

1 **Sec. 101.** RCW 82.04.050 and 2004 c 174 s 3 and 2004 c 153 s 407
2 are each reenacted and amended to read as follows:

3 (1) "Sale at retail" or "retail sale" means every sale of tangible
4 personal property (including articles produced, fabricated, or
5 imprinted) to all persons irrespective of the nature of their business
6 and including, among others, without limiting the scope hereof, persons
7 who install, repair, clean, alter, improve, construct, or decorate real
8 or personal property of or for consumers other than a sale to a person
9 who presents a resale certificate under RCW 82.04.470 and who:

10 (a) Purchases for the purpose of resale as tangible personal
11 property in the regular course of business without intervening use by
12 such person, but a purchase for the purpose of resale by a regional
13 transit authority under RCW 81.112.300 is not a sale for resale; or

14 (b) Installs, repairs, cleans, alters, imprints, improves,
15 constructs, or decorates real or personal property of or for consumers,
16 if such tangible personal property becomes an ingredient or component
17 of such real or personal property without intervening use by such
18 person; or

19 (c) Purchases for the purpose of consuming the property purchased
20 in producing for sale a new article of tangible personal property or
21 substance, of which such property becomes an ingredient or component or
22 is a chemical used in processing, when the primary purpose of such
23 chemical is to create a chemical reaction directly through contact with
24 an ingredient of a new article being produced for sale; or

25 (d) Purchases for the purpose of consuming the property purchased
26 in producing ferrosilicon which is subsequently used in producing
27 magnesium for sale, if the primary purpose of such property is to
28 create a chemical reaction directly through contact with an ingredient
29 of ferrosilicon; (~~(e)~~)

30 (e) Purchases for the purpose of providing the property to
31 consumers as part of competitive telephone service, as defined in RCW
32 82.04.065. The term shall include every sale of tangible personal
33 property which is used or consumed or to be used or consumed in the
34 performance of any activity classified as a "sale at retail" or "retail
35 sale" even though such property is resold or utilized as provided in
36 (a), (b), (c), (d), or (e) of this subsection following such use. The
37 term also means every sale of tangible personal property to persons

1 engaged in any business which is taxable under RCW 82.04.280 (2) and
2 (7), 82.04.290, and 82.04.2908; or

3 (f) Purchases for the purpose of satisfying the person's
4 obligations under an extended warranty as defined in subsection (7) of
5 this section, if such tangible personal property replaces or becomes an
6 ingredient or component of property covered by the extended warranty
7 without intervening use by such person.

8 (2) The term "sale at retail" or "retail sale" shall include the
9 sale of or charge made for tangible personal property consumed and/or
10 for labor and services rendered in respect to the following:

11 (a) The installing, repairing, cleaning, altering, imprinting, or
12 improving of tangible personal property of or for consumers, including
13 charges made for the mere use of facilities in respect thereto, but
14 excluding charges made for the use of ~~((coin-operated))~~ self-service
15 laundry facilities ~~((when such facilities are situated in an apartment~~
16 ~~house, rooming house, or mobile home park for the exclusive use of the~~
17 ~~tenants thereof))~~, and also excluding sales of laundry service to
18 nonprofit health care facilities, and excluding services rendered in
19 respect to live animals, birds and insects;

20 (b) The constructing, repairing, decorating, or improving of new or
21 existing buildings or other structures under, upon, or above real
22 property of or for consumers, including the installing or attaching of
23 any article of tangible personal property therein or thereto, whether
24 or not such personal property becomes a part of the realty by virtue of
25 installation, and shall also include the sale of services or charges
26 made for the clearing of land and the moving of earth excepting the
27 mere leveling of land used in commercial farming or agriculture;

28 (c) The charge for labor and services rendered in respect to
29 constructing, repairing, or improving any structure upon, above, or
30 under any real property owned by an owner who conveys the property by
31 title, possession, or any other means to the person performing such
32 construction, repair, or improvement for the purpose of performing such
33 construction, repair, or improvement and the property is then
34 reconveyed by title, possession, or any other means to the original
35 owner;

36 (d) The sale of or charge made for labor and services rendered in
37 respect to the cleaning, fumigating, razing or moving of existing
38 buildings or structures, but shall not include the charge made for

1 janitorial services; and for purposes of this section the term
2 "janitorial services" shall mean those cleaning and caretaking services
3 ordinarily performed by commercial janitor service businesses
4 including, but not limited to, wall and window washing, floor cleaning
5 and waxing, and the cleaning in place of rugs, drapes and upholstery.
6 The term "janitorial services" does not include painting, papering,
7 repairing, furnace or septic tank cleaning, snow removal or
8 sandblasting;

9 (e) The sale of or charge made for labor and services rendered in
10 respect to automobile towing and similar automotive transportation
11 services, but not in respect to those required to report and pay taxes
12 under chapter 82.16 RCW;

13 (f) The sale of and charge made for the furnishing of lodging and
14 all other services by a hotel, rooming house, tourist court, motel,
15 trailer camp, and the granting of any similar license to use real
16 property, as distinguished from the renting or leasing of real
17 property, and it shall be presumed that the occupancy of real property
18 for a continuous period of one month or more constitutes a rental or
19 lease of real property and not a mere license to use or enjoy the same.
20 For the purposes of this subsection, it shall be presumed that the sale
21 of and charge made for the furnishing of lodging for a continuous
22 period of one month or more to a person is a rental or lease of real
23 property and not a mere license to enjoy the same;

24 (g) The sale of or charge made for tangible personal property,
25 labor and services to persons taxable under (a), (b), (c), (d), (e),
26 and (f) of this subsection when such sales or charges are for property,
27 labor and services which are used or consumed in whole or in part by
28 such persons in the performance of any activity defined as a "sale at
29 retail" or "retail sale" even though such property, labor and services
30 may be resold after such use or consumption. Nothing contained in this
31 subsection shall be construed to modify subsection (1) of this section
32 and nothing contained in subsection (1) of this section shall be
33 construed to modify this subsection.

34 (3) The term "sale at retail" or "retail sale" shall include the
35 sale of or charge made for personal, business, or professional services
36 including amounts designated as interest, rents, fees, admission, and
37 other service emoluments however designated, received by persons
38 engaging in the following business activities:

1 (a) Amusement and recreation services including but not limited to
2 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
3 for sightseeing purposes, and others, when provided to consumers;

4 (b) Abstract, title insurance, and escrow services;

5 (c) Credit bureau services;

6 (d) Automobile parking and storage garage services;

7 (e) Landscape maintenance and horticultural services but excluding
8 (i) horticultural services provided to farmers and (ii) pruning,
9 trimming, repairing, removing, and clearing of trees and brush near
10 electric transmission or distribution lines or equipment, if performed
11 by or at the direction of an electric utility;

12 (f) Service charges associated with tickets to professional
13 sporting events; and

14 (g) The following personal services: Physical fitness services,
15 tanning salon services, tattoo parlor services, steam bath services,
16 turkish bath services, escort services, and dating services.

17 (4)(a) The term shall also include:

18 (i) The renting or leasing of tangible personal property to
19 consumers; and

20 (ii) Providing tangible personal property along with an operator
21 for a fixed or indeterminate period of time. A consideration of this
22 is that the operator is necessary for the tangible personal property to
23 perform as designed. For the purpose of this subsection (4)(a)(ii), an
24 operator must do more than maintain, inspect, or set up the tangible
25 personal property.

26 (b) The term shall not include the renting or leasing of tangible
27 personal property where the lease or rental is for the purpose of
28 sublease or subrent.

29 (5) The term shall also include the providing of telephone service,
30 as defined in RCW 82.04.065, to consumers.

31 (6) The term shall also include the sale of prewritten computer
32 software other than a sale to a person who presents a resale
33 certificate under RCW 82.04.470, regardless of the method of delivery
34 to the end user, but shall not include custom software or the
35 customization of prewritten computer software.

36 (7) The term shall also include the sale of or charge made for an
37 extended warranty to a consumer. For purposes of this subsection,
38 "extended warranty" means an agreement for a specified duration to

1 perform the replacement or repair of tangible personal property at no
2 additional charge or a reduced charge for tangible personal property,
3 labor, or both, or to provide indemnification for the replacement or
4 repair of tangible personal property, based on the occurrence of
5 specified events. The term "extended warranty" does not include an
6 agreement, otherwise meeting the definition of extended warranty in
7 this subsection, if no separate charge is made for the agreement and
8 the value of the agreement is included in the sales price of the
9 tangible personal property covered by the agreement. For purposes of
10 this subsection, "sales price" has the same meaning as in RCW
11 82.08.010.

12 (8) The term shall not include the sale of or charge made for labor
13 and services rendered in respect to the building, repairing, or
14 improving of any street, place, road, highway, easement, right of way,
15 mass public transportation terminal or parking facility, bridge,
16 tunnel, or trestle which is owned by a municipal corporation or
17 political subdivision of the state or by the United States and which is
18 used or to be used primarily for foot or vehicular traffic including
19 mass transportation vehicles of any kind.

20 ((+8)) (9) The term shall also not include sales of chemical
21 sprays or washes to persons for the purpose of postharvest treatment of
22 fruit for the prevention of scald, fungus, mold, or decay, nor shall it
23 include sales of feed, seed, seedlings, fertilizer, agents for enhanced
24 pollination including insects such as bees, and spray materials to:
25 (a) Persons who participate in the federal conservation reserve
26 program, the environmental quality incentives program, the wetlands
27 reserve program, and the wildlife habitat incentives program, or their
28 successors administered by the United States department of agriculture;
29 (b) farmers for the purpose of producing for sale any agricultural
30 product; and (c) farmers acting under cooperative habitat development
31 or access contracts with an organization exempt from federal income tax
32 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
33 fish and wildlife to produce or improve wildlife habitat on land that
34 the farmer owns or leases.

35 ((+9)) (10) The term shall not include the sale of or charge made
36 for labor and services rendered in respect to the constructing,
37 repairing, decorating, or improving of new or existing buildings or
38 other structures under, upon, or above real property of or for the

1 United States, any instrumentality thereof, or a county or city housing
2 authority created pursuant to chapter 35.82 RCW, including the
3 installing, or attaching of any article of tangible personal property
4 therein or thereto, whether or not such personal property becomes a
5 part of the realty by virtue of installation. Nor shall the term
6 include the sale of services or charges made for the clearing of land
7 and the moving of earth of or for the United States, any
8 instrumentality thereof, or a county or city housing authority. Nor
9 shall the term include the sale of services or charges made for
10 cleaning up for the United States, or its instrumentalities,
11 radioactive waste and other byproducts of weapons production and
12 nuclear research and development.

13 **Sec. 102.** RCW 82.04.060 and 2002 c 367 s 1 are each amended to
14 read as follows:

15 "Sale at wholesale" or "wholesale sale" means: (1) Any sale of
16 tangible personal property, any sale of services defined as a retail
17 sale in RCW 82.04.050(2)(a), any sale of amusement or recreation
18 services as defined in RCW 82.04.050(3)(a), any sale of canned
19 software, any sale of an extended warranty as defined in RCW
20 82.04.050(7), or any sale of telephone service as defined in RCW
21 82.04.065, which is not a sale at retail; and (2) any charge made for
22 labor and services rendered for persons who are not consumers, in
23 respect to real or personal property, if such charge is expressly
24 defined as a retail sale by RCW 82.04.050 when rendered to or for
25 consumers: PROVIDED, That the term "real or personal property" as used
26 in this subsection shall not include any natural products named in RCW
27 82.04.100.

28 **Sec. 103.** RCW 82.04.190 and 2004 c 174 s 4 and 2004 c 2 s 8 are
29 each reenacted and amended to read as follows:

30 "Consumer" means the following:

31 (1) Any person who purchases, acquires, owns, holds, or uses any
32 article of tangible personal property irrespective of the nature of the
33 person's business and including, among others, without limiting the
34 scope hereof, persons who install, repair, clean, alter, improve,
35 construct, or decorate real or personal property of or for consumers
36 other than for the purpose (a) of resale as tangible personal property

1 in the regular course of business or (b) of incorporating such property
2 as an ingredient or component of real or personal property when
3 installing, repairing, cleaning, altering, imprinting, improving,
4 constructing, or decorating such real or personal property of or for
5 consumers or (c) of consuming such property in producing for sale a new
6 article of tangible personal property or a new substance, of which such
7 property becomes an ingredient or component or as a chemical used in
8 processing, when the primary purpose of such chemical is to create a
9 chemical reaction directly through contact with an ingredient of a new
10 article being produced for sale or (d) (~~purchases for the purpose~~) of
11 consuming the property purchased in producing ferrosilicon which is
12 subsequently used in producing magnesium for sale, if the primary
13 purpose of such property is to create a chemical reaction directly
14 through contact with an ingredient of ferrosilicon or (e) of satisfying
15 the person's obligations under an extended warranty as defined in RCW
16 82.04.050(7), if such tangible personal property replaces or becomes an
17 ingredient or component of property covered by the extended warranty
18 without intervening use by such person;

19 (2)(a) Any person engaged in any business activity taxable under
20 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or
21 uses any telephone service as defined in RCW 82.04.065, other than for
22 resale in the regular course of business; (c) any person who purchases,
23 acquires, or uses any service defined in RCW 82.04.050(2)(a) (~~or any~~
24 ~~amusement and recreation service defined in RCW 82.04.050(3)(a)~~),
25 other than for resale in the regular course of business or for the
26 purpose of satisfying the person's obligations under an extended
27 warranty as defined in RCW 82.04.050(7); ((and)) (d) any person who
28 purchases, acquires, or uses any amusement and recreation service
29 defined in RCW 82.04.050(3)(a), other than for resale in the regular
30 course of business; (e) any person who is an end user of software; and
31 (f) any person who purchases or acquires an extended warranty as
32 defined in RCW 82.04.050(7) other than for resale in the regular course
33 of business;

34 (3) Any person engaged in the business of contracting for the
35 building, repairing or improving of any street, place, road, highway,
36 easement, right of way, mass public transportation terminal or parking
37 facility, bridge, tunnel, or trestle which is owned by a municipal
38 corporation or political subdivision of the state of Washington or by

1 the United States and which is used or to be used primarily for foot or
2 vehicular traffic including mass transportation vehicles of any kind as
3 defined in RCW 82.04.280, in respect to tangible personal property when
4 such person incorporates such property as an ingredient or component of
5 such publicly owned street, place, road, highway, easement, right of
6 way, mass public transportation terminal or parking facility, bridge,
7 tunnel, or trestle by installing, placing or spreading the property in
8 or upon the right of way of such street, place, road, highway,
9 easement, bridge, tunnel, or trestle or in or upon the site of such
10 mass public transportation terminal or parking facility;

11 (4) Any person who is an owner, lessee or has the right of
12 possession to or an easement in real property which is being
13 constructed, repaired, decorated, improved, or otherwise altered by a
14 person engaged in business, excluding only (a) municipal corporations
15 or political subdivisions of the state in respect to labor and services
16 rendered to their real property which is used or held for public road
17 purposes, and (b) the United States, instrumentalities thereof, and
18 county and city housing authorities created pursuant to chapter 35.82
19 RCW in respect to labor and services rendered to their real property.
20 Nothing contained in this or any other subsection of this definition
21 shall be construed to modify any other definition of "consumer";

22 (5) Any person who is an owner, lessee, or has the right of
23 possession to personal property which is being constructed, repaired,
24 improved, cleaned, imprinted, or otherwise altered by a person engaged
25 in business;

26 (6) Any person engaged in the business of constructing, repairing,
27 decorating, or improving new or existing buildings or other structures
28 under, upon, or above real property of or for the United States, any
29 instrumentality thereof, or a county or city housing authority created
30 pursuant to chapter 35.82 RCW, including the installing or attaching of
31 any article of tangible personal property therein or thereto, whether
32 or not such personal property becomes a part of the realty by virtue of
33 installation; also, any person engaged in the business of clearing land
34 and moving earth of or for the United States, any instrumentality
35 thereof, or a county or city housing authority created pursuant to
36 chapter 35.82 RCW. Any such person shall be a consumer within the
37 meaning of this subsection in respect to tangible personal property
38 incorporated into, installed in, or attached to such building or other

1 structure by such person, except that consumer does not include any
2 person engaged in the business of constructing, repairing, decorating,
3 or improving new or existing buildings or other structures under, upon,
4 or above real property of or for the United States, or any
5 instrumentality thereof, if the investment project would qualify for
6 sales and use tax deferral under chapter 82.63 RCW if undertaken by a
7 private entity;

8 (7) Any person who is a lessor of machinery and equipment, the
9 rental of which is exempt from the tax imposed by RCW 82.08.020 under
10 RCW 82.08.02565, with respect to the sale of or charge made for
11 tangible personal property consumed in respect to repairing the
12 machinery and equipment, if the tangible personal property has a useful
13 life of less than one year. Nothing contained in this or any other
14 subsection of this section shall be construed to modify any other
15 definition of "consumer"; (~~and~~)

16 (8) Any person engaged in the business of cleaning up for the
17 United States, or its instrumentalities, radioactive waste and other
18 byproducts of weapons production and nuclear research and development;
19 and

20 (9) Any person who is an owner, lessee, or has the right of
21 possession of tangible personal property that, under the terms of an
22 extended warranty as defined in RCW 82.04.050(7), has been repaired or
23 is replacement property, but only with respect to the sale of or charge
24 made for the repairing of the tangible personal property or the
25 replacement property.

26 **Sec. 104.** RCW 82.12.010 and 2003 c 168 s 102 and 2003 c 5 s 1 are
27 each reenacted and amended to read as follows:

28 For the purposes of this chapter:

29 (1) "Purchase price" means the same as sales price as defined in
30 RCW 82.08.010.

31 (2)(a) "Value of the article used" shall be the purchase price for
32 the article of tangible personal property, the use of which is taxable
33 under this chapter. The term also includes, in addition to the
34 purchase price, the amount of any tariff or duty paid with respect to
35 the importation of the article used. In case the article used is
36 acquired by lease or by gift or is extracted, produced, or manufactured
37 by the person using the same or is sold under conditions wherein the

1 purchase price does not represent the true value thereof, the value of
2 the article used shall be determined as nearly as possible according to
3 the retail selling price at place of use of similar products of like
4 quality and character under such rules as the department may prescribe.

5 (b) In case the articles used are acquired by bailment, the value
6 of the use of the articles so used shall be in an amount representing
7 a reasonable rental for the use of the articles so bailed, determined
8 as nearly as possible according to the value of such use at the places
9 of use of similar products of like quality and character under such
10 rules as the department of revenue may prescribe. In case any such
11 articles of tangible personal property are used in respect to the
12 construction, repairing, decorating, or improving of, and which become
13 or are to become an ingredient or component of, new or existing
14 buildings or other structures under, upon, or above real property of or
15 for the United States, any instrumentality thereof, or a county or city
16 housing authority created pursuant to chapter 35.82 RCW, including the
17 installing or attaching of any such articles therein or thereto,
18 whether or not such personal property becomes a part of the realty by
19 virtue of installation, then the value of the use of such articles so
20 used shall be determined according to the retail selling price of such
21 articles, or in the absence of such a selling price, as nearly as
22 possible according to the retail selling price at place of use of
23 similar products of like quality and character or, in the absence of
24 either of these selling price measures, such value may be determined
25 upon a cost basis, in any event under such rules as the department of
26 revenue may prescribe.

27 (c) In the case of articles owned by a user engaged in business
28 outside the state which are brought into the state for no more than one
29 hundred eighty days in any period of three hundred sixty-five
30 consecutive days and which are temporarily used for business purposes
31 by the person in this state, the value of the article used shall be an
32 amount representing a reasonable rental for the use of the articles,
33 unless the person has paid tax under this chapter or chapter 82.08 RCW
34 upon the full value of the article used, as defined in (a) of this
35 subsection.

36 (d) In the case of articles manufactured or produced by the user
37 and used in the manufacture or production of products sold or to be

1 sold to the department of defense of the United States, the value of
2 the articles used shall be determined according to the value of the
3 ingredients of such articles.

4 (e) In the case of an article manufactured or produced for purposes
5 of serving as a prototype for the development of a new or improved
6 product, the value of the article used shall be determined by: (i) The
7 retail selling price of such new or improved product when first offered
8 for sale; or (ii) the value of materials incorporated into the
9 prototype in cases in which the new or improved product is not offered
10 for sale.

11 (f) In the case of an article purchased with a direct pay permit
12 under RCW 82.32.087, the value of the article used shall be determined
13 by the purchase price of such article if, but for the use of the direct
14 pay permit, the transaction would have been subject to sales tax;

15 (3) "Value of the service used" means the purchase price for the
16 service, the use of which is taxable under this chapter. If the
17 service is received by gift or under conditions wherein the purchase
18 price does not represent the true value thereof, the value of the
19 service used shall be determined as nearly as possible according to the
20 retail selling price at place of use of similar services of like
21 quality and character under rules the department may prescribe;

22 (4) "Value of the extended warranty used" means the purchase price
23 for the extended warranty, the use of which is taxable under this
24 chapter. If the extended warranty is received by gift or under
25 conditions wherein the purchase price does not represent the true value
26 of the extended warranty, the value of the extended warranty used shall
27 be determined as nearly as possible according to the retail selling
28 price at place of use of similar extended warranties of like quality
29 and character under rules the department may prescribe;

30 (5) "Use," "used," "using," or "put to use" shall have their
31 ordinary meaning, and shall mean:

32 (a) With respect to tangible personal property, the first act
33 within this state by which the taxpayer takes or assumes dominion or
34 control over the article of tangible personal property (as a consumer),
35 and include installation, storage, withdrawal from storage,
36 distribution, or any other act preparatory to subsequent actual use or
37 consumption within this state; (~~and~~))

1 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
2 first act within this state after the service has been performed by
3 which the taxpayer takes or assumes dominion or control over the
4 article of tangible personal property upon which the service was
5 performed (as a consumer), and includes installation, storage,
6 withdrawal from storage, distribution, or any other act preparatory to
7 subsequent actual use or consumption of the article within this state;
8 and

9 (c) With respect to an extended warranty, the first act within this
10 state after the extended warranty has been acquired by which the
11 taxpayer takes or assumes dominion or control over the article of
12 tangible personal property to which the extended warranty applies, and
13 includes installation, storage, withdrawal from storage, distribution,
14 or any other act preparatory to subsequent actual use or consumption of
15 the article within this state;

16 ((+5)) (6) "Taxpayer" and "purchaser" include all persons included
17 within the meaning of the word "buyer" and the word "consumer" as
18 defined in chapters 82.04 and 82.08 RCW;

19 ((+6)) (7) "Retailer" means every seller as defined in RCW
20 82.08.010 and every person engaged in the business of selling tangible
21 personal property at retail and every person required to collect from
22 purchasers the tax imposed under this chapter;

23 ((+7)) (8) "Extended warranty" has the same meaning as in RCW
24 82.04.050(7);

25 (9) The meaning ascribed to words and phrases in chapters 82.04 and
26 82.08 RCW, insofar as applicable, shall have full force and effect with
27 respect to taxes imposed under the provisions of this chapter.
28 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
29 and 82.08 RCW insofar as applicable, shall also mean any person who
30 distributes or displays, or causes to be distributed or displayed, any
31 article of tangible personal property, except newspapers, the primary
32 purpose of which is to promote the sale of products or services. With
33 respect to property distributed to persons within this state by a
34 consumer as defined in this subsection ((+7)) (9), the use of the
35 property shall be deemed to be by such consumer.

36 **Sec. 105.** RCW 82.12.020 and 2003 c 361 s 302 and 2003 c 168 s 214
37 are each reenacted and amended to read as follows:

1 (1) There is hereby levied and there shall be collected from every
2 person in this state a tax or excise for the privilege of using within
3 this state as a consumer: (a) Any article of tangible personal
4 property purchased at retail, or acquired by lease, gift, repossession,
5 or bailment, or extracted or produced or manufactured by the person so
6 using the same, or otherwise furnished to a person engaged in any
7 business taxable under RCW 82.04.280 (2) or (7); ~~((or))~~ (b) any
8 prewritten computer software, regardless of the method of delivery, but
9 excluding prewritten computer software that is either provided free of
10 charge or is provided for temporary use in viewing information, or
11 both; or (c) any extended warranty.

12 (2) This tax shall apply to the use of every extended warranty,
13 service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a), and
14 the use of every article of tangible personal property, including
15 property acquired at a casual or isolated sale, and including
16 byproducts used by the manufacturer thereof, except as hereinafter
17 provided, irrespective of whether the article or similar articles are
18 manufactured or are available for purchase within this state.

19 (3) The provisions of this chapter do not apply in respect to the
20 use of any article of tangible personal property, extended warranty, or
21 service taxable under RCW 82.04.050 (2)(a) or (3)(a), purchased at
22 retail or acquired by lease, gift, or bailment if the sale to, or the
23 use by, the present user or his bailor or donor has already been
24 subjected to the tax under chapter 82.08 RCW or this chapter and the
25 tax has been paid by the present user or by his bailor or donor.

26 (4) Except as provided in this section, payment by one purchaser or
27 user of tangible personal property, extended warranty, or service of
28 the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect
29 of exempting any other purchaser or user of the same property, extended
30 warranty, or service from the taxes imposed by such chapters. If the
31 sale to, or the use by, the present user or his or her bailor or donor
32 has already been subjected to the tax under chapter 82.08 RCW or this
33 chapter and the tax has been paid by the present user or by his or her
34 bailor or donor; or in respect to the use of property acquired by
35 bailment and the tax has once been paid based on reasonable rental as
36 determined by RCW 82.12.060 measured by the value of the article at
37 time of first use multiplied by the tax rate imposed by chapter 82.08
38 RCW or this chapter as of the time of first use; or in respect to the

1 use of any article of tangible personal property acquired by bailment,
2 if the property was acquired by a previous bailee from the same bailor
3 for use in the same general activity and the original bailment was
4 prior to June 9, 1961, the tax imposed by this chapter does not apply.

5 (5) The tax shall be levied and collected in an amount equal to the
6 value of the article used, value of the extended warranty used, or
7 value of the service used by the taxpayer multiplied by the rates in
8 effect for the retail sales tax under RCW 82.08.020, except in the case
9 of a seller required to collect use tax from the purchaser, the tax
10 shall be collected in an amount equal to the purchase price multiplied
11 by the rate in effect for the retail sales tax under RCW 82.08.020.

12 **Sec. 106.** RCW 82.12.0251 and 2003 c 5 s 18 are each amended to
13 read as follows:

14 The provisions of this chapter shall not apply in respect to the
15 use:

16 (1) Of any article of tangible personal property, and services that
17 were rendered in respect to such property, brought into the state of
18 Washington by a nonresident thereof for his or her use or enjoyment
19 while temporarily within the state of Washington unless such property
20 is used in conducting a nontransitory business activity within the
21 state of Washington;

22 (2) By a nonresident of Washington of a motor vehicle or trailer
23 which is registered or licensed under the laws of the state of his or
24 her residence, and which is not required to be registered or licensed
25 under the laws of Washington, including motor vehicles or trailers
26 exempt pursuant to a declaration issued by the department of licensing
27 under RCW 46.85.060, and services rendered outside the state of
28 Washington in respect to such property;

29 (3) Of household goods, personal effects, and private motor
30 vehicles, and services rendered in respect to such property, by a bona
31 fide resident of Washington, or nonresident members of the armed forces
32 who are stationed in Washington pursuant to military orders, if such
33 articles and services were acquired and used by such person in another
34 state while a bona fide resident thereof and such acquisition and use
35 occurred more than ninety days prior to the time he or she entered
36 Washington. For purposes of this subsection, private motor vehicles
37 (~~does do~~) do not include motor homes(~~(-)~~);

1 (4) Of an extended warranty, to the extent that the property
2 covered by the extended warranty is exempt under this section from the
3 tax imposed under this chapter.

4 For purposes of this section, "state" means a state of the United
5 States, any political subdivision thereof, the District of Columbia,
6 and any foreign country or political subdivision thereof, and
7 "services" means services defined as retail sales in RCW
8 82.04.050(2)(a).

9 **Sec. 107.** RCW 82.12.0255 and 2003 c 5 s 4 are each amended to read
10 as follows:

11 The provisions of this chapter shall not apply in respect to the
12 use of any article of tangible personal property, extended warranty, or
13 service which the state is prohibited from taxing under the
14 Constitution of the state or under the Constitution or laws of the
15 United States.

16 **Sec. 108.** RCW 82.12.035 and 2002 c 367 s 5 are each amended to
17 read as follows:

18 A credit shall be allowed against the taxes imposed by this chapter
19 upon the use of tangible personal property, extended warranty, or
20 services taxable under RCW 82.04.050 (2)(a) or (3)(a), in the state of
21 Washington in the amount that the present user thereof or his or her
22 bailor or donor has paid a retail sales or use tax with respect to such
23 property, extended warranty, or service to any other state of the
24 United States, any political subdivision thereof, the District of
25 Columbia, and any foreign country or political subdivision thereof,
26 prior to the use of such property, extended warranty, or service in
27 Washington.

28 **Sec. 109.** RCW 82.12.040 and 2003 c 168 s 215 and 2003 c 76 s 4 are
29 each reenacted and amended to read as follows:

30 (1) Every person who maintains in this state a place of business or
31 a stock of goods, or engages in business activities within this state,
32 shall obtain from the department a certificate of registration, and
33 shall, at the time of making sales of tangible personal property,
34 extended warranties, or sales of any service defined as a retail sale
35 in RCW 82.04.050 (2)(a) or (3)(a), or making transfers of either

1 possession or title, or both, of tangible personal property for use in
2 this state, collect from the purchasers or transferees the tax imposed
3 under this chapter. The tax to be collected under this section shall
4 be in an amount equal to the purchase price multiplied by the rate in
5 effect for the retail sales tax under RCW 82.08.020. For the purposes
6 of this chapter, the phrase "maintains in this state a place of
7 business" shall include the solicitation of sales and/or taking of
8 orders by sales agents or traveling representatives. For the purposes
9 of this chapter, "engages in business activity within this state"
10 includes every activity which is sufficient under the Constitution of
11 the United States for this state to require collection of tax under
12 this chapter. The department shall in rules specify activities which
13 constitute engaging in business activity within this state, and shall
14 keep the rules current with future court interpretations of the
15 Constitution of the United States.

16 (2) Every person who engages in this state in the business of
17 acting as an independent selling agent for persons who do not hold a
18 valid certificate of registration, and who receives compensation by
19 reason of sales of tangible personal property, extended warranties, or
20 sales of any service defined as a retail sale in RCW 82.04.050 (2)(a)
21 or (3)(a), of his or her principals for use in this state, shall, at
22 the time such sales are made, collect from the purchasers the tax
23 imposed on the purchase price under this chapter, and for that purpose
24 shall be deemed a retailer as defined in this chapter.

25 (3) The tax required to be collected by this chapter shall be
26 deemed to be held in trust by the retailer until paid to the department
27 and any retailer who appropriates or converts the tax collected to the
28 retailer's own use or to any use other than the payment of the tax
29 provided herein to the extent that the money required to be collected
30 is not available for payment on the due date as prescribed shall be
31 guilty of a misdemeanor. In case any seller fails to collect the tax
32 herein imposed or having collected the tax, fails to pay the same to
33 the department in the manner prescribed, whether such failure is the
34 result of the seller's own acts or the result of acts or conditions
35 beyond the seller's control, the seller shall nevertheless, be
36 personally liable to the state for the amount of such tax, unless the
37 seller has taken from the buyer in good faith a copy of a direct pay
38 permit issued under RCW 82.32.087.

1 (4) Any retailer who refunds, remits, or rebates to a purchaser, or
2 transferee, either directly or indirectly, and by whatever means, all
3 or any part of the tax levied by this chapter shall be guilty of a
4 misdemeanor.

5 (5) Notwithstanding subsections (1) through (4) of this section,
6 any person making sales is not obligated to collect the tax imposed by
7 this chapter if:

8 (a) The person's activities in this state, whether conducted
9 directly or through another person, are limited to:

10 (i) The storage, dissemination, or display of advertising;

11 (ii) The taking of orders; or

12 (iii) The processing of payments; and

13 (b) The activities are conducted electronically via a web site on
14 a server or other computer equipment located in Washington that is not
15 owned or operated by the person making sales into this state nor owned
16 or operated by an affiliated person. "Affiliated persons" has the same
17 meaning as provided in RCW 82.04.424.

18 (6) Subsection (5) of this section expires when: (a) The United
19 States congress grants individual states the authority to impose sales
20 and use tax collection duties on remote sellers; or (b) it is
21 determined by a court of competent jurisdiction, in a judgment not
22 subject to review, that a state can impose sales and use tax collection
23 duties on remote sellers.

24 **Sec. 110.** RCW 82.08.010 and 2004 c 153 s 406 are each amended to
25 read as follows:

26 For the purposes of this chapter:

27 (1) "Selling price" includes "sales price." "Sales price" means
28 the total amount of consideration, except separately stated trade-in
29 property of like kind, including cash, credit, property, and services,
30 for which tangible personal property, extended warranties, or services
31 defined as a "retail sale" under RCW 82.04.050 are sold, leased, or
32 rented, valued in money, whether received in money or otherwise. No
33 deduction from the total amount of consideration is allowed for the
34 following: (a) The seller's cost of the property sold; (b) the cost of
35 materials used, labor or service cost, interest, losses, all costs of
36 transportation to the seller, all taxes imposed on the seller, and any
37 other expense of the seller; (c) charges by the seller for any services

1 necessary to complete the sale, other than delivery and installation
2 charges; (d) delivery charges; (e) installation charges; and (f) the
3 value of exempt tangible personal property given to the purchaser where
4 taxable and exempt tangible personal property have been bundled
5 together and sold by the seller as a single product or piece of
6 merchandise.

7 When tangible personal property is rented or leased under
8 circumstances that the consideration paid does not represent a
9 reasonable rental for the use of the articles so rented or leased, the
10 "selling price" shall be determined as nearly as possible according to
11 the value of such use at the places of use of similar products of like
12 quality and character under such rules as the department may prescribe.

13 "Selling price" or "sales price" does not include: Discounts,
14 including cash, term, or coupons that are not reimbursed by a third
15 party that are allowed by a seller and taken by a purchaser on a sale;
16 interest, financing, and carrying charges from credit extended on the
17 sale of tangible personal property, extended warranties, or services,
18 if the amount is separately stated on the invoice, bill of sale, or
19 similar document given to the purchaser; and any taxes legally imposed
20 directly on the consumer that are separately stated on the invoice,
21 bill of sale, or similar document given to the purchaser;

22 (2) "Seller" means every person, including the state and its
23 departments and institutions, making sales at retail or retail sales to
24 a buyer, purchaser, or consumer, whether as agent, broker, or
25 principal, except "seller" does not mean the state and its departments
26 and institutions when making sales to the state and its departments and
27 institutions;

28 (3) "Buyer," "purchaser," and "consumer" include, without limiting
29 the scope hereof, every individual, receiver, assignee, trustee in
30 bankruptcy, trust, estate, firm, copartnership, joint venture, club,
31 company, joint stock company, business trust, corporation, association,
32 society, or any group of individuals acting as a unit, whether mutual,
33 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,
34 quasi municipal corporation, and also the state, its departments and
35 institutions and all political subdivisions thereof, irrespective of
36 the nature of the activities engaged in or functions performed, and
37 also the United States or any instrumentality thereof;

1 (4) "Delivery charges" means charges by the seller of personal
2 property or services for preparation and delivery to a location
3 designated by the purchaser of personal property or services including,
4 but not limited to, transportation, shipping, postage, handling,
5 crating, and packing;

6 (5) "Direct mail" means printed material delivered or distributed
7 by United States mail or other delivery service to a mass audience or
8 to addressees on a mailing list provided by the purchaser or at the
9 direction of the purchaser when the cost of the items are not billed
10 directly to the recipients. "Direct mail" includes tangible personal
11 property supplied directly or indirectly by the purchaser to the direct
12 mail seller for inclusion in the package containing the printed
13 material. "Direct mail" does not include multiple items of printed
14 material delivered to a single address;

15 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
16 year," "taxable year," "person," "company," "sale," "sale at retail,"
17 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
18 in business," "cash discount," "successor," "consumer," "in this state"
19 and "within this state" shall apply equally to the provisions of this
20 chapter;

21 ((+6)) (7) For the purposes of the taxes imposed under this
22 chapter and under chapter 82.12 RCW, "tangible personal property" means
23 personal property that can be seen, weighed, measured, felt, or
24 touched, or that is in any other manner perceptible to the senses.
25 Tangible personal property includes electricity, water, gas, steam, and
26 prewritten computer software;

27 (8) "Extended warranty" has the same meaning as in RCW
28 82.04.050(7).

29 **Sec. 111.** RCW 82.14.020 and 2003 c 168 s 502 are each amended to
30 read as follows:

31 For purposes of this chapter:

32 (1) A retail sale consisting solely of the sale of tangible
33 personal property shall be deemed to have occurred at the retail outlet
34 at or from which delivery is made to the consumer;

35 (2) A retail sale consisting essentially of the performance of
36 personal, business, or professional services shall be deemed to have
37 occurred at the place at which such services were primarily performed,

1 except that for the performance of a tow truck service, as defined in
2 RCW 46.55.010, the retail sale shall be deemed to have occurred at the
3 place of business of the operator of the tow truck service;

4 (3) A retail sale consisting of the rental of tangible personal
5 property shall be deemed to have occurred (a) in the case of a rental
6 involving periodic rental payments, at the place of primary use by the
7 lessee during the period covered by each payment, or (b) in all other
8 cases, at the place of first use by the lessee;

9 (4) A retail sale within the scope of RCW 82.04.050(2), and a
10 retail sale of taxable personal property to be installed by the seller
11 shall be deemed to have occurred at the place where the labor and
12 services involved were primarily performed;

13 (5)(a) A retail sale consisting of the providing to a consumer of
14 telephone service, as defined in RCW 82.04.065, other than a sale of
15 tangible personal property under subsection (1) of this section or a
16 rental of tangible personal property under subsection (3) of this
17 section or a sale of mobile telecommunications services, shall be
18 deemed to have occurred at the situs of the telephone or other
19 instrument through which the telephone service is rendered;

20 (b) A retail sale consisting of the providing of telecommunications
21 services shall be sourced in accordance with RCW 82.32.520;

22 (6) A retail sale of linen and uniform supply services is deemed to
23 occur as provided in RCW 82.08.0202;

24 (7) A retail sale consisting of an extended warranty shall be
25 deemed to have occurred at the business location of the seller if the
26 extended warranty is received by the purchaser at that location. If an
27 extended warranty is not received by the purchaser at the business
28 location of the seller, a retail sale of an extended warranty shall be
29 deemed to have occurred at the location where receipt by the buyer
30 occurs;

31 (8) "City" means a city or town;

32 ((+8)) (9) The meaning ascribed to words and phrases in chapters
33 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as
34 applicable, shall have full force and effect with respect to taxes
35 imposed under authority of this chapter;

36 ((+9)) (10) "Taxable event" shall mean any retail sale, or any
37 use, upon which a state tax is imposed pursuant to chapter 82.08 or

1 82.12 RCW, as they now exist or may hereafter be amended: PROVIDED,
2 HOWEVER, That the term shall not include a retail sale taxable pursuant
3 to RCW 82.08.150, as now or hereafter amended;

4 ~~((+10+))~~ (11) "Treasurer or other legal depository" shall mean the
5 treasurer or legal depository of a county or city.

6 **Sec. 112.** RCW 82.14.020 and 2003 c 168 s 503 are each amended to
7 read as follows:

8 For purposes of this chapter:

9 (1) A retail sale consisting solely of the sale of tangible
10 personal property shall be deemed to have occurred at the retail outlet
11 at or from which delivery is made to the consumer;

12 (2) A retail sale consisting essentially of the performance of
13 personal, business, or professional services shall be deemed to have
14 occurred at the place at which such services were primarily performed,
15 except that for the performance of a tow truck service, as defined in
16 RCW 46.55.010, the retail sale shall be deemed to have occurred at the
17 place of business of the operator of the tow truck service;

18 (3) A retail sale consisting of the rental of tangible personal
19 property shall be deemed to have occurred (a) in the case of a rental
20 involving periodic rental payments, at the primary place of use by the
21 lessee during the period covered by each payment, or (b) in all other
22 cases, at the place of first use by the lessee;

23 (4) A retail sale within the scope of RCW 82.04.050(2), and a
24 retail sale of taxable personal property to be installed by the seller
25 shall be deemed to have occurred at the place where the labor and
26 services involved were primarily performed;

27 (5) A retail sale consisting of the providing of telecommunications
28 services shall be sourced in accordance with RCW 82.32.520;

29 (6) A retail sale of linen and uniform supply services is deemed to
30 occur as provided in RCW 82.08.0202;

31 (7) A retail sale consisting of an extended warranty shall be
32 deemed to have occurred at the business location of the seller if the
33 extended warranty is received by the purchaser at that location. If an
34 extended warranty is not received by the purchaser at the business
35 location of the seller, a retail sale of an extended warranty shall be
36 deemed to have occurred at the location where receipt by the buyer
37 occurs;

1 (8) "City" means a city or town;
2 ~~((+8+))~~ (9) The meaning ascribed to words and phrases in chapters
3 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as
4 applicable, shall have full force and effect with respect to taxes
5 imposed under authority of this chapter;

6 ~~((+9+))~~ (10) "Taxable event" shall mean any retail sale, or any
7 use, upon which a state tax is imposed pursuant to chapter 82.08 or
8 82.12 RCW, as they now exist or may hereafter be amended: PROVIDED,
9 HOWEVER, That the term shall not include a retail sale taxable pursuant
10 to RCW 82.08.150, as now or hereafter amended;

11 ~~((+10+))~~ (11) "Treasurer or other legal depository" shall mean the
12 treasurer or legal depository of a county or city.

13 **Sec. 113.** 2004 c 153 s 502 (uncodified) is amended to read as
14 follows:

15 (1) If a court of competent jurisdiction enters a final judgment on
16 the merits that is based on federal or state law, is no longer subject
17 to appeal, and substantially limits or impairs the essential elements
18 of P.L. 106-252, 4 U.S.C. Secs. 116 through 126, or chapter 67, Laws of
19 2002, then chapter 67, Laws of 2002 is null and void in its entirety.

20 (2) If the contingency in subsection (1) of this section occurs,
21 section 502, chapter 168, Laws of 2003 is null and void.

22 (3) If the contingency in subsection (1) of this section occurs,
23 section 410, chapter 153, Laws of 2004 is null and void.

24 (4) If the contingency in subsection (1) of this section occurs,
25 section 111, chapter ..., Laws of 2005 (section 111 of this act) is
26 null and void.

27 NEW SECTION. **Sec. 114.** A new section is added to chapter 82.04
28 RCW to read as follows:

29 (1) In computing tax there may be deducted from the measure of tax,
30 amounts derived from delivery charges made for the delivery of direct
31 mail if the charges are separately stated on an invoice or similar
32 billing document given to the purchaser.

33 (2) "Delivery charges" and "direct mail" have the same meanings as
34 in RCW 82.08.010.

1 (4) An additional tax is imposed equal to fourteen percent
2 multiplied by the taxes payable under subsections (1), (2), and (3) of
3 this section.

4 (5) An additional tax is imposed upon each retail sale of spirits
5 in the original package at the rate of seven cents per liter. The
6 additional tax imposed in this subsection shall apply to all such sales
7 including sales by Washington state liquor stores and agencies, and
8 including sales to spirits, beer, and wine restaurant licensees. All
9 revenues collected during any month from this additional tax shall be
10 deposited in the violence reduction and drug enforcement account under
11 RCW 69.50.520 by the twenty-fifth day of the following month.

12 (6)(a) An additional tax is imposed upon retail sale of spirits in
13 the original package at the rate of one and seven-tenths percent of the
14 selling price through June 30, 1995, two and six-tenths percent of the
15 selling price for the period July 1, 1995, through June 30, 1997, and
16 three and four-tenths of the selling price thereafter. This additional
17 tax applies to all such sales including sales by Washington state
18 liquor stores and agencies, but excluding sales to spirits, beer, and
19 wine restaurant licensees.

20 (b) An additional tax is imposed upon retail sale of spirits in the
21 original package at the rate of one and one-tenth percent of the
22 selling price through June 30, 1995, one and seven-tenths percent of
23 the selling price for the period July 1, 1995, through June 30, 1997,
24 and two and three-tenths of the selling price thereafter. This
25 additional tax applies to all such sales to spirits, beer, and wine
26 restaurant licensees.

27 (c) An additional tax is imposed upon each retail sale of spirits
28 in the original package at the rate of twenty cents per liter through
29 June 30, 1995, thirty cents per liter for the period July 1, 1995,
30 through June 30, 1997, and forty-one cents per liter thereafter. This
31 additional tax applies to all such sales including sales by Washington
32 state liquor stores and agencies, and including sales to spirits, beer,
33 and wine restaurant licensees.

34 (d) All revenues collected during any month from additional taxes
35 under this subsection shall be deposited in the health services account
36 created under RCW 43.72.900 by the twenty-fifth day of the following
37 month.

1 (7)(a) An additional tax is imposed upon each retail sale of
2 spirits in the original package at the rate of one dollar and thirty-
3 three cents per liter. This additional tax applies to all such sales
4 including sales by Washington state liquor stores and agencies, but
5 excluding sales to spirits, beer, and wine restaurant licensees.

6 (b) All revenues collected during any month from additional taxes
7 under this subsection shall be deposited by the twenty-fifth day of the
8 following month as follows:

9 (i) 97.5 percent into the general fund;

10 (ii) 2.3 percent into the health services account created under RCW
11 43.72.900; and

12 (iii) 0.2 percent into the violence reduction and drug enforcement
13 account created under RCW 69.50.520.

14 (8) The tax imposed in RCW 82.08.020 shall not apply to sales of
15 spirits in the original package.

16 ~~((+8))~~ (9) The taxes imposed in this section shall be paid by the
17 buyer to the seller, and each seller shall collect from the buyer the
18 full amount of the tax payable in respect to each taxable sale under
19 this section. The taxes required by this section to be collected by
20 the seller shall be stated separately from the selling price and for
21 purposes of determining the tax due from the buyer to the seller, it
22 shall be conclusively presumed that the selling price quoted in any
23 price list does not include the taxes imposed by this section.

24 ~~((+9))~~ (10) As used in this section, the terms, "spirits" and
25 "package" shall have the meaning ascribed to them in chapter 66.04 RCW.

26 **Sec. 202.** RCW 69.50.520 and 2004 c 276 s 912 are each amended to
27 read as follows:

28 The violence reduction and drug enforcement account is created in
29 the state treasury. All designated receipts from RCW 9.41.110(8),
30 66.24.210(4), 66.24.290(2), 69.50.505(9)(a), 82.08.150 (5) and
31 (7)(b)(iii), 82.24.020(2), 82.64.020, and section 420, chapter 271,
32 Laws of 1989 shall be deposited into the account. Expenditures from
33 the account may be used only for funding services and programs under
34 chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess.,
35 including state incarceration costs. Funds from the account may also
36 be appropriated to reimburse local governments for costs associated
37 with implementing criminal justice legislation including chapter 338,

1 Laws of 1997. During the 2003-2005 biennium, funds from the account
2 may also be used for costs associated with providing grants to local
3 governments in accordance with chapter 338, Laws of 1997, funding drug
4 offender treatment services in accordance with RCW 70.96A.350,
5 maintenance and operating costs of the Washington association of
6 sheriffs and police chiefs jail reporting system, maintenance and
7 operating costs of the juvenile rehabilitation administration's client
8 activity tracking system, civil indigent legal representation,
9 multijurisdictional narcotics task forces, and grants to community
10 networks under chapter 70.190 RCW by the family policy council.

11 **PART III**
12 **BOARDING HOMES**

13 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.04
14 RCW to read as follows:

15 (1) This chapter does not apply to amounts received by a nonprofit
16 boarding home licensed under chapter 18.20 RCW for providing room and
17 domiciliary care to residents of the boarding home.

18 (2) As used in this section:

19 (a) "Domiciliary care" has the meaning provided in RCW 18.20.020.

20 (b) "Nonprofit boarding home" means a boarding home that is
21 operated as a religious or charitable organization, is exempt from
22 federal income tax under 26 U.S.C. Sec. 501(c)(3), is incorporated
23 under chapter 24.03 RCW, is operated as part of a nonprofit hospital,
24 or is operated as part of a public hospital district.

25 **Sec. 302.** RCW 82.04.2908 and 2004 c 174 s 1 are each amended to
26 read as follows:

27 (1) Upon every person engaging within this state in the business of
28 providing room and domiciliary care to residents of a boarding home
29 licensed under chapter 18.20 RCW, the amount of tax with respect to
30 such business shall be equal to the gross income (~~from such services~~)
31 of the business, multiplied by the rate of 0.275 percent.

32 (~~(If the persons described in subsection (1) of this section~~
33 ~~receive income from sources other than those described in subsection~~
34 ~~(1) of this section or provide services other than those named in~~

1 ~~subsection (1) of this section, that income and those services are~~
2 ~~subject to tax as otherwise provided in this chapter.~~

3 ~~(3))~~ For the purposes of this section, "domiciliary care" has the
4 ~~((same))~~ meaning ~~((as))~~ provided in RCW 18.20.020.

5 **PART IV**
6 **COMPREHENSIVE CANCER CENTERS**

7 NEW SECTION. Sec. 401. A new section is added to chapter 82.04
8 RCW to read as follows:

9 (1) This chapter does not apply to amounts received by a
10 comprehensive cancer center to the extent the amounts are exempt from
11 federal income tax.

12 (2) For the purposes of this section, "comprehensive cancer center"
13 means a cancer center that has written confirmation that it is
14 recognized by the national cancer institute as a comprehensive cancer
15 center and that qualifies as an exempt organization under 26 U.S.C.
16 Sec. 501(c)(3) as existing on the effective date of this section.

17 NEW SECTION. Sec. 402. A new section is added to chapter 82.08
18 RCW to read as follows:

19 (1) The tax levied by RCW 82.08.020 does not apply to the sale of
20 medical supplies, chemicals, or materials to a comprehensive cancer
21 center. The exemption in this section does not apply to the sale of
22 construction materials, office equipment, building equipment,
23 administrative supplies, or vehicles.

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

26 (a) "Comprehensive cancer center" has the meaning provided in
27 section 401 of this act.

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

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

1 (d) "Research" means basic and applied research that has as its
2 objective the design, development, refinement, testing, marketing, or
3 commercialization of a product, service, or process.

4 (e) "Medical supplies" means any item of tangible personal
5 property, including any repair and replacement parts for such tangible
6 personal property, used by a comprehensive cancer center for the
7 purpose of performing research on, procuring, testing, processing,
8 storing, packaging, distributing, or using blood, bone, or tissue. The
9 term includes tangible personal property used to:

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

11 (ii) Control, guide, measure, tune, verify, align, regulate, test,
12 or physically support blood, bone, or tissue; and

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

16 NEW SECTION. **Sec. 403.** A new section is added to chapter 82.12
17 RCW to read as follows:

18 (1) The provisions of this chapter do not apply in respect to the
19 use of medical supplies, chemicals, or materials by a comprehensive
20 cancer center. The exemption in this section does not apply to the use
21 of construction materials, office equipment, building equipment,
22 administrative supplies, or vehicles.

23 (2) The definitions in sections 401 and 402 of this act apply to
24 this section.

25 **PART V**

26 **COMMERCIAL AIRPLANE MANUFACTURING**

27 **Sec. 501.** RCW 82.04.4463 and 2003 2nd sp.s. c 1 s 15 are each
28 amended to read as follows:

29 (1) In computing the tax imposed under this chapter, a credit is
30 allowed for property taxes paid during the calendar year.

31 (2) The credit is equal to:

32 (a)(i) Property taxes paid on new buildings, and land upon which
33 this property is located, built after December 1, 2003, and used
34 exclusively in manufacturing commercial airplanes or components of such
35 airplanes; or

1 (ii) Property taxes attributable to an increase in assessed value
2 due to the renovation or expansion, after December 1, 2003, of a
3 building used exclusively in manufacturing commercial airplanes or
4 components of such airplanes; and

5 (b) An amount equal to property taxes paid on machinery and
6 equipment exempt under RCW 82.08.02565 or 82.12.02565 (~~used in~~
7 manufacturing commercial airplanes or components of such airplanes))
8 and acquired after December 1, 2003, multiplied by a fraction. The
9 numerator of the fraction is the total taxable amount subject to the
10 tax imposed under RCW 82.04.260(13) and the denominator of the fraction
11 is the total taxable amount subject to the tax imposed under all
12 manufacturing classifications in chapter 82.04 RCW, required to be
13 reported on the person's returns for the calendar year before the
14 calendar year in which the credit under this section is earned. No
15 credit is available under this subsection (2)(b) if either the
16 numerator or the denominator of the fraction is zero. If the fraction
17 is greater than or equal to nine-tenths, then the fraction is rounded
18 to one. For purposes of this subsection, "returns" means the combined
19 excise tax returns for the calendar year.

20 (3) For the purposes of this section, "commercial passenger
21 airplane" and "component" have the meanings given in RCW 82.32.550.

22 (4) A person taking the credit under this section is subject to all
23 the requirements of chapter 82.32 RCW. In addition, the person must
24 report as required under RCW 82.32.545. A credit earned during one
25 calendar year may be carried over to be credited against taxes incurred
26 in a subsequent calendar year, but may not be carried over a second
27 year. No refunds may be granted for credits under this section.

28 (5) In addition to all other requirements under this title, a
29 person taking the credit under this section must report as required
30 under RCW 82.32.545.

31 (6) This section expires July 1, 2024.

32 **PART VI**
33 **AMPHITHEATERS**

34 **Sec. 601.** RCW 82.29A.130 and 1999 c 165 s 21 are each amended to
35 read as follows:

1 The following leasehold interests shall be exempt from taxes
2 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

3 (1) All leasehold interests constituting a part of the operating
4 properties of any public utility which is assessed and taxed as a
5 public utility pursuant to chapter 84.12 RCW.

6 (2) All leasehold interests in facilities owned or used by a
7 school, college or university which leasehold provides housing for
8 students and which is otherwise exempt from taxation under provisions
9 of RCW 84.36.010 and 84.36.050.

10 (3) All leasehold interests of subsidized housing where the fee
11 ownership of such property is vested in the government of the United
12 States, or the state of Washington or any political subdivision thereof
13 but only if income qualification exists for such housing.

14 (4) All leasehold interests used for fair purposes of a nonprofit
15 fair association that sponsors or conducts a fair or fairs which
16 receive support from revenues collected pursuant to RCW 67.16.100 and
17 allocated by the director of the department of agriculture where the
18 fee ownership of such property is vested in the government of the
19 United States, the state of Washington or any of its political
20 subdivisions: PROVIDED, That this exemption shall not apply to the
21 leasehold interest of any sublessee of such nonprofit fair association
22 if such leasehold interest would be taxable if it were the primary
23 lease.

24 (5) All leasehold interests in any property of any public entity
25 used as a residence by an employee of that public entity who is
26 required as a condition of employment to live in the publicly owned
27 property.

28 (6) All leasehold interests held by enrolled Indians of lands owned
29 or held by any Indian or Indian tribe where the fee ownership of such
30 property is vested in or held in trust by the United States and which
31 are not subleased to other than to a lessee which would qualify
32 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

33 (7) All leasehold interests in any real property of any Indian or
34 Indian tribe, band, or community that is held in trust by the United
35 States or is subject to a restriction against alienation imposed by the
36 United States: PROVIDED, That this exemption shall apply only where it
37 is determined that contract rent paid is greater than or equal to

1 ninety percent of fair market rental, to be determined by the
2 department of revenue using the same criteria used to establish taxable
3 rent in RCW 82.29A.020(2)(b).

4 (8) All leasehold interests for which annual taxable rent is less
5 than two hundred fifty dollars per year. For purposes of this
6 subsection leasehold interests held by the same lessee in contiguous
7 properties owned by the same lessor shall be deemed a single leasehold
8 interest.

9 (9) All leasehold interests which give use or possession of the
10 leased property for a continuous period of less than thirty days:
11 PROVIDED, That for purposes of this subsection, successive leases or
12 lease renewals giving substantially continuous use of possession of the
13 same property to the same lessee shall be deemed a single leasehold
14 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed
15 to give use or possession for a period of less than thirty days solely
16 by virtue of the reservation by the public lessor of the right to use
17 the property or to allow third parties to use the property on an
18 occasional, temporary basis.

19 (10) All leasehold interests under month-to-month leases in
20 residential units rented for residential purposes of the lessee pending
21 destruction or removal for the purpose of constructing a public highway
22 or building.

23 (11) All leasehold interests in any publicly owned real or personal
24 property to the extent such leasehold interests arises solely by virtue
25 of a contract for public improvements or work executed under the public
26 works statutes of this state or of the United States between the public
27 owner of the property and a contractor.

28 (12) All leasehold interests that give use or possession of state
29 adult correctional facilities for the purposes of operating
30 correctional industries under RCW 72.09.100.

31 (13) All leasehold interests used to provide organized and
32 supervised recreational activities for disabled persons of all ages in
33 a camp facility and for public recreational purposes by a nonprofit
34 organization, association, or corporation that would be exempt from
35 property tax under RCW 84.36.030(1) if it owned the property. If the
36 publicly owned property is used for any taxable purpose, the leasehold
37 excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be
38 imposed and shall be apportioned accordingly.

1 (14) All leasehold interests in the public or entertainment areas
2 of a baseball stadium with natural turf and a retractable roof or
3 canopy that is in a county with a population of over one million, that
4 has a seating capacity of over forty thousand, and that is constructed
5 on or after January 1, 1995. "Public or entertainment areas" include
6 ticket sales areas, ramps and stairs, lobbies and concourses, parking
7 areas, concession areas, restaurants, hospitality and stadium club
8 areas, kitchens or other work areas primarily servicing other public or
9 entertainment areas, public rest room areas, press and media areas,
10 control booths, broadcast and production areas, retail sales areas,
11 museum and exhibit areas, scoreboards or other public displays, storage
12 areas, loading, staging, and servicing areas, seating areas and suites,
13 the playing field, and any other areas to which the public has access
14 or which are used for the production of the entertainment event or
15 other public usage, and any other personal property used for these
16 purposes. "Public or entertainment areas" does not include locker
17 rooms or private offices exclusively used by the lessee.

18 (15) All leasehold interests in the public or entertainment areas
19 of a stadium and exhibition center, as defined in RCW 36.102.010, that
20 is constructed on or after January 1, 1998. For the purposes of this
21 subsection, "public or entertainment areas" has the same meaning as in
22 subsection (14) of this section, and includes exhibition areas.

23 (16) All leasehold interests in public facilities districts, as
24 provided in chapter 36.100 or 35.57 RCW.

25 (17) All leasehold interests in the public or entertainment areas
26 of an amphitheater if a private entity is responsible for one hundred
27 percent of the cost of constructing the amphitheater which is not
28 reimbursed by the public owner, both the public owner and the private
29 lessee sponsor events at the facility on a regular basis, the lessee is
30 responsible under the lease or agreement to operate and maintain the
31 facility, and the amphitheater has a seating capacity of over seventeen
32 thousand reserved and general admission seats and is in a county with
33 a population of over three hundred fifty thousand, but less than four
34 hundred twenty-five thousand. For the purposes of this subsection,
35 "public or entertainment areas" include box offices or other ticket
36 sales areas, entrance gates, ramps and stairs, lobbies and concourses,
37 parking areas, concession areas, restaurants, hospitality areas,
38 kitchens or other work areas primarily servicing other public or

1 entertainment areas, public rest room areas, press and media areas,
2 control booths, broadcast and production areas, retail sales areas,
3 museum and exhibit areas, scoreboards or other public displays, storage
4 areas, loading, staging, and servicing areas, seating areas including
5 lawn seating areas and suites, stages, and any other areas to which the
6 public has access or which are used for the production of the
7 entertainment event or other public usage, and any other personal
8 property used for these purposes. "Public or entertainment areas" does
9 not include office areas used predominately by the lessee.

10
11

PART VII
HISTORIC AUTOMOBILE MUSEUM

12 NEW SECTION. **Sec. 701.** A new section is added to chapter 82.32
13 RCW to read as follows:

14 (1) The governing board of a nonprofit organization, corporation,
15 or association may apply for deferral of taxes on an eligible project.
16 Application shall be made to the department in a form and manner
17 prescribed by the department. The application shall contain
18 information regarding the location of the project, estimated or actual
19 costs of the project, time schedules for completion and operation of
20 the project, and other information required by the department. The
21 department shall rule on the application within sixty days. All
22 applications for the tax deferral under this section must be received
23 no later than December 31, 2008.

24 (2) The department shall issue a sales and use tax deferral
25 certificate for state and local sales and use taxes due under chapters
26 82.08, 82.12, and 82.14 RCW on each eligible project.

27 (3) The nonprofit organization, corporation, or association shall
28 begin paying the deferred taxes in the fifth year after the date
29 certified by the department as the date on which the eligible project
30 is operationally complete. The first payment is due on December 31st
31 of the fifth calendar year after such certified date, with subsequent
32 annual payments due on December 31st of the following nine years. Each
33 payment shall equal ten percent of the deferred tax.

34 (4) The department may authorize an accelerated repayment schedule
35 upon request of the nonprofit organization, corporation, or
36 association.

1 (5) Except as provided in subsection (6) of this section, interest
2 shall not be charged on any taxes deferred under this section for the
3 period of deferral. The debt for deferred taxes is not extinguished by
4 insolvency or other failure of the nonprofit organization, corporation,
5 or association.

6 (6) If the project is not operationally complete within five
7 calendar years from issuance of the tax deferral or if at any time the
8 department finds that the project is not eligible for tax deferral
9 under this section, the amount of deferred taxes outstanding for the
10 project shall be immediately due and payable. If deferred taxes must
11 be repaid under this subsection, the department shall assess interest,
12 but not penalties, on amounts due under this subsection. Interest
13 shall be assessed at the rate provided for delinquent taxes under this
14 chapter, retroactively to the date of deferral, and shall accrue until
15 the deferred taxes due are repaid.

16 (7) Applications and any other information received by the
17 department of revenue under this section are not confidential under RCW
18 82.32.330. This chapter applies to the administration of this section.

19 (8) This section applies to taxable eligible project activity that
20 occurs on or after July 1, 2007.

21 (9) The following definitions apply to this section:

22 (a) "Eligible project" means a project that is used primarily for
23 a historic automobile museum.

24 (b) "Historic automobile museum" means a facility owned and
25 operated by a nonprofit organization, corporation, or association that
26 is used to maintain and exhibit to the public a collection of at least
27 five hundred motor vehicles.

28 (c) "Nonprofit organization, corporation, or association" means an
29 organization, corporation, or association exempt from tax under section
30 501(c) (3), (4), or (10) of the federal internal revenue code (26
31 U.S.C. Sec. 501(c) (3), (4), or (10)).

32 (d) "Project" means the construction of new structures, the
33 acquisition and installation of fixtures that are permanently affixed
34 to and become a physical part of those structures, and site
35 preparation. For purposes of this subsection, structures do not
36 include parking facilities used for motor vehicles that are not on
37 display or part of the museum collection.

1 (e) "Site preparation" includes soil testing, site clearing and
2 grading, demolition, or any other related activities that are initiated
3 before construction. Site preparation does not include landscaping
4 services or landscaping materials.

5 **PART VIII**
6 **NURSING HOMES**

7 **Sec. 801.** RCW 82.71.020 and 2003 1st sp.s. c 16 s 2 are each
8 amended to read as follows:

9 (1) In addition to any other tax, a quality maintenance fee is
10 imposed on every operator of a nonexempt nursing facility in this
11 state. The quality maintenance fee shall be:

12 (a) Six dollars and fifty cents per patient day through June 30,
13 2005;

14 (b) Five dollars and twenty-five cents per patient day for the
15 period July 1, 2005, through June 30, 2007;

16 (c) Three dollars per patient day for the period July 1, 2007,
17 through June 30, 2009; and

18 (d) One dollar and fifty cents per patient day for the period July
19 1, 2009, through June 30, 2011.

20 (2) Each operator of a nonexempt nursing facility shall file a
21 return with the department on a monthly basis. The return shall
22 include the following:

23 (a) The number of patient days for nonexempt nursing facilities
24 operated by that person in that month; and

25 (b) Remittance of the nonexempt nursing facility operator's quality
26 maintenance fee for that month.

27 (3) This section expires July 1, 2011.

28 **Sec. 802.** 2003 1st sp.s. c 16 s 6 (uncodified) is amended to read
29 as follows:

30 (1) (~~Sections 1 through 5 of this act~~) RCW 82.71.010, 82.71.020,
31 82.71.030, 74.46.091, and 74.46.535 shall expire on the effective date
32 that federal medicaid matching funds are substantially reduced or that
33 a federal sanction is imposed due to the quality maintenance fee under
34 (~~section 2 of this act~~) RCW 82.71.020, as such date is certified by
35 the secretary of social and health services.

1 (2) The expiration of (~~sections 1 through 5 of this act~~) RCW
2 82.71.010, 82.71.020, 82.71.030, 74.46.091, and 74.46.535 shall not be
3 construed as affecting any existing right acquired or liability or
4 obligation incurred under those sections or under any rule or order
5 adopted under those sections, nor as affecting any proceeding
6 instituted under those sections.

7 **PART IX**
8 **COMMERCIAL DISTRICT REVITALIZATION**

9 NEW SECTION. **Sec. 901.** (1) The legislature finds:

10 (a) The continued economic vitality of downtown and neighborhood
11 commercial districts in our state's cities is essential to community
12 preservation, social cohesion, and economic growth;

13 (b) In recent years there has been a deterioration of downtown and
14 neighborhood commercial districts in both rural and urban communities
15 due to a shifting population base, changes in the marketplace, and
16 greater competition from suburban shopping malls, discount centers, and
17 business transacted through the internet;

18 (c) This decline has eroded the ability of businesses and property
19 owners to renovate and enhance their commercial and residential
20 properties; and

21 (d) Business owners in these districts need to maintain their local
22 economies in order to provide goods and services to adjacent residents,
23 to provide employment opportunities, to avoid disinvestment and
24 economic dislocations, and to develop and sustain downtown and
25 neighborhood commercial district revitalization programs to address
26 these problems.

27 (2) It is the intent of the legislature to establish a program to:

28 (a) Work in partnership with these organizations;

29 (b) Provide technical assistance and training to local governments,
30 business organizations, downtown and neighborhood commercial district
31 organizations, and business and property owners to accomplish community
32 and economic revitalization and development of business districts; and

33 (c) Certify a downtown or neighborhood commercial district
34 organization's use of available tax incentives.

1 NEW SECTION. **Sec. 902.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Applicant" means a person applying for a tax credit under this
5 chapter.

6 (2) "Contribution" means cash contributions.

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

8 (4) "Person" has the meaning given in RCW 82.04.030.

9 (5) "Program" means a nonprofit organization under internal revenue
10 code sections 501(c)(3) or 501(c)(6), with the sole mission of
11 revitalizing a downtown or neighborhood commercial district area, that
12 is designated by the department of community, trade, and economic
13 development as described in sections 908 through 912 of this act.

14 (6) "Main street trust fund" means the department of community,
15 trade, and economic development's main street trust fund account under
16 section 912 of this act.

17 NEW SECTION. **Sec. 903.** (1) Application for tax credits under this
18 chapter must be made to the department before making a contribution to
19 a program or the main street trust fund. The application shall be made
20 to the department in a form and manner prescribed by the department.
21 The application shall contain information regarding the proposed amount
22 of contribution to a program or the main street trust fund, and other
23 information required by the department to determine eligibility under
24 this act. The department shall rule on the application within forty-
25 five days. Applications shall be approved on a first-come basis.

26 (2) The person must make the contribution described in the approved
27 application by the end of the calendar year in which the application is
28 approved to claim a credit allowed under section 904 of this act.

29 (3) The department shall not accept any applications before January
30 1, 2006.

31 NEW SECTION. **Sec. 904.** (1) Subject to the limitations in this
32 chapter, a credit is allowed against the tax imposed by chapters 82.04
33 and 82.16 RCW for approved contributions that are made by a person to
34 a program or the main street trust fund.

35 (2) The credit allowed under this section is limited to an amount
36 equal to:

1 (a) Seventy-five percent of the approved contribution made by a
2 person to a program; or

3 (b) Fifty percent of the approved contribution made by a person to
4 the main street trust fund.

5 (3) The department may not approve credit with respect to a program
6 in a city or town with a population of one hundred ninety thousand
7 persons or more.

8 (4) The department shall keep a running total of all credits
9 approved under this chapter for each calendar year. The department
10 shall not approve any credits under this section that would cause the
11 total amount of approved credits statewide to exceed one million five
12 hundred thousand dollars in any calendar year.

13 (5) The total credits allowed under this chapter for contributions
14 made to each program may not exceed one hundred thousand dollars in a
15 calendar year. The total credits allowed under this chapter for a
16 person may not exceed two hundred fifty thousand dollars in a calendar
17 year.

18 (6) The credit may be claimed against any tax due under chapters
19 82.04 and 82.16 RCW only in the calendar year immediately following the
20 calendar year in which the credit was approved by the department and
21 the contribution was made to the program or the main street trust fund.
22 Credits may not be carried over to subsequent years. No refunds may be
23 granted for credits under this chapter.

24 (7) The total amount of the credit claimed in any calendar year by
25 a person may not exceed the lesser amount of the approved credit, or
26 seventy-five percent of the amount of the contribution that is made by
27 the person to a program and fifty percent of the amount of the
28 contribution that is made by the person to the main street trust fund,
29 in the prior calendar year.

30 NEW SECTION. **Sec. 905.** To claim a credit under this chapter, a
31 person must electronically file with the department all returns, forms,
32 and other information the department requires in an electronic format
33 as provided or approved by the department. Any return, form, or
34 information required to be filed in an electronic format under this
35 section is not filed until received by the department in an electronic
36 format. As used in this subsection, "returns" has the same meaning as
37 "return" in RCW 82.32.050.

1 NEW SECTION. **Sec. 906.** The department of community, trade, and
2 economic development shall provide information to the department to
3 administer this chapter, including a list of designated programs that
4 shall be updated as necessary.

5 NEW SECTION. **Sec. 907.** Chapter 82.32 RCW applies to the
6 administration of this chapter.

7 NEW SECTION. **Sec. 908.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Area" means a geographic area within a local government that
10 is described by a closed perimeter boundary.

11 (2) "Department" means the department of community, trade, and
12 economic development.

13 (3) "Director" means the director of the department of community,
14 trade, and economic development.

15 (4) "Local government" means a city, code city, or town.

16 (5) "Qualified levels of participation" means a local downtown or
17 neighborhood commercial district revitalization program that has been
18 designated by the department.

19 NEW SECTION. **Sec. 909.** The Washington main street program is
20 created within the department. In order to implement the Washington
21 main street program, the department shall:

22 (1) Provide technical assistance to businesses, property owners,
23 organizations, and local governments undertaking a comprehensive
24 downtown or neighborhood commercial district revitalization initiative
25 and management strategy. Technical assistance may include, but is not
26 limited to, initial site evaluations and assessments, training for
27 local programs, training for local program staff, site visits and
28 assessments by technical specialists, local program design assistance
29 and evaluation, and continued local program on-site assistance;

30 (2) To the extent funds are made available, provide financial
31 assistance to local governments or local organizations to assist in
32 initial downtown or neighborhood commercial district revitalization
33 program start-up costs, specialized training, specific project
34 feasibility studies, market studies, and design assistance;

1 (3) Develop objective criteria for selecting recipients of
2 assistance under subsections (1) and (2) of this section, which shall
3 include priority for downtown or neighborhood commercial district
4 revitalization programs located in a rural county as defined in RCW
5 43.160.020(12), and provide for designation of local programs under
6 section 910 of this act;

7 (4) Operate the Washington main street program in accordance with
8 the plan developed by the department, in consultation with the
9 Washington main street advisory committee created under section 911 of
10 this act; and

11 (5) Consider other factors the department deems necessary for the
12 implementation of this chapter.

13 NEW SECTION. **Sec. 910.** (1) The department shall adopt criteria
14 for the designation of local downtown or neighborhood commercial
15 district revitalization programs and official local main street
16 programs. In establishing the criteria, the department shall consider:

17 (a) The degree of interest and commitment to comprehensive downtown
18 or neighborhood commercial district revitalization and, where
19 applicable, historic preservation by both the public and private
20 sectors;

21 (b) The evidence of potential private sector investment in the
22 downtown or neighborhood commercial district;

23 (c) Where applicable, a downtown or neighborhood commercial
24 district with sufficient historic fabric to become a foundation for an
25 enhanced community image;

26 (d) The capacity of the organization to undertake a comprehensive
27 program and the financial commitment to implement a long-term downtown
28 or neighborhood commercial district revitalization program that
29 includes a commitment to employ a professional program manager and
30 maintain a sufficient operating budget;

31 (e) The department's existing downtown revitalization program's
32 tier system;

33 (f) The national main street center's criteria for designating
34 official main street cities; and

35 (g) Other factors the department deems necessary for the
36 designation of a local program.

1 (2) The department shall designate local downtown or neighborhood
2 commercial district revitalization programs and official local main
3 street programs. The programs shall be limited to three categories of
4 designation, one of which shall be the main street level.

5 (3) Section 902 of this act does not apply to any local downtown or
6 neighborhood commercial district revitalization program unless the
7 boundaries of the program have been identified and approved by the
8 department. The boundaries of a local downtown or neighborhood
9 commercial district revitalization program are typically defined using
10 the pedestrian core of a traditional commercial district.

11 (4) The department may not designate a local downtown or
12 neighborhood commercial district revitalization program or official
13 local main street program if the program is undertaken by a local
14 government with a population of one hundred ninety thousand persons or
15 more.

16 NEW SECTION. **Sec. 911.** (1) The Washington main street advisory
17 committee is created within the department. The members of the
18 advisory committee are appointed by the director and consist of:

19 (a) The director, or the director's designee, who shall serve as
20 chair;

21 (b) Two representatives from local governments;

22 (c) Five representatives from existing local main street programs
23 or downtown and neighborhood commercial district programs including a
24 combination of staff, property owners, and business owners; and

25 (d) One representative from the Washington trust for historic
26 preservation.

27 (2) The department shall develop a plan for the Washington main
28 street program, in consultation with the Washington main street
29 advisory committee. The plan must describe:

30 (a) The objectives and strategies of the Washington main street
31 program;

32 (b) How the Washington main street program will be coordinated with
33 existing federal, state, local, and private sector business development
34 and historic preservation efforts;

35 (c) The means by which private investment will be solicited and
36 employed;

1 (d) The methods of selecting and providing assistance to
2 participating local programs; and

3 (e) A means to solicit private contributions for state and local
4 operations of the Washington main street program.

5 NEW SECTION. **Sec. 912.** The Washington main street trust fund
6 account is created in the state treasury. All receipts from private
7 contributions, federal funds, legislative appropriations, and fees for
8 services, if levied, must be deposited into the account. Expenditures
9 from the account may be used only for the operation of the Washington
10 main street program.

11 **PART X**

12 **HIGH TECHNOLOGY BUSINESSES**

13 NEW SECTION. **Sec. 1001.** A new section is added to chapter 82.32
14 RCW to read as follows:

15 (1) If the department finds that the failure of a taxpayer to file
16 an annual survey under RCW 82.04.4452 by the due date was the result of
17 circumstances beyond the control of the taxpayer, the department shall
18 extend the time for filing the survey. Such extension shall be for a
19 period of thirty days from the date the department issues its written
20 notification to the taxpayer that it qualifies for an extension under
21 this section. The department may grant additional extensions as it
22 deems proper.

23 (2) In making a determination whether the failure of a taxpayer to
24 file an annual survey by the due date was the result of circumstances
25 beyond the control of the taxpayer, the department shall be guided by
26 rules adopted by the department for the waiver or cancellation of
27 penalties when the underpayment or untimely payment of any tax was due
28 to circumstances beyond the control of the taxpayer.

29 NEW SECTION. **Sec. 1002.** A new section is added to chapter 82.32
30 RCW to read as follows:

31 (1) Persons required to file surveys under RCW 82.04.4452 must
32 electronically file with the department all surveys, returns, and any
33 other forms or information the department requires in an electronic

1 format as provided or approved by the department, unless the department
2 grants relief under subsection (2) of this section. As used in this
3 section, "returns" has the same meaning as "return" in RCW 82.32.050.

4 (2) Upon request, the department may relieve a person of the
5 obligations in subsection (1) of this section if the person's taxes
6 have been reduced a cumulative total of less than one thousand dollars
7 from all of the credits, exemptions, or preferential business and
8 occupation tax rates, for which a person is required to file an annual
9 survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,
10 82.32.560, 82.60.070, or 82.63.020.

11 (3) Persons who no longer qualify for relief under subsection (2)
12 of this section will be notified in writing by the department and must
13 comply with subsection (1) of this section by the date provided in the
14 notice.

15 (4) Any survey, return, or any other form or information required
16 to be filed in an electronic format under subsection (1) of this
17 section is not filed until received by the department in an electronic
18 format.

19 **Sec. 1003.** RCW 82.04.4452 and 2004 c 2 s 2 are each amended to
20 read as follows:

21 (1) In computing the tax imposed under this chapter, a credit is
22 allowed for each person whose research and development spending during
23 the year in which the credit is claimed exceeds 0.92 percent of the
24 person's taxable amount during the same calendar year.

25 (2) The credit shall be calculated as follows:

26 (a) Determine the greater of the amount of qualified research and
27 development expenditures of a person or eighty percent of amounts
28 received by a person other than a public educational or research
29 institution in compensation for the conduct of qualified research and
30 development;

31 (b) Subtract 0.92 percent of the person's taxable amount from the
32 amount determined under (a) of this subsection;

33 (c) Multiply the amount determined under (b) of this subsection by
34 ~~((the rate provided in RCW 82.04.260(3) in the case of a nonprofit~~
35 ~~corporation or nonprofit association engaging within this state in~~
36 ~~research and development, and the person's average tax rate for every~~
37 ~~other person)) the following:~~

1 (i) For the period June 10, 2004, through December 31, 2006, the
2 person's average tax rate for the calendar year for which the credit is
3 claimed;

4 (ii) For the calendar year ending December 31, 2007, the greater of
5 the person's average tax rate for that calendar year or 0.75 percent;

6 (iii) For the calendar year ending December 31, 2008, the greater
7 of the person's average tax rate for that calendar year or 1.0 percent;

8 (iv) For the calendar year ending December 31, 2009, the greater of
9 the person's average tax rate for that calendar year or 1.25 percent;

10 (v) For the calendar year ending December 31, 2010, and thereafter,
11 1.50 percent.

12 For purposes of calculating the credit, if a person's reporting
13 period is less than annual, the person may use an estimated average tax
14 rate for the calendar year for which the credit is claimed by using the
15 person's average tax rate for each reporting period. A person who uses
16 an estimated average tax rate must make an adjustment to the total
17 credit claimed for the calendar year using the person's actual average
18 tax rate for the calendar year when the person files its last return
19 for the calendar year for which the credit is claimed.

20 (3) Any person entitled to the credit provided in subsection (2) of
21 this section as a result of qualified research and development
22 conducted under contract may assign all or any portion of the credit to
23 the person contracting for the performance of the qualified research
24 and development.

25 (4) The credit, including any credit assigned to a person under
26 subsection (3) of this section, shall be ~~((taken))~~ claimed against
27 taxes due for the same calendar year in which the qualified research
28 and development expenditures are incurred. The credit, including any
29 credit assigned to a person under subsection (3) of this section, for
30 each calendar year shall not exceed the lesser of two million dollars
31 or the amount of tax otherwise due under this chapter for the calendar
32 year.

33 (5) For any person ~~((taking))~~ claiming the credit, including any
34 credit assigned to a person under subsection (3) of this section, whose
35 research and development spending during the calendar year in which the
36 credit is claimed fails to exceed 0.92 percent of the person's taxable
37 amount during the same calendar year ~~((shall be liable for payment of~~
38 ~~the additional))~~ or who is otherwise ineligible, the department shall

1 declare the taxes ((represented by the amount of)) against which the
2 credit ((taken together with)) was claimed to be immediately due and
3 payable. The department shall assess interest, but not penalties, on
4 the taxes against which the credit was claimed. Interest shall be
5 ((due)) assessed at the rate provided for delinquent excise taxes under
6 chapter 82.32 RCW, retroactively to the date the credit was ((taken
7 until the taxes are paid)) claimed, and shall accrue until the taxes
8 against which the credit was claimed are repaid. Any credit assigned
9 to a person under subsection (3) of this section that is disallowed as
10 a result of this section may be ((taken)) claimed by the person who
11 performed the qualified research and development subject to the
12 limitations set forth in subsection (4) of this section.

13 ~~(6) ((Any person claiming the credit, and any person assigning a~~
14 ~~credit as provided in subsection (3) of this section, shall file an~~
15 ~~annual report in a form prescribed by the department which shall~~
16 ~~include the amount of the credit claimed, the qualified research and~~
17 ~~development expenditures during the calendar year for which the credit~~
18 ~~is claimed, and the taxable amount during the calendar year for which~~
19 ~~the credit is claimed, and such additional information as the~~
20 ~~department may prescribe. The report is due by March 31st following~~
21 ~~any year a credit is taken.~~

22 ~~(7))~~(a) The legislature finds that accountability and
23 effectiveness are important aspects of setting tax policy. In order to
24 make policy choices regarding the best use of limited state resources
25 the legislature needs information on how a tax incentive is used.

26 (b) A person claiming the credit shall ~~((agree to))~~ file a complete
27 ~~((an))~~ annual survey with the department. ~~((The annual survey is in~~
28 ~~addition to the annual report due under subsection (6) of this~~
29 ~~section.))~~ The survey is due by March 31st following any year in which
30 a credit is ~~((taken))~~ claimed. The department may extend the due date
31 for timely filing of annual surveys under this section as provided in
32 section 1001 of this act. The survey shall include the amount of the
33 tax credit ~~((taken))~~ claimed, the qualified research and development
34 expenditures during the calendar year for which the credit is claimed,
35 the taxable amount during the calendar year for which the credit is
36 claimed, the number of new products or research projects by general
37 classification, ((and)) the number of trademarks, patents, and
38 copyrights associated with the research and development activities for

1 which a credit was (~~taken~~) claimed, and whether the credit has been
2 assigned under subsection (3) of this section and who assigned the
3 credit. The survey shall also include the following information for
4 employment positions in Washington:

5 (i) The number of total employment positions;

6 (ii) Full-time, part-time, and temporary employment positions as a
7 percent of total employment;

8 (iii) The number of employment positions according to the following
9 wage bands: Less than thirty thousand dollars; thirty thousand dollars
10 or greater, but less than sixty thousand dollars; and sixty thousand
11 dollars or greater. A wage band containing fewer than three
12 individuals may be combined with another wage band; and

13 (iv) The number of employment positions that have employer-provided
14 medical, dental, and retirement benefits, by each of the wage bands.

15 (c) The department may request additional information necessary to
16 measure the results of the tax credit program, to be submitted at the
17 same time as the survey.

18 (d)(i) All information collected under this subsection, except the
19 amount of the tax credit (~~taken~~) claimed, is deemed taxpayer
20 information under RCW 82.32.330 (~~and is not disclosable~~).
21 Information on the amount of tax credit (~~taken~~) claimed is not
22 subject to the confidentiality provisions of RCW 82.32.330 and may be
23 disclosed to the public upon request, ~~except~~ (~~that~~) as provided in
24 this subsection (6)(d). If the amount of the tax credit as reported on
25 the survey is different than the amount actually claimed on the
26 taxpayer's tax returns or otherwise allowed by the department, the
27 amount actually claimed or allowed may be disclosed.

28 (ii) Persons (~~taking~~) for whom the actual amount of the tax
29 credit claimed on the taxpayer's returns or otherwise allowed by the
30 department is less than ten thousand dollars (~~of credit~~) during the
31 period covered by the survey may request the department to treat the
32 tax credit amount as confidential under RCW 82.32.330.

33 (e) If a person fails to file a complete (~~the~~) annual survey
34 required under this subsection with the department by the due date or
35 any extension under section 1001 of this act, the person entitled to
36 the credit provided in subsection (2) of this section is not eligible
37 to (~~take~~) claim or assign the credit provided in subsection (2) of

1 this section in the year the person failed to timely file a complete
2 ~~((the))~~ survey.

3 ~~((+8))~~ (7) The department shall use the information from
4 subsection ~~((+7))~~ (6) of this section to prepare summary descriptive
5 statistics by category. No fewer than three taxpayers shall be
6 included in any category. The department shall report these statistics
7 to the legislature each year by September 1st.

8 ~~((+9))~~ (8) The department shall use the information from
9 subsection ~~((+7))~~ (6) of this section to study the tax credit program
10 authorized under this section. The department shall report to the
11 legislature by December 1, 2009, and December 1, 2013. The reports
12 shall measure the effect of the program on job creation, the number of
13 jobs created for Washington residents, company growth, the introduction
14 of new products, the diversification of the state's economy, growth in
15 research and development investment, the movement of firms or the
16 consolidation of firms' operations into the state, and such other
17 factors as the department selects.

18 ~~((+10))~~ (9) For the purpose of this section:

19 (a) "Average tax rate" means a person's total tax liability under
20 this chapter for the ~~((reporting period))~~ calendar year for which the
21 credit is claimed divided by the taxpayer's total taxable ~~((income))~~
22 amount under this chapter for the ~~((reporting period))~~ calendar year
23 for which the credit is claimed.

24 (b) "Qualified research and development expenditures" means
25 operating expenses, including wages, compensation of a proprietor or a
26 partner in a partnership as determined under rules adopted by the
27 department, benefits, supplies, and computer expenses, directly
28 incurred in qualified research and development by a person claiming the
29 credit provided in this section. The term does not include amounts
30 paid to a person other than a public educational or research
31 institution to conduct qualified research and development. Nor does
32 the term include capital costs and overhead, such as expenses for land,
33 structures, or depreciable property.

34 (c) "Qualified research and development" shall have the same
35 meaning as in RCW 82.63.010.

36 (d) "Research and development spending" means qualified research
37 and development expenditures plus eighty percent of amounts paid to a

1 person other than a public educational or research institution to
2 conduct qualified research and development.

3 (e) "Taxable amount" means the taxable amount subject to the tax
4 imposed in this chapter required to be reported on the person's
5 combined excise tax returns (~~(during)~~) for the calendar year (~~(in)~~) for
6 which the credit is claimed, less any taxable amount for which a credit
7 is allowed under RCW 82.04.440.

8 (~~(11)~~) (10) This section expires January 1, 2015.

9 NEW SECTION. Sec. 1004. (1) A person who owes additional tax as
10 a result of section 1003(9)(a), chapter ..., Laws of 2005 (section
11 1003(9)(a) of this act) is liable for interest, but not penalties as
12 provided in RCW 82.32.090 (1) and (2), if the entire additional tax
13 liability is paid in full to the department of revenue before January
14 1, 2006. Interest shall be assessed at the rate provided for
15 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
16 date the credit was claimed, and shall accrue until the additional tax
17 is repaid.

18 (2) Persons who fail to repay the full amount of additional tax
19 owed as a result of section 1003(9)(a), chapter ..., Laws of 2005
20 (section 1003(9)(a) of this act) before January 1, 2006, are subject to
21 all applicable penalties and interest as provided in chapter 82.32 RCW
22 on the additional tax owing after December 31, 2005.

23 (3) This section expires December 31, 2010.

24 **PART XI**
25 **EDUCATION FUNDING**

26 NEW SECTION. Sec. 1101. A new section is added to chapter 83.100
27 RCW to read as follows:

28 The education legacy trust account is created in the state
29 treasury. Money in the account may be spent only after appropriation.
30 Expenditures from the account may be used only for deposit into the
31 student achievement fund and for expanding access to higher education
32 through funding for new enrollments and financial aid, and other
33 educational improvement efforts.

1 NEW SECTION. **Sec. 1102.** A new section is added to chapter 82.24
2 RCW to read as follows:

3 (1) In addition to the tax imposed upon the sale, use, consumption,
4 handling, possession, or distribution of cigarettes set forth in RCW
5 82.24.020, there is imposed a tax in an amount equal to the rate of
6 thirty mills per cigarette.

7 (2) The revenue collected under this section shall be deposited as
8 follows:

9 (a) 21.7 percent shall be deposited into the health services
10 account.

11 (b) 2.8 percent shall be deposited into the general fund.

12 (c) 2.3 percent shall be deposited into the violence reduction and
13 drug enforcement account under RCW 69.50.520.

14 (d) 1.7 percent shall be deposited into the water quality account
15 under RCW 70.146.030.

16 (e) The remainder shall be deposited into the education legacy
17 trust account.

18 NEW SECTION. **Sec. 1103.** A new section is added to chapter 28A.505
19 RCW to read as follows:

20 (1) Total distributions from the student achievement fund to each
21 school district shall be based upon the average number of full-time
22 equivalent students in the school district during the previous school
23 year as reported to the office of the superintendent of public
24 instruction by August 31st of the previous school year.

25 (2) The allocation rate per full-time equivalent student shall be
26 three hundred dollars in the 2005-06 school year, three hundred
27 seventy-five dollars in the 2006-07 school year, and four hundred fifty
28 dollars in the 2007-08 school year. For each subsequent school year,
29 the amount allocated per full-time equivalent student shall be adjusted
30 for inflation as defined in RCW 43.135.025(8). These allocations per
31 full-time equivalent student from the student achievement fund shall be
32 supported from the following sources:

33 (a) Distributions from state property tax proceeds deposited into
34 the student achievement fund under RCW 84.52.068; and

35 (b) Distributions from the education legacy trust account created
36 in section 1101 of this act.

1 (3) Any funds deposited in the student achievement fund under RCW
2 43.135.045 shall be allocated to school districts on a one-time basis
3 using a rate per full-time equivalent student. These funds are
4 provided in addition to any amounts allocated in subsection (2) of this
5 section.

6 (4) The school district annual amounts as defined in subsection (2)
7 of this section shall be distributed on the monthly apportionment
8 schedule as defined in RCW 28A.510.250.

9 **Sec. 1104.** RCW 84.52.068 and 2003 1st sp.s. c 19 s 1 are each
10 amended to read as follows:

11 (1) A portion of the proceeds of the state property tax levy shall
12 be ~~((distributed to school districts in the amounts and in the manner))~~
13 deposited into the student achievement fund as provided in this
14 section.

15 (2)(a) The amount of the ~~((distribution to each school district))~~
16 deposit shall be based upon the average number of full-time equivalent
17 students in the school districts during the previous school year ~~((, and~~
18 ~~shall be calculated as follows:~~

19 ~~(a) Out of taxes collected in calendar years 2001 through and~~
20 ~~including 2003, an annual amount equal to one hundred forty dollars per~~
21 ~~each full-time equivalent student in all school districts shall be~~
22 ~~deposited in the student achievement fund to be distributed to each~~
23 ~~school district based on one hundred forty dollars per full-time~~
24 ~~equivalent student in the school district for each year beginning with~~
25 ~~the school year 2001-2002 and through the end of the 2003-2004 school~~
26 ~~year.~~

27 ~~(b))~~ as reported to the office of the superintendent of public
28 instruction by August 31st of the previous school year.

29 (b) For the 2004-2005 through 2007-2008 school years, an annual
30 amount equal to two hundred fifty-four dollars per full-time equivalent
31 student in all school districts shall be deposited in the student
32 achievement fund ~~((to be distributed to each school district based on~~
33 ~~two hundred fifty four dollars per full-time equivalent student.~~

34 ~~(c) For the 2005-2006 school year, an amount equal to three hundred~~
35 ~~dollars per full-time equivalent student in all school districts shall~~
36 ~~be deposited in the student achievement fund to be distributed to each~~

1 ~~school district based on three hundred dollars per full-time equivalent~~
2 ~~student.~~

3 ~~(d) For the 2006-2007 school year, an amount equal to three hundred~~
4 ~~seventy-five dollars per full-time equivalent student in all school~~
5 ~~districts shall be deposited in the student achievement fund to be~~
6 ~~distributed to each school district based on three hundred seventy-five~~
7 ~~dollars per full-time equivalent student.~~

8 ~~(e) For the 2007-2008 school year, an amount equal to four hundred~~
9 ~~fifty dollars per full-time equivalent student in all school districts~~
10 ~~shall be deposited in the student achievement fund to be distributed to~~
11 ~~each school district based on four hundred fifty dollars per full-time~~
12 ~~equivalent student.~~

13 ~~(f) Each subsequent year following the 2007-2008 school year, the~~
14 ~~amount deposited and distributed shall be adjusted for inflation as~~
15 ~~defined in RCW 43.135.025(8).~~

16 ~~(3) For the 2001-2002 through 2003-2004 school years, the office of~~
17 ~~the superintendent of public instruction shall verify the average~~
18 ~~number of full-time equivalent students in each school district from~~
19 ~~the previous school year to the state treasurer by August 1st of each~~
20 ~~year.~~

21 ~~(4) Beginning with the 2004-2005 school year:~~

22 ~~(a) The annual distributions to each school district shall be based~~
23 ~~on the average number of full-time equivalent students in the school~~
24 ~~district from the previous school year as reported to the office of the~~
25 ~~superintendent of public instruction by August 31st of the previous~~
26 ~~school year; and~~

27 ~~(b))).~~

28 (c) For the 2008-2009 school year, an annual amount equal to two
29 hundred sixty-five dollars per full-time equivalent student in all
30 school districts shall be deposited in the student achievement fund.

31 (d) For the 2009-2010 school year, an annual amount equal to two
32 hundred seventy-seven dollars per full-time equivalent student in all
33 school districts shall be deposited in the student achievement fund.

34 (e) For the school year 2010-2011 and each year thereafter, an
35 annual amount equal to two hundred seventy-eight dollars per full-time
36 equivalent student in all school districts shall be deposited in the
37 student achievement fund.

1 credit the general fund with all the earnings credited to the treasury
2 income account except:

3 (a) The following accounts and funds shall receive their
4 proportionate share of earnings based upon each account's and fund's
5 average daily balance for the period: The capitol building
6 construction account, the Cedar River channel construction and
7 operation account, the Central Washington University capital projects
8 account, the charitable, educational, penal and reformatory
9 institutions account, the common school construction fund, the county
10 criminal justice assistance account, the county sales and use tax
11 equalization account, the data processing building construction
12 account, the deferred compensation administrative account, the deferred
13 compensation principal account, the department of retirement systems
14 expense account, the drinking water assistance account, the drinking
15 water assistance administrative account, the drinking water assistance
16 repayment account, the Eastern Washington University capital projects
17 account, the education construction fund, the education legacy trust
18 account, the election account, the emergency reserve fund, The
19 Evergreen State College capital projects account, the federal forest
20 revolving account, the health services account, the public health
21 services account, the health system capacity account, the personal
22 health services account, the state higher education construction
23 account, the higher education construction account, the highway
24 infrastructure account, the industrial insurance premium refund
25 account, the judges' retirement account, the judicial retirement
26 administrative account, the judicial retirement principal account, the
27 local leasehold excise tax account, the local real estate excise tax
28 account, the local sales and use tax account, the medical aid account,
29 the mobile home park relocation fund, the multimodal transportation
30 account, the municipal criminal justice assistance account, the
31 municipal sales and use tax equalization account, the natural resources
32 deposit account, the oyster reserve land account, the perpetual
33 surveillance and maintenance account, the public employees' retirement
34 system plan 1 account, the public employees' retirement system combined
35 plan 2 and plan 3 account, the public facilities construction loan
36 revolving account beginning July 1, 2004, the public health
37 supplemental account, the Puyallup tribal settlement account, the
38 regional transportation investment district account, the resource

1 management cost account, the site closure account, the small city
2 pavement and sidewalk account, the special wildlife account, the state
3 employees' insurance account, the state employees' insurance reserve
4 account, the state investment board expense account, the state
5 investment board commingled trust fund accounts, the supplemental
6 pension account, the Tacoma Narrows toll bridge account, the teachers'
7 retirement system plan 1 account, the teachers' retirement system
8 combined plan 2 and plan 3 account, the tobacco prevention and control
9 account, the tobacco settlement account, the transportation
10 infrastructure account, the tuition recovery trust fund, the University
11 of Washington bond retirement fund, the University of Washington
12 building account, the volunteer fire fighters' and reserve officers'
13 relief and pension principal fund, the volunteer fire fighters' and
14 reserve officers' administrative fund, the Washington fruit express
15 account, the Washington judicial retirement system account, the
16 Washington law enforcement officers' and fire fighters' system plan 1
17 retirement account, the Washington law enforcement officers' and fire
18 fighters' system plan 2 retirement account, the Washington school
19 employees' retirement system combined plan 2 and 3 account, the
20 Washington state health insurance pool account, the Washington state
21 patrol retirement account, the Washington State University building
22 account, the Washington State University bond retirement fund, the
23 water pollution control revolving fund, and the Western Washington
24 University capital projects account. Earnings derived from investing
25 balances of the agricultural permanent fund, the normal school
26 permanent fund, the permanent common school fund, the scientific
27 permanent fund, and the state university permanent fund shall be
28 allocated to their respective beneficiary accounts. All earnings to be
29 distributed under this subsection (4)(a) shall first be reduced by the
30 allocation to the state treasurer's service fund pursuant to RCW
31 43.08.190.

32 (b) The following accounts and funds shall receive eighty percent
33 of their proportionate share of earnings based upon each account's or
34 fund's average daily balance for the period: The aeronautics account,
35 the aircraft search and rescue account, the county arterial
36 preservation account, the department of licensing services account, the
37 essential rail assistance account, the ferry bond retirement fund, the
38 grade crossing protective fund, the high capacity transportation

1 account, the highway bond retirement fund, the highway safety account,
2 the motor vehicle fund, the motorcycle safety education account, the
3 pilotage account, the public transportation systems account, the Puget
4 Sound capital construction account, the Puget Sound ferry operations
5 account, the recreational vehicle account, the rural arterial trust
6 account, the safety and education account, the special category C
7 account, the state patrol highway account, the transportation 2003
8 account (nickel account), the transportation equipment fund, the
9 transportation fund, the transportation improvement account, the
10 transportation improvement board bond retirement account, and the urban
11 arterial trust account.

12 (5) In conformance with Article II, section 37 of the state
13 Constitution, no treasury accounts or funds shall be allocated earnings
14 without the specific affirmative directive of this section.

15 **Sec. 1106.** RCW 43.84.092 and 2005 c . . . (SSB 5775) s 5 are each
16 amended to read as follows:

17 (1) All earnings of investments of surplus balances in the state
18 treasury shall be deposited to the treasury income account, which
19 account is hereby established in the state treasury.

20 (2) The treasury income account shall be utilized to pay or receive
21 funds associated with federal programs as required by the federal cash
22 management improvement act of 1990. The treasury income account is
23 subject in all respects to chapter 43.88 RCW, but no appropriation is
24 required for refunds or allocations of interest earnings required by
25 the cash management improvement act. Refunds of interest to the
26 federal treasury required under the cash management improvement act
27 fall under RCW 43.88.180 and shall not require appropriation. The
28 office of financial management shall determine the amounts due to or
29 from the federal government pursuant to the cash management improvement
30 act. The office of financial management may direct transfers of funds
31 between accounts as deemed necessary to implement the provisions of the
32 cash management improvement act, and this subsection. Refunds or
33 allocations shall occur prior to the distributions of earnings set
34 forth in subsection (4) of this section.

35 (3) Except for the provisions of RCW 43.84.160, the treasury income
36 account may be utilized for the payment of purchased banking services
37 on behalf of treasury funds including, but not limited to, depository,

1 safekeeping, and disbursement functions for the state treasury and
2 affected state agencies. The treasury income account is subject in all
3 respects to chapter 43.88 RCW, but no appropriation is required for
4 payments to financial institutions. Payments shall occur prior to
5 distribution of earnings set forth in subsection (4) of this section.

6 (4) Monthly, the state treasurer shall distribute the earnings
7 credited to the treasury income account. The state treasurer shall
8 credit the general fund with all the earnings credited to the treasury
9 income account except:

10 (a) The following accounts and funds shall receive their
11 proportionate share of earnings based upon each account's and fund's
12 average daily balance for the period: The capitol building
13 construction account, the Cedar River channel construction and
14 operation account, the Central Washington University capital projects
15 account, the charitable, educational, penal and reformatory
16 institutions account, the common school construction fund, the county
17 criminal justice assistance account, the county sales and use tax
18 equalization account, the data processing building construction
19 account, the deferred compensation administrative account, the deferred
20 compensation principal account, the department of retirement systems
21 expense account, the drinking water assistance account, the drinking
22 water assistance administrative account, the drinking water assistance
23 repayment account, the Eastern Washington University capital projects
24 account, the education construction fund, the education legacy trust
25 account, the election account, the emergency reserve fund, The
26 Evergreen State College capital projects account, the federal forest
27 revolving account, the health services account, the public health
28 services account, the health system capacity account, the personal
29 health services account, the state higher education construction
30 account, the higher education construction account, the highway
31 infrastructure account, the industrial insurance premium refund
32 account, the judges' retirement account, the judicial retirement
33 administrative account, the judicial retirement principal account, the
34 local leasehold excise tax account, the local real estate excise tax
35 account, the local sales and use tax account, the medical aid account,
36 the mobile home park relocation fund, the multimodal transportation
37 account, the municipal criminal justice assistance account, the
38 municipal sales and use tax equalization account, the natural resources

1 deposit account, the oyster reserve land account, the perpetual
2 surveillance and maintenance account, the public employees' retirement
3 system plan 1 account, the public employees' retirement system combined
4 plan 2 and plan 3 account, the public facilities construction loan
5 revolving account beginning July 1, 2004, the public health
6 supplemental account, the public works assistance account, the Puyallup
7 tribal settlement account, the regional transportation investment
8 district account, the resource management cost account, the site
9 closure account, the small city pavement and sidewalk account, the
10 special wildlife account, the state employees' insurance account, the
11 state employees' insurance reserve account, the state investment board
12 expense account, the state investment board commingled trust fund
13 accounts, the supplemental pension account, the Tacoma Narrows toll
14 bridge account, the teachers' retirement system plan 1 account, the
15 teachers' retirement system combined plan 2 and plan 3 account, the
16 tobacco prevention and control account, the tobacco settlement account,
17 the transportation infrastructure account, the tuition recovery trust
18 fund, the University of Washington bond retirement fund, the University
19 of Washington building account, the volunteer fire fighters' and
20 reserve officers' relief and pension principal fund, the volunteer fire
21 fighters' and reserve officers' administrative fund, the Washington
22 fruit express account, the Washington judicial retirement system
23 account, the Washington law enforcement officers' and fire fighters'
24 system plan 1 retirement account, the Washington law enforcement
25 officers' and fire fighters' system plan 2 retirement account, the
26 Washington public safety employees' plan 2 retirement account, the
27 Washington school employees' retirement system combined plan 2 and 3
28 account, the Washington state health insurance pool account, the
29 Washington state patrol retirement account, the Washington State
30 University building account, the Washington State University bond
31 retirement fund, the water pollution control revolving fund, and the
32 Western Washington University capital projects account. Earnings
33 derived from investing balances of the agricultural permanent fund, the
34 normal school permanent fund, the permanent common school fund, the
35 scientific permanent fund, and the state university permanent fund
36 shall be allocated to their respective beneficiary accounts. All
37 earnings to be distributed under this subsection (4)(a) shall first be

1 reduced by the allocation to the state treasurer's service fund
2 pursuant to RCW 43.08.190.

3 (b) The following accounts and funds shall receive eighty percent
4 of their proportionate share of earnings based upon each account's or
5 fund's average daily balance for the period: The aeronautics account,
6 the aircraft search and rescue account, the county arterial
7 preservation account, the department of licensing services account, the
8 essential rail assistance account, the ferry bond retirement fund, the
9 grade crossing protective fund, the high capacity transportation
10 account, the highway bond retirement fund, the highway safety account,
11 the motor vehicle fund, the motorcycle safety education account, the
12 pilotage account, the public transportation systems account, the Puget
13 Sound capital construction account, the Puget Sound ferry operations
14 account, the recreational vehicle account, the rural arterial trust
15 account, the safety and education account, the special category C
16 account, the state patrol highway account, the transportation 2003
17 account (nickel account), the transportation equipment fund, the
18 transportation fund, the transportation improvement account, the
19 transportation improvement board bond retirement account, and the urban
20 arterial trust account.

21 (5) In conformance with Article II, section 37 of the state
22 Constitution, no treasury accounts or funds shall be allocated earnings
23 without the specific affirmative directive of this section.

24 **Sec. 1107.** RCW 69.50.520 and 2004 c 276 s 912 are each amended to
25 read as follows:

26 The violence reduction and drug enforcement account is created in
27 the state treasury. All designated receipts from RCW 9.41.110(8),
28 66.24.210(4), 66.24.290(2), 69.50.505(9)(a), 82.08.150(5),
29 82.24.020(2), section 1102(2)(c) of this act, 82.64.020, and section
30 420, chapter 271, Laws of 1989 shall be deposited into the account.
31 Expenditures from the account may be used only for funding services and
32 programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994
33 sp. sess., including state incarceration costs. Funds from the account
34 may also be appropriated to reimburse local governments for costs
35 associated with implementing criminal justice legislation including
36 chapter 338, Laws of 1997. During the 2003-2005 biennium, funds from
37 the account may also be used for costs associated with providing grants

1 to local governments in accordance with chapter 338, Laws of 1997,
2 funding drug offender treatment services in accordance with RCW
3 70.96A.350, maintenance and operating costs of the Washington
4 association of sheriffs and police chiefs jail reporting system,
5 maintenance and operating costs of the juvenile rehabilitation
6 administration's client activity tracking system, civil indigent legal
7 representation, multijurisdictional narcotics task forces, and grants
8 to community networks under chapter 70.190 RCW by the family policy
9 council.

10 **Sec. 1108.** RCW 70.146.030 and 2004 c 277 s 909 are each amended to
11 read as follows:

12 (1) The water quality account is hereby created in the state
13 treasury. Moneys in the account may be used only in a manner
14 consistent with this chapter. Moneys deposited in the account shall be
15 administered by the department of ecology and shall be subject to
16 legislative appropriation. Moneys placed in the account shall include
17 tax receipts as provided in RCW 82.24.027, section 1102(2)(d) of this
18 act, 82.26.025, and 82.32.390, principal and interest from the
19 repayment of any loans granted pursuant to this chapter, and any other
20 moneys appropriated to the account by the legislature.

21 (2) The department may use or permit the use of any moneys in the
22 account to make grants or loans to public bodies, including grants to
23 public bodies as cost-sharing moneys in any case where federal, local,
24 or other funds are made available on a cost-sharing basis, for water
25 pollution control facilities and activities, or for purposes of
26 assisting a public body to obtain an ownership interest in water
27 pollution control facilities and/or to defray a part of the payments
28 made by a public body to a service provider under a service agreement
29 entered into pursuant to RCW 70.150.060, within the purposes of this
30 chapter and for related administrative expenses. For the period July
31 1, 2003, to June 30, 2005, moneys in the account may be used to process
32 applications received by the department that seek to make changes to or
33 transfer existing water rights, for water conveyance projects, and for
34 grants and technical assistance to public bodies for watershed planning
35 under chapter 90.82 RCW. No more than three percent of the moneys
36 deposited in the account may be used by the department to pay for the

1 administration of the grant and loan program authorized by this
2 chapter.

3 (3) Beginning with the biennium ending June 30, 1997, the
4 department shall present a biennial progress report on the use of
5 moneys from the account to the chairs of the senate committee on ways
6 and means and the house of representatives committee on appropriations.
7 The first report is due June 30, 1996, and the report for each
8 succeeding biennium is due December 31st of the odd-numbered year. The
9 report shall consist of a list of each recipient, project description,
10 and amount of the grant, loan, or both.

11 **PART XII**
12 **ESTATES**

13 **Sec. 1201.** RCW 83.100.--- and 2005 c ... (ESB 6096) s 4 are each
14 amended to read as follows:

15 (1) For the purposes of determining the Washington taxable estate,
16 a deduction is allowed from the federal taxable estate for (~~the value~~
17 ~~of qualified real property and the value of any tangible personal~~
18 ~~property used primarily for farming purposes conducted on the qualified~~
19 ~~real property, reduced by any amounts allowable as a deduction in~~
20 ~~respect of the qualified real property and tangible personal property~~
21 ~~under section 2053(a)(4) of the Internal Revenue Code, if the decedent~~
22 ~~was at the time of his or her death a citizen or resident of the United~~
23 ~~States. For the purposes of determining the deduction amount, the~~
24 ~~value of property is its value as used to determine the value of the~~
25 ~~gross estate)):~~

26 (a) The value of qualified real property reduced by any amounts
27 allowable as a deduction in respect of the qualified real property and
28 tangible personal property under section 2053(a)(4) of the internal
29 revenue code, if the decedent was at the time of his or her death a
30 citizen or resident of the United States.

31 (b) The value of any tangible personal property used by the
32 decedent or a member of the decedent's family for a qualified use on
33 the date of the decedent's death, reduced by any amounts allowable as
34 a deduction in respect of the tangible personal property under section
35 2053(a)(4) of the internal revenue code, if all of the requirements of

1 subsection (10)(f)(i)(A) of this section are met and the decedent was
2 at the time of his or her death a citizen or resident of the United
3 States.

4 (c) The value of real property that is not deductible under (a) of
5 this subsection solely by reason of subsection (10)(f)(i)(B) of this
6 section, reduced by any amounts allowable as a deduction in respect of
7 the qualified real property and tangible personal property under
8 section 2053(a)(4) of the internal revenue code, if the requirements of
9 subsection (10)(f)(i)(C) of this section are met with respect to the
10 property and the decedent was at the time of his or her death a citizen
11 or resident of the United States.

12 (2) Property shall be considered to have been acquired from or to
13 have passed from the decedent if:

14 (a) The property is so considered under section 1014(b) of the
15 Internal Revenue Code;

16 (b) The property is acquired by any person from the estate; or

17 (c) The property is acquired by any person from a trust, to the
18 extent the property is includible in the gross estate of the decedent.

19 (3) If the decedent and the decedent's surviving spouse at any time
20 held qualified real property as community property, the interest of the
21 surviving spouse in the property shall be taken into account under this
22 section to the extent necessary to provide a result under this section
23 with respect to the property which is consistent with the result which
24 would have obtained under this section if the property had not been
25 community property.

26 (4) In the case of any qualified woodland, the value of trees
27 growing on the woodland may be deducted if otherwise qualified under
28 this section.

29 (5) If property is qualified real property with respect to a
30 decedent, hereinafter in this subsection referred to as the "first
31 decedent," and the property was acquired from or passed from the first
32 decedent to the surviving spouse of the first decedent, active
33 management of the farm by the surviving spouse shall be treated as
34 material participation by the surviving spouse in the operation of the
35 farm.

36 (6) Property owned indirectly by the decedent may qualify for a
37 deduction under this section if owned through an interest in a
38 corporation, partnership, or trust as the terms corporation,

1 partnership, or trust are used in section 2032A(g) of the Internal
2 Revenue Code. In order to qualify for a deduction under this
3 subsection, the interest, in addition to meeting the other tests for
4 qualification under this section, must qualify under section 6166(b)(1)
5 of the Internal Revenue Code as an interest in a closely held business
6 on the date of the decedent's death and for sufficient other time,
7 combined with periods of direct ownership, to equal at least five years
8 of the eight-year period preceding the death.

9 (7)(a) If, on the date of the decedent's death, the requirements of
10 subsection (10)(f)(i)(C)(II) of this section with respect to the
11 decedent for any property are not met, and the decedent (i) was
12 receiving old age benefits under Title II of the social security act
13 for a continuous period ending on such date, or (ii) was disabled for
14 a continuous period ending on this date, then subsection
15 (10)(f)(i)(C)(II) of this section shall be applied with respect to the
16 property by substituting "the date on which the longer of such
17 continuous periods began" for "the date of the decedent's death" in
18 subsection (10)(f)(i)(C) of this section.

19 (b) For the purposes of (a) of this subsection, an individual shall
20 be disabled if the individual has a mental or physical impairment which
21 renders that individual unable to materially participate in the
22 operation of the farm.

23 (8) Property may be deducted under this section whether or not
24 special valuation is elected under section 2032A of the Internal
25 Revenue Code on the federal return. For the purposes of determining
26 the deduction under this section, the value of property is its value as
27 used to determine the value of the gross estate.

28 (9)(a) In the case of any qualified replacement property, any
29 period during which there was ownership, qualified use, or material
30 participation with respect to the replaced property by the decedent or
31 any member of the decedent's family shall be treated as a period during
32 which there was ownership, use, or material participation, as the case
33 may be, with respect to the qualified replacement property.

34 (b) Subsection (9)(a) of this section shall not apply to the extent
35 that the fair market value of the qualified replacement property, as of
36 the date of its acquisition, exceeds the fair market value of the
37 replaced property, as of the date of its disposition.

1 (c) For the purposes of this subsection (9), the following
2 definitions apply:

3 (i) "Qualified replacement property" means any real property:

4 (A) Which is acquired in an exchange which qualifies under section
5 1031 of the Internal Revenue Code; or

6 (B) The acquisition of which results in the nonrecognition of gain
7 under section 1033 of the Internal Revenue Code.

8 The term "qualified replacement property" only includes property
9 which is used for the same qualified use as the replaced property was
10 being used before the exchange.

11 (ii) "Replaced property" means the property was:

12 (A) Transferred in the exchange which qualifies under section 1031
13 of the Internal Revenue Code; or

14 (B) Compulsorily or involuntarily converted within the meaning of
15 section 1033 of the Internal Revenue Code.

16 (10) For the purposes of this section, the following definitions
17 apply:

18 (a) "Active management" means the making of the management
19 decisions of a farm, other than the daily operating decisions.

20 (b) "Farm" includes stock, dairy, poultry, fruit, furbearing
21 animal, and truck farms; plantations; ranches; nurseries; ranges;
22 greenhouses or other similar structures used primarily for the raising
23 of agricultural or horticultural commodities; and orchards and
24 woodlands.

25 (c) "Farming purposes" means:

26 (i) Cultivating the soil or raising or harvesting any agricultural
27 or horticultural commodity, including the raising, shearing, feeding,
28 caring for, training, and management of animals on a farm;

29 (ii) Handling, drying, packing, grading, or storing on a farm any
30 agricultural or horticultural commodity in its unmanufactured state,
31 but only if the owner, tenant, or operator of the farm regularly
32 produces more than one-half of the commodity so treated; and

33 (iii)(A) The planting, cultivating, caring for, or cutting of
34 trees; or

35 (B) The preparation, other than milling, of trees for market.

36 (d) "Member of the family" means, with respect to any individual,
37 only:

38 (i) An ancestor of the individual;

- 1 (ii) The spouse of the individual;
- 2 (iii) A lineal descendant of the individual, of the individual's
3 spouse, or of a parent of the individual; or
- 4 (iv) The spouse of any lineal descendant described in (d)(iii) of
5 this subsection.

6 For the purposes of this subsection (10)(d), a legally adopted
7 child of an individual shall be treated as the child of such individual
8 by blood.

9 (e) "Qualified heir" means, with respect to any property, a member
10 of the decedent's family who acquired property, or to whom property
11 passed, from the decedent.

12 (f)(i) "Qualified real property" means real property which was
13 acquired from or passed from the decedent to a qualified heir of the
14 decedent and which, on the date of the decedent's death, was being used
15 for a qualified use by the decedent or a member of the decedent's
16 family, but only if:

17 (A) Fifty percent or more of the adjusted value of the gross estate
18 consists of the adjusted value of real or personal property which:

19 (I) On the date of the decedent's death, was being used for a
20 qualified use by the decedent or a member of the decedent's family; and

21 (II) Was acquired from or passed from the decedent to a qualified
22 heir of the decedent;

23 (B) Twenty-five percent or more of the adjusted value of the gross
24 estate consists of the adjusted value of real property which meets the
25 requirements of (f)(i)(A)(II) and (f)(i)(C) of this subsection; and

26 (C) During the eight-year period ending on the date of the
27 decedent's death there have been periods aggregating five years or more
28 during which:

29 (I) The real property was owned by the decedent or a member of the
30 decedent's family and used for a qualified use by the decedent or a
31 member of the decedent's family; and

32 (II) There was material participation by the decedent or a member
33 of the decedent's family in the operation of the farm. For the
34 purposes of this subsection (f)(i)(C)(II), material participation shall
35 be determined in a manner similar to the manner used for purposes of
36 section 1402(a)(1) of the Internal Revenue Code.

37 (ii) For the purposes of this subsection, the term "adjusted value"
38 means:

1 (A) In the case of the gross estate, the value of the gross estate,
2 determined without regard to any special valuation under section 2032A
3 of the Internal Revenue Code, reduced by any amounts allowable as a
4 deduction under section 2053(a)(4) of the Internal Revenue Code; or

5 (B) In the case of any real or personal property, the value of the
6 property for purposes of chapter 11 of the Internal Revenue Code,
7 determined without regard to any special valuation under section 2032A
8 of the Internal Revenue Code, reduced by any amounts allowable as a
9 deduction in respect of such property under section 2053(a)(4) of the
10 Internal Revenue Code.

11 (g) "Qualified use" means the property is used as a farm for
12 farming purposes. In the case of real property which meets the
13 requirements of (f)(i)(C) of this subsection, residential buildings and
14 related improvements on the real property occupied on a regular basis
15 by the owner or lessee of the real property or by persons employed by
16 the owner or lessee for the purpose of operating or maintaining the
17 real property, and roads, buildings, and other structures and
18 improvements functionally related to the qualified use shall be treated
19 as real property devoted to the qualified use. For tangible personal
20 property eligible for a deduction under subsection (1)(b) of this
21 section, "qualified use" means the property is used primarily for
22 farming purposes on a farm.

23 (h) "Qualified woodland" means any real property which:

24 (i) Is used in timber operations; and

25 (ii) Is an identifiable area of land such as an acre or other area
26 for which records are normally maintained in conducting timber
27 operations.

28 (i) "Timber operations" means:

29 (i) The planting, cultivating, caring for, or cutting of trees; or

30 (ii) The preparation, other than milling, of trees for market.

31 PART XIII

32 MISCELLANEOUS

33 NEW SECTION. **Sec. 1301.** Part headings used in this act are not
34 any part of the law.

1 NEW SECTION. **Sec. 1312.** Section 1001 of this act applies
2 retroactively to annual surveys required under RCW 82.04.4452 that are
3 due after December 31, 2004.

4 NEW SECTION. **Sec. 1313.** Section 1107 of this act takes effect
5 July 1, 2006.

6 NEW SECTION. **Sec. 1314.** Section 1106 of this act expires July 1,
7 2006.

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