

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 3159

Chapter 354, Laws of 2006

(partial veto)

59th Legislature
2006 Regular Session

EXCISE TAXATION--FOOD PRODUCTS

EFFECTIVE DATE: 7/1/06 - Except sections 6-9 and 11, which become effective 7/1/07; and sections 12 and 13, which become effective 7/1/12.

Passed by the House March 8, 2006
Yeas 97 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 7, 2006
Yeas 42 Nays 3

BRAD OWEN

President of the Senate

Approved March 30, 2006, with the exception of sections 14 and 15, which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 3159** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 30, 2006 - 3:30 p.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 3159

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Representatives Linville, Newhouse, Grant, Kessler, Orcutt, Chandler, Dunn and Kristiansen

Read first time 01/23/2006. Referred to Committee on Finance.

1 AN ACT Relating to the excise taxation of food products; amending
2 RCW 82.04.4266, 82.32.610, 82.74.010, 82.74.030, 82.74.040, 82.74.050,
3 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.32.600, and 82.32.590;
4 reenacting and amending RCW 82.04.260; adding new sections to chapter
5 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new
6 section to chapter 82.12 RCW; providing effective dates; and providing
7 expiration dates.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
10 to read as follows:

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

13 (a) Manufacturing dairy products; or

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

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

5 (3) This section expires July 1, 2012.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
7 to read as follows:

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

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

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

20 (2) This section expires July 1, 2012.

21 **Sec. 3.** RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read
22 as follows:

23 (1) This chapter shall not apply to ~~((amounts received from))~~ the
24 value of products or the gross proceeds of sales derived from:

25 ~~((+1))~~ (a) Manufacturing fruits or vegetables by canning,
26 preserving, freezing, processing, or dehydrating fresh fruits ~~((and))~~
27 or vegetables; or

28 ~~((+2))~~ (b) Selling at wholesale ~~((fresh))~~ fruits ~~((and))~~ or
29 vegetables ~~((canned, preserved, frozen, processed, or dehydrated))~~
30 manufactured by the seller by canning, preserving, freezing,
31 processing, or dehydrating fresh fruits or vegetables and sold to
32 purchasers who transport in the ordinary course of business the goods
33 out of this state. ~~((As proof of sale to a person who transports in~~
34 ~~the ordinary course of business goods out of this state, the seller~~
35 ~~shall annually provide a statement in a form prescribed by the~~
36 ~~department and retain the statement as a business record.)) A person~~

1 taking an exemption under this subsection (1)(b) must keep and preserve
2 records for the period required by RCW 82.32.070 establishing that the
3 goods were transported by the purchaser in the ordinary course of
4 business out of this state.

5 (2) This section expires July 1, 2012.

6 **Sec. 4.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are
7 each reenacted and amended to read as follows:

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

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

16 (b) Beginning July 1, 2012, seafood products which remain in a raw,
17 raw frozen, or raw salted state at the completion of the manufacturing
18 by that person; as to such persons the amount of tax with respect to
19 such business shall be equal to the value of the products manufactured
20 or the gross proceeds derived from such sales, multiplied by the rate
21 of 0.138 percent;

22 (c) Beginning July 1, 2012, dairy products that as of September 20,
23 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
24 including byproducts from the manufacturing of the dairy products such
25 as whey and casein; or selling the same to purchasers who transport in
26 the ordinary course of business the goods out of state; as to such
27 persons the tax imposed shall be equal to the value of the products
28 manufactured or the gross proceeds derived from such sales multiplied
29 by the rate of 0.138 percent. ((As proof of sale to a person who
30 transports in the ordinary course of business goods out of this state,
31 the seller shall annually provide a statement in a form prescribed by
32 the department and retain the statement as a business record)) Sellers
33 must keep and preserve records for the period required by RCW 82.32.070
34 establishing that the goods were transported by the purchaser in the
35 ordinary course of business out of this state;

36 (d) Beginning July 1, 2012, fruits or vegetables by canning,
37 preserving, freezing, processing, or dehydrating fresh fruits or

1 vegetables, or selling at wholesale fruits or vegetables manufactured
2 by the seller by canning, preserving, freezing, processing, or
3 dehydrating fresh fruits or vegetables and sold to purchasers who
4 transport in the ordinary course of business the goods out of this
5 state; as to such persons the amount of tax with respect to such
6 business shall be equal to the value of the products manufactured or
7 the gross proceeds derived from such sales multiplied by the rate of
8 0.138 percent. Sellers must keep and preserve records for the period
9 required by RCW 82.32.070 establishing that the goods were transported
10 by the purchaser in the ordinary course of business out of this state;

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

16 ~~((e))~~ (f) Alcohol fuel or wood biomass fuel, as those terms are
17 defined in RCW 82.29A.135; as to such persons the amount of tax with
18 respect to the business shall be equal to the value of alcohol fuel or
19 wood biomass fuel manufactured, multiplied by the rate of 0.138
20 percent.

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

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

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

35 (5) Upon every person engaging within this state in the business of
36 acting as a travel agent or tour operator; as to such persons the
37 amount of the tax with respect to such activities shall be equal to the

1 gross income derived from such activities multiplied by the rate of
2 0.275 percent.

3 (6) Upon every person engaging within this state in business as an
4 international steamship agent, international customs house broker,
5 international freight forwarder, vessel and/or cargo charter broker in
6 foreign commerce, and/or international air cargo agent; as to such
7 persons the amount of the tax with respect to only international
8 activities shall be equal to the gross income derived from such
9 activities multiplied by the rate of 0.275 percent.

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

1 (8) Upon every person engaging within this state in the business of
2 disposing of low-level waste, as defined in RCW 43.145.010; as to such
3 persons the amount of the tax with respect to such business shall be
4 equal to the gross income of the business, excluding any fees imposed
5 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

6 If the gross income of the taxpayer is attributable to activities
7 both within and without this state, the gross income attributable to
8 this state shall be determined in accordance with the methods of
9 apportionment required under RCW 82.04.460.

10 (9) Upon every person engaging within this state as an insurance
11 agent, insurance broker, or insurance solicitor licensed under chapter
12 48.17 RCW; as to such persons, the amount of the tax with respect to
13 such licensed activities shall be equal to the gross income of such
14 business multiplied by the rate of 0.484 percent.

15 (10) Upon every person engaging within this state in business as a
16 hospital, as defined in chapter 70.41 RCW, that is operated as a
17 nonprofit corporation or by the state or any of its political
18 subdivisions, as to such persons, the amount of tax with respect to
19 such activities shall be equal to the gross income of the business
20 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
21 percent thereafter. The moneys collected under this subsection shall
22 be deposited in the health services account created under RCW
23 43.72.900.

24 (11)(a) Beginning October 1, 2005, upon every person engaging
25 within this state in the business of manufacturing commercial
26 airplanes, or components of such airplanes, as to such persons the
27 amount of tax with respect to such business shall, in the case of
28 manufacturers, be equal to the value of the product manufactured, or in
29 the case of processors for hire, be equal to the gross income of the
30 business, multiplied by the rate of:

31 (i) 0.4235 percent from October 1, 2005, through the later of June
32 30, 2007, or the day preceding the date final assembly of a
33 superefficient airplane begins in Washington state, as determined under
34 RCW 82.32.550; and

35 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
36 date final assembly of a superefficient airplane begins in Washington
37 state, as determined under RCW 82.32.550.

1 (b) Beginning October 1, 2005, upon every person engaging within
2 this state in the business of making sales, at retail or wholesale, of
3 commercial airplanes, or components of such airplanes, manufactured by
4 that person, as to such persons the amount of tax with respect to such
5 business shall be equal to the gross proceeds of sales of the airplanes
6 or components multiplied by the rate of:

7 (i) 0.4235 percent from October 1, 2005, through the later of June
8 30, 2007, or the day preceding the date final assembly of a
9 superefficient airplane begins in Washington state, as determined under
10 RCW 82.32.550; and

11 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
12 date final assembly of a superefficient airplane begins in Washington
13 state, as determined under RCW 82.32.550.

14 (c) For the purposes of this subsection (11), "commercial
15 airplane," "component," and "final assembly of a superefficient
16 airplane" have the meanings given in RCW 82.32.550.

17 (d) In addition to all other requirements under this title, a
18 person eligible for the tax rate under this subsection (11) must report
19 as required under RCW 82.32.545.

20 (e) This subsection (11) does not apply after the earlier of: July
21 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
22 does not begin by December 31, 2007, as determined under RCW 82.32.550.

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

28 **Sec. 5.** RCW 82.32.610 and 2005 c 513 s 3 are each amended to read
29 as follows:

30 (1) The legislature finds that accountability and effectiveness are
31 important aspects of setting tax policy. In order to make policy
32 choices regarding the best use of limited state resources the
33 legislature needs information on how a tax incentive is used.

34 (2) Each person claiming a tax exemption under RCW 82.04.4266,
35 section 1 of this act, or section 2 of this act shall report
36 information to the department by filing a complete annual survey. The
37 survey is due by March 31st of the year following any calendar year in

1 which a tax exemption under RCW 82.04.4266, section 1 of this act, or
2 section 2 of this act is taken. The department may extend the due date
3 for timely filing of annual surveys under this section as provided in
4 RCW 82.32.590. The survey shall include the amount of tax exemption
5 taken. The survey shall also include the following information for
6 employment positions in Washington:

7 (a) The number of total employment positions;

8 (b) Full-time, part-time, and temporary employment positions as a
9 percent of total employment;

10 (c) The number of employment positions according to the following
11 wage bands: Less than thirty thousand dollars; thirty thousand dollars
12 or greater, but less than sixty thousand dollars; and sixty thousand
13 dollars or greater. A wage band containing fewer than three
14 individuals may be combined with another wage band; and

15 (d) The number of employment positions that have employer-provided
16 medical, dental, and retirement benefits, by each of the wage bands.

17 The first survey filed under this subsection shall also include
18 information for the twelve-month period immediately before first use of
19 a tax incentive.

20 (3) The department may request additional information necessary to
21 measure the results of the exemption program, to be submitted at the
22 same time as the survey.

23 (4) All information collected under this section, except the amount
24 of the tax exemption taken, is deemed taxpayer information under RCW
25 82.32.330. Information on the amount of tax exemption taken is not
26 subject to the confidentiality provisions of RCW 82.32.330.

27 (5) If a person fails to submit an annual survey under subsection
28 (2) of this section by the due date of the (~~report~~) survey or any
29 extension under RCW 82.32.590, the department shall declare the amount
30 of taxes exempted for the previous calendar year to be immediately due
31 and payable. The department shall assess interest, but not penalties,
32 on the amounts due under this section. The amount due shall be
33 calculated using a rate of 0.138 percent. The interest shall be
34 assessed at the rate provided for delinquent taxes under this chapter,
35 retroactively to the date the exemption was claimed, and shall accrue
36 until the taxes for which the exemption was claimed are repaid. This
37 information is not subject to the confidentiality provisions of RCW
38 82.32.330.

1 (6) The department shall use the information from this section to
2 prepare summary descriptive statistics by category. No fewer than
3 three taxpayers shall be included in any category. The department
4 shall report these statistics to the legislature each year by September
5 1st.

6 (7) The department shall study the tax exemption authorized in RCW
7 82.04.4266, section 1 of this act, and section 2 of this act. The
8 department shall submit a report to the finance committee of the house
9 of representatives and the ways and means committee of the senate by
10 December 1, 2011. The report shall measure the effect of the exemption
11 on job creation, job retention, company growth, the movement of firms
12 or the consolidation of firms' operations into the state, and such
13 other factors as the department selects.

14 **Sec. 6.** RCW 82.74.010 and 2005 c 513 s 4 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

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

20 (2) "Cold storage warehouse" means a storage warehouse (~~used~~)
21 owned or operated by a wholesaler or third-party warehouser as those
22 terms are defined in RCW 82.08.820 to store fresh and/or frozen
23 perishable fruits or vegetables, dairy products, seafood products, or
24 any combination thereof, at a desired temperature to maintain the
25 quality of the product for orderly marketing.

26 (3) "Dairy product" means dairy products that as of September 20,
27 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
28 including byproducts from the manufacturing of the dairy products such
29 as whey and casein.

30 (4) "Dairy product manufacturing" means manufacturing, as defined
31 in RCW 82.04.120, of dairy products.

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

33 (~~(4)~~) (6) "Eligible investment project" means an investment in
34 qualified buildings or qualified machinery and equipment, including
35 labor and services rendered in the planning, installation, and
36 construction of the project. The lessor or owner of a qualified
37 building is not eligible for a deferral unless (a) the underlying

1 ownership of the buildings, machinery, and equipment vests exclusively
2 in the same person; or (b)(i) the lessor by written contract agrees to
3 pass the economic benefit of the deferral to the lessee in the form of
4 reduced rent payments, and (ii) the lessee that receives the economic
5 benefit of the deferral agrees in writing with the department to
6 complete the annual survey under RCW 82.74.040. The economic benefit
7 of the deferral to the lessee may be evidenced by any type of payment,
8 credit, or any other financial arrangement between the lessor or owner
9 of the qualified building and the lessee.

10 ~~((+5+))~~ (7) "Fresh fruit and vegetable processing" means
11 manufacturing as defined in RCW 82.04.120 which consists of the
12 canning, preserving, freezing, processing, or dehydrating fresh fruits
13 and/or vegetables.

14 ~~((+6+))~~ (8)(a) "Initiation of construction" means the date that a
15 building permit is issued under the building code adopted under RCW
16 19.27.031 for:

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

20 (ii) Construction of the qualified building, if the economic
21 benefits of the deferral are passed to a lessee as provided in
22 subsection ~~((+4+))~~ (6) of this section; or

23 (iii) Tenant improvements for a qualified building, if the economic
24 benefits of the deferral are passed to a lessee as provided in
25 subsection ~~((+4+))~~ (6) of this section.

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

30 (c) If the investment project is a phased project, "initiation of
31 construction" applies separately to each phase.

32 ~~((+7+))~~ (9) "Person" has the meaning given in RCW 82.04.030.

33 ~~((+8+))~~ (10) "Qualified buildings" means construction of new
34 structures, and expansion or renovation of existing structures for the
35 purpose of increasing floor space or production capacity used for fresh
36 fruit and vegetable processing, dairy product manufacturing, seafood
37 product manufacturing, cold storage ~~((warehouse))~~ warehousing, and
38 research and development activities, including plant offices and

1 warehouses or other facilities for the storage of raw material or
2 finished goods if such facilities are an essential or an integral part
3 of a factory, plant, or laboratory used for fresh fruit and vegetable
4 processing, dairy product manufacturing, seafood product manufacturing,
5 cold storage warehousing, or research and development. If a building
6 is used partly for fresh fruit and vegetable processing, dairy product
7 manufacturing, seafood product manufacturing, cold storage warehousing,
8 or research and development and partly for other purposes, the
9 applicable tax deferral shall be determined by apportionment of the
10 costs of construction under rules adopted by the department.

11 ~~((+9))~~ (11) "Qualified machinery and equipment" means all
12 industrial and research fixtures, equipment, and support facilities
13 that are an integral and necessary part of a fresh fruit and vegetable
14 processing, dairy product manufacturing, seafood product manufacturing,
15 cold storage warehouse, or research and development operation.
16 "Qualified machinery and equipment" includes: Computers; software;
17 data processing equipment; laboratory equipment; manufacturing
18 components such as belts, pulleys, shafts, and moving parts; molds,
19 tools, and dies; operating structures; and all equipment used to
20 control or operate the machinery.

21 ~~((+10))~~ (12) "Recipient" means a person receiving a tax deferral
22 under this chapter.

23 ~~((+11))~~ (13) "Research and development" means the development,
24 refinement, testing, marketing, and commercialization of a product,
25 service, or process related to fresh fruit and vegetable processing,
26 dairy product manufacturing, seafood product manufacturing, or cold
27 storage warehousing before commercial sales have begun. As used in
28 this subsection, "commercial sales" excludes sales of prototypes or
29 sales for market testing if the total gross receipts from such sales of
30 the product, service, or process do not exceed one million dollars.

31 (14) "Seafood product" means any edible marine fish and shellfish
32 that remains in a raw, raw frozen, or raw salted state.

33 (15) "Seafood product manufacturing" means the manufacturing, as
34 defined in RCW 82.04.120, of seafood products.

35 **Sec. 7.** RCW 82.74.030 and 2005 c 513 s 6 are each amended to read
36 as follows:

37 (1) The department shall issue a sales and use tax deferral

1 certificate for state and local sales and use taxes (~~due~~) imposed or
2 authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible
3 investment project if the investment project is undertaken for the
4 purpose of fresh fruit and vegetable processing, dairy product
5 manufacturing, seafood product manufacturing, cold storage warehousing,
6 or research and development.

7 (2) This section expires July 1, 2012.

8 **Sec. 8.** RCW 82.74.040 and 2005 c 513 s 7 are each amended to read
9 as follows:

10 (1)(a) The legislature finds that accountability and effectiveness
11 are important aspects of setting tax policy. In order to make policy
12 choices regarding the best use of limited state resources the
13 legislature needs information on how a tax incentive is used.

14 (b) Each recipient of a deferral granted under this chapter shall
15 complete an annual survey. If the economic benefits of the deferral
16 are passed to a lessee as provided in RCW 82.74.010(~~(+4)~~) (6), the
17 lessee shall complete the annual survey and the applicant is not
18 required to complete the annual survey. The survey is due by March
19 31st of the year following the calendar year in which the investment
20 project is certified by the department as having been operationally
21 complete and each of the seven succeeding calendar years. The
22 department may extend the due date for timely filing of annual surveys
23 under this section as provided in RCW 82.32.590. The survey shall
24 include the amount of tax deferred. The survey shall also include the
25 following information for employment positions in Washington:

- 26 (i) The number of total employment positions;
- 27 (ii) Full-time, part-time, and temporary employment positions as a
28 percent of total employment;
- 29 (iii) The number of employment positions according to the following
30 wage bands: Less than thirty thousand dollars; thirty thousand dollars
31 or greater, but less than sixty thousand dollars; and sixty thousand
32 dollars or greater. A wage band containing fewer than three
33 individuals may be combined with another wage band; and
- 34 (iv) The number of employment positions that have employer-provided
35 medical, dental, and retirement benefits, by each of the wage bands.

36 (c) The department may request additional information necessary to

1 measure the results of the deferral program, to be submitted at the
2 same time as the survey.

3 (d) All information collected under this subsection, except the
4 amount of the tax deferral taken, is deemed taxpayer information under
5 RCW 82.32.330. Information on the amount of tax deferral taken is not
6 subject to the confidentiality provisions of RCW 82.32.330 and may be
7 disclosed to the public upon request.

8 (e) The department shall use the information from this section to
9 prepare summary descriptive statistics by category. No fewer than
10 three taxpayers shall be included in any category. The department
11 shall report these statistics to the legislature each year by September
12 1st.

13 (f) The department shall also use the information to study the tax
14 deferral program authorized under this chapter. The department shall
15 report to the legislature by December 1, 2011. The report shall
16 measure the effect of the program on job creation, (~~the number of jobs~~
17 ~~created for residents of eligible areas,~~) company growth, the
18 introduction of new products, the diversification of the state's
19 economy, growth in research and development investment, the movement of
20 firms or the consolidation of firms' operations into the state, and
21 such other factors as the department selects.

22 (2)(a) If a recipient of the deferral fails to complete the annual
23 survey required under subsection (1) of this section by the date due or
24 any extension under RCW 82.32.590, twelve and one-half percent of the
25 deferred tax shall be immediately due. If the economic benefits of the
26 deferral are passed to a lessee as provided in RCW 82.74.010(~~(+4)~~)
27 (6), the lessee shall be responsible for payment to the extent the
28 lessee has received the economic benefit. The department shall assess
29 interest, but not penalties, on the amounts due under this section.
30 The interest shall be assessed at the rate provided for delinquent
31 taxes under chapter 82.32 RCW, and shall accrue until the amounts due
32 are repaid.

33 (b) A recipient who must repay deferred taxes under RCW
34 82.74.050(2) because the department has found that an investment
35 project is used for purposes other than fresh fruit and vegetable
36 processing, dairy product manufacturing, seafood product manufacturing,
37 cold storage warehousing, or research and development is no longer

1 required to file annual surveys under this section beginning on the
2 date an investment project is used for nonqualifying purposes.

3 **Sec. 9.** RCW 82.74.050 and 2005 c 513 s 8 are each amended to read
4 as follows:

5 (1) Except as provided in subsection (2) of this section, taxes
6 deferred under this chapter need not be repaid.

7 (2) If, on the basis of survey under RCW 82.74.040 or other
8 information, the department finds that an investment project is used
9 for purposes other than fresh fruit and vegetable processing, dairy
10 product manufacturing, seafood product manufacturing, cold storage
11 warehousing, or research and development at any time during the
12 calendar year in which the investment project is certified by the
13 department as having been operationally completed, or at any time
14 during any of the seven succeeding calendar years, a portion of
15 deferred taxes shall be immediately due according to the following
16 schedule:

17	Year in which <u>nonqualifying</u> use occurs	% of deferred taxes due
18	1	100%
19	2	87.5%
20	3	75%
21	4	62.5%
22	5	50%
23	6	37.5%
24	7	25%
25	8	12.5%

26 (3) The department shall assess interest, but not penalties, on the
27 deferred taxes under subsection (2) of this section. The interest
28 shall be assessed at the rate provided for delinquent taxes under
29 chapter 82.32 RCW, retroactively to the date of deferral, and shall
30 accrue until the deferred taxes are repaid. The debt for deferred
31 taxes will not be extinguished by insolvency or other failure of the
32 recipient. Transfer of ownership does not terminate the deferral. The
33 deferral is transferred, subject to the successor meeting the
34 eligibility requirements of this chapter, for the remaining periods of
35 the deferral.

1 (4) Notwithstanding subsection (2) of this section, deferred taxes
2 on the following need not be repaid:

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

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

8 **Sec. 10.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read
9 as follows:

10 (1) Wholesalers or third-party warehouseers who own or operate
11 warehouses or grain elevators and retailers who own or operate
12 distribution centers, and who have paid the tax levied by RCW 82.08.020
13 on:

14 (a) Material-handling and racking equipment, and labor and services
15 rendered in respect to installing, repairing, cleaning, altering, or
16 improving the equipment; or

17 (b) Construction of a warehouse or grain elevator, including
18 materials, and including service and labor costs,
19 are eligible for an exemption in the form of a remittance. The amount
20 of the remittance is computed under subsection (3) of this section and
21 is based on the state share of sales tax.

22 (2) For purposes of this section and RCW 82.12.820:

23 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

24 (b) "Construction" means the actual construction of a warehouse or
25 grain elevator that did not exist before the construction began.
26 "Construction" includes expansion if the expansion adds at least two
27 hundred thousand square feet of additional space to an existing
28 warehouse or additional storage capacity of at least one million
29 bushels to an existing grain elevator. "Construction" does not include
30 renovation, remodeling, or repair;

31 (c) "Department" means the department of revenue;

32 (d) "Distribution center" means a warehouse that is used
33 exclusively by a retailer solely for the storage and distribution of
34 finished goods to retail outlets of the retailer. "Distribution
35 center" does not include a warehouse at which retail sales occur;

36 (e) "Finished goods" means tangible personal property intended for
37 sale by a retailer or wholesaler. "Finished goods" does not include

1 agricultural products stored by wholesalers, third-party warehouses, or
2 retailers if the storage takes place on the land of the person who
3 produced the agricultural product. "Finished goods" does not include
4 logs, minerals, petroleum, gas, or other extracted products stored as
5 raw materials or in bulk;

6 (f) "Grain elevator" means a structure used for storage and
7 handling of grain in bulk;

8 (g) "Material-handling equipment and racking equipment" means
9 equipment in a warehouse or grain elevator that is primarily used to
10 handle, store, organize, convey, package, or repackage finished goods.
11 The term includes tangible personal property with a useful life of one
12 year or more that becomes an ingredient or component of the equipment,
13 including repair and replacement parts. The term does not include
14 equipment in offices, lunchrooms, restrooms, and other like space,
15 within a warehouse or grain elevator, or equipment used for
16 nonwarehousing purposes. "Material-handling equipment" includes but is
17 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
18 place units, cranes, hoists, mechanical arms, and robots; mechanized
19 systems, including containers that are an integral part of the system,
20 whose purpose is to lift or move tangible personal property; and
21 automated handling, storage, and retrieval systems, including computers
22 that control them, whose purpose is to lift or move tangible personal
23 property; and forklifts and other off-the-road vehicles that are used
24 to lift or move tangible personal property and that cannot be operated
25 legally on roads and streets. "Racking equipment" includes, but is not
26 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
27 pallets, and other containers and storage devices that form a necessary
28 part of the storage system;

29 (h) "Person" has the meaning given in RCW 82.04.030;

30 (i) "Retailer" means a person who makes "sales at retail" as
31 defined in chapter 82.04 RCW of tangible personal property;

32 (j) "Square footage" means the product of the two horizontal
33 dimensions of each floor of a specific warehouse. The entire footprint
34 of the warehouse shall be measured in calculating the square footage,
35 including space that juts out from the building profile such as loading
36 docks. "Square footage" does not mean the aggregate of the square
37 footage of more than one warehouse at a location or the aggregate of
38 the square footage of warehouses at more than one location;

1 (k) "Third-party warehouse" means a person taxable under RCW
2 82.04.280(4);

3 (l) "Warehouse" means an enclosed building or structure in which
4 finished goods are stored. A warehouse building or structure may have
5 more than one storage room and more than one floor. Office space,
6 lunchrooms, restrooms, and other space within the warehouse and
7 necessary for the operation of the warehouse are considered part of the
8 warehouse as are loading docks and other such space attached to the
9 building and used for handling of finished goods. Landscaping and
10 parking lots are not considered part of the warehouse. A storage yard
11 is not a warehouse, nor is a building in which manufacturing takes
12 place; and

13 (m) "Wholesaler" means a person who makes "sales at wholesale" as
14 defined in chapter 82.04 RCW of tangible personal property, but
15 "wholesaler" does not include a person who makes sales exempt under RCW
16 82.04.330.

17 (3)(a) A person claiming an exemption from state tax in the form of
18 a remittance under this section must pay the tax imposed by RCW
19 82.08.020. The buyer may then apply to the department for remittance
20 of all or part of the tax paid under RCW 82.08.020. For grain
21 elevators with bushel capacity of one million but less than two
22 million, the remittance is equal to fifty percent of the amount of tax
23 paid. For warehouses with square footage of two hundred thousand or
24 more and for grain elevators with bushel capacity of two million or
25 more, the remittance is equal to one hundred percent of the amount of
26 tax paid for qualifying construction, materials, service, and labor,
27 and fifty percent of the amount of tax paid for qualifying material-
28 handling equipment and racking equipment, and labor and services
29 rendered in respect to installing, repairing, cleaning, altering, or
30 improving the equipment.

31 (b) The department shall determine eligibility under this section
32 based on information provided by the buyer and through audit and other
33 administrative records. The buyer shall on a quarterly basis submit an
34 information sheet, in a form and manner as required by the department
35 by rule, specifying the amount of exempted tax claimed and the
36 qualifying purchases or acquisitions for which the exemption is
37 claimed. The buyer shall retain, in adequate detail to enable the
38 department to determine whether the equipment or construction meets the

1 criteria under this section: Invoices; proof of tax paid; documents
2 describing the material-handling equipment and racking equipment;
3 location and size of warehouses and grain elevators; and construction
4 invoices and documents.

5 (c) The department shall on a quarterly basis remit exempted
6 amounts to qualifying persons who submitted applications during the
7 previous quarter.

8 (4) Warehouses, grain elevators, and material-handling equipment
9 and racking equipment for which an exemption, credit, or deferral has
10 been or is being received under chapter 82.60, (~~(82.617)~~) 82.62, or
11 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
12 remittance under this section. Warehouses and grain elevators upon
13 which construction was initiated before May 20, 1997, are not eligible
14 for a remittance under this section.

15 (5) The lessor or owner of a warehouse or grain elevator is not
16 eligible for a remittance under this section unless the underlying
17 ownership of the warehouse or grain elevator and the material-handling
18 equipment and racking equipment vests exclusively in the same person,
19 or unless the lessor by written contract agrees to pass the economic
20 benefit of the remittance to the lessee in the form of reduced rent
21 payments.

22 **Sec. 11.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
23 read as follows:

24 (1) Wholesalers or third-party warehouseers who own or operate
25 warehouses or grain elevators and retailers who own or operate
26 distribution centers, and who have paid the tax levied by RCW 82.08.020
27 on:

28 (a) Material-handling and racking equipment, and labor and services
29 rendered in respect to installing, repairing, cleaning, altering, or
30 improving the equipment; or

31 (b) Construction of a warehouse or grain elevator, including
32 materials, and including service and labor costs,
33 are eligible for an exemption in the form of a remittance. The amount
34 of the remittance is computed under subsection (3) of this section and
35 is based on the state share of sales tax.

36 (2) For purposes of this section and RCW 82.12.820:

37 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

1 (b) "Cold storage warehouse" (~~means a storage warehouse used to~~
2 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~
3 ~~combination thereof, at a desired temperature to maintain the quality~~
4 ~~of the product for orderly marketing~~)) has the meaning provided in RCW
5 82.74.010;

6 (c) "Construction" means the actual construction of a warehouse or
7 grain elevator that did not exist before the construction began.
8 "Construction" includes expansion if the expansion adds at least
9 twenty-five thousand square feet of additional space to an existing
10 cold storage warehouse, at least two hundred thousand square feet of
11 additional space to an existing warehouse other than a cold storage
12 warehouse, or additional storage capacity of at least one million
13 bushels to an existing grain elevator. "Construction" does not include
14 renovation, remodeling, or repair;

15 (d) "Department" means the department of revenue;

16 (e) "Distribution center" means a warehouse that is used
17 exclusively by a retailer solely for the storage and distribution of
18 finished goods to retail outlets of the retailer. "Distribution
19 center" does not include a warehouse at which retail sales occur;

20 (f) "Finished goods" means tangible personal property intended for
21 sale by a retailer or wholesaler. "Finished goods" does not include
22 agricultural products stored by wholesalers, third-party warehouses, or
23 retailers if the storage takes place on the land of the person who
24 produced the agricultural product. "Finished goods" does not include
25 logs, minerals, petroleum, gas, or other extracted products stored as
26 raw materials or in bulk;

27 (g) "Grain elevator" means a structure used for storage and
28 handling of grain in bulk;

29 (h) "Material-handling equipment and racking equipment" means
30 equipment in a warehouse or grain elevator that is primarily used to
31 handle, store, organize, convey, package, or repackage finished goods.
32 The term includes tangible personal property with a useful life of one
33 year or more that becomes an ingredient or component of the equipment,
34 including repair and replacement parts. The term does not include
35 equipment in offices, lunchrooms, restrooms, and other like space,
36 within a warehouse or grain elevator, or equipment used for
37 nonwarehousing purposes. "Material-handling equipment" includes but is
38 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-

1 place units, cranes, hoists, mechanical arms, and robots; mechanized
2 systems, including containers that are an integral part of the system,
3 whose purpose is to lift or move tangible personal property; and
4 automated handling, storage, and retrieval systems, including computers
5 that control them, whose purpose is to lift or move tangible personal
6 property; and forklifts and other off-the-road vehicles that are used
7 to lift or move tangible personal property and that cannot be operated
8 legally on roads and streets. "Racking equipment" includes, but is not
9 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
10 pallets, and other containers and storage devices that form a necessary
11 part of the storage system;

12 (i) "Person" has the meaning given in RCW 82.04.030;

13 (j) "Retailer" means a person who makes "sales at retail" as
14 defined in chapter 82.04 RCW of tangible personal property;

15 (k) "Square footage" means the product of the two horizontal
16 dimensions of each floor of a specific warehouse. The entire footprint
17 of the warehouse shall be measured in calculating the square footage,
18 including space that juts out from the building profile such as loading
19 docks. "Square footage" does not mean the aggregate of the square
20 footage of more than one warehouse at a location or the aggregate of
21 the square footage of warehouses at more than one location;

22 (l) "Third-party warehouser" means a person taxable under RCW
23 82.04.280(4);

24 (m) "Warehouse" means an enclosed building or structure in which
25 finished goods are stored. A warehouse building or structure may have
26 more than one storage room and more than one floor. Office space,
27 lunchrooms, restrooms, and other space within the warehouse and
28 necessary for the operation of the warehouse are considered part of the
29 warehouse as are loading docks and other such space attached to the
30 building and used for handling of finished goods. Landscaping and
31 parking lots are not considered part of the warehouse. A storage yard
32 is not a warehouse, nor is a building in which manufacturing takes
33 place; and

34 (n) "Wholesaler" means a person who makes "sales at wholesale" as
35 defined in chapter 82.04 RCW of tangible personal property, but
36 "wholesaler" does not include a person who makes sales exempt under RCW
37 82.04.330.

1 (3)(a) A person claiming an exemption from state tax in the form of
2 a remittance under this section must pay the tax imposed by RCW
3 82.08.020. The buyer may then apply to the department for remittance
4 of all or part of the tax paid under RCW 82.08.020. For grain
5 elevators with bushel capacity of one million but less than two
6 million, the remittance is equal to fifty percent of the amount of tax
7 paid. For warehouses with square footage of two hundred thousand or
8 more, other than cold storage warehouses, and for grain elevators with
9 bushel capacity of two million or more, the remittance is equal to one
10 hundred percent of the amount of tax paid for qualifying construction,
11 materials, service, and labor, and fifty percent of the amount of tax
12 paid for qualifying material-handling equipment and racking equipment,
13 and labor and services rendered in respect to installing, repairing,
14 cleaning, altering, or improving the equipment. For cold storage
15 warehouses with square footage of twenty-five thousand or more, the
16 remittance is equal to one hundred percent of the amount of tax paid
17 for qualifying construction, materials, service, and labor, and one
18 hundred percent of the amount of tax paid for qualifying material-
19 handling equipment and racking equipment, and labor and services
20 rendered in respect to installing, repairing, cleaning, altering, or
21 improving the equipment.

22 (b) The department shall determine eligibility under this section
23 based on information provided by the buyer and through audit and other
24 administrative records. The buyer shall on a quarterly basis submit an
25 information sheet, in a form and manner as required by the department
26 by rule, specifying the amount of exempted tax claimed and the
27 qualifying purchases or acquisitions for which the exemption is
28 claimed. The buyer shall retain, in adequate detail to enable the
29 department to determine whether the equipment or construction meets the
30 criteria under this section: Invoices; proof of tax paid; documents
31 describing the material-handling equipment and racking equipment;
32 location and size of warehouses and grain elevators; and construction
33 invoices and documents.

34 (c) The department shall on a quarterly basis remit exempted
35 amounts to qualifying persons who submitted applications during the
36 previous quarter.

37 (4) Warehouses, grain elevators, and material-handling equipment
38 and racking equipment for which an exemption, credit, or deferral has

1 been or is being received under chapter 82.60, (~~82.61,~~) 82.62, or
2 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
3 remittance under this section. Warehouses and grain elevators upon
4 which construction was initiated before May 20, 1997, are not eligible
5 for a remittance under this section.

6 (5) The lessor or owner of a warehouse or grain elevator is not
7 eligible for a remittance under this section unless the underlying
8 ownership of the warehouse or grain elevator and the material-handling
9 equipment and racking equipment vests exclusively in the same person,
10 or unless the lessor by written contract agrees to pass the economic
11 benefit of the remittance to the lessee in the form of reduced rent
12 payments.

13 **Sec. 12.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
14 read as follows:

15 (1) Wholesalers or third-party warehouseers who own or operate
16 warehouses or grain elevators and retailers who own or operate
17 distribution centers, and who have paid the tax levied by RCW 82.08.020
18 on:

19 (a) Material-handling and racking equipment, and labor and services
20 rendered in respect to installing, repairing, cleaning, altering, or
21 improving the equipment; or

22 (b) Construction of a warehouse or grain elevator, including
23 materials, and including service and labor costs,
24 are eligible for an exemption in the form of a remittance. The amount
25 of the remittance is computed under subsection (3) of this section and
26 is based on the state share of sales tax.

27 (2) For purposes of this section and RCW 82.12.820:

28 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

29 (b) (~~"Cold storage warehouse" means a storage warehouse used to
30 store fresh and/or frozen perishable fruits or vegetables, or any
31 combination thereof, at a desired temperature to maintain the quality
32 of the product for orderly marketing;~~

33 ~~(c))~~ "Construction" means the actual construction of a warehouse
34 or grain elevator that did not exist before the construction began.
35 "Construction" includes expansion if the expansion adds (~~at least
36 twenty five thousand square feet of additional space to an existing
37 cold storage warehouse,~~) at least two hundred thousand square feet of

1 additional space to an existing warehouse (~~((other than a cold storage~~
2 ~~warehouse,))~~) or additional storage capacity of at least one million
3 bushels to an existing grain elevator. "Construction" does not include
4 renovation, remodeling, or repair;

5 ~~((+d))~~ (c) "Department" means the department of revenue;

6 ~~((+e))~~ (d) "Distribution center" means a warehouse that is used
7 exclusively by a retailer solely for the storage and distribution of
8 finished goods to retail outlets of the retailer. "Distribution
9 center" does not include a warehouse at which retail sales occur;

10 ~~((+f))~~ (e) "Finished goods" means tangible personal property
11 intended for sale by a retailer or wholesaler. "Finished goods" does
12 not include agricultural products stored by wholesalers, third-party
13 warehouses, or retailers if the storage takes place on the land of the
14 person who produced the agricultural product. "Finished goods" does
15 not include logs, minerals, petroleum, gas, or other extracted products
16 stored as raw materials or in bulk;

17 ~~((+g))~~ (f) "Grain elevator" means a structure used for storage and
18 handling of grain in bulk;

19 ~~((+h))~~ (g) "Material-handling equipment and racking equipment"
20 means equipment in a warehouse or grain elevator that is primarily used
21 to handle, store, organize, convey, package, or repackage finished
22 goods. The term includes tangible personal property with a useful life
23 of one year or more that becomes an ingredient or component of the
24 equipment, including repair and replacement parts. The term does not
25 include equipment in offices, lunchrooms, restrooms, and other like
26 space, within a warehouse or grain elevator, or equipment used for
27 nonwarehousing purposes. "Material-handling equipment" includes but is
28 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
29 place units, cranes, hoists, mechanical arms, and robots; mechanized
30 systems, including containers that are an integral part of the system,
31 whose purpose is to lift or move tangible personal property; and
32 automated handling, storage, and retrieval systems, including computers
33 that control them, whose purpose is to lift or move tangible personal
34 property; and forklifts and other off-the-road vehicles that are used
35 to lift or move tangible personal property and that cannot be operated
36 legally on roads and streets. "Racking equipment" includes, but is not
37 limited to, conveying systems, chutes, shelves, racks, bins, drawers,

1 pallets, and other containers and storage devices that form a necessary
2 part of the storage system;

3 ((+i)) (h) "Person" has the meaning given in RCW 82.04.030;

4 ((+j)) (i) "Retailer" means a person who makes "sales at retail"
5 as defined in chapter 82.04 RCW of tangible personal property;

6 ((+k)) (j) "Square footage" means the product of the two
7 horizontal dimensions of each floor of a specific warehouse. The
8 entire footprint of the warehouse shall be measured in calculating the
9 square footage, including space that juts out from the building profile
10 such as loading docks. "Square footage" does not mean the aggregate of
11 the square footage of more than one warehouse at a location or the
12 aggregate of the square footage of warehouses at more than one
13 location;

14 ((+l)) (k) "Third-party warehouser" means a person taxable under
15 RCW 82.04.280(4);

16 ((+m)) (l) "Warehouse" means an enclosed building or structure in
17 which finished goods are stored. A warehouse building or structure may
18 have more than one storage room and more than one floor. Office space,
19 lunchrooms, restrooms, and other space within the warehouse and
20 necessary for the operation of the warehouse are considered part of the
21 warehouse as are loading docks and other such space attached to the
22 building and used for handling of finished goods. Landscaping and
23 parking lots are not considered part of the warehouse. A storage yard
24 is not a warehouse, nor is a building in which manufacturing takes
25 place; and

26 ((+n)) (m) "Wholesaler" means a person who makes "sales at
27 wholesale" as defined in chapter 82.04 RCW of tangible personal
28 property, but "wholesaler" does not include a person who makes sales
29 exempt under RCW 82.04.330.

30 (3)(a) A person claiming an exemption from state tax in the form of
31 a remittance under this section must pay the tax imposed by RCW
32 82.08.020. The buyer may then apply to the department for remittance
33 of all or part of the tax paid under RCW 82.08.020. For grain
34 elevators with bushel capacity of one million but less than two
35 million, the remittance is equal to fifty percent of the amount of tax
36 paid. For warehouses with square footage of two hundred thousand or
37 more(~~, other than cold storage warehouses,~~) and for grain elevators
38 with bushel capacity of two million or more, the remittance is equal to

1 one hundred percent of the amount of tax paid for qualifying
2 construction, materials, service, and labor, and fifty percent of the
3 amount of tax paid for qualifying material-handling equipment and
4 racking equipment, and labor and services rendered in respect to
5 installing, repairing, cleaning, altering, or improving the equipment.
6 (~~For cold storage warehouses with square footage of twenty five~~
7 ~~thousand or more, the remittance is equal to one hundred percent of the~~
8 ~~amount of tax paid for qualifying construction, materials, service, and~~
9 ~~labor, and one hundred percent of the amount of tax paid for qualifying~~
10 ~~material handling equipment and racking equipment, and labor and~~
11 ~~services rendered in respect to installing, repairing, cleaning,~~
12 ~~altering, or improving the equipment.))~~

13 (b) The department shall determine eligibility under this section
14 based on information provided by the buyer and through audit and other
15 administrative records. The buyer shall on a quarterly basis submit an
16 information sheet, in a form and manner as required by the department
17 by rule, specifying the amount of exempted tax claimed and the
18 qualifying purchases or acquisitions for which the exemption is
19 claimed. The buyer shall retain, in adequate detail to enable the
20 department to determine whether the equipment or construction meets the
21 criteria under this section: Invoices; proof of tax paid; documents
22 describing the material-handling equipment and racking equipment;
23 location and size of warehouses and grain elevators; and construction
24 invoices and documents.

25 (c) The department shall on a quarterly basis remit exempted
26 amounts to qualifying persons who submitted applications during the
27 previous quarter.

28 (4) Warehouses, grain elevators, and material-handling equipment
29 and racking equipment for which an exemption, credit, or deferral has
30 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or
31 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
32 remittance under this section. Warehouses and grain elevators upon
33 which construction was initiated before May 20, 1997, are not eligible
34 for a remittance under this section.

35 (5) The lessor or owner of a warehouse or grain elevator is not
36 eligible for a remittance under this section unless the underlying
37 ownership of the warehouse or grain elevator and the material-handling
38 equipment and racking equipment vests exclusively in the same person,

1 or unless the lessor by written contract agrees to pass the economic
2 benefit of the remittance to the lessee in the form of reduced rent
3 payments.

4 **Sec. 13.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to
5 read as follows:

6 (1) Wholesalers or third-party warehouseurs who own or operate
7 warehouses or grain elevators, and retailers who own or operate
8 distribution centers, and who have paid the tax levied under RCW
9 82.12.020 on:

10 (a) Material-handling equipment and racking equipment and labor and
11 services rendered in respect to installing, repairing, cleaning,
12 altering, or improving the equipment; or

13 (b) Materials incorporated in the construction of a warehouse or
14 grain elevator, are eligible for an exemption on tax paid in the form
15 of a remittance or credit against tax owed. The amount of the
16 remittance or credit is computed under subsection (2) of this section
17 and is based on the state share of use tax.

18 (2)(a) A person claiming an exemption from state tax in the form of
19 a remittance under this section must pay the tax imposed by RCW
20 82.12.020 to the department. The person may then apply to the
21 department for remittance of all or part of the tax paid under RCW
22 82.12.020. For grain elevators with bushel capacity of one million but
23 less than two million, the remittance is equal to fifty percent of the
24 amount of tax paid. For warehouses with square footage of two hundred
25 thousand or more(~~(, other than cold storage warehouses,)~~) and for grain
26 elevators with bushel capacity of two million or more, the remittance
27 is equal to one hundred percent of the amount of tax paid for
28 qualifying construction materials, and fifty percent of the amount of
29 tax paid for qualifying material-handling equipment and racking
30 equipment. (~~((For cold storage warehouses with square footage of
31 twenty five thousand or more, the remittance is equal to one hundred
32 percent of the amount of tax paid for qualifying construction,
33 materials, service, and labor, and one hundred percent of the amount of
34 tax paid for qualifying material handling equipment and racking
35 equipment, and labor and services rendered in respect to installing,
36 repairing, cleaning, altering, or improving the equipment.))~~)

1 (b) The department shall determine eligibility under this section
2 based on information provided by the buyer and through audit and other
3 administrative records. The buyer shall on a quarterly basis submit an
4 information sheet, in a form and manner as required by the department
5 by rule, specifying the amount of exempted tax claimed and the
6 qualifying purchases or acquisitions for which the exemption is
7 claimed. The buyer shall retain, in adequate detail to enable the
8 department to determine whether the equipment or construction meets the
9 criteria under this section: Invoices; proof of tax paid; documents
10 describing the material-handling equipment and racking equipment;
11 location and size of warehouses, if applicable; and construction
12 invoices and documents.

13 (c) The department shall on a quarterly basis remit or credit
14 exempted amounts to qualifying persons who submitted applications
15 during the previous quarter.

16 (3) Warehouse, grain elevators, and material-handling equipment and
17 racking equipment for which an exemption, credit, or deferral has been
18 or is being received under chapter 82.60, (~~82.617~~) 82.62, or 82.63
19 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
20 remittance under this section. Materials incorporated in warehouses
21 and grain elevators upon which construction was initiated prior to May
22 20, 1997, are not eligible for a remittance under this section.

23 (4) The lessor or owner of the warehouse or grain elevator is not
24 eligible for a remittance or credit under this section unless the
25 underlying ownership of the warehouse or grain elevator and material-
26 handling equipment and racking equipment vests exclusively in the same
27 person, or unless the lessor by written contract agrees to pass the
28 economic benefit of the exemption to the lessee in the form of reduced
29 rent payments.

30 (5) The definitions in RCW 82.08.820 apply to this section.

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

33 ***(1) The tax levied by RCW 82.08.020 does not apply to sales to***
34 ***persons who are subject to tax under RCW 82.04.260(12) of: (a)***
35 ***Materials used to package canned salmon including, but not limited to,***
36 ***clear wrap, boxes, tape, and box labels; and (b) glue, ink, or similar***

1 *tangible personal property, that: (i) Affixes the label to the labeled*
2 *product; or (ii) becomes a component of the label.*

3 *(2) The exemption is available only if the buyer provides the*
4 *seller with an exemption certificate in a form and manner prescribed by*
5 *the department. The seller must retain a copy of the certificate for*
6 *the seller's files.*

**Sec. 14 was vetoed. See message at end of chapter.*

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

9 *The provisions of this chapter do not apply with respect to the use*
10 *by persons who are subject to tax under RCW 82.04.260(12) of: (1)*
11 *Materials used to package canned salmon including, but not limited to,*
12 *clear wrap, boxes, tape, and box labels; and (2) glue, ink, or similar*
13 *tangible personal property, that: (a) Affixes the label to the labeled*
14 *product; or (b) becomes a component of the label.*

**Sec. 15 was vetoed. See message at end of chapter.*

15 *Sec. 16. RCW 82.32.600 and 2005 c 514 s 1002 are each amended to*
16 *read as follows:*

17 *(1) Persons required to file surveys under RCW 82.04.4452,*
18 *82.32.610, or 82.74.040 must electronically file with the department*
19 *all surveys, returns, and any other forms or information the department*
20 *requires in an electronic format as provided or approved by the*
21 *department(~~(, unless the department grants relief under subsection (2)~~*
22 *~~of this section)).~~ As used in this section, "returns" has the same*
23 *meaning as "return" in RCW 82.32.050.*

24 *(2) (~~Upon request, the department may relieve a person of the~~*
25 *~~obligations in subsection (1) of this section if the person's taxes~~*
26 *~~have been reduced a cumulative total of less than one thousand dollars~~*
27 *~~from all of the credits, exemptions, or preferential business and~~*
28 *~~occupation tax rates, for which a person is required to file an annual~~*
29 *~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~*
30 *~~82.32.560, 82.60.070, or 82.63.020.~~*

31 *~~(3) Persons who no longer qualify for relief under subsection (2)~~*
32 *~~of this section will be notified in writing by the department and must~~*
33 *~~comply with subsection (1) of this section by the date provided in the~~*
34 *~~notice.~~*

35 *(4)) Any survey, return, or any other form or information required*

1 to be filed in an electronic format under subsection (1) of this
2 section is not filed until received by the department in an electronic
3 format.

4 (3) The department may waive the electronic filing requirement in
5 subsection (1) of this section for good cause shown.

6 **Sec. 17.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to
7 read as follows:

8 (1) If the department finds that the failure of a taxpayer to file
9 an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the
10 due date was the result of circumstances beyond the control of the
11 taxpayer, the department shall extend the time for filing the survey.
12 Such extension shall be for a period of thirty days from the date the
13 department issues its written notification to the taxpayer that it
14 qualifies for an extension under this section. The department may
15 grant additional extensions as it deems proper.

16 (2) In making a determination whether the failure of a taxpayer to
17 file an annual survey by the due date was the result of circumstances
18 beyond the control of the taxpayer, the department shall be guided by
19 rules adopted by the department for the waiver or cancellation of
20 penalties when the underpayment or untimely payment of any tax was due
21 to circumstances beyond the control of the taxpayer.

22 NEW SECTION. **Sec. 18.** (1) Except as otherwise provided in this
23 section, this act takes effect July 1, 2006.

24 (2) Sections 6 through 9 and 11 of this act take effect July 1,
25 2007.

26 (3) Sections 12 and 13 of this act take effect July 1, 2012.

27 NEW SECTION. **Sec. 19.** Section 10 of this act expires July 1,
28 2007.

29 NEW SECTION. **Sec. 20.** Section 11 of this act expires July 1,
30 2012.

Passed by the House March 8, 2006.
Passed by the Senate March 7, 2006.
Approved by the Governor March 30, 2006, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State March 30, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 14 and 15, Engrossed House Bill No. 3159 entitled:

"AN ACT Relating to the excise taxation of food products."

Sections 14 and 15 of this bill provide a sales and use tax exemption on material used to package canned salmon. That material includes items that affix the label to the labeled product, or items that become a component of the label, such as clear wrap, boxes, tape, box labels, glue, and ink.

With the exception of materials used to pack fresh perishable horticultural products for farmers, custom packers are consumers of packing materials and the purchase or use of such materials is subject to the retail sales and use tax. Consequently, I am concerned with providing a sales and use tax exemption for packing materials used by persons subject to the preferential rate for canned salmon. Such persons are custom packers. Providing a limited exemption for these materials sets a precedent for other custom packers who desire similar sales and use tax exemptions.

The 2005 tax breaks for the fruit and vegetable processors were enacted to help an industry that was in obvious trouble and in need of temporary aid to help turn around the industry's fortunes. That legislation was not intended to create a template for getting tax breaks for other industries. Rather, it was intended to help a Washington industry in dire straits. Washington's seafood processing industry appears to be healthy and does not need this kind of help from the state.

For these reasons, I have vetoed Sections 14 and 15 of Engrossed House Bill No. 3159.

With the exception of Sections 14 and 15, Engrossed House Bill No. 3159 is approved."