

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5402

Chapter 139, Laws of 2020

(partial veto)

66th Legislature
2020 Regular Session

TAX AND LICENSING LAWS--DEPARTMENT OF REVENUE

EFFECTIVE DATE: June 11, 2020—Except for section 37, which becomes effective January 1, 2022; and sections 60 through 62, which become effective March 25, 2020.

Passed by the Senate March 10, 2020
Yeas 47 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House March 6, 2020
Yeas 97 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved March 25, 2020 3:26 PM with
the exception of section 21, which is
vetoed.

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 SENATE BILL 5402** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

March 26, 2020

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5402

AS AMENDED BY THE HOUSE

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senators Schoesler and Rolfes

1 AN ACT Relating to improving tax and licensing laws administered
2 by the department of revenue, but not including changes to tax laws
3 that are estimated to affect state or local tax collections as
4 reflected in any fiscal note prepared and approved under the process
5 established in chapter 43.88A RCW; amending RCW 19.02.085, 82.04.192,
6 82.04.4266, 82.04.4268, 82.04.4269, 82.04.4327, 82.04.4328,
7 82.08.0201, 82.08.0208, 82.08.025651, 82.08.02807, 82.08.155,
8 82.08.195, 82.08.806, 82.08.9651, 82.12.0208, 82.12.02749, 82.12.930,
9 82.12.956, 82.12.9651, 82.14.049, 82.14.400, 82.14.457, 82.16.0497,
10 82.16.055, 82.23A.010, 82.24.010, 82.24.551, 82.26.121, 82.26.130,
11 82.26.190, 82.26.200, 82.29A.060, 82.29A.120, 82.32.062, 82.32.300,
12 82.32.780, 82.60.025, 82.60.063, 82.63.010, 82.74.010, 82.75.010,
13 82.82.010, 82.85.030, 82.85.080, 84.36.840, 84.37.040, 84.38.040,
14 84.38.050, 84.38.110, 84.39.020, 84.39.030, 84.56.150, 82.32.805,
15 82.32.808, 35.90.020, 82.32.050, and 82.32.060; amending 2017 3rd
16 sp.s. c 37 ss 501 and 504 (uncodified); reenacting and amending RCW
17 82.26.010; creating a new section; decodifying RCW 82.58.005,
18 82.58.901, and 82.58.902; repealing RCW 82.04.4322, 82.04.4324,
19 82.04.4326, 82.08.02081, 82.08.02082, 82.08.02087, 82.08.02088,
20 82.12.02081, 82.12.02082, 82.12.02084, 82.12.02085, 82.12.02086,
21 82.12.02087, 82.32.755, 82.32.760, 82.66.010, 82.66.020, 82.66.040,
22 82.66.050, 82.66.060, and 82.66.901; providing an effective date; and
23 declaring an emergency.

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

2 **Sec. 1.** 2017 3rd sp.s. c 37 s 501 (uncodified) is amended to
3 read as follows:

4 (1) This section is the tax preference performance statement for
5 the tax preferences contained in sections 502 and 503, chapter 37,
6 Laws of 2017 3rd sp. sess. This performance statement is only
7 intended to be used for subsequent evaluation of the tax preferences.
8 It is not intended to create a private right of action by any party
9 or be used to determine eligibility for preferential tax treatment.

10 (2) The legislature categorizes these tax preferences as ones
11 intended to induce certain designated behavior by taxpayers, improve
12 industry competitiveness, and create or retain jobs, as indicated in
13 RCW 82.32.808(2) (a) through (c).

14 (3) It is the legislature's specific public policy objective to
15 maintain and expand business in the semiconductor cluster. It is the
16 legislature's intent to extend by ten years the preferential tax
17 rates for manufacturers and processors for hire of semiconductor
18 materials in order to maintain and grow jobs in the semiconductor
19 cluster.

20 (4) If a review finds that: (a) Since October 19, 2017, at least
21 one project in the semiconductor cluster has located in Clark county,
22 and that this project generates at least two thousand five hundred
23 high-wage jobs, all of which pay twenty dollars per hour or more and
24 at least eighty percent of which pay thirty-five dollars per hour or
25 more; and (b) the number of jobs in the semiconductor cluster in
26 Washington has increased since October 19, 2017, then the legislature
27 intends to extend the expiration date of the tax preference.

28 (5) In order to obtain the data necessary to perform the review
29 in subsection (4) of this section, the joint legislative audit and
30 review committee may refer to data from the department of revenue's
31 annual survey (~~data~~) for tax years ending before January 1, 2020,
32 and annual tax performance report for subsequent tax years.

33 **Sec. 2.** 2017 3rd sp.s. c 37 s 504 (uncodified) is amended to
34 read as follows:

35 (1) This section is the tax preference performance statement for
36 the tax preferences contained in sections 505 through 508, chapter
37 37, Laws of 2017 3rd sp. sess. This performance statement is only

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

4 (2) The legislature categorizes these tax preferences as ones
5 intended to induce certain designated behavior by taxpayers, improve
6 industry competitiveness, and create or retain jobs, as indicated in
7 RCW 82.32.808(2) (a) through (c).

8 (3) It is the legislature's specific public policy objective to
9 encourage significant construction projects; retain, expand, and
10 attract semiconductor business; and encourage and expand family-wage
11 jobs. It is the legislature's intent to extend by ten years the
12 (~~(preferential tax rates)~~) exemptions for sales and use of gases and
13 chemicals used in the production of semiconductor materials, in order
14 to encourage the growth and retention of the semiconductor business
15 in Washington, thereby strengthening Washington's competitiveness
16 with other states for manufacturing investment.

17 (4) If a review finds that the number of construction projects in
18 the industry has increased, and that (~~(+the+)~~) the number of people
19 employed by the solar silicon, silicon manufacturing, and
20 semiconductor fabrication industry in Washington is the same or more
21 than in 2015, and that at least sixty percent of employees earn sixty
22 thousand dollars a year, then the legislature intends to extend the
23 expiration date of the tax preferences.

24 (5) In order to obtain the data necessary to perform the review
25 in subsection (4) of this section, the joint legislative audit and
26 review committee may refer to data from the department of revenue's
27 annual survey (~~(data)~~) for tax years ending before January 1, 2020,
28 and annual tax performance report for subsequent tax years.

29 **Sec. 3.** RCW 19.02.085 and 2013 c 144 s 22 are each amended to
30 read as follows:

31 (1) To encourage timely renewal by applicants, a business license
32 delinquency fee is imposed on licensees who fail to renew by the
33 business license expiration date. The business license delinquency
34 fee must be the lesser of one hundred fifty dollars or fifty percent
35 of a base comprised of the licensee's renewal fee minus corporate
36 licensing taxes, corporation annual report fee, and any interest fees
37 or penalties charged for late taxes or corporate renewals. The
38 business license delinquency fee must be added to the renewal fee and

1 paid by the licensee before a business license is renewed. The
2 delinquency fee must be deposited in the business license account.

3 (2) The department must waive or cancel the business license
4 delinquency fee imposed in subsection (1) of this section only if the
5 department determines that the licensee failed to renew a license by
6 the business license expiration date due to an undisputable error or
7 failure by the department. For purposes of this subsection, an error
8 or failure is undisputable if the department is satisfied, beyond any
9 doubt, that the error or failure occurred.

10 **Sec. 4.** RCW 82.04.192 and 2017 c 323 s 514 are each amended to
11 read as follows:

12 (1) "Digital audio works" means works that result from the
13 fixation of a series of musical, spoken, or other sounds, including
14 ringtones.

15 (2) "Digital audiovisual works" means a series of related images
16 which, when shown in succession, impart an impression of motion,
17 together with accompanying sounds, if any.

18 (3)(a) "Digital automated service," except as provided in (b) of
19 this subsection (3), means any service transferred electronically
20 that uses one or more software applications.

21 (b) "Digital automated service" does not include:

22 (i) Any service that primarily involves the application of human
23 effort by the seller, and the human effort originated after the
24 customer requested the service;

25 (ii) The loaning or transferring of money or the purchase, sale,
26 or transfer of financial instruments. For purposes of this subsection
27 (3)(b)(ii), "financial instruments" include cash, accounts receivable
28 and payable, loans and notes receivable and payable, debt securities,
29 equity securities, as well as derivative contracts such as forward
30 contracts, swap contracts, and options;

31 (iii) Dispensing cash or other physical items from a machine;

32 (iv) Payment processing services;

33 (v) Parimutuel wagering and handicapping contests as authorized
34 by chapter 67.16 RCW;

35 (vi) Telecommunications services and ancillary services as those
36 terms are defined in RCW 82.04.065;

37 (vii) The internet and internet access as those terms are defined
38 in RCW 82.04.297;

39 (viii) The service described in RCW 82.04.050(6)(c);

1 (ix) Online educational programs provided by a:
2 (A) Public or private elementary or secondary school; or
3 (B) An institution of higher education as defined in sections
4 1001 or 1002 of the federal higher education act of 1965 (Title 20
5 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For
6 purposes of this subsection (3)(b)(ix)(B), an online educational
7 program must be encompassed within the institution's accreditation;
8 (x) Live presentations, such as lectures, seminars, workshops, or
9 courses, where participants are connected to other participants via
10 the internet or telecommunications equipment, which allows audience
11 members and the presenter or instructor to give, receive, and discuss
12 information with each other in real time;
13 (xi) Travel agent services, including online travel services, and
14 automated systems used by travel agents to book reservations;
15 (xii)(A) A service that allows the person receiving the service
16 to make online sales of products or services, digital or otherwise,
17 using either: (I) The service provider's web site; or (II) the
18 service recipient's web site, but only when the service provider's
19 technology is used in creating or hosting the service recipient's web
20 site or is used in processing orders from customers using the service
21 recipient's web site.
22 (B) The service described in this subsection (3)(b)(xii) does not
23 include the underlying sale of the products or services, digital or
24 otherwise, by the person receiving the service;
25 (xiii) Advertising services. For purposes of this subsection
26 (3)(b)(xiii), "advertising services" means all services directly
27 related to the creation, preparation, production, or the
28 dissemination of advertisements. Advertising services include layout,
29 art direction, graphic design, mechanical preparation, production
30 supervision, placement, and rendering advice to a client concerning
31 the best methods of advertising that client's products or services.
32 Advertising services also include online referrals, search engine
33 marketing and lead generation optimization, web campaign planning,
34 the acquisition of advertising space in the internet media, and the
35 monitoring and evaluation of web site traffic for purposes of
36 determining the effectiveness of an advertising campaign. Advertising
37 services do not include web hosting services and domain name
38 registration;
39 (xiv) The mere storage of digital products, digital codes,
40 computer software, or master copies of software. This exclusion from

1 the definition of digital automated services includes providing space
2 on a server for web hosting or the backing up of data or other
3 information;

4 (xv) Data processing services. For purposes of this subsection
5 (3)(b)(xv), "data processing service" means a primarily automated
6 service provided to a business or other organization where the
7 primary object of the service is the systematic performance of
8 operations by the service provider on data supplied in whole or in
9 part by the customer to extract the required information in an
10 appropriate form or to convert the data to usable information. Data
11 processing services include check processing, image processing, form
12 processing, survey processing, payroll processing, claim processing,
13 and similar activities. Data processing does not include the service
14 described in RCW 82.04.050(6)(c); and

15 (xvi) Digital goods.

16 (4) "Digital books" means works that are generally recognized in
17 the ordinary and usual sense as books.

18 (5) "Digital code" means a code that provides a purchaser with
19 the right to obtain one or more digital products, if all of the
20 digital products to be obtained through the use of the code have the
21 same sales and use tax treatment. "Digital code" does not include a
22 code that represents a stored monetary value that is deducted from a
23 total as it is used by the purchaser. "Digital code" also does not
24 include a code that represents a redeemable card, gift card, or gift
25 certificate that entitles the holder to select digital products of an
26 indicated cash value. A digital code may be obtained by any means,
27 including email or by tangible means regardless of its designation as
28 song code, video code, book code, or some other term.

29 (6)(a) "Digital goods," except as provided in (b) of this
30 subsection (6), means sounds, images, data, facts, or information, or
31 any combination thereof, transferred electronically, including, but
32 not limited to, specified digital products and other products
33 transferred electronically not included within the definition of
34 specified digital products.

35 (b) The term "digital goods" does not include:

36 (i) Telecommunications services and ancillary services as those
37 terms are defined in RCW 82.04.065;

38 (ii) Computer software as defined in RCW 82.04.215;

39 (iii) The internet and internet access as those terms are defined
40 in RCW 82.04.297;

1 (iv) (A) Except as provided in (b) (iv) (B) of this subsection (6),
2 the representation of a personal or professional service in
3 electronic form, such as an electronic copy of an engineering report
4 prepared by an engineer, where the service primarily involves the
5 application of human effort by the service provider, and the human
6 effort originated after the customer requested the service.

7 (B) The exclusion in (b) (iv) (A) of this subsection (6) does not
8 apply to photographers in respect to amounts received for the taking
9 of photographs that are transferred electronically to the customer,
10 but only if the customer is an end user, as defined in RCW
11 82.04.190(11), of the photographs. Such amounts are considered to be
12 for the sale of digital goods; and

13 (v) Services and activities excluded from the definition of
14 digital automated services in subsection (3) (b) (i) through (xv) of
15 this section and not otherwise described in (b) (i) through (iv) of
16 this subsection (6).

17 (7) "Digital products" means digital goods and digital automated
18 services.

19 (8) "Electronically transferred" or "transferred electronically"
20 means obtained by the purchaser by means other than tangible storage
21 media. It is not necessary that a copy of the product be physically
22 transferred to the purchaser. So long as the purchaser may access the
23 product, it will be considered to have been electronically
24 transferred to the purchaser.

25 (9) "Specified digital products" means electronically transferred
26 digital audiovisual works, digital audio works, and digital books.

27 (10) "Subscription radio services" means the sale of audio
28 programming by a radio broadcaster as defined in RCW (~~(82.08.02081)~~)
29 82.08.0208, except as otherwise provided in this subsection.
30 "Subscription radio services" does not include audio programming that
31 is sold on a pay-per-program basis or that allows the buyer to access
32 a library of programs at any time for a specific charge for that
33 service.

34 (11) "Subscription television services" means the sale of video
35 programming by a television broadcaster as defined in RCW
36 (~~(82.08.02081)~~) 82.08.0208, except as otherwise provided in this
37 subsection. "Subscription television services" does not include video
38 programming that is sold on a pay-per-program basis or that allows
39 the buyer to access a library of programs at any time for a specific
40 charge for that service, but only if the seller is not subject to a

1 franchise fee in this state under the authority of Title 47 U.S.C.
2 Sec. 542(a) on the gross revenue derived from the sale.

3 **Sec. 5.** RCW 82.04.4266 and 2015 3rd sp.s. c 6 s 202 are each
4 amended to read as follows:

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

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

9 (b) Selling at wholesale fruits or vegetables manufactured by the
10 seller by canning, preserving, freezing, processing, or dehydrating
11 fresh fruits or vegetables and sold to purchasers who transport in
12 the ordinary course of business the goods out of this state. A person
13 taking an exemption under this subsection (1)(b) must keep and
14 preserve records for the period required by RCW 82.32.070
15 establishing that the goods were transported by the purchaser in the
16 ordinary course of business out of this state.

17 (2) For purposes of this section, "fruits" and "vegetables" do
18 not include marijuana, useable marijuana, or marijuana-infused
19 products.

20 (3) A person claiming the exemption provided in this section must
21 file a complete annual (~~survey~~) tax performance report with the
22 department under RCW (~~82.32.585~~) 82.32.534.

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

24 **Sec. 6.** RCW 82.04.4268 and 2015 3rd sp.s. c 6 s 203 are each
25 amended to read as follows:

26 (1) In computing tax there may be deducted from the measure of
27 tax, the value of products or the gross proceeds of sales derived
28 from:

29 (a) Manufacturing dairy products; or

30 (b) Selling dairy products manufactured by the seller to
31 purchasers who either transport in the ordinary course of business
32 the goods out of this state or purchasers who use such dairy products
33 as an ingredient or component in the manufacturing of a dairy
34 product. A person taking an exemption under this subsection (1)(b)
35 must keep and preserve records for the period required by RCW
36 82.32.070 establishing that the goods were transported by the
37 purchaser in the ordinary course of business out of this state or

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

3 (2) "Dairy products" has the same meaning as provided in RCW
4 82.04.260.

5 (3) A person claiming the exemption provided in this section must
6 file a complete annual (~~survey~~) tax performance report with the
7 department under RCW (~~82.32.585~~) 82.32.534.

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

9 **Sec. 7.** RCW 82.04.4269 and 2015 3rd sp.s. c 6 s 204 are each
10 amended to read as follows:

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

13 (a) Manufacturing seafood products that remain in a raw, raw
14 frozen, or raw salted state at the completion of the manufacturing by
15 that person; or

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

23 (2) A person claiming the exemption provided in this section must
24 file a complete annual (~~survey~~) tax performance report with the
25 department under RCW (~~82.32.585~~) 82.32.534.

26 (3) This section expires July 1, 2025.

27 **Sec. 8.** RCW 82.04.4327 and 1985 c 471 s 6 are each amended to
28 read as follows:

29 In computing tax (~~there may be deducted~~) under this chapter, an
30 artistic or cultural organization may deduct from the measure of tax
31 (~~those~~);

32 (1) All amounts received by the artistic or cultural
33 (~~organizations which represent income derived from business~~
34 activities conducted by the organization)) organization; and

35 (2) The value of articles manufactured by the artistic or
36 cultural organization solely for use by the organization in
37 displaying art objects or presenting artistic or cultural

1 exhibitions, performances, or programs for attendance or viewing by
2 the general public.

3 **Sec. 9.** RCW 82.04.4328 and 1985 c 471 s 7 are each amended to
4 read as follows:

5 (1) For the purposes of RCW ((82.04.4322, ~~82.04.4324,~~
6 ~~82.04.4326,~~) 82.04.4327, 82.08.031, and 82.12.031, the term
7 "artistic or cultural organization" means an organization ((which))
8 that is organized and operated exclusively for the purpose of
9 providing artistic or cultural exhibitions, presentations, or
10 performances or cultural or art education programs, as defined in
11 subsection (2) of this section, for viewing or attendance by the
12 general public. The organization must be a not-for-profit corporation
13 under chapter 24.03 RCW and managed by a governing board of not less
14 than eight individuals none of whom is a paid employee of the
15 organization or by a corporation sole under chapter 24.12 RCW. In
16 addition, to qualify for deduction or exemption from taxation under
17 RCW ((82.04.4322, ~~82.04.4324,~~ ~~82.04.4326,~~) 82.04.4327, 82.08.031,
18 and 82.12.031, the corporation ((shall)) must satisfy the following
19 conditions:

20 (a) No part of its income may be paid directly or indirectly to
21 its members, stockholders, officers, directors, or trustees except in
22 the form of services rendered by the corporation in accordance with
23 its purposes and bylaws;

24 (b) Salary or compensation paid to its officers and executives
25 must be only for actual services rendered, and at levels comparable
26 to the salary or compensation of like positions within the state;

27 (c) Assets of the corporation must be irrevocably dedicated to
28 the activities for which the exemption is granted and, on the
29 liquidation, dissolution, or abandonment by the corporation, may not
30 inure directly or indirectly to the benefit of any member or
31 individual except a nonprofit organization, association, or
32 corporation which also would be entitled to the exemption;

33 (d) The corporation must be duly licensed or certified when
34 licensing or certification is required by law or regulation;

35 (e) The amounts received that qualify for exemption must be used
36 for the activities for which the exemption is granted;

37 (f) Services must be available regardless of race, color,
38 national origin, or ancestry; and

1 (g) The director of revenue (~~shall~~) must have access to its
2 books in order to determine whether the corporation is exempt from
3 taxes.

4 (2) The term "artistic or cultural exhibitions, presentations, or
5 performances or cultural or art education programs" includes and is
6 limited to:

7 (a) An exhibition or presentation of works of art or objects of
8 cultural or historical significance, such as those commonly displayed
9 in art or history museums;

10 (b) A musical or dramatic performance or series of performances;
11 or

12 (c) An educational seminar or program, or series of such
13 programs, offered by the organization to the general public on an
14 artistic, cultural, or historical subject.

15 **Sec. 10.** RCW 82.08.0201 and 1992 c 194 s 10 are each amended to
16 read as follows:

17 Before January 1, 1994, and January 1st of each odd-numbered year
18 thereafter:

19 The department of licensing, with the assistance of the
20 department of revenue, (~~shall~~) must provide the office of financial
21 management and the fiscal committees of the legislature with an
22 updated estimate of the amount of revenue attributable to the taxes
23 imposed in RCW 82.08.020(2) (~~(, and the amount of revenue not~~
24 ~~collected as a result of RCW 82.44.023)~~).

25 **Sec. 11.** RCW 82.08.0208 and 2009 c 535 s 501 are each amended to
26 read as follows:

27 (1) The tax imposed by RCW 82.08.020 does not apply to the sale
28 of a digital code for one or more digital products if the sale of the
29 digital products to which the digital code relates is exempt from the
30 tax levied by RCW 82.08.020.

31 (2)(a) The tax imposed by RCW 82.08.020 does not apply to a
32 business or other organization for the purpose of making the digital
33 good or digital automated service, including a digital good or
34 digital automated service acquired through the use of a digital code,
35 or service defined as a retail sale in RCW 82.04.050(6)(c), available
36 free of charge for the use or enjoyment of the general public. The
37 exemption provided in this subsection (2) does not apply unless the
38 purchaser has the legal right to broadcast, rebroadcast, transmit,

1 retransmit, license, relicense, distribute, redistribute, or exhibit
2 the product, in whole or in part, to the general public.

3 (b) For purposes of this subsection (2), "general public" means
4 all persons and not limited or restricted to a particular class of
5 persons, except that the general public includes:

6 (i) A class of persons that is defined as all persons residing or
7 owning property within the boundaries of a state, political
8 subdivision of a state, or a municipal corporation; and

9 (ii) With respect to libraries, authorized library patrons.

10 (3)(a) The tax imposed by RCW 82.08.020 does not apply to the
11 sale to a business of digital goods, and services rendered in respect
12 to digital goods, if the digital goods and services rendered in
13 respect to digital goods are purchased solely for business purposes.
14 The exemption provided by this subsection (3) also applies to the
15 sale to a business of a digital code if all of the digital goods to
16 be obtained through the use of the code will be used solely for
17 business purposes.

18 (b) For purposes of this subsection (3), the following
19 definitions apply:

20 (i) "Business purposes" means any purpose relevant to the
21 business needs of the taxpayer claiming an exemption under this
22 subsection (3). Business purposes do not include any personal,
23 family, or household purpose. The term also does not include any
24 activity conducted by a government entity as that term is defined in
25 RCW 7.25.005; and

26 (ii) "Services rendered in respect to digital goods" means those
27 services defined as a retail sale in RCW 82.04.050(2)(g).

28 (4)(a) The tax imposed by RCW 82.08.020 does not apply to the
29 sale of digital goods, digital codes, digital automated services,
30 prewritten computer software, or services defined as a retail sale in
31 RCW 82.04.050(6)(c) to a buyer that provides the seller with an
32 exemption certificate claiming multiple points of use. An exemption
33 certificate claiming multiple points of use must be in a form and
34 contain such information as required by the department.

35 (b) A buyer is entitled to use an exemption certificate claiming
36 multiple points of use only if the buyer is a business or other
37 organization and the digital goods or digital automated services
38 purchased, or the digital goods or digital automated services to be
39 obtained by the digital code purchased, or the prewritten computer
40 software or services defined as a retail sale in RCW 82.04.050(6)(c)

1 purchased will be concurrently available for use within and outside
2 this state. A buyer is not entitled to use an exemption certificate
3 claiming multiple points of use for digital goods, digital codes,
4 digital automated services, prewritten computer software, or services
5 defined as a retail sale in RCW 82.04.050(6)(c) purchased for
6 personal use.

7 (c) A buyer claiming an exemption under this subsection (4) must
8 report and pay the tax imposed in RCW 82.12.020 and any local use
9 taxes imposed under the authority of chapter 82.14 RCW and RCW
10 81.104.170 directly to the department in accordance with RCW
11 82.12.0208 and 82.14.457.

12 (d) For purposes of this subsection (4), "concurrently available
13 for use within and outside this state" means that employees or other
14 agents of the buyer may use the digital goods, digital automated
15 services, prewritten computer software, or services defined as a
16 retail sale in RCW 82.04.050(6)(c) simultaneously from one or more
17 locations within this state and one or more locations outside this
18 state. A digital code is concurrently available for use within and
19 outside this state if employees or other agents of the buyer may use
20 the digital goods or digital automated services to be obtained by the
21 code simultaneously at one or more locations within this state and
22 one or more locations outside this state.

23 (5)(a) Except as provided in (b) of this subsection (5), the tax
24 imposed by RCW 82.08.020 does not apply to sales of audio or video
25 programming by a radio or television broadcaster.

26 (b)(i) Except as provided in (b)(ii) of this subsection (5), the
27 exemption provided in this subsection (5) does not apply in respect
28 to programming that is sold on a pay-per-program basis or that allows
29 the buyer to access a library of programs at any time for a specific
30 charge for that service.

31 (ii) The exemption provided in this subsection (5) applies to the
32 sale of programming described in (b)(i) of this subsection (5) if the
33 seller is subject to a franchise fee in this state under the
34 authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived
35 from the sale.

36 (c) For purposes of this subsection (5), "radio or television
37 broadcaster" includes satellite radio providers, satellite television
38 providers, cable television providers, and providers of subscription
39 internet television.

1 (6) Sellers making tax-exempt sales under subsection (2) or (3)
2 of this section must obtain an exemption certificate from the buyer
3 in a form and manner prescribed by the department. The seller must
4 retain a copy of the exemption certificate for the seller's files. In
5 lieu of an exemption certificate, a seller may capture the relevant
6 data elements as allowed under the streamlined sales and use tax
7 agreement.

8 **Sec. 12.** RCW 82.08.025651 and 2011 c 23 s 4 are each amended to
9 read as follows:

10 (1) (a) The tax levied by RCW 82.08.020 does not apply to sales to
11 a public research institution of machinery and equipment used
12 primarily in a research and development operation, or to sales of or
13 charges made for labor and services rendered in respect to
14 installing, repairing, cleaning, altering, or improving the machinery
15 and equipment.

16 (b) Sellers making tax-exempt sales under this section must
17 obtain from the purchaser an exemption certificate in a form and
18 manner prescribed by the department. The seller must retain a copy of
19 the certificate for the seller's files.

20 (2) A public research institution claiming the exemption provided
21 in this section must file a complete annual ~~((survey))~~ tax
22 performance report with the department under RCW ~~((82.32.585))~~
23 82.32.534.

24 (3) For purposes of this section, the following definitions
25 apply:

26 (a) "Machinery and equipment" means those fixtures, pieces of
27 equipment, digital goods, and support facilities that are an integral
28 and necessary part of a research and development operation, and
29 tangible personal property that becomes an ingredient or component of
30 such fixtures, equipment, and support facilities, including repair
31 parts and replacement parts. "Machinery and equipment" may include,
32 but is not limited to: Computers; software; data processing
33 equipment; laboratory equipment, instrumentation, and other devices
34 used in a process of experimentation to develop a new or improved
35 pilot model, plant process, product, formula, or invention; vats,
36 tanks, and fermenters; operating structures; and all equipment used
37 to control, monitor, or operate the machinery and equipment.

38 (b) "Machinery and equipment" does not include:

39 (i) Hand-powered tools;

1 (ii) Property with a useful life of less than one year;
2 (iii) Buildings; and
3 (iv) Those building fixtures that are not an integral and
4 necessary part of a research and development operation and that are
5 permanently affixed to and become a physical part of a building, such
6 as utility systems for heating, ventilation, air conditioning,
7 communications, plumbing, or electrical.

8 (c) "Primarily" means greater than fifty percent as measured by
9 time. If machinery and equipment is used simultaneously in a research
10 and development operation and also for other purposes, the use for
11 other purposes must be disregarded during the period of simultaneous
12 use for purposes of determining whether the machinery and equipment
13 is used primarily in a research and development operation.

14 (d) "Public research institution" means any college or university
15 included within the definitions of state universities, regional
16 universities, or state college in RCW 28B.10.016.

17 (e) "Research and development operation" means engaging in
18 research and development as defined in RCW 82.63.010.

19 **Sec. 13.** RCW 82.08.02807 and 2014 c 97 s 306 are each amended to
20 read as follows:

21 (1) The tax levied by RCW 82.08.020 (~~shall~~) does not apply to
22 the sales of medical supplies, chemicals, or materials to an organ
23 procurement organization exempt under RCW 82.04.326. This exemption
24 does not apply to the sale of construction materials, office
25 equipment, building equipment, administrative supplies, or vehicles.

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

28 (a) "Chemical" means any catalyst, solvent, water, acid, oil, or
29 other additive that physically or chemically interacts with blood,
30 bone, or tissue.

31 (b) "Materials" means any item of tangible personal property
32 including, but not limited to, bags, packs, collecting sets,
33 filtering materials, testing reagents, antisera, and refrigerants,
34 used or consumed in performing research on, procuring, testing,
35 processing, storing, packaging, distributing, or using blood, bone,
36 or tissue.

37 (c) "Medical supplies" means any item of tangible personal
38 property, including any repair and replacement parts for such
39 tangible personal property, used by an organ procurement organization

1 exempt under RCW 82.04.326 for the purpose of performing research on,
2 procuring, testing, processing, storing, packaging, distributing, or
3 using blood, bone, or tissue. The term includes tangible personal
4 property used to:

5 (i) Provide preparatory treatment of blood, bone, or tissue;

6 (ii) Control, guide, measure, tune, verify, align, regulate,
7 test, or physically support blood, bone, or tissue; or

8 (iii) Protect the health and safety of employees or others
9 present during research on, procuring, testing, processing, storing,
10 packaging, distributing, or using blood, bone, or tissue.

11 **Sec. 14.** RCW 82.08.155 and 2012 c 39 s 1 are each amended to
12 read as follows:

13 (1)(a) If the department determines that a taxpayer is more than
14 thirty days delinquent in reporting or remitting spirits taxes on a
15 tax return or assessed by the department, including any applicable
16 penalties and interest on such taxes, the department may request that
17 the liquor (~~(control)~~) and cannabis board suspend the taxpayer's
18 spirits license or licenses and refuse to renew any existing spirits
19 license held by the taxpayer or issue any new spirits license to the
20 taxpayer. The department must provide written notice to the affected
21 taxpayer of the department's request to the liquor (~~(control)~~) and
22 cannabis board.

23 (b) Before the department may make a request to the liquor
24 (~~(control)~~) and cannabis board as authorized in (a) of this
25 subsection (1), the department must have provided the taxpayer with
26 at least seven calendar days prior written notice. This notice must
27 inform the taxpayer that the department intends to request that the
28 liquor (~~(control)~~) and cannabis board suspend the taxpayer's spirits
29 license or licenses and refuse to renew any existing license of the
30 taxpayer or issue any new spirits license to the taxpayer unless,
31 within seven calendar days of the date of the notice, the taxpayer
32 submits any unfiled tax returns for reporting spirits taxes and
33 remits full payment of its outstanding spirits tax liability to the
34 department or negotiates payment arrangements for the unpaid spirits
35 taxes. The notice required by this subsection (1)(b) must include
36 information listing any unfiled tax returns; the amount of unpaid
37 spirits taxes, including any applicable penalties and interest; who
38 to contact to inquire about payment arrangements; and that the
39 taxpayer may seek administrative review by the department of the

1 notice, and the deadline for seeking such review. Nothing in this
2 subsection (1)(b) requires the department to enter into any payment
3 arrangement proposed by a taxpayer if the department determines that
4 the taxpayer's proposal is not satisfactory.

5 (c) The department may not make a request to the liquor
6 (~~control~~) and cannabis board under (a) of this subsection (~~((1)(a)~~
7 ~~of this section))~~) relating to any spirits taxes that are the subject
8 of pending administrative review by the department.

9 (2) A taxpayer's right to administrative review of the notice
10 required in subsection (1)(b) of this section:

11 (a) May be conducted under any rule adopted pursuant to RCW
12 82.01.060(4) or as a brief adjudicative proceeding under RCW
13 34.05.485 through 34.05.494; and

14 (b) Does not include the right to challenge the amount of any
15 spirits taxes assessed by the department if the taxpayer previously
16 sought or could have sought administrative review of the assessment
17 as provided in RCW 82.32.160.

18 (3) The notices required by this section may be provided
19 electronically in accordance with RCW 82.32.135.

20 (4) For purposes of this section:

21 (a) "Spirits license" has the same meaning as in RCW
22 66.24.010(3)(c); and

23 (b) "Spirits taxes" means the taxes imposed in RCW 82.08.150.

24 **Sec. 15.** RCW 82.08.195 and 2010 c 111 s 601 are each amended to
25 read as follows:

26 (1) Except as provided in subsection (6) of this section, a
27 bundled transaction is subject to the tax imposed by RCW 82.08.020 if
28 the retail sale of any of its component products would be subject to
29 the tax imposed by RCW 82.08.020.

30 (2) The transactions described in RCW 82.08.190(4) (a) and (b)
31 are subject to the tax imposed by RCW 82.08.020 if the service that
32 is the true object of the transaction is subject to the tax imposed
33 by RCW 82.08.020. If the service that is the true object of the
34 transaction is not subject to the tax imposed by RCW 82.08.020, the
35 transaction is not subject to the tax imposed by RCW 82.08.020.

36 (3) The transaction described in RCW 82.08.190(4)(c) is not
37 subject to the tax imposed by RCW 82.08.020.

38 (4) The transaction described in RCW 82.08.190(4)(d) is not
39 subject to the tax imposed by RCW 82.08.020.

1 (5) In the case of a bundled transaction that includes any of the
2 following: Telecommunications service, ancillary service, internet
3 access, or audio or video programming service:

4 (a) If the price is attributable to products that are taxable and
5 products that are not taxable, the portion of the price attributable
6 to the nontaxable products are subject to the tax imposed by RCW
7 82.08.020 unless the seller can identify by reasonable and verifiable
8 standards the portion from its books and records that are kept in the
9 regular course of business for other purposes including, but not
10 limited to, nontax purposes;

11 (b) If the price is attributable to products that are subject to
12 tax at different tax rates, the total price is attributable to the
13 products subject to the tax at the highest tax rate unless the seller
14 can identify by reasonable and verifiable standards the portion of
15 the price attributable to the products subject to the tax imposed by
16 RCW 82.08.020 at the lower rate from its books and records that are
17 kept in the regular course of business for other purposes including,
18 but not limited to, nontax purposes.

19 (6) The tax imposed by RCW 82.08.020 does not apply in respect to
20 a bundled transaction consisting entirely of the sale of services or
21 of services and prepared food, if the sale is to a resident, sixty-
22 two years of age or older, of a qualified low-income senior housing
23 facility by the lessor or operator of the facility. A single bundled
24 transaction involving both spouses of a marital community or both
25 domestic partners of a domestic partnership meets the age requirement
26 in this subsection if at least one of the spouses or domestic
27 partners is at least sixty-two years of age. For purposes of this
28 subsection, "qualified low-income senior housing facility" has the
29 same meaning as in RCW 82.08.0293.

30 (7) In the case of the sale of a code that provides a purchaser
31 with the right to obtain more than one digital product or one or more
32 digital products and other products or services, and all of the
33 products and services, digital or otherwise, to be obtained through
34 the use of the code do not have the same sales and use tax treatment,
35 for purposes of the tax imposed by RCW 82.08.020:

36 (a) The transaction is deemed to be the sale of the products and
37 services to be obtained through the use of the code; and

38 (b)(i) The tax imposed by RCW 82.08.020 applies to the entire
39 selling price of the code, except as provided in (b)(ii) of this
40 subsection (7).

1 (ii) If the seller can identify by reasonable and verifiable
2 standards the portion of the selling price attributable to the
3 products and services that are not subject to the tax imposed by RCW
4 82.08.020 from its books and records that are kept in the regular
5 course of business for other purposes including, but not limited to,
6 nontax purposes, the tax imposed by RCW 82.08.020 does not apply to
7 that portion of the selling price of the code attributable to the
8 products and services that are not subject to the tax imposed by RCW
9 82.08.020 nor to that portion of the selling price of the code
10 attributable to any digital goods, the sale of which is exempt under
11 RCW (~~(82.08.02087)~~) 82.08.0208(3).

12 **Sec. 16.** RCW 82.08.806 and 2011 c 174 s 204 are each amended to
13 read as follows:

14 (1) The tax levied by RCW 82.08.020 does not apply to sales, to a
15 printer or publisher, of computer equipment, including repair parts
16 and replacement parts for such equipment, when the computer equipment
17 is used primarily in the printing or publishing of any printed
18 material, or to sales of or charges made for labor and services
19 rendered in respect to installing, repairing, cleaning, altering, or
20 improving the computer equipment. This exemption applies only to
21 computer equipment not otherwise exempt under RCW 82.08.02565.

22 (2) A person taking the exemption under this section must keep
23 records necessary for the department to verify eligibility under this
24 section. This exemption is available only when the purchaser provides
25 the seller with an exemption certificate in a form and manner
26 prescribed by the department. The seller must retain a copy of the
27 certificate for the seller's files.

28 (3) The definitions in this subsection (3) apply throughout this
29 section, unless the context clearly requires otherwise.

30 (a) "Computer" has the same meaning as in RCW 82.04.215.

31 (b) "Computer equipment" means a computer and the associated
32 physical components that constitute a computer system, including
33 monitors, keyboards, printers, modems, scanners, pointing devices,
34 and other computer peripheral equipment, cables, servers, and
35 routers. "Computer equipment" also includes digital cameras and
36 computer software.

37 (c) "Computer software" has the same meaning as in RCW 82.04.215.

38 (d) "Primarily" means greater than fifty percent as measured by
39 time.

1 (e) "Printer or publisher" means a person, as defined in RCW
2 82.04.030, who is subject to tax under RCW 82.04.260(~~((+13))~~) (14) or
3 82.04.280(1) (a).

4 (4) "Computer equipment" does not include computer equipment that
5 is used primarily for administrative purposes including but not
6 limited to payroll processing, accounting, customer service,
7 telemarketing, and collection. If computer equipment is used
8 simultaneously for administrative and nonadministrative purposes, the
9 administrative use must be disregarded during the period of
10 simultaneous use for purposes of determining whether the computer
11 equipment is used primarily for administrative purposes.

12 **Sec. 17.** RCW 82.08.9651 and 2017 3rd sp.s. c 37 s 506 are each
13 amended to read as follows:

14 (1) The tax levied by RCW 82.08.020 does not apply to sales of
15 gases and chemicals used by a manufacturer or processor for hire in
16 the production of semiconductor materials. This exemption is limited
17 to gases and chemicals used in the production process to grow the
18 product, deposit or grow permanent or sacrificial layers on the
19 product, to etch or remove material from the product, to anneal the
20 product, to immerse the product, to clean the product, and other such
21 uses whereby the gases and chemicals come into direct contact with
22 the product during the production process, or uses of gases and
23 chemicals to clean the chambers and other like equipment in which
24 such processing takes place. For the purposes of this section,
25 "semiconductor materials" has the meaning provided in RCW 82.04.2404
26 and 82.04.294(3).

27 (2) A person claiming the exemption under this section must file
28 a complete annual tax performance report with the department under
29 RCW 82.32.534.

30 (3) No application is necessary for the tax exemption. The person
31 is subject to all of the requirements of chapter 82.32 RCW.

32 (4) Any person who has claimed the (~~(preferential tax rate)~~)
33 exemption under this section must reimburse the department for fifty
34 percent of the amount of the tax preference under this section, if:

35 (a) The number of persons employed by the person claiming the tax
36 preference is less than ninety percent of the person's three-year
37 employment average for the three years immediately preceding the year
38 in which the (~~(preferential tax rate)~~) exemption is claimed; or

1 (b) The person is subject to a review under section 501(4)(a),
2 chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet
3 performance criteria in section 501(4)(a), chapter 37, Laws of 2017
4 3rd sp. sess.

5 (5) This section expires December 1, 2028.

6 **Sec. 18.** RCW 82.12.0208 and 2009 c 535 s 601 are each amended to
7 read as follows:

8 (1) The provisions of this chapter do not apply in respect to the
9 use of a digital code for one or more digital products, if the use of
10 the digital products to which the digital code relates is exempt from
11 the tax levied by RCW 82.12.020.

12 (2) The provisions of this chapter do not apply to the use by a
13 business or other organization of digital goods, digital codes,
14 digital automated services, or services defined as a retail sale in
15 RCW 82.04.050(6)(c) for the purpose of making the digital good or
16 digital automated service, including a digital good or digital
17 automated service acquired through the use of a digital code, or
18 service defined as a retail sale in RCW 82.04.050(6)(c) available
19 free of charge for the use or enjoyment of the general public. For
20 purposes of this subsection (2), "general public" has the same
21 meaning as in RCW 82.08.0208. The exemption provided in this
22 subsection (2) does not apply unless the user has the legal right to
23 broadcast, rebroadcast, transmit, retransmit, license, relicense,
24 distribute, redistribute, or exhibit the product, in whole or in
25 part, to the general public.

26 (3) The provisions of this chapter do not apply to the use by
27 students of digital goods furnished by a public or private elementary
28 or secondary school, or an institution of higher education as defined
29 in section 1001 or 1002 of the federal higher education act of 1965
30 (Title 20 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009.

31 (4)(a) The provisions of this chapter do not apply in respect to
32 the use of digital goods that are:

33 (i) Of a noncommercial nature, such as personal email
34 communications;

35 (ii) Created solely for an internal audience; or

36 (iii) Created solely for the business needs of the person who
37 created the digital good, including business email communications,
38 but not including the type of digital good that is offered for sale.

1 (b) This subsection (4) does not apply to the use of any digital
2 goods purchased by the user, the user's donor, or anybody on the
3 user's behalf.

4 (5) The provisions of this chapter do not apply in respect to the
5 use of digital products or digital codes obtained by the end user
6 free of charge.

7 (6) The provisions of this chapter do not apply to the use by a
8 business of digital goods, and services rendered in respect to
9 digital goods, where the digital goods and services rendered in
10 respect to digital goods are used solely for business purposes. The
11 exemption provided by this subsection (6) also applies to the use by
12 a business of a digital code if all of the digital goods to be
13 obtained through the use of the code will be used solely for business
14 purposes. For purposes of this subsection (6), the definitions in RCW
15 82.08.0208 apply.

16 (7)(a) A business or other organization subject to the tax
17 imposed in RCW 82.12.020 on the use of digital goods, digital codes,
18 digital automated services, prewritten computer software, or services
19 defined as a retail sale in RCW 82.04.050(6)(c) that are concurrently
20 available for use within and outside this state is entitled to
21 apportion the amount of tax due this state based on users in this
22 state compared to users everywhere. The department may authorize or
23 require an alternative method of apportionment supported by the
24 taxpayer's records that fairly reflects the proportion of in-state to
25 out-of-state use by the taxpayer of the digital goods, digital
26 automated services, prewritten computer software, or services defined
27 as a retail sale in RCW 82.04.050(6)(c).

28 (b) No apportionment under this subsection (7) is allowed unless
29 the apportionment method is supported by the taxpayer's records kept
30 in the ordinary course of business.

31 (c) For purposes of this subsection (7), the following
32 definitions apply:

33 (i) "Concurrently available for use within and outside this
34 state" means that employees or other agents of the taxpayer may use
35 the digital goods, digital automated services, prewritten computer
36 software, or services defined as a retail sale in RCW 82.04.050(6)(c)
37 simultaneously at one or more locations within this state and one or
38 more locations outside this state. A digital code is concurrently
39 available for use within and outside this state if employees or other
40 agents of the taxpayer may use the digital goods or digital automated

1 services to be obtained by the code simultaneously at one or more
2 locations within this state and one or more locations outside this
3 state; and

4 (ii) "User" means an employee or agent of the taxpayer who is
5 authorized by the taxpayer to use the digital goods, digital
6 automated services, prewritten computer software, or services defined
7 as a retail sale in RCW 82.04.050(6)(c) in the performance of his or
8 her duties as an employee or other agent of the taxpayer.

9 (8)(a) Except as provided in (b) of this subsection (8), the
10 provisions of this chapter do not apply to the use of audio or video
11 programming provided by a radio or television broadcaster.

12 (b)(i) Except as provided in (b)(ii) of this subsection (8), the
13 exemption provided in this subsection (8) does not apply in respect
14 to programming that is sold on a pay-per-program basis or that allows
15 the buyer to access a library of programs at any time for a specific
16 charge for that service.

17 (ii) The exemption provided in this subsection (8) applies to the
18 sale of programming described in (b)(i) of this subsection (8) if the
19 seller is subject to a franchise fee in this state under the
20 authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived
21 from the sale.

22 (c) For purposes of this subsection (8), "radio or television
23 broadcaster" includes satellite radio providers, satellite television
24 providers, cable television providers, providers of subscription
25 internet television, and persons who provide radio or television
26 broadcasting to listeners or viewers for no charge.

27 **Sec. 19.** RCW 82.12.02749 and 2002 c 113 s 3 are each amended to
28 read as follows:

29 The tax levied by RCW 82.08.020 (~~shall~~) does not apply to the
30 use of medical supplies, chemicals, or materials by an organ
31 procurement organization exempt under RCW 82.04.326. The definitions
32 of medical supplies, chemicals, and materials in RCW (~~82.04.324~~)
33 82.08.02807 apply to this section. This exemption does not apply to
34 the use of construction materials, office equipment, building
35 equipment, administrative supplies, or vehicles.

36 **Sec. 20.** RCW 82.12.930 and 2003 c 5 s 17 are each amended to
37 read as follows:

1 The provisions of this chapter do not apply with respect to the
2 use by municipal corporations, the state, and all political
3 subdivisions thereof of tangible personal property consumed and/or of
4 labor and services as defined in RCW 82.04.050(2)(a) rendered in
5 respect to contracts for watershed protection and/or flood
6 prevention. This exemption is limited to that portion of the selling
7 price that is reimbursed by the United States government according to
8 the provisions of the watershed protection and flood prevention act
9 (68 Stat. 666; 16 U.S.C. Sec. ((101)) 1001 et seq.).

10 ***Sec. 21. RCW 82.12.956 and 2013 2nd sp.s. c 13 s 1003 are each**
11 **amended to read as follows:**

12 (1) **The provisions of this chapter do not apply with respect to**
13 **the use of hog fuel for production of electricity, steam, heat, or**
14 **biofuel.**

15 (2) **For the purposes of this section:**

16 (a) **"Biofuel" has the same meaning as provided in RCW 82.08.956;**
17 **and**

18 **(b) "Hog fuel" has the same meaning as provided in RCW**
19 **82.08.956 (/ and**

20 **(b) "Biofuel" has the same meaning as provided in RCW**
21 **43.325.010)) .**

22 (3) **This section expires June 30, 2024.**

***Sec. 21 was vetoed. See message at end of chapter.**

23 **Sec. 22. RCW 82.12.9651 and 2017 3rd sp.s. c 37 s 508 are each**
24 **amended to read as follows:**

25 (1) The provisions of this chapter do not apply with respect to
26 the use of gases and chemicals used by a manufacturer or processor
27 for hire in the production of semiconductor materials. This exemption
28 is limited to gases and chemicals used in the production process to
29 grow the product, deposit or grow permanent or sacrificial layers on
30 the product, to etch or remove material from the product, to anneal
31 the product, to immerse the product, to clean the product, and other
32 such uses whereby the gases and chemicals come into direct contact
33 with the product during the production process, or uses of gases and
34 chemicals to clean the chambers and other like equipment in which
35 such processing takes place. For purposes of this section,
36 "semiconductor materials" has the meaning provided in RCW 82.04.2404
37 and 82.04.294(3).

1 (2) A person claiming the exemption under this section must file
2 a complete annual tax performance report with the department under
3 RCW 82.32.534.

4 (3) No application is necessary for the tax exemption. The person
5 is subject to all of the requirements of chapter 82.32 RCW.

6 (4) Any person who has claimed the (~~preferential tax rate~~)
7 exemption under this section must reimburse the department for fifty
8 percent of the amount of the tax preference under this section, if:

9 (a) The number of persons employed by the person claiming the tax
10 preference is less than ninety percent of the person's three-year
11 employment average for the three years immediately preceding the year
12 in which the (~~preferential tax rate~~) exemption is claimed; or

13 (b) The person is subject to a review under section 501(4)(a),
14 chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet
15 performance criteria in section 501(4)(a), chapter 37, Laws of 2017
16 3rd sp. sess.

17 (5) This section expires December 1, 2028.

18 **Sec. 23.** RCW 82.14.049 and 2011 c 174 s 107 are each amended to
19 read as follows:

20 (1) The legislative authority of any county may impose a sales
21 and use tax, in addition to the tax authorized by RCW 82.14.030, upon
22 retail car rentals within the county that are taxable by the state
23 under chapters 82.08 and 82.12 RCW. The rate of tax is one percent of
24 the selling price in the case of a sales tax or rental value of the
25 vehicle in the case of a use tax. Proceeds of the tax may not be used
26 to subsidize any professional sports team and must be used solely for
27 the following purposes:

28 (a) Acquiring, constructing, maintaining, or operating public
29 sports stadium facilities;

30 (b) Engineering, planning, financial, legal, or professional
31 services incidental to public sports stadium facilities;

32 (c) Youth or amateur sport activities or facilities; or

33 (d) Debt or refinancing debt issued for the purposes of
34 subsection (1) of this section.

35 (2) In a county of one million or more, at least seventy-five
36 percent of the tax imposed under this section must be used to retire
37 the debt on the stadium under RCW 67.28.180(2)(b) (~~(i)~~) (i)(B),
38 until that debt is fully retired.

1 **Sec. 24.** RCW 82.14.400 and 2000 c 240 s 1 are each amended to
2 read as follows:

3 (1) Upon the joint request of a metropolitan park district, a
4 city with a population of more than one hundred fifty thousand, and a
5 county legislative authority in a county with a national park and a
6 population of more than five hundred thousand and less than one
7 million five hundred thousand, the county (~~shall~~) must submit an
8 authorizing proposition to the county voters, fixing and imposing a
9 sales and use tax in accordance with this chapter for the purposes
10 designated in subsection (4) of this section and identified in the
11 joint request. Such proposition must be placed on a ballot for a
12 special or general election to be held no later than one year after
13 the date of the joint request.

14 (2) The proposition is approved if it receives the votes of a
15 majority of those voting on the proposition.

16 (3) The tax authorized in this section is in addition to any
17 other taxes authorized by law and (~~shall~~) must be collected from
18 those persons who are taxable by the state under chapters 82.08 and
19 82.12 RCW upon the occurrence of any taxable event within the county.
20 The rate of tax (~~shall~~) must equal no more than one-tenth of one
21 percent of the selling price in the case of a sales tax, or value of
22 the article used, in the case of a use tax.

23 (4) Moneys received from any tax imposed under this section
24 (~~shall~~) must be used solely for the purpose of providing funds for:

25 (a) Costs associated with financing, design, acquisition,
26 construction, equipping, operating, maintaining, remodeling,
27 repairing, reequipping, or improvement of zoo, aquarium, and wildlife
28 preservation and display facilities that are currently accredited by
29 the American zoo and aquarium association; or

30 (b) Those costs associated with (a) of this subsection and costs
31 related to parks located within a county described in subsection (1)
32 of this section.

33 (5) The department (~~of revenue shall~~) must perform the
34 collection of such taxes on behalf of the county at no cost to the
35 county. In lieu of the charge for the administration and collection
36 of local sales and use taxes under RCW 82.14.050 from which the
37 county is exempt under this subsection (5), a percentage of the tax
38 revenues authorized by this section equal to one-half of the maximum
39 percentage provided in RCW 82.14.050 (~~shall~~) must be transferred
40 annually to the department of (~~community, trade, and economic~~

1 development)) commerce, or its successor agency, from the funds
2 allocated under subsection (6)(b) of this section for a period of
3 twelve years from the first date of distribution of funds under
4 subsection (6)(b) of this section. The department of (~~community,~~
5 ~~trade, and economic development~~) commerce, or its successor agency,
6 (~~shall~~) must use funds transferred to it pursuant to this
7 subsection (5) to provide, operate, and maintain community-based
8 housing under chapter 43.185 RCW for (~~persons who are mentally ill~~)
9 individuals with mental illness.

10 (6) If the joint request and the authorizing proposition include
11 provisions for funding those costs included within subsection (4)(b)
12 of this section, the tax revenues authorized by this section
13 (~~shall~~) must be allocated annually as follows:

14 (a) Fifty percent to the zoo and aquarium advisory authority; and

15 (b) Fifty percent to be distributed on a per capita basis as set
16 out in the most recent population figures for unincorporated and
17 incorporated areas only within that county, as determined by the
18 office of financial management, solely for parks, as follows: To any
19 metropolitan park district, to cities and towns not contained within
20 a metropolitan park district, and the remainder to the county. Moneys
21 received under this subsection (6)(b) by a county may not be used to
22 replace or supplant existing per capita funding.

23 (7) Funds (~~shall~~) must be distributed annually by the county
24 treasurer to the county, and cities and towns located within the
25 county, in the manner set out in subsection (6)(b) of this section.

26 (8) Prior to expenditure of any funds received by the county
27 under subsection (6)(b) of this section, the county (~~shall~~) must
28 establish a process which considers needs throughout the
29 unincorporated areas of the county in consultation with community
30 advisory councils established by ordinance.

31 (9) By December 31, 2005, and thereafter, the county or any city
32 with a population greater than eighty thousand must provide at least
33 one dollar match for every two dollars received under this section.

34 (10) Properties subject to a memorandum of agreement between the
35 federal bureau of land management, the advisory council on historic
36 preservation, and the Washington state historic preservation officer
37 have priority for funding from money received under subsection (6)(b)
38 of this section for implementation of the stipulations in the
39 memorandum of agreement.

1 (a) At least one hundred thousand dollars of the first four years
2 of allocations under subsection (6)(b) of this section, to be matched
3 by the county or city with one dollar for every two dollars received,
4 (~~shall~~) must be used to implement the stipulations of the
5 memorandum of agreement and for other historical, archaeological,
6 architectural, and cultural preservation and improvements related to
7 the properties.

8 (b) The amount in (a) of this subsection (~~shall~~) must come
9 equally from the allocations to the county and to the city in which
10 the properties are located, unless otherwise agreed to by the county
11 and the city.

12 (c) The amount in (a) of this subsection (~~shall~~) may not be
13 construed to displace or be offered in lieu of any lease payment from
14 a county or city to the state for the properties in question.

15 **Sec. 25.** RCW 82.14.457 and 2017 c 323 s 527 are each amended to
16 read as follows:

17 (1) A business or other organization that is entitled under RCW
18 (~~82.12.0208~~) 82.12.0208(7) to apportion the amount of state use
19 tax on the use of digital goods, digital codes, digital automated
20 services, prewritten computer software, or services defined as a
21 retail sale in RCW 82.04.050(6)(c) is also entitled to apportion the
22 amount of local use taxes imposed under the authority of this chapter
23 and RCW 81.104.170 on the use of such products or services.

24 (2) To ensure that the tax base for state and local use taxes is
25 identical, the measure of local use taxes apportioned under this
26 section must be the same as the measure of state use tax apportioned
27 under RCW (~~82.12.0208~~) 82.12.0208(7).

28 (3) This section does not affect the sourcing of local use taxes.

29 **Sec. 26.** RCW 82.16.0497 and 2006 c 213 s 1 are each amended to
30 read as follows:

31 (1) (~~Unless the context clearly requires otherwise,~~) The
32 definitions in this subsection apply throughout this section unless
33 the context clearly requires otherwise.

34 (a) "Base credit" means the maximum amount of credit against the
35 tax imposed by this chapter that each light and power business or gas
36 distribution business may take each fiscal year as calculated by the
37 department. The base credit is equal to the proportionate share that
38 the total grants received by each light and power business or gas

1 distribution business in the prior fiscal year bears to the total
2 grants received by all light and power businesses and gas
3 distribution businesses in the prior fiscal year multiplied by five
4 million five hundred thousand dollars for fiscal year 2007, and two
5 million five hundred thousand dollars for all other fiscal years
6 before and after fiscal year 2007.

7 (b) "Billing discount" means a reduction in the amount charged
8 for providing service to qualifying persons in Washington made by a
9 light and power business or a gas distribution business. Billing
10 discount does not include grants received by the light and power
11 business or a gas distribution business.

12 (c) "Grant" means funds provided to a light and power business or
13 gas distribution business by the department of (~~community, trade,~~
14 ~~and economic development~~) commerce or by a qualifying organization.

15 (d) "Low-income home energy assistance program" means energy
16 assistance programs for low-income households as defined on December
17 31, 2000, in the low-income home energy assistance act of 1981 as
18 amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

19 (e) "Qualifying person" means a Washington resident who applies
20 for assistance and qualifies for a grant regardless of whether that
21 person receives a grant.

22 (f) "Qualifying contribution" means money given by a light and
23 power business or a gas distribution business to a qualifying
24 organization, exclusive of money received in the prior fiscal year
25 from its customers for the purpose of assisting other customers.

26 (g) "Qualifying organization" means an entity that has a
27 contractual agreement with the department of (~~community, trade, and~~
28 ~~economic development~~) commerce to administer in a specified service
29 area low-income home energy assistance funds received from the
30 federal government and such other funds that may be received by the
31 entity.

32 (2) Subject to the limitations in this section, a light and power
33 business or a gas distribution business may take a credit each fiscal
34 year against the tax imposed under this chapter.

35 (a) (i) A credit may be taken for qualifying contributions if the
36 dollar amount of qualifying contributions for the fiscal year in
37 which the tax credit is taken is greater than one hundred twenty-five
38 percent of the dollar amount of qualifying contributions given in
39 fiscal year 2000.

1 (ii) If no qualifying contributions were given in fiscal year
2 2000, a credit (~~shall be~~) is allowed for the first fiscal year that
3 qualifying contributions are given. Thereafter, credit (~~shall be~~)
4 is allowed if the qualifying contributions given exceed one hundred
5 twenty-five percent of qualifying contributions given in the first
6 fiscal year.

7 (iii) The amount of credit (~~shall be~~) is fifty percent of the
8 dollar amount of qualifying contributions given in the fiscal year in
9 which the tax credit is taken.

10 (b) (i) A credit may be taken for billing discounts if the dollar
11 amount of billing discounts for the fiscal year in which the tax
12 credit is taken is greater than one hundred twenty-five percent of
13 the dollar amount of billing discounts given in fiscal year 2000.

14 (ii) If no billing discounts were given in fiscal year 2000, a
15 credit (~~shall be~~) is allowed in the first fiscal year that billing
16 discounts are given. Thereafter, credit (~~shall be~~) is allowed if
17 the dollar amount of billing discounts given exceeds one hundred
18 twenty-five percent of billing discounts given in the first fiscal
19 year.

20 (iii) The amount of credit (~~shall be~~) is fifty percent of the
21 dollar amount of the billing discounts given in the fiscal year in
22 which the tax credit is taken.

23 (c) The total amount of credit that may be taken for qualifying
24 contributions and billing discounts in a fiscal year is limited to
25 the base credit for the same fiscal year.

26 (3) (a) (i) Except as provided in (a) (ii) of this subsection, the
27 total amount of credit, statewide, that may be taken in any fiscal
28 year (~~shall~~) may not exceed two million five hundred thousand
29 dollars.

30 (ii) The total amount of credit, statewide, that may be taken in
31 fiscal year 2007 (~~shall~~) may not exceed five million five hundred
32 thousand dollars.

33 (b) By May 1st of each year starting in 2002, the department of
34 (~~community, trade, and economic development shall~~) commerce must
35 notify the department of revenue in writing of the grants received in
36 the current fiscal year by each light and power business and gas
37 distribution business.

38 (4) (a) Not later than June 1st of each year beginning in 2002,
39 the department (~~shall~~) must publish the base credit for each light

1 and power business and gas distribution business for the next fiscal
2 year.

3 (b) Not later than July 1st of each year beginning in 2002,
4 application for credit must (~~by~~) be made to the department
5 including but not limited to the following information: Billing
6 discounts given by the applicant in fiscal year 2000; qualifying
7 contributions given by the applicant in the prior fiscal year; the
8 amount of money received in the prior fiscal year from customers for
9 the purpose of assisting other customers; the base credit for the
10 next fiscal year for the applicant; the qualifying contributions
11 anticipated to be given in the next fiscal year; and billing
12 discounts anticipated to be given in the next fiscal year. No credit
13 under this section will be allowed to a light and power business or
14 gas distribution business that does not file the application by July
15 1st.

16 (c) Not later than August 1st of each year beginning in 2002, the
17 department (~~shall~~) must notify each applicant of the amount of
18 credit that may be taken in that fiscal year.

19 (d) The balance of base credits not used by other light and power
20 businesses and gas distribution businesses (~~shall~~) must be ratably
21 distributed to applicants under the formula in subsection (1)(a) of
22 this section. The total amount of credit that may be taken by an
23 applicant is the base credit plus any ratable portion of unused base
24 credit.

25 (5) The credit taken under this section is limited to the amount
26 of tax imposed under this chapter for the fiscal year. The credit
27 must be claimed in the fiscal year in which the billing reduction is
28 made. Any unused credit expires. Refunds (~~shall~~) may not be given
29 in place of credits.

30 (6) No credit may be taken for billing discounts made before July
31 1, 2001. Within two weeks of May 8, 2001, the department of
32 (~~community, trade, and economic development shall~~) commerce must
33 notify the department of revenue in writing of the grants received in
34 fiscal year 2001 by each light and power business and gas
35 distribution business. Within four weeks of May 8, 2001, the
36 department of revenue (~~shall~~) must publish the base credit for each
37 light and power business and gas distribution business for fiscal
38 year 2002. Within eight weeks of May 8, 2001, application to the
39 department must be made showing the information required in
40 subsection (4)(b) of this section. Within twelve weeks of May 8,

1 2001, the department (~~shall~~) must notify each applicant of the
2 amount of credit that may be taken in fiscal year 2002.

3 **Sec. 27.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to
4 read as follows:

5 (1) In computing tax under this chapter there (~~shall~~) must be
6 deducted from the gross income:

7 (a) An amount equal to the cost of production at the plant for
8 consumption within the state of Washington of:

9 (i) Electrical energy produced or generated from cogeneration as
10 defined in RCW 82.35.020, as existing on June 30, 2006; and

11 (ii) Electrical energy or gas produced or generated from
12 renewable energy resources such as solar energy, wind energy,
13 hydroelectric energy, geothermal energy, wood, wood wastes, municipal
14 wastes, agricultural products and wastes, and end-use waste heat; and

15 (b) Those amounts expended to improve consumers' efficiency of
16 energy end use or to otherwise reduce the use of electrical energy or
17 gas by the consumer.

18 (2) This section applies only to new facilities for the
19 production or generation of energy from cogeneration or renewable
20 energy resources or measures to improve the efficiency of energy end
21 use on which construction or installation is begun after June 12,
22 1980, and before January 1, 1990.

23 (3) Deductions under subsection (1)(a) of this section (~~shall~~)
24 must be allowed for a period not to exceed thirty years after the
25 project is placed in operation.

26 (4) Measures or projects encouraged under this section (~~shall~~)
27 must at the time they are placed in service be reasonably expected to
28 save, produce, or generate energy at a total incremental system cost
29 per unit of energy delivered to end use which is less than or equal
30 to the incremental system cost per unit of energy delivered to end
31 use from similarly available conventional energy resources which
32 utilize nuclear energy or fossil fuels and which the gas or electric
33 utility could acquire to meet energy demand in the same time period.

34 (5) The department of revenue, after consultation with the
35 utilities and transportation commission in the case of investor-owned
36 utilities and the governing bodies of locally regulated utilities,
37 (~~shall~~) must determine the eligibility of individual projects and
38 measures for deductions under this section.

1 **Sec. 28.** RCW 82.23A.010 and 2012 1st sp.s. c 3 s 4 are each
2 amended to read as follows:

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

6 (1) "Petroleum product" means plant condensate, lubricating oil,
7 gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel
8 oil, residual oil, and every other product derived from the refining
9 of crude oil, but the term does not include crude oil or liquefiable
10 gases.

11 (2) "Possession" means the control of a petroleum product located
12 within this state and includes both actual and constructive
13 possession. "Actual possession" occurs when the person with control
14 has physical possession. "Constructive possession" occurs when the
15 person with control does not have physical possession. "Control"
16 means the power to sell or use a petroleum product or to authorize
17 the sale or use by another.

18 (3) "Previously taxed petroleum product" means a petroleum
19 product in respect to which a tax has been paid under this chapter
20 and that has not been remanufactured or reprocessed in any manner
21 (other than mere repackaging or recycling for beneficial reuse) since
22 the tax was paid.

23 (4) "Rack" means a mechanism for delivering petroleum products
24 from a refinery or terminal into a truck, trailer, railcar, or other
25 means of nonbulk transfer. For the purposes of this definition:

26 (a) "Terminal" has the same (~~definition as in RCW 82.36.010~~
27 ~~and~~) meaning as provided in RCW 82.38.020; and

28 (b) "Nonbulk transfer" means a transfer that does not meet the
29 definition of "bulk transfer" as defined in RCW (~~82.36.010 and~~)
30 82.38.020.

31 (5) "Wholesale value" means fair market wholesale value,
32 determined as nearly as possible according to the wholesale selling
33 price at the place of use of similar products of like quality and
34 character, in accordance with rules of the department.

35 (6) Except for terms defined in this section, the definitions in
36 chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

37 **Sec. 29.** RCW 82.24.010 and 2012 2nd sp.s. c 4 s 1 are each
38 amended to read as follows:

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

4 (1) "Board" means the liquor (~~control~~) and cannabis board.

5 (2) "Cigarette" means any roll for smoking made wholly or in part
6 of tobacco, irrespective of size or shape and irrespective of the
7 tobacco being flavored, adulterated, or mixed with any other
8 ingredient, where such roll has a wrapper or cover made of paper or
9 any material, except where such wrapper is wholly or in the greater
10 part made of natural leaf tobacco in its natural state. "Cigarette"
11 includes a roll-your-own cigarette.

12 (3) "Cigarette paper" means any paper or any other material
13 except tobacco, prepared for use as a cigarette wrapper.

14 (4) "Cigarette tube" means cigarette paper made into a hollow
15 cylinder for use in making cigarettes.

16 (5) "Commercial cigarette-making machine" means a machine that is
17 operated in a retail establishment and that is capable of being
18 loaded with loose tobacco, cigarette paper or tubes, and any other
19 components related to the production of roll-your-own cigarettes,
20 including filters.

21 (6) "Indian tribal organization" means a federally recognized
22 Indian tribe, or tribal entity, and includes an Indian wholesaler or
23 retailer that is owned by an Indian who is an enrolled tribal member
24 conducting business under tribal license or similar tribal approval
25 within Indian country. For purposes of this chapter "Indian country"
26 is defined in the manner set forth in 18 U.S.C. Sec. 1151.

27 (7) "Precollection obligation" means the obligation of a seller
28 otherwise exempt from the tax imposed by this chapter to collect the
29 tax from that seller's buyer.

30 (8) "Retailer" means every person, other than a wholesaler, who
31 purchases, sells, offers for sale or distributes any one or more of
32 the articles taxed herein, irrespective of quantity or amount, or the
33 number of sales, and all persons operating under a retailer's
34 registration certificate.

35 (9) "Retail selling price" means the ordinary, customary or usual
36 price paid by the consumer for each package of cigarettes, less the
37 tax levied by this chapter and less any similar tax levied by this
38 state.

39 (10) "Roll-your-own cigarettes" means cigarettes produced by a
40 commercial cigarette-making machine.

1 (11) "Stamp" means the stamp or stamps by use of which the tax
2 levy under this chapter is paid or identification is made of those
3 cigarettes with respect to which no tax is imposed.

4 (12) "Wholesaler" means every person who purchases, sells, or
5 distributes any one or more of the articles taxed herein to retailers
6 for the purpose of resale only.

7 (13) The meaning attributed, in chapter 82.04 RCW, to the words
8 "person," "sale," "business" and "successor" applies equally in this
9 chapter.

10 **Sec. 30.** RCW 82.24.551 and 1997 c 420 s 10 are each amended to
11 read as follows:

12 The department (~~shall~~) must appoint, as duly authorized agents,
13 enforcement officers of the liquor (~~control~~) and cannabis board to
14 enforce provisions of this chapter. These officers (~~shall~~) are not
15 (~~be~~) considered employees of the department.

16 **Sec. 31.** RCW 82.26.010 and 2010 1st sp.s. c 22 s 4 are each
17 reenacted and amended to read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

20 (1) "Actual price" means the total amount of consideration for
21 which tobacco products are sold, valued in money, whether received in
22 money or otherwise, including any charges by the seller necessary to
23 complete the sale such as charges for delivery, freight,
24 transportation, or handling.

25 (2) "Affiliated" means related in any way by virtue of any form
26 or amount of common ownership, control, operation, or management.

27 (3) "Board" means the liquor (~~control~~) and cannabis board.

28 (4) "Business" means any trade, occupation, activity, or
29 enterprise engaged in for the purpose of selling or distributing
30 tobacco products in this state.

31 (5) "Cigar" means a roll for smoking that is of any size or shape
32 and that is made wholly or in part of tobacco, irrespective of
33 whether the tobacco is pure or flavored, adulterated or mixed with
34 any other ingredient, if the roll has a wrapper made wholly or in
35 greater part of tobacco. "Cigar" does not include a cigarette.

36 (6) "Cigarette" has the same meaning as in RCW 82.24.010.

37 (7) "Department" means the department of revenue.

1 (8) "Distributor" means (a) any person engaged in the business of
2 selling tobacco products in this state who brings, or causes to be
3 brought, into this state from without the state any tobacco products
4 for sale, (b) any person who makes, manufactures, fabricates, or
5 stores tobacco products in this state for sale in this state, (c) any
6 person engaged in the business of selling tobacco products without
7 this state who ships or transports tobacco products to retailers in
8 this state, to be sold by those retailers, (d) any person engaged in
9 the business of selling tobacco products in this state who handles
10 for sale any tobacco products that are within this state but upon
11 which tax has not been imposed.

12 (9) "Indian country" means the same as defined in chapter 82.24
13 RCW.

14 (10) "Little cigar" means a cigar that has a cellulose acetate
15 integrated filter.

16 (11) "Manufacturer" means a person who manufactures and sells
17 tobacco products.

18 (12) "Manufacturer's representative" means a person hired by a
19 manufacturer to sell or distribute the manufacturer's tobacco
20 products, and includes employees and independent contractors.

21 (13) "Moist snuff" means tobacco that is finely cut, ground, or
22 powdered; is not for smoking; and is intended to be placed in the
23 oral, but not the nasal, cavity.

24 (14) "Person" means any individual, receiver, administrator,
25 executor, assignee, trustee in bankruptcy, trust, estate, firm,
26 copartnership, joint venture, club, company, joint stock company,
27 business trust, municipal corporation, the state and its departments
28 and institutions, political subdivision of the state of Washington,
29 corporation, limited liability company, association, society, any
30 group of individuals acting as a unit, whether mutual, cooperative,
31 fraternal, nonprofit, or otherwise. The term excludes any person
32 immune from state taxation, including the United States or its
33 instrumentalities, and federally recognized Indian tribes and
34 enrolled tribal members, conducting business within Indian country.

35 (15) "Place of business" means any place where tobacco products
36 are sold or where tobacco products are manufactured, stored, or kept
37 for the purpose of sale, including any vessel, vehicle, airplane,
38 train, or vending machine.

39 (16) "Retail outlet" means each place of business from which
40 tobacco products are sold to consumers.

1 (17) "Retailer" means any person engaged in the business of
2 selling tobacco products to ultimate consumers.

3 (18)(a) "Sale" means any transfer, exchange, or barter, in any
4 manner or by any means whatsoever, for a consideration, and includes
5 and means all sales made by any person.

6 (b) The term "sale" includes a gift by a person engaged in the
7 business of selling tobacco products, for advertising, promoting, or
8 as a means of evading the provisions of this chapter.

9 (19)(a) "Taxable sales price" means:

10 (i) In the case of a taxpayer that is not affiliated with the
11 manufacturer, distributor, or other person from whom the taxpayer
12 purchased tobacco products, the actual price for which the taxpayer
13 purchased the tobacco products;

14 (ii) In the case of a taxpayer that purchases tobacco products
15 from an affiliated manufacturer, affiliated distributor, or other
16 affiliated person, and that sells those tobacco products to
17 unaffiliated distributors, unaffiliated retailers, or ultimate
18 consumers, the actual price for which that taxpayer sells those
19 tobacco products to unaffiliated distributors, unaffiliated
20 retailers, or ultimate consumers;

21 (iii) In the case of a taxpayer that sells tobacco products only
22 to affiliated distributors or affiliated retailers, the price,
23 determined as nearly as possible according to the actual price, that
24 other distributors sell similar tobacco products of like quality and
25 character to unaffiliated distributors, unaffiliated retailers, or
26 ultimate consumers;

27 (iv) In the case of a taxpayer that is a manufacturer selling
28 tobacco products directly to ultimate consumers, the actual price for
29 which the taxpayer sells those tobacco products to ultimate
30 consumers;

31 (v) In the case of a taxpayer that has acquired tobacco products
32 under a sale as defined in subsection (18)(b) of this section, the
33 price, determined as nearly as possible according to the actual
34 price, that the taxpayer or other distributors sell the same tobacco
35 products or similar tobacco products of like quality and character to
36 unaffiliated distributors, unaffiliated retailers, or ultimate
37 consumers; or

38 (vi) In any case where (a)(i) through (v) of this subsection do
39 not apply, the price, determined as nearly as possible according to
40 the actual price, that the taxpayer or other distributors sell the

1 same tobacco products or similar tobacco products of like quality and
2 character to unaffiliated distributors, unaffiliated retailers, or
3 ultimate consumers.

4 (b) For purposes of (a)(i) and (ii) of this subsection only,
5 "person" includes both persons as defined in subsection (14) of this
6 section and any person immune from state taxation, including the
7 United States or its instrumentalities, and federally recognized
8 Indian tribes and enrolled tribal members, conducting business within
9 Indian country.

10 (c) The department may adopt rules regarding the determination of
11 taxable sales price under this subsection.

12 (20) "Taxpayer" means a person liable for the tax imposed by this
13 chapter.

14 (21) "Tobacco products" means cigars, cheroots, stogies,
15 periques, granulated, plug cut, crimp cut, ready rubbed, and other
16 smoking tobacco, snuff, snuff flour, cavendish, plug and twist
17 tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps,
18 clippings, cuttings and sweepings of tobacco, and other kinds and
19 forms of tobacco, prepared in such manner as to be suitable for
20 chewing or smoking in a pipe or otherwise, or both for chewing and
21 smoking, and any other product, regardless of form, that contains
22 tobacco and is intended for human consumption or placement in the
23 oral or nasal cavity or absorption into the human body by any other
24 means, but does not include cigarettes as defined in RCW 82.24.010.

25 (22) "Unaffiliated distributor" means a distributor that is not
26 affiliated with the manufacturer, distributor, or other person from
27 whom the distributor has purchased tobacco products.

28 (23) "Unaffiliated retailer" means a retailer that is not
29 affiliated with the manufacturer, distributor, or other person from
30 whom the retailer has purchased tobacco products.

31 **Sec. 32.** RCW 82.26.121 and 1997 c 420 s 11 are each amended to
32 read as follows:

33 The department (~~shall~~) must appoint, as duly authorized agents,
34 enforcement officers of the liquor (~~control~~) and cannabis board to
35 enforce provisions of this chapter. These officers (~~shall~~) are not
36 (~~be~~) considered employees of the department.

37 **Sec. 33.** RCW 82.26.130 and 2002 c 325 s 5 are each amended to
38 read as follows:

1 (1) The department (~~shall~~) must by rule establish the invoice
2 detail required under RCW 82.26.060 for a distributor under RCW
3 82.26.010(~~(+3)~~) (8)(d) and for those invoices required to be
4 provided to retailers under RCW 82.26.070.

5 (2) If a retailer fails to keep invoices as required under
6 chapter 82.32 RCW, the retailer is liable for the tax owed on any
7 uninvoiced tobacco products but not penalties and interest, except as
8 provided in subsection (3) of this section.

9 (3) If the department finds that the nonpayment of tax by the
10 retailer was willful or if in the case of a second or plural
11 nonpayment of tax by the retailer, penalties and interest (~~shall~~)
12 must be assessed in accordance with chapter 82.32 RCW.

13 **Sec. 34.** RCW 82.26.190 and 2009 c 154 s 6 are each amended to
14 read as follows:

15 (1)(a) No person may engage in or conduct business as a
16 distributor or retailer in this state after September 30, 2005,
17 without a valid license issued under this chapter. Any person who
18 sells tobacco products to persons other than ultimate consumers or
19 who meets the definition of distributor under RCW 82.26.010(~~(+3)~~)
20 (8)(d) must obtain a distributor's license under this chapter. Any
21 person who sells tobacco products to ultimate consumers must obtain a
22 retailer's license under this chapter.

23 (b) A violation of this subsection (1) is punishable as a class C
24 felony according to chapter 9A.20 RCW.

25 (2)(a) No person engaged in or conducting business as a
26 distributor or retailer in this state may:

27 (i) Refuse to allow the department or the board, on demand, to
28 make a full inspection of any place of business where any of the
29 tobacco products taxed under this chapter are sold, stored, or
30 handled, or otherwise hinder or prevent such inspection;

31 (ii) Make, use, or present or exhibit to the department or the
32 board any invoice for any of the tobacco products taxed under this
33 chapter that bears an untrue date or falsely states the nature or
34 quantity of the goods invoiced; or

35 (iii) Fail to produce on demand of the department or the board
36 all invoices of all the tobacco products taxed under this chapter
37 within five years prior to such demand unless the person can show by
38 satisfactory proof that the nonproduction of the invoices was due to
39 causes beyond the person's control.

1 (b) No person, other than a licensed distributor or retailer, may
2 transport tobacco products for sale in this state for which the taxes
3 imposed under this chapter have not been paid unless:

4 (i) Notice of the transportation has been given as required under
5 RCW 82.26.140;

6 (ii) The person transporting the tobacco products actually
7 possesses invoices or delivery tickets showing the true name and
8 address of the consignor or seller, the true name and address of the
9 consignee or purchaser, and the quantity and brands of tobacco
10 products being transported; and

11 (iii) The tobacco products are consigned to or purchased by a
12 person in this state who is licensed under this chapter.

13 (c) A violation of this subsection (2) is a gross misdemeanor.

14 (3) Any person licensed under this chapter as a distributor, and
15 any person licensed under this chapter as a retailer, (~~shall~~) may
16 not operate in any other capacity unless the additional appropriate
17 license is first secured. A violation of this subsection (3) is a
18 misdemeanor.

19 (4) The penalties provided in this section are in addition to any
20 other penalties provided by law for violating the provisions of this
21 chapter or the rules adopted under this chapter.

22 **Sec. 35.** RCW 82.26.200 and 2005 c 180 s 17 are each amended to
23 read as follows:

24 (1) A retailer that obtains tobacco products from an unlicensed
25 distributor or any other person that is not licensed under this
26 chapter must be licensed both as a retailer and a distributor under
27 this chapter and is liable for the tax imposed under RCW 82.26.020
28 with respect to the tobacco products acquired from the unlicensed
29 person that are held for sale, handling, or distribution in this
30 state. For the purposes of this subsection, "person" includes both
31 persons defined in RCW 82.26.010(~~(10)~~) (14) and any person immune
32 from state taxation, such as the United States or its
33 instrumentalities, and federally recognized Indian tribes and
34 enrolled tribal members, conducting business within Indian country.

35 (2) Every distributor licensed under this chapter (~~shall~~) must
36 sell tobacco products to retailers located in Washington only if the
37 retailer has a current retailer's license under this chapter.

1 **Sec. 36.** RCW 82.29A.060 and 1994 c 95 s 1 are each amended to
2 read as follows:

3 (1) All administrative provisions in chapters 82.02 and 82.32 RCW
4 (~~shall be~~) are applicable to taxes imposed pursuant to this
5 chapter.

6 (2) (a) A lessee, or a sublessee in the case where the sublessee
7 is responsible for paying the tax imposed under this chapter, of
8 property used for residential purposes may petition the county board
9 of equalization for a change in appraised value when the department
10 of revenue establishes taxable rent under RCW 82.29A.020(2) (~~(b)~~)
11 (g) based on an appraisal done by the county assessor at the request
12 of the department. The petition must be on forms prescribed or
13 approved by the department of revenue and any petition not conforming
14 to those requirements or not properly completed (~~shall~~) may not be
15 considered by the board. The petition must be filed with the board
16 within the time period set forth in RCW 84.40.038. A decision of the
17 board of equalization may be appealed by the taxpayer to the board of
18 tax appeals as provided in RCW 84.08.130.

19 (b) A sublessee, in the case where the sublessee is responsible
20 for paying the tax imposed under this chapter, of property used for
21 residential purposes may petition the department for a change in
22 taxable rent when the department of revenue establishes taxable rent
23 under RCW 82.29A.020(2) (~~(b)~~) (g).

24 (c) Any change in tax resulting from an appeal under this
25 subsection (~~shall~~) must be allocated to the lessee or sublessee
26 responsible for paying the tax.

27 (3) This section (~~shall~~) does not authorize the issuance of any
28 levy upon any property owned by the public lessor.

29 (4) In selecting leasehold excise tax returns for audit the
30 department of revenue (~~shall~~) must give priority to any return an
31 audit of which is specifically requested in writing by the county
32 assessor or treasurer or other chief financial officer of any city or
33 county affected by such return. Notwithstanding the provisions of RCW
34 82.32.330, findings of fact and determinations of the amount of
35 taxable rent made pursuant to the provisions of this chapter
36 (~~shall~~) must be open to public inspection at all reasonable times.

37 **Sec. 37.** RCW 82.29A.120 and 2017 3rd sp.s. c 37 s 1302 are each
38 amended to read as follows:

1 (1) (a) After computation of the taxes imposed pursuant to RCW
2 82.29A.030 and 82.29A.040, the following credits are allowed in
3 determining the tax payable:

4 (i) For lessees and sublessees who would qualify for a property
5 tax exemption under RCW 84.36.381 if the property were privately
6 owned, the tax otherwise due after this credit must be reduced by a
7 percentage equal to the percentage reduction in property tax that
8 would result from the property tax exemption under RCW 84.36.381; and

9 (ii) A credit of thirty-three percent of the tax otherwise due is
10 allowed with respect to a product lease.

11 (b) (i) For a leasehold interest in real property owned by a state
12 university, a credit is allowed equal to the amount that the tax
13 under this chapter exceeds the property tax that would apply if the
14 real property were privately owned by the taxpayer.

15 (ii) The credit under this subsection (1) (b) is available only if
16 the tax parcel that is subject to the leasehold interest has a market
17 value in excess of ten million dollars. If the leasehold interest
18 attaches to two or more parcels, the credit is available if at least
19 one of the tax parcels has a market value in excess of ten million
20 dollars. In either case, the market value must be determined as of
21 January 1st of the year prior to the year for which the credit is
22 claimed.

23 (iii) For purposes of calculating the credit under this
24 subsection (1) (b):

25 (A) If a tax parcel does not have current assessed value in
26 accordance with RCW 84.40.020, a market value appraisal performed by
27 a Washington state-certified general real estate appraiser, as
28 defined in RCW 18.140.010, is sufficient to establish the market
29 value. If the underlying real property that is the subject of the
30 leasehold interest consists of a part of one or more tax parcels,
31 this appraisal must include the market value of the part of the
32 parcel or parcels to which the leasehold interest applies; and

33 (B) The property tax that would otherwise apply to the real
34 property that is the subject of the leasehold interest is calculated
35 using the existing consolidated levy rate for the property's tax code
36 area.

37 (iv) The definitions in this subsection apply throughout this
38 subsection (1) (b) unless the context clearly requires otherwise.

39 (A) "Market value" means the true and fair value of the property
40 as that term is used in RCW 84.40.030, based on the property's

1 highest and best use and determined by any reasonable means approved
2 by the department.

3 (B) "Real property" has the same meaning as in RCW 84.04.090 and
4 also includes all improvements upon the land the fee of which is
5 still vested in the public owner.

6 (C) "State university" has the same meaning as "state
7 universities" as provided in RCW 28B.10.016.

8 (v) The credit provided under this subsection (1)(b) may not be
9 claimed for tax reporting periods beginning on or after January 1,
10 2032.

11 (2) ~~((This section expires))~~ No credit under subsection (1)(b) of
12 this section may be claimed or approved on or after January 1, 2032.

13 **Sec. 38.** RCW 82.32.062 and 2002 c 57 s 1 are each amended to
14 read as follows:

15 (1) In addition to the procedure set forth in RCW 82.32.060 and
16 as an exception to the four-year period explicitly set forth in RCW
17 82.32.060, an offset for a tax that has been paid in excess of that
18 properly due may be taken under the following conditions:

19 ~~((1))~~ (a) The tax paid in excess of that properly due was sales
20 ~~((tax paid on the purchase of property acquired for leasing; (2))~~ or
21 use tax paid on property purchased for the purpose of leasing;

22 (b) The taxpayer was at the time of purchase entitled to purchase
23 the property at wholesale under RCW 82.04.060; and

24 ~~((3))~~ (c) The taxpayer substantiates that ~~((sales tax was paid~~
25 ~~at the time of purchase))~~ the taxpayer paid sales or use tax on the
26 purchase of the property and that there was no intervening use of the
27 ~~((equipment))~~ property by the taxpayer.

28 (2) The offset under this section is applied to and reduced by
29 the amount of retail sales tax otherwise due from the beginning of
30 lease of the property until the offset is extinguished.

31 **Sec. 39.** RCW 82.32.300 and 2019 c 445 s 209 are each amended to
32 read as follows:

33 (1) ~~((administration of this and chapters 82.04 through 82.27~~
34 ~~RCW of this title is vested in the department, which must))~~
35 department must administer this chapter and such other provisions of
36 the Revised Code of Washington as specifically provided by law. To
37 that end, the department may prescribe forms and rules of procedure
38 for the determination of the taxable status of any person, for the

1 making of returns and for the ascertainment, assessment, and
2 collection of taxes and penalties imposed thereunder.

3 (2) (a) The department (~~(must)~~) may make and publish rules (~~(and~~
4 ~~regulations)~~), not inconsistent therewith, necessary to enforce
5 provisions of this chapter (~~(and chapters 82.02 through 82.23B and~~
6 ~~82.27 RCW, and the liquor and cannabis board must)~~) and such other
7 provisions of the Revised Code of Washington that the department is
8 empowered by law to enforce. The liquor and cannabis board may make
9 and publish rules necessary to enforce chapters 82.24, 82.26, and
10 82.25 RCW (~~(, which has)~~).

11 (b) Rules adopted by the department or liquor and cannabis board
12 under the authority of this subsection have the same force and effect
13 as if specifically included ((therein)) in law, unless declared
14 invalid by the judgment of a court of record not appealed from.

15 (3) The department may employ such clerks, specialists, and other
16 assistants as are necessary. Salaries and compensation of such
17 employees must be fixed by the department and charged to the proper
18 appropriation for the department.

19 (4) The department must exercise general supervision of the
20 collection of taxes and, in the discharge of such duty, may institute
21 and prosecute such suits or proceedings in the courts as may be
22 necessary and proper.

23 **Sec. 40.** RCW 82.32.780 and 2010 c 112 s 2 are each amended to
24 read as follows:

25 (1) (a) Taxpayers seeking to obtain a new reseller permit or to
26 renew or reinstate a reseller permit, other than taxpayers subject to
27 the provisions of RCW 82.32.783, must apply to the department in a
28 form and manner prescribed by the department. The department must use
29 its best efforts to rule on applications within sixty days of
30 receiving a complete application. If the department fails to rule on
31 an application within sixty days of receiving a complete application,
32 the taxpayer may either request a review as provided in subsection
33 (6) of this section or resubmit the application. Nothing in this
34 subsection may be construed as preventing the department from ruling
35 on an application more than sixty days after the department received
36 the application.

37 (b) An application must be denied if:

1 (i) The department determines that, based on the nature of the
2 applicant's business, the applicant is not entitled to make purchases
3 at wholesale or is otherwise prohibited from using a reseller permit;

4 (ii) The application contains any material misstatement; or

5 (iii) The application is incomplete.

6 (c) The department may also deny an application if it determines
7 that denial would be in the best interest of collecting taxes due
8 under this title.

9 (d) The department's decision to approve or deny an application
10 may be based on tax returns previously filed with the department by
11 the applicant, a current or previous examination of the applicant's
12 books and records by the department, information provided by the
13 applicant in the master application and the reseller permit
14 application, and other information available to the department.

15 (e) The department must refuse to accept an application to renew
16 a reseller permit that is received more than ninety days before the
17 expiration of the reseller permit.

18 (2) Notwithstanding subsection (1) of this section, the
19 department may issue or renew a reseller permit for a taxpayer that
20 has not applied for the permit or renewal of the permit if it appears
21 to the department's satisfaction, based on the nature of the
22 taxpayer's business activities and any other information available to
23 the department, that the taxpayer is entitled to make purchases at
24 wholesale.

25 (3)(a) Except as otherwise provided in this section, reseller
26 permits issued, renewed, or reinstated under this section will be
27 valid for a period of forty-eight months from the date of issuance,
28 renewal, or reinstatement.

29 (b)(i) A reseller permit is valid for a period of twenty-four
30 months and may be renewed for the period prescribed in (a) of this
31 subsection (3) if the permit is issued to a taxpayer who:

32 (A) Is not registered with the department under RCW 82.32.030;

33 (B) Has been registered with the department under RCW 82.32.030
34 for a continuous period of less than one year as of the date that the
35 department received the taxpayer's application for a reseller permit;

36 (C) Was on nonreporting status as authorized under RCW
37 82.32.045(~~(4)~~) (5) at the time that the department received the
38 taxpayer's application for a reseller permit or to renew or reinstate
39 a reseller permit;

1 (D) Has filed tax returns reporting no business activity for
2 purposes of sales and business and occupation taxes for the twelve-
3 month period immediately preceding the date that the department
4 received the taxpayer's application for a reseller permit or to renew
5 or reinstate a reseller permit; or

6 (E) Has failed to file tax returns covering any part of the
7 twelve-month period immediately preceding the department's receipt of
8 the taxpayer's application for a reseller permit or to renew or
9 reinstate a reseller permit.

10 (ii) The provisions of this subsection (3)(b) do not apply to
11 reseller permits issued to any business owned by a federally
12 recognized Indian tribe or by an enrolled member of a federally
13 recognized Indian tribe, if the business does not engage in any
14 business activity that subjects the business to any tax imposed by
15 the state under chapter 82.04 RCW. Permits issued to such businesses
16 are valid for the period provided in (a) of this subsection (3).

17 (iii) Nothing in this subsection (3)(b) may be construed as
18 affecting the department's right to deny a taxpayer's application for
19 a reseller permit or to renew or reinstate a reseller permit as
20 provided in subsection (1)(b) and (c) of this section.

21 (c) A reseller permit is no longer valid if the permit holder's
22 certificate of registration is revoked, the permit holder's tax
23 reporting account is closed by the department, or the permit holder
24 otherwise ceases to engage in business.

25 (d) The department may provide by rule for a uniform expiration
26 date for reseller permits issued, renewed, or reinstated under this
27 section, if the department determines that a uniform expiration date
28 for reseller permits will improve administrative efficiency for the
29 department. If the department adopts a uniform expiration date by
30 rule, the department may extend or shorten the twenty-four or forty-
31 eight month period provided in (a) and (b) of this subsection for a
32 period not to exceed six months as necessary to conform the reseller
33 permit to the uniform expiration date.

34 (4)(a) The department may revoke a taxpayer's reseller permit for
35 any of the following reasons:

36 (i) The taxpayer used or allowed or caused its reseller permit to
37 be used to purchase any item or service without payment of sales tax,
38 but the taxpayer or other purchaser was not entitled to use the
39 reseller permit for the purchase;

1 (ii) The department issued the reseller permit to the taxpayer in
2 error;

3 (iii) The department determines that the taxpayer is no longer
4 entitled to make purchases at wholesale; or

5 (iv) The department determines that revocation of the reseller
6 permit would be in the best interest of collecting taxes due under
7 this title.

8 (b) The notice of revocation must be in writing and is effective
9 on the date specified in the revocation notice. The notice must also
10 advise the taxpayer of its right to a review by the department.

11 (c) The department may refuse to reinstate a reseller permit
12 revoked under (a)(i) of this subsection until all taxes, penalties,
13 and interest due on any improperly purchased item or service have
14 been paid in full. In the event a taxpayer whose reseller permit has
15 been revoked under this subsection reorganizes, the new business
16 resulting from the reorganization is not entitled to a reseller
17 permit until all taxes, penalties, and interest due on any improperly
18 purchased item or service have been paid in full.

19 (d) For purposes of this subsection, "reorganize" or
20 "reorganization" means: (i) The transfer, however effected, of a
21 majority of the assets of one business to another business where any
22 of the persons having an interest in the ownership or management in
23 the former business maintain an ownership or management interest in
24 the new business, either directly or indirectly; (ii) a mere change
25 in identity or form of ownership, however effected; or (iii) the new
26 business is a mere continuation of the former business based on
27 significant shared features such as owners, personnel, assets, or
28 general business activity.

29 (5) The department may provide the public with access to reseller
30 permit numbers on its web site, including the name of the permit
31 holder, the status of the reseller permit, the expiration date of the
32 permit, and any other information that is disclosable under RCW
33 82.32.330(3) ~~((+1))~~ (k).

34 (6) The department must provide by rule for the review of the
35 department's decision to deny, revoke, or refuse to reinstate a
36 reseller permit or the department's failure to rule on an application
37 within the time prescribed in subsection (1)(a) of this section. Such
38 review must be consistent with the requirements of chapter 34.05 RCW.

39 (7) As part of its continuing efforts to educate taxpayers on
40 their sales and use tax responsibilities, the department will educate

1 taxpayers on the appropriate use of a reseller permit or other
2 documentation authorized under RCW 82.04.470 and the consequences of
3 misusing such permits or other documentation.

4 **Sec. 41.** RCW 82.60.025 and 2010 1st sp.s. c 16 s 4 are each
5 amended to read as follows:

6 The lessor or owner of a qualified building is not eligible for a
7 deferral unless:

8 (1) The underlying ownership of the buildings, machinery, and
9 equipment vests exclusively in the same person; or

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

12 (b) The lessee that receives the economic benefit of the deferral
13 agrees in writing with the department to complete the annual
14 ((survey)) tax performance report required under RCW 82.60.070; and

15 (c) The economic benefit of the deferral passed to the lessee is
16 no less than the amount of tax deferred by the lessor and is
17 evidenced by written documentation of any type of payment, credit, or
18 other financial arrangement between the lessor or owner of the
19 qualified building and the lessee.

20 **Sec. 42.** RCW 82.60.063 and 2010 1st sp.s. c 16 s 10 are each
21 amended to read as follows:

22 (1) Subject to the conditions in this section, a person is not
23 liable for the amount of deferred taxes outstanding for an investment
24 project when the person temporarily ceases to use its qualified
25 buildings and qualified machinery and equipment for manufacturing or
26 research and development activities in a county with a population of
27 less than twenty thousand persons for a period not to exceed twenty-
28 four months from the date that the department sent its assessment for
29 the amount of outstanding deferred taxes to the taxpayer.

30 (2) The relief from repayment of deferred taxes under this
31 section does not apply unless the number of qualified employment
32 positions maintained at the investment project after manufacturing or
33 research and development activities are temporarily ceased is at
34 least ten percent of the number of qualified employment positions
35 employed at the investment project at the time the deferral was
36 approved by the department. If a person has been approved for more
37 than one deferral under this chapter, relief from repayment of
38 deferred taxes under this section does not apply unless the number of

1 qualified employment positions maintained at the investment project
2 after manufacturing or research and development activities are
3 temporarily ceased is at least ten percent of the highest number of
4 qualified employment positions at the investment project at the time
5 any of the deferrals were approved by the department. If, at any time
6 during the twenty-four month period after the department has sent the
7 taxpayer an assessment for outstanding deferred taxes resulting from
8 the person temporarily ceasing to use its qualified buildings and
9 qualified machinery and equipment for manufacturing or research and
10 development activities, the number of qualified employment positions
11 falls below the ten percent threshold in this subsection, the amount
12 of deferred taxes outstanding for the project is immediately due.

13 (3) The lessor of an investment project for which a deferral has
14 been granted under this chapter who has passed the economic benefits
15 of the deferral to the lessee is not eligible for relief from the
16 payment of deferred taxes under this section.

17 (4) A person seeking relief from the payment of deferred taxes
18 under this section must apply to the department in a form and manner
19 prescribed by the department. The application required under this
20 subsection must be received by the department within thirty days of
21 the date that the department sent its assessment for outstanding
22 deferred taxes resulting from the person temporarily ceasing to use
23 its qualified buildings and qualified machinery and equipment for
24 manufacturing or research and development activities. The department
25 must approve applications that meet the requirements in this section
26 for relief from the payment of deferred taxes.

27 (5) A person is entitled to relief under this section only once.

28 (6) A person whose application for relief from the payment of
29 deferred taxes has been approved under this section must continue to
30 file an annual ((survey)) tax performance report as required under
31 RCW 82.60.070(1) or any successor statute. In addition, the person
32 must file, in a form and manner prescribed by the department, a
33 report on the status of the business and the outlook for commencing
34 manufacturing or research and development activities.

35 **Sec. 43.** RCW 82.63.010 and 2015 3rd sp.s. c 5 s 303 are each
36 amended to read as follows:

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

1 (1) "Advanced computing" means technologies used in the designing
2 and developing of computing hardware and software, including
3 innovations in designing the full spectrum of hardware from handheld
4 calculators to super computers, and peripheral equipment.

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

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

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

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

21 (6) "Electronic device technology" means technologies involving
22 microelectronics; semiconductors; electronic equipment and
23 instrumentation; radio frequency, microwave, and millimeter
24 electronics; optical and optic-electrical devices; and data and
25 digital communications and imaging devices.

26 (7) "Eligible investment project" means an investment project
27 which either initiates a new operation, or expands or diversifies a
28 current operation by expanding, renovating, or equipping an existing
29 facility. The lessor or owner of the qualified building is not
30 eligible for a deferral unless:

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

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

35 (ii) The lessee that receives the economic benefit of the
36 deferral agrees in writing with the department to complete the annual
37 ((survey)) tax performance report required under RCW 82.63.020(2);
38 and

39 (iii) The economic benefit of the deferral passed to the lessee
40 is no less than the amount of tax deferred by the lessor and is

1 evidenced by written documentation of any type of payment, credit, or
2 other financial arrangement between the lessor or owner of the
3 qualified building and the lessee.

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

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

10 (i) Construction of the qualified building, if the underlying
11 ownership of the building vests exclusively with the person receiving
12 the economic benefit of the deferral;

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

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

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

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

25 (10) "Investment project" means an investment in qualified
26 buildings or qualified machinery and equipment, including labor and
27 services rendered in the planning, installation, and construction or
28 improvement of the project.

29 (11) "Multiple qualified buildings" means qualified buildings
30 leased to the same person when such structures: (a) Are located
31 within a five-mile radius; and (b) the initiation of construction of
32 each building begins within a sixty-month period.

33 (12) "Person" has the meaning given in RCW 82.04.030 and includes
34 state universities as defined in RCW 28B.10.016.

35 (13) "Pilot scale manufacturing" means design, construction, and
36 testing of preproduction prototypes and models in the fields of
37 biotechnology, advanced computing, electronic device technology,
38 advanced materials, and environmental technology other than for
39 commercial sale. As used in this subsection, "commercial sale"
40 excludes sales of prototypes or sales for market testing if the total

1 gross receipts from such sales of the product, service, or process do
2 not exceed one million dollars.

3 (14) "Qualified buildings" means construction of new structures,
4 and expansion or renovation of existing structures for the purpose of
5 increasing floor space or production capacity used for pilot scale
6 manufacturing or qualified research and development, including plant
7 offices and other facilities that are an essential or an integral
8 part of a structure used for pilot scale manufacturing or qualified
9 research and development. If a building or buildings are used partly
10 for pilot scale manufacturing or qualified research and development,
11 and partly for other purposes, the applicable tax deferral (~~shall~~
12 ~~be~~) is determined by apportionment of the costs of construction
13 under rules adopted by the department. Such rules may include
14 provisions for determining the amount of the deferral based on
15 apportionment of costs of construction of an investment project
16 consisting of a building or multiple buildings, where qualified
17 research and development or pilot scale manufacturing activities are
18 shifted within a building or from one building to another building.

19 (15)(a) "Qualified machinery and equipment" means fixtures,
20 equipment, and support facilities that are an integral and necessary
21 part of a pilot scale manufacturing or qualified research and
22 development operation. "Qualified machinery and equipment" includes:
23 Computers; software; data processing equipment; laboratory equipment,
24 instrumentation, and other devices used in a process of
25 experimentation to develop a new or improved pilot model, plant
26 process, product, formula, invention, or similar property;
27 manufacturing components such as belts, pulleys, shafts, and moving
28 parts; molds, tools, and dies; vats, tanks, and fermenters; operating
29 structures; and all other equipment used to control, monitor, or
30 operate the machinery. For purposes of this chapter, qualified
31 machinery and equipment must be either new to the taxing jurisdiction
32 of the state or new to the certificate holder, except that used
33 machinery and equipment may be treated as qualified machinery and
34 equipment if the certificate holder either brings the machinery and
35 equipment into Washington or makes a retail purchase of the machinery
36 and equipment in Washington or elsewhere.

37 (b) "Qualified machinery and equipment" does not include any
38 fixtures, equipment, or support facilities, if the sale to or use by
39 the recipient is not eligible for an exemption under RCW 82.08.02565

1 or 82.12.02565 solely because the recipient is an ineligible person
2 as defined in RCW 82.08.02565.

3 (16) "Qualified research and development" means research and
4 development performed within this state in the fields of advanced
5 computing, advanced materials, biotechnology, electronic device
6 technology, and environmental technology.

7 (17) "Recipient" means a person receiving a tax deferral under
8 this chapter.

9 (18) "Research and development" means activities performed to
10 discover technological information, and technical and nonroutine
11 activities concerned with translating technological information into
12 new or improved products, processes, techniques, formulas,
13 inventions, or software. The term includes exploration of a new use
14 for an existing drug, device, or biological product if the new use
15 requires separate licensing by the federal food and drug
16 administration under chapter 21, C.F.R., as amended. The term does
17 not include adaptation or duplication of existing products where the
18 products are not substantially improved by application of the
19 technology, nor does the term include surveys and studies, social
20 science and humanities research, market research or testing, quality
21 control, sale promotion and service, computer software developed for
22 internal use, and research in areas such as improved style, taste,
23 and seasonal design.

24 **Sec. 44.** RCW 82.74.010 and 2006 c 354 s 6 are each amended to
25 read as follows:

26 (~~Unless the context clearly requires otherwise,~~) The
27 definitions in this section apply throughout this chapter unless the
28 context clearly requires otherwise.

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

31 (2) "Cold storage warehouse" means a storage warehouse owned or
32 operated by a wholesaler or third-party warehouser as those terms are
33 defined in RCW 82.08.820 to store fresh and/or frozen perishable
34 fruits or vegetables, dairy products, seafood products, or any
35 combination thereof, at a desired temperature to maintain the quality
36 of the product for orderly marketing.

37 (3) "Dairy product" means dairy products that as of September 20,
38 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and

1 135, including by-products from the manufacturing of the dairy
2 products such as whey and casein.

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

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

6 (6) "Eligible investment project" means an investment in
7 qualified buildings or qualified machinery and equipment, including
8 labor and services rendered in the planning, installation, and
9 construction of the project. The lessor or owner of a qualified
10 building is not eligible for a deferral unless (a) the underlying
11 ownership of the buildings, machinery, and equipment vests
12 exclusively in the same person; or (b)(i) the lessor by written
13 contract agrees to pass the economic benefit of the deferral to the
14 lessee in the form of reduced rent payments, and (ii) the lessee that
15 receives the economic benefit of the deferral agrees in writing with
16 the department to complete the annual (~~survey~~) tax performance
17 report under RCW 82.74.040. The economic benefit of the deferral to
18 the lessee may be evidenced by any type of payment, credit, or any
19 other financial arrangement between the lessor or owner of the
20 qualified building and the lessee.

21 (7) "Fresh fruit and vegetable processing" means manufacturing as
22 defined in RCW 82.04.120 which consists of the canning, preserving,
23 freezing, processing, or dehydrating fresh fruits and/or vegetables.

24 (8)(a) "Initiation of construction" means the date that a
25 building permit is issued under the building code adopted under RCW
26 19.27.031 for:

27 (i) Construction of the qualified building, if the underlying
28 ownership of the building vests exclusively with the person receiving
29 the economic benefit of the deferral;

30 (ii) Construction of the qualified building, if the economic
31 benefits of the deferral are passed to a lessee as provided in
32 subsection (6) of this section; or

33 (iii) Tenant improvements for a qualified building, if the
34 economic benefits of the deferral are passed to a lessee as provided
35 in subsection (6) of this section.

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

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

3 (9) "Person" has the meaning given in RCW 82.04.030.

4 (10) "Qualified buildings" means construction of new structures,
5 and expansion or renovation of existing structures for the purpose of
6 increasing floor space or production capacity used for fresh fruit
7 and vegetable processing, dairy product manufacturing, seafood
8 product manufacturing, cold storage warehousing, and research and
9 development activities, including plant offices and warehouses or
10 other facilities for the storage of raw material or finished goods if
11 such facilities are an essential or an integral part of a factory,
12 plant, or laboratory used for fresh fruit and vegetable processing,
13 dairy product manufacturing, seafood product manufacturing, cold
14 storage warehousing, or research and development. If a building is
15 used partly for fresh fruit and vegetable processing, dairy product
16 manufacturing, seafood product manufacturing, cold storage
17 warehousing, or research and development and partly for other
18 purposes, the applicable tax deferral (~~shall be~~) is determined by
19 apportionment of the costs of construction under rules adopted by the
20 department.

21 (11) "Qualified machinery and equipment" means all industrial and
22 research fixtures, equipment, and support facilities that are an
23 integral and necessary part of a fresh fruit and vegetable
24 processing, dairy product manufacturing, seafood product
25 manufacturing, cold storage (~~warehouse~~) warehousing, or research
26 and development operation. "Qualified machinery and equipment"
27 includes: Computers; software; data processing equipment; laboratory
28 equipment; manufacturing components such as belts, pulleys, shafts,
29 and moving parts; molds, tools, and dies; operating structures; and
30 all equipment used to control or operate the machinery.

31 (12) "Recipient" means a person receiving a tax deferral under
32 this chapter.

33 (13) "Research and development" means the development,
34 refinement, testing, marketing, and commercialization of a product,
35 service, or process related to fresh fruit and vegetable processing,
36 dairy product manufacturing, seafood product manufacturing, or cold
37 storage warehousing before commercial sales have begun. As used in
38 this subsection, "commercial sales" excludes sales of prototypes or
39 sales for market testing if the total gross receipts from such sales

1 of the product, service, or process do not exceed one million
2 dollars.

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

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

7 **Sec. 45.** RCW 82.75.010 and 2010 c 114 s 145 are each amended to
8 read as follows:

9 (~~Unless the context clearly requires otherwise,~~) The
10 definitions in this section apply throughout this chapter unless the
11 context clearly requires otherwise.

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

14 (2) "Biotechnology" means a technology based on the science of
15 biology, microbiology, molecular biology, cellular biology,
16 biochemistry, or biophysics, or any combination of these, and
17 includes, but is not limited to, recombinant DNA techniques, genetics
18 and genetic engineering, cell fusion techniques, and new
19 bioprocesses, using living organisms, or parts of organisms.

20 (3) "Biotechnology product" means any virus, therapeutic serum,
21 antibody, protein, toxin, antitoxin, vaccine, blood, blood component
22 or derivative, allergenic product, or analogous product produced
23 through the application of biotechnology that is used in the
24 prevention, treatment, or cure of diseases or injuries to humans.

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

26 (5)(a) "Eligible investment project" means an investment in
27 qualified buildings or qualified machinery and equipment, including
28 labor and services rendered in the planning, installation, and
29 construction of the project.

30 (b) The lessor or owner of a qualified building is not eligible
31 for a deferral unless:

32 (i) The underlying ownership of the buildings, machinery, and
33 equipment vests exclusively in the same person; or

34 (ii)(A) The lessor by written contract agrees to pass the
35 economic benefit of the deferral to the lessee;

36 (B) The lessee that receives the economic benefit of the deferral
37 agrees in writing with the department to complete the annual
38 ~~(survey)~~ tax performance report required under RCW 82.75.070; and

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

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

9 (i) Construction of the qualified building, if the underlying
10 ownership of the building vests exclusively with the person receiving
11 the economic benefit of the deferral;

12 (ii) Construction of the qualified building, if the economic
13 benefits of the deferral are passed to a lessee as provided in
14 subsection (5) (b) (ii) (A) of this section; or

15 (iii) Tenant improvements for a qualified building, if the
16 economic benefits of the deferral are passed to a lessee as provided
17 in subsection (5) (b) (ii) (A) of this section.

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

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

24 (7) "Manufacturing" has the meaning provided in RCW 82.04.120.

25 (8) "Medical device" means an instrument, apparatus, implement,
26 machine, contrivance, implant, in vitro reagent, or other similar or
27 related article, including any component, part, or accessory, that is
28 designed or developed and:

29 (a) Recognized in the national formulary, or the United States
30 pharmacopeia, or any supplement to them;

31 (b) Intended for use in the diagnosis of disease, or in the cure,
32 mitigation, treatment, or prevention of disease or other conditions
33 in human beings or other animals; or

34 (c) Intended to affect the structure or any function of the body
35 of human beings or other animals, and which does not achieve any of
36 its primary intended purposes through chemical action within or on
37 the body of human beings or other animals and which is not dependent
38 upon being metabolized for the achievement of any of its principal
39 intended purposes.

40 (9) "Person" has the meaning provided in RCW 82.04.030.

1 (10) "Qualified buildings" means construction of new structures,
2 and expansion or renovation of existing structures for the purpose of
3 increasing floor space or production capacity used for biotechnology
4 product manufacturing or medical device manufacturing activities,
5 including plant offices, commercial laboratories for process
6 development, quality assurance and quality control, and warehouses or
7 other facilities for the storage of raw material or finished goods if
8 the facilities are an essential or an integral part of a factory,
9 plant, or laboratory used for biotechnology product manufacturing or
10 medical device manufacturing. If a building is used partly for
11 biotechnology product manufacturing or medical device manufacturing
12 and partly for other purposes, the applicable tax deferral must be
13 determined by apportionment of the costs of construction under rules
14 adopted by the department.

15 (11) "Qualified machinery and equipment" means all new industrial
16 and research fixtures, equipment, and support facilities that are an
17 integral and necessary part of a biotechnology product manufacturing
18 or medical device manufacturing operation. "Qualified machinery and
19 equipment" includes: Computers; software; data processing equipment;
20 laboratory equipment; manufacturing components such as belts,
21 pulleys, shafts, and moving parts; molds, tools, and dies; operating
22 structures; and all equipment used to control or operate the
23 machinery.

24 (12) "Recipient" means a person receiving a tax deferral under
25 this chapter.

26 **Sec. 46.** RCW 82.82.010 and 2008 c 15 s 1 are each amended to
27 read as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

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

32 (2) "Corporate headquarters" means a facility or facilities where
33 corporate staff employees are physically employed, and where the
34 majority of the company's management services are handled either on a
35 regional or a national basis. Company management services may
36 include: Accounts receivable and payable, accounting, data
37 processing, distribution management, employee benefit plan, financial
38 and securities accounting, information technology, insurance, legal,
39 merchandising, payroll, personnel, purchasing procurement, planning,

1 reporting and compliance, research and development, tax, treasury, or
2 other headquarters-related services. "Corporate headquarters" does
3 not include a facility or facilities used for manufacturing,
4 wholesaling, or warehousing.

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

6 (4) "Eligible area" means a designated community empowerment zone
7 approved under RCW 43.31C.020.

8 (5)(a) "Eligible investment project" means an investment project
9 in a qualified building or buildings in an eligible area, as defined
10 in subsection (4) of this section, which will have employment at the
11 qualified building or buildings of at least three hundred employees
12 in qualified employment positions, each of whom must earn for the
13 year reported at least the average annual wage for the state for that
14 year as determined by the employment security department.

15 (b) The lessor or owner of a qualified building or buildings is
16 not eligible for a deferral unless:

17 (i) The underlying ownership of the building or buildings vests
18 exclusively in the same person; or

19 (ii)(A) The lessor by written contract agrees to pass the
20 economic benefit of the deferral to the lessee;

21 (B) The lessee that receives the economic benefit of the deferral
22 agrees in writing with the department to complete the annual
23 (~~survey~~) tax performance report required under RCW 82.82.020; and

24 (C) The economic benefit of the deferral passed to the lessee is
25 no less than the amount of tax deferred by the lessor and is
26 evidenced by written documentation of any type of payment, credit, or
27 other financial arrangement between the lessor or owner of the
28 qualified building and the lessee.

29 (6) "Investment project" means a capital investment of at least
30 thirty million dollars in a qualified building or buildings including
31 tangible personal property and fixtures that will be incorporated as
32 an ingredient or component of such buildings during the course of
33 their construction, and including labor and services rendered in the
34 planning, installation, and construction of the project.

35 (7) "Manufacture" has the same meaning as provided in RCW
36 82.04.120.

37 (8) "Operationally complete" means a date no later than one year
38 from the date the project is issued an occupancy permit by the local
39 permit issuing authority.

40 (9) "Person" has the same meaning as provided in RCW 82.04.030.

1 (10) "Qualified building or buildings" means construction of a
2 new structure or structures or expansion of an existing structure or
3 structures to be used for corporate headquarters. If a building is
4 used partly for corporate headquarters and partly for other purposes,
5 the applicable tax deferral is determined by apportionment of the
6 costs of construction under rules adopted by the department.

7 (11) "Qualified employment position" means a permanent full-time
8 employee employed in the eligible investment project during the
9 entire tax year. The term "entire tax year" means a full-time
10 position that is filled for a period of twelve consecutive months.
11 The term "full-time" means at least thirty-five hours a week, four
12 hundred fifty-five hours a quarter, or one thousand eight hundred
13 twenty hours a year.

14 (12) "Recipient" means a person receiving a tax deferral under
15 this chapter.

16 (13) "Warehouse" means a building or structure, or any part
17 thereof, in which goods, wares, or merchandise are received for
18 storage for compensation.

19 (14) "Wholesale sale" has the same meaning as provided in RCW
20 82.04.060.

21 **Sec. 47.** RCW 82.85.030 and 2015 3rd sp.s. c 6 s 403 are each
22 amended to read as follows:

23 The lessor or owner of a qualified building is not eligible for a
24 deferral unless:

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

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

29 (b) The lessee that receives the economic benefit of the deferral
30 agrees in writing with the department to complete the annual
31 ((survey)) tax performance report required under RCW ((82.32.585))
32 82.32.534; and

33 (c) The economic benefit of the deferral passed to the lessee is
34 no less than the amount of tax deferred by the lessor and is
35 evidenced by written documentation of any type of payment, credit, or
36 other financial arrangement between the lessor or owner of the
37 qualified building and the lessee.

1 **Sec. 48.** RCW 82.85.080 and 2015 3rd sp.s. c 6 s 408 are each
2 amended to read as follows:

3 (1) Each recipient of a deferral of taxes granted under this
4 chapter must file a complete annual ~~((survey))~~ tax performance report
5 with the department under RCW ~~((82.32.585))~~ 82.32.534. If the
6 economic benefits of the deferral are passed to a lessee as provided
7 in RCW 82.85.030, the lessee must file a complete annual ~~((survey))~~
8 tax performance report, and the applicant is not required to file a
9 complete annual ~~((survey))~~ tax performance report.

10 (2) If, on the basis of a ~~((survey))~~ tax performance report under
11 RCW ~~((82.32.585))~~ 82.32.534 or other information, the department
12 finds that an investment project is not eligible for tax deferral
13 under this chapter due to the fact the investment project is no
14 longer used for qualified activities, the amount of deferred taxes
15 outstanding for the investment project is immediately due and
16 payable.

17 (3) If the economic benefits of a tax deferral under this chapter
18 are passed to a lessee as provided in RCW 82.85.030, the lessee is
19 responsible for payment to the extent the lessee has received the
20 economic benefit.

21 **Sec. 49.** RCW 84.36.840 and 2016 c 217 s 6 are each amended to
22 read as follows:

23 (1) In order to determine whether organizations, associations,
24 corporations, or institutions, except those exempted under RCW
25 84.36.020, 84.36.049, and 84.36.030, are exempt from property taxes,
26 and before the exemption is allowed for any year, the superintendent
27 or manager or other proper officer of the organization, association,
28 corporation, or institution claiming exemption from taxation must
29 file with the department of revenue a statement certifying that the
30 income and the receipts thereof, including donations to it, have been
31 applied to the actual expenses of operating and maintaining it, or
32 for its capital expenditures, and to no other purpose. This report
33 must also include a statement of the receipts and disbursements of
34 the exempt organization, association, corporation, or institution.

35 (2) ~~((Educational institutions claiming exemption under RCW
36 84.36.050 must also file a list of all property claimed to be exempt,
37 the purpose for which it is used, the revenue derived from it for the
38 preceding year, the use to which the revenue was applied, the number
39 of students who attended the school or college, the total revenues of~~

1 ~~the institution with the source from which they were derived, and the~~
2 ~~purposes to which the revenues were applied, listing the items of~~
3 ~~such revenues and expenditures in detail.~~

4 ~~(3))~~ The reports required under ~~((subsections (1) and (2) of))~~
5 this section may be submitted electronically, in a format provided or
6 approved by the department, or mailed to the department. The reports
7 must be submitted on or before March 31st of each year. The
8 department must remove the tax exemption from the property of any
9 organization, association, corporation, or institution that does not
10 file the required report with the department on or before the due
11 date. However, the department must allow a reasonable extension of
12 time for filing upon receipt of a written request on or before the
13 required filing date and for good cause shown therein.

14 **Sec. 50.** RCW 84.37.040 and 2007 sp.s. c 2 s 4 are each amended
15 to read as follows:

16 (1) Each claimant electing to defer payment of special
17 assessments or real property tax obligations, or both, under this
18 chapter ~~((shall))~~ must file with the county assessor, on forms
19 prescribed by the department and supplied by the assessor, a written
20 declaration thereof. The declaration to defer special assessments
21 and/or real property taxes for any year ~~((shall))~~ must be filed no
22 later than the first day of September of the year for which the
23 deferral is sought ~~((: PROVIDED, That))~~; however, for good cause
24 shown, the department may waive this requirement.

25 (2) The declaration ~~((shall))~~ must designate the property to
26 which the deferral applies, and ~~((shall))~~ must include a statement
27 setting forth (a) a list of all members of the claimant's household,
28 (b) the claimant's equity value in his or her residence, (c) facts
29 establishing the eligibility for the deferral under the provisions of
30 this chapter, and (d) any other relevant information required by the
31 rules of the department. ~~((Each copy shall))~~ The declaration must be
32 signed by the claimant subject to the penalties as provided in
33 chapter 9A.72 RCW for false swearing.

34 (3) The county assessor ~~((shall))~~ must determine if each claimant
35 ~~((shall be))~~ is granted a deferral for each year but the claimant
36 ~~((shall have))~~ has the right to appeal this determination to the
37 county board of equalization, in accordance with the provisions of
38 RCW 84.40.038, whose decision ~~((shall be))~~ is final as to the
39 deferral of that year.

1 **Sec. 51.** RCW 84.38.040 and 2013 c 23 s 353 are each amended to
2 read as follows:

3 (1) Each claimant electing to defer payment of special
4 assessments and/or real property tax obligations under this chapter
5 (~~shall~~) must file with the county assessor, on forms prescribed by
6 the department and supplied by the assessor, a written declaration
7 thereof. The declaration to defer special assessments and/or real
8 property taxes for any year (~~shall~~) must be filed no later than
9 thirty days before the tax or assessment is due or thirty days after
10 receiving notice under RCW 84.64.050, whichever is later(~~:- PROVIDED,~~
11 ~~That~~); however, for good cause shown, the department may waive this
12 requirement.

13 (2) The declaration (~~shall~~) must designate the property to
14 which the deferral applies, and (~~shall~~) must include a statement
15 setting forth (a) a list of all members of the claimant's household,
16 (b) the claimant's equity value in his or her residence, (c) facts
17 establishing the eligibility for the deferral under the provisions of
18 this chapter, and (d) any other relevant information required by the
19 rules of the department. (~~Each copy shall~~) The declaration must be
20 signed by the claimant subject to the penalties as provided in
21 chapter 9A.72 RCW for false swearing. The first declaration to defer
22 filed in a county (~~shall~~) must include proof of the claimant's age
23 acceptable to the assessor.

24 (3) The county assessor (~~shall~~) must determine if each claimant
25 (~~shall-be~~) is granted a deferral for each year but the claimant
26 (~~shall-have~~) has the right to appeal this determination to the
27 county board of equalization, in accordance with the provisions of
28 RCW 84.40.038, whose decision (~~shall-be~~) is final as to the
29 deferral of that year.

30 **Sec. 52.** RCW 84.38.050 and 1979 ex.s. c 214 s 8 are each amended
31 to read as follows:

32 (1)(a) Declarations to defer property taxes for all years
33 following the first year may be made by filing with the county
34 assessor no later than thirty days before the tax is due a renewal
35 form (~~in duplicate~~), prescribed by the department of revenue and
36 supplied by the county assessor, which affirms the continued
37 eligibility of the claimant.

1 (b) In January of each year, the county assessor (~~shall~~) must
2 send to each claimant who has been granted deferral of ad valorem
3 taxes for the previous year renewal forms and notice to renew.

4 (2) Declarations to defer special assessments (~~shall~~) must be
5 made by filing with the assessor no later than thirty days before the
6 special assessment is due on a form to be prescribed by the
7 department of revenue and supplied by the county assessor. Upon
8 approval, the full amount of special assessments upon such claimant's
9 residence (~~shall~~) must be deferred but not to exceed an amount
10 equal to eighty percent of the claimant's equity value in said
11 property.

12 **Sec. 53.** RCW 84.38.110 and 1984 c 220 s 24 are each amended to
13 read as follows:

14 The county assessor (~~shall~~) must:

15 (1) Immediately transmit (~~one~~) a copy of each declaration to
16 defer to the department of revenue. The department may audit any
17 declaration and (~~shall~~) must notify the assessor as soon as
18 possible of any claim where any factor appears to disqualify the
19 claimant for the deferral sought.

20 (2) Transmit (~~one~~) a copy of each declaration to defer a
21 special assessment to the local improvement district which imposed
22 such assessment.

23 (3) Compute the dollar tax rate for the county as if any
24 deferrals provided by this chapter did not exist.

25 (4) As soon as possible notify the department of revenue and the
26 county treasurer of the amount of real property taxes deferred for
27 that year and notify the department of revenue and the respective
28 treasurers of municipal corporations of the amount of special
29 assessments deferred for each local improvement district within such
30 unit.

31 **Sec. 54.** RCW 84.39.020 and 2005 c 253 s 2 are each amended to
32 read as follows:

33 (1) Each claimant applying for assistance under RCW 84.39.010
34 (~~shall~~) must file a claim with the department, on forms prescribed
35 by the department, no later than thirty days before the tax is due.
36 The department may waive this requirement for good cause shown. The
37 department (~~shall~~) must supply forms to the county assessor to

1 allow persons to apply for the program at the county assessor's
2 office.

3 (2) The claim (~~shall~~) must designate the property to which the
4 assistance applies and (~~shall~~) must include a statement setting
5 forth (a) a list of all members of the claimant's household, (b)
6 facts establishing the eligibility under this section, and (c) any
7 other relevant information required by the rules of the department.
8 (~~Each copy shall~~) The claim must be signed by the claimant subject
9 to the penalties as provided in chapter 9A.72 RCW for false swearing.
10 The first claim (~~shall~~) must include proof of the claimant's age
11 acceptable to the department.

12 (3) The following documentation (~~shall~~) must be filed with a
13 claim along with any other documentation required by the department:

14 (a) The deceased veteran's DD 214 report of separation, or its
15 equivalent, that must be under honorable conditions;

16 (b) A copy of the applicant's certificate of marriage to the
17 deceased;

18 (c) A copy of the deceased veteran's death certificate; and

19 (d) A letter from the United States veterans' administration
20 certifying that the death of the veteran meets the requirements of
21 RCW 84.39.010(2).

22 (4) The department of veterans affairs (~~shall~~) must assist an
23 eligible widow or widower in the preparation and submission of an
24 application and the procurement of necessary substantiating
25 documentation.

26 (~~(4)~~) (5) The department (~~shall~~) must determine if each
27 claimant is eligible each year. Any applicant aggrieved by the
28 department's denial of assistance may petition the state board of tax
29 appeals to review the denial and the board (~~shall~~) must consider
30 any appeals to determine (a) if the claimant is entitled to
31 assistance and (b) the amount or portion thereof.

32 **Sec. 55.** RCW 84.39.030 and 2005 c 253 s 3 are each amended to
33 read as follows:

34 (1) Claims for assistance for all years following the first year
35 may be made by filing with the department no later than thirty days
36 before the tax is due a renewal form (~~in duplicate~~), prescribed by
37 the department, that affirms the continued eligibility of the
38 claimant.

1 (2) In January of each year, the department (~~shall~~) must send
2 to each claimant who has been granted assistance for the previous
3 year a renewal form(~~s~~) and notice to renew.

4 **Sec. 56.** RCW 84.56.150 and 1961 c 15 s 84.56.150 are each
5 amended to read as follows:

6 If any person, firm, or corporation (~~shall remove~~) removes from
7 one county to another in this state personal property (~~which~~) that
8 has been assessed in the former county for a tax (~~which~~) that is
9 unpaid at the time of such removal, the treasurer of the county from
10 which the property is removed (~~shall~~) must certify to the treasurer
11 of the county to which the property has been (~~removed~~) moved a
12 statement of the tax together with all delinquencies and penalties.

13 **Sec. 57.** RCW 82.32.805 and 2013 2nd sp.s. c 13 s 1701 are each
14 amended to read as follows:

15 (1) (a) Except as otherwise provided in this section, every new
16 tax preference expires on the first day of the calendar year that is
17 subsequent to the calendar year that is ten years from the effective
18 date of the tax preference. With respect to any new property tax
19 exemption, the exemption does not apply to taxes levied for
20 collection beginning in the calendar year that is subsequent to the
21 calendar year that is ten years from the effective date of the tax
22 preference.

23 (b) A future amendment that expands a tax preference does not
24 extend the tax preference beyond the period provided in this
25 subsection unless an extension is expressly and unambiguously stated
26 in the amendment.

27 (2) Subsection (1) of this section does not apply if legislation
28 creating a new tax preference includes an expiration date for the new
29 tax preference or an exemption from this section in its entirety or
30 from the provisions of subsection (1) of this section, whether or not
31 such exemption is codified.

32 (3) Subsection (1) of this section does not apply to any existing
33 tax preference that is amended to clarify an ambiguity or correct a
34 technical inconsistency. Future enacted legislation intended to make
35 such clarifications or corrections must explicitly indicate this
36 intent.

37 (4) For the purposes of this section, the following definitions
38 apply:

1 (a) "New tax preference" means a tax preference that initially
2 takes effect after August 1, 2013, or a tax preference in effect as
3 of August 1, 2013, that is expanded or extended after August 1, 2013,
4 even if the expanding or extending amendment includes any other
5 change to the tax preference.

6 (b) "Tax preference" has the same meaning as in RCW 43.136.021
7 with respect to any state tax administered by the department, except
8 does not include the Washington estate and transfer tax in chapter
9 83.100 RCW.

10 (5) The department must provide written notice to the office of
11 the code reviser of a ten-year expiration date required under this
12 section for a new tax preference.

13 **Sec. 58.** RCW 82.32.808 and 2017 c 135 s 8 are each amended to
14 read as follows:

15 (1) As provided in this section, every bill enacting a new tax
16 preference must include a tax preference performance statement,
17 unless the legislation enacting the new tax preference contains an
18 explicit exemption from the requirements of this section.

19 (2) A tax preference performance statement must state the
20 legislative purpose for the new tax preference. The tax preference
21 performance statement must indicate one or more of the following
22 general categories, by reference to the applicable category specified
23 in this subsection, as the legislative purpose of the new tax
24 preference:

25 (a) Tax preferences intended to induce certain designated
26 behavior by taxpayers;

27 (b) Tax preferences intended to improve industry competitiveness;

28 (c) Tax preferences intended to create or retain jobs;

29 (d) Tax preferences intended to reduce structural inefficiencies
30 in the tax structure;

31 (e) Tax preferences intended to provide tax relief for certain
32 businesses or individuals; or

33 (f) A general purpose not identified in (a) through (e) of this
34 subsection.

35 (3) In addition to identifying the general legislative purpose of
36 the tax preference under subsection (2) of this section, the tax
37 preference performance statement must provide additional detailed
38 information regarding the legislative purpose of the new tax
39 preference.

1 (4) A new tax preference performance statement must specify
2 clear, relevant, and ascertainable metrics and data requirements that
3 allow the joint legislative audit and review committee and the
4 legislature to measure the effectiveness of the new tax preference in
5 achieving the purpose designated under subsection (2) of this
6 section.

7 (5) If the tax preference performance statement for a new tax
8 preference indicates a legislative purpose described in subsection
9 (2)(b) or (c) of this section, any taxpayer claiming the new tax
10 preference must file an annual tax performance report in accordance
11 with RCW 82.32.534.

12 (6)(a) Taxpayers claiming a new tax preference must report the
13 amount of the tax preference claimed by the taxpayer to the
14 department as otherwise required by statute or determined by the
15 department as part of the taxpayer's regular tax reporting
16 responsibilities. For new tax preferences allowing certain types of
17 gross income of the business to be excluded from business and
18 occupation or public utility taxation, the tax return must explicitly
19 report the amount of the exclusion, regardless of whether it is
20 structured as an exemption or deduction, if the taxpayer is otherwise
21 required to report taxes to the department on a monthly or quarterly
22 basis. For a new sales and use tax exemption, the total purchase
23 price or value of the exempt product or service subject to the
24 exemption claimed by the buyer must be reported on an addendum to the
25 buyer's tax return if the buyer is otherwise required to report taxes
26 to the department on a monthly or quarterly basis and the buyer is
27 required to submit an exemption certificate, or similar document, to
28 the seller.

29 (b) This subsection does not apply to:

- 30 (i) Property tax exemptions;
31 (ii) Tax preferences required by constitutional law;
32 (iii) Tax preferences for which the tax benefit to the taxpayer
33 is less than one thousand dollars per calendar year; or
34 (iv) Taxpayers who are annual filers.

35 (c) The department may waive the filing requirements of this
36 subsection for taxpayers who are not required to file electronically
37 any return or report under this chapter.

38 (7)(a) Except as otherwise provided in this subsection, the
39 amount claimed by a taxpayer for any new tax preference is subject to
40 public disclosure and is not considered confidential tax information

1 under RCW 82.32.330, if the reporting periods subject to disclosure
2 ended at least twenty-four months prior to the date of disclosure and
3 the taxpayer is required to report the amount of the tax preference
4 claimed by the taxpayer to the department under subsection (6) of
5 this section.

6 (b) (i) The department may waive the public disclosure requirement
7 under (a) of this subsection (7) for good cause. Good cause may be
8 demonstrated by a reasonable showing of economic harm to a taxpayer
9 if the information specified under this subsection is disclosed. The
10 waiver under this subsection (7) (b) (i) only applies to the new tax
11 preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

12 (ii) The amount of the tax preference claimed by a taxpayer
13 during a calendar year is confidential under RCW 82.32.330 and may
14 not be disclosed under this subsection if the amount for the calendar
15 year is less than ten thousand dollars.

16 (c) In lieu of the disclosure and waiver requirements under this
17 subsection, the requirements under RCW 82.32.534 apply to any tax
18 preference that requires a tax performance report.

19 (8) If a new tax preference does not include the information
20 required under subsections (2) through (4) of this section, the joint
21 legislative audit and review committee is not required to perform a
22 tax preference review under chapter 43.136 RCW, and it is
23 legislatively presumed that it is the intent of the legislature to
24 allow the new tax preference to expire upon its scheduled expiration
25 date.

26 (9) For the purposes of this section, "tax preference" and "new
27 tax preference" have the same meaning as provided in RCW 82.32.805.

28 (10) The provisions of this section do not apply to the extent
29 that legislation creating a new tax preference provides an exemption,
30 in whole or in part, from this section, whether or not such exemption
31 is codified.

32 **Sec. 59.** RCW 35.90.020 and 2017 c 209 s 2 are each amended to
33 read as follows:

34 (1) Except as otherwise provided in subsection (7) of this
35 section, a city that requires a general business license of any
36 person that engages in business activities within that city must
37 partner with the department to have such license issued, and renewed
38 if the city requires renewal, through the business licensing service
39 in accordance with chapter 19.02 RCW.

1 (a) Except as otherwise provided in subsection (3) of this
2 section, the department must phase in the issuance and renewal of
3 general business licenses of cities that required a general business
4 license as of July 1, 2017, and are not already partnering with the
5 department, as follows:

6 (i) Between January 1, 2018, and December 31, 2021, the
7 department must partner with at least six cities per year;

8 (ii) Between January 1, 2022, and December 31, 2027, the
9 department must partner with the remaining cities; or

10 (iii) Between July 1, 2017 and December 31, 2022, the department
11 must partner with all cities requiring a general business license if
12 specific funding for the purposes of this subsection (~~(1)(a)~~)
13 (1)(a)(iii) is appropriated in the omnibus appropriations act.

14 (b) A city that imposes a general business license requirement
15 and does not partner with the department as of January 1, 2018, may
16 continue to issue and renew its general business licenses until the
17 city partners with the department as provided in subsection (4) of
18 this section.

19 (2)(a) A city that did not require a general business license as
20 of July 1, 2017, but imposes a new general business license
21 requirement after that date must advise the department in writing of
22 its intent to do so at least ninety days before the requirement takes
23 effect.

24 (b) If a city subject to (a) of this subsection (2) imposes a new
25 general business license requirement after July 1, 2017, the
26 department, in its sole discretion, may adjust resources to partner
27 with the imposing city as of the date that the new general business
28 licensing requirement takes effect. If the department cannot
29 reallocate resources, the city may issue and renew its general
30 business license until the department is able to partner with the
31 city.

32 (3) The department may delay assuming the duties of issuing and
33 renewing general business licenses beyond the dates provided in
34 subsection (1)(a) of this section if:

35 (a) Insufficient funds are appropriated for this specific
36 purpose;

37 (b) The department cannot ensure the business licensing system is
38 adequately prepared to handle all general business licenses due to
39 unforeseen circumstances;

1 (c) The department determines that a delay is necessary to ensure
2 that the transition to mandatory department issuance and renewal of
3 general business licenses is as seamless as possible; or

4 (d) The department receives a written notice from a city within
5 sixty days of the date that the city appears on the department's
6 biennial partnership plan, which includes an explanation of the
7 fiscal or technical challenges causing the city to delay joining the
8 system. A delay under this subsection (3)(d) may be for no more than
9 three years.

10 (4)(a) In consultation with affected cities and in accordance
11 with the priorities established in subsection (5) of this section,
12 the department must establish a biennial plan for partnering with
13 cities to assume the issuance and renewal of general business
14 licenses as required by this section. The plan must identify the
15 cities that the department will partner with and the dates targeted
16 for the department to assume the duties of issuing and renewing
17 general business licenses.

18 (b) By January 1, 2018, and January 1st of each even-numbered
19 year thereafter until the department has partnered with all cities
20 that currently impose a general business license requirement and that
21 have not declined to partner with the department under subsection (7)
22 of this section, the department must submit the partnering plan
23 required in (a) of this subsection (4) to the governor; legislative
24 fiscal committees; house local government committee; senate
25 (~~agriculture, water, trade and~~) financial institutions, economic
26 development and trade committee; senate local government committee;
27 affected cities; association of Washington cities; association of
28 Washington business; national federation of independent business; and
29 Washington retail association.

30 (c) The department may, in its sole discretion, alter the plan
31 required in (a) of this subsection (4) with a minimum notice of
32 thirty days to affected cities.

33 (5) When determining the plan to partner with cities for the
34 issuance and renewal of general business licenses as required in
35 subsection (4) of this section, cities that notified the department
36 of their wish to partner with the department before January 1, 2017,
37 must be allowed to partner before other cities.

38 (6) A city that partners with the department for the issuance and
39 renewal of general business licenses through the business licensing

1 service in accordance with chapter 19.02 RCW may not issue and renew
2 those licenses.

3 (7) ((A)) (a) Except as provided in (b) of this subsection, a
4 city may decline to partner with the department for the issuance and
5 renewal of a general business license as provided in subsection (1)
6 of this section if the city participates in the online local business
7 license and tax filing portal known as "FileLocal" as of July 1,
8 2020.

9 (b) A city that receives at least one million nine hundred fifty
10 thousand dollars in fiscal year 2020 for temporary streamlined sales
11 tax mitigation under the 2019 omnibus appropriations act, section
12 722, chapter 415, Laws of 2019, may decline to partner with the
13 department for the issuance and renewal of a general business license
14 as provided in subsection (1) of this section if the city
15 participates in FileLocal as of July 1, 2021.

16 (c) For the purposes of this subsection (7), a city is considered
17 to be a FileLocal participant as of the date that a business may
18 access FileLocal for purposes of applying for or renewing that city's
19 general business license and reporting and paying that city's local
20 business and occupation taxes. A city that ceases participation in
21 FileLocal after July 1, 2020, or July 1, 2021, in the case of a city
22 eligible for the extension under (b) of this subsection, must partner
23 with the department for the issuance and renewal of its general
24 business license as provided in subsection (1) of this section.

25 (8) By January 1, 2019, and each January 1st thereafter through
26 January 1, 2028, the department must submit a progress report to the
27 legislature. The report required by this subsection must provide
28 information about the progress of the department's efforts to partner
29 with all cities that impose a general business license requirement
30 and include:

31 (a) A list of cities that have partnered with the department as
32 required in subsection (1) of this section;

33 (b) A list of cities that have not partnered with the department;

34 (c) A list of cities that are scheduled to partner with the
35 department during the upcoming calendar year;

36 (d) A list of cities that have declined to partner with the
37 department as provided in subsection (7) of this section;

38 (e) An explanation of lessons learned and any process
39 efficiencies incorporated by the department;

1 (f) Any recommendations to further simplify the issuance and
2 renewal of general business licenses by the department; and

3 (g) Any other information the department considers relevant.

4 **Sec. 60.** RCW 82.32.050 and 2008 c 181 s 501 are each amended to
5 read as follows:

6 (1) If upon examination of any returns or from other information
7 obtained by the department it appears that a tax or penalty has been
8 paid less than that properly due, the department shall assess against
9 the taxpayer such additional amount found to be due and shall add
10 thereto interest on the tax only. The department shall notify the
11 taxpayer by mail, or electronically as provided in RCW 82.32.135, of
12 the additional amount and the additional amount shall become due and
13 shall be paid within thirty days from the date of the notice, or
14 within such further time as the department may provide.

15 (a) For tax liabilities arising before January 1, 1992, interest
16 shall be computed at the rate of nine percent per annum from the last
17 day of the year in which the deficiency is incurred until the earlier
18 of December 31, 1998, or the date of payment. After December 31,
19 1998, the rate of interest shall be variable and computed as provided
20 in subsection (2) of this section. The rate so computed shall be
21 adjusted on the first day of January of each year for use in
22 computing interest for that calendar year.

23 (b) For tax liabilities arising after December 31, 1991, the rate
24 of interest shall be variable and computed as provided in subsection
25 (2) of this section from the last day of the year in which the
26 deficiency is incurred until the date of payment. The rate so
27 computed shall be adjusted on the first day of January of each year
28 for use in computing interest for that calendar year.

29 (c) (~~Interest~~) (i) Except as otherwise provided in (c)(ii) of
30 this subsection (1), interest imposed after December 31, 1998, shall
31 be computed from the last day of the month following each calendar
32 year included in a notice, and the last day of the month following
33 the final month included in a notice if not the end of a calendar
34 year, until the due date of the notice.

35 (ii) For interest associated with annual tax reporting periods
36 having a due date as prescribed in RCW 82.32.045(3), interest must be
37 computed from the last day of April immediately following each such
38 annual reporting period included in the notice, until the due date of
39 the notice.

1 (iii) If payment in full is not made by the due date of the
2 notice, additional interest shall be computed under this subsection
3 (1)(c) until the date of payment. The rate of interest shall be
4 variable and computed as provided in subsection (2) of this section.
5 The rate so computed shall be adjusted on the first day of January of
6 each year for use in computing interest for that calendar year.

7 (2) For the purposes of this section, the rate of interest to be
8 charged to the taxpayer shall be an average of the federal short-term
9 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.
10 The rate set for each new year shall be computed by taking an
11 arithmetical average to the nearest percentage point of the federal
12 short-term rate, compounded annually. That average shall be
13 calculated using the rates from four months: January, April, and July
14 of the calendar year immediately preceding the new year, and October
15 of the previous preceding year.

16 (3) During a state of emergency declared under RCW 43.06.010(12),
17 the department, on its own motion or at the request of any taxpayer
18 affected by the emergency, may extend the due date of any assessment
19 or correction of an assessment for additional taxes, penalties, or
20 interest as the department deems proper.

21 (4) No assessment or correction of an assessment for additional
22 taxes, penalties, or interest due may be made by the department more
23 than four years after the close of the tax year, except (a) against a
24 taxpayer who has not registered as required by this chapter, (b) upon
25 a showing of fraud or of misrepresentation of a material fact by the
26 taxpayer, or (c) where a taxpayer has executed a written waiver of
27 such limitation. The execution of a written waiver shall also extend
28 the period for making a refund or credit as provided in RCW
29 82.32.060(2).

30 (5) For the purposes of this section, "return" means any document
31 a person is required by the state of Washington to file to satisfy or
32 establish a tax or fee obligation that is administered or collected
33 by the department of revenue and that has a statutorily defined due
34 date.

35 **Sec. 61.** RCW 82.32.060 and 2009 c 176 s 4 are each amended to
36 read as follows:

37 (1) If, upon receipt of an application by a taxpayer for a refund
38 or for an audit of the taxpayer's records, or upon an examination of
39 the returns or records of any taxpayer, it is determined by the

1 department that within the statutory period for assessment of taxes,
2 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,
3 penalty, or interest has been paid in excess of that properly due,
4 the excess amount paid within, or attributable to, such period must
5 be credited to the taxpayer's account or must be refunded to the
6 taxpayer, at the taxpayer's option. Except as provided in subsection
7 (2) of this section, no refund or credit may be made for taxes,
8 penalties, or interest paid more than four years prior to the
9 beginning of the calendar year in which the refund application is
10 made or examination of records is completed.

11 (2) (a) The execution of a written waiver under RCW 82.32.050 or
12 82.32.100 will extend the time for making a refund or credit of any
13 taxes paid during, or attributable to, the years covered by the
14 waiver if, prior to the expiration of the waiver period, an
15 application for refund of such taxes is made by the taxpayer or the
16 department discovers a refund or credit is due.

17 (b) A refund or credit must be allowed for an excess payment
18 resulting from the failure to claim a bad debt deduction, credit, or
19 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or
20 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec.
21 166, as amended or renumbered as of January 1, 2003, less than four
22 years prior to the beginning of the calendar year in which the refund
23 application is made or examination of records is completed.

24 (3) Any such refunds must be made by means of vouchers approved
25 by the department and by the issuance of state warrants drawn upon
26 and payable from such funds as the legislature may provide. However,
27 taxpayers who are required to pay taxes by electronic funds transfer
28 under RCW 82.32.080 must have any refunds paid by electronic funds
29 transfer if the department has the necessary account information to
30 facilitate a refund by electronic funds transfer.

31 (4) Any judgment for which a recovery is granted by any court of
32 competent jurisdiction, not appealed from, for tax, penalties, and
33 interest which were paid by the taxpayer, and costs, in a suit by any
34 taxpayer must be paid in the same manner, as provided in subsection
35 (3) of this section, upon the filing with the department of a
36 certified copy of the order or judgment of the court.

37 (a) Interest at the rate of three percent per annum must be
38 allowed by the department and by any court on the amount of any
39 refund, credit, or other recovery allowed to a taxpayer for taxes,
40 penalties, or interest paid by the taxpayer before January 1, 1992.

1 This rate of interest applies for all interest allowed through
2 December 31, 1998. Interest allowed after December 31, 1998, must be
3 computed at the rate as computed under RCW 82.32.050(2). The rate so
4 computed must be adjusted on the first day of January of each year
5 for use in computing interest for that calendar year.

6 (b) For refunds or credits of amounts paid or other recovery
7 allowed to a taxpayer after December 31, 1991, the rate of interest
8 must be the rate as computed for assessments under RCW 82.32.050(2)
9 less one percent. This rate of interest applies for all interest
10 allowed through December 31, 1998. Interest allowed after December
11 31, 1998, must be computed at the rate as computed under RCW
12 82.32.050(2). The rate so computed must be adjusted on the first day
13 of January of each year for use in computing interest for that
14 calendar year.

15 (5) Interest allowed on a credit notice or refund issued after
16 December 31, 2003, must be computed as follows:

17 (a) If all overpayments for each calendar year and all reporting
18 periods ending with the final month included in a notice or refund
19 were made on or before the due date of the final return for each
20 calendar year or the final reporting period included in the notice or
21 refund:

22 (i) Interest must be computed from January 31st following each
23 calendar year included in a notice or refund; (~~(or)~~)

24 (ii) Interest must be computed from the last day of the month
25 following the final month included in a notice or refund; or

26 (iii) For interest associated with annual tax reporting periods
27 having a due date as prescribed in RCW 82.32.045(3), interest must be
28 computed from the last day of April following each such annual
29 reporting period included in a notice or refund.

30 (b) If the taxpayer has not made all overpayments for each
31 calendar year and all reporting periods ending with the final month
32 included in a notice or refund on or before the dates specified by
33 RCW 82.32.045 for the final return for each calendar year or the
34 final month included in the notice or refund, interest must be
35 computed from the last day of the month following the date on which
36 payment in full of the liabilities was made for each calendar year
37 included in a notice or refund, and the last day of the month
38 following the date on which payment in full of the liabilities was
39 made if the final month included in a notice or refund is not the end
40 of a calendar year.

1 (c) Interest included in a credit notice must accrue up to the
2 date the taxpayer could reasonably be expected to use the credit
3 notice, as defined by the department's rules. If a credit notice is
4 converted to a refund, interest must be recomputed to the date the
5 refund is issued, but not to exceed the amount of interest that would
6 have been allowed with the credit notice.

7 NEW SECTION. **Sec. 62.** Sections 60 and 61 of this act apply both
8 prospectively and retroactively to January 1, 2020.

9 NEW SECTION. **Sec. 63.** Sections 60 through 62 of this act are
10 necessary for the immediate preservation of the public peace, health,
11 or safety, or support of the state government and its existing public
12 institutions, and take effect immediately.

13 NEW SECTION. **Sec. 64.** The following acts or parts of acts are
14 each repealed:

15 (1) RCW 82.04.4322 (Deductions—Artistic or cultural organization
16 —Compensation from United States, state, etc., for artistic or
17 cultural exhibitions, performances, or programs) and 1981 c 140 s 1;

18 (2) RCW 82.04.4324 (Deductions—Artistic or cultural organization
19 —Deduction for tax under RCW 82.04.240—Value of articles for use in
20 displaying art objects or presenting artistic or cultural
21 exhibitions, performances, or programs) and 1981 c 140 s 2;

22 (3) RCW 82.04.4326 (Deductions—Artistic or cultural organizations
23 —Tuition charges for attending artistic or cultural education
24 programs) and 1981 c 140 s 3;

25 (4) RCW 82.08.02081 (Exemptions—Audio or video programming) and
26 2009 c 535 s 502;

27 (5) RCW 82.08.02082 (Exemptions—Digital products or services—
28 Ingredient or component—Made available for free) and 2017 c 323 s
29 517, 2010 c 111 s 401, & 2009 c 535 s 503;

30 (6) RCW 82.08.02087 (Exemptions—Digital goods and services—
31 Purchased for business purposes) and 2010 c 111 s 402 & 2009 c 535 s
32 504;

33 (7) RCW 82.08.02088 (Exemptions—Digital products—Business buyers
34 —Concurrently available for use within and outside state) and 2017 c
35 323 s 518 & 2009 c 535 s 701;

- 1 (8) RCW 82.12.02081 (Exemptions—Audio or video programming) and
2 2009 c 535 s 602;
- 3 (9) RCW 82.12.02082 (Exemptions—Digital products or services—
4 Made available for free to general public) and 2017 c 323 s 521, 2010
5 c 111 s 501, & 2009 c 535 s 603;
- 6 (10) RCW 82.12.02084 (Exemptions—Digital goods—Use by students)
7 and 2009 c 535 s 604;
- 8 (11) RCW 82.12.02085 (Exemptions—Digital goods—Noncommercial—
9 Internal audience—Not for sale) and 2009 c 535 s 605;
- 10 (12) RCW 82.12.02086 (Exemptions—Digital products or codes—Free
11 of charge) and 2009 c 535 s 606;
- 12 (13) RCW 82.12.02087 (Exemptions—Digital goods, codes, and
13 services—Used for business purposes) and 2010 c 111 s 502 & 2009 c
14 535 s 607;
- 15 (14) RCW 82.32.755 (Sourcing compliance—Taxpayer relief—Interest
16 and penalties—Streamlined sales and use tax agreement) and 2007 c 6 s
17 1601;
- 18 (15) RCW 82.32.760 (Sourcing compliance—Taxpayer relief—Credits
19 —Streamlined sales and use tax agreement) and 2007 c 6 s 1602;
- 20 (16) RCW 82.66.010 (Definitions) and 1995 c 352 s 1;
- 21 (17) RCW 82.66.020 (Application for deferral—Contents—Ruling)
22 and 1995 c 352 s 2;
- 23 (18) RCW 82.66.040 (Repayment schedule—Interest, penalties) and
24 1998 c 339 s 1 & 1995 c 352 s 4;
- 25 (19) RCW 82.66.050 (Applications not confidential) and 1995 c 352
26 s 6;
- 27 (20) RCW 82.66.060 (Administration) and 1995 c 352 s 5; and
- 28 (21) RCW 82.66.901 (Effective date—1995 c 352) and 1995 c 352 s
29 9.

30 NEW SECTION. **Sec. 65.** The following sections are decodified:
31 (1) RCW 82.58.005 (Findings);
32 (2) RCW 82.58.901 (Effective date—2002 c 267 §§ 1-9); and
33 (3) RCW 82.58.902 (Contingent effective date—2002 c 267 §§ 10 and
34 11).

35 NEW SECTION. **Sec. 66.** Section 37 of this act takes effect
36 January 1, 2022.

Passed by the Senate March 10, 2020.
Passed by the House March 6, 2020.
Approved by the Governor March 25, 2020, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State March 26, 2020.

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

"I am returning herewith, without my approval as to Section 21,
Engrossed Senate Bill No. 5402 entitled:

"AN ACT Relating to improving tax and licensing laws
administered by the department of revenue, but not including changes
to tax laws that are estimated to affect state or local tax
collections as reflected in any fiscal note prepared and approved
under the process established in chapter 43.88A RCW."

This bill makes technical corrections to a variety of tax laws with
the intent to correct errors and simplify the statutes wherever
possible, without having any substantive effect on tax policy or
revenue collections.

Section 21 updates an out of date reference to the definition of "hog
fuel." This section is being vetoed because it duplicates the change
to RCW 82.12.956 made in section 3 of House Bill 2848.

For these reasons I have vetoed Section 21 of Engrossed Senate Bill
No. 5402.

With the exception of Section 21, Engrossed Senate Bill No. 5402 is
approved."

--- END ---