

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 6492

Chapter 2, Laws of 2020

66th Legislature
2020 Regular Session

WORKFORCE EDUCATION INVESTMENT FUNDING--BUSINESS AND OCCUPATION TAX

EFFECTIVE DATE: February 10, 2020—Except for sections 1 through 3,
which become effective April 1, 2020.

Passed by the Senate January 30, 2020
Yeas 28 Nays 21

STEVE CONWAY

President of the Senate

Passed by the House February 6, 2020
Yeas 52 Nays 45

LAURIE JINKINS

Speaker of the House of Representatives

Approved February 10, 2020 3:11 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6492** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

February 10, 2020

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6492

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By Senate Ways & Means (originally sponsored by Senators Pedersen, Rolfes, and Wilson, C.)

READ FIRST TIME 01/27/20.

1 AN ACT Relating to addressing workforce education investment
2 funding through business and occupation tax reform; amending RCW
3 28C.18.200, 43.79.195, 82.04.290, and 82.04.299; creating new
4 sections; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 28C.18.200 and 2019 c 406 s 3 are each amended to
7 read as follows:

8 (1) The workforce education investment accountability and
9 oversight board is established. The board consists of seventeen
10 members, as provided in this subsection:

11 (a) Four members of the legislature consisting of the chairs and
12 ranking minority members of the respective higher education and
13 workforce development committees of the senate and house of
14 representatives, ex officio; and

15 (b) The following members appointed by the governor with the
16 consent of the senate:

17 (i) Five members representing the businesses described in RCW
18 82.04.299 or subject to the tax rate under RCW 82.04.290(2)(a)(i);

19 (ii) Two members representing labor organizations, one of which
20 must have expertise in registered apprenticeships and training a

1 high-demand workforce and one of which must represent faculty at the
2 four-year institutions of higher education;

3 (iii) Two members representing the institutions of higher
4 education, as defined in RCW 28B.10.016, one of which must be from
5 the four-year sector and one of which must be from the community and
6 technical college sector;

7 (iv) Two members representing students, one of which must be a
8 community and technical college student;

9 (v) One member representing the independent, not-for-profit
10 higher education institutions; and

11 (vi) One member representing the student achievement council,
12 established under chapter 28B.77 RCW.

13 (2) Except for ex officio and student members, board members
14 shall hold their offices for a term of three years until their
15 successors are appointed. Student board members shall hold one-year
16 terms.

17 (3) The board shall have two cochairs. One cochair shall be one
18 of the chairs of the respective higher education and workforce
19 development committees of the legislature and the other cochair shall
20 be one of the board members representing the businesses described in
21 RCW 82.04.299 or subject to the tax rate under RCW
22 82.04.290(2)(a)(i). The cochairs shall hold the position for a one-
23 year term. The board members shall elect the cochairs annually.

24 (4) Nine voting members of the board constitute a quorum for the
25 transaction of business. The board shall meet four times a year.

26 (5) Staff support for the board shall be provided by the
27 workforce training and education coordinating board established in
28 this chapter (~~28C.18 RCW~~).

29 (6) The purposes of the board are to:

30 (a) Provide guidance and recommendations to the legislature on
31 what workforce education priorities should be funded with the
32 workforce education investment account; and

33 (b) Ensure accountability that the workforce education
34 investments funded with the workforce education investment account
35 are producing the intended results and are effectively increasing
36 student success and career readiness, such as by increasing
37 retention, completion, and job placement rates.

38 (7) The board shall consult data from the education data center
39 established under RCW 43.41.400 and the workforce training and
40 education coordinating board established under this chapter (~~28C.18~~

1 RCW)) when reviewing and determining whether workforce education
2 investments funded from the workforce education investment account
3 are effectively increasing student success and career readiness.

4 (8) The board shall report its recommendations to the appropriate
5 committees of the legislature by August 1st of each year.

6 (9) For the purposes of this section, "board" means the workforce
7 education investment accountability and oversight board established
8 in this section.

9 **Sec. 2.** RCW 43.79.195 and 2019 c 406 s 2 are each amended to
10 read as follows:

11 (1) The workforce education investment account is created in the
12 state treasury. All revenues from the workforce investment
13 surcharge(~~s~~) created in RCW 82.04.299 and those revenues as
14 specified under RCW 82.04.290(2)(c) must be deposited directly into
15 the account. Moneys in the account may be spent only after
16 appropriation. Expenditures from the account may be used only for
17 higher education programs, higher education operations, higher
18 education compensation, and state-funded student aid programs. For
19 the 2019-2021 biennium, expenditures from the account may be used for
20 kindergarten through twelfth grade if used for career connected
21 learning as provided for in chapter 406, Laws of 2019.

22 (2) Expenditures from the workforce education investment account
23 must be used to supplement, not supplant, other federal, state, and
24 local funding for higher education.

25 **Sec. 3.** RCW 82.04.290 and 2019 c 426 s 2 are each amended to
26 read as follows:

27 (1) Upon every person engaging within this state in the business
28 of providing qualifying international investment management services,
29 as to such persons, the amount of tax with respect to such business
30 is equal to the gross income or gross proceeds of sales of the
31 business multiplied by a rate of 0.275 percent.

32 (2)(a) Upon every person engaging within this state in any
33 business activity other than or in addition to an activity taxed
34 explicitly under another section in this chapter or subsection (1) or
35 (3) of this section; as to such persons the amount of tax on account
36 of such activities is equal to the gross income of the business
37 multiplied by the rate of:

38 (i) 1.75 percent; or

1 (ii) 1.5 percent for:

2 (A) Any person subject to the surcharge imposed under RCW
3 82.04.299;

4 (B) Any person whose gross income of the business subject to the
5 tax imposed under this subsection (2), for the immediately preceding
6 calendar year, was less than one million dollars, unless (I) the
7 person is affiliated with one or more other persons, and (II) the
8 aggregate gross income of the business subject to the tax imposed
9 under this subsection (2) for all affiliated persons was greater than
10 or equal to one million dollars for the immediately preceding
11 calendar year; and

12 (C) Hospitals as defined in RCW 70.41.020, including any hospital
13 that comes within the scope of chapter 71.12 RCW if the hospital is
14 also licensed under chapter 70.41 RCW. This subsection (2) (a) (ii) (C)
15 must not be construed as modifying RCW 82.04.260(10).

16 (b) This subsection (2) includes, among others, and without
17 limiting the scope hereof (whether or not title to materials used in
18 the performance of such business passes to another by accession,
19 confusion or other than by outright sale), persons engaged in the
20 business of rendering any type of service which does not constitute a
21 "sale at retail" or a "sale at wholesale." The value of advertising,
22 demonstration, and promotional supplies and materials furnished to an
23 agent by his or her principal or supplier to be used for
24 informational, educational, and promotional purposes is not
25 considered a part of the agent's remuneration or commission and is
26 not subject to taxation under this section.

27 (c) 14.3 percent of the revenues collected under (a) (i) of this
28 subsection (2) must be deposited into the workforce education
29 investment account created in RCW 43.79.195.

30 (d) (i) To aid in the effective administration of this subsection
31 (2), the department may require a person claiming to be subject to
32 the 1.5 percent tax rate under (a) (ii) (B) of this subsection (2) to
33 identify all of the person's affiliates, including their department
34 tax registration number or unified business identifier number, as may
35 be applicable, or to certify that the person is not affiliated with
36 any other person. Requests under this subsection (2) (d) (i) must be in
37 writing and may be made electronically.

38 (ii) If the department establishes, by clear, cogent, and
39 convincing evidence, that a person, with intent to evade the
40 additional taxes due under the 1.75 percent tax rate in (a) (i) of

1 this subsection (2), failed to provide the department with complete
2 and accurate information in response to a written request under
3 (d)(i) of this subsection (2) within thirty days of such request, the
4 person is ineligible for the 1.5 percent tax rate in (a)(ii) of this
5 subsection (2) for the entire current calendar year and the following
6 four calendar years. However, the department must waive the
7 provisions of this subsection (2)(d)(ii) for any tax reporting period
8 that the person is otherwise eligible for the 1.5 percent tax rate in
9 (a)(ii) of this subsection (2) if (A) the department has not
10 previously determined that the person failed to fully comply with
11 (d)(i) of this subsection (2), and (B) within thirty days of the
12 notice of additional tax due as a result of the person's failure to
13 fully comply with (d)(i) of this subsection (2) the department
14 determines that the person has come into full compliance with (d)(i)
15 of this subsection (2). This subsection (2)(d) applies only with
16 respect to persons claiming entitlement to the 1.5 percent tax rate
17 solely by reason of (a)(ii)(B) of this subsection (2).

18 (e) For the purposes of (a)(ii)(B) of this subsection (2), if a
19 taxpayer is subject to the reconciliation provisions of RCW
20 82.04.462(4), and calculates gross income of the business subject to
21 the tax imposed under this subsection (2) for the immediately
22 preceding calendar year, or aggregate gross income of the business
23 subject to the tax imposed under this subsection (2) for the
24 immediately preceding calendar year for all affiliated persons, based
25 on incomplete information, the taxpayer must correct the reporting
26 for the current calendar year when complete information for the
27 immediately preceding calendar year is available.

28 (f) For purposes of this subsection (2), the definitions in this
29 subsection (2)(f) apply:

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

33 (ii) "Control" means the possession, directly or indirectly, of
34 more than eighty percent of the power to direct or cause the
35 direction of the management and policies of a person, whether through
36 the ownership of voting shares, by contract, or otherwise.

37 (3)(a) Until July 1, 2040, upon every person engaging within this
38 state in the business of performing aerospace product development for
39 others, as to such persons, the amount of tax with respect to such

1 business is equal to the gross income of the business multiplied by a
2 rate of 0.9 percent.

3 (b) A person reporting under the tax rate provided in this
4 subsection (3) must file a complete annual report with the department
5 under RCW 82.32.534.

6 (c) "Aerospace product development" has the meaning as provided
7 in RCW 82.04.4461.

8 **Sec. 4.** RCW 82.04.299 and 2019 c 406 s 74 are each amended to
9 read as follows:

10 ~~((The legislature intends to secure additional revenue via~~
11 ~~surcharges targeted towards certain industries including select~~
12 ~~advanced computing businesses.~~

13 ~~The legislature intends the provisions of chapter 406, Laws of~~
14 ~~2019 to be applied broadly in favor of application of the surcharges.~~
15 ~~To achieve this intent, any provision within chapter 406, Laws of~~
16 ~~2019 that is deemed to be ambiguous by a court of competent~~
17 ~~jurisdiction, the board of tax appeals, or any other judicial or~~
18 ~~administrative body, should be construed in favor of application of~~
19 ~~the surcharges. The rule of statutory construction in favor of the~~
20 ~~application of the surcharge under this paragraph does not apply on~~
21 ~~or after January 1, 2022.~~

22 ~~(1)(a) Beginning with business activities occurring on or after~~
23 ~~January 1, 2020, in addition to the taxes imposed under RCW~~
24 ~~82.04.290(2), a workforce education investment surcharge is imposed~~
25 ~~on specified persons. The surcharge is equal to the total amount of~~
26 ~~tax payable by the person on business activities taxed under RCW~~
27 ~~82.04.290(2), before application of any tax credits, multiplied by~~
28 ~~the rate of twenty percent.~~

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

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

35 ~~(2) For the purposes of this section, "specified person" means a~~
36 ~~person who is not subject to the surcharge under subsection (4) of~~
37 ~~this section and who is primarily engaged within this state in any~~
38 ~~combination of the following activities:~~

1 ~~(a) Computer software publishing or publishing and reproduction.~~
2 ~~Establishments in this industry carry out operations necessary for~~
3 ~~producing and distributing computer software, such as designing,~~
4 ~~providing documentation, assisting in installation, and providing~~
5 ~~support services to software purchasers. These establishments may~~
6 ~~design, develop, and publish, or publish only. These establishments~~
7 ~~may publish and distribute software remotely through subscriptions~~
8 ~~and downloads;~~

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

16 ~~(c) Putting capital at risk in the process of underwriting~~
17 ~~securities issues or in making markets for securities and commodities~~
18 ~~and those acting as agents or brokers between buyers and sellers of~~
19 ~~securities and commodities, usually charging a commission;~~

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

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

34 ~~(f) (i) Purchasing access and network capacity from owners and~~
35 ~~operators of telecommunications networks and reselling wired and~~
36 ~~wireless telecommunications services, except satellite, to businesses~~
37 ~~and households; (ii) providing specialized telecommunications~~
38 ~~services, such as satellite tracking, communications telemetry, and~~
39 ~~radar station operation; (iii) providing satellite terminal stations~~
40 ~~and associated facilities connected with one or more terrestrial~~

1 systems and capable of transmitting telecommunications to, and
2 receiving telecommunications from, satellite systems; or (iv)
3 providing internet access services or voice over internet protocol
4 services via client-supplied telecommunications connections.
5 Establishments in this industry do not operate as telecommunications
6 carriers. Mobile virtual network operators are included in this
7 industry;

8 (g) (i) Acting as principals in buying or selling financial
9 contracts, except investment bankers, securities dealers, and
10 commodity contracts dealers; (ii) acting as agents or brokers, except
11 securities brokerages and commodity contracts brokerages, in buying
12 or selling financial contracts; or (iii) providing other investment
13 services except securities and commodity exchanges, such as portfolio
14 management, investment advice, and trust, fiduciary, and custody
15 services;

16 (h) Supplying information, such as news reports, articles,
17 pictures, and features, to the news media. This industry comprises
18 establishments primarily engaged in providing library or archive
19 services. These establishments are engaged in maintaining collections
20 of documents and facilitating the use of these documents as required
21 to meet the informational, research, educational, or recreational
22 needs of their user. These establishments may also acquire, research,
23 store, preserve, and generally make accessible to the public
24 historical documents, photographs, maps, audio material, audiovisual
25 material, and other archival material of historical interest. All or
26 portions of these collections may be accessible electronically. This
27 industry comprises establishments engaged in: (i) Publishing and
28 broadcasting content on the internet exclusively; or (ii) operating
29 web sites that use a search engine to generate and maintain extensive
30 databases of internet addresses and content in an easily searchable
31 format, known as web search portals. The publishing and broadcasting
32 establishments in this industry do not provide traditional versions
33 of the content they publish or broadcast. They provide textual,
34 audio, or video content of general or specific interest on the
35 internet exclusively. Establishments known as web search portals
36 often provide additional internet services, such as email,
37 connections to other web sites, auctions, news, and other limited
38 content, and serve as a home base for internet users. This industry
39 comprises establishments primarily engaged in providing other

1 information services, except news syndicates, libraries, archives,
2 internet publishing and broadcasting, and web search portals;

3 (i) Architectural, engineering, and related services, such as
4 drafting services, building inspection services, geophysical
5 surveying and mapping services, surveying and mapping, except
6 geophysical services and testing services;

7 (j) Retailing all types of merchandise using nonstore means, such
8 as catalogs, toll-free telephone numbers, electronic media, such as
9 interactive television or the internet, or selling directly to
10 consumers in a nonretail, physical environment. Included in this
11 industry are establishments primarily engaged in retailing from
12 catalog showrooms of mail-order houses;

13 (k) Providing advice and assistance to businesses and other
14 organizations on management, environmental, scientific, and technical
15 issues;

16 (l) Providing infrastructure for hosting or data processing
17 services. These establishments may provide specialized hosting
18 activities, such as web hosting, streaming services, or application
19 hosting, or they may provide general time-share mainframe facilities
20 to clients. Data processing establishments provide complete
21 processing and specialized reports from data supplied by clients or
22 provide automated data processing and data entry services;

23 (m) Facilitating credit intermediation by performing activities,
24 such as arranging loans by bringing borrowers and lenders together
25 and clearing checks and credit card transactions;

26 (n) Offering legal services, such as those offered by offices of
27 lawyers, offices of notaries, and title abstract and settlement
28 offices, and paralegal services;

29 (o) Operating or providing access to transmission facilities and
30 infrastructure that they own or lease for the transmission of voice,
31 data, text, sound, and video using wired telecommunications networks.
32 Transmission facilities may be based on a single technology or a
33 combination of technologies. Establishments in this industry use the
34 wired telecommunications network facilities that they operate to
35 provide a variety of services, such as wired telephony services,
36 including voice over internet protocol services, wired audio and
37 video programming distribution, and wired broadband internet
38 services. By exception, establishments providing satellite television
39 distribution services using facilities and infrastructure that they
40 operate are included in this industry;

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

5 ~~(q) Operating and maintaining switching and transmission~~
6 ~~facilities to provide communications via the airwaves. Establishments~~
7 ~~in this industry have spectrum licenses and provide services using~~
8 ~~that spectrum, such as cellular phone services, paging services,~~
9 ~~wireless internet access, and wireless video services;~~

10 ~~(r) Extending credit or lending funds raised by credit market~~
11 ~~borrowing, such as issuing commercial paper or other debt instruments~~
12 ~~or by borrowing from other financial intermediaries;~~

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

26 ~~(t) Merchant wholesale distribution of photographic equipment and~~
27 ~~supplies and office, computer, and computer peripheral equipment and~~
28 ~~medical, dental, hospital, ophthalmic, and other commercial and~~
29 ~~professional equipment and supplies;~~

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

37 ~~(v) Publishing newspapers, magazines, other periodicals, books,~~
38 ~~directories and mailing lists, and other works, such as calendars,~~
39 ~~greeting cards, and maps. These works are characterized by the~~
40 ~~intellectual creativity required in their development and are usually~~

1 protected by copyright. Publishers distribute or arrange for the
2 distribution of these works. Publishing establishments may create the
3 works in-house, or contract for, purchase, or compile works that were
4 originally created by others. These works may be published in one or
5 more formats, such as print or electronic form, including proprietary
6 electronic networks. Establishments in this industry may print,
7 reproduce, or offer direct access to the works themselves or may
8 arrange with others to carry out such functions. Establishments that
9 both print and publish may fill excess capacity with commercial or
10 job printing. However, the publishing activity is still considered to
11 be the primary activity of these establishments;

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

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

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

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

29 (aa) ~~Business-to-business electronic markets that bring together~~
30 ~~buyers and sellers of goods using the internet or other electronic~~
31 ~~means and generally receive a commission or fee for the service.~~
32 ~~Business-to-business electronic markets for durable and nondurable~~
33 ~~goods are included in this industry. This industry comprises~~
34 ~~wholesale trade agents and brokers acting on behalf of buyers or~~
35 ~~sellers in the wholesale distribution of goods. Agents and brokers do~~
36 ~~not take title to the goods being sold but rather receive a~~
37 ~~commission or fee for their service. Agents and brokers for all~~
38 ~~durable and nondurable goods are included in this industry;~~

39 (bb) ~~Accepting deposits or share deposits and in lending funds~~
40 ~~from these deposits. Within this group, industries are defined on the~~

1 ~~basis of differences in the types of deposit liabilities assumed and~~
2 ~~in the nature of the credit extended;~~

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

8 ~~(dd) Advertising, public relations, and related services, such as~~
9 ~~media buying, independent media representation, outdoor advertising,~~
10 ~~direct mail advertising, advertising material distribution services,~~
11 ~~and other services related to advertising;~~

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

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

22 ~~(gg) Providing a range of outpatient services, such as family~~
23 ~~planning, diagnosis and treatment of mental health disorders and~~
24 ~~alcohol and other substance abuse, and other general or specialized~~
25 ~~outpatient care by businesses with medical staff;~~

26 ~~(hh) Pooling securities or other assets, except insurance and~~
27 ~~employee benefit funds, on behalf of shareholders, unit holders, or~~
28 ~~beneficiaries, by legal entities such as investment pools or funds;~~

29 ~~(ii) Promoting the interests of an organization's members, except~~
30 ~~religious organizations, social advocacy organizations, and civic and~~
31 ~~social organizations. Examples of establishments in this industry are~~
32 ~~business associations, professional organizations, labor unions, and~~
33 ~~political organizations;~~

34 ~~(jj) Holding the securities of or other equity interests in~~
35 ~~companies and enterprises for the purpose of owning a controlling~~
36 ~~interest or influencing management decisions or businesses that~~
37 ~~administer, oversee, and manage other establishments of the company~~
38 ~~or enterprise and that normally undertake the strategic or~~
39 ~~organizational planning and decision-making role of the company or~~

1 ~~enterprise. Establishments that administer, oversee, and manage may~~
2 ~~hold the securities of the company or enterprise;~~

3 ~~(kk) For medical and diagnostic laboratories, providing analytic~~
4 ~~or diagnostic services, including body fluid analysis and diagnostic~~
5 ~~imaging, generally to the medical profession or to the patient on~~
6 ~~referral from a health practitioner;~~

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

33 ~~(mm) Providing a range of office administrative services, such as~~
34 ~~financial planning, billing and recordkeeping, personnel, and~~
35 ~~physical distribution and logistics, for others on a contract or fee~~
36 ~~basis. These establishments do not provide operating staff to carry~~
37 ~~out the complete operations of a business;~~

38 ~~(nn) Providing professional, scientific, or technical services~~
39 ~~including marketing research, public opinion polling, photographic~~
40 ~~services, translation and interpretation services, and veterinary~~

1 ~~services. This category does not include legal services, accounting,~~
2 ~~tax preparation, bookkeeping, architectural, engineering, and related~~
3 ~~services, specialized design services, computer systems design,~~
4 ~~management, scientific and technical consulting services, scientific~~
5 ~~research and development services, or advertising services;~~

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

15 ~~(pp) The independent practice of general or specialized medicine~~
16 ~~or surgery, or general or specialized dentistry or dental surgery, by~~
17 ~~businesses comprised of one or more independent health practitioners,~~
18 ~~other than physicians and dentists;~~

19 ~~(qq) Providing ambulatory health care services.~~

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

31 ~~(ii) If a person was not primarily engaged within this state in~~
32 ~~any combination of the activities described in subsection (2) of this~~
33 ~~section during the immediately preceding year, and the person is~~
34 ~~unsure whether the person will be subject to the workforce investment~~
35 ~~surcharge for the current calendar year until the close of the~~
36 ~~current calendar year, the person must, if necessary, file corrected~~
37 ~~returns with the department of revenue to pay any additional tax due~~
38 ~~under this section for the current calendar year. Payment of~~
39 ~~additional tax, along with corrected returns, is due and payable when~~
40 ~~the person's last return for the calendar year during which the tax~~

1 liability accrued is due and payable. Additional tax due under this
2 section is subject to penalties and interest as provided under
3 chapter 82.32 RCW only if the tax is not paid in full by the date due
4 as provided in this subsection (3)(a)(ii).

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

10 ~~(4))~~ (1)(a) Beginning with business activities occurring on or
11 after ~~(January)~~ April 1, 2020, in addition to the taxes imposed
12 under RCW 82.04.290(2), a workforce education investment surcharge is
13 imposed on select advanced computing businesses ~~((as follows:~~

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

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

31 ~~(b) ((~~It~~)) Except as provided in (e) of this subsection (1), in~~
32 ~~no case will the combined surcharge imposed under this subsection~~
33 ~~((~~4~~)) (1) paid by all members of an affiliated group be ~~((less than~~~~
34 ~~four million dollars or)) more than ~~((seven)) nine million dollars~~~~
35 ~~annually.~~

36 (c) For persons subject to the surcharge imposed under this
37 subsection ~~((~~4~~))~~ (1) that report under one or more tax
38 classifications, the surcharge applies only to business activities
39 taxed under RCW 82.04.290(2).

1 (d) The surcharge imposed under this subsection (~~((4))~~) (1) must
2 be reported and paid on a quarterly basis in a manner (~~and~~
3 ~~frequency~~) as required by the department. Returns and amounts
4 payable under this subsection (1) are due by the last day of the
5 month immediately following the end of the reporting period covered
6 by the return. All other taxes must be reported and paid as required
7 under RCW 82.32.045.

8 (e) (i) To aid in the effective administration of the surcharge in
9 this subsection (~~((4))~~) (1), the department may require persons
10 believed to be engaging in advanced computing or affiliated with a
11 person believed to be engaging in advanced computing to disclose
12 whether they are a member of an affiliated group and, if so, to
13 identify all other members of the affiliated group subject to the
14 surcharge.

15 (ii) If the department (~~(determines)~~) establishes, by clear,
16 cogent, and convincing evidence, that (~~(a person)~~) one or more
17 members of an affiliated group, with intent to evade the surcharge
18 under this subsection (~~((4))~~) (1), failed to fully comply with this
19 subsection (~~((4))~~) (1)(e), the (~~(seven million dollar limitation in~~
20 ~~(b) of this subsection (4) does not apply to the person's affiliated~~
21 ~~group)~~) department must assess against that person, or those persons
22 collectively, a penalty equal to fifty percent of the amount of the
23 total surcharge payable by all members of that affiliated group for
24 the calendar year during which the person or persons failed to fully
25 comply with this subsection (1)(e). The penalty under this subsection
26 (1)(e) is in lieu of and not in addition to the evasion penalty under
27 RCW 82.32.090(7).

28 (f) For the purposes of this subsection (~~((4))~~) (1) the following
29 definitions apply:

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

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

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

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

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

8 (vi) "Select advanced computing business" means a person who is a
9 member of an affiliated group with at least one member of the
10 affiliated group engaging in the business of advanced computing, and
11 the affiliated group has worldwide gross revenue of more than twenty-
12 five billion dollars during the ~~((entire current or))~~ immediately
13 preceding calendar year. A person who is primarily engaged within
14 this state in the provision of commercial mobile service, as that
15 term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered
16 a select advanced computing business. A person who is primarily
17 engaged in this state in the operation and provision of access to
18 transmission facilities and infrastructure that the person owns or
19 leases for the transmission of voice, data, text, sound, and video
20 using wired telecommunications networks shall not be considered a
21 select advanced computing business. A person that is primarily
22 engaged in business as a "financial institution" as defined in RCW
23 82.04.29004, as that section existed on January 1, 2020, shall not be
24 considered a select advanced computing business. For purposes of this
25 subsection (1)(f)(vi), "primarily" is determined based on gross
26 income of the business.

27 ~~((+5))~~ (2) The workforce education investment surcharge~~((s))~~
28 under this section ~~((d))~~ does not apply to any hospital as defined
29 in RCW 70.41.020, including any hospital that comes within the scope
30 of chapter 71.12 RCW if the hospital is also licensed under chapter
31 70.41 RCW.

32 ~~((+6))~~ (3) Revenues from the surcharge~~((s))~~ under this section
33 must be deposited directly into the workforce education investment
34 account established in RCW 43.79.195.

35 ~~((+7))~~ (4) The department has the authority to determine through
36 an audit or other investigation whether a person is subject to the
37 surcharge~~((s))~~ imposed in this section. ~~((The department's~~
38 ~~determination that a person is subject to the surcharge is presumed~~
39 ~~to be correct unless the person shows by clear, cogent, and~~
40 ~~convincing evidence that the department's determination was~~

1 ~~incorrect. The increased evidentiary standard under this subsection~~
2 ~~(7) does not apply after January 1, 2022.)~~)

3 NEW SECTION. **Sec. 5.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 6.** The provisions of RCW 82.32.805 and
8 82.32.808 do not apply to this act.

9 NEW SECTION. **Sec. 7.** (1) Except as otherwise provided in this
10 section, this act is necessary for the immediate preservation of the
11 public peace, health, or safety, or support of the state government
12 and its existing public institutions, and takes effect immediately.

13 (2) Sections 1 through 3 of this act are necessary for the
14 immediate preservation of the public peace, health, or safety, or
15 support of the state government and its existing public institutions,
16 and take effect April 1, 2020.

17 NEW SECTION. **Sec. 8.** Section 4 of this act applies both
18 prospectively and retroactively to January 1, 2020.

19 NEW SECTION. **Sec. 9.** Section 3 of this act applies beginning
20 with gross income of the business, as defined in RCW 82.04.080,
21 received or accrued by taxpayers, on or after April 1, 2020.

Passed by the Senate January 30, 2020.
Passed by the House February 6, 2020.
Approved by the Governor February 10, 2020.
Filed in Office of Secretary of State February 10, 2020.

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