H-3817.2

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**HOUSE BILL 2468**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Hansen, Tharinger, Pollet, and Wylie

AN ACT Relating to improving the effectiveness and adequacy of the workforce education investment surcharge by decreasing compliance and administrative burdens for taxpayers and the department of revenue; amending RCW 82.04.299; creating new sections; and declaring an emergency.

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

**Sec.**  RCW 82.04.299 and 2019 c 406 s 74 are each amended to read as follows:

The legislature intends to secure additional revenue via surcharges targeted towards certain industries including select advanced computing businesses.

The legislature intends the provisions of chapter 406, Laws of 2019 to be applied broadly in favor of application of the surcharges. To achieve this intent, any provision within chapter 406, Laws of 2019 that is deemed to be ambiguous by a court of competent jurisdiction, the board of tax appeals, or any other judicial or administrative body, should be construed in favor of application of the surcharges. The rule of statutory construction in favor of the application of the surcharge under this paragraph does not apply to tax periods beginning on or after January 1, 2022.

(1)(a) Beginning with business activities occurring on or after January 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on specified persons. The surcharge is equal to the ((~~total amount of tax payable by the person on business activities taxed~~)) gross income of the business subject to the tax imposed under RCW 82.04.290(2), ((~~before application of any tax credits,~~)) multiplied by the rate of ((~~twenty~~)) 0.3 percent.

(b) For specified persons who report under one or more tax classifications, this surcharge applies only to business activities taxed under RCW 82.04.290(2).

(c) The surcharge imposed under this subsection (1) must be reported and paid in a manner and frequency as required by the department.

(2) For the purposes of this section, "specified person" means a person who is not subject to the surcharge under subsection ((~~(4)~~)) (3) of this section and who ((~~is primarily engaged within this state in any combination~~)) has gross income of the business apportioned to this state from any of the following activities:

(a) ((~~Computer software publishing or publishing and reproduction. Establishments in this industry carry out~~)) Publishing computer software, reproducing computer software, or engaging in both of these activities. Such activities include operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers. ((~~These establishments~~)) Businesses engaged in these activities may design, develop, and publish, or publish only. ((~~These establishments~~)) Such businesses may publish and distribute software remotely through subscriptions and downloads;

(b) Conducting original investigation undertaken on a systematic basis to gain new knowledge or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes. Techniques used in conducting these activities may include modeling and simulation((~~. The industries within this industry group are defined on the basis of the domain of research and on scientific expertise of the establishment~~));

(c) Putting capital at risk in the process of underwriting securities issues or in making markets for securities and commodities ((~~and~~)), including those acting as agents or brokers between buyers and sellers of securities and commodities, usually charging a commission. This subsection (2)(c) includes investment banks and securities brokerages;

(d) Providing expertise in the field of information technologies through one or more of the following activities: (i) Writing, modifying, testing, and supporting computer software to meet the needs of a particular customer; (ii) planning and designing computer systems that integrate computer hardware, computer software, and communication technologies; (iii) on-site management and operation of clients' computer systems and data processing facilities; ((~~or~~)) (iv) ((~~other professional and technical computer-related advice and services~~)) computer disaster recovery services; or (v) software installation services;

(e) Performing central banking functions, such as issuing currency, managing the nation's money supply and international reserves, holding deposits that represent the reserves of other banks and other central banks, and acting as a fiscal agent for the central government;

(f)(i) Purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services((~~, except satellite,~~)) to businesses and households; (ii) providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation; (iii) providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems; or (iv) providing internet access services or voice over internet protocol services via client-supplied telecommunications connections. ((~~Establishments in this industry do not operate as telecommunications carriers.~~)) Mobile virtual network operators are included in this ((~~industry~~)) subsection (2)(f);

(g)(i) Acting as principals in buying or selling financial contracts((~~, except investment bankers, securities dealers, and commodity contracts dealers~~)); (ii) acting as agents or brokers((~~, except securities brokerages and commodity contracts brokerages,~~)) in buying or selling financial contracts; or (iii) providing ((~~other investment services except securities and commodity exchanges, such as~~)) portfolio management, investment advice, and trust, fiduciary, and custody services. This subsection (2)(g) also includes the activities of venture capital companies and selling the right to extract minerals;

(h) Supplying information, such as news reports, articles, pictures, and features, to the news media. This ((~~industry comprises establishments primarily~~)) subsection (2)(h) also includes:

(i) Persons engaged in providing library or archive services((~~. These establishments are engaged in~~)) or maintaining collections of documents and facilitating the use of these documents as required to meet the informational, research, educational, or recreational needs of their user((~~. These establishments~~));

(ii) Persons providing news clipping services, telephone-based recorded information services, or collecting and selling the rights to stock photographs. Persons engaged in any of the activities described in this subsection (2)(h)(i) or (ii) may also acquire, research, store, preserve, and generally make accessible to the public historical documents, photographs, maps, audio material, audiovisual material, and other archival material of historical interest. All or portions of these collections may be accessible electronically((~~. This industry comprises establishments~~));

(iii) Establishments engaged in: ((~~(i)~~)) (A) Publishing and broadcasting content on the internet exclusively; or ((~~(ii)~~)) (B) operating web sites that use a search engine to generate and maintain extensive databases of internet addresses and content in an easily searchable format, known as web search portals. The publishing and broadcasting establishments in this ((~~industry~~)) subsection (2)(h)(iii) do not provide traditional versions of the content they publish or broadcast. They provide textual, audio, or video content of general or specific interest on the internet exclusively. Establishments known as web search portals ((~~often~~)) may provide additional internet services, such as email, connections to other web sites, auctions, news, and other limited content, and serve as a home base for internet users((~~. This industry comprises establishments primarily engaged in providing other information services, except news syndicates, libraries, archives, internet publishing and broadcasting, and web search portals~~));

(i) Architectural, engineering, and related services, such as drafting services, building inspection services, ((~~geophysical~~)) surveying and mapping services, including geophysical surveying and mapping, ((~~except geophysical services~~)) and testing services;

(j) Retailing all types of merchandise using nonstore means, such as catalogs, toll-free telephone numbers, electronic media, such as interactive television or the internet, or selling directly to consumers in a nonretail, physical environment. ((~~Included in this industry are~~)) This subsection (2)(j) includes online retailers and establishments ((~~primarily~~)) engaged in retailing from catalog showrooms of mail-order houses;

(k) Providing consulting services to businesses and other organizations in the form of advice and assistance ((~~to businesses and other organizations~~)) on management, environmental, scientific, ((~~and~~)) or technical issues;

(l) Providing infrastructure for hosting or data processing services. ((~~These establishments may provide~~)) This subsection (2)(l) includes specialized hosting activities, such as web hosting, streaming services, or application hosting, or ((~~they may provide~~)) providing general time-share mainframe facilities to clients. ((~~Data processing establishments provide complete~~)) This subsection (2)(l) also includes providing processing and specialized reports from data supplied by clients or ((~~provide~~)) providing automated data processing and data entry services;

(m) Facilitating credit intermediation by performing activities, such as arranging loans by bringing borrowers and lenders together and clearing checks and credit card transactions. This subsection (2)(m) includes the activities provided by mortgage and nonmortgage loan brokers, financial instrument clearinghouses, and credit card processing businesses;

(n) Offering legal and law-related services, such as those offered by offices of lawyers, offices of notaries, ((~~and~~)) title abstract and real estate settlement offices, ((~~and~~)) offices of limited license legal technicians or limited practice officers, patent agent service providers, or persons providing paralegal services;

(o) Operating or providing access to transmission facilities and infrastructure that they own or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. ((~~Establishments in this industry~~)) Persons engaged in these activities use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including voice over internet protocol services, wired audio and video programming distribution, and wired broadband internet services. ((~~By exception, establishments~~)) This subsection (2)(o) includes providing satellite television distribution services by persons using facilities and infrastructure that they operate ((~~are included in this industry~~));

(p) Providing telecommunications services to other establishments in the telecommunications ((~~and~~)) or broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications;

(q) Operating and maintaining switching and transmission facilities to provide communications via the airwaves((~~. Establishments in this industry~~)) by persons that have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless internet access, and wireless video services. This subsection (2)(q) includes radio stations, radio networks, and television broadcasters, if required to have a spectrum license to operate as such;

(r) Extending credit or lending funds raised by credit market borrowing, such as issuing commercial paper or other debt instruments or by borrowing from other financial intermediaries. This subsection (2)(r) includes credit card issuers, consumer finance companies, and mortgage companies;

(s) Underwriting annuities and insurance policies and investing premiums to build up a portfolio of financial assets to be used against future claims. ((~~Direct~~)) This subsection (2)(s) includes direct insurance carriers ((~~are establishments that are primarily~~)) engaged in initially underwriting and assuming the risk of annuities and insurance policies. ((~~Reinsurance~~)) This subsection (2)(s) also includes reinsurance carriers ((~~are establishments that are primarily~~)) engaged in assuming all or part of the risk associated with an existing insurance policy originally underwritten by another insurance carrier((~~. Industries are defined in terms of the type of risk being insured against, such as death, loss of employment because of age or disability, or property damage. Contributions and premiums are set on the basis of actuarial calculations of probable payouts based on risk factors from experience tables and expected investment returns on reserves~~));

(t) ((~~Merchant wholesale distribution~~)) Wholesale sales of commercial or professional equipment and supplies, including photographic equipment and supplies ((~~and~~)), office machines and related equipment, ((~~computer,~~)) computers and computer peripheral equipment ((~~and~~)), or medical, dental, hospital, or ophthalmic((~~, and other commercial and professional~~)) equipment and supplies. This subsection (2)(t) includes wholesale sales of commercial and related machines and equipment generally used in restaurants and retail stores;

(u) Operating studios and facilities for the broadcasting of programs on a subscription or fee basis. ((~~The broadcast programming is typically narrowcast in nature. These establishments~~)) Persons engaged in these activities produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers;

(v) Publishing newspapers, magazines, other periodicals, books, directories ((~~and~~)), mailing lists, ((~~and~~)) or other works, such as calendars, greeting cards, and maps. These works are characterized by the intellectual creativity required in their development and are usually protected by copyright. Publishers distribute or arrange for the distribution of these works. Publishing establishments may create the works in-house, or contract for, purchase, or compile works that were originally created by others. These works may be published in one or more formats, such as print or electronic form, including proprietary electronic networks. ((~~Establishments in this industry~~)) Publishers may print, reproduce, or offer direct access to the works themselves or may arrange with others to carry out such functions. Establishments that both print and publish may fill excess capacity with commercial or job printing((~~. However, the publishing activity is still considered to be the primary activity of these establishments~~));

(w) Generating, transmitting, or distributing electric power. ((~~Establishments in this industry group~~)) Persons engaging in these activities may perform one or more of the following activities: (i) Operate generation facilities that produce electric energy; (ii) operate transmission systems that convey the electricity from the generation facility to the distribution system; or (iii) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer;

(x) Providing specialized design services including interior design, industrial design, graphic design, ((~~and others, but not including architectural, engineering, and computer systems~~)) or fashion design;

(y) Assigning rights to assets, such as patents, trademarks, brand names, or franchise agreements, for which a royalty payment or licensing fee is paid to the asset holder;

(z) Acting as agents or representatives in selling annuities and insurance policies or providing other employee benefits ((~~and~~)) or insurance related services, such as claims adjustment ((~~and~~)), actuarial services, or third-party administration;

(aa) ((~~Business-to-business~~)) Operating business-to-business electronic markets that bring together buyers and sellers of goods using the internet or other electronic means and generally receive a commission or fee for the service. ((~~Business-to-business~~)) Operating business-to-business electronic markets for durable and nondurable goods ((~~are~~)) is included in this ((~~industry~~)) subsection (2)(aa). This ((~~industry comprises wholesale trade~~)) subsection (2)(aa) also includes agents ((~~and~~)) or brokers acting on behalf of buyers or sellers in the wholesale distribution of goods((~~. Agents and brokers do not take title to the goods being sold but rather receive a commission or fee for their service. Agents and brokers for all durable and nondurable goods are included in this industry~~)) of any kind;

(bb) Accepting deposits or share deposits and ((~~in~~)) lending funds from these deposits. ((~~Within this group, industries are defined on the basis of differences in the types of deposit liabilities assumed and in the nature of the credit extended~~)) This subsection (2)(bb) includes commercial banks;

(cc)(i) Manufacturing complete aircraft, missiles, or space vehicles; (ii) manufacturing aerospace engines, propulsion units, auxiliary equipment or parts; (iii) developing and making prototypes of aerospace products; (iv) aircraft conversion; or (v) complete aircraft or propulsion systems overhaul and rebuilding;

(dd) Advertising, public relations, and related services, such as media buying, independent media representation, outdoor advertising, direct mail advertising, advertising material distribution services((~~, and other services related to advertising~~)) display lettering services, or merchandise demonstration services;

(ee) ((~~Providing~~)) Accounting or tax preparation services, such as auditing of accounting records, designing accounting systems, preparing financial statements, developing budgets, preparing tax returns, processing payrolls, bookkeeping, ((~~and~~)) or billing;

(ff) The independent practice of general or specialized medicine or surgery by businesses comprised of one or more health practitioners having the degree of doctor of medicine or doctor of osteopathy. These practitioners operate private or group practices in their own offices or in the facilities of others, such as hospitals or health maintenance organization medical centers;

(gg) Providing ((~~a range of~~)) outpatient services, ((~~such as~~)) which are also known as ambulatory health care services. This subsection (2)(gg) includes family planning, diagnosis and treatment of mental health disorders ((~~and~~)) or alcohol ((~~and~~)) or other substance ((~~abuse, and other general or specialized outpatient care by businesses with medical staff~~)) use disorders, or diagnosis and treatment of sleep disorders. This subsection (2)(gg) includes the activities of ambulance services, blood donation centers, blood or organ banks, dialysis or infusion clinics or centers, urgent care clinics, blood testing services, pacemaker monitoring services, physical fitness evaluation services, health screening services, smoking cessation programs, and hearing testing services;

(hh) Pooling securities or other assets((~~, except insurance and employee benefit funds,~~)) on behalf of shareholders, unit holders, or beneficiaries, by legal entities such as investment pools or funds. This subsection (2)(hh) includes open-end and closed-end investment funds, trusts, estates, and agency accounts;

(ii) Promoting the interests of an organization's members, except religious organizations, social advocacy organizations, and civic and social organizations. ((~~Examples of establishments in this industry are~~)) This subsection (2)(ii) includes business associations, professional organizations, labor unions, and political organizations;

(jj) Holding the securities of or other equity interests in companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or businesses that administer, oversee, and manage other establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decision-making role of the company or enterprise((~~. Establishments that administer, oversee, and manage may hold the securities of the company or enterprise~~));

(kk) ((~~For medical and diagnostic laboratories, providing~~)) Providing analytic or diagnostic services, including body fluid analysis ((~~and~~)) or diagnostic imaging, generally to the medical profession or to the patient on referral from a health practitioner. This subsection (2)(kk) includes medical and diagnostic laboratories, dental or medical X-ray laboratories, medical testing laboratories, and pathology laboratories;

(ll) ((~~Serving as offices of chief executives and their advisory committees and commissions. This industry includes offices of the president, governors, and mayors, in addition to executive advisory commissions. This industry comprises government establishments serving as legislative bodies and their advisory committees and commissions. Included in this industry are legislative bodies, such as congress, state legislatures, and advisory and study legislative commissions. This industry comprises government establishments primarily engaged in public finance, taxation, and monetary policy. Included are financial administration activities, such as monetary policy, tax administration and collection, custody and disbursement of funds, debt and investment administration, auditing activities, and government employee retirement trust fund administration. This industry comprises government establishments serving as councils and boards of commissioners or supervisors and such bodies where the chief executive is a member of the legislative body itself. This industry comprises American Indian and Alaska Native governing bodies. Establishments in this industry perform legislative, judicial, and administrative functions for their American Indian and Alaska Native lands. Included in this industry are American Indian and Alaska Native councils, courts, and law enforcement bodies. This industry comprises government establishments primarily engaged in providing general support for government. Such support services include personnel services, election boards, and other general government support establishments that are not classified elsewhere in public administration;~~

~~(mm)~~)) Providing ((~~a range of~~)) office administrative services, such as financial planning, billing ((~~and~~)), recordkeeping, personnel((~~, and~~)) services, or physical distribution and logistics, for others on a contract or fee basis. ((~~These establishments do~~)) This subsection (2)(ll) does not ((~~provide~~)) include providing operating staff to carry out the complete operations of a business;

((~~(nn)~~)) (mm) Providing any of the following professional, scientific, or technical services ((~~including marketing~~)): Marketing research, public opinion polling, lobbying, photographic services, translation and interpretation services, and veterinary services. ((~~This category does not include legal services, accounting, tax preparation, bookkeeping, architectural, engineering, and related services, specialized design services, computer systems design, management, scientific and technical consulting services, scientific research and development services, or advertising services~~)) This subsection (2)(mm) also includes the activities of members of a corporation's board of directors acting in their capacity as corporate directors;

((~~(oo)~~)) (nn) The independent practice of general or specialized dentistry or dental surgery by businesses comprised of one or more health practitioners having the degree of doctor of dental medicine, doctor of dental surgery, or doctor of dental science. These practitioners operate private or group practices in their own offices or in the facilities of others, such as hospitals or health maintenance organization medical centers. They may provide either comprehensive preventive, cosmetic, or emergency care, or specialize in a single field of dentistry;

((~~(pp)~~)) (oo) The independent practice of ((~~general or specialized medicine or surgery, or general or specialized dentistry or dental surgery,~~)) a health care profession by businesses comprised of one or more independent health practitioners, other than ((~~physicians and dentists;~~

~~(qq) Providing ambulatory health care services~~)) practitioners described elsewhere in this subsection (2). This subsection (2)(oo) includes chiropractors, optometrists, ocularists, mental health practitioners, physical, occupational, or speech therapists, audiologists, massage therapists, acupuncturists, Eastern medicine practitioners, hypnotherapists, inhalation and respiratory therapists, dental hygienists, denturists, midwives, naturopaths, dietitians, podiatrists, pharmacists, homeopaths, athletic trainers, registered nurses, licensed practical nurses, advanced registered nurse practitioners, orthotists, prosthetists, and reflexologists.

(3)(a)((~~(i) For the purposes of this section, a person is primarily engaged within this state in any combination of the activities described in subsection (2) of this section if more than fifty percent of the person's cumulative gross amount reportable under this chapter during the entire current or immediately preceding calendar year was generated from engaging in any one or more of the activities described in subsection (2) of this section. For purposes of this subsection, "gross amount reportable" means the total value of products, gross proceeds of sales, and gross income of the business, reportable to the department before application of any tax deductions.~~

~~(ii) If a person was not primarily engaged within this state in any combination of the activities described in subsection (2) of this section during the immediately preceding year, and the person is unsure whether the person will be subject to the workforce investment surcharge for the current calendar year until the close of the current calendar year, the person must, if necessary, file corrected returns with the department of revenue to pay any additional tax due under this section for the current calendar year. Payment of additional tax, along with corrected returns, is due and payable when the person's last return for the calendar year during which the tax liability accrued is due and payable. Additional tax due under this section is subject to penalties and interest as provided under chapter 82.32 RCW only if the tax is not paid in full by the date due as provided in this subsection (3)(a)(ii).~~

~~(b) The entire amount of gross income of the business received by a person pursuant to a contract under which the person is obligated to perform any activity described under subsection (2) of this section is deemed to be generated from engaging in any one or more of the activities described in subsection (2) of this section.~~

~~(4)(a)~~)) Beginning with business activities occurring on or after January 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses ((~~as follows:~~

~~(i) For an affiliated group that has worldwide gross revenue of more than twenty-five billion dollars, but not more than one hundred billion dollars, during the entire current or immediately preceding calendar year, the surcharge is equal to the total amount of tax payable by each member of the affiliated group on all business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of thirty-three and one-third percent.~~

~~(ii) For an affiliated group that has worldwide gross revenue of more than one hundred billion dollars during the entire current or immediately preceding calendar year, the surcharge is equal to the total amount of tax payable by each member of the affiliated group on all business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of sixty-six and two-thirds percent~~)). The surcharge is equal to the gross income of the business subject to the tax under RCW 82.04.290(2), multiplied by the rate of 1.22 percent.

(b) ((~~In~~)) Except as provided in (e) of this subsection (3), in no case will the combined surcharge imposed under this subsection ((~~(4)~~)) (3) paid by all members of an affiliated group be ((~~less than four million dollars or~~)) more than seven million dollars ((~~annually~~)) for any calendar year.

(c) For persons subject to the surcharge imposed under this subsection ((~~(4)~~)) (3) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

(d) The surcharge imposed under this subsection ((~~(4)~~)) (3) must be reported and paid on a quarterly basis in a manner ((~~and frequency~~)) as required by the department. Returns and amounts payable under this subsection (3) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

(e) To aid in the effective administration of the surcharge in this subsection ((~~(4)~~)) (3), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge. If the department determines that a person, with intent to evade the surcharge under this subsection ((~~(4)~~)) (3), failed to fully comply with this subsection ((~~(4)~~)) (3)(e), the seven million dollar limitation in (b) of this subsection ((~~(4)~~)) (3) does not apply to the person's affiliated group.

(f) For the purposes of this subsection ((~~(4)~~)) (3) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including modifications to computer software or computer hardware, cloud computing services, or operating an online marketplace, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the ((~~entire current or~~)) immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business.

((~~(5)~~)) (4) The workforce education investment surcharges under this section do not apply to any ((~~hospital~~)):

(a) Hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW; and

(b) Political subdivision of the state or municipal corporation.

((~~(6)~~)) (5) Revenues from the surcharges under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

((~~(7)~~)) (6) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharges imposed in this section. The department's determination that a person is subject to the surcharge is presumed to be correct unless the person shows by clear, cogent, and convincing evidence that the department's determination was incorrect. The increased evidentiary standard under this subsection ((~~(7)~~)) (6) does not apply to tax periods beginning on or after January 1, 2022.

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

NEW SECTION. **Sec.**  This act applies both prospectively and retroactively to January 1, 2020.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**