
SENATE BILL 6635

State of Washington 62nd Legislature 2012 1st Special Session

By Senators Murray and Kline

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

1 AN ACT Relating to improving revenue and budget sustainability by
2 repealing, modifying, or revising tax preferences; amending RCW
3 82.04.4292, 82.04.4266, 82.04.4268, 82.04.4269, 82.04.260, 82.08.986,
4 82.08.986, 82.12.986, 82.04.214, and 82.04.260; adding a new section to
5 chapter 82.04 RCW; creating new sections; repealing RCW 82.08.0289;
6 providing an effective date; providing a contingent effective date;
7 providing expiration dates; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that Washington's
10 budget sustainability depends equally on prudent expenditures and
11 adequate revenues, and it is in the interest of Washingtonians, who
12 both pay taxes and receive services, to balance both sides of the
13 budget. Through this act the legislature intends to increase revenues
14 by repealing or modifying outdated tax exemptions and updating or
15 extending expiring preferences that are providing economic benefit to
16 the state, and by doing so, the legislature intends to improve the
17 long-term sustainability of the state's budget.

1 **PART I**

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

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

5 (1) Amounts derived from interest received on loans originated by
6 a person located in more than ten states, or an affiliate of such
7 person, and primarily secured by first mortgages or trust deeds on
8 nontransient residential properties are subject to tax under RCW
9 82.04.290(2)(a).

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

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

14 (b) Such in-state presence allows borrowers or potential borrowers
15 to contact the branch, office, employee, or representative concerning
16 the acquiring, negotiating, renegotiating, or restructuring of, or
17 making payments on, mortgages issued or to be issued by the person or
18 an affiliate of the person.

19 (3) For purposes of this section:

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

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

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

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

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

36 (3) Subsections (1) and (2) of this section notwithstanding, the

1 following is a nonexclusive list of items that are not deductible under
2 this section:

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

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

10 (c) Any other fees, or portion of a fee, that is not recognized
11 over the life of the loan as an adjustment to yield in the taxpayer's
12 books and records according to generally accepted accounting
13 principles;

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

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

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

27 (a)(i) The loans were originated by the person claiming a deduction
28 under this subsection (4) and that person either sold the loans on the
29 secondary market or securitized the loans and sold the securities on
30 the secondary market; or

31 (ii)(A) The person claiming a deduction under this subsection (4)
32 acquired the loans from the person that originated the loans through a
33 merger or acquisition of substantially all of the assets of the person
34 who originated the loans, or the person claiming a deduction under this
35 subsection (4) is affiliated with the person that originated the loans.
36 For purposes of this subsection, "affiliated" means under common
37 control. "Control" means the possession, directly or indirectly, of

1 more than fifty percent of the power to direct or cause the direction
2 of the management and policies of a person, whether through the
3 ownership of voting shares, by contract, or otherwise; and

4 (B) Either the person who originated the loans or the person
5 claiming a deduction under this subsection (4) sold the loans on the
6 secondary market or securitized the loans and sold the securities on
7 the secondary market; and

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

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

13 (6) By June 30, 2015, the joint legislative audit and review
14 committee must review the deductions provided in this section in
15 accordance with RCW 43.136.055 and make a recommendation as to whether
16 the deductions should be continued without modification, modified, or
17 terminated immediately.

18 **PART II**

19 **EXTENDING THE B&O TAX EXEMPTION FOR FRUIT, VEGETABLE, DAIRY, AND**
20 **SEAFOOD BUSINESSES**

21 **Sec. 201.** RCW 82.04.4266 and 2011 c 2 s 202 (Initiative Measure
22 No. 1107) are each amended to read as follows:

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

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

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

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

1 (3) This section expires July 1, (~~2012~~) 2017.

2 **Sec. 202.** RCW 82.04.4268 and 2010 c 114 s 112 are each amended to
3 read as follows:

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

6 (a) Manufacturing dairy products; or

7 (b) Selling manufactured dairy products to purchasers who transport
8 in the ordinary course of business the goods out of this state. A
9 person taking an exemption under this subsection (1)(b) must keep and
10 preserve records for the period required by RCW 82.32.070 establishing
11 that the goods were transported by the purchaser in the ordinary course
12 of business out of this state.

13 (2) "Dairy products" means dairy products that as of September 20,
14 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
15 including byproducts from the manufacturing of the dairy products such
16 as whey and casein.

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

19 (4) This section expires July 1, (~~2012~~) 2017.

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

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

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

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

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

36 (3) This section expires July 1, (~~2012~~) 2017.

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

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

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

11 (b) Beginning July 1, (~~2012~~) 2017, seafood products that remain
12 in a raw, raw frozen, or raw salted state at the completion of the
13 manufacturing by that person; or selling manufactured seafood products
14 that remain in a raw, raw frozen, or raw salted state at the completion
15 of the manufacturing, to purchasers who transport in the ordinary
16 course of business the goods out of this state; as to such persons the
17 amount of tax with respect to such business is equal to the value of
18 the products manufactured or the gross proceeds derived from such
19 sales, multiplied by the rate of 0.138 percent. Sellers must keep and
20 preserve records for the period required by RCW 82.32.070 establishing
21 that the goods were transported by the purchaser in the ordinary course
22 of business out of this state;

23 (c) Beginning July 1, (~~2012~~) 2017, dairy products that as of
24 September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131,
25 133, and 135, including by-products from the manufacturing of the dairy
26 products such as whey and casein; or selling the same to purchasers who
27 transport in the ordinary course of business the goods out of state; as
28 to such persons the tax imposed is equal to the value of the products
29 manufactured or the gross proceeds derived from such sales multiplied
30 by the rate of 0.138 percent. Sellers must keep and preserve records
31 for the period required by RCW 82.32.070 establishing that the goods
32 were transported by the purchaser in the ordinary course of business
33 out of this state;

34 (d) Beginning July 1, (~~2012~~) 2017, fruits or vegetables by
35 canning, preserving, freezing, processing, or dehydrating fresh fruits
36 or vegetables, or selling at wholesale fruits or vegetables
37 manufactured by the seller by canning, preserving, freezing,
38 processing, or dehydrating fresh fruits or vegetables and sold to

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

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

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

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

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

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

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

36 (6) Upon every person engaging within this state in business as an
37 international steamship agent, international customs house broker,
38 international freight forwarder, vessel and/or cargo charter broker in

1 foreign commerce, and/or international air cargo agent; as to such
2 persons the amount of the tax with respect to only international
3 activities is equal to the gross income derived from such activities
4 multiplied by the rate of 0.275 percent.

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

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

1 If the gross income of the taxpayer is attributable to activities
2 both within and without this state, the gross income attributable to
3 this state must be determined in accordance with the methods of
4 apportionment required under RCW 82.04.460.

5 (9) Upon every person engaging within this state as an insurance
6 producer or title insurance agent licensed under chapter 48.17 RCW or
7 a surplus line broker licensed under chapter 48.15 RCW; as to such
8 persons, the amount of the tax with respect to such licensed activities
9 is equal to the gross income of such business multiplied by the rate of
10 0.484 percent.

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

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

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

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

1 processors for hire, be equal to the gross income of the business,
2 multiplied by the rate of 0.2904 percent.

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

5 (d) In addition to all other requirements under this title, a
6 person reporting under the tax rate provided in this subsection (11)
7 must file a complete annual report with the department under RCW
8 82.32.534.

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

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

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

28 (c) Until July 1, 2024, upon every person engaging within this
29 state in the business of selling at wholesale: (i) Timber extracted by
30 that person; (ii) timber products manufactured by that person from
31 timber or other timber products; or (iii) wood products manufactured by
32 that person from timber or timber products; as to such persons the
33 amount of the tax with respect to the business is equal to the gross
34 proceeds of sales of the timber, timber products, or wood products
35 multiplied by the rate of 0.4235 percent from July 1, 2006, through
36 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
37 2024.

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

11 (e) For purposes of this subsection, the following definitions
12 apply:

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

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

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

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

37 (v) "Timber products" means:

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

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

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

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

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

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

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

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

28 PART III

29 AMENDING THE SALES AND USE TAX EXEMPTION FOR CERTAIN EQUIPMENT USED IN 30 COMPUTER DATA CENTERS

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

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

7 (3) Data center technology has advanced rapidly, with marked
8 increases in energy efficiency. Large, commercial-grade data centers
9 leverage the economies of scale to reduce energy consumption.
10 Combining digitized processes with the economies of scale recognized at
11 these data centers, today's enterprises can materially reduce the
12 energy they consume and greatly improve their efficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) The portion of the net increase in family wage employment
37 positions to be counted under this subsection (3)(b)(ii) by each
38 (~~((lessee))~~) qualifying tenant must be in proportion to the amount of

1 space in the eligible computer data center occupied by the ((lessee))
2 qualifying tenant compared to the total amount of space in the eligible
3 computer data center occupied by all ((lessees that are qualifying
4 ~~businesses~~)) qualifying tenants.

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

19 (ii)(A) Family wage employment positions include positions filled
20 by employees of the owner of the eligible computer data center and by
21 employees of qualifying ((~~businesses leasing space from the owner of~~
22 ~~the eligible computer data center~~)) tenants.

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

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

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

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

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

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

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

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

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

37 (iii) A facility comprised of one building or more than one

1 building must have a combined square footage of at least one hundred
2 thousand square feet.

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

10 ~~((e))~~ (d)(i) "Eligible computer data center" means a computer
11 data center:

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

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

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

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

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

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

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

36 ~~((d))~~ (e) "Eligible power infrastructure" means all fixtures and
37 equipment owned by a qualifying business or qualifying tenant and
38 necessary for the transformation, distribution, or management of

1 electricity that is required to operate eligible server equipment
2 within an eligible computer data center. The term includes
3 ~~((electrical—substations,)) generators((,)) wiring((,—and));~~
4 cogeneration equipment; and associated fixtures and equipment, such as
5 electrical switches, batteries, and distribution, testing, and
6 monitoring equipment.

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

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

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

17 ~~((ii))~~ (B) Is installed and put into regular use before April 1,
18 2018.

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

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

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

30 (iii) For a qualifying tenant who leases space within an eligible
31 computer data center, "eligible server equipment" means the original
32 server equipment installed within the space it leases from an eligible
33 computer data center on or after April 1, 2012, and replacement server
34 equipment. For purposes of this subsection (6)(f)(iii), "replacement
35 server equipment" means server equipment that:

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

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

2 ~~((f))~~ (g) "Qualifying business" means a business entity that
3 exists for the primary purpose of engaging in commercial activity for
4 profit and that is the owner of an eligible computer data center ~~((or~~
5 ~~the lessee of at least twenty thousand square feet within an eligible~~
6 ~~computer data center dedicated to housing working servers, where the~~
7 ~~server space has not previously been dedicated to housing working~~
8 ~~servers))~~. The term does not include the state or federal government
9 or any of their departments, agencies, and institutions; tribal
10 governments; political subdivisions of this state; or any municipal,
11 quasi-municipal, public, or other corporation created by the state or
12 federal government, tribal government, municipality, or political
13 subdivision of the state.

14 ~~((g) "Server" means blade or rack mount server computers used in~~
15 ~~a computer data center exclusively to provide electronic data storage~~
16 ~~and data management services for internal use by the owner or lessee of~~
17 ~~the computer data center, for clients of the owner or lessee of the~~
18 ~~computer data center, or both. "Server" does not include personal~~
19 ~~computers.~~

20 ~~(h) "Server equipment" means the server chassis and all computer~~
21 ~~hardware contained within the server chassis. "Server equipment" also~~
22 ~~includes computer software necessary to operate the server. "Server~~
23 ~~equipment" does not include the racks upon which the server chassis is~~
24 ~~installed, and computer peripherals such as keyboards, monitors,~~
25 ~~printers, mice, and other devices that work outside of the computer.)~~

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

37 (i) That space will be used by the lessee to house server equipment

1 that replaces server equipment previously installed and operated in
2 that eligible computer data center by the lessor or another person
3 affiliated with the lessee; or

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

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

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

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

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

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

1 assign a unique identification number to each exemption certificate
2 issued under this section.

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

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

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

22 (b) In calculating the net increase in family wage employment
23 positions:

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

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

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

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

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

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

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

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

22 (ii)(A) Family wage employment positions include positions filled
23 by employees of the owner of the eligible computer data center and by
24 employees of qualifying ((businesses leasing space from the owner of
25 the eligible computer data center)) 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 due
35 and payable for a qualifying business or qualifying tenant that does
36 not meet the requirements of this subsection.

37 (4) A qualifying business or a qualifying tenant claiming an

1 exemption under this section or RCW 82.12.986 must complete an annual
2 ((report)) survey with the department as required under RCW
3 ((82.32.534)) 82.32.585.

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

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

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

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

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

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

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

36 (ii) For a computer data center comprised of multiple buildings,
37 each separate building constructed or refurbished specifically, and

1 used primarily, to house working servers is considered a computer data
2 center if it has all of the characteristics listed in ~~((a))~~ (b)(i)(A)
3 through (C) of this subsection (6).

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

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

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

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

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

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

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

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

23 (ii) For purposes of this section, "commencement of construction"
24 means the date that a building permit is issued under the building code
25 adopted under RCW 19.27.031 for construction of the computer data
26 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 grading,
30 site preparation, or any other related activities that are initiated
31 before the issuance of a building permit for the construction of the
32 foundation of a computer data center.

33 ~~((ii))~~ (iii) With respect to facilities in existence on April 1,
34 2010, that are expanded, renovated, or otherwise improved after March
35 31, 2010, or facilities in existence on April 1, 2012, that are
36 expanded, renovated, or otherwise improved after March 31, 2012, an
37 eligible computer data center includes only the portion of the computer

1 data center meeting the requirements in ~~((e))~~ (d)(i)(B) of this
2 subsection (6).

3 ~~((d))~~ (e) "Eligible power infrastructure" means all fixtures and
4 equipment owned by a qualifying business, or qualifying tenant and
5 necessary for the transformation, distribution, or management of
6 electricity that is required to operate eligible server equipment
7 within an eligible computer data center. The term includes
8 ~~((electrical—substations,))~~ generators~~((,))~~; wiring~~((, and))~~;
9 cogeneration equipment; and associated fixtures and equipment, such as
10 electrical switches, batteries, and distribution, testing, and
11 monitoring equipment.

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

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

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

22 ~~((ii))~~ (B) Is installed and put into regular use before April 1,
23 2018.

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

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

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

35 (iii) For a qualifying tenant who leases space within an eligible
36 computer data center, "eligible server equipment" means the original
37 server equipment installed within the space it leases from an eligible

1 computer data center on or after April 1, 2012, and replacement server
2 equipment. For purposes of this subsection (6)(f)(iii), "replacement
3 server equipment" means server equipment that:

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

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

8 ~~((f))~~ (g) "Qualifying business" means a business entity that
9 exists for the primary purpose of engaging in commercial activity for
10 profit and that is the owner of an eligible computer data center (~~or~~
11 ~~the lessee of at least twenty thousand square feet within an eligible~~
12 ~~computer data center dedicated to housing working servers, where the~~
13 ~~server space has not previously been dedicated to housing working~~
14 ~~servers)).~~ The term does not include the state or federal government
15 or any of their departments, agencies, and institutions; tribal
16 governments; political subdivisions of this state; or any municipal,
17 quasi-municipal, public, or other corporation created by the state or
18 federal government, tribal government, municipality, or political
19 subdivision of the state.

20 ~~((g) "Server" means blade or rack-mount server computers used in~~
21 ~~a computer data center exclusively to provide electronic data storage~~
22 ~~and data management services for internal use by the owner or lessee of~~
23 ~~the computer data center, for clients of the owner or lessee of the~~
24 ~~computer data center, or both. "Server" does not include personal~~
25 ~~computers.~~

26 ~~(h) "Server equipment" means the server chassis and all computer~~
27 ~~hardware contained within the server chassis. "Server equipment" also~~
28 ~~includes computer software necessary to operate the server. "Server~~
29 ~~equipment" does not include the racks upon which the server chassis is~~
30 ~~installed, and computer peripherals such as keyboards, monitors,~~
31 ~~printers, mice, and other devices that work outside of the computer.)~~

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

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

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

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

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

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

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

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

35 (2) A qualifying business or a qualifying tenant is not eligible
36 for the exemption under this section unless the department issued an

1 exemption certificate to the qualifying business or a qualifying tenant
2 for the exemption provided in RCW 82.08.986.

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

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

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

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

22 (4) The definitions and requirements in RCW 82.08.986 apply to this
23 section.

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

25 PART IV

26 NEWSPAPER BUSINESS AND OCCUPATION TAX

27 **Sec. 401.** RCW 82.04.214 and 2008 c 273 s 1 are each amended to
28 read as follows:

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

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

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

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

1 ~~((B))~~ (ii) Is prominently identified by the same name as the
2 printed newspaper or otherwise conspicuously indicates that it is a
3 complement to the printed newspaper.

4 ~~((b))~~ (2) For purposes of this section, "supplement" means a
5 printed publication, including a magazine or advertising section, that
6 is:

7 ~~((i))~~ (a) Labeled and identified as part of the printed
8 newspaper; and

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

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

11 ~~((B))~~ (ii) Separate and apart from the printed newspaper so long
12 as the distribution is within the general circulation area of the
13 newspaper.

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

20 **Sec. 402.** RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No.
21 1107) are each amended to read as follows:

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

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

30 (b) Beginning July 1, 2012, seafood products that remain in a raw,
31 raw frozen, or raw salted state at the completion of the manufacturing
32 by that person; or selling manufactured seafood products that remain in
33 a raw, raw frozen, or raw salted state at the completion of the
34 manufacturing, to purchasers who transport in the ordinary course of
35 business the goods out of this state; as to such persons the amount of
36 tax with respect to such business is equal to the value of the products
37 manufactured or the gross proceeds derived from such sales, multiplied

1 by the rate of 0.138 percent. Sellers must keep and preserve records
2 for the period required by RCW 82.32.070 establishing that the goods
3 were transported by the purchaser in the ordinary course of business
4 out of this state;

5 (c) Beginning July 1, 2012, dairy products that as of September 20,
6 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
7 including by-products from the manufacturing of the dairy products such
8 as whey and casein; or selling the same to purchasers who transport in
9 the ordinary course of business the goods out of state; as to such
10 persons the tax imposed is equal to the value of the products
11 manufactured or the gross proceeds derived from such sales multiplied
12 by the rate of 0.138 percent. Sellers must keep and preserve records
13 for the period required by RCW 82.32.070 establishing that the goods
14 were transported by the purchaser in the ordinary course of business
15 out of this state;

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

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

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

37 (2) Upon every person engaging within this state in the business of

1 splitting or processing dried peas; as to such persons the amount of
2 tax with respect to such business is equal to the value of the peas
3 split or processed, multiplied by the rate of 0.138 percent.

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

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

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

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

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

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

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

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

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

32 (10) Upon every person engaging within this state in business as a
33 hospital, as defined in chapter 70.41 RCW, that is operated as a
34 nonprofit corporation or by the state or any of its political
35 subdivisions, as to such persons, the amount of tax with respect to
36 such activities is equal to the gross income of the business multiplied
37 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent
38 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 retail
4 or wholesale, of commercial airplanes or components of such airplanes,
5 manufactured by the seller, as to such persons the amount of tax with
6 respect to such business is, in the case of manufacturers, equal to the
7 value of the product manufactured and the gross proceeds of sales of
8 the product manufactured, or in the case of processors for hire, equal
9 to the gross income of the business, multiplied by the rate of:

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

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

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

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

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

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

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

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

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

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

31 (e) For purposes of this subsection, the following definitions
32 apply:

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

36 (ii) "Paper and paper products" means products made of interwoven
37 cellulosic fibers held together largely by hydrogen bonding. "Paper
38 and paper products" includes newsprint; office, printing, fine, and

1 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
2 kraft bag, construction, and other kraft industrial papers; paperboard,
3 liquid packaging containers, containerboard, corrugated, and solid-
4 fiber containers including linerboard and corrugated medium; and
5 related types of cellulosic products containing primarily, by weight or
6 volume, cellulosic materials. "Paper and paper products" does not
7 include books, newspapers, magazines, periodicals, and other printed
8 publications, advertising materials, calendars, and similar types of
9 printed materials.

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

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

19 (v) "Timber products" means:

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

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

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

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

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

35 (13) Upon every person engaging within this state in inspecting,
36 testing, labeling, and storing canned salmon owned by another person,
37 as to such persons, the amount of tax with respect to such activities

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

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

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

12 **PART V**

13 **REPEALING THE SALES TAX EXEMPTION FOR CERTAIN PHONE SERVICES**

14 NEW SECTION. **Sec. 501.** RCW 82.08.0289 (Exemptions--Telephone,
15 telecommunications, and ancillary services) and 2007 c 6 s 1006, 2007
16 c 6 s 1005, 2002 c 67 s 6, & 1983 2nd ex.s. c 3 s 30 are each repealed.

17 **PART VI**

18 **MISCELLANEOUS PROVISIONS**

19 NEW SECTION. **Sec. 601.** This act does not affect any existing
20 right acquired or liability or obligation incurred under the sections
21 amended or repealed or under any rule or order adopted under those
22 sections, nor does it affect any proceeding instituted under those
23 sections.

24 NEW SECTION. **Sec. 602.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 603.** (1) Parts I, II, and IV through VI of this
29 act are necessary for the immediate preservation of the public peace,
30 health, or safety, or support of the state government and its existing
31 public institutions, and take effect July 1, 2012.

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

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

6 (4) Part III of this act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 immediately.

--- END ---