

---

HOUSE BILL 1316

---

State of Washington

58th Legislature

2003 Regular Session

By Representatives Morris and Anderson

Read first time 01/22/2003. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to utility taxation; amending RCW 82.16.010,  
2 82.16.020, 82.16.050, 82.16.090, 54.28.010, 54.28.011, 54.28.020,  
3 54.28.025, 54.28.030, 54.28.040, 54.28.050, 54.28.055, 54.28.060,  
4 54.28.070, 54.28.080, 54.28.090, 54.28.100, 54.28.110, and 54.28.120;  
5 adding new chapters to Title 82 RCW; creating new sections; recodifying  
6 RCW 54.28.010, 54.28.011, 54.28.020, 54.28.025, 54.28.030, 54.28.040,  
7 54.28.050, 54.28.055, 54.28.060, 54.28.070, 54.28.080, 54.28.090,  
8 54.28.100, 54.28.110, and 54.28.120; providing effective dates; and  
9 declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this  
12 section apply throughout this chapter unless the context clearly  
13 requires otherwise.

14 (1) "Amount of electricity sold at retail" means the amount of  
15 kilowatt hours of electricity reported as retail sales to ultimate  
16 consumers to the federal energy information administration on form EIA-  
17 861 or its successor.

18 (2) "Amount of electricity sold at wholesale" means the amount of

1 kilowatt hours of electricity reported as sales of electricity for  
2 resale to:

3 (a) The federal energy information administration on form EIA-412  
4 or its successor;

5 (b) The federal energy regulatory commission on form 1 or its  
6 successor; or

7 (c) To the department on an affidavit in a form and manner as  
8 prescribed by the department, if the taxpayer is not required to report  
9 sales of electricity for resale under (a) or (b) of this subsection.

10 (3) "Customer" or "purchaser" means a person who acquires for  
11 consideration electricity for use or consumption and not for resale.

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

13 (5) "Distribution services provider" means a person controlling or  
14 operating distribution facilities for distribution of electricity to  
15 the public. A distribution services provider includes a purchaser who  
16 takes electricity directly from a transmission line and a purchaser who  
17 generates electricity for the purchaser's own use but does not include  
18 electricity generated by the purchaser for noncommercial use or for  
19 agricultural use.

20 (6) "Net amount of electricity generated" means the amount of  
21 kilowatt hours of electricity reported as net generation to the federal  
22 energy information administration on form EIA-906 or its successor.

23 (7) "Person" is defined as provided in RCW 82.04.030.

24 NEW SECTION. **Sec. 2.** WHOLESALE ENERGY TRANSACTION TAX--RATE OF  
25 TAX--EXEMPTIONS--COST RECOVERY. (1)(a) Except as provided in  
26 subsection (2) of this section, a wholesale energy transaction tax is  
27 imposed upon electricity transmitted within the state as provided in  
28 this section. The tax is imposed at a rate of two-tenths of one cent  
29 per kilowatt hour of electricity.

30 (b)(i) For electricity produced in the state for delivery outside  
31 of the state, the taxpayer is the person that introduces the  
32 electricity onto transmission lines. The amount of electricity subject  
33 to tax under this subsection shall be determined by an apportionment  
34 formula under (b)(ii) of this subsection. The taxpayer shall remit the  
35 tax annually to the department under the provisions of chapter 82.32  
36 RCW.

1 (ii) The amount of electricity subject to tax under this subsection  
2 (1)(b)(ii) is, for the previous calendar year, the greater of the  
3 following:

4 (A) Ninety-five percent of the net amount of electricity generated  
5 by the taxpayer within the state, less the sum of the amount of  
6 electricity sold at retail within the state and the amount of  
7 electricity sold at wholesale to distribution services providers  
8 located within the state; or

9 (B) Zero.

10 (c) For electricity produced for delivery within the state, the  
11 taxpayer is the distribution services provider. The tax base is the  
12 amount of kilowatt hours of electricity delivered to the distribution  
13 services provider.

14 (2)(a) Electricity transmitted through the state that is not  
15 produced or delivered in the state is exempt from the tax imposed by  
16 this section.

17 (b) An agency of the United States government that produces  
18 electricity within the state is exempt from the provisions in  
19 subsection (1)(b) of this section.

20 (c) Electricity delivered to a purchaser that receives its power  
21 directly from a transmission or distribution facility owned by an  
22 entity of the United States government is exempt from the tax imposed  
23 by this section.

24 (3) A distribution services provider is allowed to recover the tax  
25 imposed by this section and the administrative costs to comply with  
26 this chapter in its rates.

27 NEW SECTION. **Sec. 3.** MULTISTATE EXEMPTION. A person, upon proof  
28 that the person has paid a tax in another state on the transmission of  
29 electricity, is allowed a credit against the tax imposed by this  
30 chapter if the tax has been paid in another state.

31 NEW SECTION. **Sec. 4.** ADMINISTRATION. Chapter 82.32 RCW applies  
32 to the taxes imposed in this chapter. The tax due dates, reporting  
33 periods, and return requirements applicable to chapter 82.04 RCW apply  
34 to the taxes imposed in this chapter.

1        NEW SECTION.    **Sec. 5.**    (1) The following definitions apply to this  
2 section:

3        (a) "Qualifying project" means a project designed to achieve job  
4 creation or business retention, to add or upgrade nonelectrical  
5 infrastructure, to add or upgrade health and safety facilities, to  
6 accomplish energy and water use efficiency improvements, including  
7 renewable energy development, or to add or upgrade emergency services  
8 in any designated qualifying rural area.

9        (b) "Qualifying rural area" means:

10        (i) A rural county, which is a county with a population density of  
11 less than one hundred persons per square mile as determined by the  
12 office of financial management and published each year by the  
13 department for the period July 1st to June 30th; or

14        (ii) Any geographic area in the state that receives electricity  
15 from a taxpayer with twelve thousand or fewer customers and with fewer  
16 than twenty-six meters per mile of distribution line as determined and  
17 published by the department effective July 1st of each year. The  
18 department shall use current data provided by the electricity industry.

19        (c) "Electric utility rural economic development revolving fund"  
20 means a fund devoted exclusively to funding qualifying projects in  
21 qualifying rural areas.

22        (d) "Local board" is a board of directors with at least, but not  
23 limited to, three members representing local businesses and community  
24 groups who have been appointed by the sponsoring electric utility to  
25 oversee and direct the activities of the electric utility rural  
26 economic development revolving fund.

27        (2) A taxpayer with fewer than twenty-six active meters per mile of  
28 distribution line in any geographic area in the state shall be allowed  
29 a credit against taxes due under this chapter in an amount equal to  
30 fifty percent of contributions made in any calendar year directly to an  
31 electric utility rural economic development revolving fund. The credit  
32 shall be taken in a form and manner as required by the department. The  
33 credit under this section shall not exceed twenty-five thousand dollars  
34 per calendar year per taxpayer. The credit may not exceed the tax that  
35 would otherwise be due under this chapter. Refunds shall not be  
36 granted in the place of credits. Expenditures not used to earn a  
37 credit in one calendar year may not be used to earn a credit in  
38 subsequent years.

1 (3) The right to earn tax credits under this section expires  
2 December 31, 2005.

3 (4) To qualify for the credit in subsection (2) of this section,  
4 the taxpayer shall establish an electric utility rural economic  
5 development revolving fund which is governed by a local board whose  
6 members shall reside in the qualifying rural area served by the  
7 taxpayer. The local board shall have authority to determine all  
8 criteria and conditions for the expenditure of funds from the electric  
9 utility rural economic development revolving fund, and for the terms  
10 and conditions of repayment.

11 (5) Any funds repaid to the electric utility rural economic  
12 development revolving fund by recipients shall be made available for  
13 additional qualifying projects.

14 (6) If at any time the electric utility rural economic development  
15 revolving fund is dissolved, any money claimed as a tax credit under  
16 this section shall either be granted to a qualifying project or  
17 refunded to the state within two years of termination.

18 (7) The total amount of credits that may be used in any fiscal year  
19 shall not exceed three hundred fifty thousand dollars in any fiscal  
20 year. The department shall allow the use of earned credits on a first-  
21 come, first-served basis. Unused earned credits may be carried over to  
22 subsequent years.

23 NEW SECTION. **Sec. 6.** (1) Unless the context clearly requires  
24 otherwise, the definitions in this subsection apply throughout this  
25 section.

26 (a) "Direct service industrial customer" means a person who is an  
27 industrial customer that contracts for the purchase of power from the  
28 Bonneville Power Administration for direct consumption as of May 8,  
29 2001. "Direct service industrial customer" includes a person who is a  
30 subsidiary that is more than fifty percent owned by a direct service  
31 industrial customer and who receives power from the Bonneville Power  
32 Administration pursuant to the parent's contract for power.

33 (b) "Facility" means a gas turbine electrical generation facility  
34 that does not exist on May 8, 2001.

35 (c) "Average annual employment" means the total employment in this  
36 state for a calendar year at the direct service industrial customer's  
37 location where electricity from the facility will be consumed.

1 (2) Effective July 1, 2001, a credit is allowed against the tax due  
2 under this chapter on sales of electricity made from a facility to a  
3 direct service industrial customer if the contract for sale of  
4 electricity to a direct service industrial customer contains the  
5 following terms:

6 (a) Sales of electricity from the facility to the direct service  
7 industrial customer will be made for ten consecutive years or more;

8 (b) The price charged for the electricity will be reduced by an  
9 amount equal to the tax credit; and

10 (c) Disallowance of all or part of the credit under subsection (5)  
11 of this section is a breach of contract and the damages to be paid by  
12 the direct service industrial customer to the facility are the amount  
13 of tax credit disallowed.

14 (3) The credit is equal to the gross proceeds from the sale of the  
15 electricity to a direct service industrial customer multiplied by the  
16 rate in effect at the time of the sale for the taxpayer under section  
17 2 of this act. The credit may be used each reporting period for sixty  
18 months following the first month electricity is sold from a facility to  
19 a direct service industrial customer. Credit under this section is  
20 limited to the amount of tax imposed under this chapter. Refunds shall  
21 not be given in place of credits and credits may not be carried over to  
22 subsequent calendar years.

23 (4) Application for credit shall be made before the first sale of  
24 electricity from a facility to a direct service industrial customer.  
25 The application shall be in a form and manner prescribed by the  
26 department and shall include, but is not limited to, information  
27 regarding the location of the facility, identification of the direct  
28 service industrial customer who will receive electricity from the  
29 facility, the projected date of the first sale of electricity to a  
30 direct service industrial customer, the date construction is projected  
31 to begin or did begin, and the average annual employment in the state  
32 of the direct service industrial customer who will receive electricity  
33 from the facility for the six calendar years immediately preceding the  
34 year in which the application is made. A copy of the contract for sale  
35 of electricity must be attached to the application. The department  
36 shall rule on the application within thirty days of receipt.

37 (5) All or part of the credit shall be disallowed and must be paid  
38 if the average of the direct service industrial customer's average

1 annual employment for the five calendar years subsequent to the  
 2 calendar year containing the first month of sale of electricity from a  
 3 facility to a direct service industrial customer is less than the six-  
 4 year average annual employment stated on the application for credit  
 5 under this section. The direct service industrial customer shall  
 6 certify to the department and to the facility by June 1st of the sixth  
 7 calendar year following the calendar year in which the month of first  
 8 sale occurs the average annual employment for each of the five prior  
 9 calendar years. All or part of the credit that shall be disallowed and  
 10 must be paid is commensurate with the decrease in the five-year average  
 11 of average annual employment as follows:

<u>Decrease in Average Annual</u>	
<u>Employment Over</u>	
<u>Five-Year Period</u>	<u>% of Credit to be Paid</u>
Less than 10%	10%
10% or more but less than 25%	25%
25% or more but less than 50%	50%
50% or more but less than 75%	75%
75% or more	100%

20 (6)(a) Payments on credit that is disallowed shall begin in the  
 21 sixth calendar year following the calendar year in which the month  
 22 following the first month of sale of electricity from a facility to a  
 23 direct service industrial customer occurs. The first payment will be  
 24 due on or before December 31st with subsequent annual payments due on  
 25 or before December 31st of the following four years according to the  
 26 schedule in this subsection.

<u>Payment Year</u>	<u>% of Credit to be Paid</u>
1	10%
2	15%
3	20%
4	25%
5	30%

33 (b) The department may authorize an accelerated payment schedule  
 34 upon request of the taxpayer.

1 (c) Interest shall not be charged on the credit that is disallowed  
2 for the sixty-month period the credit may be taken, although all other  
3 penalties and interest applicable to delinquent excise taxes may be  
4 assessed and imposed. The debt for credit that is disallowed and must  
5 be paid will not be extinguished by insolvency or other failure of the  
6 taxpayer. Transfer of ownership of the facility does not affect  
7 eligibility for this credit. However, the credit is available to the  
8 successor only if the eligibility conditions of this section are met.

9 (7) The employment security department shall make, and certify to  
10 the department, all determinations of employment under this section as  
11 requested by the department.

12 NEW SECTION. **Sec. 7.** (1) Unless the context clearly requires  
13 otherwise, the definitions in this subsection apply throughout this  
14 section.

15 (a) "Base credit" means the maximum amount of credit against the  
16 tax imposed by this chapter that each taxpayer may take each fiscal  
17 year as calculated by the department. The base credit is equal to the  
18 proportionate share that the total grants received by each taxpayer in  
19 the prior fiscal year bears to the total grants received by all  
20 taxpayers and gas distribution businesses under RCW 82.16.0497 in the  
21 prior fiscal year multiplied by two million five hundred thousand  
22 dollars.

23 (b) "Billing discount" means a reduction in the amount charged for  
24 providing service to qualifying persons in Washington made by a  
25 taxpayer. Billing discount does not include grants received by the  
26 taxpayer.

27 (c) "Grant" means funds provided to a taxpayer by the department of  
28 community, trade, and economic development or by a qualifying  
29 organization.

30 (d) "Low-income home energy assistance program" means energy  
31 assistance programs for low-income households as defined on December  
32 31, 2000, in the low-income home energy assistance act of 1981 as  
33 amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

34 (e) "Qualifying person" means a Washington resident who applies for  
35 assistance and qualifies for a grant regardless of whether that person  
36 receives a grant.



1 (f) "Qualifying contribution" means money given by a taxpayer to a  
2 qualifying organization, exclusive of money received in the prior  
3 fiscal year from its customers for the purpose of assisting other  
4 customers.

5 (g) "Qualifying organization" means an entity that has a  
6 contractual agreement with the department of community, trade, and  
7 economic development to administer in a specified service area low-  
8 income home energy assistance funds received from the federal  
9 government and other funds that may be received by the entity.

10 (2) Subject to the limitations in this section, a taxpayer may take  
11 a credit each fiscal year against the tax imposed under this chapter.

12 (a)(i) A credit may be taken for qualifying contributions if the  
13 dollar amount of qualifying contributions for the fiscal year in which  
14 the tax credit is taken is greater than one hundred twenty-five percent  
15 of the dollar amount of qualifying contributions given in fiscal year  
16 2000.

17 (ii) If no qualifying contributions were given in fiscal year 2000,  
18 a credit shall be allowed for the first fiscal year that qualifying  
19 contributions are given. Thereafter, credit shall be allowed if the  
20 qualifying contributions given exceed one hundred twenty-five percent  
21 of qualifying contributions given in the first fiscal year.

22 (iii) The amount of credit shall be fifty percent of the dollar  
23 amount of qualifying contributions given in the fiscal year in which  
24 the tax credit is taken.

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

29 (ii) If no billing discounts were given in fiscal year 2000, a  
30 credit shall be allowed in the first fiscal year that billing discounts  
31 are given. Thereafter, credit shall be allowed if the dollar amount of  
32 billing discounts given exceeds one hundred twenty-five percent of  
33 billing discounts given in the first fiscal year.

34 (iii) The amount of credit shall be fifty percent of the dollar  
35 amount of the billing discounts given in the fiscal year in which the  
36 tax credit is taken.

37 (c) The total amount of credit that may be taken for qualifying

1 contributions and billing discounts in a fiscal year is limited to the  
2 base credit for the same fiscal year.

3 (3) The total amount of credit, statewide, that may be taken in any  
4 fiscal year shall not exceed two million five hundred thousand dollars.

5 (4)(a) Not later than June 1st of each year beginning in 2004, the  
6 department shall publish the base credit for each taxpayer for the next  
7 fiscal year.

8 (b) Not later than July 1st of each year beginning in 2004,  
9 application for credit must be made to the department including but not  
10 limited to the following information: Billing discounts given by the  
11 applicant in fiscal year 2002; qualifying contributions given by the  
12 applicant in the prior fiscal year; the amount of money received in the  
13 prior fiscal year from customers for the purpose of assisting other  
14 customers; the base credit for the next fiscal year for the applicant;  
15 the qualifying contributions anticipated to be given in the next fiscal  
16 year; and billing discounts anticipated to be given in the next fiscal  
17 year. No credit under this section will be allowed to a taxpayer that  
18 does not file the application by July 1st.

19 (c) Not later than August 1st of each year beginning in 2002, the  
20 department shall notify each applicant of the amount of credit that may  
21 be taken in that fiscal year.

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

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

31 (6) No credit may be taken for billing discounts made before July  
32 1, 2001. Within two weeks of May 8, 2001, the department of community,  
33 trade, and economic development shall notify the department in writing  
34 of the grants received in fiscal year 2001 by each taxpayer and gas  
35 distribution business. Within four weeks of May 8, 2001, the  
36 department shall publish the base credit for each taxpayer and gas  
37 distribution business for fiscal year 2002. Within eight weeks of May  
38 8, 2001, application to the department must be made showing the

1 information required in subsection (4)(b) of this section. Within  
2 twelve weeks of May 8, 2001, the department shall notify each applicant  
3 of the amount of credit that may be taken in fiscal year 2002.

4 NEW SECTION. **Sec. 8.** (1) In computing tax under this chapter, a  
5 taxpayer may deduct from gross income the lesser of the amounts  
6 determined under subsections (2) through (4) of this section.

7 (2)(a) Fifty percent of wholesale power cost paid during the  
8 reporting period, if the taxpayer has fewer than five and one-half  
9 customers per mile of line.

10 (b) Forty percent of wholesale power cost paid during the reporting  
11 period, if the taxpayer has more than five and one-half but less than  
12 eleven customers per mile.

13 (c) Thirty percent of the wholesale power cost paid during the  
14 reporting period, if the taxpayer has more than eleven but less than  
15 seventeen customers per mile of line.

16 (d) Zero if the taxpayer has more than seventeen customers per mile  
17 of line.

18 (3) Wholesale power cost multiplied by the percentage by which the  
19 average retail electric power rates for the taxpayer exceed the state  
20 average electric power rate. If more than fifty percent of the  
21 kilowatt hours sold by a taxpayer are sold to irrigators, then only  
22 sales to nonirrigators shall be used to calculate the average electric  
23 power rate for that taxpayer. For purposes of this subsection, the  
24 department shall determine state average electric power rate each year  
25 based on the most recent available data and shall inform taxpayers of  
26 its determination.

27 (4) Four hundred thousand dollars per month.

28 **Sec. 9.** RCW 82.16.010 and 1996 c 150 s 1 are each amended to read  
29 as follows:

30 For the purposes of this chapter, unless otherwise required by the  
31 context:

32 (1) "Railroad business" means the business of operating any  
33 railroad, by whatever power operated, for public use in the conveyance  
34 of persons or property for hire. It shall not, however, include any  
35 business herein defined as an urban transportation business.

1 (2) "Express business" means the business of carrying property for  
2 public hire on the line of any common carrier operated in this state,  
3 when such common carrier is not owned or leased by the person engaging  
4 in such business.

5 (3) "Railroad car business" means the business of operating stock  
6 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank  
7 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any  
8 other kinds of cars used for transportation of property or persons upon  
9 the line of any railroad operated in this state when such railroad is  
10 not owned or leased by the person engaging in such business.

11 (4) "Water distribution business" means the business of operating  
12 a plant or system for the distribution of water for hire or sale.

13 ~~(5) ("Light and power business" means the business of operating a  
14 plant or system for the generation, production or distribution of  
15 electrical energy for hire or sale and/or for the wheeling of  
16 electricity for others.~~

17 ~~(6))~~ "Telegraph business" means the business of affording  
18 telegraphic communication for hire.

19 ~~((7))~~ (6) "Gas distribution business" means the business of  
20 operating a plant or system for the production or distribution for hire  
21 or sale of gas, whether manufactured or natural.

22 ~~((8))~~ (7) "Motor transportation business" means the business  
23 (except urban transportation business) of operating any motor propelled  
24 vehicle by which persons or property of others are conveyed for hire,  
25 and includes, but is not limited to, the operation of any motor  
26 propelled vehicle as an auto transportation company (except urban  
27 transportation business), common carrier or contract carrier as defined  
28 by RCW 81.68.010 and 81.80.010: PROVIDED, That "motor transportation  
29 business" shall not mean or include the transportation of logs or other  
30 forest products exclusively upon private roads or private highways.

31 ~~((9))~~ (8) "Urban transportation business" means the business of  
32 operating any vehicle for public use in the conveyance of persons or  
33 property for hire, insofar as (a) operating entirely within the  
34 corporate limits of any city or town, or within five miles of the  
35 corporate limits thereof, or (b) operating entirely within and between  
36 cities and towns whose corporate limits are not more than five miles  
37 apart or within five miles of the corporate limits of either thereof.  
38 Included herein, but without limiting the scope hereof, is the business

1 of operating passenger vehicles of every type and also the business of  
2 operating cartage, pickup, or delivery services, including in such  
3 services the collection and distribution of property arriving from or  
4 destined to a point within or without the state, whether or not such  
5 collection or distribution be made by the person performing a local or  
6 interstate line-haul of such property.

7 ~~((+10+))~~ (9) "Public service business" means any of the businesses  
8 defined in subdivisions (1), (2), (3), (4), (5), (6), (7), and (8)~~((+7~~  
9 ~~and+9+))~~ or any business subject to control by the state, or having  
10 the powers of eminent domain and the duties incident thereto, or any  
11 business hereafter declared by the legislature to be of a public  
12 service nature, except telephone business as defined in RCW 82.04.065  
13 and low-level radioactive waste site operating companies as redefined  
14 in RCW 81.04.010. It includes, among others, without limiting the  
15 scope hereof: Airplane transportation, boom, dock, ferry, pipe line,  
16 toll bridge, toll logging road, water transportation and wharf  
17 businesses.

18 ~~((+11+))~~ (10) "Tugboat business" means the business of operating  
19 tugboats, towboats, wharf boats or similar vessels in the towing or  
20 pushing of vessels, barges or rafts for hire.

21 ~~((+12+))~~ (11) "Gross income" means the value proceeding or accruing  
22 from the performance of the particular public service or transportation  
23 business involved, including operations incidental thereto, but without  
24 any deduction on account of the cost of the commodity furnished or  
25 sold, the cost of materials used, labor costs, interest, discount,  
26 delivery costs, taxes, or any other expense whatsoever paid or accrued  
27 and without any deduction on account of losses.

28 ~~((+13+))~~ (12) The meaning attributed, in chapter 82.04 RCW, to the  
29 term "tax year," "person," "value proceeding or accruing," "business,"  
30 "engaging in business," "in this state," "within this state," "cash  
31 discount" and "successor" shall apply equally in the provisions of this  
32 chapter.

33 **Sec. 10.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read  
34 as follows:

35 (1) There is levied and there shall be collected from every person  
36 a tax for the act or privilege of engaging within this state in any one

1 or more of the businesses herein mentioned. The tax shall be equal to  
2 the gross income of the business, multiplied by the rate set out after  
3 the business, as follows:

4 (a) Express, sewerage collection, and telegraph businesses: Three  
5 and six-tenths percent;

6 ~~(b) ((Light and power business: Three and sixty two one hundredths  
7 percent;~~

8 ~~(c))~~ Gas distribution business: Three and six-tenths percent;

9 ~~((d))~~ (c) Urban transportation business: Six-tenths of one  
10 percent;

11 ~~((e))~~ (d) Vessels under sixty-five feet in length, except  
12 tugboats, operating upon the waters within the state: Six-tenths of  
13 one percent;

14 ~~((f))~~ (e) Motor transportation, railroad, railroad car, and  
15 tugboat businesses, and all public service businesses other than ones  
16 mentioned above: One and eight-tenths of one percent;

17 ~~((g))~~ (f) Water distribution business: Four and seven-tenths  
18 percent.

19 (2) An additional tax is imposed equal to the rate specified in RCW  
20 82.02.030 multiplied by the tax payable under subsection (1) of this  
21 section.

22 (3) Twenty percent of the moneys collected under subsection (1) of  
23 this section on water distribution businesses and sixty percent of the  
24 moneys collected under subsection (1) of this section on sewerage  
25 collection businesses shall be deposited in the public works assistance  
26 account created in RCW 43.155.050.

27 **Sec. 11.** RCW 82.16.050 and 2000 c 245 s 1 are each amended to read  
28 as follows:

29 In computing tax there may be deducted from the gross income the  
30 following items:

31 (1) Amounts derived by municipally owned or operated public service  
32 businesses, directly from taxes levied for the support or maintenance  
33 thereof: PROVIDED, That this section shall not be construed to exempt  
34 service charges which are spread on the property tax rolls and  
35 collected as taxes;

36 (2) Amounts derived from the sale of commodities to persons in the  
37 same public service business as the seller, for resale as such within

1 this state. This deduction is allowed only with respect to water  
2 distribution, gas distribution or other public service businesses which  
3 furnish water, gas or any other commodity in the performance of public  
4 service businesses;

5 (3) Amounts actually paid by a taxpayer to another person taxable  
6 under this chapter as the latter's portion of the consideration due for  
7 services furnished jointly by both, if the total amount has been  
8 credited to and appears in the gross income reported for tax by the  
9 former;

10 (4) The amount of cash discount actually taken by the purchaser or  
11 customer;

12 (5) The amount of credit losses actually sustained by taxpayers  
13 whose regular books of accounts are kept upon an accrual basis;

14 (6) Amounts derived from business which the state is prohibited  
15 from taxing under the Constitution of this state or the Constitution or  
16 laws of the United States;

17 (7) Amounts derived from the distribution of water through an  
18 irrigation system, for irrigation purposes;

19 (8) Amounts derived from the transportation of commodities from  
20 points of origin in this state to final destination outside this state,  
21 or from points of origin outside this state to final destination in  
22 this state, with respect to which the carrier grants to the shipper the  
23 privilege of stopping the shipment in transit at some point in this  
24 state for the purpose of storing, manufacturing, milling, or other  
25 processing, and thereafter forwards the same commodity, or its  
26 equivalent, in the same or converted form, under a through freight rate  
27 from point of origin to final destination; and amounts derived from the  
28 transportation of commodities from points of origin in the state to an  
29 export elevator, wharf, dock or ship side on tidewater or navigable  
30 tributaries thereto from which such commodities are forwarded, without  
31 intervening transportation, by vessel, in their original form, to  
32 interstate or foreign destinations: PROVIDED, That no deduction will  
33 be allowed when the point of origin and the point of delivery to such  
34 an export elevator, wharf, dock, or ship side are located within the  
35 corporate limits of the same city or town;

36 ~~(9) ((Amounts derived from the production, sale, or transfer of  
37 electrical energy for resale within or outside the state or for  
38 consumption outside the state;~~

1       ~~(10)~~) Amounts derived from the distribution of water by a  
2 nonprofit water association and used for capital improvements by that  
3 nonprofit water association;

4       ~~((11))~~ (10) Amounts paid by a sewerage collection business  
5 taxable under RCW 82.16.020(1)(a) to a person taxable under chapter  
6 82.04 RCW for the treatment or disposal of sewage.

7       **Sec. 12.** RCW 82.16.090 and 1988 c 228 s 1 are each amended to read  
8 as follows:

9       Any customer billing issued by a ~~((light or power business or))~~ gas  
10 distribution business that serves a total of more than twenty thousand  
11 customers and operates within the state shall include the following  
12 information:

13       (1) The rates and amounts of taxes paid directly by the customer  
14 upon products or services rendered by the ~~((light and power business  
15 or))~~ gas distribution business; and

16       (2) The rate, origin and approximate amount of each tax levied upon  
17 the revenue of the ~~((light and power business or))~~ gas distribution  
18 business and added as a component of the amount charged to the  
19 customer. Taxes based upon revenue of the ~~((light and power business  
20 or))~~ gas distribution business to be listed on the customer billing  
21 need not include taxes levied by the federal government or taxes levied  
22 under chapter~~((s 54.28))~~ 80.24~~((7))~~ or 82.04 RCW.

23       **Sec. 13.** RCW 54.28.010 and 1977 ex.s. c 366 s 1 are each amended  
24 to read as follows:

25       As used in this chapter:

26       (1) "Operating property" means all of the property utilized by a  
27 ~~((public utility district))~~ publicly owned utility in the operation of  
28 a plant or system for the generation, transmission, or distribution of  
29 electric energy for sale;

30       (2) "Taxing districts" means counties, cities, towns, school  
31 districts, and road districts;

32       (3) "Distributes to consumers" means the sale of electric energy to  
33 ultimate consumers thereof, and does not include sales of electric  
34 energy for resale by the purchaser;

35       (4) "Wholesale value" means all costs of a ~~((public utility  
36 district))~~ publicly owned utility associated with the generation and



1 transmission of energy from its own generation and transmission system  
2 to the point or points of inter-connection with a distribution system  
3 owned and used by a ~~((district))~~ publicly owned utility to distribute  
4 ~~((such))~~ energy to consumers, or in the event a distribution system  
5 owned by a ~~((district))~~ publicly owned utility is not used to  
6 distribute ~~((such))~~ energy, then the term means the gross revenues  
7 derived by a ~~((district))~~ publicly owned utility from the sale of  
8 ~~((such))~~ energy to consumers;

9 (5) "Thermal electric generating facility" means a steam-powered  
10 electrical energy producing facility utilizing nuclear or fossil fuels;

11 (6) "Placed in operation" means delivery of energy into a  
12 transmission or distribution system for use or sale in ~~((such))~~ a  
13 manner as to establish a value accruing to the power plant operator,  
14 except operation incidental to testing or startup adjustments;

15 (7) "Impacted area" for a thermal electric generating facility on  
16 a federal reservation means that area in the state lying within thirty-  
17 five statute miles of the most commonly used entrance of the federal  
18 reservation and which is south of the southern boundary of township  
19 fifteen north;

20 (8) "Publicly owned utility" means a public utility district, city,  
21 or town operating a plant or system for the generation, transmission,  
22 or distribution of electric energy for sale;

23 (9) "Telecommunications," "telecommunications facilities," and  
24 "wholesale telecommunications services" have the same meaning as under  
25 chapter 54.16 RCW.

26 **Sec. 14.** RCW 54.28.011 and 1957 c 278 s 12 are each amended to  
27 read as follows:

28 "Gross revenue" ~~((shall))~~ means the amount received from the sale  
29 of electric energy excluding any tax levied by a ~~((municipal~~  
30 ~~corporation))~~ city or town upon the public utility district pursuant to  
31 RCW 54.28.070 (as recodified by this act).

32 **Sec. 15.** RCW 54.28.020 and 1983 2nd ex.s. c 3 s 8 are each amended  
33 to read as follows:

34 (1) There is ~~((hereby))~~ levied and there shall be collected from  
35 every ~~((district))~~ publicly owned utility a tax for the act or  
36 privilege of engaging within this state in the business of operating

1 works, plants or facilities for the generation, distribution and sale  
2 of electric energy. With respect to each (~~such district~~) publicly  
3 owned utility, except with respect to thermal electric generating  
4 facilities taxed under RCW 54.28.025 (as recodified by this act),  
5 (~~such~~) the tax shall be the sum of the following amounts: (a) Two  
6 and twenty-eight one-hundredths percent of the gross revenues derived  
7 by the (~~district~~) publicly owned utility from the sale of all  
8 electric energy which it distributes to consumers who are served by a  
9 distribution system owned by the (~~district~~) publicly owned utility;  
10 (b) (~~five~~) twenty-one and fifteen one-hundredths percent of the first  
11 four mills per kilowatt-hour of wholesale value of self-generated  
12 energy distributed to consumers by a (~~district~~) publicly owned  
13 utility; (c) (~~five~~) twenty-one and fifteen one-hundredths percent of  
14 the first four mills per kilowatt-hour of revenue obtained by the  
15 (~~district~~) publicly owned utility from the sale of self-generated  
16 energy for resale.

17 (2) An additional tax is imposed equal to the rate specified in RCW  
18 82.02.030 multiplied by the tax payable under subsection (1) of this  
19 section.

20 NEW SECTION. Sec. 16. (1) There is levied and there shall be  
21 collected from every publicly owned utility a tax for the act or  
22 privilege of engaging within this state in the business of operating  
23 works, plants, or facilities for the purposes of selling wholesale  
24 telecommunications services. With respect to each such utility, such  
25 tax shall be . . . percent of the wholesale value of the services sold.

26 (2) An additional tax is imposed equal to the rate specified in RCW  
27 82.02.030 multiplied by the tax payable under subsection (1) of this  
28 section.

29 **Sec. 17.** RCW 54.28.025 and 1983 2nd ex.s. c 3 s 9 are each amended  
30 to read as follows:

31 (1) There is (~~hereby~~) levied and there shall be collected from  
32 every (~~district~~) publicly owned utility operating a thermal electric  
33 generating facility, as defined in RCW 54.28.010 (~~as now or hereafter~~  
34 ~~amended~~) (as recodified by this act), having a design capacity of two  
35 hundred fifty thousand kilowatts or more, located on a federal  
36 reservation, which is placed in operation after September 21, 1977, a

1 tax for the act or privilege of engaging within the state in the  
2 business of generating electricity for use or sale, equal to one and  
3 one-half percent of wholesale value of energy produced for use or sale,  
4 except energy used in the operation of component parts of the power  
5 plant and associated transmission facilities under control of the  
6 person operating the power plant.

7 (2) An additional tax is imposed equal to the rate specified in RCW  
8 82.02.030 multiplied by the tax payable under subsection (1) of this  
9 section.

10 **Sec. 18.** RCW 54.28.030 and 1977 ex.s. c 366 s 3 are each amended  
11 to read as follows:

12 On or before the fifteenth day of March of each year, each  
13 ~~((district))~~ publicly owned utility subject to this tax shall file with  
14 the department of revenue a report verified by the affidavit of its  
15 manager or secretary on forms prescribed by the department of revenue.  
16 ~~((Such))~~ The report shall state (1) the gross revenues derived by the  
17 ~~((district))~~ publicly owned utility from the sale of all distributed  
18 energy to consumers and the respective amounts derived from ~~((such))~~  
19 sales within each county; (2) the gross revenues derived by the  
20 ~~((district))~~ publicly owned utility from the sale of self-generated  
21 energy for resale; (3) all revenue derived by the publicly owned  
22 utility from the sale of wholesale telecommunications services; (4) the  
23 amount of all generated energy distributed from each of the facilities  
24 subject to taxation by a ~~((district))~~ publicly owned utility from its  
25 own generating facilities, the wholesale value ~~((thereof))~~, and the  
26 basis on which the value is computed; ~~((+4))~~ (5) the total cost of all  
27 generating facilities and the cost of acquisition of land and land  
28 rights for ~~((such))~~ facilities or for reservoir purposes in each  
29 county; (6) the total cost to build and maintain all wholesale  
30 telecommunications facilities; and ~~((+5)-such))~~ (7) other and further  
31 information as the department of revenue reasonably may require in  
32 order to administer the provisions of this chapter. In case of failure  
33 by a ~~((district))~~ publicly owned utility to file ~~((such))~~ a report, the  
34 department may proceed to determine the information, which  
35 determination shall be contestable by the ~~((district))~~ publicly owned  
36 utility only for actual fraud.

1           **Sec. 19.** RCW 54.28.040 and 1996 c 149 s 16 are each amended to  
2 read as follows:

3           (1) Before May 1st, the department of revenue shall compute the tax  
4 imposed by this chapter for the last preceding calendar year and notify  
5 the ~~((district))~~ publicly owned utility of the amount ~~((thereof))~~,  
6 which shall be payable on or before the following June 1st.

7           (2) If payment of any tax is not received by the department on or  
8 before the due date, there shall be assessed a penalty of five percent  
9 of the amount of the tax; if the tax is not received within one month  
10 of the due date, there shall be assessed a total penalty of ten percent  
11 of the amount of the tax; and if the tax is not received within two  
12 months of the due date, there shall be assessed a total penalty of  
13 twenty percent of the amount of the tax.

14           (3) Upon receipt of the amount of each tax imposed the department  
15 of revenue shall deposit the same with the state treasurer, who shall  
16 deposit four percent of the revenues received under RCW 54.28.020(1)  
17 ~~((and))~~, 54.28.025(1) (as recodified by this act), and section 16(1) of  
18 this act, and all revenues received under RCW 54.28.020(2) ~~((and))~~,  
19 54.28.025(2) (as recodified by this act), and section 16(2) of this act  
20 in the general fund of the state and shall distribute the remainder  
21 ~~((in the manner hereinafter))~~ as set forth in RCW 54.28.050 and  
22 54.28.055 (as recodified by this act). The state treasurer shall send  
23 a duplicate copy of each transmittal to the department of revenue.

24           **Sec. 20.** RCW 54.28.050 and 1982 1st ex.s. c 35 s 21 are each  
25 amended to read as follows:

26           (1) After computing the tax imposed by RCW 54.28.020(1) (as  
27 recodified by this act) and section 16(1) of this act and making the  
28 distribution under RCW 54.28.040 (as recodified by this act), the  
29 department of revenue shall instruct the state treasurer, after placing  
30 thirty-seven and six-tenths percent in the state general fund to be  
31 dedicated for the benefit of the public schools, to distribute the  
32 balance as follows:

33           (a) For amounts collected under RCW 54.28.020(1)(a) (as recodified  
34 by this act), the balance shall be distributed to each county in  
35 proportion to the gross revenue from sales made within each county;  
36 ~~((and to distribute the balance))~~

1       (b) For amounts collected under section 16(1) of this act, if the  
2 telecommunications facilities are located in only one county, the  
3 balance shall be distributed to the county in which the wholesale  
4 telecommunications facilities are located. If the telecommunications  
5 facilities are located in more than one county, the balance shall be  
6 distributed in a pro rata manner to each applicable county based on the  
7 cost of the telecommunications facilities; and

8       (c) For amounts collected under RCW 54.28.020(1) (b) and (c) (as  
9 recodified by this act), the balance shall be distributed as follows:

10 If the entire generating facility, including reservoir, if any, is in  
11 a single county then all of the balance to the county where ((~~such~~))  
12 the generating facility is located. If any reservoir is in more than  
13 one county, then to each county in which the reservoir or any portion  
14 ((~~thereof~~)) is located, a percentage equal to the percentage determined  
15 by dividing the total cost of the generating facilities, including  
16 adjacent switching facilities, into twice the cost of land and land  
17 rights acquired for any reservoir within each county, land and land  
18 rights to be defined the same as used by the federal power commission.  
19 If the powerhouse and dam, if any, in connection with ((~~such~~)) the  
20 reservoir are in more than one county, the balance shall be divided  
21 sixty percent to the county in which the owning ((~~district~~)) publicly  
22 owned utility is located and forty percent to the other county or  
23 counties or if ((~~said~~)) the powerhouse and dam, if any, are owned by a  
24 joint operating agency organized under chapter 43.52 RCW, or by more  
25 than one ((~~district~~)) publicly owned utility or are outside the county  
26 of the owning ((~~district~~)) publicly owned utility, then to be divided  
27 equally between the counties in which ((~~such~~)) the facilities are  
28 located. If all of the powerhouse and dam, if any, are in one county,  
29 then the balance shall be distributed to the county in which the  
30 facilities are located.

31       (2) The provisions of this section shall not apply to the  
32 distribution of taxes collected under RCW 54.28.025 (as recodified by  
33 this act).

34       **Sec. 21.** RCW 54.28.055 and 1986 c 189 s 1 are each amended to read  
35 as follows:

36       (1) After computing the tax imposed by RCW 54.28.025(1) (as  
37 recodified by this act) and after making the distribution specified in

1 RCW 54.28.040 (as recodified by this act), the department of revenue  
2 shall instruct the state treasurer to distribute the amount collected  
3 as follows:

4 (a) Fifty percent to the state general fund for the support of  
5 schools; and

6 (b) Twenty-two percent to the counties, twenty-three percent to the  
7 cities, three percent to the fire protection districts, and two percent  
8 to the library districts.

9 (2) Each county, city, fire protection district and library  
10 district shall receive a percentage of the amount for distribution to  
11 counties, cities, fire protection districts and library districts,  
12 respectively, in the proportion that the population of ~~((such))~~ the  
13 ~~((district))~~ publicly owned utility residing within the impacted area  
14 bears to the total population of all ~~((such-districts))~~ publicly owned  
15 utilities residing within the impacted area. For the purposes of this  
16 chapter, the term "library district" includes only regional libraries  
17 as defined in RCW 27.12.010(4), rural county library districts as  
18 defined in RCW 27.12.010(5), intercounty rural library districts as  
19 defined in RCW 27.12.010(6), and island library districts as defined in  
20 RCW 27.12.010(7). The population of a library district, for purposes  
21 of ~~((such))~~ a distribution, shall not include any population within the  
22 library district and the impact area that also is located within a city  
23 or town.

24 (3) If any distribution pursuant to subsection (1)(b) of this  
25 section cannot be made, then that share shall be prorated among the  
26 state and remaining local districts.

27 (4) All distributions directed by this section to be made on the  
28 basis of population shall be calculated in accordance with data to be  
29 provided by the office of financial management.

30 **Sec. 22.** RCW 54.28.060 and 1996 c 149 s 12 are each amended to  
31 read as follows:

32 Interest at the rate as computed under RCW 82.32.050(2) shall be  
33 added to the tax ~~((hereby))~~ imposed from the due date until the date of  
34 payment. The tax ~~((shall))~~ constitutes a debt to the state and may be  
35 collected as such.

1       **Sec. 23.** RCW 54.28.070 and 1941 c 245 s 3 are each amended to read  
2 as follows:

3       Any city or town in which a public utility district operates works,  
4 plants, or facilities for the distribution and sale of electricity, or  
5 for the sale of wholesale telecommunications services, shall have the  
6 power to levy and collect from ~~((such))~~ the district a tax under this  
7 section. With respect to the distribution and sale of electricity, a  
8 tax may be imposed on the gross revenues derived by ~~((such))~~ the  
9 district from the sale of electricity within the city or town,  
10 exclusive of the revenues derived from the sale of electricity for  
11 purposes of resale. ~~((Such))~~ With respect to the sale of wholesale  
12 telecommunications services, a tax may be imposed under the applicable  
13 authority in chapter 35.21 RCW. The tax when levied shall be a debt of  
14 the district, and may be collected as such. Any ~~((such))~~ district  
15 shall have the power to add the amount of ~~((such))~~ tax to the rates or  
16 charges it makes for electricity ~~((so))~~ or wholesale telecommunications  
17 services sold within the limits of ~~((such))~~ the city or town.

18       **Sec. 24.** RCW 54.28.080 and 1957 c 278 s 8 are each amended to read  
19 as follows:

20       Whenever any public utility district acquires an operating property  
21 from any private person, firm, or corporation and a portion of the  
22 operating property is situated within the boundaries of any school  
23 district and at the time of ~~((such))~~ acquisition there is an  
24 outstanding bonded indebtedness of the school district, then the public  
25 utility district shall, in addition to the tax imposed by this chapter,  
26 pay directly to the school district a proportion of all subsequent  
27 payments by the school district of principal and interest on ~~((said))~~  
28 the bonded indebtedness, ~~((said))~~ the additional payments to be  
29 computed and paid as follows: The amount of principal and interest  
30 required to be paid ~~((by))~~ to the school district shall be multiplied  
31 by the percentage which the assessed value of the property acquired  
32 bore to the assessed value of the total property in the school district  
33 at the time of ~~((such))~~ the acquisition. ~~((Such))~~ The additional  
34 amounts shall be paid by the public utility district to the school  
35 district not less than fifteen days prior to the date that ~~((such))~~ the  
36 principal and interest payments are required to be paid by the school  
37 district. In addition, any public utility district which acquires from

1 any private person, firm, or corporation an operating property situated  
2 within a school district, is authorized to make voluntary payments to  
3 ((such)) the school district for the use and benefit of the school  
4 district.

5 **Sec. 25.** RCW 54.28.090 and 1980 c 154 s 9 are each amended to read  
6 as follows:

7 The county legislative authority of each county shall direct the  
8 county treasurer to deposit funds to the credit of each taxing district  
9 in the county, other than school districts, according to the manner  
10 they deem most equitable; except not less than an amount equal to  
11 three-fourths of one percent of the gross revenues obtained by a  
12 district from the sale of electric energy within any incorporated city  
13 or town shall be remitted to ((such)) the city or town. Information  
14 furnished by the district to the county legislative authority shall be  
15 the basis for the determination of the amount to be paid to ((such))  
16 cities or towns.

17 The provisions of this section shall not apply to the distribution  
18 of taxes collected under RCW 54.28.025 (as recodified by this act).

19 **Sec. 26.** RCW 54.28.100 and 1957 c 278 s 11 are each amended to  
20 read as follows:

21 All money((s)) received by any taxing district shall be used for  
22 purposes for which state taxes may be used under the provisions of the  
23 state Constitution.

24 **Sec. 27.** RCW 54.28.110 and 1957 c 278 s 13 are each amended to  
25 read as follows:

26 Whenever(~~(, hereafter,)~~) property is removed from the tax rolls as  
27 a result of the acquisition of operating property or the construction  
28 of a generating plant by a public utility district, ((such)) the public  
29 utility district may make voluntary payments to any municipal  
30 corporation or other entity authorized to levy and collect taxes in an  
31 amount not to exceed the amount of tax revenues being received by  
32 ((such)) the municipal corporation or other entity at the time of  
33 ((said)) the acquisition or ((said)) construction and which are lost by  
34 ((such)) the municipal corporation or other entity as a result of the  
35 acquisition of operating property or the construction of a generating



1 plant by the public utility district(~~(: PROVIDED, That)~~). However,  
2 this section shall not apply to taxing districts as defined in RCW  
3 54.28.010(~~(, and: PROVIDED FURTHER, That)~~) (as recodified by this act)  
4 and in the event any operating property (~~(se)~~) removed from the tax  
5 rolls is dismantled or partially dismantled the payment which may be  
6 paid (~~(hereunder)~~) shall be correspondingly reduced.

7 **Sec. 28.** RCW 54.28.120 and 1957 c 278 s 14 are each amended to  
8 read as follows:

9 In the event any (~~(district hereafter)~~) publicly owned utility  
10 purchases or otherwise acquires electric utility properties comprising  
11 all or a portion of an electric generation (~~(and/or)~~) or distribution  
12 system, or telecommunications properties for the purposes of providing  
13 wholesale telecommunications services, from a public service company,  
14 as defined in RCW 80.04.010, the total amount of privilege taxes  
15 imposed under this chapter (~~(278, Laws of 1957)~~) to be paid by the  
16 (~~(district)~~) publicly owned utility annually on the combined operating  
17 property within each county where (~~(such)~~) the utility property is  
18 located, irrespective of any other basis of levy contained in this  
19 chapter, will be not less than the combined total of the ad valorem  
20 taxes, based on regular levies, last levied against the electric  
21 utility property constituting the system so purchased or acquired, or  
22 the telecommunications properties purchased or acquired, plus the taxes  
23 paid by the (~~(district)~~) publicly owned utility for the same year on  
24 the revenues of other operating property in the same county under terms  
25 of this chapter. If all or any portion of the property so acquired is  
26 subsequently sold, or if rates charged to purchasers of electric energy  
27 or wholesale telecommunications services are reduced, the amount of  
28 privilege tax required under this section shall be proportionately  
29 reduced.

30 NEW SECTION. **Sec. 29.** RCW 54.28.010, 54.28.011, 54.28.020,  
31 54.28.025, 54.28.030, 54.28.040, 54.28.050, 54.28.055, 54.28.060,  
32 54.28.070, 54.28.080, 54.28.090, 54.28.100, 54.28.110, and 54.28.120  
33 are each recodified as a new chapter in Title 82 RCW.

34 NEW SECTION. **Sec. 30.** Section 16 of this act is added to the new  
35 chapter created in section 29 of this act.

1        NEW SECTION.    **Sec. 31.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 32.**    Sections 13 through 30 of this act are  
6 necessary for the immediate preservation of the public peace, health,  
7 or safety, or support of the state government and its existing public  
8 institutions, and take effect July 1, 2003.

9        NEW SECTION.    **Sec. 33.**    Sections 1 through 8 of this act constitute  
10 a new chapter in Title 82 RCW.

11        NEW SECTION.    **Sec. 34.**    Captions used in sections 1 through 4 of  
12 this act are not any part of the law.

13        NEW SECTION.    **Sec. 35.**    Sections 1 through 12, 33, and 34 of this  
14 act take effect January 1, 2004.

--- END ---