10 after June 30, 2025.

11 (4) The definitions in section 1202 of this act apply to this
12 section.

13 (5) This section expires July 1, 2025.

14 **Sec. 1204.** RCW 82.14.050 and 2014 c 216 s 403 are each amended
15 to read as follows:

16 (1) The counties, cities, and transportation authorities under
17 RCW 82.14.045, public facilities districts under chapters 36.100 and
18 35.57 RCW, public transportation benefit areas under RCW 82.14.440,
19 regional transportation investment districts, and transportation
20 benefit districts under chapter 36.73 RCW must contract, prior to the
21 effective date of a resolution or ordinance imposing a sales and use
22 tax, the administration and collection to the state department of
23 revenue, which must deduct a percentage amount, as provided by
24 contract, not to exceed two percent of the taxes collected for
25 administration and collection expenses incurred by the department.
26 The remainder of any portion of any tax authorized by this chapter
27 that is collected by the department of revenue must be deposited by
28 the state department of revenue in the local sales and use tax
29 account hereby created in the state treasury. Beginning January 1,
30 2013, the department of revenue must make deposits in the local sales
31 and use tax account on a monthly basis on the last business day of
32 the month in which distributions required in (a) of this subsection
33 are due. Moneys in the local sales and use tax account may be
34 withdrawn only for:

35 (a) Distribution to counties, cities, transportation authorities,
36 public facilities districts, public transportation benefit areas,
37 regional transportation investment districts, and transportation
38 benefit districts imposing a sales and use tax; and

1 (b) Making refunds of taxes imposed under the authority of this
2 chapter and RCW 81.104.170 and exempted under RCW 82.08.962,
3 82.12.962, 82.08.02565, ~~((and))~~, 82.12.02565, section 1202 of this
4 act, or section 1203 of this act.

5 (2) All administrative provisions in chapters 82.03, 82.08,
6 82.12, and 82.32 RCW, as they now exist or may hereafter be amended,
7 insofar as they are applicable to state sales and use taxes, are
8 applicable to taxes imposed pursuant to this chapter.

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

13 (4) Except as provided in RCW 43.08.190 and subsection (5) of
14 this section, all earnings of investments of balances in the local
15 sales and use tax account must be credited to the local sales and use
16 tax account and distributed to the counties, cities, transportation
17 authorities, public facilities districts, public transportation
18 benefit areas, regional transportation investment districts, and
19 transportation benefit districts monthly.

20 (5) Beginning January 1, 2013, the state treasurer must determine
21 the amount of earnings on investments that would have been credited
22 to the local sales and use tax account if the collections had been
23 deposited in the account over the prior month. When distributions are
24 made under subsection (1)(a) of this section, the state treasurer
25 must transfer this amount from the state general fund to the local
26 sales and use tax account and must distribute such sums to the
27 counties, cities, transportation authorities, public facilities
28 districts, public transportation benefit areas, regional
29 transportation investment districts, and transportation benefit
30 districts.

31 **Sec. 1205.** RCW 82.14.060 and 2014 c 216 s 404 are each amended
32 to read as follows:

33 (1)(a) Monthly, the state treasurer must distribute from the
34 local sales and use tax account to the counties, cities,
35 transportation authorities, public facilities districts, and
36 transportation benefit districts the amount of tax collected on
37 behalf of each taxing authority, less:

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

1 (ii) The amount of any refunds of local sales and use taxes
2 exempted under RCW 82.08.962, 82.12.962, 82.08.02565, ~~((and))~~
3 82.12.02565, section 1202 of this act, or section 1203 of this act,
4 which must be made without appropriation.

5 (b) The state treasurer must make the distribution under this
6 section without appropriation.

7 (2) In the event that any ordinance or resolution imposes a sales
8 and use tax at a rate in excess of the applicable limits contained
9 herein, such ordinance or resolution may not be considered void in
10 toto, but only with respect to that portion of the rate which is in
11 excess of the applicable limits contained herein.

12 PART XIII

13 Providing Use Tax Relief for Individuals Who Support Charitable 14 Activities

15 NEW SECTION. **Sec. 1301.** (1) This section is the tax preference
16 performance statement for the tax preference in section 1302 of this
17 act. This performance statement is only intended to be used for
18 subsequent evaluation of the tax preference. It is not intended to
19 create a private right of action by any party or be used to determine
20 eligibility for preferential tax treatment.

21 (2) The legislature categorizes this tax preference as one
22 intended to accomplish a general purpose as indicated in RCW
23 82.32.808(2)(f).

24 (3) It is the legislature's specific public policy objective to
25 provide use tax relief for individuals who support charitable
26 activities by purchasing or winning articles of personal property
27 from a nonprofit organization or library when the personal property
28 is sales tax exempt. Because the legislature intends for the changes
29 in this Part XIII to be permanent, they are exempt from the ten-year
30 expiration provision in RCW 82.32.805(1)(a).

31 **Sec. 1302.** RCW 82.12.225 and 2013 2nd sp.s. c 13 s 1402 are each
32 amended to read as follows:

33 ~~((1))~~ The provisions of this chapter do not apply in respect to
34 the use of any article of personal property ~~(, valued at less than~~
35 ~~ten thousand dollars,~~) purchased or received as a prize in a contest
36 of chance, as defined in RCW 82.04.285, from a nonprofit organization

1 or a library, if the gross income the nonprofit organization or
2 library receives from the sale is exempt under RCW 82.04.3651.

3 (~~(2) This section expires July 1, 2017.~~)

4 **PART XIV**

5 **Revising a Property Tax Exemption for Veterans with Total Disability**
6 **Ratings and Their Surviving Spouses or Domestic Partners**

7 NEW SECTION. **Sec. 1401.** (1) This section is the tax preference
8 performance statement for the tax preference in section 1402 of this
9 act. This performance statement is only intended to be used for
10 subsequent evaluation of the tax preference. It is not intended to
11 create a private right of action by any party or to determine
12 eligibility for preferential tax treatment.

13 (2) The legislature categorizes this tax preference as one
14 intended to provide tax relief for certain individuals, as indicated
15 in RCW 82.32.808(2)(e).

16 (3) It is the legislature's specific public policy objective to
17 provide more extensive property tax relief to veterans with total
18 disability ratings and their surviving spouses or domestic partners
19 to properly recognize their sacrifice on behalf of the nation and to
20 enable them to remain in their residences, thus reducing homelessness
21 and demand for services in state veterans' homes.

22 (4) To measure the effectiveness of this Part XIV in achieving
23 the objective in subsection (3) of this section, the joint
24 legislative audit and review committee must provide a report to the
25 legislature by December 1, 2020, assessing the impact of the tax
26 preference in reducing homelessness and demand for services in state
27 veterans' homes among veterans with total disability ratings and
28 their surviving spouses or domestic partners.

29 **Sec. 1402.** RCW 84.36.381 and 2012 c 10 s 73 are each amended to
30 read as follows:

31 A person is exempt from any legal obligation to pay all or a
32 portion of the amount of excess and regular real property taxes due
33 and payable in the year following the year in which a claim is filed,
34 and thereafter, in accordance with the following:

35 (1) The property taxes must have been imposed upon a residence
36 which was occupied by the person claiming the exemption as a
37 principal place of residence as of the time of filing. However, any

1 person who sells, transfers, or is displaced from his or her
2 residence may transfer his or her exemption status to a replacement
3 residence, but no claimant may receive an exemption on more than one
4 residence in any year. Moreover, confinement of the person to a
5 hospital, nursing home, assisted living facility, or adult family
6 home does not disqualify the claim of exemption if:

7 (a) The residence is temporarily unoccupied;

8 (b) The residence is occupied by a spouse or a domestic partner
9 and/or a person financially dependent on the claimant for support; or

10 (c) The residence is rented for the purpose of paying nursing
11 home, hospital, assisted living facility, or adult family home costs;

12 (2) The person claiming the exemption must have owned, at the
13 time of filing, in fee, as a life estate, or by contract purchase,
14 the residence on which the property taxes have been imposed or if the
15 person claiming the exemption lives in a cooperative housing
16 association, corporation, or partnership, such person must own a
17 share therein representing the unit or portion of the structure in
18 which he or she resides. For purposes of this subsection, a residence
19 owned by a marital community or state registered domestic partnership
20 or owned by cotenants is deemed to be owned by each spouse or each
21 domestic partner or each cotenant, and any lease for life is deemed a
22 life estate;

23 (3)((+a+)) The person claiming the exemption must be:

24 ((+i+)) (a) Sixty-one years of age or older on December 31st of
25 the year in which the exemption claim is filed, or must have been, at
26 the time of filing, retired from regular gainful employment by reason
27 of disability, or the surviving spouse or surviving domestic partner
28 of a person who was receiving an exemption under this subsection at
29 the time of the person's death if the surviving spouse or domestic
30 partner is fifty-seven years of age or older and otherwise meets the
31 requirements of this section; or

32 ((+ii+)) (b) A veteran of the armed forces of the United States
33 entitled to and receiving compensation from the United States
34 department of veterans affairs at a total disability rating for a
35 service-connected disability((-

36 ~~(b) However, any surviving spouse or surviving domestic partner~~
37 ~~of a person who was receiving an exemption at the time of the~~
38 ~~person's death will qualify if the surviving spouse or surviving~~
39 ~~domestic partner is fifty seven years of age or older and otherwise~~
40 ~~meets the requirements of this section)), or the surviving spouse or~~

1 surviving domestic partner of a person who was receiving an exemption
2 under this subsection at the time of the person's death if the
3 surviving spouse or domestic partner is fifty-seven years of age or
4 older. Those who qualify under this subsection (3)(b) are exempt from
5 all regular and excess property taxes on a residence that meets the
6 requirements of subsections (1) and (2) of this section;

7 (4) The amount that (~~the~~) a person qualifying under subsection
8 (3)(a) of this section is exempt from an obligation to pay is
9 calculated on the basis of combined disposable income, as defined in
10 RCW 84.36.383. If the person claiming the exemption was retired for
11 two months or more of the assessment year, the combined disposable
12 income of such person must be calculated by multiplying the average
13 monthly combined disposable income of such person during the months
14 such person was retired by twelve. If the income of the person
15 claiming exemption is reduced for two or more months of the
16 assessment year by reason of the death of the person's spouse or the
17 person's domestic partner, or when other substantial changes occur in
18 disposable income that are likely to continue for an indefinite
19 period of time, the combined disposable income of such person must be
20 calculated by multiplying the average monthly combined disposable
21 income of such person after such occurrences by twelve. If it is
22 necessary to estimate income to comply with this subsection, the
23 assessor may require confirming documentation of such income prior to
24 May 31 of the year following application;

25 (5)(a) A person under subsection (3)(a) of this section who
26 otherwise qualifies under this section and has a combined disposable
27 income of thirty-five thousand dollars or less is exempt from all
28 excess property taxes; and

29 (b)(i) A person under subsection (3)(a) of this section who
30 otherwise qualifies under this section and has a combined disposable
31 income of thirty thousand dollars or less but greater than twenty-
32 five thousand dollars is exempt from all regular property taxes on
33 the greater of fifty thousand dollars or thirty-five percent of the
34 valuation of his or her residence, but not to exceed seventy thousand
35 dollars of the valuation of his or her residence; or

36 (ii) A person under subsection (3)(a) of this section who
37 otherwise qualifies under this section and has a combined disposable
38 income of twenty-five thousand dollars or less is exempt from all
39 regular property taxes on the greater of sixty thousand dollars or
40 sixty percent of the valuation of his or her residence;

1 It is not intended to create a private right of action by any party
2 or be used to determine eligibility for preferential tax treatment.

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

6 (2) It is the legislature's specific public policy objective to
7 provide tax relief to senior citizens, disabled persons, and
8 veterans. The legislature recognizes that property taxes impose a
9 substantial financial burden on those with fixed incomes and that
10 property tax relief programs have considerable value in addressing
11 this burden. It is the legislature's intent to increase the current
12 statutory static income thresholds which were last modified in 2004.

13 (3) The expansion of the tax preferences are meant to be
14 permanent and, therefore, not subject to the ten-year expiration
15 provision in RCW 82.32.805(1)(a).

16 **Sec. 1502.** RCW 84.36.381 and 2012 c 10 s 73 are each amended to
17 read as follows:

18 A person is exempt from any legal obligation to pay all or a
19 portion of the amount of excess and regular real property taxes due
20 and payable in the year following the year in which a claim is filed,
21 and thereafter, in accordance with the following:

22 (1) The property taxes must have been imposed upon a residence
23 which was occupied by the person claiming the exemption as a
24 principal place of residence as of the time of filing. However, any
25 person who sells, transfers, or is displaced from his or her
26 residence may transfer his or her exemption status to a replacement
27 residence, but no claimant may receive an exemption on more than one
28 residence in any year. Moreover, confinement of the person to a
29 hospital, nursing home, assisted living facility, or adult family
30 home does not disqualify the claim of exemption if:

31 (a) The residence is temporarily unoccupied;

32 (b) The residence is occupied by a spouse or a domestic partner
33 and/or a person financially dependent on the claimant for support; or

34 (c) The residence is rented for the purpose of paying nursing
35 home, hospital, assisted living facility, or adult family home costs;

36 (2) The person claiming the exemption must have owned, at the
37 time of filing, in fee, as a life estate, or by contract purchase,
38 the residence on which the property taxes have been imposed or if the
39 person claiming the exemption lives in a cooperative housing

1 association, corporation, or partnership, such person must own a
2 share therein representing the unit or portion of the structure in
3 which he or she resides. For purposes of this subsection, a residence
4 owned by a marital community or state registered domestic partnership
5 or owned by cotenants is deemed to be owned by each spouse or each
6 domestic partner or each cotenant, and any lease for life is deemed a
7 life estate;

8 (3)(a) The person claiming the exemption must be:

9 (i) Sixty-one years of age or older on December 31st of the year
10 in which the exemption claim is filed, or must have been, at the time
11 of filing, retired from regular gainful employment by reason of
12 disability; or

13 (ii) A veteran of the armed forces of the United States entitled
14 to and receiving compensation from the United States department of
15 veterans affairs at a total disability rating for a service-connected
16 disability.

17 (b) However, any surviving spouse or surviving domestic partner
18 of a person who was receiving an exemption at the time of the
19 person's death will qualify if the surviving spouse or surviving
20 domestic partner is fifty-seven years of age or older and otherwise
21 meets the requirements of this section;

22 (4) The amount that the person is exempt from an obligation to
23 pay is calculated on the basis of combined disposable income, as
24 defined in RCW 84.36.383. If the person claiming the exemption was
25 retired for two months or more of the assessment year, the combined
26 disposable income of such person must be calculated by multiplying
27 the average monthly combined disposable income of such person during
28 the months such person was retired by twelve. If the income of the
29 person claiming exemption is reduced for two or more months of the
30 assessment year by reason of the death of the person's spouse or the
31 person's domestic partner, or when other substantial changes occur in
32 disposable income that are likely to continue for an indefinite
33 period of time, the combined disposable income of such person must be
34 calculated by multiplying the average monthly combined disposable
35 income of such person after such occurrences by twelve. If it is
36 necessary to estimate income to comply with this subsection, the
37 assessor may require confirming documentation of such income prior to
38 May 31 of the year following application;

1 (5)(a) A person who otherwise qualifies under this section and
2 has a combined disposable income of (~~thirty-five~~) forty thousand
3 dollars or less is exempt from all excess property taxes; and

4 (b)(i) A person who otherwise qualifies under this section and
5 has a combined disposable income of (~~thirty~~) thirty-five thousand
6 dollars or less but greater than (~~twenty-five~~) thirty thousand
7 dollars is exempt from all regular property taxes on the greater of
8 fifty thousand dollars or thirty-five percent of the valuation of his
9 or her residence, but not to exceed seventy thousand dollars of the
10 valuation of his or her residence; or

11 (ii) A person who otherwise qualifies under this section and has
12 a combined disposable income of (~~twenty-five~~) thirty thousand
13 dollars or less is exempt from all regular property taxes on the
14 greater of sixty thousand dollars or sixty percent of the valuation
15 of his or her residence;

16 (6)(a) For a person who otherwise qualifies under this section
17 and has a combined disposable income of (~~thirty-five~~) forty
18 thousand dollars or less, the valuation of the residence is the
19 assessed value of the residence on the later of January 1, 1995, or
20 January 1st of the assessment year the person first qualifies under
21 this section. If the person subsequently fails to qualify under this
22 section only for one year because of high income, this same valuation
23 must be used upon requalification. If the person fails to qualify for
24 more than one year in succession because of high income or fails to
25 qualify for any other reason, the valuation upon requalification is
26 the assessed value on January 1st of the assessment year in which the
27 person requalifies. If the person transfers the exemption under this
28 section to a different residence, the valuation of the different
29 residence is the assessed value of the different residence on January
30 1st of the assessment year in which the person transfers the
31 exemption.

32 (b) In no event may the valuation under this subsection be
33 greater than the true and fair value of the residence on January 1st
34 of the assessment year.

35 (c) This subsection does not apply to subsequent improvements to
36 the property in the year in which the improvements are made.
37 Subsequent improvements to the property must be added to the value
38 otherwise determined under this subsection at their true and fair
39 value in the year in which they are made.

1 **Sec. 1503.** RCW 84.38.030 and 2015 c 86 s 313 are each amended to
2 read as follows:

3 A claimant may defer payment of special assessments and/or real
4 property taxes on up to eighty percent of the amount of the
5 claimant's equity value in the claimant's residence if the following
6 conditions are met:

7 (1) The claimant must meet all requirements for an exemption for
8 the residence under RCW 84.36.381, other than the age and income
9 limits under RCW 84.36.381.

10 (2) The claimant must be sixty years of age or older on December
11 31st of the year in which the deferral claim is filed, or must have
12 been, at the time of filing, retired from regular gainful employment
13 by reason of disability as defined in RCW 84.36.383. However, any
14 surviving spouse or surviving domestic partner of a person who was
15 receiving a deferral at the time of the person's death qualifies if
16 the surviving spouse or surviving domestic partner is fifty-seven
17 years of age or older and otherwise meets the requirements of this
18 section.

19 (3) The claimant must have a combined disposable income, as
20 defined in RCW 84.36.383, of (~~forty~~) forty-five thousand dollars or
21 less.

22 (4) The claimant must have owned, at the time of filing, the
23 residence on which the special assessment and/or real property taxes
24 have been imposed. For purposes of this subsection, a residence owned
25 by a marital community, owned by domestic partners, or owned by
26 cotenants is deemed to be owned by each spouse, each domestic
27 partner, or each cotenant. A claimant who has only a share ownership
28 in cooperative housing, a life estate, a lease for life, or a
29 revocable trust does not satisfy the ownership requirement.

30 (5) The claimant must have and keep in force fire and casualty
31 insurance in sufficient amount to protect the interest of the state
32 in the claimant's equity value. However, if the claimant fails to
33 keep fire and casualty insurance in force to the extent of the
34 state's interest in the claimant's equity value, the amount deferred
35 may not exceed one hundred percent of the claimant's equity value in
36 the land or lot only.

37 (6) In the case of special assessment deferral, the claimant must
38 have opted for payment of such special assessments on the installment
39 method if such method was available.

1 NEW SECTION. **Sec. 1801.** A new section is added to chapter 54.28
2 RCW to read as follows:

3 The following provisions of chapter 82.32 RCW apply with respect
4 to the taxes imposed under this chapter and collected by the
5 department of revenue, unless the context clearly requires otherwise:
6 RCW 82.32.050, 82.32.060, 82.32.070, 82.32.100, 82.32.105, 82.32.135,
7 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.240, 82.32.330,
8 82.32.340, 82.32.350, 82.32.360, 82.32.410, and any other provision
9 of chapter 82.32 RCW specifically referenced in the statutes listed
10 in this section. The definitions in this chapter have full force and
11 application with respect to the application of chapter 82.32 RCW to
12 this chapter unless the context clearly requires otherwise.

13 **Sec. 1802.** RCW 54.28.030 and 1977 ex.s. c 366 s 3 are each
14 amended to read as follows:

15 (1) On or before the fifteenth day of March of each year, each
16 district subject to this tax (~~((shall))~~) must file with the department
17 of revenue a report verified by the affidavit of its manager or
18 secretary on forms prescribed by the department of revenue. Such
19 report (~~((shall))~~) must state (~~((+1))~~) (a) the gross revenues derived by
20 the district from the sale of all distributed energy to consumers and
21 the respective amounts derived from such sales within each county;
22 (~~((+2))~~) (b) the gross revenues derived by the district from the sale
23 of self-generated energy for resale; (~~((+3))~~) (c) the amount of all
24 generated energy distributed from each of the facilities subject to
25 taxation by a district from its own generating facilities, the
26 wholesale value thereof, and the basis on which the value is
27 computed; (~~((+4))~~) (d) the total cost of all generating facilities and
28 the cost of acquisition of land and land rights for such facilities
29 or for reservoir purposes in each county; and (~~((+5))~~) (e) such other
30 and further information as the department of revenue reasonably may
31 require in order to administer the provisions of this chapter.

32 (2) In case of failure by a district to file such report, the
33 department may proceed to determine the information, which
34 determination (~~((shall be))~~) is contestable by the district (~~((only for~~
35 ~~actual fraud))~~) as provided under RCW 82.32.100(2).

36 (3)(a) Beginning January 1, 2016, reports due under this section
37 must be filed electronically in a form or manner provided or
38 authorized by the department. However, the department, upon request
39 or its own initiative, may relieve any district from the electronic

1 filing requirement under this subsection for good cause as determined
2 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 district 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 **Sec. 1803.** RCW 54.28.040 and 1996 c 149 s 16 are each amended to
11 read as follows:

12 (1)(a) Before May 1st, the department of revenue ((shall)) must
13 compute the tax imposed by this chapter for the last preceding
14 calendar year and notify the district of the amount thereof, which
15 ((shall be)) is payable on or before the following June 1st.

16 (b) Beginning January 1, 2016, districts must remit payments due
17 under this section by electronic funds transfer or other form of
18 electronic payment acceptable to the department. However, the
19 department, upon request or its own initiative, may relieve any
20 district from the electronic payment requirement under this
21 subsection for good cause as determined by the department.

22 (c) For purposes of this subsection, "good cause" means:

23 (i) A circumstance or condition exists that, in the department's
24 judgment, prevents the district from remitting payments due under
25 this section electronically; or

26 (ii) The department determines that relief from the electronic
27 payment requirement under this subsection supports the efficient or
28 effective administration of this chapter.

29 (2)(a) If payment of any tax is not received by the department on
30 or before the due date, ((there shall be assessed)) a penalty of five
31 percent of the amount of the tax is assessed; if the tax is not
32 received within one month of the due date, ((there shall be
33 assessed)) a total penalty of ten percent of the amount of the tax is
34 assessed; and if the tax is not received within two months of the due
35 date, ((there shall be assessed)) a total penalty of twenty percent
36 of the amount of the tax is assessed.

37 (b) If a district fails to file any report electronically or
38 fails to pay electronically any taxes due under a report, the
39 department must assess a penalty equal to five percent of the amount

1 of the tax payable under the report, unless the department has
2 granted a waiver of the electronic filing and payment requirements.
3 Total penalties assessed under this subsection (2)(b) may not exceed
4 five percent of the tax payable under the report and are in addition
5 to any applicable penalties assessed under (a) of this subsection
6 (2).

7 (3) Upon receipt of the amount of each tax imposed the department
8 of revenue (~~shall~~) must deposit the same with the state treasurer,
9 who (~~shall~~) must deposit four percent of the revenues received
10 under RCW 54.28.020(1) and 54.28.025(1) and all revenues received
11 under RCW 54.28.020(2) and 54.28.025(2) in the general fund of the
12 state and (~~shall~~) must distribute the remainder in the manner
13 hereinafter set forth. The state treasurer (~~shall~~) must send a
14 duplicate copy of each transmittal to the department of revenue.

15 **Sec. 1804.** RCW 54.28.050 and 1982 1st ex.s. c 35 s 21 are each
16 amended to read as follows:

17 (1) Except as provided in subsection (2) of this section, after
18 computing the tax imposed by RCW 54.28.020(1), the department of
19 revenue (~~shall~~) must instruct the state treasurer, after placing
20 thirty-seven and six-tenths percent in the state general fund to be
21 dedicated for the benefit of the public schools, to distribute the
22 balance collected under RCW 54.28.020(1)(a) to each county in
23 proportion to the gross revenue from sales made within each county;
24 and to distribute the balance collected under RCW 54.28.020(1) (b)
25 and (c) as follows(~~(+)~~).

26 (a) If the entire generating facility, including reservoir, if
27 any, is in a single county then all of the balance to the county
28 where such generating facility is located.

29 (b) If any reservoir is in more than one county, then to each
30 county in which the reservoir or any portion thereof is located a
31 percentage equal to the percentage determined by dividing the total
32 cost of the generating facilities, including adjacent switching
33 facilities, into twice the cost of land and land rights acquired for
34 any reservoir within each county, land and land rights to be defined
35 the same as used by the federal power commission.

36 (c) If the powerhouse and dam, if any, in connection with such
37 reservoir are in more than one county, the balance (~~shall~~) must be
38 divided sixty percent to the county in which the owning district is
39 located and forty percent to the other county or counties or if

1 (~~said~~) the powerhouse and dam, if any, are owned by a joint
2 operating agency organized under chapter 43.52 RCW, or by more than
3 one district or are outside the county of the owning district, then
4 to be divided equally between the counties in which such facilities
5 are located. If all of the powerhouse and dam, if any, are in one
6 county, then the balance (~~shall~~) must be distributed to the county
7 in which the facilities are located.

8 (2) The department of revenue must instruct the state treasurer
9 to adjust distributions under this section, in whole or in part, to
10 account for each county's proportionate share of amounts previously
11 distributed under this section and subsequently refunded to a public
12 utility district under RCW 82.32.060.

13 (3) The provisions of this section (~~shall~~) do not apply to the
14 distribution of taxes collected under RCW 54.28.025.

15 **Sec. 1805.** RCW 54.28.055 and 1986 c 189 s 1 are each amended to
16 read as follows:

17 (1) Except as provided in subsection (3) of this section, after
18 computing the tax imposed by RCW 54.28.025(1), the department of
19 revenue (~~shall~~) must instruct the state treasurer to distribute the
20 amount collected as follows:

21 (a) Fifty percent to the state general fund for the support of
22 schools; and

23 (b) Twenty-two percent to the counties, twenty-three percent to
24 the cities, three percent to the fire protection districts, and two
25 percent to the library districts.

26 (2) Each county, city, fire protection district, and library
27 district (~~shall~~) must receive a percentage of the amount for
28 distribution to counties, cities, fire protection districts, and
29 library districts, respectively, in the proportion that the
30 population of such district residing within the impacted area bears
31 to the total population of all such districts residing within the
32 impacted area. For the purposes of this chapter, the term "library
33 district" includes only regional libraries (~~as defined in RCW~~
34 ~~27.12.010(4)~~), rural county library districts (~~as defined in RCW~~
35 ~~27.12.010(5)~~), intercounty rural library districts (~~as defined in~~
36 ~~RCW 27.12.010(6)~~), and island library districts as those terms are
37 defined in RCW 27.12.010(~~(7)~~). The population of a library
38 district, for purposes of such a distribution, (~~shall~~) may not

1 include any population within the library district and the impact
2 area that also is located within a city or town.

3 (3) Distributions under this section must be adjusted as follows:

4 (a) If any distribution pursuant to subsection (1)(b) of this
5 section cannot be made, then that share (~~shall~~) must be prorated
6 among the state and remaining local districts.

7 (b) The department of revenue must instruct the state treasurer
8 to adjust distributions under this section, in whole or in part, to
9 account for each county's, city's, fire protection district's, and
10 library district's proportionate share of amounts previously
11 distributed under this section and subsequently refunded to a public
12 utility district under RCW 82.32.060.

13 (4) All distributions directed by this section to be made on the
14 basis of population (~~shall~~) must be calculated in accordance with
15 data to be provided by the office of financial management.

16 **Sec. 1806.** RCW 82.32.050 and 2008 c 181 s 501 are each amended
17 to read as follows:

18 (1) If upon examination of any returns or from other information
19 obtained by the department it appears that a tax or penalty has been
20 paid less than that properly due, the department (~~shall~~) must
21 assess against the taxpayer such additional amount found to be due
22 and (~~shall~~) must add thereto interest on the tax only. The
23 department (~~shall~~) must notify the taxpayer by mail, or
24 electronically as provided in RCW 82.32.135, of the additional amount
25 and the additional amount (~~shall~~) becomes due and (~~shall~~) must be
26 paid within thirty days from the date of the notice, or within such
27 further time as the department may provide.

28 (a) For tax liabilities arising before January 1, 1992, interest
29 (~~shall be~~) is computed at the rate of nine percent per annum from
30 the last day of the year in which the deficiency is incurred until
31 the earlier of December 31, 1998, or the date of payment. After
32 December 31, 1998, the rate of interest (~~shall be~~) is variable and
33 computed as provided in subsection (2) of this section. The rate so
34 computed (~~shall~~) must be adjusted on the first day of January of
35 each year for use in computing interest for that calendar year.

36 (b) For tax liabilities arising after December 31, 1991, the rate
37 of interest (~~shall be~~) is variable and computed as provided in
38 subsection (2) of this section from the last day of the year in which
39 the deficiency is incurred until the date of payment. The rate so

1 computed (~~shall~~) must be adjusted on the first day of January of
2 each year for use in computing interest for that calendar year.

3 (c) Interest imposed after December 31, 1998, (~~shall~~) must be
4 computed from the last day of the month following each calendar year
5 included in a notice, and the last day of the month following the
6 final month included in a notice if not the end of a calendar year,
7 until the due date of the notice. If payment in full is not made by
8 the due date of the notice, additional interest (~~shall~~) must be
9 computed until the date of payment. The rate of interest (~~shall be~~)
10 is variable and computed as provided in subsection (2) of this
11 section. The rate so computed (~~shall~~) must be adjusted on the first
12 day of January of each year for use in computing interest for that
13 calendar year.

14 (2) For the purposes of this section, the rate of interest to be
15 charged to the taxpayer (~~shall be~~) is an average of the federal
16 short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two
17 percentage points. The rate set for each new year (~~shall~~) must be
18 computed by taking an arithmetical average to the nearest percentage
19 point of the federal short-term rate, compounded annually. That
20 average (~~shall~~) must be calculated using the rates from four
21 months: January, April, and July of the calendar year immediately
22 preceding the new year, and October of the previous preceding year.

23 (3) During a state of emergency declared under RCW 43.06.010(12),
24 the department, on its own motion or at the request of any taxpayer
25 affected by the emergency, may extend the due date of any assessment
26 or correction of an assessment for additional taxes, penalties, or
27 interest as the department deems proper.

28 (4) No assessment or correction of an assessment for additional
29 taxes, penalties, or interest due may be made by the department more
30 than four years after the close of the tax year, or three years after
31 June 1st of the year in which the report is due for taxes imposed
32 under chapter 54.28 RCW, except (a) against a taxpayer who has not
33 registered as required by this chapter, (b) upon a showing of fraud
34 or of misrepresentation of a material fact by the taxpayer, or (c)
35 where a taxpayer has executed a written waiver of such limitation.
36 The execution of a written waiver (~~shall~~) also extends the period
37 for making a refund or credit as provided in RCW 82.32.060(2).

38 (5) For the purposes of this section, "return" means any document
39 a person is required by the state of Washington to file to satisfy or
40 establish a tax or fee obligation that is administered or collected

1 by the department of revenue and that has a statutorily defined due
2 date, including reports required under RCW 54.28.030.

3 **Sec. 1807.** RCW 82.32.060 and 2009 c 176 s 4 are each amended to
4 read as follows:

5 (1) If, upon receipt of an application by a taxpayer for a refund
6 or for an audit of the taxpayer's records, or upon an examination of
7 the returns or records of any taxpayer, it is determined by the
8 department that within the statutory period for assessment of taxes,
9 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,
10 penalty, or interest has been paid in excess of that properly due,
11 the excess amount paid within, or attributable to, such period must
12 be credited to the taxpayer's account or must be refunded to the
13 taxpayer, at the taxpayer's option. Except as provided in subsection
14 (2) of this section, no refund or credit may be made for taxes,
15 penalties, or interest paid more than four years prior to the
16 beginning of the calendar year in which the refund application is
17 made or examination of records is completed, or three years after
18 June 1st of the year in which the report is due for taxes imposed
19 under chapter 54.28 RCW.

20 (2)(a) The execution of a written waiver under RCW 82.32.050 or
21 82.32.100 will extend the time for making a refund or credit of any
22 taxes paid during, or attributable to, the years covered by the
23 waiver if, prior to the expiration of the waiver period, an
24 application for refund of such taxes is made by the taxpayer or the
25 department discovers a refund or credit is due.

26 (b) A refund or credit must be allowed for an excess payment
27 resulting from the failure to claim a bad debt deduction, credit, or
28 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or
29 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec.
30 166, as amended or renumbered as of January 1, 2003, less than four
31 years prior to the beginning of the calendar year in which the refund
32 application is made or examination of records is completed.

33 (3) Any such refunds must be made by means of vouchers approved
34 by the department and by the issuance of state warrants drawn upon
35 and payable from such funds as the legislature may provide. However,
36 taxpayers who are required to pay taxes by electronic funds transfer
37 under RCW 82.32.080 must have any refunds paid by electronic funds
38 transfer if the department has the necessary account information to
39 facilitate a refund by electronic funds transfer.

1 (4) Any judgment for which a recovery is granted by any court of
2 competent jurisdiction, not appealed from, for tax, penalties, and
3 interest which were paid by the taxpayer, and costs, in a suit by any
4 taxpayer must be paid in the same manner, as provided in subsection
5 (3) of this section, upon the filing with the department of a
6 certified copy of the order or judgment of the court.

7 (a) Interest at the rate of three percent per annum must be
8 allowed by the department and by any court on the amount of any
9 refund, credit, or other recovery allowed to a taxpayer for taxes,
10 penalties, or interest paid by the taxpayer before January 1, 1992.
11 This rate of interest applies for all interest allowed through
12 December 31, 1998. Interest allowed after December 31, 1998, must be
13 computed at the rate as computed under RCW 82.32.050(2). The rate so
14 computed must be adjusted on the first day of January of each year
15 for use in computing interest for that calendar year.

16 (b) For refunds or credits of amounts paid or other recovery
17 allowed to a taxpayer after December 31, 1991, the rate of interest
18 must be the rate as computed for assessments under RCW 82.32.050(2)
19 less one percent. This rate of interest applies for all interest
20 allowed through December 31, 1998. Interest allowed after December
21 31, 1998, must be computed at the rate as computed under RCW
22 82.32.050(2). The rate so computed must be adjusted on the first day
23 of January of each year for use in computing interest for that
24 calendar year.

25 (5) Interest allowed on a credit notice or refund issued after
26 December 31, 2003, must be computed as follows:

27 (a) If all overpayments for each calendar year and all reporting
28 periods ending with the final month included in a notice or refund
29 were made on or before the due date of the final return for each
30 calendar year or the final reporting period included in the notice or
31 refund:

32 (i) Interest must be computed from January 31st following each
33 calendar year included in a notice or refund; or

34 (ii) Interest must be computed from the last day of the month
35 following the final month included in a notice or refund.

36 (b) If the taxpayer has not made all overpayments for each
37 calendar year and all reporting periods ending with the final month
38 included in a notice or refund on or before the dates specified by
39 RCW 82.32.045 for the final return for each calendar year or the
40 final month included in the notice or refund, interest must be

1 computed from the last day of the month following the date on which
2 payment in full of the liabilities was made for each calendar year
3 included in a notice or refund, and the last day of the month
4 following the date on which payment in full of the liabilities was
5 made if the final month included in a notice or refund is not the end
6 of a calendar year.

7 (c) Interest included in a credit notice must accrue up to the
8 date the taxpayer could reasonably be expected to use the credit
9 notice, as defined by the department's rules. If a credit notice is
10 converted to a refund, interest must be recomputed to the date the
11 refund is issued, but not to exceed the amount of interest that would
12 have been allowed with the credit notice.

13 **Sec. 1808.** RCW 82.32.100 and 2007 c 111 s 107 are each amended
14 to read as follows:

15 (1) If any person fails or refuses to make any return or to make
16 available for examination the records required by this chapter, the
17 department (~~shall~~) will proceed, in (~~such~~) the manner (~~as~~) it
18 (~~may~~) deems best, to obtain facts and information on which to base
19 its estimate of the tax; and to this end the department may examine
20 the records of any such person as provided in RCW 82.32.110.

21 (2) As soon as the department procures such facts and information
22 as it is able to obtain upon which to base the assessment of any tax
23 payable by any person who has failed or refused to make a return, it
24 (~~shall~~) must proceed to determine and assess against such person
25 the tax and any applicable penalties or interest due, but such action
26 (~~shall~~) may not deprive (~~such~~) the person from appealing the
27 assessment as provided in this chapter. The department (~~shall~~) must
28 notify the taxpayer by mail, or electronically as provided in RCW
29 82.32.135, of the total amount of such tax, penalties, and interest,
30 and the total amount (~~shall~~) becomes due and (~~shall~~) must be paid
31 within thirty days from the date of such notice.

32 (3) No assessment or correction of an assessment may be made by
33 the department more than four years after the close of the tax year,
34 or three years after June 1st of the year in which the report is due
35 for taxes imposed under chapter 54.28 RCW, except (a) against a
36 taxpayer who has not registered as required by this chapter, (b) upon
37 a showing of fraud or of misrepresentation of a material fact by the
38 taxpayer, or (c) where a taxpayer has executed a written waiver of
39 such limitation. The execution of a written waiver (~~shall~~) also

1 extends the period for making a refund or credit as provided in RCW
2 82.32.060(2).

3 **Sec. 1809.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to
4 read as follows:

5 (1) If the department (~~(of revenue)~~) finds that the payment by a
6 taxpayer of a tax less than that properly due or the failure of a
7 taxpayer to pay any tax by the due date was the result of
8 circumstances beyond the control of the taxpayer, the department (~~(of~~
9 ~~revenue shall)~~) must waive or cancel any penalties imposed under this
10 chapter, or under the chapter in which the tax is imposed, with
11 respect to such tax.

12 (2) The department (~~(shall)~~) must waive or cancel the penalty
13 imposed under RCW 82.32.090(1) or 54.28.040(2)(a) when the
14 circumstances under which the delinquency occurred do not qualify for
15 waiver or cancellation under subsection (1) of this section if:

16 (a) The taxpayer requests the waiver for a tax return required to
17 be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060,
18 82.29A.050, or 84.33.086, or for the report due under chapter 54.28
19 RCW; and

20 (b)(i) The taxpayer has timely filed and remitted payment on all
21 tax returns due for that tax program for a period of twenty-four
22 months immediately preceding the period covered by the return for
23 which the waiver is being requested.

24 (ii) For purposes of the state taxes imposed under chapter 54.28
25 RCW, a taxpayer will be deemed to have met the requirements for a
26 penalty waiver in this subsection (2)(b) if:

27 (A) By the due dates, the taxpayer has filed the reports required
28 under RCW 54.28.030 and paid the full amount of taxes as computed by
29 the department for the two tax years immediately preceding the tax
30 year for which a penalty waiver is requested; and

31 (B) The taxpayer has complied with the electronic filing and
32 payment requirements in RCW 54.28.040 for the tax year for which a
33 penalty waiver is requested and the two tax years immediately
34 preceding that tax year, absent a waiver granted by the department.

35 (3) The department (~~(shall)~~) must waive or cancel interest
36 imposed under this chapter, or under the chapter in which the tax is
37 imposed, if:

38 (a) The failure to timely pay the tax was the direct result of
39 written instructions given the taxpayer by the department; or

1 (b) The extension of a due date for payment of an assessment of
2 deficiency was not at the request of the taxpayer and was for the
3 sole convenience of the department.

4 (4) The department (~~(of revenue shall)~~) must adopt rules for the
5 waiver or cancellation of penalties and interest imposed by this
6 chapter.

7 **Sec. 1810.** RCW 82.32.160 and 2007 c 111 s 110 are each amended
8 to read as follows:

9 (1) Any person having been issued a notice of additional taxes,
10 delinquent taxes, interest, or penalties assessed by the department,
11 or notice of state taxes due under chapter 54.28 RCW, may within
12 thirty days after the issuance of the original notice of the amount
13 thereof or within the period covered by any extension of the due date
14 thereof granted by the department petition the department in writing
15 for a correction of the amount of the assessment, and a conference
16 for examination and review of the assessment. The petition (~~(shall)~~)
17 must set forth the reasons why the correction should be granted and
18 the amount of the tax, interest, or penalties, which the petitioner
19 believes to be due. The department (~~(shall)~~) must promptly consider
20 the petition and may grant or deny it. If denied, the petitioner
21 (~~(shall)~~) must be notified by mail, or electronically as provided in
22 RCW 82.32.135(~~(, thereof forthwith)~~). If a conference is granted, the
23 department (~~(shall)~~) must fix the time and place therefor and notify
24 the petitioner thereof by mail or electronically as provided in RCW
25 82.32.135. After the conference the department may make such
26 determination as may appear to it to be just and lawful and (~~(shall)~~)
27 must mail a copy of its determination to the petitioner, or provide a
28 copy of its determination electronically as provided in RCW
29 82.32.135. If no such petition is filed within the thirty-day period
30 the assessment covered by the notice (~~(shall)~~) becomes final.

31 (2) The procedures provided (~~(for herein shall)~~) in this section
32 apply also to a notice denying, in whole or in part, an application
33 for a pollution control tax exemption and credit certificate, with
34 such modifications to such procedures established by departmental
35 rules and regulations as may be necessary to accommodate a claim for
36 exemption or credit.

37 **Sec. 1811.** RCW 82.32.350 and 1971 ex.s. c 299 s 23 are each
38 amended to read as follows:

1 The department may enter into an agreement in writing with any
2 person relating to the liability of such person in respect of any tax
3 imposed by any of the preceding chapters of this title, or any tax in
4 respect to which this section is specifically made applicable, for
5 any taxable period or periods.

6 **PART XIX**

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

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

13 (1) The legislature categorizes the tax preference in section
14 1902 of this act as one intended to improve industry competitiveness,
15 as indicated in RCW 82.32.808(2)(b).

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

1 hazardous substance tax for agricultural crop protection products
2 that are manufactured out-of-state, warehoused or transported into
3 the state, but ultimately shipped and sold out of Washington state.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (iv) "Manufacturing" includes mixing or combining agricultural
12 crop protection products with other chemicals or other agricultural
13 crop protection products.

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

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

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

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

23 **PART XX**

24 **Concerning the Taxation of Certain Rented Property Owned by Nonprofit**
25 **Fair Associations**

26 NEW SECTION. Sec. 2001. (1) This section is the tax preference
27 performance statement for the tax preference contained in section
28 2002 of this act. This performance statement is only intended to be
29 used for subsequent evaluation of the tax preference. It is not
30 intended to create a private right of action by any party or be used
31 to determine eligibility for preferential tax treatment.

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

35 (3) It is the legislature's specific public policy objective to
36 support nonprofit fairs that obtained a majority of their property
37 from a city or county between 1995 and 1998. The legislature intends
38 to make their property tax exemption permanent, while requiring the

1 collection of leasehold excise tax on any rentals of their exempt
2 property that exceed fifty consecutive days. Because the legislature
3 intends for the changes in this Part XX to be permanent, they are
4 exempt from the ten-year expiration provision in RCW 82.32.805(1)(a).

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

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

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

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

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

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

6 The definitions in this section apply throughout this chapter
7 unless the context requires otherwise.

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

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

27 (i) Road or utility easements, rights of access, occupancy, or
28 use granted solely for the purpose of removing materials or products
29 purchased from ((a-public)) an owner or the lessee of ((a-public)) an
30 owner, or rights of access, occupancy, or use granted solely for the
31 purpose of natural energy resource exploration; or

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

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

4 (2)(a) "Taxable rent" means contract rent as defined in (c) of
5 this subsection in all cases where the lease or agreement has been
6 established or renegotiated through competitive bidding, or
7 negotiated or renegotiated in accordance with statutory requirements
8 regarding the rent payable, or negotiated or renegotiated under
9 circumstances, established by public record, clearly showing that the
10 contract rent was the maximum attainable by the lessor. With respect
11 to a leasehold interest in privately owned property, "taxable rent"
12 means contract rent. However, after January 1, 1986, with respect to
13 any lease which has been in effect for ten years or more without
14 renegotiation, taxable rent may be established by procedures set
15 forth in (g) of this subsection. All other leasehold interests are
16 subject to the determination of taxable rent under the terms of (g)
17 of this subsection.

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

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

1 (d) "Contract rent" does not include: (i) Expenditures made by
2 the lessee, which under the terms of the lease or agreement, are to
3 be reimbursed by the lessor to the lessee or expenditures for
4 improvements and protection made pursuant to a lease or an agreement
5 which requires that the use of the improved property be open to the
6 general public and that no profit will inure to the lessee from the
7 lease; (ii) expenditures made by the lessee for the replacement or
8 repair of facilities due to fire or other casualty including payments
9 for insurance to provide reimbursement for losses or payments to a
10 public or private entity for protection of such property from damage
11 or loss or for alterations or additions made necessary by an action
12 of government taken after the date of the execution of the lease or
13 agreement; (iii) improvements added to publicly owned property by a
14 sublessee under an agreement executed prior to January 1, 1976, which
15 have been taxed as personal property of the sublessee prior to
16 January 1, 1976, or improvements made by a sublessee of the same
17 lessee under a similar agreement executed prior to January 1, 1976,
18 and such improvements are taxable to the sublessee as personal
19 property; (iv) improvements added to publicly owned property if such
20 improvements are being taxed as personal property to any person.

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

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

33 (g) If it is determined by the department of revenue, upon
34 examination of a lessee's accounts or those of a lessor of publicly
35 owned property, that a lessee is occupying or using publicly owned
36 property in such a manner as to create a leasehold interest and that
37 such leasehold interest has not been established through competitive
38 bidding, or negotiated in accordance with statutory requirements
39 regarding the rent payable, or negotiated under circumstances,
40 established by public record, clearly showing that the contract rent

1 was the maximum attainable by the lessor, the department may
2 establish a taxable rent computation for use in determining the tax
3 payable under authority granted in this chapter based upon the
4 following criteria: (i) Consideration must be given to rental being
5 paid to other lessors by lessees of similar property for similar
6 purposes over similar periods of time; (ii) consideration must be
7 given to what would be considered a fair rate of return on the market
8 value of the property leased less reasonable deductions for any
9 restrictions on use, special operating requirements or provisions for
10 concurrent use by the lessor, another person or the general public.

11 (3) "Product lease" as used in this chapter means a lease of
12 property for use in the production of agricultural or marine
13 products, not including the production of marijuana as defined in RCW
14 69.50.101, to the extent that such lease provides for the contract
15 rent to be paid by the delivery of a stated percentage of the
16 production of such agricultural or marine products to the credit of
17 the lessor or the payment to the lessor of a stated percentage of the
18 proceeds from the sale of such products.

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

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

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

34 (7) "Publicly owned, or specified privately owned, real or
35 personal property" includes real or personal property:

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

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

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

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

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

9 The definitions in this section apply throughout this chapter
10 unless the context requires otherwise.

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

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

30 (i) Road or utility easements, rights of access, occupancy, or
31 use granted solely for the purpose of removing materials or products
32 purchased from ((a-public)) an owner or the lessee of ((a-public)) an
33 owner, or rights of access, occupancy, or use granted solely for the
34 purpose of natural energy resource exploration(~~(.—"Leasehold~~
35 ~~interest" does not include))~~); or

36 (ii) The preferential use of publicly owned cargo cranes and
37 docks and associated areas used in the loading and discharging of
38 cargo located at a port district marine facility. "Preferential use"
39 means that publicly owned real or personal property is used by a

1 private party under a written agreement with the public owner, but
2 the public owner or any third party maintains a right to use the
3 property when not being used by the private party.

4 (2)(a) "Taxable rent" means contract rent as defined in (c) of
5 this subsection in all cases where the lease or agreement has been
6 established or renegotiated through competitive bidding, or
7 negotiated or renegotiated in accordance with statutory requirements
8 regarding the rent payable, or negotiated or renegotiated under
9 circumstances, established by public record, clearly showing that the
10 contract rent was the maximum attainable by the lessor. With respect
11 to a leasehold interest in privately owned property, "taxable rent"
12 means contract rent. However, after January 1, 1986, with respect to
13 any lease which has been in effect for ten years or more without
14 renegotiation, taxable rent may be established by procedures set
15 forth in (g) of this subsection. All other leasehold interests are
16 subject to the determination of taxable rent under the terms of (g)
17 of this subsection.

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

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

1 (d) "Contract rent" does not include: (i) Expenditures made by
2 the lessee, which under the terms of the lease or agreement, are to
3 be reimbursed by the lessor to the lessee or expenditures for
4 improvements and protection made pursuant to a lease or an agreement
5 which requires that the use of the improved property be open to the
6 general public and that no profit will inure to the lessee from the
7 lease; (ii) expenditures made by the lessee for the replacement or
8 repair of facilities due to fire or other casualty including payments
9 for insurance to provide reimbursement for losses or payments to a
10 public or private entity for protection of such property from damage
11 or loss or for alterations or additions made necessary by an action
12 of government taken after the date of the execution of the lease or
13 agreement; (iii) improvements added to publicly owned property by a
14 sublessee under an agreement executed prior to January 1, 1976, which
15 have been taxed as personal property of the sublessee prior to
16 January 1, 1976, or improvements made by a sublessee of the same
17 lessee under a similar agreement executed prior to January 1, 1976,
18 and such improvements are taxable to the sublessee as personal
19 property; (iv) improvements added to publicly owned property if such
20 improvements are being taxed as personal property to any person.

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

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

33 (g) If it is determined by the department of revenue, upon
34 examination of a lessee's accounts or those of a lessor of publicly
35 owned property, that a lessee is occupying or using publicly owned
36 property in such a manner as to create a leasehold interest and that
37 such leasehold interest has not been established through competitive
38 bidding, or negotiated in accordance with statutory requirements
39 regarding the rent payable, or negotiated under circumstances,
40 established by public record, clearly showing that the contract rent

1 was the maximum attainable by the lessor, the department may
2 establish a taxable rent computation for use in determining the tax
3 payable under authority granted in this chapter based upon the
4 following criteria: (i) Consideration must be given to rental being
5 paid to other lessors by lessees of similar property for similar
6 purposes over similar periods of time; (ii) consideration must be
7 given to what would be considered a fair rate of return on the market
8 value of the property leased less reasonable deductions for any
9 restrictions on use, special operating requirements or provisions for
10 concurrent use by the lessor, another person or the general public.

11 (3) "Product lease" as used in this chapter means a lease of
12 property for use in the production of agricultural or marine
13 products, not including the production of marijuana as defined in RCW
14 69.50.101, to the extent that such lease provides for the contract
15 rent to be paid by the delivery of a stated percentage of the
16 production of such agricultural or marine products to the credit of
17 the lessor or the payment to the lessor of a stated percentage of the
18 proceeds from the sale of such products.

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

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

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

34 (7) "Publicly owned, or specified privately owned, real or
35 personal property" includes real or personal property:

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

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

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

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

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

9 (1)((~~a~~)) There is levied and collected a leasehold excise tax
10 on the act or privilege of occupying or using publicly owned, or
11 specified privately owned, real or personal property ((~~or real or~~
12 ~~personal property of a community center~~)) through a leasehold
13 interest on and after January 1, 1976, at a rate of twelve percent of
14 taxable rent. However, after the computation of the tax a credit is
15 allowed for any tax collected pursuant to RCW 82.29A.040.

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

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

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

23 (1) The legislative body of any county or city is hereby
24 authorized to levy and collect a leasehold excise tax on the act or
25 privilege of occupying or using publicly owned, or specified
26 privately owned, real or personal property through a leasehold
27 interest in publicly owned property within the territorial limits of
28 such county or city. The tax levied by a county under authority of
29 this section shall not exceed six percent and the tax levied by a
30 city shall not exceed four percent of taxable rent((~~:-PROVIDED,~~
31 ~~That~~)). However, any county ordinance levying such tax shall contain
32 a provision allowing a credit against the county tax for the full
33 amount of any city tax imposed upon the same taxable event.

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

1 abandoned under RCW 63.29.110. Nothing in this section limits the
2 application of chapter 19.240 RCW.

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

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

9 (b) For the purposes of this subsection the following definitions
10 apply:

11 (i) "Agricultural fair" means a fair or exhibition that is
12 intended to promote agriculture by including a balanced variety of
13 exhibits of livestock and agricultural products, as well as related
14 manufactured products and arts, including: Products of the farm home
15 and educational contests, displays, and demonstrations designed to
16 train youth and to promote the welfare of farmers and rural living;
17 and

18 (ii) "Premium" means an amount paid for exhibits and educational
19 contests, displays, and demonstrations of an educational nature. A
20 "premium" does not include judges' fees and expenses; livestock sale
21 revenues; or prizes or amounts paid for promotion or entertainment
22 activities such as queen contests, parades, dances, rodeos, and
23 races.

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

26 (1) A gift certificate or a credit memo issued in the ordinary
27 course of an issuer's business which remains unclaimed by the owner
28 for more than three years after becoming payable or distributable is
29 presumed abandoned.

30 (2) In the case of a gift certificate, the amount presumed
31 abandoned is the price paid by the purchaser for the gift
32 certificate. In the case of a credit memo, the amount presumed
33 abandoned is the amount credited to the recipient of the memo.

34 (3) A gift certificate that is lawfully issued under chapter
35 19.240 RCW and that is presumed abandoned under this section may, but
36 need not be, included in the report as provided under RCW
37 63.29.170(4). (~~(If a gift certificate that is presumed abandoned~~
38 ~~under this section is not timely reported as provided under RCW~~

1 ~~63.29.170(4), RCW 19.240.005 through 19.240.110 apply to the gift~~
2 ~~certificate.)~~)

3 **Sec. 2103.** RCW 63.29.170 and 2004 c 168 s 16 are each amended to
4 read as follows:

5 (1) A person holding property presumed abandoned and subject to
6 custody as unclaimed property under this chapter (~~shall~~) must
7 report to the department concerning the property as provided in this
8 section.

9 (2) The report must be verified and must include:

10 (a) Except with respect to travelers checks and money orders, the
11 name, if known, and last known address, if any, of each person
12 appearing from the records of the holder to be the owner of property
13 with a value of more than fifty dollars presumed abandoned under this
14 chapter;

15 (b) In the case of unclaimed funds of more than fifty dollars
16 held or owing under any life or endowment insurance policy or annuity
17 contract, the full name and last known address of the insured or
18 annuitant and of the beneficiary according to the records of the
19 insurance company holding or owing the funds;

20 (c) In the case of the contents of a safe deposit box or other
21 safekeeping repository or in the case of other tangible property, a
22 description of the property and the place where it is held and where
23 it may be inspected by the department, and any amounts owing to the
24 holder;

25 (d) The nature and identifying number, if any, or description of
26 the property and the amount appearing from the records to be due, but
27 items with a value of fifty dollars or less each may be reported in
28 the aggregate;

29 (e) The date the property became payable, demandable, or
30 returnable, and the date of the last transaction with the apparent
31 owner with respect to the property; and

32 (f) Other information the department prescribes by rule as
33 necessary for the administration of this chapter.

34 (3) If the person holding property presumed abandoned and subject
35 to custody as unclaimed property is a successor to other persons who
36 previously held the property for the apparent owner or the holder has
37 changed his or her name while holding the property, the holder shall
38 file with the report all known names and addresses of each previous
39 holder of the property.

1 (4) The report must be filed before November 1st of each year and
2 shall include, except as provided in RCW 63.29.140(3), all property
3 presumed abandoned and subject to custody as unclaimed property under
4 this chapter that is in the holder's possession as of the preceding
5 June 30th. On written request by any person required to file a
6 report, the department may postpone the reporting date.

7 (5)(a) Beginning July 1, 2016, reports due under this section
8 must be filed electronically in a form or manner provided or
9 authorized by the department. However, the department, upon request
10 or its own initiative, may relieve any holder or class of holders
11 from the electronic filing requirement under this subsection for good
12 cause as determined by the department.

13 (b) For purposes of this subsection, "good cause" means:

14 (i) A circumstance or condition exists that, in the department's
15 judgment, prevents the holder from electronically filing the report
16 due under this section; or

17 (ii) The department determines that relief from the electronic
18 filing requirement under this subsection supports the efficient or
19 effective administration of this chapter.

20 (6) After May 1st, but before August 1st, of each year in which a
21 report is required by this section, the holder in possession of
22 property presumed abandoned and subject to custody as unclaimed
23 property under this chapter (~~shall~~) must send written notice to the
24 apparent owner at the last known address informing him or her that
25 the holder is in possession of property subject to this chapter if:

26 (a) The holder has in its records an address for the apparent
27 owner which the holder's records do not disclose to be inaccurate;

28 (b) The claim of the apparent owner is not barred by the statute
29 of limitations; and

30 (c) The property has a value of more than seventy-five dollars.

31 **Sec. 2104.** RCW 63.29.180 and 2005 c 367 s 2 are each amended to
32 read as follows:

33 (1) The department (~~shall~~) must cause a notice to be published
34 not later than November 1st, immediately following the report
35 required by RCW 63.29.170 in the printed or online version of a
36 newspaper of general circulation within this state, which the
37 department determines is most likely to give notice to the apparent
38 owner of the property.

1 (2) The published notice must be entitled "Notice to Owners of
2 Unclaimed Property" and contain a summary explanation of how owners
3 may obtain information about unclaimed property reported to the
4 department.

5 (3) Not later than September 1st, immediately following the
6 report required by RCW 63.29.170, the department (~~shall~~) must mail
7 a notice to each person whose last known address is listed in the
8 report and who appears to be entitled to property with a value of
9 more than seventy-five dollars presumed abandoned under this chapter
10 and any beneficiary of a life or endowment insurance policy or
11 annuity contract for whom the department has a last known address.
12 The department is not required to mail notice under this subsection
13 if the address listed in the report appears to the department to be
14 insufficient for the purpose of the delivery of mail.

15 (4) The mailed notice must contain:

16 (a) A statement that, according to a report filed with the
17 department, property is being held to which the addressee appears
18 entitled; and

19 (b) The name of the person reporting the property and the type of
20 property described in the report.

21 (5) This section is not applicable to sums payable on travelers
22 checks, money orders, and other written instruments presumed
23 abandoned under RCW 63.29.040.

24 **Sec. 2105.** RCW 63.29.190 and 2005 c 502 s 4, 2005 c 367 s 3, and
25 2005 c 285 s 2 are each reenacted and amended to read as follows:

26 (1)(a) Except as otherwise provided in subsections (2) and (3) of
27 this section, a person who is required to file a report under RCW
28 63.29.170 (~~shall~~) must pay or deliver to the department all
29 abandoned property required to be reported at the time of filing the
30 report. Beginning July 1, 2016, holders who are required to file a
31 report electronically under this chapter must remit payments under
32 this section by electronic funds transfer or other form of electronic
33 payment acceptable to the department. However, the department, upon
34 request or its own initiative, may relieve any holder or class of
35 holders from the electronic payment requirement under this subsection
36 for good cause as determined by the department.

37 (b) For purposes of this subsection, "good cause" means:

1 (i) A circumstance or condition exists that, in the department's
2 judgment, prevents the holder from remitting payments due under this
3 section electronically; or

4 (ii) The department determines that relief from the electronic
5 payment requirement under this subsection supports the efficient or
6 effective administration of this chapter.

7 (2)(a) Counties, cities, towns, and other municipal and quasi-
8 municipal corporations that hold funds representing warrants canceled
9 pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, and
10 property tax overpayments or refunds may retain the funds until the
11 owner notifies them and establishes ownership as provided in RCW
12 63.29.135. Counties, cities, towns, or other municipal or quasi-
13 municipal corporations (~~shall~~) must provide to the department a
14 report of property it is holding pursuant to this section. The report
15 (~~shall~~) must identify the property and owner in the manner provided
16 in RCW 63.29.170 and the department (~~shall~~) must publish the
17 information as provided in RCW 63.29.180.

18 (b)(i) A public transportation authority that holds funds
19 representing value on abandoned fare cards may retain the funds until
20 the owner notifies the authority and establishes ownership as
21 provided in RCW 63.29.135.

22 (ii) For the purposes of this subsection (2)(b), "public
23 transportation authority" means a municipality, as defined in RCW
24 35.58.272, a regional transit authority authorized by chapter 81.112
25 RCW, a public mass transportation system authorized by chapter 47.60
26 RCW, or a city transportation authority authorized by chapter 35.95A
27 RCW.

28 (3)(a) The contents of a safe deposit box or other safekeeping
29 repository presumed abandoned under RCW 63.29.160 and reported under
30 RCW 63.29.170 (~~shall~~) must be paid or delivered to the department
31 within six months after the final date for filing the report required
32 by RCW 63.29.170.

33 (b) If the owner establishes the right to receive the abandoned
34 property to the satisfaction of the holder before the property has
35 been delivered or it appears that for some other reason the
36 presumption of abandonment is erroneous, the holder need not pay or
37 deliver the property to the department, and the property will no
38 longer be presumed abandoned. In that case, the holder (~~shall~~) must
39 file with the department a verified written explanation of the proof
40 of claim or of the error in the presumption of abandonment.

1 (4) The holder of an interest under RCW 63.29.100 (~~shall~~) must
2 deliver a duplicate certificate or other evidence of ownership if the
3 holder does not issue certificates of ownership to the department.
4 Upon delivery of a duplicate certificate to the department, the
5 holder and any transfer agent, registrar, or other person acting for
6 or on behalf of a holder in executing or delivering the duplicate
7 certificate is relieved of all liability of every kind in accordance
8 with RCW 63.29.200 to every person, including any person acquiring
9 the original certificate or the duplicate of the certificate issued
10 to the department, for any losses or damages resulting to any person
11 by the issuance and delivery to the department of the duplicate
12 certificate.

13 **Sec. 2106.** RCW 63.29.290 and 1983 c 179 s 29 are each amended to
14 read as follows:

15 (1) The expiration, after September 1, 1979, of any period of
16 time specified by contract, statute, or court order, during which a
17 claim for money or property can be made or during which an action or
18 proceeding may be commenced or enforced to obtain payment of a claim
19 for money or to recover property, does not prevent the money or
20 property from being presumed abandoned or affect any duty to file a
21 report or to pay or deliver abandoned property to the department as
22 required by this chapter.

23 (2) Except as otherwise provided in this section, no action or
24 proceeding may be commenced by the department with respect to any
25 duty of a holder under this chapter more than six years after the
26 duty arose.

27 (3) No action or proceeding may be commenced by the department
28 with respect to any assessment under this chapter more than three
29 years after the later of (a) the due date for payment of the
30 assessment including any extension granted by the department or (b)
31 thirty days after the final decision on any petition for review under
32 section 2110 of this act.

33 **Sec. 2107.** RCW 63.29.300 and 1983 c 179 s 30 are each amended to
34 read as follows:

35 (1) The department may require any person who has not filed a
36 report to file a verified report stating whether or not the person is
37 holding any unclaimed property reportable or deliverable under this

1 chapter. Nothing in this chapter requires reporting of property which
2 is not subject to payment or delivery.

3 (2) The department, at reasonable times and upon reasonable
4 notice, may examine the records of any person to determine whether
5 the person has complied with the provisions of this chapter. The
6 department may conduct the examination even if the person believes it
7 is not in possession of any property reportable or deliverable under
8 this chapter.

9 (3) If a person is treated under RCW 63.29.120 as the holder of
10 the property only insofar as the interest of the business association
11 in the property is concerned, the department, pursuant to subsection
12 (2) of this section, may examine the records of the person if the
13 department has given the notice required by subsection (2) of this
14 section to both the person and the business association at least
15 ninety days before the examination.

16 (4) Material obtained by any person during any examination
17 authorized under this chapter, or whether the holder was, is being,
18 or will be examined or subject to an examination, is confidential
19 information and may not be disclosed to any person except as provided
20 in RCW 63.29.380.

21 (5) If an examination of the records of a person results in the
22 disclosure of property reportable and payable or deliverable under
23 this chapter, the department must assess against the person the
24 amount that should have been reported and paid as determined or
25 approved by the department. An assessment must also include a demand
26 to deliver any property that should have been reported and delivered
27 to the department under this chapter. The assessment must include
28 interest and penalties as provided in RCW 63.29.340. The department
29 may assess the cost of the examination against the holder at the rate
30 of one hundred forty dollars a day for each examiner, but in no case
31 may the charges exceed the lesser of three thousand dollars or the
32 value of the property found to be reportable and payable or
33 deliverable. No assessment ~~((shall))~~ for costs may be imposed
34 ~~((where))~~ when the person proves that failure to report and deliver
35 property was inadvertent. The cost of examination made pursuant to
36 subsection (3) of this section may be imposed only against the
37 business association.

38 ~~((+5))~~ (6) If a holder fails after June 30, 1983, to maintain
39 the records required by RCW 63.29.310 and the records of the holder
40 available for the periods subject to this chapter are insufficient to

1 permit the preparation of a report, the department may (~~require the~~
2 ~~holder to report and pay~~) assess such amounts as may reasonably be
3 estimated from any available records.

4 (7)(a) Except as provided in (b) of this subsection, all amounts
5 and property identified in any assessment issued by the department
6 under this section must be paid or delivered to the department within
7 thirty days of issuance.

8 (b) If a timely petition for review of an assessment is filed
9 with the department as provided in section 2110 of this act, only the
10 uncontested amounts and property must be paid or delivered to the
11 department within thirty days of the issuance of the assessment.

12 **Sec. 2108.** RCW 63.29.340 and 2011 c 96 s 45 are each amended to
13 read as follows:

14 (1) A person who fails to pay or deliver property (~~within the~~
15 ~~time prescribed by this chapter shall be~~) when due is required to
16 pay to the department interest at the rate as computed under RCW
17 82.32.050(2) from the date the property should have been paid or
18 delivered until the property is paid or delivered(~~, unless~~).
19 However, the department must waive or cancel interest imposed under
20 this subsection if:

21 (a) The department finds that the failure to pay or deliver the
22 property within the time prescribed by this chapter was the result of
23 circumstances beyond the person's control sufficient for waiver or
24 cancellation of interest under RCW 82.32.105;

25 (b) The failure to timely pay or deliver the property within the
26 time prescribed by this chapter was the direct result of written
27 instructions given to the person by the department; or

28 (c) The extension of a due date for payment or delivery under an
29 assessment issued by the department was not at the person's request
30 and was for the sole convenience of the department.

31 (2) (~~A person who willfully fails to render any report, to pay~~
32 ~~or deliver property, or to perform other duties required under this~~
33 ~~chapter shall pay a civil penalty of one hundred dollars for each day~~
34 ~~the report is withheld or the duty is not performed, but not more~~
35 ~~than five thousand dollars, plus one hundred percent of the value of~~
36 ~~the property which should have been reported, paid or delivered.~~

37 ~~(3) A person who willfully refuses after written demand by the~~
38 ~~department to pay or deliver property to the department as required~~
39 ~~under this chapter or who enters into a contract to avoid the duties~~

1 ~~of this chapter is guilty of a gross misdemeanor and upon conviction~~
2 ~~may be punished by a fine of not more than one thousand dollars or~~
3 ~~imprisonment for up to three hundred sixty four days, or both.)) If a~~
4 person fails to file any report or to pay or deliver any amounts or
5 property when due under a report required under this chapter, there
6 is assessed a penalty equal to ten percent of the amount unpaid and
7 the value of any property not delivered.

8 (3) If an examination results in an assessment for amounts unpaid
9 or property not delivered, there is assessed a penalty equal to ten
10 percent of the amount unpaid and the value of any property not
11 delivered.

12 (4) If a person fails to pay or deliver to the department by the
13 due date any amounts or property due under an assessment issued by
14 the department to the person, there is assessed an additional penalty
15 of five percent of the amount unpaid and the value of any property
16 not delivered.

17 (5) Penalties under subsections (2) through (4) of this section
18 may be waived or canceled only if the department finds that the
19 failure to pay or deliver within the time prescribed by this chapter
20 was the result of circumstances beyond the person's control
21 sufficient for waiver or cancellation of penalties under RCW
22 82.32.105.

23 (6) If a person willfully fails to file a report or to provide
24 written notice to apparent owners as required under this chapter, the
25 department may assess a civil penalty of one hundred dollars for each
26 day the report is withheld or the notice is not sent, but not more
27 than five thousand dollars.

28 (7) If a holder, having filed a report, failed to file the report
29 electronically as required by RCW 63.29.170, or failed to pay
30 electronically any amounts due under the report as required by RCW
31 63.29.190, the department must assess a penalty equal to five percent
32 of the amount payable or deliverable under the report, unless the
33 department grants the taxpayer relief from the electronic filing and
34 payment requirements. Total penalties assessed under this subsection
35 may not exceed five percent of the amount payable and value of
36 property deliverable under the report.

37 (8) The penalties imposed in this section are cumulative.

38 NEW SECTION. Sec. 2109. A new section is added to chapter 63.29
39 RCW to read as follows:

1 (1)(a) If, upon receipt of an application by a holder for a
2 refund or return of property, or upon an examination of the report or
3 records of any holder, it is determined by the department that any
4 amount, interest, or penalty has been paid in excess of that properly
5 due under this chapter or that any property was delivered to the
6 department under this chapter in error, then with the exception of
7 amounts delivered by the department to a claimant under RCW
8 63.29.240, the excess amount must be refunded to the holder, or the
9 property delivered in error returned to the holder, as the case may
10 be.

11 (b)(i) Except as otherwise provided in RCW 63.29.200(2) or this
12 section, no refund or return of property may be made for any amount
13 or property paid or delivered, or for any interest or penalty paid,
14 more than six years after the end of the calendar year in which the
15 payment or delivery occurred.

16 (ii) The expiration of the limitations period in this subsection
17 will not bar a refund or the return of property if a complete
18 application for such refund or return of property was received by the
19 department before the expiration of such limitations period.

20 (2) The execution of a written waiver signed by the holder and
21 the department will extend the time for making a refund of any
22 amounts paid, or a return of property delivered in error, during, or
23 attributable to, the years covered by the waiver if, prior to the
24 expiration of the waiver period, a complete application for refund or
25 return of such amounts or property is made by the holder or the
26 department discovers a refund is due or a return of property under
27 this section is required.

28 (3) For purposes of subsections (1) and (2) of this section, an
29 application for a refund or return of property is complete if it
30 includes information the department deems sufficient to substantiate
31 the holder's claim for a refund or return of property. If the
32 department receives an incomplete application before the expiration
33 of the limitations period in subsection (1)(b)(i) of this section or
34 before the expiration of an applicable waiver period as authorized
35 under subsection (2) of this section, the department must grant the
36 holder thirty days to provide sufficient documentation to
37 substantiate the holder's claim for a refund or return of property.
38 The department may, at its sole discretion, grant a holder up to an
39 additional ninety days to substantiate its claim. If the holder
40 provides sufficient substantiation documentation to the department

1 within the additional time granted but after the expiration of the
2 limitations period in subsection (1)(b)(i) of this section or an
3 applicable waiver period as authorized under subsection (2) of this
4 section, the holder will be deemed to have provided a complete
5 application before the expiration of such limitations or waiver
6 period.

7 (4) Any such refunds must be made by means of vouchers approved
8 by the department and by the issuance of state warrants drawn upon
9 and payable from such funds as the legislature may provide. However,
10 persons who are required to pay amounts due under this chapter
11 electronically must have any refunds paid by electronic funds
12 transfer if the department has the necessary account information to
13 facilitate a refund by electronic funds transfer.

14 (5) Any judgment for which a recovery is granted by any court of
15 competent jurisdiction, not appealed from, for amounts, penalties, or
16 interest paid by the holder, and costs, in a suit by any holder must
17 be paid in the same manner, as provided in subsection (4) of this
18 section, upon the filing with the department of a certified copy of
19 the order or judgment of the court.

20 (6) Interest at the rate computed under RCW 82.32.050(2) must be
21 added to the amount of any refund allowed by the department or any
22 court. Interest must be computed from the date the department
23 received the excess payment, until the date the refund is issued.

24 NEW SECTION. **Sec. 2110.** A new section is added to chapter 63.29
25 RCW to read as follows:

26 Any person having been issued an assessment by the department, or
27 a denial of an application for a refund or return of property, under
28 the provisions of this chapter is entitled to a review by the
29 department conducted in accordance with the provisions of RCW
30 34.05.410 through 34.05.494, subject to judicial review under RCW
31 34.05.510 through 34.05.598. A petition for review under this section
32 is timely if received in writing by the department before the due
33 date of the assessment, including any extension of the due date
34 granted by the department, or in the case of a refund or return
35 application, thirty days after the department rejects the application
36 in writing, regardless of any subsequent action by the department to
37 reconsider its initial decision. The period for filing a petition for
38 review under this section may be extended as provided in a rule

1 adopted by the department under chapter 34.05 RCW or upon a written
2 agreement signed by the holder and the department.

3 NEW SECTION. **Sec. 2111.** A new section is added to chapter 63.29
4 RCW to read as follows:

5 (1) Any person who has paid or delivered property to the
6 department under the provisions of this chapter, except one who has
7 failed to keep and preserve records as required in this chapter,
8 feeling aggrieved by such payment or delivery, may appeal to the
9 superior court of Thurston county. The person filing a notice of
10 appeal under this section is deemed the plaintiff, and the
11 department, the defendant.

12 (2) An appeal under this section must be made within:

13 (a) The time limitation for a refund provided in section 2109 of
14 this act; or

15 (b) Thirty days after the department rejects in writing an
16 application for refund or return of property, regardless of any
17 subsequent action by the department to reconsider its initial
18 decision, if:

19 (i) An application for refund or return of property has been made
20 to the department within the time limitation provided in (a) of this
21 subsection (2) or the limitation provided in RCW 63.29.200(2), as
22 applicable; and

23 (ii) The time limitation provided under this subsection (2)(b) is
24 later than the time limitation provided in (a) of this subsection
25 (2).

26 (3)(a) In an appeal filed under this section, the plaintiff must
27 set forth the amount or property, if any, payable or deliverable on
28 the report or assessment that the plaintiff is contesting, which the
29 holder concedes to be the correct amount payable or deliverable, and
30 the reason why the amount payable or deliverable should be reduced or
31 abated.

32 (b) The appeal is perfected only by serving a copy of the notice
33 of appeal upon the department and filing the original with proof of
34 service with the clerk of the superior court of Thurston county,
35 within the time specified in subsection (2) of this section.

36 (4)(a) The trial in the superior court on appeal must be de novo
37 and without the necessity of any pleadings other than the notice of
38 appeal. At trial, the burden is on the plaintiff to (i) prove that
39 the amount paid by that person is incorrect, either in whole or in

1 part, or the property in question was delivered in error to the
2 department, and (ii) establish the correct amount payable or the
3 property required to be delivered to the department, if any.

4 (b) Both parties are entitled to subpoena the attendance of
5 witnesses as in other civil actions and to produce evidence that is
6 competent, relevant, and material to determine the correct amount
7 due, if any, that should be paid by the plaintiff.

8 (c) Either party may seek appellate review in the same manner as
9 other civil actions are appealed to the appellate courts.

10 (5) An appeal may be maintained under this section without the
11 need for the plaintiff to first:

12 (a) Protest against the payment of any amount due or reportable
13 under this chapter or to make any demand to have such amount refunded
14 or returned; or

15 (b) Petition the department for a refund, return of property, or
16 a review of its action as authorized in section 2110 of this act.

17 (6) No court action or proceeding of any kind may be maintained
18 by the plaintiff to recover any amount paid, delivered, or reported
19 to the department under this chapter, except as provided in this
20 section or as may be available to the plaintiff under RCW 34.05.510
21 through 34.05.598.

22 (7) No appeal may be maintained under this section with respect
23 to matters reviewed by the department under the provisions of chapter
24 34.05 RCW.

25 NEW SECTION. **Sec. 2112.** A new section is added to chapter 63.29
26 RCW to read as follows:

27 (1) The department may enter into an agreement in writing with
28 any holder with respect to any duties under this chapter or any
29 property or amounts due under this chapter, including penalties and
30 interest.

31 (2) Upon its execution by all parties, the agreement is final and
32 conclusive as to the periods, property, and any other matters
33 expressly covered by the agreement. Except upon a showing of fraud or
34 malfeasance, or of misrepresentation of a material fact:

35 (a) The agreement may not be reopened as to the matters agreed
36 upon, nor may the agreement be modified, by any officer, employee, or
37 agent of the state, or the holder; and

38 (b) In any suit, action, or proceeding, such agreement, or any
39 determination, assessment, collection, payment, abatement, or refund,

1 or credit made in accordance with the agreement, may not be annulled,
2 modified, set aside, or disregarded.

3 (3) No agreement under this section may affect a holder's
4 obligations to an owner or an owner's rights against a holder, except
5 as expressly provided in RCW 63.29.200.

6 (4) No agreement under this section may include any
7 indemnification of any holder for amounts or property that has not
8 been paid or delivered to the department. Nothing in this subsection
9 (4) may be construed to affect the finality and conclusiveness of any
10 agreement under this section to the extent provided in subsection (2)
11 of this section.

12 NEW SECTION. **Sec. 2113.** (1) Section 2101 of this act applies
13 only with respect to gift certificates issued on or after the
14 effective date of section 2101 of this act.

15 (2) Section 2102 of this act applies only with respect to gift
16 certificates issued on or after the effective date of section 2102 of
17 this act.

18 (3) Section 2106 of this act applies only with respect to
19 original assessments issued on or after the effective date of section
20 2106 of this act.

21 (4) Section 2108 of this act applies only with respect to reports
22 initially due, or property initially payable or deliverable, or other
23 duties that arise initially on or after the effective date of section
24 2108 of this act.

25 (5) Section 2109 of this act applies only with respect to (a)
26 requests for refund or the return of property, where the request is
27 originally received by the department on or after the effective date
28 of section 2109 of this act, and (b) excess payments or property
29 improperly delivered, where such excess payments or improper delivery
30 are discovered by the department on or after the effective date of
31 section 2109 of this act.

32 **PART XXII**

33 **[NOT USED]**

34 **PART XXIII**

35 **Miscellaneous Provisions**

1 NEW SECTION. **Sec. 2301.** (1) Except as provided otherwise in
2 this section, this act is necessary for the immediate preservation of
3 the public peace, health, or safety, or support of the state
4 government and its existing public institutions, and takes effect
5 July 1, 2015.

6 (2) Parts I, II, IV, VI through VIII, XVIII, and XIX of this act
7 is necessary for the immediate preservation of the public peace,
8 health, or safety, or support of the state government and its
9 existing public institutions, and take effect September 1, 2015.

10 (3) Part X of this act takes effect October 1, 2016.

11 (4) Section 1105 of this act takes effect January 1, 2016.

12 (5) Except for section 2004 of this act, Part XX of this act
13 takes effect January 1, 2019.

14 (6) Section 2004 of this act takes effect January 1, 2022.

15 NEW SECTION. **Sec. 2302.** Part VIII of this act expires July 1,
16 2019.

17 NEW SECTION. **Sec. 2303.** Section 1104 of this act expires
18 January 1, 2016.

19 NEW SECTION. **Sec. 2304.** Section 2003 of this act expires
20 January 1, 2022.

21 NEW SECTION. **Sec. 2305.** (1) Section 2108 of this act takes
22 effect July 1, 2016, unless the department of revenue determines that
23 it is unable to efficiently and effectively implement any of the
24 provisions of section 2108 of this act, in which case section 2108 of
25 this act takes effect July 1, 2017.

26 (2) The department of revenue must provide written notice of the
27 effective date of section 2108 of this act to the chief clerk of the
28 house of representatives, the secretary of the senate, the office of
29 the code reviser, and others as deemed appropriate by the department,
30 as well as post notice of the effective date on its public web site.
31 The notice must be provided no later than June 1, 2016.

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