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**SENATE BILL 6237**

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**State of Washington                      59th Legislature                      2006 Regular Session**

**By Senators Schoesler, Prentice and Hewitt**

Read first time 01/09/2006. Referred to Committee on Ways & Means.

1            AN ACT Relating to simplifying tax application and administration;  
2 amending RCW 82.04.190, 82.04.330, 82.04.4266, 82.08.02745, 82.08.0311,  
3 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.16.050, 88.40.011,  
4 88.46.010, 90.56.010, 84.36.635, 82.04.4334, 82.08.955, 82.08.02567,  
5 82.04.294, 82.04.180, 82.32.140, 82.04.2908, 82.04.4264, 82.04.530,  
6 82.14B.020, 82.32.520, 82.32.555, 34.05.030, 82.14.055, 82.14.030,  
7 82.14.045, 82.14.048, 82.14.0485, 82.14.049, 82.14.0494, 82.14.010,  
8 82.14.310, 82.14.320, 82.14.330, 82.14.340, 82.14.350, 82.14.360,  
9 82.14.370, 82.14.390, 82.14.400, 82.14.420, 82.14.430, 82.14.440,  
10 82.14.450, 82.14.460, 82.44.160, 43.62.010, 70.05.125, 53.08.090,  
11 43.160.220, 82.08.0266, 82.08.02665, 82.08.0283, 82.08.945, 82.12.0284,  
12 82.08.02569, 82.08.02917, 82.08.832, 82.08.880, 82.08.890, 82.08.900,  
13 82.08.910, 82.08.920, 82.24.520, 82.24.530, 43.06.455, 82.04.140,  
14 82.04.280, 82.04.280, 82.04.418, 82.04.4281, 82.04.4286, 82.04.440,  
15 82.04.440, 82.04.4461, 82.04.4462, 82.04.4328, 82.04.460, 82.19.010,  
16 82.19.050, 82.32.033, 82.32.105, 82.32.550, 82.12.045, 84.33.140,  
17 84.33.140, 84.34.108, 84.36.815, 84.36.830, 84.39.020, 84.52.010,  
18 84.52.020, 84.52.054, 84.52.070, 82.62.020, 82.32.590, 82.32.600,  
19 82.04.4452, 82.32.560, 82.32.570, 82.32.610, 82.32.620, 82.32.545, and  
20 82.46.010; amending 2004 c 153 s 502 (uncodified); reenacting and  
21 amending RCW 82.04.050, 82.04.213, 82.04.260, 82.29A.135, 82.14B.030,

1 43.84.092, 82.04.250, 82.29A.130, and 82.32.330; adding a new section  
2 to chapter 82.14 RCW; adding a new section to chapter 82.12 RCW; adding  
3 a new section to chapter 82.32 RCW; adding a new section to chapter  
4 82.04 RCW; adding a new chapter to Title 82 RCW; creating new sections;  
5 repealing RCW 82.04.035, 82.04.2403, 82.04.331, 82.04.332, 82.04.333,  
6 82.04.335, 82.04.337, 82.04.338, 82.04.410, 82.04.4287, 84.36.640,  
7 82.04.4335, 82.08.960, 82.14.032, 82.14.046, 82.14.070, 82.14.200,  
8 82.14.210, 82.14.220, 82.14.380, 35.02.135, 82.44.155, 82.14.034,  
9 82.14.212, 82.12.02525, 82.12.0253, 82.12.02567, 82.12.02568,  
10 82.12.02569, 82.12.0257, 82.12.0258, 82.12.0259, 82.12.0261,  
11 82.12.0262, 82.12.0267, 82.12.0268, 82.12.0269, 82.12.0271, 82.12.0273,  
12 82.12.0274, 82.12.02745, 82.12.02747, 82.12.02748, 82.12.02749,  
13 82.12.0275, 82.12.0276, 82.12.0277, 82.12.0279, 82.12.0283,  
14 82.12.02915, 82.12.02917, 82.12.0293, 82.12.0294, 82.12.0296,  
15 82.12.0297, 82.12.0298, 82.12.031, 82.12.0311, 82.12.0316, 82.12.032,  
16 82.12.033, 82.12.034, 82.12.0345, 82.12.0347, 82.12.803, 82.12.804,  
17 82.12.806, 82.12.808, 82.12.809, 82.12.813, 82.12.832, 82.12.841,  
18 82.12.880, 82.12.890, 82.12.900, 82.12.910, 82.12.920, 82.12.925,  
19 82.12.935, 82.12.940, 82.12.945, 82.12.950, 82.12.955, 82.12.960,  
20 82.12.975, 82.12.985, 82.04.055, 82.04.150, 82.04.4261, 82.04.4262,  
21 82.04.4263, 82.29A.150, 84.55.012, 84.55.0121, 82.60.010, 82.60.020,  
22 82.60.030, 82.60.040, 82.60.049, 82.60.050, 82.60.060, 82.60.065,  
23 82.60.070, 82.60.080, 82.60.090, 82.60.100, 82.60.110, 82.60.900,  
24 82.60.901, 82.63.005, 82.63.010, 82.63.020, 82.63.030, 82.63.045,  
25 82.63.060, 82.63.070, 82.63.900, 82.74.010, 82.74.020, 82.74.030,  
26 82.74.040, 82.74.050, 82.74.060, and 82.74.070; providing effective  
27 dates; providing a contingent effective date; providing expiration  
28 dates; providing a contingent expiration date; and declaring an  
29 emergency.

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

31 **PART I**  
32 **PROVISIONS RELATING TO AGRICULTURE**

33 **Sec. 101.** RCW 82.04.050 and 2005 c 515 s 2 and 2005 c 514 s 101  
34 are each reenacted and amended to read as follows:

35 (1) "Sale at retail" or "retail sale" means every sale of tangible

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

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

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

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

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

27 (e) Purchases for the purpose of providing the property to  
28 consumers as part of competitive telephone service, as defined in RCW  
29 82.04.065. The term shall include every sale of tangible personal  
30 property which is used or consumed or to be used or consumed in the  
31 performance of any activity classified as a "sale at retail" or "retail  
32 sale" even though such property is resold or utilized as provided in  
33 (a), (b), (c), (d), or (e) of this subsection following such use. The  
34 term also means every sale of tangible personal property to persons  
35 engaged in any business which is taxable under RCW 82.04.280 (2) and  
36 (7), 82.04.290, and 82.04.2908; or

37 (f) Purchases for the purpose of satisfying the person's  
38 obligations under an extended warranty as defined in subsection (7) of

1 this section, if such tangible personal property replaces or becomes an  
2 ingredient or component of property covered by the extended warranty  
3 without intervening use by such person.

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

7 (a) The installing, repairing, cleaning, altering, imprinting, or  
8 improving of tangible personal property of or for consumers, including  
9 charges made for the mere use of facilities in respect thereto, but  
10 excluding charges made for the use of self-service laundry facilities,  
11 and also excluding sales of laundry service to nonprofit health care  
12 facilities, and excluding services rendered in respect to live animals,  
13 birds and insects;

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

22 (c) The (~~charge for labor and services rendered in respect to~~)  
23 constructing, repairing, or improving any structure upon, above, or  
24 under any real property owned by an owner who conveys the property by  
25 title, possession, or any other means to the person performing such  
26 construction, repair, or improvement for the purpose of performing such  
27 construction, repair, or improvement and the property is then  
28 reconveyed by title, possession, or any other means to the original  
29 owner;

30 (d) The (~~sale of or charge made for labor and services rendered in~~  
31 ~~respect to the~~) cleaning, fumigating, razing or moving of existing  
32 buildings or structures, but shall not include the charge made for  
33 janitorial services; and for purposes of this section the term  
34 "janitorial services" shall mean those cleaning and caretaking services  
35 ordinarily performed by commercial janitor service businesses  
36 including, but not limited to, wall and window washing, floor cleaning  
37 and waxing, and the cleaning in place of rugs, drapes and upholstery.

1 The term "janitorial services" does not include painting, papering,  
2 repairing, furnace or septic tank cleaning, snow removal or  
3 sandblasting;

4 ~~(e) ((The sale of or charge made for labor and services rendered in~~  
5 ~~respect to))~~ Automobile towing and similar automotive transportation  
6 services, but not in respect to those required to report and pay taxes  
7 under chapter 82.16 RCW;

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

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

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

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

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

38 (c) Credit bureau services;

1 (d) Automobile parking and storage garage services;

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

7 (f) Service charges associated with tickets to professional  
8 sporting events; and

9 (g) The following personal services: Physical fitness services,  
10 tanning salon services, tattoo parlor services, steam bath services,  
11 turkish bath services, escort services, and dating services.

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

13 (i) The renting or leasing of tangible personal property to  
14 consumers; and

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

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

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

26 (6) The term shall also include the sale of prewritten computer  
27 software other than a sale to a person who presents a resale  
28 certificate under RCW 82.04.470, regardless of the method of delivery  
29 to the end user, but shall not include custom software or the  
30 customization of prewritten computer software.

31 (7) The term shall also include the sale of or charge made for an  
32 extended warranty to a consumer. For purposes of this subsection,  
33 "extended warranty" means an agreement for a specified duration to  
34 perform the replacement or repair of tangible personal property at no  
35 additional charge or a reduced charge for tangible personal property,  
36 labor, or both, or to provide indemnification for the replacement or  
37 repair of tangible personal property, based on the occurrence of  
38 specified events. The term "extended warranty" does not include an

1 agreement, otherwise meeting the definition of extended warranty in  
2 this subsection, if no separate charge is made for the agreement and  
3 the value of the agreement is included in the sales price of the  
4 tangible personal property covered by the agreement. For purposes of  
5 this subsection, "sales price" has the same meaning as in RCW  
6 82.08.010.

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

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

30 (10) The term shall not include the sale of or charge made for  
31 labor and services rendered in respect to the constructing, repairing,  
32 decorating, or improving of new or existing buildings or other  
33 structures under, upon, or above real property of or for the United  
34 States, any instrumentality thereof, or a county or city housing  
35 authority created pursuant to chapter 35.82 RCW, including the  
36 installing, or attaching of any article of tangible personal property  
37 therein or thereto, whether or not such personal property becomes a  
38 part of the realty by virtue of installation. Nor shall the term

1 include the sale of services or charges made for the clearing of land  
2 and the moving of earth of or for the United States, any  
3 instrumentality thereof, or a county or city housing authority. Nor  
4 shall the term include the sale of services or charges made for  
5 cleaning up for the United States, or its instrumentalities,  
6 radioactive waste and other byproducts of weapons production and  
7 nuclear research and development.

8 (11) The term shall not include the sale of or charge made for  
9 labor, services, or tangible personal property pursuant to agreements  
10 providing maintenance services for bus, rail, or rail fixed guideway  
11 equipment when a regional transit authority is the recipient of the  
12 labor, services, or tangible personal property, and a transit agency,  
13 as defined in RCW 81.104.015, performs the labor or services.

14 **Sec. 102.** RCW 82.04.190 and 2005 c 514 s 103 are each amended to  
15 read as follows:

16 (1) "Consumer" means the following:

17 ~~((1))~~ (a) Any person who purchases, acquires, owns, holds, or  
18 uses any article of tangible personal property irrespective of the  
19 nature of the person's business and including, among others, without  
20 limiting the scope hereof, persons who install, repair, clean, alter,  
21 improve, construct, or decorate real or personal property of or for  
22 consumers other than for the purpose ~~((a))~~ (i) of resale as tangible  
23 personal property in the regular course of business or ~~((b))~~ (ii) of  
24 incorporating such property as an ingredient or component of real or  
25 personal property when installing, repairing, cleaning, altering,  
26 imprinting, improving, constructing, or decorating such real or  
27 personal property of or for consumers or ~~((c))~~ (iii) of consuming  
28 such property in producing for sale a new article of tangible personal  
29 property or a new substance, of which such property becomes an  
30 ingredient or component or as a chemical used in processing, when the  
31 primary purpose of such chemical is to create a chemical reaction  
32 directly through contact with an ingredient of a new article being  
33 produced for sale or ~~((d))~~ (iv) of consuming the property purchased  
34 in producing ferrosilicon which is subsequently used in producing  
35 magnesium for sale, if the primary purpose of such property is to  
36 create a chemical reaction directly through contact with an ingredient  
37 of ferrosilicon or ~~((e))~~ (v) of satisfying the person's obligations



1 under an extended warranty as defined in RCW 82.04.050(7), if such  
2 tangible personal property replaces or becomes an ingredient or  
3 component of property covered by the extended warranty without  
4 intervening use by such person;

5 ~~((2))~~ (b)(i) Any person engaged in any business activity  
6 taxable under RCW 82.04.290 or 82.04.2908; ~~((b))~~ (ii) any person who  
7 purchases, acquires, or uses any telephone service as defined in RCW  
8 82.04.065, other than for resale in the regular course of business;  
9 ~~((e))~~ (iii) any person who purchases, acquires, or uses any service  
10 defined in RCW 82.04.050(2)(a), other than for resale in the regular  
11 course of business or for the purpose of satisfying the person's  
12 obligations under an extended warranty as defined in RCW 82.04.050(7);  
13 ~~((d))~~ (iv) any person who purchases, acquires, or uses any amusement  
14 and recreation service defined in RCW 82.04.050(3)(a), other than for  
15 resale in the regular course of business; ~~((e))~~ (v) any person who is  
16 an end user of software; and ~~((f))~~ (vi) any person who purchases or  
17 acquires an extended warranty as defined in RCW 82.04.050(7) other than  
18 for resale in the regular course of business;

19 ~~((3))~~ (c) Any person engaged in the business of contracting for  
20 the building, repairing or improving of any street, place, road,  
21 highway, easement, right of way, mass public transportation terminal or  
22 parking facility, bridge, tunnel, or trestle which is owned by a  
23 municipal corporation or political subdivision of the state of  
24 Washington or by the United States and which is used or to be used  
25 primarily for foot or vehicular traffic including mass transportation  
26 vehicles of any kind as defined in RCW 82.04.280, in respect to  
27 tangible personal property when such person incorporates such property  
28 as an ingredient or component of such publicly owned street, place,  
29 road, highway, easement, right of way, mass public transportation  
30 terminal or parking facility, bridge, tunnel, or trestle by installing,  
31 placing or spreading the property in or upon the right of way of such  
32 street, place, road, highway, easement, bridge, tunnel, or trestle or  
33 in or upon the site of such mass public transportation terminal or  
34 parking facility;

35 ~~((4))~~ (d) Any person who is an owner, lessee or has the right of  
36 possession to or an easement in real property which is being  
37 constructed, repaired, decorated, improved, or otherwise altered by a  
38 person engaged in business, excluding only ~~((a))~~ (i) municipal

1 corporations or political subdivisions of the state in respect to labor  
2 and services rendered to their real property which is used or held for  
3 public road purposes, and ~~((+b+))~~ (ii) the United States,  
4 instrumentalities thereof, and county and city housing authorities  
5 created pursuant to chapter 35.82 RCW in respect to labor and services  
6 rendered to their real property. Nothing contained in this or any  
7 other subsection of this definition shall be construed to modify any  
8 other definition of "consumer";

9 ~~((+5+))~~ (e) Any person who is an owner, lessee, or has the right of  
10 possession to personal property which is being constructed, repaired,  
11 improved, cleaned, imprinted, or otherwise altered by a person engaged  
12 in business;

13 ~~((+6+))~~ (f) Any person engaged in the business of constructing,  
14 repairing, decorating, or improving new or existing buildings or other  
15 structures under, upon, or above real property of or for the United  
16 States, any instrumentality thereof, or a county or city housing  
17 authority created pursuant to chapter 35.82 RCW, including the  
18 installing or attaching of any article of tangible personal property  
19 therein or thereto, whether or not such personal property becomes a  
20 part of the realty by virtue of installation; also, any person engaged  
21 in the business of clearing land and moving earth of or for the United  
22 States, any instrumentality thereof, or a county or city housing  
23 authority created pursuant to chapter 35.82 RCW. Any such person shall  
24 be a consumer within the meaning of this subsection in respect to  
25 tangible personal property incorporated into, installed in, or attached  
26 to such building or other structure by such person, except that  
27 consumer does not include any person engaged in the business of  
28 constructing, repairing, decorating, or improving new or existing  
29 buildings or other structures under, upon, or above real property of or  
30 for the United States, or any instrumentality thereof, if the  
31 investment project would qualify for sales and use tax deferral under  
32 chapter 82.63 RCW if undertaken by a private entity;

33 ~~((+7+))~~ (g) Any person who is a lessor of machinery and equipment,  
34 the rental of which is exempt from the tax imposed by RCW 82.08.020  
35 under RCW 82.08.02565, with respect to the sale of or charge made for  
36 tangible personal property consumed in respect to repairing the  
37 machinery and equipment, if the tangible personal property has a useful

1 life of less than one year. Nothing contained in this or any other  
2 subsection of this section shall be construed to modify any other  
3 definition of "consumer";

4 ~~((+8))~~ (h) Any person engaged in the business of cleaning up for  
5 the United States, or its instrumentalities, radioactive waste and  
6 other byproducts of weapons production and nuclear research and  
7 development; and

8 ~~((+9))~~ (i) Any person who is an owner, lessee, or has the right of  
9 possession of tangible personal property that, under the terms of an  
10 extended warranty as defined in RCW 82.04.050(7), has been repaired or  
11 is replacement property, but only with respect to the sale of or charge  
12 made for the repairing of the tangible personal property or the  
13 replacement property.

14 (2) The term "consumer" does not include any person described in  
15 RCW 82.04.050(9) who purchases, acquires, owns, holds, or uses chemical  
16 sprays or washes, feed, seed, seedlings, fertilizer, agents for  
17 enhanced pollination including insects such as bees, and spray  
18 materials, for the purposes described in RCW 82.04.050(9).

19 **Sec. 103.** RCW 82.04.213 and 2001 c 118 s 2 and 2001 c 97 s 3 are  
20 each reenacted and amended to read as follows:

21 (1) "Agricultural product" means any product of plant cultivation  
22 or animal husbandry including, but not limited to: A product of  
23 horticulture, grain cultivation, vermiculture, viticulture, or  
24 aquaculture as defined in RCW 15.85.020; plantation Christmas trees;  
25 short-rotation hardwoods as defined in RCW 84.33.035; turf; or any  
26 animal including but not limited to an animal that is a private sector  
27 cultured aquatic product as defined in RCW 15.85.020, or a bird, or  
28 insect, or the substances obtained from such an animal. "Agricultural  
29 product" does not include animals defined as pet animals under RCW  
30 16.70.020.

31 (2) "Farmer" means any person engaged in the business of growing,  
32 raising, or producing, upon the person's own lands or upon the lands in  
33 which the person has a present right of possession, any agricultural  
34 product to be sold. "Farmer" does not include a person growing,  
35 raising, or producing such products for the person's own consumption;  
36 a person selling any animal or substance obtained therefrom in

1 connection with the person's business of operating a stockyard or a  
2 slaughter or packing house; or a person in respect to the business of  
3 taking, cultivating, or raising timber.

4 (3) "Plantation Christmas trees" means Christmas trees which are  
5 exempt from the timber excise tax under RCW 84.33.170.

6 **Sec. 104.** RCW 82.04.330 and 2001 c 118 s 3 are each amended to  
7 read as follows:

8 (1) This chapter shall not apply to:

9 (a) Any farmer that sells any agricultural product at wholesale or  
10 to any farmer who grows, raises, or produces agricultural products  
11 owned by others, such as custom feed operations. This exemption shall  
12 not apply to any person selling such products at retail or to any  
13 person selling manufactured substances or articles(

14 ~~This chapter shall also not apply to any persons~~);

15 (b) Any person who participates in the federal conservation reserve  
16 program or its successor administered by the United States department  
17 of agriculture with respect to land enrolled in that program;

18 (c) Amounts received by persons engaged in the production and sale  
19 of hatching eggs or poultry for use in the production for sale of  
20 poultry or poultry products;

21 (d) Amounts received from buying wheat, oats, dry peas, dry beans,  
22 lentils, triticale, canola, corn, rye, and barley, but not including  
23 any manufactured products thereof, and selling the same at wholesale;

24 (e) Amounts received by any person as compensation for the  
25 receiving, washing, sorting, and packing of fresh perishable  
26 horticultural products and the material and supplies used therein when  
27 performed for the person exempted in (a) or (b) of this subsection (1),  
28 either as agent or as independent contractor;

29 (f) The gross receipts or value of products proceeding or accruing  
30 from timber harvested by a person who is a small harvester as defined  
31 in RCW 84.33.035 and whose value of products, gross proceeds of sales,  
32 or gross income of the business is less than one hundred thousand  
33 dollars per tax year;

34 (g) Amounts received by hop growers or dealers for hops which are  
35 shipped outside the state of Washington for first use, but only if  
36 those hops have been processed into extract, pellets, or powder in this

1 state. This exemption applies regardless of who owns the hops during  
2 the processing and who arranges for shipment of the processed hops to  
3 a location outside this state.

4 This subsection (1)(g) does not exempt a processor or warehouse  
5 from taxation under this chapter on amounts charged for processing or  
6 warehousing;

7 (h) Amounts received by a person engaging within this state in the  
8 business of: (i) Making wholesale sales to farmers of seed conditioned  
9 for use in planting and not packaged for retail sale; or (ii)  
10 conditioning seed for planting owned by others.

11 For the purposes of this subsection (1)(h), "seed" means seed  
12 potatoes and all other "agricultural seed" as defined in RCW 15.49.011.  
13 "Seed" does not include "flower seeds" or "vegetable seeds" as defined  
14 in RCW 15.49.011, or any other seeds or propagative portions of plants  
15 used to grow ornamental flowers or used to grow any type of bush, moss,  
16 fern, shrub, or tree;

17 (i) Any business of any bona fide agricultural fair, if no part of  
18 the net earnings of such business inures to the benefit of any  
19 stockholder or member of the association conducting the agricultural  
20 fair. However, any amount paid for admission to any exhibit,  
21 grandstand, entertainment, or other feature conducted within the  
22 fairgrounds by others shall be taxable under the provisions of this  
23 chapter, except as otherwise provided by law; and

24 (j) Any nonprofit organization in respect to gross income derived  
25 from business activities for a hop commodity commission or hop  
26 commodity board created by state statute or created under chapter 15.65  
27 or 15.66 RCW if: (i) The activity is approved by a referendum  
28 conducted by the commission or board; (ii) the person is specified in  
29 information distributed by the commission or board for the referendum  
30 as a person who is to conduct the activity; and (iii) the referendum is  
31 conducted in the manner prescribed by the statutes governing the  
32 commission or board for approving assessments or expenditures, or  
33 otherwise authorizing or approving activities of the commission or  
34 board.

35 For the purposes of this subsection (1)(j), "nonprofit  
36 organization" means an organization that is exempt from federal income  
37 tax under 26 U.S.C. Sec. 501(c)(5).

1       (2) The tax imposed by RCW 82.04.240 does not apply to cleaning  
2 fish. For the purposes of this subsection, "cleaning fish" means the  
3 removal of the head, fins, or viscera from fresh fish without further  
4 processing, other than freezing.

5       **Sec. 105.** RCW 82.04.4266 and 2005 c 513 s 1 are each amended to  
6 read as follows:

7       (1) This chapter shall not apply to ((amounts received from)) the:  
8       ((+1)) (a) Canning, preserving, freezing, processing, or  
9 dehydrating fresh fruits and vegetables; or

10       ((+2)) (b) Selling at wholesale fresh fruits and vegetables  
11 canned, preserved, frozen, processed, or dehydrated by the seller and  
12 sold to purchasers who transport in the ordinary course of business the  
13 goods out of this state. ((As proof of sale to a person who transports  
14 in the ordinary course of business goods out of this state, the seller  
15 shall annually provide a statement in a form prescribed by the  
16 department and retain the statement as a business record.)) A person  
17 taking an exemption under this subsection (1)(b) must keep and preserve  
18 records for the period required by RCW 82.32.070 establishing that the  
19 goods were transported by the purchaser in the ordinary course of  
20 business out of this state.

21       (2) This section expires July 1, 2012.

22       **Sec. 106.** RCW 82.08.02745 and 1997 c 438 s 1 are each amended to  
23 read as follows:

24       (1) The tax levied by RCW 82.08.020 shall not apply to charges made  
25 for labor and services rendered by any person in respect to the  
26 constructing, repairing, decorating, or improving of new or existing  
27 buildings or other structures used as agricultural employee housing, or  
28 to sales of tangible personal property that becomes an ingredient or  
29 component of the buildings or other structures during the course of the  
30 constructing, repairing, decorating, or improving the buildings or  
31 other structures(~~, but~~). The exemption is available only if the  
32 buyer provides the seller with an exemption certificate in a form and  
33 manner prescribed by the department (~~by rule~~).

34       (2) The exemption provided in this section for agricultural  
35 employee housing provided to year-round employees of the agricultural

1 employer, only applies if that housing is built to the current building  
2 code for single-family or multifamily dwellings according to the state  
3 building code, chapter 19.27 RCW.

4 (3) Any agricultural employee housing built under this section  
5 shall be used according to this section for at least five consecutive  
6 years from the date the housing is approved for occupancy, or the full  
7 amount of tax otherwise due shall be immediately due and payable  
8 together with interest, but not penalties, from the date the housing is  
9 approved for occupancy until the date of payment. If at any time  
10 agricultural employee housing that is not located on agricultural land  
11 ceases to be used in the manner specified in subsection (2) of this  
12 section, the full amount of tax otherwise due shall be immediately due  
13 and payable with interest, but not penalties, from the date the housing  
14 ceases to be used as agricultural employee housing until the date of  
15 payment.

16 (4) The exemption provided in this section shall not apply to  
17 housing built for the occupancy of an employer, family members of an  
18 employer, or persons owning stock or shares in a farm partnership or  
19 corporation business.

20 (5) For purposes of this section and RCW 82.12.02685:

21 (a) "Agricultural employee" or "employee" has the same meaning as  
22 given in RCW 19.30.010;

23 (b) "Agricultural employer" or "employer" has the same meaning as  
24 given in RCW 19.30.010; and

25 (c) "Agricultural employee housing" means all facilities provided  
26 by an agricultural employer, housing authority, local government, state  
27 or federal agency, nonprofit community or neighborhood-based  
28 organization that is exempt from income tax under section 501(c) of the  
29 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-profit  
30 provider of housing for housing agricultural employees on a year-round  
31 or seasonal basis, including bathing, food handling, hand washing,  
32 laundry, and toilet facilities, single-family and multifamily dwelling  
33 units and dormitories, and includes labor camps under RCW (~~70.54.110~~)  
34 70.114A.110. "Agricultural employee housing" does not include housing  
35 regularly provided on a commercial basis to the general public.  
36 "Agricultural employee housing" does not include housing provided by a  
37 housing authority unless at least eighty percent of the occupants are

1 agricultural employees whose adjusted income is less than fifty percent  
2 of median family income, adjusted for household size, for the county  
3 where the housing is provided.

4 **Sec. 107.** RCW 82.08.0311 and 1988 c 68 s 1 are each amended to  
5 read as follows:

6 The tax levied by RCW 82.08.020 shall not apply to sales of  
7 materials and supplies directly used in the packing of fresh perishable  
8 horticultural products by any person entitled to ((a-deduction)) an  
9 exemption under RCW ((82.04.4287)) 82.04.330(1)(e) either as an agent  
10 or an independent contractor.

11 **Sec. 108.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to  
12 read as follows:

13 (1) Wholesalers or third-party warehouseurs who own or operate  
14 warehouses or grain elevators and retailers who own or operate  
15 distribution centers, and who have paid the tax levied by RCW 82.08.020  
16 on:

17 (a) Material-handling and racking equipment, and labor and services  
18 rendered in respect to installing, repairing, cleaning, altering, or  
19 improving the equipment; or

20 (b) Construction of a warehouse or grain elevator, including  
21 materials, and including service and labor costs,  
22 are eligible for an exemption in the form of a remittance. The amount  
23 of the remittance is computed under subsection (3) of this section and  
24 is based on the state share of sales tax.

25 (2) For purposes of this section and RCW 82.12.820:

26 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

27 (b) "Construction" means the actual construction of a warehouse or  
28 grain elevator that did not exist before the construction began.  
29 "Construction" includes expansion if the expansion adds at least two  
30 hundred thousand square feet of additional space to an existing  
31 warehouse or additional storage capacity of at least one million  
32 bushels to an existing grain elevator. "Construction" does not include  
33 renovation, remodeling, or repair;

34 (c) "Department" means the department of revenue;

35 (d) "Distribution center" means a warehouse that is used



1 exclusively by a retailer solely for the storage and distribution of  
2 finished goods to retail outlets of the retailer. "Distribution  
3 center" does not include a warehouse at which retail sales occur;

4 (e) "Finished goods" means tangible personal property intended for  
5 sale by a retailer or wholesaler. "Finished goods" does not include  
6 agricultural products stored by wholesalers, third-party warehouses, or  
7 retailers if the storage takes place on the land of the person who  
8 produced the agricultural product. "Finished goods" does not include  
9 logs, minerals, petroleum, gas, or other extracted products stored as  
10 raw materials or in bulk;

11 (f) "Grain elevator" means a structure used for storage and  
12 handling of grain in bulk;

13 (g) "Material-handling equipment and racking equipment" means  
14 equipment in a warehouse or grain elevator that is primarily used to  
15 handle, store, organize, convey, package, or repackage finished goods.  
16 The term includes tangible personal property with a useful life of one  
17 year or more that becomes an ingredient or component of the equipment,  
18 including repair and replacement parts. The term does not include  
19 equipment in offices, lunchrooms, restrooms, and other like space,  
20 within a warehouse or grain elevator, or equipment used for  
21 nonwarehousing purposes. "Material-handling equipment" includes but is  
22 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
23 place units, cranes, hoists, mechanical arms, and robots; mechanized  
24 systems, including containers that are an integral part of the system,  
25 whose purpose is to lift or move tangible personal property; and  
26 automated handling, storage, and retrieval systems, including computers  
27 that control them, whose purpose is to lift or move tangible personal  
28 property; and forklifts and other off-the-road vehicles that are used  
29 to lift or move tangible personal property and that cannot be operated  
30 legally on roads and streets. "Racking equipment" includes, but is not  
31 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
32 pallets, and other containers and storage devices that form a necessary  
33 part of the storage system;

34 (h) "Person" has the meaning given in RCW 82.04.030;

35 (i) "Retailer" means a person who makes "sales at retail" as  
36 defined in chapter 82.04 RCW of tangible personal property;

37 (j) "Square footage" means the product of the two horizontal  
38 dimensions of each floor of a specific warehouse. The entire footprint

1 of the warehouse shall be measured in calculating the square footage,  
2 including space that juts out from the building profile such as loading  
3 docks. "Square footage" does not mean the aggregate of the square  
4 footage of more than one warehouse at a location or the aggregate of  
5 the square footage of warehouses at more than one location;

6 (k) "Third-party warehouser" means a person taxable under RCW  
7 82.04.280(4);

8 (l) "Warehouse" means an enclosed building or structure in which  
9 finished goods are stored. A warehouse building or structure may have  
10 more than one storage room and more than one floor. Office space,  
11 lunchrooms, restrooms, and other space within the warehouse and  
12 necessary for the operation of the warehouse are considered part of the  
13 warehouse as are loading docks and other such space attached to the  
14 building and used for handling of finished goods. Landscaping and  
15 parking lots are not considered part of the warehouse. A storage yard  
16 is not a warehouse, nor is a building in which manufacturing takes  
17 place; and

18 (m) "Wholesaler" means a person who makes "sales at wholesale" as  
19 defined in chapter 82.04 RCW of tangible personal property, but  
20 "wholesaler" does not include a person who makes sales exempt under RCW  
21 82.04.330(1) (a) or (b).

22 (3)(a) A person claiming an exemption from state tax in the form of  
23 a remittance under this section must pay the tax imposed by RCW  
24 82.08.020. The buyer may then apply to the department for remittance  
25 of all or part of the tax paid under RCW 82.08.020. For grain  
26 elevators with bushel capacity of one million but less than two  
27 million, the remittance is equal to fifty percent of the amount of tax  
28 paid. For warehouses with square footage of two hundred thousand or  
29 more and for grain elevators with bushel capacity of two million or  
30 more, the remittance is equal to one hundred percent of the amount of  
31 tax paid for qualifying construction, materials, service, and labor,  
32 and fifty percent of the amount of tax paid for qualifying material-  
33 handling equipment and racking equipment, and labor and services  
34 rendered in respect to installing, repairing, cleaning, altering, or  
35 improving the equipment.

36 (b) The department shall determine eligibility under this section  
37 based on information provided by the buyer and through audit and other  
38 administrative records. The buyer shall on a quarterly basis submit an

1 information sheet, in a form and manner as required by the department  
2 by rule, specifying the amount of exempted tax claimed and the  
3 qualifying purchases or acquisitions for which the exemption is  
4 claimed. The buyer shall retain, in adequate detail to enable the  
5 department to determine whether the equipment or construction meets the  
6 criteria under this section: Invoices; proof of tax paid; documents  
7 describing the material-handling equipment and racking equipment;  
8 location and size of warehouses and grain elevators; and construction  
9 invoices and documents.

10 (c) The department shall on a quarterly basis remit exempted  
11 amounts to qualifying persons who submitted applications during the  
12 previous quarter.

13 (4) Warehouses, grain elevators, and material-handling equipment  
14 and racking equipment for which an exemption, credit, or deferral has  
15 been or is being received under chapter 82.60, (~~(82.617)~~) 82.62, or  
16 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
17 remittance under this section. Warehouses and grain elevators upon  
18 which construction was initiated before May 20, 1997, are not eligible  
19 for a remittance under this section.

20 (5) The lessor or owner of a warehouse or grain elevator is not  
21 eligible for a remittance under this section unless the underlying  
22 ownership of the warehouse or grain elevator and the material-handling  
23 equipment and racking equipment vests exclusively in the same person,  
24 or unless the lessor by written contract agrees to pass the economic  
25 benefit of the remittance to the lessee in the form of reduced rent  
26 payments.

27 **Sec. 109.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to  
28 read as follows:

29 (1) Wholesalers or third-party warehouse owners who own or operate  
30 warehouses or grain elevators and retailers who own or operate  
31 distribution centers, and who have paid the tax levied by RCW 82.08.020  
32 on:

33 (a) Material-handling and racking equipment, and labor and services  
34 rendered in respect to installing, repairing, cleaning, altering, or  
35 improving the equipment; or

36 (b) Construction of a warehouse or grain elevator, including  
37 materials, and including service and labor costs,

1 are eligible for an exemption in the form of a remittance. The amount  
2 of the remittance is computed under subsection (3) of this section and  
3 is based on the state share of sales tax.

4 (2) For purposes of this section and RCW 82.12.820:

5 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

6 (b) "Cold storage warehouse" means a storage warehouse used to  
7 store fresh and/or frozen perishable fruits or vegetables, or any  
8 combination thereof, at a desired temperature to maintain the quality  
9 of the product for orderly marketing;

10 (c) "Construction" means the actual construction of a warehouse or  
11 grain elevator that did not exist before the construction began.  
12 "Construction" includes expansion if the expansion adds at least  
13 twenty-five thousand square feet of additional space to an existing  
14 cold storage warehouse, at least two hundred thousand square feet of  
15 additional space to an existing warehouse other than a cold storage  
16 warehouse, or additional storage capacity of at least one million  
17 bushels to an existing grain elevator. "Construction" does not include  
18 renovation, remodeling, or repair;

19 (d) "Department" means the department of revenue;

20 (e) "Distribution center" means a warehouse that is used  
21 exclusively by a retailer solely for the storage and distribution of  
22 finished goods to retail outlets of the retailer. "Distribution  
23 center" does not include a warehouse at which retail sales occur;

24 (f) "Finished goods" means tangible personal property intended for  
25 sale by a retailer or wholesaler. "Finished goods" does not include  
26 agricultural products stored by wholesalers, third-party warehouses, or  
27 retailers if the storage takes place on the land of the person who  
28 produced the agricultural product. "Finished goods" does not include  
29 logs, minerals, petroleum, gas, or other extracted products stored as  
30 raw materials or in bulk;

31 (g) "Grain elevator" means a structure used for storage and  
32 handling of grain in bulk;

33 (h) "Material-handling equipment and racking equipment" means  
34 equipment in a warehouse or grain elevator that is primarily used to  
35 handle, store, organize, convey, package, or repackage finished goods.  
36 The term includes tangible personal property with a useful life of one  
37 year or more that becomes an ingredient or component of the equipment,  
38 including repair and replacement parts. The term does not include

1 equipment in offices, lunchrooms, restrooms, and other like space,  
2 within a warehouse or grain elevator, or equipment used for  
3 nonwarehousing purposes. "Material-handling equipment" includes but is  
4 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
5 place units, cranes, hoists, mechanical arms, and robots; mechanized  
6 systems, including containers that are an integral part of the system,  
7 whose purpose is to lift or move tangible personal property; and  
8 automated handling, storage, and retrieval systems, including computers  
9 that control them, whose purpose is to lift or move tangible personal  
10 property; and forklifts and other off-the-road vehicles that are used  
11 to lift or move tangible personal property and that cannot be operated  
12 legally on roads and streets. "Racking equipment" includes, but is not  
13 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
14 pallets, and other containers and storage devices that form a necessary  
15 part of the storage system;

16 (i) "Person" has the meaning given in RCW 82.04.030;

17 (j) "Retailer" means a person who makes "sales at retail" as  
18 defined in chapter 82.04 RCW of tangible personal property;

19 (k) "Square footage" means the product of the two horizontal  
20 dimensions of each floor of a specific warehouse. The entire footprint  
21 of the warehouse shall be measured in calculating the square footage,  
22 including space that juts out from the building profile such as loading  
23 docks. "Square footage" does not mean the aggregate of the square  
24 footage of more than one warehouse at a location or the aggregate of  
25 the square footage of warehouses at more than one location;

26 (l) "Third-party warehouser" means a person taxable under RCW  
27 82.04.280(4);

28 (m) "Warehouse" means an enclosed building or structure in which  
29 finished goods are stored. A warehouse building or structure may have  
30 more than one storage room and more than one floor. Office space,  
31 lunchrooms, restrooms, and other space within the warehouse and  
32 necessary for the operation of the warehouse are considered part of the  
33 warehouse as are loading docks and other such space attached to the  
34 building and used for handling of finished goods. Landscaping and  
35 parking lots are not considered part of the warehouse. A storage yard  
36 is not a warehouse, nor is a building in which manufacturing takes  
37 place; and

1 (n) "Wholesaler" means a person who makes "sales at wholesale" as  
2 defined in chapter 82.04 RCW of tangible personal property, but  
3 "wholesaler" does not include a person who makes sales exempt under RCW  
4 82.04.330(1) (a) or (b).

5 (3)(a) A person claiming an exemption from state tax in the form of  
6 a remittance under this section must pay the tax imposed by RCW  
7 82.08.020. The buyer may then apply to the department for remittance  
8 of all or part of the tax paid under RCW 82.08.020. For grain  
9 elevators with bushel capacity of one million but less than two  
10 million, the remittance is equal to fifty percent of the amount of tax  
11 paid. For warehouses with square footage of two hundred thousand or  
12 more, other than cold storage warehouses, and for grain elevators with  
13 bushel capacity of two million or more, the remittance is equal to one  
14 hundred percent of the amount of tax paid for qualifying construction,  
15 materials, service, and labor, and fifty percent of the amount of tax  
16 paid for qualifying material-handling equipment and racking equipment,  
17 and labor and services rendered in respect to installing, repairing,  
18 cleaning, altering, or improving the equipment. For cold storage  
19 warehouses with square footage of twenty-five thousand or more, the  
20 remittance is equal to one hundred percent of the amount of tax paid  
21 for qualifying construction, materials, service, and labor, and one  
22 hundred percent of the amount of tax paid for qualifying material-  
23 handling equipment and racking equipment, and labor and services  
24 rendered in respect to installing, repairing, cleaning, altering, or  
25 improving the equipment.

26 (b) The department shall determine eligibility under this section  
27 based on information provided by the buyer and through audit and other  
28 administrative records. The buyer shall on a quarterly basis submit an  
29 information sheet, in a form and manner as required by the department  
30 by rule, specifying the amount of exempted tax claimed and the  
31 qualifying purchases or acquisitions for which the exemption is  
32 claimed. The buyer shall retain, in adequate detail to enable the  
33 department to determine whether the equipment or construction meets the  
34 criteria under this section: Invoices; proof of tax paid; documents  
35 describing the material-handling equipment and racking equipment;  
36 location and size of warehouses and grain elevators; and construction  
37 invoices and documents.

1 (c) The department shall on a quarterly basis remit exempted  
2 amounts to qualifying persons who submitted applications during the  
3 previous quarter.

4 (4) Warehouses, grain elevators, and material-handling equipment  
5 and racking equipment for which an exemption, credit, or deferral has  
6 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or  
7 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
8 remittance under this section. Warehouses and grain elevators upon  
9 which construction was initiated before May 20, 1997, are not eligible  
10 for a remittance under this section.

11 (5) The lessor or owner of a warehouse or grain elevator is not  
12 eligible for a remittance under this section unless the underlying  
13 ownership of the warehouse or grain elevator and the material-handling  
14 equipment and racking equipment vests exclusively in the same person,  
15 or unless the lessor by written contract agrees to pass the economic  
16 benefit of the remittance to the lessee in the form of reduced rent  
17 payments.

18 **Sec. 110.** RCW 82.08.820 and 2006 c ... s 109 (section 109 of this  
19 act) are each amended to read as follows:

20 (1) Wholesalers or third-party warehouse owners who own or operate  
21 warehouses or grain elevators and retailers who own or operate  
22 distribution centers, and who have paid the tax levied by RCW 82.08.020  
23 on:

24 (a) Material-handling and racking equipment, and labor and services  
25 rendered in respect to installing, repairing, cleaning, altering, or  
26 improving the equipment; or

27 (b) Construction of a warehouse or grain elevator, including  
28 materials, and including service and labor costs,  
29 are eligible for an exemption in the form of a remittance. The amount  
30 of the remittance is computed under subsection (3) of this section and  
31 is based on the state share of sales tax.

32 (2) For purposes of this section and RCW 82.12.820:

33 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

34 (b) (~~"Cold storage warehouse" means a storage warehouse used to~~  
35 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~  
36 ~~combination thereof, at a desired temperature to maintain the quality~~  
37 ~~of the product for orderly marketing;~~

1       ~~(e)~~) "Construction" means the actual construction of a warehouse  
2 or grain elevator that did not exist before the construction began.  
3 "Construction" includes expansion if the expansion adds ~~((at least~~  
4 ~~twenty five thousand square feet of additional space to an existing~~  
5 ~~cold storage warehouse,~~) at least two hundred thousand square feet of  
6 additional space to an existing warehouse ~~((other than a cold storage~~  
7 ~~warehouse,~~) or additional storage capacity of at least one million  
8 bushels to an existing grain elevator. "Construction" does not include  
9 renovation, remodeling, or repair;

10       ~~((d))~~ (c) "Department" means the department of revenue;

11       ~~((e))~~ (d) "Distribution center" means a warehouse that is used  
12 exclusively by a retailer solely for the storage and distribution of  
13 finished goods to retail outlets of the retailer. "Distribution  
14 center" does not include a warehouse at which retail sales occur;

15       ~~((f))~~ (e) "Finished goods" means tangible personal property  
16 intended for sale by a retailer or wholesaler. "Finished goods" does  
17 not include agricultural products stored by wholesalers, third-party  
18 warehouses, or retailers if the storage takes place on the land of the  
19 person who produced the agricultural product. "Finished goods" does  
20 not include logs, minerals, petroleum, gas, or other extracted products  
21 stored as raw materials or in bulk;

22       ~~((g))~~ (f) "Grain elevator" means a structure used for storage and  
23 handling of grain in bulk;

24       ~~((h))~~ (g) "Material-handling equipment and racking equipment"  
25 means equipment in a warehouse or grain elevator that is primarily used  
26 to handle, store, organize, convey, package, or repackage finished  
27 goods. The term includes tangible personal property with a useful life  
28 of one year or more that becomes an ingredient or component of the  
29 equipment, including repair and replacement parts. The term does not  
30 include equipment in offices, lunchrooms, restrooms, and other like  
31 space, within a warehouse or grain elevator, or equipment used for  
32 nonwarehousing purposes. "Material-handling equipment" includes but is  
33 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
34 place units, cranes, hoists, mechanical arms, and robots; mechanized  
35 systems, including containers that are an integral part of the system,  
36 whose purpose is to lift or move tangible personal property; and  
37 automated handling, storage, and retrieval systems, including computers  
38 that control them, whose purpose is to lift or move tangible personal



1 property; and forklifts and other off-the-road vehicles that are used  
2 to lift or move tangible personal property and that cannot be operated  
3 legally on roads and streets. "Racking equipment" includes, but is not  
4 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
5 pallets, and other containers and storage devices that form a necessary  
6 part of the storage system;

7 ~~((+i))~~ (h) "Person" has the meaning given in RCW 82.04.030;

8 ~~((+j))~~ (i) "Retailer" means a person who makes "sales at retail"  
9 as defined in chapter 82.04 RCW of tangible personal property;

10 ~~((+k))~~ (j) "Square footage" means the product of the two  
11 horizontal dimensions of each floor of a specific warehouse. The  
12 entire footprint of the warehouse shall be measured in calculating the  
13 square footage, including space that juts out from the building profile  
14 such as loading docks. "Square footage" does not mean the aggregate of  
15 the square footage of more than one warehouse at a location or the  
16 aggregate of the square footage of warehouses at more than one  
17 location;

18 ~~((+l))~~ (k) "Third-party warehouse" means a person taxable under  
19 RCW 82.04.280(4);

20 ~~((+m))~~ (l) "Warehouse" means an enclosed building or structure in  
21 which finished goods are stored. A warehouse building or structure may  
22 have more than one storage room and more than one floor. Office space,  
23 lunchrooms, restrooms, and other space within the warehouse and  
24 necessary for the operation of the warehouse are considered part of the  
25 warehouse as are loading docks and other such space attached to the  
26 building and used for handling of finished goods. Landscaping and  
27 parking lots are not considered part of the warehouse. A storage yard  
28 is not a warehouse, nor is a building in which manufacturing takes  
29 place; and

30 ~~((+n))~~ (m) "Wholesaler" means a person who makes "sales at  
31 wholesale" as defined in chapter 82.04 RCW of tangible personal  
32 property, but "wholesaler" does not include a person who makes sales  
33 exempt under RCW 82.04.330(1) (a) or (b).

34 (3)(a) A person claiming an exemption from state tax in the form of  
35 a remittance under this section must pay the tax imposed by RCW  
36 82.08.020. The buyer may then apply to the department for remittance  
37 of all or part of the tax paid under RCW 82.08.020. For grain  
38 elevators with bushel capacity of one million but less than two

1 million, the remittance is equal to fifty percent of the amount of tax  
2 paid. For warehouses with square footage of two hundred thousand or  
3 more(~~(, other than cold storage warehouses,)~~) and for grain elevators  
4 with bushel capacity of two million or more, the remittance is equal to  
5 one hundred percent of the amount of tax paid for qualifying  
6 construction, materials, service, and labor, and fifty percent of the  
7 amount of tax paid for qualifying material-handling equipment and  
8 racking equipment, and labor and services rendered in respect to  
9 installing, repairing, cleaning, altering, or improving the equipment.  
10 (~~(For cold storage warehouses with square footage of twenty five  
11 thousand or more, the remittance is equal to one hundred percent of the  
12 amount of tax paid for qualifying construction, materials, service, and  
13 labor, and one hundred percent of the amount of tax paid for qualifying  
14 material handling equipment and racking equipment, and labor and  
15 services rendered in respect to installing, repairing, cleaning,  
16 altering, or improving the equipment.)~~)

17 (b) The department shall determine eligibility under this section  
18 based on information provided by the buyer and through audit and other  
19 administrative records. The buyer shall on a quarterly basis submit an  
20 information sheet, in a form and manner as required by the department  
21 by rule, specifying the amount of exempted tax claimed and the  
22 qualifying purchases or acquisitions for which the exemption is  
23 claimed. The buyer shall retain, in adequate detail to enable the  
24 department to determine whether the equipment or construction meets the  
25 criteria under this section: Invoices; proof of tax paid; documents  
26 describing the material-handling equipment and racking equipment;  
27 location and size of warehouses and grain elevators; and construction  
28 invoices and documents.

29 (c) The department shall on a quarterly basis remit exempted  
30 amounts to qualifying persons who submitted applications during the  
31 previous quarter.

32 (4) Warehouses, grain elevators, and material-handling equipment  
33 and racking equipment for which an exemption, credit, or deferral has  
34 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or  
35 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
36 under this section. Warehouses and grain elevators upon which  
37 construction was initiated before May 20, 1997, are not eligible for a  
38 remittance under this section.

1 (5) The lessor or owner of a warehouse or grain elevator is not  
2 eligible for a remittance under this section unless the underlying  
3 ownership of the warehouse or grain elevator and the material-handling  
4 equipment and racking equipment vests exclusively in the same person,  
5 or unless the lessor by written contract agrees to pass the economic  
6 benefit of the remittance to the lessee in the form of reduced rent  
7 payments.

8 **Sec. 111.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to  
9 read as follows:

10 (1) Wholesalers or third-party warehouse owners who own or operate  
11 warehouses or grain elevators, and retailers who own or operate  
12 distribution centers, and who have paid the tax levied under RCW  
13 82.12.020 on:

14 (a) Material-handling equipment and racking equipment and labor and  
15 services rendered in respect to installing, repairing, cleaning,  
16 altering, or improving the equipment; or

17 (b) Materials incorporated in the construction of a warehouse or  
18 grain elevator, are eligible for an exemption on tax paid in the form  
19 of a remittance or credit against tax owed. The amount of the  
20 remittance or credit is computed under subsection (2) of this section  
21 and is based on the state share of use tax.

22 (2)(a) A person claiming an exemption from state tax in the form of  
23 a remittance under this section must pay the tax imposed by RCW  
24 82.12.020 to the department. The person may then apply to the  
25 department for remittance of all or part of the tax paid under RCW  
26 82.12.020. For grain elevators with bushel capacity of one million but  
27 less than two million, the remittance is equal to fifty percent of the  
28 amount of tax paid. For warehouses with square footage of two hundred  
29 thousand or more, other than cold storage warehouses, and for grain  
30 elevators with bushel capacity of two million or more, the remittance  
31 is equal to one hundred percent of the amount of tax paid for  
32 qualifying construction materials, and fifty percent of the amount of  
33 tax paid for qualifying material-handling equipment and racking  
34 equipment. ~~((For cold storage warehouses with square footage of  
35 twenty five thousand or more, the remittance is equal to one hundred  
36 percent of the amount of tax paid for qualifying construction,  
37 materials, service, and labor, and one hundred percent of the amount of~~

1 tax paid for qualifying material handling equipment and racking  
2 equipment, and labor and services rendered in respect to installing,  
3 repairing, cleaning, altering, or improving the equipment.)

4 (b) The department shall determine eligibility under this section  
5 based on information provided by the buyer and through audit and other  
6 administrative records. The buyer shall on a quarterly basis submit an  
7 information sheet, in a form and manner as required by the department  
8 by rule, specifying the amount of exempted tax claimed and the  
9 qualifying purchases or acquisitions for which the exemption is  
10 claimed. The buyer shall retain, in adequate detail to enable the  
11 department to determine whether the equipment or construction meets the  
12 criteria under this section: Invoices; proof of tax paid; documents  
13 describing the material-handling equipment and racking equipment;  
14 location and size of warehouses, if applicable; and construction  
15 invoices and documents.

16 (c) The department shall on a quarterly basis remit or credit  
17 exempted amounts to qualifying persons who submitted applications  
18 during the previous quarter.

19 (3) Warehouse, grain elevators, and material-handling equipment and  
20 racking equipment for which an exemption, credit, or deferral has been  
21 or is being received under chapter 82.60, (~~82.61~~) 82.62, or 82.63  
22 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
23 remittance under this section. Materials incorporated in warehouses  
24 and grain elevators upon which construction was initiated prior to May  
25 20, 1997, are not eligible for a remittance under this section.

26 (4) The lessor or owner of the warehouse or grain elevator is not  
27 eligible for a remittance or credit under this section unless the  
28 underlying ownership of the warehouse or grain elevator and material-  
29 handling equipment and racking equipment vests exclusively in the same  
30 person, or unless the lessor by written contract agrees to pass the  
31 economic benefit of the exemption to the lessee in the form of reduced  
32 rent payments.

33 (5) The definitions in RCW 82.08.820 apply to this section.

34 **Sec. 112.** RCW 82.16.050 and 2004 c 153 s 308 are each amended to  
35 read as follows:

36 In computing tax there may be deducted from the gross income the  
37 following items:

1 (1) Amounts derived by municipally owned or operated public service  
2 businesses, directly from taxes levied for the support or maintenance  
3 thereof(~~(:—PROVIDED, That)~~). This subsection shall not be construed  
4 to exempt service charges which are spread on the property tax rolls  
5 and collected as taxes;

6 (2) Amounts derived from the sale of commodities to persons in the  
7 same public service business as the seller, for resale as such within  
8 this state. This deduction is allowed only with respect to water  
9 distribution, gas distribution or other public service businesses which  
10 furnish water, gas or any other commodity in the performance of public  
11 service businesses;

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

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

19 (5) The amount of bad debts, as that term is used in 26 U.S.C. Sec.  
20 166, as amended or renumbered as of January 1, 2003, on which tax was  
21 previously paid under this chapter;

22 (6) Amounts derived from business which the state is prohibited  
23 from taxing under the Constitution of this state or the Constitution or  
24 laws of the United States;

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

27 (8) Amounts derived from the transportation of commodities from  
28 points of origin in this state to final destination outside this state,  
29 or from points of origin outside this state to final destination in  
30 this state, with respect to which the carrier grants to the shipper the  
31 privilege of stopping the shipment in transit at some point in this  
32 state for the purpose of storing, manufacturing, milling, or other  
33 processing, and thereafter forwards the same commodity, or its  
34 equivalent, in the same or converted form, under a through freight rate  
35 from point of origin to final destination; (~~and~~)

36 (9) Amounts derived from the transportation of commodities from  
37 points of origin in the state to an export elevator, wharf, dock, or  
38 ship side on tidewater or its navigable tributaries (~~thereto from~~

1 ~~which such commodities are~~) to be forwarded, without intervening  
2 transportation, by vessel, in their original form, to interstate or  
3 foreign destinations(~~(: PROVIDED, That)~~). No deduction ((will be)) is  
4 allowed under this subsection when the point of origin and the point of  
5 delivery to (~~such an~~) the export elevator, wharf, dock, or ship side  
6 are located within the corporate limits of the same city or town;

7 ~~((+9))~~ (10) Amounts derived from the transportation of  
8 agricultural commodities, not including manufactured substances or  
9 articles, from points of origin in the state to interim storage  
10 facilities in this state for transshipment, without intervening  
11 transportation, to an export elevator, wharf, dock, or ship side on  
12 tidewater or its navigable tributaries to be forwarded, without  
13 intervening transportation, by vessel, in their original form, to  
14 interstate or foreign destinations. If agricultural commodities are  
15 transshipped from interim storage facilities in this state to storage  
16 facilities at a port on tidewater or its navigable tributaries, the  
17 same agricultural commodity dealer must operate both the interim  
18 storage facilities and the storage facilities at the port.

19 (a) The deduction under this subsection is available only when the  
20 person claiming the deduction obtains a certificate from the  
21 agricultural commodity dealer operating the interim storage facilities,  
22 in a form and manner prescribed by the department, certifying that:

23 (i) More than ninety-six percent of all of the type of agricultural  
24 commodity delivered by the person claiming the deduction under this  
25 subsection and all other persons to the dealer's interim storage  
26 facilities during the preceding calendar year was shipped by vessel in  
27 original form to interstate or foreign destinations; and

28 (ii) Any of the agricultural commodity that is transshipped to  
29 ports on tidewater or its navigable tributaries will be received at  
30 storage facilities operated by the same agricultural commodity dealer  
31 and will be shipped from such facilities, without intervening  
32 transportation, by vessel, in their original form, to interstate or  
33 foreign destinations.

34 (b) As used in this subsection, "agricultural commodity" has the  
35 same meaning as agricultural product in RCW 82.04.213;

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

1       (~~(10)~~) (12) Amounts derived from the distribution of water by a  
2 nonprofit water association and used for capital improvements by that  
3 nonprofit water association;

4       (~~(11)~~) (13) Amounts paid by a sewerage collection business  
5 taxable under RCW 82.16.020(1)(a) to a person taxable under chapter  
6 82.04 RCW for the treatment or disposal of sewage.

7       **Sec. 113.** RCW 88.40.011 and 2003 c 56 s 2 are each amended to read  
8 as follows:

9       The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11       (1) "Barge" means a vessel that is not self-propelled.

12       (2) "Cargo vessel" means a self-propelled ship in commerce, other  
13 than a tank vessel, fishing vessel, or a passenger vessel, of three  
14 hundred or more gross tons.

15       (3) "Bulk" means material that is stored or transported in a loose,  
16 unpackaged liquid, powder, or granular form capable of being conveyed  
17 by a pipe, bucket, chute, or belt system.

18       (4) "Covered vessel" means a tank vessel, cargo vessel, or  
19 passenger vessel.

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

21       (6) "Director" means the director of the department of ecology.

22       (7)(a) "Facility" means any structure, group of structures,  
23 equipment, pipeline, or device, other than a vessel, located on or near  
24 the navigable waters of the state that transfers oil in bulk to or from  
25 any vessel with an oil carrying capacity over two hundred fifty barrels  
26 or pipeline, that is used for producing, storing, handling,  
27 transferring, processing, or transporting oil in bulk.

28       (b) A facility does not include any: (i) Railroad car, motor  
29 vehicle, or other rolling stock while transporting oil over the  
30 highways or rail lines of this state; (ii) retail motor vehicle motor  
31 fuel outlet; (iii) facility that is operated as part of an exempt  
32 agricultural activity as provided in RCW 82.04.330(1) (a) or (b); (iv)  
33 underground storage tank regulated by the department or a local  
34 government under chapter 90.76 RCW; or (v) marine fuel outlet that does  
35 not dispense more than three thousand gallons of fuel to a ship that is  
36 not a covered vessel, in a single transaction.

1 (8) "Fishing vessel" means a self-propelled commercial vessel of  
2 three hundred or more gross tons that is used for catching or  
3 processing fish.

4 (9) "Gross tons" means tonnage as determined by the United States  
5 coast guard under 33 C.F.R. section 138.30.

6 (10) "Hazardous substances" means any substance listed as of March  
7 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section  
8 101(14) of the federal comprehensive environmental response,  
9 compensation, and liability act of 1980, as amended by P.L. 99-499.  
10 The following are not hazardous substances for purposes of this  
11 chapter:

12 (a) Wastes listed as F001 through F028 in Table 302.4; and

13 (b) Wastes listed as K001 through K136 in Table 302.4.

14 (11) "Navigable waters of the state" means those waters of the  
15 state, and their adjoining shorelines, that are subject to the ebb and  
16 flow of the tide and/or are presently used, have been used in the past,  
17 or may be susceptible for use to transport intrastate, interstate, or  
18 foreign commerce.

19 (12) "Oil" or "oils" means any naturally occurring liquid  
20 hydrocarbons at atmospheric temperature and pressure coming from the  
21 earth, including condensate and natural gasoline, and any fractionation  
22 thereof, including, but not limited to, crude oil, petroleum, gasoline,  
23 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes  
24 other than dredged spoil. Oil does not include any substance listed as  
25 of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under  
26 section 101(14) of the federal comprehensive environmental response,  
27 compensation, and liability act of 1980, as amended by P.L. 99-499.

28 (13) "Offshore facility" means any facility located in, on, or  
29 under any of the navigable waters of the state, but does not include a  
30 facility any part of which is located in, on, or under any land of the  
31 state, other than submerged land.

32 (14) "Onshore facility" means any facility any part of which is  
33 located in, on, or under any land of the state, other than submerged  
34 land, that because of its location, could reasonably be expected to  
35 cause substantial harm to the environment by discharging oil into or on  
36 the navigable waters of the state or the adjoining shorelines.

37 (15)(a) "Owner or operator" means (i) in the case of a vessel, any  
38 person owning, operating, or chartering by demise, the vessel; (ii) in



1 the case of an onshore or offshore facility, any person owning or  
2 operating the facility; and (iii) in the case of an abandoned vessel or  
3 onshore or offshore facility, the person who owned or operated the  
4 vessel or facility immediately before its abandonment.

5 (b) "Operator" does not include any person who owns the land  
6 underlying a facility if the person is not involved in the operations  
7 of the facility.

8 (16) "Passenger vessel" means a ship of three hundred or more gross  
9 tons with a fuel capacity of at least six thousand gallons carrying  
10 passengers for compensation.

11 (17) "Ship" means any boat, ship, vessel, barge, or other floating  
12 craft of any kind.

13 (18) "Spill" means an unauthorized discharge of oil into the waters  
14 of the state.

15 (19) "Tank vessel" means a ship that is constructed or adapted to  
16 carry, or that carries, oil in bulk as cargo or cargo residue, and  
17 that:

18 (a) Operates on the waters of the state; or

19 (b) Transfers oil in a port or place subject to the jurisdiction of  
20 this state.

21 (20) "Waters of the state" includes lakes, rivers, ponds, streams,  
22 inland waters, underground water, salt waters, estuaries, tidal flats,  
23 beaches and lands adjoining the seacoast of the state, sewers, and all  
24 other surface waters and watercourses within the jurisdiction of the  
25 state of Washington.

26 **Sec. 114.** RCW 88.46.010 and 2000 c 69 s 1 are each amended to read  
27 as follows:

28 Unless the context clearly requires otherwise, the definitions in  
29 this section apply throughout this chapter.

30 (1) "Best achievable protection" means the highest level of  
31 protection that can be achieved through the use of the best achievable  
32 technology and those staffing levels, training procedures, and  
33 operational methods that provide the greatest degree of protection  
34 achievable. The director's determination of best achievable protection  
35 shall be guided by the critical need to protect the state's natural  
36 resources and waters, while considering (a) the additional protection

1 provided by the measures; (b) the technological achievability of the  
2 measures; and (c) the cost of the measures.

3 (2) "Best achievable technology" means the technology that provides  
4 the greatest degree of protection taking into consideration (a)  
5 processes that are being developed, or could feasibly be developed,  
6 given overall reasonable expenditures on research and development, and  
7 (b) processes that are currently in use. In determining what is best  
8 achievable technology, the director shall consider the effectiveness,  
9 engineering feasibility, and commercial availability of the technology.

10 (3) "Cargo vessel" means a self-propelled ship in commerce, other  
11 than a tank vessel or a passenger vessel, of three hundred or more  
12 gross tons, including but not limited to, commercial fish processing  
13 vessels and freighters.

14 (4) "Bulk" means material that is stored or transported in a loose,  
15 unpackaged liquid, powder, or granular form capable of being conveyed  
16 by a pipe, bucket, chute, or belt system.

17 (5) "Covered vessel" means a tank vessel, cargo vessel, or  
18 passenger vessel.

19 (6) "Department" means the department of ecology.

20 (7) "Director" means the director of the department of ecology.

21 (8) "Discharge" means any spilling, leaking, pumping, pouring,  
22 emitting, emptying, or dumping.

23 (9)(a) "Facility" means any structure, group of structures,  
24 equipment, pipeline, or device, other than a vessel, located on or near  
25 the navigable waters of the state that transfers oil in bulk to or from  
26 a tank vessel or pipeline, that is used for producing, storing,  
27 handling, transferring, processing, or transporting oil in bulk.

28 (b) A facility does not include any: (i) Railroad car, motor  
29 vehicle, or other rolling stock while transporting oil over the  
30 highways or rail lines of this state; (ii) retail motor vehicle motor  
31 fuel outlet; (iii) facility that is operated as part of an exempt  
32 agricultural activity as provided in RCW 82.04.330(1) (a) or (b); (iv)  
33 underground storage tank regulated by the department or a local  
34 government under chapter 90.76 RCW; or (v) marine fuel outlet that does  
35 not dispense more than three thousand gallons of fuel to a ship that is  
36 not a covered vessel, in a single transaction.

37 (10) "Marine facility" means any facility used for tank vessel

1 wharfage or anchorage, including any equipment used for the purpose of  
2 handling or transferring oil in bulk to or from a tank vessel.

3 (11) "Navigable waters of the state" means those waters of the  
4 state, and their adjoining shorelines, that are subject to the ebb and  
5 flow of the tide and/or are presently used, have been used in the past,  
6 or may be susceptible for use to transport intrastate, interstate, or  
7 foreign commerce.

8 (12) "Oil" or "oils" means any naturally occurring liquid  
9 hydrocarbons at atmospheric temperature and pressure coming from the  
10 earth, including condensate and natural gasoline, and any fractionation  
11 thereof, including, but not limited to, crude oil, petroleum, gasoline,  
12 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes  
13 other than dredged spoil. Oil does not include any substance listed in  
14 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under  
15 section 101(14) of the federal comprehensive environmental response,  
16 compensation, and liability act of 1980, as amended by P.L. 99-499.

17 (13) "Offshore facility" means any facility located in, on, or  
18 under any of the navigable waters of the state, but does not include a  
19 facility any part of which is located in, on, or under any land of the  
20 state, other than submerged land. "Offshore facility" does not include  
21 a marine facility.

22 (14) "Onshore facility" means any facility any part of which is  
23 located in, on, or under any land of the state, other than submerged  
24 land, that because of its location, could reasonably be expected to  
25 cause substantial harm to the environment by discharging oil into or on  
26 the navigable waters of the state or the adjoining shorelines.

27 (15)(a) "Owner or operator" means (i) in the case of a vessel, any  
28 person owning, operating, or chartering by demise, the vessel; (ii) in  
29 the case of an onshore or offshore facility, any person owning or  
30 operating the facility; and (iii) in the case of an abandoned vessel or  
31 onshore or offshore facility, the person who owned or operated the  
32 vessel or facility immediately before its abandonment.

33 (b) "Operator" does not include any person who owns the land  
34 underlying a facility if the person is not involved in the operations  
35 of the facility.

36 (16) "Passenger vessel" means a ship of three hundred or more gross  
37 tons with a fuel capacity of at least six thousand gallons carrying  
38 passengers for compensation.

1 (17) "Person" means any political subdivision, government agency,  
2 municipality, industry, public or private corporation, copartnership,  
3 association, firm, individual, or any other entity whatsoever.

4 (18) "Ship" means any boat, ship, vessel, barge, or other floating  
5 craft of any kind.

6 (19) "Spill" means an unauthorized discharge of oil into the waters  
7 of the state.

8 (20) "Tank vessel" means a ship that is constructed or adapted to  
9 carry, or that carries, oil in bulk as cargo or cargo residue, and  
10 that:

11 (a) Operates on the waters of the state; or

12 (b) Transfers oil in a port or place subject to the jurisdiction of  
13 this state.

14 (21) "Waters of the state" includes lakes, rivers, ponds, streams,  
15 inland waters, underground water, salt waters, estuaries, tidal flats,  
16 beaches and lands adjoining the seacoast of the state, sewers, and all  
17 other surface waters and watercourses within the jurisdiction of the  
18 state of Washington.

19 (22) "Worst case spill" means: (a) In the case of a vessel, a  
20 spill of the entire cargo and fuel of the vessel complicated by adverse  
21 weather conditions; and (b) in the case of an onshore or offshore  
22 facility, the largest foreseeable spill in adverse weather conditions.

23 **Sec. 115.** RCW 90.56.010 and 2000 c 69 s 15 are each amended to  
24 read as follows:

25 For purposes of this chapter, the following definitions shall apply  
26 unless the context indicates otherwise:

27 (1) "Best achievable protection" means the highest level of  
28 protection that can be achieved through the use of the best achievable  
29 technology and those staffing levels, training procedures, and  
30 operational methods that provide the greatest degree of protection  
31 achievable. The director's determination of best achievable protection  
32 shall be guided by the critical need to protect the state's natural  
33 resources and waters, while considering (a) the additional protection  
34 provided by the measures; (b) the technological achievability of the  
35 measures; and (c) the cost of the measures.

36 (2) "Best achievable technology" means the technology that provides  
37 the greatest degree of protection taking into consideration (a)

1 processes that are being developed, or could feasibly be developed,  
2 given overall reasonable expenditures on research and development, and  
3 (b) processes that are currently in use. In determining what is best  
4 achievable technology, the director shall consider the effectiveness,  
5 engineering feasibility, and commercial availability of the technology.

6 (3) "Board" means the pollution control hearings board.

7 (4) "Cargo vessel" means a self-propelled ship in commerce, other  
8 than a tank vessel or a passenger vessel, three hundred or more gross  
9 tons, including but not limited to, commercial fish processing vessels  
10 and freighters.

11 (5) "Bulk" means material that is stored or transported in a loose,  
12 unpackaged liquid, powder, or granular form capable of being conveyed  
13 by a pipe, bucket, chute, or belt system.

14 (6) "Committee" means the preassessment screening committee  
15 established under RCW 90.48.368.

16 (7) "Covered vessel" means a tank vessel, cargo vessel, or  
17 passenger vessel.

18 (8) "Department" means the department of ecology.

19 (9) "Director" means the director of the department of ecology.

20 (10) "Discharge" means any spilling, leaking, pumping, pouring,  
21 emitting, emptying, or dumping.

22 (11)(a) "Facility" means any structure, group of structures,  
23 equipment, pipeline, or device, other than a vessel, located on or near  
24 the navigable waters of the state that transfers oil in bulk to or from  
25 a tank vessel or pipeline, that is used for producing, storing,  
26 handling, transferring, processing, or transporting oil in bulk.

27 (b) A facility does not include any: (i) Railroad car, motor  
28 vehicle, or other rolling stock while transporting oil over the  
29 highways or rail lines of this state; (ii) underground storage tank  
30 regulated by the department or a local government under chapter 90.76  
31 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is  
32 operated as part of an exempt agricultural activity as provided in RCW  
33 82.04.330(1) (a) or (b); or (v) marine fuel outlet that does not  
34 dispense more than three thousand gallons of fuel to a ship that is not  
35 a covered vessel, in a single transaction.

36 (12) "Fund" means the state coastal protection fund as provided in  
37 RCW 90.48.390 and 90.48.400.

1 (13) "Having control over oil" shall include but not be limited to  
2 any person using, storing, or transporting oil immediately prior to  
3 entry of such oil into the waters of the state, and shall specifically  
4 include carriers and bailees of such oil.

5 (14) "Marine facility" means any facility used for tank vessel  
6 wharfage or anchorage, including any equipment used for the purpose of  
7 handling or transferring oil in bulk to or from a tank vessel.

8 (15) "Navigable waters of the state" means those waters of the  
9 state, and their adjoining shorelines, that are subject to the ebb and  
10 flow of the tide and/or are presently used, have been used in the past,  
11 or may be susceptible for use to transport intrastate, interstate, or  
12 foreign commerce.

13 (16) "Necessary expenses" means the expenses incurred by the  
14 department and assisting state agencies for (a) investigating the  
15 source of the discharge; (b) investigating the extent of the  
16 environmental damage caused by the discharge; (c) conducting actions  
17 necessary to clean up the discharge; (d) conducting predamage and  
18 damage assessment studies; and (e) enforcing the provisions of this  
19 chapter and collecting for damages caused by a discharge.

20 (17) "Oil" or "oils" means naturally occurring liquid hydrocarbons  
21 at atmospheric temperature and pressure coming from the earth,  
22 including condensate and natural gasoline, and any fractionation  
23 thereof, including, but not limited to, crude oil, petroleum, gasoline,  
24 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes  
25 other than dredged spoil. Oil does not include any substance listed in  
26 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under  
27 section 101(14) of the federal comprehensive environmental response,  
28 compensation, and liability act of 1980, as amended by P.L. 99-499.

29 (18) "Offshore facility" means any facility located in, on, or  
30 under any of the navigable waters of the state, but does not include a  
31 facility any part of which is located in, on, or under any land of the  
32 state, other than submerged land.

33 (19) "Onshore facility" means any facility any part of which is  
34 located in, on, or under any land of the state, other than submerged  
35 land, that because of its location, could reasonably be expected to  
36 cause substantial harm to the environment by discharging oil into or on  
37 the navigable waters of the state or the adjoining shorelines.

1 (20)(a) "Owner or operator" means (i) in the case of a vessel, any  
2 person owning, operating, or chartering by demise, the vessel; (ii) in  
3 the case of an onshore or offshore facility, any person owning or  
4 operating the facility; and (iii) in the case of an abandoned vessel or  
5 onshore or offshore facility, the person who owned or operated the  
6 vessel or facility immediately before its abandonment.

7 (b) "Operator" does not include any person who owns the land  
8 underlying a facility if the person is not involved in the operations  
9 of the facility.

10 (21) "Passenger vessel" means a ship of three hundred or more gross  
11 tons with a fuel capacity of at least six thousand gallons carrying  
12 passengers for compensation.

13 (22) "Person" means any political subdivision, government agency,  
14 municipality, industry, public or private corporation, copartnership,  
15 association, firm, individual, or any other entity whatsoever.

16 (23) "Ship" means any boat, ship, vessel, barge, or other floating  
17 craft of any kind.

18 (24) "Spill" means an unauthorized discharge of oil or hazardous  
19 substances into the waters of the state.

20 (25) "Tank vessel" means a ship that is constructed or adapted to  
21 carry, or that carries, oil in bulk as cargo or cargo residue, and  
22 that:

23 (a) Operates on the waters of the state; or

24 (b) Transfers oil in a port or place subject to the jurisdiction of  
25 this state.

26 (26) "Waters of the state" includes lakes, rivers, ponds, streams,  
27 inland waters, underground water, salt waters, estuaries, tidal flats,  
28 beaches and lands adjoining the seacoast of the state, sewers, and all  
29 other surface waters and watercourses within the jurisdiction of the  
30 state of Washington.

31 (27) "Worst case spill" means: (a) In the case of a vessel, a  
32 spill of the entire cargo and fuel of the vessel complicated by adverse  
33 weather conditions; and (b) in the case of an onshore or offshore  
34 facility, the largest foreseeable spill in adverse weather conditions.

35 NEW SECTION. **Sec. 116.** The repealed sections in section 4,  
36 chapter 420, Laws of 2005 do not affect any rights, liabilities,

1 obligations, or proceedings, incurred or instituted prior to July 1,  
2 2005, under those repealed sections or rules or orders adopted by the  
3 department of revenue pursuant to those repealed sections.

4 NEW SECTION. **Sec. 117.** The following acts or parts of acts are  
5 each repealed:

6 (1) RCW 82.04.035 ("Plantation Christmas trees") and 1987 c 23 s 1;

7 (2) RCW 82.04.2403 (Manufacturer tax not applicable to cleaning  
8 fish) and 1994 c 167 s 1;

9 (3) RCW 82.04.331 (Exemptions--Wholesale sales to farmers of seed  
10 for planting, conditioning seed for planting owned by others) and 1998  
11 c 170 s 2;

12 (4) RCW 82.04.332 (Exemptions--Buying and selling at wholesale  
13 wheat, oats, dry peas, dry beans, lentils, triticale, canola, corn,  
14 rye, and barley) and 1998 c 312 s 2;

15 (5) RCW 82.04.333 (Exemptions--Small harvesters) and 1990 c 141 s  
16 1;

17 (6) RCW 82.04.335 (Exemptions--Agricultural fairs) and 1965 ex.s.  
18 c 145 s 1;

19 (7) RCW 82.04.337 (Exemptions--Amounts received by hop growers or  
20 dealers for processed hops shipped outside the state) and 1987 c 495 s  
21 1;

22 (8) RCW 82.04.338 (Exemptions--Hop commodity commission or hop  
23 commodity board business) and 1998 c 200 s 1;

24 (9) RCW 82.04.410 (Exemptions--Hatching eggs and poultry) and 1967  
25 ex.s. c 149 s 15 & 1961 c 15 s 82.04.410; and

26 (10) RCW 82.04.4287 (Deductions--Compensation for receiving,  
27 washing, etc., horticultural products for person exempt under RCW  
28 82.04.330--Materials and supplies used) and 1980 c 37 s 8.

29 **PART II**

30 **ALTERNATIVE ENERGY PROVISIONS**

31 **Sec. 201.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are  
32 each reenacted and amended to read as follows:

33 (1) Upon every person engaging within this state in the business of  
34 manufacturing:



1 (a) Wheat into flour, barley into pearl barley, soybeans into  
2 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
3 or sunflower seeds into sunflower oil; as to such persons the amount of  
4 tax with respect to such business shall be equal to the value of the  
5 (~~flour, pearl barley, oil, canola meal, or canola~~) products or  
6 byproducts manufactured, multiplied by the rate of 0.138 percent;

7 (b) Seafood products which remain in a raw, raw frozen, or raw  
8 salted state at the completion of the manufacturing by that person; as  
9 to such persons the amount of tax with respect to such business shall  
10 be equal to the value of the products manufactured, multiplied by the  
11 rate of 0.138 percent;

12 (c) Dairy products that as of September 20, 2001, are identified in  
13 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts  
14 from the manufacturing of the dairy products such as whey and casein;  
15 or selling the same to purchasers who transport in the ordinary course  
16 of business the goods out of state; as to such persons the tax imposed  
17 shall be equal to the value of the products or byproducts manufactured  
18 or the gross proceeds derived from such sales multiplied by the rate of  
19 0.138 percent. (~~As proof of sale to a person who transports in the~~  
20 ~~ordinary course of business goods out of this state, the seller shall~~  
21 ~~annually provide a statement in a form prescribed by the department and~~  
22 ~~retain the statement as a business record~~) Sellers must keep and  
23 preserve records for the period required by RCW 82.32.070 establishing  
24 that the goods were transported by the purchaser in the ordinary course  
25 of business out of this state;

26 (d) (~~Until July 1, 2009,~~) Alcohol fuel, biodiesel fuel, ((or))  
27 biodiesel feedstock, or wood biomass fuel, as those terms are defined  
28 in RCW 82.29A.135; as to such persons the amount of tax with respect to  
29 the business shall be equal to the value of (~~alcohol fuel, biodiesel~~  
30 ~~fuel, or biodiesel feedstock~~) the products manufactured, multiplied by  
31 the rate of 0.138 percent; and

32 (e) (~~Alcohol fuel or wood biomass fuel, as those terms are defined~~  
33 ~~in RCW 82.29A.135; as to such persons the amount of tax with respect to~~  
34 ~~the business shall be equal to the value of alcohol fuel or wood~~  
35 ~~biomass fuel manufactured, multiplied by the rate of 0.138 percent~~)  
36 Beginning July 1, 2012, fresh fruits and/or vegetables by canning,  
37 preserving, freezing, processing, or dehydrating, or selling at  
38 wholesale fresh fruits and vegetables canned, preserved, frozen,

1 processed, or dehydrated by the seller and sold to purchasers who  
2 transport in the ordinary course of business the goods out of this  
3 state; as to such persons the amount of tax with respect to such  
4 business shall be equal to the value of the products manufactured or  
5 the gross proceeds derived from such sales multiplied by the rate of  
6 0.138 percent. Sellers must keep and preserve records for the period  
7 required by RCW 82.32.070 establishing that the goods were transported  
8 by the purchaser in the ordinary course of business out of this state.

9 (2) Upon every person engaging within this state in the business of  
10 splitting or processing dried peas; as to such persons the amount of  
11 tax with respect to such business shall be equal to the value of the  
12 peas split or processed, multiplied by the rate of 0.138 percent.

13 (3) Upon every nonprofit corporation and nonprofit association  
14 engaging within this state in research and development, as to such  
15 corporations and associations, the amount of tax with respect to such  
16 activities shall be equal to the gross income derived from such  
17 activities multiplied by the rate of 0.484 percent.

18 (4) Upon every person engaging within this state in the business of  
19 slaughtering, breaking and/or processing perishable meat products  
20 and/or selling the same at wholesale only and not at retail; as to such  
21 persons the tax imposed shall be equal to the gross proceeds derived  
22 from such sales multiplied by the rate of 0.138 percent.

23 (5) Upon every person engaging within this state in the business of  
24 acting as a travel agent or tour operator; as to such persons the  
25 amount of the tax with respect to such activities shall be equal to the  
26 gross income derived from such activities multiplied by the rate of  
27 0.275 percent.

28 (6) Upon every person engaging within this state in business as an  
29 international steamship agent, international customs house broker,  
30 international freight forwarder, vessel and/or cargo charter broker in  
31 foreign commerce, and/or international air cargo agent; as to such  
32 persons the amount of the tax with respect to only international  
33 activities shall be equal to the gross income derived from such  
34 activities multiplied by the rate of 0.275 percent.

35 (7) Upon every person engaging within this state in the business of  
36 stevedoring and associated activities pertinent to the movement of  
37 goods and commodities in waterborne interstate or foreign commerce; as  
38 to such persons the amount of tax with respect to such business shall

1 be equal to the gross proceeds derived from such activities multiplied  
2 by the rate of 0.275 percent. Persons subject to taxation under this  
3 subsection shall be exempt from payment of taxes imposed by chapter  
4 82.16 RCW for that portion of their business subject to taxation under  
5 this subsection. Stevedoring and associated activities pertinent to  
6 the conduct of goods and commodities in waterborne interstate or  
7 foreign commerce are defined as all activities of a labor, service or  
8 transportation nature whereby cargo may be loaded or unloaded to or  
9 from vessels or barges, passing over, onto or under a wharf, pier, or  
10 similar structure; cargo may be moved to a warehouse or similar holding  
11 or storage yard or area to await further movement in import or export  
12 or may move to a consolidation freight station and be stuffed,  
13 unstuffed, containerized, separated or otherwise segregated or  
14 aggregated for delivery or loaded on any mode of transportation for  
15 delivery to its consignee. Specific activities included in this  
16 definition are: Wharfage, handling, loading, unloading, moving of  
17 cargo to a convenient place of delivery to the consignee or a  
18 convenient place for further movement to export mode; documentation  
19 services in connection with the receipt, delivery, checking, care,  
20 custody and control of cargo required in the transfer of cargo;  
21 imported automobile handling prior to delivery to consignee; terminal  
22 stevedoring and incidental vessel services, including but not limited  
23 to plugging and unplugging refrigerator service to containers,  
24 trailers, and other refrigerated cargo receptacles, and securing ship  
25 hatch covers.

26 (8) Upon every person engaging within this state in the business of  
27 disposing of low-level waste, as defined in RCW 43.145.010; as to such  
28 persons the amount of the tax with respect to such business shall be  
29 equal to the gross income of the business, excluding any fees imposed  
30 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

31 If the gross income of the taxpayer is attributable to activities  
32 both within and without this state, the gross income attributable to  
33 this state shall be determined in accordance with the methods of  
34 apportionment required under RCW 82.04.460.

35 (9) Upon every person engaging within this state as an insurance  
36 agent, insurance broker, or insurance solicitor licensed under chapter  
37 48.17 RCW; as to such persons, the amount of the tax with respect to

1 such licensed activities shall be equal to the gross income of such  
2 business multiplied by the rate of 0.484 percent.

3 (10) Upon every person engaging within this state in business as a  
4 hospital, as defined in chapter 70.41 RCW, that is operated as a  
5 nonprofit corporation or by the state or any of its political  
6 subdivisions, as to such persons, the amount of tax with respect to  
7 such activities shall be equal to the gross income of the business  
8 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
9 percent thereafter. The moneys collected under this subsection shall  
10 be deposited in the health services account created under RCW  
11 43.72.900.

12 (11)(a) Beginning October 1, 2005, upon every person engaging  
13 within this state in the business of manufacturing commercial  
14 airplanes, or components of such airplanes, as to such persons the  
15 amount of tax with respect to such business shall, in the case of  
16 manufacturers, be equal to the value of the product manufactured, or in  
17 the case of processors for hire, be equal to the gross income of the  
18 business, multiplied by the rate of:

19 (i) 0.4235 percent from October 1, 2005, through the later of June  
20 30, 2007, or the day preceding the date final assembly of a  
21 superefficient airplane begins in Washington state, as determined under  
22 RCW 82.32.550; and

23 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
24 date final assembly of a superefficient airplane begins in Washington  
25 state, as determined under RCW 82.32.550.

26 (b) Beginning October 1, 2005, upon every person engaging within  
27 this state in the business of making sales, at retail or wholesale, of  
28 commercial airplanes, or components of such airplanes, manufactured by  
29 that person, as to such persons the amount of tax with respect to such  
30 business shall be equal to the gross proceeds of sales of the airplanes  
31 or components multiplied by the rate of:

32 (i) 0.4235 percent from October 1, 2005, through the later of June  
33 30, 2007, or the day preceding the date final assembly of a  
34 superefficient airplane begins in Washington state, as determined under  
35 RCW 82.32.550; and

36 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
37 date final assembly of a superefficient airplane begins in Washington  
38 state, as determined under RCW 82.32.550.

1 (c) For the purposes of this subsection (11), "commercial  
2 airplane," "component," and "final assembly of a superefficient  
3 airplane" have the meanings given in RCW 82.32.550.

4 (d) In addition to all other requirements under this title, a  
5 person eligible for the tax rate under this subsection (11) must report  
6 as required under RCW 82.32.545.

7 (e) This subsection (11) does not apply after the earlier of: July  
8 1, 2024; or December 31, 2007, if assembly of a superefficient airplane  
9 does not begin by December 31, 2007, as determined under RCW 82.32.550.

10 **Sec. 202.** RCW 84.36.635 and 2003 c 261 s 9 are each amended to  
11 read as follows:

12 (1) For the purposes of this section:

13 (a) "Alcohol fuel" means any alcohol made from a product other than  
14 petroleum or natural gas, which is used alone or in combination with  
15 gasoline or other petroleum products for use as a fuel for motor  
16 vehicles, farm implements, and machines or implements of husbandry.

17 (b) "Biodiesel feedstock" means oil that is produced from an  
18 agricultural crop for the sole purpose of ultimately producing  
19 biodiesel fuel.

20 (c) "Biodiesel fuel" means a mono alkyl ester of long chain fatty  
21 acids derived from vegetable oils or animal fats for use in  
22 compression-ignition engines and that meets the requirements of the  
23 American society of testing and materials specification D 6751 in  
24 effect as of January 1, 2003.

25 (d) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis  
26 gas-derived liquid fuel, used in internal combustion engines, and  
27 produced from wood, forest, or field residue, or dedicated energy crops  
28 that do not include wood pieces that have been treated with chemical  
29 preservatives such as creosote, pentachlorophenol, or  
30 copper-chroma-arsenic.

31 (2)(a) All buildings, machinery, equipment, and other personal  
32 property (~~which is~~) used primarily for the manufacturing of alcohol  
33 fuel, biodiesel fuel, (~~or~~) biodiesel feedstock, or wood biomass fuel,  
34 the land upon which this property is located, and land that is  
35 reasonably necessary in the manufacturing of alcohol fuel, biodiesel  
36 fuel, (~~or~~) biodiesel feedstock, or wood biomass fuel, but not land  
37 necessary for growing of crops, which together comprise a new

1 manufacturing facility or an addition to an existing manufacturing  
2 facility, are exempt from property taxation for the six assessment  
3 years following the date on which the facility or the addition to the  
4 existing facility becomes operational.

5 (b) For manufacturing facilities (~~(which)~~) that produce products in  
6 addition to alcohol fuel, biodiesel fuel, (~~(or)~~) biodiesel feedstock,  
7 or wood biomass fuel, the amount of the property tax exemption shall be  
8 based upon the annual percentage of the total value of all products  
9 manufactured that is the value of the alcohol fuel, biodiesel fuel,  
10 (~~(and)~~) biodiesel feedstock, and wood biomass fuel manufactured.

11 (3) Claims for exemptions authorized by this section shall be filed  
12 with the county assessor on forms prescribed by the department of  
13 revenue and furnished by the assessor. Once filed, the exemption is  
14 valid for six years and shall not be renewed. The assessor shall  
15 verify and approve claims as the assessor determines to be justified  
16 and in accordance with this section. (~~(No claims may be filed after~~  
17 ~~December 31, 2009.)~~)

18 (4) The department of revenue may (~~(promulgate such)~~) adopt rules,  
19 pursuant to chapter 34.05 RCW, as necessary to properly administer this  
20 section.

21 **Sec. 203.** RCW 82.29A.135 and 2003 c 339 s 10 and 2003 c 261 s 10  
22 are each reenacted and amended to read as follows:

23 (1) For the purposes of this section:

24 (a) "Alcohol fuel" means any alcohol made from a product other than  
25 petroleum or natural gas, which is used alone or in combination with  
26 gasoline or other petroleum products for use as a fuel for motor  
27 vehicles, farm implements, and machines or implements of husbandry.

28 (b) "Biodiesel feedstock" means oil that is produced from an  
29 agricultural crop for the sole purpose of ultimately producing  
30 biodiesel fuel.

31 (c) "Biodiesel fuel" means a mono alkyl ester of long chain fatty  
32 acids derived from vegetable oils or animal fats for use in  
33 compression-ignition engines and that meets the requirements of the  
34 American society of testing and materials specification D 6751 in  
35 effect as of January 1, 2003.

36 (d) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis  
37 gas-derived liquid fuel, used in internal combustion engines, and

1 produced from wood, forest, or field residue, or dedicated energy crops  
2 that do not include wood pieces that have been treated with chemical  
3 preservatives such as creosote, pentachlorophenol, or copper-chroma-  
4 arsenic.

5 (2)(a) All leasehold interests in buildings, machinery, equipment,  
6 and other personal property which is used primarily for the  
7 manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel, or  
8 biodiesel feedstock, the land upon which this property is located, and  
9 land that is reasonably necessary in the manufacturing of alcohol fuel,  
10 wood biomass fuel, biodiesel fuel, or biodiesel feedstock, but not land  
11 necessary for growing of crops, which together comprise a new  
12 manufacturing facility or an addition to an existing manufacturing  
13 facility, are exempt from leasehold excise taxes imposed by or under  
14 the authority of RCW 82.29A.030 and 82.29A.040 for a period of six  
15 years from the date on which the facility or the addition to the  
16 existing facility becomes operational.

17 (b) For manufacturing facilities which produce products in addition  
18 to alcohol fuel, wood biomass fuel, biodiesel fuel, or biodiesel  
19 feedstock, the amount of the leasehold excise tax exemption shall be  
20 based upon the annual percentage of the total value of all products  
21 manufactured that is the value of the alcohol fuel, wood biomass fuel,  
22 biodiesel fuel, and biodiesel feedstock manufactured.

23 (3) Claims for exemptions authorized by this section shall be filed  
24 with the department (~~(of revenue)~~) on forms prescribed and furnished by  
25 the department (~~(of revenue and furnished by the department of~~  
26 ~~revenue)~~). Once filed, the exemption is valid for six years and shall  
27 not be renewed. The department (~~(of revenue)~~) shall verify and approve  
28 claims as the department (~~(of revenue)~~) determines to be justified and  
29 in accordance with this section. (~~(No claims may be filed after~~  
30 ~~December 31, 2009.)~~)

31 (4) The department (~~(of revenue)~~) may (~~(promulgate such)~~) adopt  
32 rules, pursuant to chapter 34.05 RCW, as are necessary to properly  
33 administer this section.

34 **Sec. 204.** RCW 82.04.4334 and 2003 c 63 s 1 are each amended to  
35 read as follows:

36 (1) In computing tax there may be deducted from the measure of tax  
37 amounts received from the retail sale, or for the distribution, of:

1 (a) Biodiesel fuel; or  
2 (b) Wood biomass fuel; or  
3 (c) Alcohol fuel, if the alcohol fuel is at least eighty-five  
4 percent of the volume of the fuel being sold or distributed.

5 (2) For the purposes of this section and RCW 82.08.955 (~~and~~  
6 ~~82.12.955~~), the following definitions apply:

7 (a) (~~"Biodiesel fuel" means a mono-alkyl ester of long chain fatty~~  
8 ~~acids derived from vegetable oils or animal fats for use in~~  
9 ~~compression ignition engines and that meets the requirements of the~~  
10 ~~American society of testing and materials specification D 6751 in~~  
11 ~~effect as of January 1, 2003.~~

12 (b) ~~"Alcohol fuel" means any alcohol made from a product other than~~  
13 ~~petroleum or natural gas, which is used alone or in combination with~~  
14 ~~gasoline or other petroleum products for use as a fuel for motor~~  
15 ~~vehicles, farm implements and machines, or implements of husbandry.~~

16 (c) "Alcohol fuel," "biodiesel fuel," and "wood biomass fuel"  
17 have the same meanings as provided in RCW 82.29A.135.

18 (b) "Distribution" means any of the actions specified in RCW  
19 82.36.020(2).

20 (~~(3) This section expires July 1, 2009.~~)

21 **Sec. 205.** RCW 82.08.955 and 2003 c 63 s 2 are each amended to read  
22 as follows:

23 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
24 machinery and equipment, or to services rendered in respect to  
25 constructing structures, installing, constructing, repairing, cleaning,  
26 decorating, altering, or improving of structures or machinery and  
27 equipment, or to sales of tangible personal property that becomes an  
28 ingredient or component of structures or machinery and equipment, if  
29 the machinery, equipment, or structure is used directly for the retail  
30 sale of a biodiesel blend, wood biomass fuel blend, or alcohol fuel  
31 blend. Structures and machinery and equipment that are used for the  
32 retail sale of a biodiesel blend, wood biomass fuel blend, or alcohol  
33 fuel blend and for other purposes are exempt only on the portion used  
34 directly for the retail sale of a biodiesel blend, wood biomass fuel  
35 blend, or alcohol fuel blend.

36 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel  
37 delivery vehicles or to sales of or charges made for labor and services



1 rendered in respect to installing, repairing, cleaning, altering, or  
2 improving the vehicles including repair parts and replacement parts if  
3 at least seventy-five percent of the fuel distributed by the vehicles  
4 is a biodiesel blend, wood biomass fuel blend, or alcohol fuel blend.

5 (3) A person taking the exemption under this section must keep  
6 records necessary for the department to verify eligibility under this  
7 section. The exemption is available only when the buyer provides the  
8 seller with an exemption certificate in a form and manner prescribed by  
9 the department. The seller shall retain a copy of the certificate for  
10 the seller's files.

11 (4) For the purposes of this section, the definitions in RCW  
12 (~~(82.04.4334)~~) 82.29A.135 and this subsection apply.

13 (a) "Alcohol fuel blend" means fuel that contains at least eighty-  
14 five percent alcohol fuel by volume.

15 (b) "Biodiesel blend" means fuel that contains at least twenty  
16 percent biodiesel fuel by volume.

17 (c) "Machinery and equipment" means industrial fixtures, devices,  
18 and support facilities and tangible personal property that becomes an  
19 ingredient or component thereof, including repair parts and replacement  
20 parts that are integral and necessary for the delivery of biodiesel or  
21 alcohol fuel blends into the fuel tank of a motor vehicle.

22 (~~(5) This section expires July 1, 2009.~~)

23 (d) "Wood biomass fuel blend" means fuel that contains at least  
24 twenty percent wood biomass fuel by volume.

25 **Sec. 206.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to  
26 read as follows:

27 (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
28 machinery and equipment used directly in generating electricity using  
29 fuel cells, wind, sun, or landfill gas as the principal source of  
30 power, or to sales of or charges made for labor and services rendered  
31 in respect to installing such machinery and equipment, but only if the  
32 purchaser develops with such machinery, equipment, and labor a facility  
33 capable of generating not less than two hundred watts of electricity  
34 and provides the seller with an exemption certificate in a form and  
35 manner prescribed by the department. The seller shall retain a copy of  
36 the certificate for the seller's files.

37 (2) For purposes of this section (~~and RCW 82.12.02567~~):

1 (a) "Landfill gas" means biomass fuel of the type qualified for  
2 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.  
3 "Landfill" means a landfill as defined under RCW 70.95.030;

4 (b) "Machinery and equipment" means (~~(industrial)~~) fixtures,  
5 devices, and support facilities that are integral and necessary to the  
6 generation of electricity using fuel cells, wind, sun, or landfill gas  
7 as the principal source of power;

8 (c) "Machinery and equipment" does not include: (i) Hand-powered  
9 tools; (ii) property with a useful life of less than one year; (iii)  
10 repair parts required to restore machinery and equipment to normal  
11 working order; (iv) replacement parts that do not increase  
12 productivity, improve efficiency, or extend the useful life of  
13 machinery and equipment; (v) buildings; or (vi) building fixtures that  
14 are not integral and necessary to the generation of electricity that  
15 are permanently affixed to and become a physical part of a building;

16 (d) Machinery and equipment is "used directly" in generating  
17 electricity with fuel cells or by wind energy, solar energy, or  
18 landfill gas power if it provides any part of the process that captures  
19 the energy of the wind, sun, or landfill gas, converts that energy to  
20 electricity, and stores, transforms, or transmits that electricity for  
21 entry into or operation in parallel with electric transmission and  
22 distribution systems;

23 (e) "Fuel cell" means an electrochemical reaction that generates  
24 electricity by combining atoms of hydrogen and oxygen in the presence  
25 of a catalyst.

26 (3) This section expires June 30, 2009.

27 **Sec. 207.** RCW 82.04.294 and 2005 c 301 s 2 are each amended to  
28 read as follows:

29 (1) Beginning October 1, 2005, upon every person engaging within  
30 this state in the business of manufacturing solar energy systems using  
31 photovoltaic modules, or (~~(silicon)~~) of manufacturing solar grade  
32 silicon to be used exclusively in components of such systems; as to  
33 such persons the amount of tax with respect to such business shall, in  
34 the case of manufacturers, be equal to the value of the product  
35 manufactured, or in the case of processors for hire, be equal to the  
36 gross income of the business, multiplied by the rate of 0.2904 percent.

1 (2) Beginning October 1, 2005, upon every person engaging within  
2 this state in the business of making sales at wholesale of solar energy  
3 systems using photovoltaic modules, or (~~silicon~~) of solar grade  
4 silicon to be used exclusively in components of such systems,  
5 manufactured by that person; as to such persons the amount of tax with  
6 respect to such business shall be equal to the gross proceeds of sales  
7 of the solar energy systems using photovoltaic modules, or of the solar  
8 grade silicon to be used exclusively in components of such systems,  
9 multiplied by the rate of 0.2904 percent.

10 (3) The definitions in this subsection apply throughout this  
11 section.

12 (a) "Module" means the smallest nondivisible self-contained  
13 physical structure housing interconnected photovoltaic cells and  
14 providing a single direct current electrical output.

15 (b) "Photovoltaic cell" means a device that converts light directly  
16 into electricity without moving parts.

17 (c) "Solar energy system" means any device or combination of  
18 devices or elements that rely upon direct sunlight as an energy source  
19 for use in the generation of electricity.

20 (d) "Solar grade silicon" means high-purity silicon used  
21 exclusively in components of solar energy systems using photovoltaic  
22 modules to capture direct sunlight. "Solar grade silicon" does not  
23 include silicon used in semiconductors.

24 (4) This section expires June 30, 2014.

25 NEW SECTION. Sec. 208. The following acts or parts of acts are  
26 each repealed:

27 (1) RCW 84.36.640 (Property used for the manufacture of wood  
28 biomass fuel) and 2003 c 339 s 9;

29 (2) RCW 82.04.4335 (Deductions--Sale or distribution of wood  
30 biomass fuel) and 2003 c 339 s 12; and

31 (3) RCW 82.08.960 (Sales of machinery, equipment, vehicles, and  
32 services related to wood biomass fuel blend) and 2003 c 339 s 13.

33 **PART III**  
34 **SUCCESSOR LIABILITY**

1       **Sec. 301.** RCW 82.04.180 and 2003 1st sp.s. c 13 s 11 are each  
2 amended to read as follows:

3       (1) "Successor" means:

4       (a) Any person to whom a taxpayer quitting, selling out,  
5 exchanging, or disposing of a business sells or otherwise conveys,  
6 directly or indirectly, in bulk and not in the ordinary course of the  
7 taxpayer's business, more than fifty percent of the fair market value  
8 of either the (i) tangible (~~(assets)~~) personal property or (ii)  
9 intangible (~~(assets)~~) personal property of the taxpayer; or

10       (b) A surviving corporation of a statutory merger.

11       (2) Any person obligated to fulfill the terms of a contract shall  
12 be deemed a successor to any contractor defaulting in the performance  
13 of any contract as to which such person is a surety or guarantor.

14       **Sec. 302.** RCW 82.32.140 and 2003 1st sp.s. c 13 s 12 are each  
15 amended to read as follows:

16       (1) Whenever any taxpayer quits business, or sells out, exchanges,  
17 or otherwise disposes of more than fifty percent of the fair market  
18 value of either its tangible or intangible (~~(assets)~~) personal  
19 property, any tax payable hereunder shall become immediately due and  
20 payable, and such taxpayer shall, within ten days thereafter, make a  
21 return and pay the tax due.

22       (2) Any person who becomes a successor shall withhold from the  
23 purchase price a sum sufficient to pay any tax due from the taxpayer  
24 until such time as the taxpayer shall produce a receipt from the  
25 department of revenue showing payment in full of any tax due or a  
26 certificate that no tax is due. If any tax is not paid by the taxpayer  
27 within ten days from the date of such sale, exchange, or disposal, the  
28 successor shall become liable for the payment of the full amount of  
29 tax. If the fair market value of the (~~(assets)~~) tangible or intangible  
30 personal property acquired by a successor is less than fifty thousand  
31 dollars, the successor's liability for payment of the unpaid tax is  
32 limited to the fair market value of the (~~(assets)~~) tangible or  
33 intangible personal property acquired from the taxpayer. The burden of  
34 establishing the fair market value of the (~~(assets)~~) tangible or  
35 intangible personal property acquired is on the successor.

36       (3) The payment of any tax by a successor shall, to the extent

1 thereof, be deemed a payment upon the purchase price; and if such  
2 payment is greater in amount than the purchase price the amount of the  
3 difference shall become a debt due the successor from the taxpayer.

4 (4) No successor shall be liable for any tax due from the person  
5 from whom the successor has acquired (~~((a business or stock of goods))~~)  
6 more than fifty percent of the fair market value of either the person's  
7 tangible or intangible personal property if the successor gives written  
8 notice to the department of revenue of such acquisition and no  
9 assessment is issued by the department of revenue within six months of  
10 receipt of such notice against the former operator of the business and  
11 a copy thereof mailed to the successor.

12 **PART IV**  
13 **BOARDING HOMES**

14 **Sec. 401.** RCW 82.04.2908 and 2005 c 514 s 302 are each amended to  
15 read as follows:

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

21 (2) For the purposes of this section, (~~(("domiciliary care" has the~~  
22 ~~meaning provided in RCW 18.20.020))~~) "authorized services" means those  
23 services that a boarding home is authorized under chapter 18.20 RCW to  
24 provide to its residents.

25 **Sec. 402.** RCW 82.04.4264 and 2005 c 514 s 301 are each amended to  
26 read as follows:

27 (1) This chapter does not apply to amounts received by a nonprofit  
28 boarding home licensed under chapter 18.20 RCW for providing room and  
29 (~~((domiciliary care))~~) authorized services to residents of the boarding  
30 home.

31 (2) As used in this section:

32 (a) (~~(("Domiciliary care"))~~) "Authorized services" has the meaning  
33 provided in RCW (~~((18.20.020))~~) 82.04.2908.

34 (b) "Nonprofit boarding home" means a boarding home that is  
35 operated as a religious or charitable organization, is exempt from

1 federal income tax under 26 U.S.C. Sec. 501(c)(3), is incorporated  
2 under chapter 24.03 RCW, is operated as part of a nonprofit hospital,  
3 or is operated as part of a public hospital district.

4 **PART V**

5 **TELECOMMUNICATIONS PROVISIONS**

6 **Sec. 501.** RCW 82.04.530 and 2004 c 153 s 410 are each amended to  
7 read as follows:

8 For purposes of this chapter, a telephone business other than a  
9 mobile telecommunications service provider must calculate gross  
10 proceeds of (~~retail~~) sales in a manner consistent with the sourcing  
11 rules provided in RCW 82.32.520. The department may adopt rules to  
12 implement this section, including rules that provide a formulary method  
13 of determining gross proceeds that reasonably approximates the taxable  
14 activity of a telephone business.

15 **Sec. 502.** RCW 82.14B.020 and 2002 c 341 s 7 are each amended to  
16 read as follows:

17 As used in this chapter:

18 (1) "Emergency services communication system" means a multicounty,  
19 countywide, or districtwide radio or landline communications network,  
20 including an enhanced 911 telephone system, which provides rapid public  
21 access for coordinated dispatching of services, personnel, equipment,  
22 and facilities for police, fire, medical, or other emergency services.

23 (2) "Enhanced 911 telephone system" means a public telephone system  
24 consisting of a network, data base, and on-premises equipment that is  
25 accessed by dialing 911 and that enables reporting police, fire,  
26 medical, or other emergency situations to a public safety answering  
27 point. The system includes the capability to selectively route  
28 incoming 911 calls to the appropriate public safety answering point  
29 that operates in a defined 911 service area and the capability to  
30 automatically display the name, address, and telephone number of  
31 incoming 911 calls at the appropriate public safety answering point.

32 (3) "Switched access line" means the telephone service line which  
33 connects a subscriber's main telephone(s) or equivalent main  
34 telephone(s) to the local exchange company's switching office.

1 (4) "Local exchange company" has the meaning ascribed to it in RCW  
2 80.04.010.

3 (5) "Radio access line" means the telephone number assigned to or  
4 used by a subscriber for two-way local wireless voice service available  
5 to the public for hire from a radio communications service company.  
6 Radio access lines include, but are not limited to, radio-telephone  
7 communications lines used in cellular telephone service, personal  
8 communications services, and network radio access lines, or their  
9 functional and competitive equivalent. Radio access lines do not  
10 include lines that provide access to one-way signaling service, such as  
11 paging service, or to communications channels suitable only for data  
12 transmission, or to nonlocal radio access line service, such as  
13 wireless roaming service, or to a private telecommunications system.

14 (6) "Radio communications service company" has the meaning ascribed  
15 to it in RCW 80.04.010, except that it does not include radio paging  
16 providers. It does include those persons or entities that provide  
17 commercial mobile radio services, as defined by 47 U.S.C. Sec.  
18 332(d)(1), and both facilities-based and nonfacilities-based resellers.

19 (7) "Private telecommunications system" has the meaning ascribed to  
20 it in RCW 80.04.010.

21 (8) "Subscriber" means the retail purchaser of telephone service as  
22 telephone service is defined in RCW 82.04.065(3).

23 (9) "Place of primary use" has the meaning ascribed to it in ((~~the~~  
24 ~~federal mobile telecommunications sourcing act, P.L. 106-252~~)) RCW  
25 82.04.065.

26 **Sec. 503.** RCW 82.14B.030 and 2002 c 341 s 8 and 2002 c 67 s 8 are  
27 each reenacted and amended to read as follows:

28 (1) The legislative authority of a county may impose a county  
29 enhanced 911 excise tax on the use of switched access lines in an  
30 amount not exceeding fifty cents per month for each switched access  
31 line. The amount of tax shall be uniform for each switched access  
32 line. Each county shall provide notice of such tax to all local  
33 exchange companies serving in the county at least sixty days in advance  
34 of the date on which the first payment is due.

35 (2) The legislative authority of a county may also impose a county  
36 enhanced 911 excise tax on the use of radio access lines whose place of  
37 primary use is located within the county in an amount not exceeding

1 fifty cents per month for each radio access line. The amount of tax  
2 shall be uniform for each radio access line. (~~The location of a radio~~  
3 ~~access line is the customer's place of primary use as defined in RCW~~  
4 ~~82.04.065.~~) The county shall provide notice of such tax to all radio  
5 communications service companies serving in the county at least sixty  
6 days in advance of the date on which the first payment is due. Any  
7 county imposing this tax shall include in its ordinance a refund  
8 mechanism whereby the amount of any tax ordered to be refunded by the  
9 judgment of a court of record, or as a result of the resolution of any  
10 appeal therefrom, shall be refunded to the radio communications service  
11 company or local exchange company that collected the tax, and those  
12 companies shall reimburse the subscribers who paid the tax. The  
13 ordinance shall further provide that to the extent the subscribers who  
14 paid the tax cannot be identified or located, the tax paid by those  
15 subscribers shall be returned to the county.

16 (3) A state enhanced 911 excise tax is imposed on all switched  
17 access lines in the state. The amount of tax shall not exceed twenty  
18 cents per month for each switched access line. The tax shall be  
19 uniform for each switched access line. The tax imposed under this  
20 subsection shall be remitted to the department of revenue by local  
21 exchange companies on a tax return provided by the department. Tax  
22 proceeds shall be deposited by the treasurer in the enhanced 911  
23 account created in RCW 38.52.540.

24 (4) A state enhanced 911 excise tax is imposed on all radio access  
25 lines whose place of primary use is located within the state in an  
26 amount of twenty cents per month for each radio access line. The tax  
27 shall be uniform for each radio access line. The tax imposed under  
28 this section shall be remitted to the department of revenue by radio  
29 communications service companies, including those companies that resell  
30 radio access lines, on a tax return provided by the department. Tax  
31 proceeds shall be deposited by the treasurer in the enhanced 911  
32 account created in RCW 38.52.540. The tax imposed under this section  
33 is not subject to the state sales and use tax or any local tax.

34 (5) By August 31st of each year the state enhanced 911 coordinator  
35 shall recommend the level for the next year of the state enhanced 911  
36 excise tax imposed by subsection (3) of this section, based on a  
37 systematic cost and revenue analysis, to the utilities and



1 transportation commission. The commission shall by the following  
2 October 31st determine the level of the state enhanced 911 excise tax  
3 for the following year.

4 **Sec. 504.** RCW 82.32.520 and 2004 c 153 s 403 are each amended to  
5 read as follows:

6 (1) Except for the defined telecommunications services listed in  
7 this section, the sale of telephone service as defined in RCW 82.04.065  
8 sold on a call-by-call basis shall be sourced to (a) each level of  
9 taxing jurisdiction where the call originates and terminates in that  
10 jurisdiction or (b) each level of taxing jurisdiction where the call  
11 either originates or terminates and in which the service address is  
12 also located.

13 (2) Except for the defined telecommunications services listed in  
14 this section, a sale of telephone service as defined in RCW 82.04.065  
15 sold on a basis other than a call-by-call basis, is sourced to the  
16 customer's place of primary use.

17 (3) The sales of telephone service as defined in RCW 82.04.065 that  
18 are listed in this section shall be sourced to each level of taxing  
19 jurisdiction as follows:

20 (a) A sale of mobile telecommunications services, other than air-  
21 ground radiotelephone service and prepaid calling service, is sourced  
22 to the customer's place of primary use as required by RCW 82.08.066.

23 (b) A sale of postpaid calling service is sourced to the  
24 origination point of the telecommunications signal as first identified  
25 by either (i) the seller's telecommunications system, or (ii)  
26 information received by the seller from its service provider, where the  
27 system used to transport such signals is not that of the seller.

28 (c) A sale of prepaid calling service is sourced as follows:

29 (i) When a prepaid calling service is received by the purchaser at  
30 a business location of the seller, the sale is sourced to that business  
31 location;

32 (ii) When a prepaid calling service is not received by the  
33 purchaser at a business location of the seller, the sale is sourced to  
34 the location where receipt by the purchaser or the purchaser's donee,  
35 designated as such by the purchaser, occurs, including the location  
36 indicated by instructions for delivery to the purchaser or donee, known  
37 to the seller;

1 (iii) When (c)(i) and (ii) of this subsection do not apply, the  
2 sale is sourced to the location indicated by an address for the  
3 purchaser that is available from the business records of the seller  
4 that are maintained in the ordinary course of the seller's business  
5 when use of this address does not constitute bad faith;

6 (iv) When (c)(i), (ii), and (iii) of this subsection do not apply,  
7 the sale is sourced to the location indicated by an address for the  
8 purchaser obtained during the consummation of the sale, including the  
9 address of a purchaser's payment instrument, if no other address is  
10 available, when use of this address does not constitute bad faith;

11 (v) When (c)(i), (ii), (iii), and (iv) of this subsection do not  
12 apply, including the circumstance where the seller is without  
13 sufficient information to apply those provisions, then the location  
14 shall be determined by the address from which tangible personal  
15 property was shipped, from which the digital good or the computer  
16 software delivered electronically was first available for transmission  
17 by the seller, or from which the service defined as a retail sale under  
18 RCW 82.04.050 was provided, disregarding for these purposes any  
19 location that merely provided the digital transfer of the product sold;

20 (vi) In the case of a sale of mobile telecommunications service  
21 that is a prepaid telecommunications service, (c)(v) of this subsection  
22 shall include as an option the location associated with the mobile  
23 telephone number.

24 (d) A sale of a private communication service is sourced as  
25 follows:

26 (i) Service for a separate charge related to a customer channel  
27 termination point is sourced to each level of jurisdiction in which  
28 such customer channel termination point is located.

29 (ii) Service where all customer termination points are located  
30 entirely within one jurisdiction or levels of jurisdiction is sourced  
31 in such jurisdiction in which the customer channel termination points  
32 are located.

33 (iii) Service for segments of a channel between two customer  
34 channel termination points located in different jurisdictions and which  
35 segment of channel are separately charged is sourced fifty percent in  
36 each level of jurisdiction in which the customer channel termination  
37 points are located.

1 (iv) Service for segments of a channel located in more than one  
2 jurisdiction or levels of jurisdiction and which segments are not  
3 separately billed is sourced in each jurisdiction based on the  
4 percentage determined by dividing the number of customer channel  
5 termination points in the jurisdiction by the total number of customer  
6 channel termination points.

7 (4) The definitions in this subsection apply throughout this  
8 chapter.

9 (a) "Air-ground radiotelephone service" means air-ground radio  
10 service, as defined in 47 C.F.R. Sec. 22.99, as amended or renumbered  
11 as of January 1, 2003, in which common carriers are authorized to offer  
12 and provide radio telecommunications service for hire to subscribers in  
13 aircraft.

14 (b) "Call-by-call basis" means any method of charging for  
15 telecommunications services where the price is measured by individual  
16 calls.

17 (c) "Communications channel" means a physical or virtual path of  
18 communications over which signals are transmitted between or among  
19 customer channel termination points.

20 (d) "Customer" means the person or entity that contracts with the  
21 seller of telecommunications services. If the end user of  
22 telecommunications services is not the contracting party, the end user  
23 of the telecommunications service is the customer of the  
24 telecommunications service. "Customer" does not include a reseller of  
25 telecommunications service or for mobile telecommunications service of  
26 a serving carrier under an agreement to serve the customer outside the  
27 home service provider's licensed service area.

28 (e) "Customer channel termination point" means the location where  
29 the customer either inputs or receives the communications.

30 (f) "End user" means the person who uses the telecommunications  
31 service. In the case of an entity, the term end user means the  
32 individual who uses the service on behalf of the entity.

33 (g) "Home service provider" means the same as that term is defined  
34 in RCW 82.04.065.

35 (h) "Mobile telecommunications service" means the same as that term  
36 is defined in RCW 82.04.065.

37 (i) "Place of primary use" means the street address representative  
38 of where the customer's use of the telecommunications service primarily

1 occurs, which must be the residential street address or the primary  
2 business street address of the customer. In the case of mobile  
3 telecommunications services, "place of primary use" must be within the  
4 licensed service area of the home service provider.

5 (j) "Postpaid calling service" means the telecommunications service  
6 obtained by making a payment on a call-by-call basis either through the  
7 use of a credit card or payment mechanism such as a bank card, travel  
8 card, credit card, or debit card, or by charge made to (~~which~~) a  
9 telephone number that is not associated with the origination or  
10 termination of the telecommunications service. A postpaid calling  
11 service includes a telecommunications service that would be a prepaid  
12 calling service except it is not exclusively a telecommunications  
13 service.

14 (k) "Prepaid calling service" means the right to access exclusively  
15 telecommunications services, which must be paid for in advance and  
16 which enables the origination of calls using an access number and/or  
17 authorization code, whether manually or electronically dialed, and that  
18 is sold in predetermined units or dollars of which the number declines  
19 with use in a known amount.

20 (l) "Private communication service" means a telecommunications  
21 service that entitles the customer to exclusive or priority use of a  
22 communications channel or group of channels between or among  
23 termination points, regardless of the manner in which such channel or  
24 channels are connected, and includes switching capacity, extension  
25 lines, stations, and any other associated services that are provided in  
26 connection with the use of such channel or channels.

27 (m) "Service address" means:

28 (i) The location of the telecommunications equipment to which a  
29 customer's call is charged and from which the call originates or  
30 terminates, regardless of where the call is billed or paid;

31 (ii) If the location in (m)(i) of this subsection is not known, the  
32 origination point of the signal of the telecommunications services  
33 first identified by either the seller's telecommunications system or in  
34 information received by the seller from its service provider, where the  
35 system used to transport such signals is not that of the seller;

36 (iii) If the locations in (m)(i) and (ii) of this subsection are  
37 not known, the location of the customer's place of primary use.

1           **Sec. 505.** RCW 82.32.555 and 2004 c 76 s 1 are each amended to read  
2 as follows:

3           If a taxing jurisdiction does not subject some charges for  
4 telephone services to taxation, but these charges are aggregated with  
5 and not separately stated from charges that are subject to taxation,  
6 then the charges for nontaxable telephone services may be subject to  
7 taxation unless the telephone service ((~~or~~)) provider can reasonably  
8 identify charges not subject to the tax, charge, or fee from its books  
9 and records that are kept in the regular course of business and for  
10 purposes other than merely allocating the sales price of an aggregated  
11 charge to the individually aggregated items.

12           **Sec. 506.** RCW 34.05.030 and 2002 c 354 s 225 are each amended to  
13 read as follows:

14           (1) This chapter shall not apply to:

15           (a) The state militia, or

16           (b) The board of clemency and pardons, or

17           (c) The department of corrections or the indeterminate sentencing  
18 review board with respect to persons who are in their custody or are  
19 subject to the jurisdiction of those agencies.

20           (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
21 apply:

22           (a) To adjudicative proceedings of the board of industrial  
23 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

24           (b) Except for actions pursuant to chapter 46.29 RCW, to the  
25 denial, suspension, or revocation of a driver's license by the  
26 department of licensing;

27           (c) To the department of labor and industries where another statute  
28 expressly provides for review of adjudicative proceedings of a  
29 department action, order, decision, or award before the board of  
30 industrial insurance appeals;

31           (d) To actions of the Washington personnel resources board or the  
32 director of personnel; or

33           (e) To the extent they are inconsistent with any provisions of  
34 chapter 43.43 RCW.

35           (3) Unless a party makes an election for a formal hearing pursuant  
36 to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not  
37 apply to a review hearing conducted by the board of tax appeals.

1 (4) The rule-making provisions of this chapter do not apply to:  
2 (a) Reimbursement unit values, fee schedules, arithmetic conversion  
3 factors, and similar arithmetic factors used to determine payment rates  
4 that apply to goods and services purchased under contract for clients  
5 eligible under chapter 74.09 RCW; and

6 (b) Determinations by the department of revenue under RCW  
7 43.20A.725 and 80.36.430 of the amount of telecommunications relay  
8 service excise tax and telephone assistance excise tax, to be placed on  
9 each switched access line.

10 (5) All other agencies, whether or not formerly specifically  
11 excluded from the provisions of all or any part of the Administrative  
12 Procedure Act, shall be subject to the entire act.

13 **Sec. 507.** 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 514, Laws of 2005 is null and void.

26 (5) If the contingency in subsection (1) of this section occurs,  
27 sections 501 and 503, chapter ..., Laws of 2006 (sections 501 and 503  
28 of this act) are null and void.

29 **PART VI**

30 **LOCAL SALES AND USE TAXES**

31 **Sec. 601.** RCW 82.14.055 and 2003 c 168 s 206 are each amended to  
32 read as follows:

33 (1) Except as provided in subsections (2), (3), and (4) of this  
34 section or any other statute, a local ~~((sales and use))~~ tax change

1 shall take effect (a) no sooner than seventy-five days after the  
2 department receives notice of the change and (b) only on the first day  
3 of January, April, July, or October.

4 (2) In the case of a local (~~sales and use~~) tax that is a credit  
5 against the state sales tax or use tax, a local (~~sales and use~~) tax  
6 change shall take effect (a) no sooner than thirty days after the  
7 department receives notice of the change and (b) only on the first day  
8 of a month.

9 (3)(a) A local (~~sales and use~~) tax rate increase imposed on  
10 services applies to the first billing period starting on or after the  
11 effective date of the increase.

12 (b) A local (~~sales and use~~) tax rate decrease imposed on services  
13 applies to bills rendered on or after the effective date of the  
14 decrease.

15 (c) For the purposes of this subsection (3), "services" means  
16 retail services such as installing and constructing and retail services  
17 such as telecommunications, but does not include services such as  
18 tattooing.

19 (4) For the purposes of this section, the following definitions  
20 apply:

21 (a) "Local government" means any city, town, county, or any other  
22 municipal corporation, quasi-municipal corporation, or other political  
23 subdivision authorized to impose taxes, fees, or charges.

24 (b) "Local (~~sales and use~~) tax change" means enactment or  
25 revision, including changes resulting from referendum or annexation,  
26 of:

27 (i) Local sales and use taxes authorized under this chapter or any  
28 other statute(~~, including changes resulting from referendum or~~  
29 annexation)); or

30 (ii) Any other tax, fee, or charge imposed by a local government  
31 that the department is required to collect on behalf of the local  
32 government, including any tax, fee, or charge imposed under this title  
33 or Title 35, 36, or 67 RCW.

34 **Sec. 602.** RCW 82.14.030 and 1989 c 384 s 6 are each amended to  
35 read as follows:

36 (1) The governing body of any county or city while not required by  
37 legislative mandate to do so, may, by resolution or ordinance for the

1 purposes authorized by this chapter, (~~fix and~~) impose a sales and use  
2 tax in accordance with the terms of this chapter. Such tax shall be  
3 collected from those persons who are taxable by the state (~~pursuant~~  
4 ~~to~~) under chapters 82.08 and 82.12 RCW, upon the occurrence of any  
5 taxable event within the county or city as the case may be(~~+~~  
6 ~~PROVIDED, That~~). Except as provided in RCW 82.14.230, this sales and  
7 use tax shall not apply to natural or manufactured gas. The rate of  
8 such tax imposed by a county shall be five-tenths of one percent (of  
9 the selling price (in the case of a sales tax) or value of the article  
10 used (in the case of a use tax)). The rate of such tax imposed by a  
11 city shall not exceed five-tenths of one percent (~~of the selling price~~  
12 ~~(in the case of a sales tax) or value of the article used (in the case~~  
13 ~~of a use tax):~~ ~~PROVIDED, HOWEVER, That~~). However, in the event a  
14 county (~~shall impose~~) imposes a sales and use tax under this  
15 subsection, the rate of such tax imposed under this subsection by any  
16 city therein shall not exceed four hundred and twenty-five one-  
17 thousandths of one percent.

18 (2) (~~Subject to the enactment into law of the 1982 amendment to~~  
19 ~~RCW 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess.,~~)  
20 In addition to the tax authorized in subsection (1) of this section,  
21 the governing body of any county or city may by resolution or ordinance  
22 impose an additional sales and use tax in accordance with the terms of  
23 this chapter. Such additional tax shall be collected upon the same  
24 taxable events upon which the tax imposed under subsection (1) of this  
25 section is (levied) imposed. The rate of such additional tax imposed  
26 by a county shall be up to five-tenths of one percent (~~of the selling~~  
27 ~~price (in the case of a sales tax) or value of the article used (in the~~  
28 ~~case of a use tax))~~. The rate of such additional tax imposed by a  
29 city shall be up to five-tenths of one percent (~~of the selling price~~  
30 ~~(in the case of a sales tax) or value of the article used (in the case~~  
31 ~~of a use tax):~~ ~~PROVIDED HOWEVER, That~~). However, in the event a  
32 county (~~shall~~) imposes a sales and use tax under the authority of  
33 this subsection at a rate equal to or greater than the rate imposed  
34 under the authority of this subsection by a city within the county, the  
35 county shall receive fifteen percent of the city tax(~~+~~  
36 ~~FURTHER, That~~). In the event that the county (shall impose) imposes  
37 a sales and use tax under the authority of this subsection at a rate  
38 which is less than the rate imposed under this subsection by a city



1 within the county, the county shall receive that amount of revenues  
2 from the city tax equal to fifteen percent of the rate of tax imposed  
3 by the county under the authority of this subsection. The authority to  
4 impose a tax under this subsection is intended in part to compensate  
5 local government for any losses from the phase-out of the property tax  
6 on business inventories.

7 (3) The rate of sales and use tax imposed by a city under the  
8 authority of subsections (1) and (2) of this section may be altered  
9 pursuant to a government service agreement as provided in RCW  
10 36.115.040 and 36.115.050.

11 (4) The percentage of a city's sales and use tax receipts that a  
12 county receives under the authority of subsections (1) and (2) of this  
13 section may be altered pursuant to a government service agreement as  
14 provided in RCW 36.115.040 and 36.115.050.

15 **Sec. 603.** RCW 82.14.045 and 2001 c 89 s 3 are each amended to read  
16 as follows:

17 (1) The legislative body of any city pursuant to RCW 35.92.060, of  
18 any county which has created an unincorporated transportation benefit  
19 area pursuant to RCW 36.57.100 and 36.57.110, of any public  
20 transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090,  
21 of any county transportation authority established pursuant to chapter  
22 36.57 RCW, and of any metropolitan municipal corporation within a  
23 county with a population of one million or more pursuant to chapter  
24 35.58 RCW, may, by resolution or ordinance for the sole purpose of  
25 providing funds for the operation, maintenance, or capital needs of  
26 public transportation systems or public transportation limited to  
27 persons with special needs under RCW 36.57.130 and 36.57A.180, and in  
28 lieu of the excise taxes authorized by RCW 35.95.040, submit an  
29 authorizing proposition to the voters or include such authorization in  
30 a proposition to perform the function of public transportation or  
31 public transportation limited to persons with special needs under RCW  
32 36.57.130 and 36.57A.180, and if approved by a majority of persons  
33 voting thereon, (~~(fix and)~~) impose a sales and use tax in accordance  
34 with the terms of this chapter(~~(: PROVIDED, That no such legislative~~  
35 ~~body shall impose such a sales and use tax without submitting such an~~  
36 ~~authorizing proposition to the voters and obtaining the approval of a~~  
37 ~~majority of persons voting thereon: PROVIDED FURTHER, That)). Where~~

1 (~~such a~~) an authorizing proposition is submitted by a county on  
2 behalf of an unincorporated transportation benefit area, it shall be  
3 voted upon by the voters residing within the boundaries of such  
4 unincorporated transportation benefit area and, if approved, the sales  
5 and use tax shall be imposed only within such area. Notwithstanding  
6 any provisions of this section to the contrary, any county in which a  
7 county public transportation plan has been adopted pursuant to RCW  
8 36.57.070 and the voters of such county have authorized the imposition  
9 of a sales and use tax pursuant to the provisions of section 10,  
10 chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be  
11 authorized to (~~fix and~~) impose a sales and use tax as provided in  
12 this section at not to exceed the rate so authorized without additional  
13 approval of the voters of such county as otherwise required by this  
14 section.

15 The tax authorized (~~pursuant to~~) by this section shall be in  
16 addition to the tax authorized by RCW 82.14.030 and shall be collected  
17 from those persons who are taxable by the state (~~pursuant to~~) under  
18 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
19 within such city, public transportation benefit area, county, or  
20 metropolitan municipal corporation as the case may be. The rate of  
21 such tax shall be one-tenth, two-tenths, three-tenths, four-tenths,  
22 five-tenths, six-tenths, seven-tenths, eight-tenths, or nine-tenths of  
23 one percent (~~of the selling price (in the case of a sales tax) or~~  
24 ~~value of the article used (in the case of a use tax)~~). The rate of  
25 such tax shall not exceed the rate authorized by the voters unless such  
26 increase shall be similarly approved.

27 (2)(a) In the event a metropolitan municipal corporation (~~shall~~)  
28 imposes a sales and use tax pursuant to this chapter no city, county  
29 which has created an unincorporated transportation benefit area, public  
30 transportation benefit area authority, or county transportation  
31 authority wholly within such metropolitan municipal corporation shall  
32 be empowered to (~~levy~~) impose and/or collect taxes (~~pursuant to~~)  
33 under RCW (~~35.58.273,~~) 35.95.040(~~, and/or 82.14.045~~) or this  
34 section, but nothing herein shall prevent such city or county from  
35 imposing sales and use taxes pursuant to any other authorization.

36 (b) In the event a county transportation authority (~~shall~~)  
37 imposes a sales and use tax (~~pursuant to~~) under this section, no  
38 city, county which has created an unincorporated transportation benefit

1 area, public transportation benefit area, or metropolitan municipal  
2 corporation, located within the territory of the authority, shall be  
3 empowered to ~~((levy))~~ impose or collect taxes ~~((pursuant to))~~ under RCW  
4 ~~((35.58.273,))~~ 35.95.040~~((,))~~ or ~~((82.14.045))~~ this section.

5 (c) In the event a public transportation benefit area ~~((shall))~~  
6 imposes a sales and use tax ~~((pursuant to))~~ under this section, no  
7 city, county which has created an unincorporated transportation benefit  
8 area, or metropolitan municipal corporation, located wholly or partly  
9 within the territory of the public transportation benefit area, shall  
10 be empowered to ~~((levy))~~ impose or collect taxes ~~((pursuant to))~~ under  
11 RCW ~~((35.58.273,))~~ 35.95.040~~((,))~~ or ~~((82.14.045))~~ this section.

12 ~~((3) Any local sales and use tax revenue collected pursuant to  
13 this section by any city or by any county for transportation purposes  
14 pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally  
15 generated tax revenues for the purposes of apportionment and  
16 distribution, in the manner prescribed by chapter 82.44 RCW, of the  
17 proceeds of the motor vehicle excise tax authorized pursuant to RCW  
18 35.58.273, except that the local sales and use tax revenue collected  
19 under this section by a city with a population greater than sixty  
20 thousand that as of January 1, 1998, owns and operates a municipal  
21 public transportation system shall be counted as locally generated tax  
22 revenues for the purposes of apportionment and distribution, in the  
23 manner prescribed by chapter 82.44 RCW, of the proceeds of the motor  
24 vehicle excise tax authorized under RCW 35.58.273 as follows:~~

25 ~~((a) For fiscal year 2000, revenues collected under this section  
26 shall be counted as locally generated tax revenues for up to 25 percent  
27 of the tax collected under RCW 35.58.273;~~

28 ~~((b) For fiscal year 2001, revenues collected under this section  
29 shall be counted as locally generated tax revenues for up to 50 percent  
30 of the tax collected under RCW 35.58.273;~~

31 ~~((c) For fiscal year 2002, revenues collected under this section  
32 shall be counted as locally generated tax revenues for up to 75 percent  
33 of the tax collected under RCW 35.58.273; and~~

34 ~~((d) For fiscal year 2003 and thereafter, revenues collected under  
35 this section shall be counted as locally generated tax revenues for up  
36 to 100 percent of the tax collected under RCW 35.58.273.))~~

1       **Sec. 604.** RCW 82.14.048 and 1999 c 165 s 12 are each amended to  
2 read as follows:

3       (1) The governing board of a public facilities district under  
4 chapter 36.100 or 35.57 RCW may submit an authorizing proposition to  
5 the voters of the district, and if the proposition is approved by a  
6 majority of persons voting, (~~(fix and)~~) impose a sales and use tax in  
7 accordance with the terms of this chapter.

8       (2) The tax authorized in this section shall be in addition to any  
9 other taxes authorized by law and shall be collected from those persons  
10 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
11 the occurrence of any taxable event within the public facilities  
12 district. The rate of tax shall not exceed two-tenths of one percent  
13 (~~(of the selling price in the case of a sales tax, or value of the~~  
14 ~~article used, in the case of a use tax)~~).

15       (3) Moneys received from any tax imposed under this section shall  
16 be used for the purpose of providing funds for the costs associated  
17 with the financing, design, acquisition, construction, equipping,  
18 operating, maintaining, remodeling, repairing, and reequipping of its  
19 public facilities.

20       (~~(No tax may be collected under this section by a public facilities~~  
21 ~~district under chapter 35.57 RCW before August 1, 2000, and no tax in~~  
22 ~~excess of one-tenth of one percent may be collected under this section~~  
23 ~~by a public facilities district under chapter 36.100 RCW before August~~  
24 ~~1, 2000.)~~)

25       **Sec. 605.** RCW 82.14.0485 and 1995 3rd sp.s. c 1 s 101 are each  
26 amended to read as follows:

27       (1) The legislative authority of a county with a population of one  
28 million or more may impose a sales and use tax in accordance with the  
29 terms of this chapter. The tax is in addition to other taxes  
30 authorized by law and shall be collected from those persons who are  
31 taxable by the state under chapters 82.08 and 82.12 RCW upon the  
32 occurrence of any taxable event within the county. The rate of tax  
33 shall not exceed 0.017 percent (~~(of the selling price in the case of a~~  
34 ~~sales tax or value of the article used in the case of a use tax)~~).

35       (2) The tax (~~(imposed)~~) authorized under subsection (1) of this  
36 section (~~(shall be deducted from the amount of tax otherwise required~~  
37 ~~to be collected or paid over to the department of revenue)~~) is a credit

1 against the state tax under chapter 82.08 or 82.12 RCW. The department  
2 of revenue shall perform the collection of such taxes on behalf of the  
3 county at no cost to the county and shall remit the tax to the county  
4 as provided in RCW 82.14.060.

5 (3) Moneys collected under the authority of this section shall only  
6 be used for the purpose of paying the principal and interest payments  
7 on bonds issued by a county to construct a baseball stadium.

8 (4) No tax may be collected under the authority of this section  
9 before January 1, 1996, and no tax may be collected under this section  
10 unless the taxes under RCW 82.14.360 are being collected. The tax  
11 (~~imposed in~~) authorized under this section shall expire when the  
12 bonds issued for the construction of the baseball stadium are retired,  
13 but not more than twenty years after the tax is first collected.

14 (5) As used in this section, "baseball stadium" means a baseball  
15 stadium with natural turf and a retractable roof or canopy, together  
16 with associated parking facilities, constructed in the largest city in  
17 a county with a population of one million or more.

18 **Sec. 606.** RCW 82.14.049 and 1997 c 220 s 502 are each amended to  
19 read as follows:

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

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

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

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

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

35 (2) At least seventy-five percent of the tax (~~imposed~~) authorized  
36 under this section shall be used for the purposes of (~~subsections~~)  
37 subsection (1) (~~, (2), and (4)~~) of this section.

1           **Sec. 607.** RCW 82.14.0494 and 1997 c 220 s 204 are each amended to  
2 read as follows:

3           (1) The legislative authority of a county that has created a public  
4 stadium authority to develop a stadium and exhibition center under RCW  
5 36.102.050 may impose a sales and use tax in accordance with this  
6 chapter. The tax is in addition to other taxes authorized by law and  
7 shall be collected from those persons who are taxable by the state  
8 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable  
9 event within the county. The rate of tax shall be 0.016 percent (~~of~~  
10 ~~the selling price in the case of a sales tax or value of the article~~  
11 ~~used in the case of a use tax)).~~

12           (2) The tax (~~imposed~~) authorized under subsection (1) of this  
13 section (~~shall be deducted from the amount of tax otherwise required~~  
14 ~~to be collected or paid over to the department of revenue~~) is a credit  
15 against the state tax under chapter 82.08 or 82.12 RCW. The department  
16 of revenue shall perform the collection of such taxes on behalf of the  
17 county at no cost to the county and shall remit the tax to the county  
18 as provided in RCW 82.14.060.

19           (3) Before the issuance of bonds in RCW 43.99N.020, all revenues  
20 collected on behalf of the county under the authority of this section  
21 shall be transferred to the public stadium authority. After bonds are  
22 issued under RCW 43.99N.020, all revenues collected on behalf of the  
23 county under the authority of this section shall be deposited in the  
24 stadium and exhibition center account under RCW 43.99N.060.

25           (4) The definitions in RCW 36.102.010 apply to this section.

26           (5) This section expires on the earliest of the following dates:

27           (a) December 31, 1999, if the conditions for issuance of bonds  
28 under RCW 43.99N.020 have not been met before that date;

29           (b) The date on which all bonds issued under RCW 43.99N.020 have  
30 been retired; or

31           (c) Twenty-three years after the date the tax authorized under this  
32 section is first imposed.

33           **Sec. 608.** RCW 82.14.010 and 1970 ex.s. c 94 s 1 are each amended  
34 to read as follows:

35           (1) The legislature finds that the several counties and cities of  
36 the state lack adequate sources of revenue to carry out essential  
37 county and municipal purposes. The legislature further finds that the

1 most efficient and appropriate methods of deriving revenues for such  
2 purposes is to vest additional taxing powers in the governing bodies of  
3 counties and cities which they may or may not implement. The  
4 legislature intends, by enacting this chapter, to provide the means by  
5 which essential county and municipal purposes can be financially served  
6 should they choose to employ them.

7 (2) It is the intent of this chapter that any local sales and use  
8 tax adopted under the authority of this chapter be identical to the  
9 state sales and use tax, unless otherwise prohibited by federal law,  
10 and with other local sales and use taxes adopted under the authority of  
11 this chapter. It is further the intent of this chapter that the local  
12 sales and use tax shall be imposed upon an individual taxable event  
13 simultaneously with the imposition of the state sales or use tax upon  
14 the same taxable event. The rule-making powers of the department  
15 contained in RCW 82.08.060 and 82.32.300 are applicable to this  
16 chapter.

17 **Sec. 609.** RCW 82.14.310 and 2005 c 282 s 49 are each amended to  
18 read as follows:

19 (1) The county criminal justice assistance account is created in  
20 the state treasury. Beginning in fiscal year 2000, the state treasurer  
21 shall transfer into the county criminal justice assistance account from  
22 the general fund the sum of twenty-three million two hundred thousand  
23 dollars divided into four equal deposits occurring on July 1, October  
24 1, January 1, and April 1. For each fiscal year thereafter, the state  
25 treasurer shall increase the total transfer by the fiscal growth  
26 factor, as defined in RCW 43.135.025, forecast for that fiscal year by  
27 the office of financial management in November of the preceding year.

28 (2) The moneys deposited in the county criminal justice assistance  
29 account for distribution under this section, less any moneys  
30 appropriated for purposes under subsection (4) of this section, shall  
31 be distributed (~~(at such times as distributions are made under RCW~~  
32 ~~82.44.150)) quarterly during the months of January, April, July, and  
33 October and on the relative basis of each county's funding factor as  
34 determined under this subsection.~~

35 (a) A county's funding factor is the sum of:

36 (i) The population of the county, divided by one thousand, and  
37 multiplied by two-tenths;

1 (ii) The crime rate of the county, multiplied by three-tenths; and  
2 (iii) The annual number of criminal cases filed in the county  
3 superior court, for each one thousand in population, multiplied by  
4 five-tenths.

5 (b) Under this section and RCW 82.14.320 and 82.14.330:

6 (i) The population of the county or city shall be as last  
7 determined by the office of financial management;

8 (ii) The crime rate of the county or city is the annual occurrence  
9 of specified criminal offenses, as calculated in the most recent annual  
10 report on crime in Washington state as published by the Washington  
11 association of sheriffs and police chiefs, for each one thousand in  
12 population;

13 (iii) The annual number of criminal cases filed in the county  
14 superior court shall be determined by the most recent annual report of  
15 the courts of Washington, as published by the administrative office of  
16 the courts;

17 (iv) Distributions and eligibility for distributions in the 1989-91  
18 biennium shall be based on 1988 figures for both the crime rate as  
19 described under (ii) of this subsection and the annual number of  
20 criminal cases that are filed as described under (iii) of this  
21 subsection. Future distributions shall be based on the most recent  
22 figures for both the crime rate as described under (ii) of this  
23 subsection and the annual number of criminal cases that are filed as  
24 described under (iii) of this subsection.

25 (3) Moneys distributed under this section shall be expended  
26 exclusively for criminal justice purposes and shall not be used to  
27 replace or supplant existing funding. Criminal justice purposes are  
28 defined as activities that substantially assist the criminal justice  
29 system, which may include circumstances where ancillary benefit to the  
30 civil or juvenile justice system occurs, and which includes (a)  
31 domestic violence services such as those provided by domestic violence  
32 programs, community advocates, and legal advocates, as defined in RCW  
33 70.123.020, and (b) during the 2001-2003 fiscal biennium, juvenile  
34 dispositional hearings relating to petitions for at-risk youth,  
35 truancy, and children in need of services. Existing funding for  
36 purposes of this subsection is defined as calendar year 1989 actual  
37 operating expenditures for criminal justice purposes. Calendar year  
38 1989 actual operating expenditures for criminal justice purposes



1 exclude the following: Expenditures for extraordinary events not  
2 likely to reoccur, changes in contract provisions for criminal justice  
3 services, beyond the control of the local jurisdiction receiving the  
4 services, and major nonrecurring capital expenditures.

5 (4) Not more than five percent of the funds deposited to the county  
6 criminal justice assistance account shall be available for  
7 appropriations for enhancements to the state patrol crime laboratory  
8 system and the continuing costs related to these enhancements. Funds  
9 appropriated from this account for such enhancements shall not supplant  
10 existing funds from the state general fund.

11 **Sec. 610.** RCW 82.14.320 and 1998 c 321 s 12 are each amended to  
12 read as follows:

13 (1) The municipal criminal justice assistance account is created in  
14 the state treasury. Beginning in fiscal year 2000, the state treasurer  
15 shall transfer into the municipal criminal justice assistance account  
16 for distribution under this section from the general fund the sum of  
17 four million six hundred thousand dollars divided into four equal  
18 deposits occurring on July 1, October 1, January 1, and April 1. For  
19 each fiscal year thereafter, the state treasurer shall increase the  
20 total transfer by the fiscal growth factor, as defined in RCW  
21 43.135.025, forecast for that fiscal year by the office of financial  
22 management in November of the preceding year.

23 (2) No city may receive a distribution under this section from the  
24 municipal criminal justice assistance account unless:

25 (a) The city has a crime rate in excess of one hundred twenty-five  
26 percent of the statewide average as calculated in the most recent  
27 annual report on crime in Washington state as published by the  
28 Washington association of sheriffs and police chiefs;

29 (b) The city has levied the tax authorized in RCW 82.14.030(2) at  
30 the maximum rate or the tax authorized in RCW 82.46.010(3) at the  
31 maximum rate; and

32 (c) The city has a per capita yield from the tax imposed under RCW  
33 82.14.030(1) at the maximum rate of less than one hundred fifty percent  
34 of the statewide average per capita yield for all cities from such  
35 local sales and use tax.

36 (3) The moneys deposited in the municipal criminal justice  
37 assistance account for distribution under this section, less any moneys

1 appropriated for purposes under subsection (7) of this section, shall  
2 be distributed (~~(at such times as distributions are made under RCW~~  
3 ~~82.44.150)~~) quarterly during the months of January, April, July, and  
4 October. The distributions shall be made as follows:

5 (a) Unless reduced by this subsection, thirty percent of the moneys  
6 shall be distributed ratably based on population as last determined by  
7 the office of financial management to those cities eligible under  
8 subsection (2) of this section that have a crime rate determined under  
9 subsection (2)(a) of this section which is greater than one hundred  
10 seventy-five percent of the statewide average crime rate. No city may  
11 receive more than fifty percent of any moneys distributed under this  
12 subsection (a) but, if a city distribution is reduced as a result of  
13 exceeding the fifty percent limitation, the amount not distributed  
14 shall be distributed under (b) of this subsection.

15 (b) The remainder of the moneys, including any moneys not  
16 distributed in subsection (2)(a) of this section, shall be distributed  
17 to all cities eligible under subsection (2) of this section ratably  
18 based on population as last determined by the office of financial  
19 management.

20 (4) No city may receive more than thirty percent of all moneys  
21 distributed under subsection (3) of this section.

22 (5) Notwithstanding other provisions of this section, the  
23 distributions to any city that substantially decriminalizes or repeals  
24 its criminal code after July 1, 1990, and that does not reimburse the  
25 county for costs associated with criminal cases under RCW 3.50.800 or  
26 3.50.805(2), shall be made to the county in which the city is located.

27 (6) Moneys distributed under this section shall be expended  
28 exclusively for criminal justice purposes and shall not be used to  
29 replace or supplant existing funding. Criminal justice purposes are  
30 defined as activities that substantially assist the criminal justice  
31 system, which may include circumstances where ancillary benefit to the  
32 civil justice system occurs, and which includes domestic violence  
33 services such as those provided by domestic violence programs,  
34 community advocates, and legal advocates, as defined in RCW 70.123.020,  
35 and publications and public educational efforts designed to provide  
36 information and assistance to parents in dealing with runaway or at-  
37 risk youth. Existing funding for purposes of this subsection is  
38 defined as calendar year 1989 actual operating expenditures for

1 criminal justice purposes. Calendar year 1989 actual operating  
2 expenditures for criminal justice purposes exclude the following:  
3 Expenditures for extraordinary events not likely to reoccur, changes in  
4 contract provisions for criminal justice services, beyond the control  
5 of the local jurisdiction receiving the services, and major  
6 nonrecurring capital expenditures.

7 (7) Not more than five percent of the funds deposited to the  
8 municipal criminal justice assistance account shall be available for  
9 appropriations for enhancements to the state patrol crime laboratory  
10 system and the continuing costs related to these enhancements. Funds  
11 appropriated from this account for such enhancements shall not supplant  
12 existing funds from the state general fund.

13 **Sec. 611.** RCW 82.14.330 and 2003 c 90 s 1 are each amended to read  
14 as follows:

15 (1) Beginning in fiscal year 2000, the state treasurer shall  
16 transfer into the municipal criminal justice assistance account for  
17 distribution under this section from the general fund the sum of four  
18 million six hundred thousand dollars divided into four equal deposits  
19 occurring on July 1, October 1, January 1, and April 1. For each  
20 fiscal year thereafter, the state treasurer shall increase the total  
21 transfer by the fiscal growth factor, as defined in RCW 43.135.025,  
22 forecast for that fiscal year by the office of financial management in  
23 November of the preceding year. The moneys deposited in the municipal  
24 criminal justice assistance account for distribution under this  
25 section, less any moneys appropriated for purposes under subsection (4)  
26 of this section, shall be distributed to the cities of the state as  
27 follows:

28 (a) Twenty percent appropriated for distribution shall be  
29 distributed to cities with a three-year average violent crime rate for  
30 each one thousand in population in excess of one hundred fifty percent  
31 of the statewide three-year average violent crime rate for each one  
32 thousand in population. The three-year average violent crime rate  
33 shall be calculated using the violent crime rates for each of the  
34 preceding three years from the annual reports on crime in Washington  
35 state as published by the Washington association of sheriffs and police  
36 chiefs. Moneys shall be distributed under this subsection (1)(a)  
37 ratably based on population as last determined by the office of

1 financial management, but no city may receive more than one dollar per  
2 capita. Moneys remaining undistributed under this subsection at the  
3 end of each calendar year shall be distributed to the criminal justice  
4 training commission to reimburse participating city law enforcement  
5 agencies with ten or fewer full-time commissioned patrol officers the  
6 cost of temporary replacement of each officer who is enrolled in basic  
7 law enforcement training, as provided in RCW 43.101.200.

8 (b) Sixteen percent shall be distributed to cities ratably based on  
9 population as last determined by the office of financial management,  
10 but no city may receive less than one thousand dollars.

11 The moneys deposited in the municipal criminal justice assistance  
12 account for distribution under this subsection shall be distributed  
13 (~~at such times as distributions are made under RCW 82.44.150~~)  
14 quarterly during the months of January, April, July, and October.

15 Moneys distributed under this subsection shall be expended  
16 exclusively for criminal justice purposes and shall not be used to  
17 replace or supplant existing funding. Criminal justice purposes are  
18 defined as activities that substantially assist the criminal justice  
19 system, which may include circumstances where ancillary benefit to the  
20 civil justice system occurs, and which includes domestic violence  
21 services such as those provided by domestic violence programs,  
22 community advocates, and legal advocates, as defined in RCW 70.123.020.  
23 Existing funding for purposes of this subsection is defined as calendar  
24 year 1989 actual operating expenditures for criminal justice purposes.  
25 Calendar year 1989 actual operating expenditures for criminal justice  
26 purposes exclude the following: Expenditures for extraordinary events  
27 not likely to reoccur, changes in contract provisions for criminal  
28 justice services, beyond the control of the local jurisdiction  
29 receiving the services, and major nonrecurring capital expenditures.

30 (2) In addition to the distributions under subsection (1) of this  
31 section:

32 (a) Ten percent shall be distributed on a per capita basis to  
33 cities that contract with another governmental agency for the majority  
34 of the city's law enforcement services. Cities that subsequently  
35 qualify for this distribution shall notify the department of community,  
36 trade, and economic development by November 30th for the upcoming  
37 calendar year. The department of community, trade, and economic  
38 development shall provide a list of eligible cities to the state

1 treasurer by December 31st. The state treasurer shall modify the  
2 distribution of these funds in the following year. Cities have the  
3 responsibility to notify the department of community, trade, and  
4 economic development of any changes regarding these contractual  
5 relationships. Adjustments in the distribution formula to add or  
6 delete cities may be made only for the upcoming calendar year; no  
7 adjustments may be made retroactively.

8 (b) The remaining fifty-four percent shall be distributed to cities  
9 and towns by the state treasurer on a per capita basis. These funds  
10 shall be used for: (i) Innovative law enforcement strategies; (ii)  
11 programs to help at-risk children or child abuse victim response  
12 programs; and (iii) programs designed to reduce the level of domestic  
13 violence or to provide counseling for domestic violence victims.

14 The moneys deposited in the municipal criminal justice assistance  
15 account for distribution under this subsection, less any moneys  
16 appropriated for purposes under subsection (4) of this section, shall  
17 be distributed (~~((at the times as distributions are made under RCW~~  
18 ~~82.44.150))~~ quarterly during the months of January, April, July, and  
19 October. Moneys remaining undistributed under this subsection at the  
20 end of each calendar year shall be distributed to the criminal justice  
21 training commission to reimburse participating city law enforcement  
22 agencies with ten or fewer full-time commissioned patrol officers the  
23 cost of temporary replacement of each officer who is enrolled in basic  
24 law enforcement training, as provided in RCW 43.101.200.

25 If a city is found by the state auditor to have expended funds  
26 received under this subsection in a manner that does not comply with  
27 the criteria under which the moneys were received, the city shall be  
28 ineligible to receive future distributions under this subsection until  
29 the use of the moneys are justified to the satisfaction of the director  
30 or are repaid to the state general fund.

31 (3) Notwithstanding other provisions of this section, the  
32 distributions to any city that substantially decriminalizes or repeals  
33 its criminal code after July 1, 1990, and that does not reimburse the  
34 county for costs associated with criminal cases under RCW 3.50.800 or  
35 3.50.805(2), shall be made to the county in which the city is located.

36 (4) Not more than five percent of the funds deposited to the  
37 municipal criminal justice assistance account shall be available for  
38 appropriations for enhancements to the state patrol crime laboratory

1 system and the continuing costs related to these enhancements. Funds  
2 appropriated from this account for such enhancements shall not supplant  
3 existing funds from the state general fund.

4 **Sec. 612.** RCW 82.14.340 and 1995 c 309 s 1 are each amended to  
5 read as follows:

6 (1) The legislative authority of any county may (~~fix and~~) impose  
7 a sales and use tax in accordance with the terms of this chapter,  
8 provided that such sales and use tax is subject to repeal by  
9 referendum, using the procedures provided in RCW 82.14.036. The  
10 referendum procedure provided in RCW 82.14.036 is the exclusive method  
11 for subjecting any county sales and use tax ordinance or resolution to  
12 a referendum vote.

13 (2) The tax authorized in this section shall be in addition to any  
14 other taxes authorized by law and shall be collected from those persons  
15 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW  
16 upon the occurrence of any taxable event within such county. The rate  
17 of tax shall equal one-tenth of one percent (~~of the selling price (in  
18 the case of a sales tax) or value of the article used (in the case of  
19 a use tax)~~)).

20 (3) When distributing moneys collected under the authority of this  
21 section, the state treasurer shall distribute ten percent of the moneys  
22 to the county in which the tax was collected. The remainder of the  
23 moneys collected under the authority of this section shall be  
24 distributed to the county and the cities within the county ratably  
25 based on population as last determined by the office of financial  
26 management. In making the distribution based on population, the county  
27 shall receive that proportion that the unincorporated population of the  
28 county bears to the total population of the county and each city shall  
29 receive that proportion that the city incorporated population bears to  
30 the total county population.

31 (4) Moneys received from any tax imposed under the authority of  
32 this section shall be expended exclusively for criminal justice  
33 purposes and shall not be used to replace or supplant existing funding.  
34 Criminal justice purposes are defined as activities that substantially  
35 assist the criminal justice system, which may include circumstances  
36 where ancillary benefit to the civil justice system occurs, and which  
37 includes domestic violence services such as those provided by domestic

1 violence programs, community advocates, and legal advocates, as defined  
2 in RCW 70.123.020. Existing funding for purposes of this subsection is  
3 defined as calendar year 1989 actual operating expenditures for  
4 criminal justice purposes. Calendar year 1989 actual operating  
5 expenditures for criminal justice purposes exclude the following:  
6 Expenditures for extraordinary events not likely to reoccur, changes in  
7 contract provisions for criminal justice services, beyond the control  
8 of the local jurisdiction receiving the services, and major  
9 nonrecurring capital expenditures.

10 (5) In the expenditure of funds for criminal justice purposes as  
11 provided in this section, cities and counties, or any combination  
12 thereof, are expressly authorized to participate in agreements,  
13 pursuant to chapter 39.34 RCW, to jointly expend funds for criminal  
14 justice purposes of mutual benefit. Such criminal justice purposes of  
15 mutual benefit include, but are not limited to, the construction,  
16 improvement, and expansion of jails, court facilities, and juvenile  
17 justice facilities.

18 **Sec. 613.** RCW 82.14.350 and 1995 2nd sp.s. c 10 s 1 are each  
19 amended to read as follows:

20 (1) A county legislative authority in a county with a population of  
21 less than one million may submit an authorizing proposition to the  
22 county voters, and if the proposition is approved by a majority of  
23 persons voting, (~~fix and~~) impose a sales and use tax in accordance  
24 with the terms of this chapter for the purposes designated in  
25 subsection (3) of this section.

26 (2) The tax authorized in this section shall be in addition to any  
27 other taxes authorized by law and shall be collected from those persons  
28 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
29 the occurrence of any taxable event within the county. The rate of tax  
30 shall equal one-tenth of one percent (~~of the selling price in the case  
31 of a sales tax, or value of the article used, in the case of a use  
32 tax~~)).

33 (3) Moneys received from any tax imposed under the authority of  
34 this section shall be used solely for the purpose of providing funds  
35 for costs associated with financing, design, acquisition, construction,  
36 equipping, operating, maintaining, remodeling, repairing, reequipping,  
37 and improvement of juvenile detention facilities and jails.

1 (4) Counties are authorized to develop joint ventures to colocate  
2 juvenile detention facilities and to colocate jails.

3 **Sec. 614.** RCW 82.14.360 and 2000 c 103 s 10 are each amended to  
4 read as follows:

5 (1) The legislative authority of a county with a population of one  
6 million or more may impose a special stadium sales and use tax upon the  
7 retail sale or use within the county by restaurants, taverns, and bars  
8 of food and beverages that are taxable by the state under chapters  
9 82.08 and 82.12 RCW. The rate of the tax shall not exceed five-tenths  
10 of one percent (~~((of the selling price in the case of a sales tax, or  
11 value of the article used in the case of a use tax))~~). The tax  
12 (~~((imposed))~~) authorized under this subsection is in addition to any  
13 other taxes authorized by law and shall not be credited against any  
14 other tax imposed upon the same taxable event. As used in this  
15 section, "restaurant" does not include grocery stores, mini-markets, or  
16 convenience stores.

17 (2) The legislative authority of a county with a population of one  
18 million or more may impose a special stadium sales and use tax upon  
19 retail car rentals within the county that are taxable by the state  
20 under chapters 82.08 and 82.12 RCW. The rate of the tax shall not  
21 exceed two percent (~~((of the selling price in the case of a sales tax,  
22 or rental value of the vehicle in the case of a use tax))~~). The tax  
23 (~~((imposed))~~) authorized under this subsection is in addition to any  
24 other taxes authorized by law and shall not be credited against any  
25 other tax imposed upon the same taxable event.

26 (3) The revenue from the taxes imposed under the authority of this  
27 section shall be used for the purpose of principal and interest  
28 payments on bonds, issued by the county, to acquire, construct, own,  
29 remodel, maintain, equip, reequip, repair, and operate a baseball  
30 stadium. Revenues from the taxes authorized in this section may be  
31 used for design and other preconstruction costs of the baseball stadium  
32 until bonds are issued for the baseball stadium. The county shall  
33 issue bonds, in an amount determined to be necessary by the public  
34 facilities district, for the district to acquire, construct, own, and  
35 equip the baseball stadium. The county shall have no obligation to  
36 issue bonds in an amount greater than that which would be supported by  
37 the tax revenues under this section, RCW 82.14.0485, and 36.38.010(4)



1 (a) and (b). If the revenue from the taxes imposed under the authority  
2 of this section exceeds the amount needed for such principal and  
3 interest payments in any year, the excess shall be used solely:

4 (a) For early retirement of the bonds issued for the baseball  
5 stadium; and

6 (b) If the revenue from the taxes imposed under this section  
7 exceeds the amount needed for the purposes in (a) of this subsection in  
8 any year, the excess shall be placed in a contingency fund which may  
9 only be used to pay unanticipated capital costs on the baseball  
10 stadium, excluding any cost overruns on initial construction.

11 ~~(4) ((The taxes authorized under this section shall not be~~  
12 ~~collected after June 30, 1997, unless the county executive has~~  
13 ~~certified to the department of revenue that a professional major league~~  
14 ~~baseball team has made a binding and legally enforceable contractual~~  
15 ~~commitment to:~~

16 ~~(a) Play at least ninety percent of its home games in the stadium~~  
17 ~~for a period of time not shorter than the term of the bonds issued to~~  
18 ~~finance the initial construction of the stadium;~~

19 ~~(b) Contribute forty five million dollars toward the reasonably~~  
20 ~~necessary preconstruction costs including, but not limited to~~  
21 ~~architectural, engineering, environmental, and legal services, and the~~  
22 ~~cost of construction of the stadium, or to any associated public~~  
23 ~~purpose separate from bond financed property, including without~~  
24 ~~limitation land acquisition, parking facilities, equipment,~~  
25 ~~infrastructure, or other similar costs associated with the project,~~  
26 ~~which contribution shall be made during a term not to exceed the term~~  
27 ~~of the bonds issued to finance the initial construction of the stadium.~~  
28 ~~If all or part of the contribution is made after the date of issuance~~  
29 ~~of the bonds, the team shall contribute an additional amount equal to~~  
30 ~~the accruing interest on the deferred portion of the contribution,~~  
31 ~~calculated at the interest rate on the bonds maturing in the year in~~  
32 ~~which the deferred contribution is made. No part of the contribution~~  
33 ~~may be made without the consent of the county until a public facilities~~  
34 ~~district is created under chapter 36.100 RCW to acquire, construct,~~  
35 ~~own, remodel, maintain, equip, reequip, repair, and operate a baseball~~  
36 ~~stadium. To the extent possible, contributions shall be structured in~~  
37 ~~a manner that would allow for the issuance of bonds to construct the~~  
38 ~~stadium that are exempt from federal income taxes; and~~

1       ~~(c) Share a portion of the profits generated by the baseball team~~  
2 ~~from the operation of the professional franchise for a period of time~~  
3 ~~equal to the term of the bonds issued to finance the initial~~  
4 ~~construction of the stadium, after offsetting any losses incurred by~~  
5 ~~the baseball team after the effective date of chapter 14, Laws of 1995~~  
6 ~~1st sp. sess. Such profits and the portion to be shared shall be~~  
7 ~~defined by agreement between the public facilities district and the~~  
8 ~~baseball team. The shared profits shall be used to retire the bonds~~  
9 ~~issued to finance the initial construction of the stadium. If the~~  
10 ~~bonds are retired before the expiration of their term, the shared~~  
11 ~~profits shall be paid to the public facilities district.~~

12       ~~(5) No tax may be collected under this section before January 1,~~  
13 ~~1996. Before collecting the taxes under this section or issuing bonds~~  
14 ~~for a baseball stadium, the county shall create a public facilities~~  
15 ~~district under chapter 36.100 RCW to acquire, construct, own, remodel,~~  
16 ~~maintain, equip, reequip, repair, and operate a baseball stadium.~~

17       ~~(6) The county shall assemble such real property as the district~~  
18 ~~determines to be necessary as a site for the baseball stadium.~~  
19 ~~Property which is necessary for this purpose that is owned by the~~  
20 ~~county on October 17, 1995, shall be contributed to the district, and~~  
21 ~~property which is necessary for this purpose that is acquired by the~~  
22 ~~county on or after October 17, 1995, shall be conveyed to the district.~~

23       ~~(7)) The proceeds of any bonds issued for the baseball stadium~~  
24 ~~shall be provided to the district.~~

25       ~~((8)) (5) As used in this section, "baseball stadium" means~~  
26 ~~"baseball stadium" as defined in RCW 82.14.0485.~~

27       ~~((9)) (6) The taxes imposed under the authority of this section~~  
28 ~~shall expire when the bonds issued for the construction of the baseball~~  
29 ~~stadium are retired, but not later than twenty years after the taxes~~  
30 ~~are first collected.~~

31       **Sec. 615.** RCW 82.14.370 and 2004 c 130 s 2 are each amended to  
32 read as follows:

33       (1) The legislative authority of a rural county may impose a sales  
34 and use tax in accordance with the terms of this chapter. The tax is  
35 in addition to other taxes authorized by law and shall be collected  
36 from those persons who are taxable by the state under chapters 82.08  
37 and 82.12 RCW upon the occurrence of any taxable event within the

1 county. The rate of tax shall not exceed 0.08 percent (~~(of the selling~~  
2 ~~price in the case of a sales tax or value of the article used in the~~  
3 ~~case of a use tax)), except that for rural counties with population~~

4 densities between sixty and one hundred persons per square mile, the  
5 rate shall not exceed 0.04 percent before January 1, 2000.  
6 (2) The tax (~~(imposed)~~) authorized under subsection (1) of this  
7 section (~~(shall be deducted from the amount of tax otherwise required~~  
8 ~~to be collected or paid over to the department of revenue)~~) is a credit  
9 against the state tax under chapter 82.08 or 82.12 RCW. The department  
10 of revenue shall perform the collection of such taxes on behalf of the  
11 county at no cost to the county and shall remit the tax to the county  
12 as provided in RCW 82.14.060.

13 (3)(a) Moneys collected under the authority of this section shall  
14 only be used to finance public facilities serving economic development  
15 purposes in rural counties. The public facility must be listed as an  
16 item in the officially adopted county overall economic development  
17 plan, or the economic development section of the county's comprehensive  
18 plan, or the comprehensive plan of a city or town located within the  
19 county for those counties planning under RCW 36.70A.040. For those  
20 counties that do not have an adopted overall economic development plan  
21 and do not plan under the growth management act, the public facility  
22 must be listed in the county's capital facilities plan or the capital  
23 facilities plan of a city or town located within the county.

24 (b) In implementing this section, the county shall consult with  
25 cities, towns, and port districts located within the county and the  
26 associate development organization serving the county to ensure that  
27 the expenditure meets the goals of chapter 130, Laws of 2004 and the  
28 requirements of (a) of this subsection. Each county collecting money  
29 under the authority of this section shall report to the office of the  
30 state auditor, no later than October 1st of each year, a list of new  
31 projects from the prior fiscal year, showing that the county has used  
32 the funds for those projects consistent with the goals of chapter 130,  
33 Laws of 2004 and the requirements of (a) of this subsection. Any  
34 projects financed prior to June 10, 2004, from the proceeds of  
35 obligations to which the tax imposed under the authority of subsection  
36 (1) of this section has been pledged shall not be deemed to be new  
37 projects under this subsection.

1 (c) For the purposes of this section, (i) "public facilities" means  
2 bridges, roads, domestic and industrial water facilities, sanitary  
3 sewer facilities, earth stabilization, storm sewer facilities,  
4 railroad, electricity, natural gas, buildings, structures,  
5 telecommunications infrastructure, transportation infrastructure, or  
6 commercial infrastructure, and port facilities in the state of  
7 Washington; and (ii) "economic development purposes" means those  
8 purposes which facilitate the creation or retention of businesses and  
9 jobs in a county.

10 (4) No tax may be collected under the authority of this section  
11 before July 1, 1998. No tax may be collected under the authority of  
12 this section by a county more than twenty-five years after the date  
13 that a tax is first imposed under this section.

14 (5) For purposes of this section, "rural county" means a county  
15 with a population density of less than one hundred persons per square  
16 mile or a county smaller than two hundred twenty-five square miles as  
17 determined by the office of financial management and published each  
18 year by the department for the period July 1st to June 30th.

19 **Sec. 616.** RCW 82.14.390 and 2002 c 363 s 4 are each amended to  
20 read as follows:

21 (1) Except as provided in subsection (6) of this section, the  
22 governing body of a public facilities district created before July 31,  
23 2002, under chapter 35.57 or 36.100 RCW that commences construction of  
24 a new regional center, or improvement or rehabilitation of an existing  
25 new regional center, before January 1, 2004, may impose a sales and use  
26 tax in accordance with the terms of this chapter. The tax is in  
27 addition to other taxes authorized by law and shall be collected from  
28 those persons who are taxable by the state under chapters 82.08 and  
29 82.12 RCW upon the occurrence of any taxable event within the public  
30 facilities district. The rate of tax shall not exceed 0.033 percent  
31 (~~of the selling price in the case of a sales tax or value of the~~  
32 ~~article used in the case of a use tax)).~~

33 (2) The tax (~~imposed~~) authorized under subsection (1) of this  
34 section (~~shall be deducted from the amount of tax otherwise required~~  
35 ~~to be collected or paid over to the department of revenue)) is a credit  
36 against the state tax under chapter 82.08 or 82.12 RCW. The department~~

1 of revenue shall perform the collection of such taxes on behalf of the  
2 county at no cost to the public facilities district and shall remit the  
3 tax to the district as provided in RCW 82.14.060.

4 (3) (~~No tax may be collected under this section before August 1,~~  
5 ~~2000.~~) The tax imposed (~~in~~) under the authority of this section  
6 shall expire when the bonds issued for the construction of the regional  
7 center and related parking facilities are retired, but not more than  
8 twenty-five years after the tax is first collected.

9 (4) Moneys collected under the authority of this section shall only  
10 be used for the purposes set forth in RCW 35.57.020 and must be matched  
11 with an amount from other public or private sources equal to thirty-  
12 three percent of the amount collected under the authority of this  
13 section, provided that amounts generated from nonvoter approved taxes  
14 authorized under chapter 35.57 RCW or nonvoter approved taxes  
15 authorized under chapter 36.100 RCW shall not constitute a public or  
16 private source. For the purpose of this section, public or private  
17 sources includes, but is not limited to cash or in-kind contributions  
18 used in all phases of the development or improvement of the regional  
19 center, land that is donated and used for the siting of the regional  
20 center, cash or in-kind contributions from public or private  
21 foundations, or amounts attributed to private sector partners as part  
22 of a public and private partnership agreement negotiated by the public  
23 facilities district.

24 (5) The combined total tax (~~levied~~) imposed under the authority  
25 of this section shall not be greater than 0.033 percent. If both a  
26 public facilities district created under chapter 35.57 RCW and a public  
27 facilities district created under chapter 36.100 RCW impose a tax under  
28 the authority of this section, the tax imposed by a public facilities  
29 district created under chapter 35.57 RCW shall be credited against the  
30 tax imposed by a public facilities district created under chapter  
31 36.100 RCW.

32 (6) A public facilities district created under chapter 36.100 RCW  
33 is not eligible to impose the tax authorized under this section if the  
34 legislative authority of the county where the public facilities  
35 district is located has imposed a sales and use tax under RCW  
36 82.14.0485 or 82.14.0494.

1           **Sec. 617.** RCW 82.14.400 and 2000 c 240 s 1 are each amended to  
2 read as follows:

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

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

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

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

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

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

34           (5) The department of revenue shall perform the collection of such  
35 taxes on behalf of the county at no cost to the county. In lieu of the  
36 charge for the administration and collection of local sales and use  
37 taxes under RCW 82.14.050 from which the county is exempt under this  
38 subsection (5), a percentage of the tax revenues authorized by this

1 section equal to one-half of the maximum percentage provided in RCW  
2 82.14.050 shall be transferred annually to the department of community,  
3 trade, and economic development, or its successor agency, from the  
4 funds allocated under subsection (6)(b) of this section for a period of  
5 twelve years from the first date of distribution of funds under  
6 subsection (6)(b) of this section. The department of community, trade,  
7 and economic development, or its successor agency, shall use funds  
8 transferred to it pursuant to this subsection (5) to provide, operate,  
9 and maintain community-based housing under chapter 43.185 RCW for  
10 persons who are mentally ill.

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

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

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

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

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

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

35 (10) Properties subject to a memorandum of agreement between the  
36 federal bureau of land management, the advisory council on historic  
37 preservation, and the Washington state historic preservation officer

1 have priority for funding from money received under subsection (6)(b)  
2 of this section for implementation of the stipulations in the  
3 memorandum of agreement.

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

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

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

16 **Sec. 618.** RCW 82.14.420 and 2002 c 176 s 1 are each amended to  
17 read as follows:

18 (1) A county legislative authority may submit an authorizing  
19 proposition to the county voters, and if the proposition is approved by  
20 a majority of persons voting, (~~fix and~~) impose a sales and use tax in  
21 accordance with the terms of this chapter for the purposes designated  
22 in subsection (3) of this section.

23 (2) The tax authorized in this section shall be in addition to any  
24 other taxes authorized by law and shall be collected from those persons  
25 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
26 the occurrence of any taxable event within the county. The rate of tax  
27 shall equal one-tenth of one percent (~~of the selling price in the case~~  
28 ~~of sales tax, or value of the article used, in the case of a use tax~~).

29 (3) Moneys received from any tax imposed under the authority of  
30 this section shall be used solely for the purpose of providing funds  
31 for costs associated with financing, design, acquisition, construction,  
32 equipping, operating, maintaining, remodeling, repairing, reequipping,  
33 and improvement of emergency communication systems and facilities.

34 (4) Counties are authorized to develop joint ventures to collocate  
35 emergency communication systems and facilities.

36 (5) Prior to submitting the tax authorization in subsection (2) of  
37 this section to the voters in a county that provides emergency



1 communication services to a governmental agency pursuant to a contract,  
2 the parties to the contract shall review and negotiate or affirm the  
3 terms of the contract.

4 (6) Prior to submitting the tax authorized in subsection (2) of  
5 this section to the voters, a county with a population of more than  
6 five hundred thousand in which any city over fifty thousand operates  
7 emergency communication systems and facilities shall enter into an  
8 interlocal agreement with the city to determine distribution of the  
9 revenue provided in this section.

10 **Sec. 619.** RCW 82.14.430 and 2002 c 56 s 405 are each amended to  
11 read as follows:

12 (1) If approved by the majority of the voters within its boundaries  
13 voting on the ballot proposition, a regional transportation investment  
14 district may impose a sales and use tax of up to 0.5 percent (~~of the~~  
15 ~~selling price or value of the article used in the case of a use tax~~).  
16 The tax authorized by this section is in addition to the tax authorized  
17 by RCW 82.14.030 and must be collected from those persons who are  
18 taxable by the state under chapters 82.08 and 82.12 RCW upon the  
19 occurrence of any taxable event within the taxing district. Motor  
20 vehicles are exempt from the sales and use tax imposed under this  
21 subsection.

22 (2) If approved by the majority of the voters within its boundaries  
23 voting on the ballot proposition, a regional transportation investment  
24 district may impose a tax on the use of a motor vehicle within a  
25 regional transportation investment district. The tax applies to those  
26 persons who reside within the regional transportation investment  
27 district. The rate of the tax may not exceed 0.5 percent (~~of the~~  
28 ~~value of the motor vehicle~~). The tax authorized by this subsection is  
29 in addition to the tax authorized under RCW 82.14.030 and must be  
30 imposed and collected at the time a taxable event under RCW  
31 82.08.020(1) or 82.12.020 takes place. All revenue received under this  
32 subsection must be deposited in the local sales and use tax account and  
33 distributed to the regional transportation investment district  
34 according to RCW 82.14.050. The following provisions apply to the use  
35 tax in this subsection:

36 (a) Where persons are taxable under chapter 82.08 RCW, the seller

1 shall collect the use tax from the buyer using the collection  
2 provisions of RCW 82.08.050.

3 (b) Where persons are taxable under chapter 82.12 RCW, the use tax  
4 must be collected using the provisions of RCW 82.12.045.

5 (c) "Motor vehicle" has the meaning provided in RCW 46.04.320, but  
6 does not include farm tractors or farm vehicles as defined in RCW  
7 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in  
8 RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

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

10 (e) The value of a motor vehicle must be determined under RCW  
11 82.12.010.

12 (f) Except as specifically stated in this subsection (2), chapters  
13 82.12 and 82.32 RCW apply to the use tax. The use tax is a local tax  
14 imposed under the authority of this chapter (~~((82.14-RCW))~~), and this  
15 chapter (~~((82.14-RCW))~~) applies fully to the use tax.

16 **Sec. 620.** RCW 82.14.440 and 2003 c 83 s 207 are each amended to  
17 read as follows:

18 (1) Public transportation benefit areas providing passenger-only  
19 ferry service as provided in RCW 36.57A.200 whose boundaries (~~((+1))~~)  
20 (a) are on the Puget Sound, but (~~((+2))~~) (b) do not include an area  
21 where a regional transit authority has been formed, may submit an  
22 authorizing proposition to the voters and, if approved by a majority of  
23 persons voting, (~~((fix and))~~) impose a sales and use tax in accordance  
24 with the terms of this chapter, solely for the purpose of providing  
25 passenger-only ferry service.

26 (2) The tax authorized by this section is in addition to other  
27 taxes authorized by law and must be collected from those persons who  
28 are taxable by the state under chapters 82.08 and 82.12 RCW upon the  
29 occurrence of a taxable event within the taxing district. The maximum  
30 rate of the tax must be approved by the voters and may not exceed four-  
31 tenths of one percent (~~((of the selling price in the case of a sales tax  
32 or value of the article used in the case of a use tax))~~).

33 **Sec. 621.** RCW 82.14.450 and 2003 1st sp.s. c 24 s 2 are each  
34 amended to read as follows:

35 (1) A county legislative authority may submit an authorizing  
36 proposition to the county voters at a primary or general election and,

1 if the proposition is approved by a majority of persons voting, impose  
2 a sales and use tax in accordance with the terms of this chapter. The  
3 title of each ballot measure must clearly state the purposes for which  
4 the proposed sales and use tax will be used. Funds raised under this  
5 tax shall not supplant existing funds used for these purposes. The  
6 rate of tax authorized under this section shall not exceed three-tenths  
7 of one percent (~~of the selling price in the case of a sales tax, or~~  
8 ~~value of the article used, in the case of a use tax~~)).

9 (2) The tax authorized in this section is in addition to any other  
10 taxes authorized by law and shall be collected from those persons who  
11 are taxable by the state under chapters 82.08 and 82.12 RCW upon the  
12 occurrence of any taxable event within the county.

13 (3) The retail sale or use of motor vehicles, and the lease of  
14 motor vehicles for up to the first thirty-six months of the lease, are  
15 exempt from tax imposed under this section.

16 (4) One-third of all money received under this section shall be  
17 used solely for criminal justice purposes. For the purposes of this  
18 subsection, "criminal justice purposes" means additional police  
19 protection, mitigation of congested court systems, or relief of  
20 overcrowded jails or other local correctional facilities.

21 (5) Money received under the authority of this section shall be  
22 shared between the county and the cities as follows: Sixty percent  
23 shall be retained by the county and forty percent shall be distributed  
24 on a per capita basis to cities in the county.

25 **Sec. 622.** RCW 82.14.460 and 2005 c 504 s 804 are each amended to  
26 read as follows:

27 (1) A county legislative authority may (~~authorize, fix, and~~)  
28 impose a sales and use tax in accordance with the terms of this  
29 chapter.

30 (2) The tax authorized in this section shall be in addition to any  
31 other taxes authorized by law and shall be collected from those persons  
32 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
33 the occurrence of any taxable event within the county. The rate of tax  
34 shall equal one-tenth of one percent (~~of the selling price in the case~~  
35 ~~of a sales tax, or value of the article used, in the case of a use~~  
36 ~~tax~~)).

1 (3) Moneys collected under the authority of this section shall be  
2 used solely for the purpose of providing new or expanded chemical  
3 dependency or mental health treatment services and for the operation of  
4 new or expanded therapeutic court programs. Moneys collected under the  
5 authority of this section shall not be used to supplant existing  
6 funding for these purposes.

7 NEW SECTION. Sec. 623. (1) Any fund balance remaining in the  
8 county sales and use tax equalization account, the municipal sales and  
9 use tax equalization account, the distressed county assistance account,  
10 and the city police and fire protection assistance account, as of July  
11 1, 2006, shall be transferred by the state treasurer into the  
12 city-county assistance account. The county sales and use tax  
13 equalization account, the municipal sales and use tax equalization  
14 account, the distressed county assistance account, and the city police  
15 and fire protection assistance account shall cease to exist after July  
16 1, 2006.

17 (2) Any loan repayments of funds borrowed from the municipal sales  
18 and use tax equalization account under RCW 35.02.135 shall be deposited  
19 by the state treasurer into the city-county assistance account.

20 NEW SECTION. Sec. 624. A new section is added to chapter 82.14  
21 RCW to read as follows:

22 (1) The amount of retail sales or use tax imposed by a local  
23 government under the authority of this chapter or any other statute  
24 upon the occurrence of any taxable event shall equal:

25 (a) In the case of a sales tax, the tax rates multiplied by the  
26 selling price of the article, service, or extended warranty; and

27 (b) In the case of a use tax, the tax rates multiplied by the value  
28 of the article used, value of the service used, or value of the  
29 extended warranty used. However, in the case of a seller that is  
30 required to collect use tax from the purchaser, the amount of tax  
31 imposed shall equal the tax rates multiplied by the purchase price.

32 (2) For purposes of this section, "local government" has the same  
33 meaning as in RCW 82.14.055.

34 **Sec. 625.** RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4,

1 2005 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2  
2 are each reenacted and amended to read as follows:

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

6 (2) The treasury income account shall be utilized to pay or receive  
7 funds associated with federal programs as required by the federal cash  
8 management improvement act of 1990. The treasury income account is  
9 subject in all respects to chapter 43.88 RCW, but no appropriation is  
10 required for refunds or allocations of interest earnings required by  
11 the cash management improvement act. Refunds of interest to the  
12 federal treasury required under the cash management improvement act  
13 fall under RCW 43.88.180 and shall not require appropriation. The  
14 office of financial management shall determine the amounts due to or  
15 from the federal government pursuant to the cash management improvement  
16 act. The office of financial management may direct transfers of funds  
17 between accounts as deemed necessary to implement the provisions of the  
18 cash management improvement act, and this subsection. Refunds or  
19 allocations shall occur prior to the distributions of earnings set  
20 forth in subsection (4) of this section.

21 (3) Except for the provisions of RCW 43.84.160, the treasury income  
22 account may be utilized for the payment of purchased banking services  
23 on behalf of treasury funds including, but not limited to, depository,  
24 safekeeping, and disbursement functions for the state treasury and  
25 affected state agencies. The treasury income account is subject in all  
26 respects to chapter 43.88 RCW, but no appropriation is required for  
27 payments to financial institutions. Payments shall occur prior to  
28 distribution of earnings set forth in subsection (4) of this section.

29 (4) Monthly, the state treasurer shall distribute the earnings  
30 credited to the treasury income account. The state treasurer shall  
31 credit the general fund with all the earnings credited to the treasury  
32 income account except:

33 (a) The following accounts and funds shall receive their  
34 proportionate share of earnings based upon each account's and fund's  
35 average daily balance for the period: The capitol building  
36 construction account, the Cedar River channel construction and  
37 operation account, the Central Washington University capital projects  
38 account, the charitable, educational, penal and reformatory

1 institutions account, the common school construction fund, the county  
2 criminal justice assistance account, (~~the county sales and use tax~~  
3 ~~equalization account,~~) the data processing building construction  
4 account, the deferred compensation administrative account, the deferred  
5 compensation principal account, the department of retirement systems  
6 expense account, the developmental disabilities community trust  
7 account, the drinking water assistance account, the drinking water  
8 assistance administrative account, the drinking water assistance  
9 repayment account, the Eastern Washington University capital projects  
10 account, the education construction fund, the education legacy trust  
11 account, the election account, the emergency reserve fund, The  
12 Evergreen State College capital projects account, the federal forest  
13 revolving account, the freight mobility investment account, the health  
14 services account, the public health services account, the health system  
15 capacity account, the personal health services account, the state  
16 higher education construction account, the higher education  
17 construction account, the highway infrastructure account, the high-  
18 occupancy toll lanes operations account, the industrial insurance  
19 premium refund account, the judges' retirement account, the judicial  
20 retirement administrative account, the judicial retirement principal  
21 account, the local leasehold excise tax account, the local real estate  
22 excise tax account, the local sales and use tax account, the medical  
23 aid account, the mobile home park relocation fund, the multimodal  
24 transportation account, the municipal criminal justice assistance  
25 account, (~~the municipal sales and use tax equalization account,~~) the  
26 natural resources deposit account, the oyster reserve land account, the  
27 perpetual surveillance and maintenance account, the public employees'  
28 retirement system plan 1 account, the public employees' retirement  
29 system combined plan 2 and plan 3 account, the public facilities  
30 construction loan revolving account beginning July 1, 2004, the public  
31 health supplemental account, the public works assistance account, the  
32 Puyallup tribal settlement account, the real estate appraiser  
33 commission account, the regional transportation investment district  
34 account, the resource management cost account, the rural Washington  
35 loan fund, the site closure account, the small city pavement and  
36 sidewalk account, the special wildlife account, the state employees'  
37 insurance account, the state employees' insurance reserve account, the  
38 state investment board expense account, the state investment board

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

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

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

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

12 **Sec. 626.** RCW 82.44.160 and 1999 c 309 s 931 are each amended to  
13 read as follows:

14 ~~((Before distributing moneys to the cities and towns from the city  
15 police and fire protection assistance account, as provided in RCW  
16 82.44.155, and from the municipal sales and use tax equalization  
17 account, as provided in RCW 82.14.210, the state treasurer shall, on  
18 the first day of July of each year, make an annual deduction therefrom  
19 of a sum equal to one half of the biennial appropriation made pursuant  
20 to this section, which amount shall be at least seven cents per capita  
21 of the population of all cities or towns as legally certified on that  
22 date, determined as provided in RCW 82.44.150, which sum shall be  
23 apportioned and transmitted to the municipal research council, herein  
24 created. Sixty five percent of the annual deduction shall be from the  
25 distribution to cities and towns under RCW 82.44.155, and thirty five  
26 percent of the annual deduction shall be from the distribution to the  
27 municipal sales and use tax equalization account under RCW 82.14.210.))~~

28 The municipal research council may contract with and allocate moneys to  
29 any state agency, educational institution, or private consulting firm,  
30 which in its judgment is qualified to carry on a municipal research and  
31 service program. Moneys may be utilized to match federal funds  
32 available for technical research and service programs to cities and  
33 towns. Moneys allocated shall be used for studies and research in  
34 municipal government, publications, educational, conferences, and  
35 attendance thereat, and in furnishing technical, consultative, and  
36 field services to cities and towns in problems relating to planning,  
37 public health, municipal sanitation, fire protection, law enforcement,



1 postwar improvements, and public works, and in all matters relating to  
2 city and town government. The programs shall be carried on and all  
3 expenditures shall be made in cooperation with the cities and towns of  
4 the state acting through the Association of Washington Cities by its  
5 board of directors which is hereby recognized as their official agency  
6 or instrumentality.

7 Funds (~~deducted under this section shall be deposited in the~~  
8 ~~treasury in the general fund, and~~) shall be disbursed by warrant or  
9 check to contracting parties on invoices or vouchers certified by the  
10 chair of the municipal research council or his or her designee.  
11 Payments to public agencies may be made in advance of actual work  
12 contracted for, in the discretion of the council.

13 (~~Sixty five percent of any moneys remaining unexpended or~~  
14 ~~uncontracted for by the municipal research council at the end of any~~  
15 ~~fiscal biennium shall be returned to the city police and fire~~  
16 ~~protection assistance account and be paid to cities and towns under RCW~~  
17 ~~82.44.155. The remaining thirty five percent shall be deposited into~~  
18 ~~the municipal sales and use tax equalization account.))~~

19 **Sec. 627.** RCW 43.62.010 and 1990 c 42 s 317 are each amended to  
20 read as follows:

21 If the state or any of its political subdivisions, or other  
22 agencies, use the population studies services of the office of  
23 financial management or the successor thereto, the state, its political  
24 subdivision, or other agencies utilizing such services shall pay for  
25 the cost of rendering such services. (~~Expenditures shall be paid out~~  
26 ~~of funds allocated to cities and towns under RCW 82.44.155 and shall be~~  
27 ~~paid from said fund before any allocations or payments are made to~~  
28 ~~cities and towns under RCW 82.44.155.))~~

29 **Sec. 628.** RCW 70.05.125 and 1998 c 266 s 1 are each amended to  
30 read as follows:

31 (1) The county public health account is created in the state  
32 treasury. Funds deposited in the county public health account shall be  
33 distributed by the state treasurer to each local public health  
34 jurisdiction based upon amounts certified to it by the department of  
35 community, trade, and economic development in consultation with the  
36 Washington state association of counties. The account shall include

1 (~~funds distributed under RCW 82.44.110 and 82.14.200(8) and such~~)  
2 funds (~~as are~~) appropriated to the account from the health services  
3 account under RCW 43.72.900, the public health services account under  
4 RCW 43.72.902, and such other funds as the legislature may appropriate  
5 to it.

6 (2)(a) The director of the department of community, trade, and  
7 economic development shall certify the amounts to be distributed to  
8 each local public health jurisdiction using 1995 as the base year of  
9 actual city contributions to local public health.

10 (b) (~~Only if funds are available and in an amount no greater than~~  
11 ~~available funds under RCW 82.14.200(8), the department of community,~~  
12 ~~trade, and economic development shall adjust the amount certified under~~  
13 ~~(a) of this subsection to compensate for any annexation of an area with~~  
14 ~~fifty thousand residents or more to any city as a result of a petition~~  
15 ~~during calendar year 1996 or 1997, or for any city that became newly~~  
16 ~~incorporated as a result of an election during calendar year 1994 or~~  
17 ~~1995. The amount to be adjusted shall be equal to the amount which~~  
18 ~~otherwise would have been lost to the health jurisdiction due to the~~  
19 ~~annexation or incorporation as calculated using the jurisdiction's 1995~~  
20 ~~funding formula.~~

21 (c)) The county treasurer shall certify the actual 1995 city  
22 contribution to the department. Funds in excess of the base shall be  
23 distributed proportionately among the health jurisdictions based on  
24 incorporated population figures as last determined by the office of  
25 financial management.

26 (3) Moneys distributed under this section shall be expended  
27 exclusively for local public health purposes.

28 **Sec. 629.** RCW 53.08.090 and 1994 c 26 s 1 are each amended to read  
29 as follows:

30 ((~~1~~)) A port commission may, by resolution, authorize the  
31 managing official of a port district to sell and convey port district  
32 property of ten thousand dollars or less in value. The authority shall  
33 be in force for not more than one calendar year from the date of  
34 resolution and may be renewed from year to year. Prior to any such  
35 sale or conveyance the managing official shall itemize and list the  
36 property to be sold and make written certification to the commission  
37 that the listed property is no longer needed for district purposes.

1 Any large block of the property having a value in excess of ten  
2 thousand dollars shall not be broken down into components of ten  
3 thousand dollars or less value and sold in the smaller components  
4 unless the smaller components be sold by public competitive bid. A  
5 port district may sell and convey any of its real or personal property  
6 valued at more than ten thousand dollars when the port commission has,  
7 by resolution, declared the property to be no longer needed for  
8 district purposes, but no property which is a part of the comprehensive  
9 plan of improvement or modification thereof shall be disposed of until  
10 the comprehensive plan has been modified to find the property surplus  
11 to port needs. The comprehensive plan shall be modified only after  
12 public notice and hearing provided by RCW 53.20.010.

13 Nothing in this section shall be deemed to repeal or modify  
14 procedures for property sales within industrial development districts  
15 as set forth in chapter 53.25 RCW.

16 ~~((2) The ten thousand dollar figures in subsection (1) of this  
17 section shall be adjusted annually based upon the governmental price  
18 index established by the department of revenue under RCW 82.14.200.))~~

19 **Sec. 630.** RCW 43.160.220 and 1998 c 321 s 9 are each amended to  
20 read as follows:

21 The distressed county public facilities construction loan account  
22 is created in the state treasury. ~~((All funds provided under RCW  
23 82.14.200 shall be deposited in the account.))~~ Moneys in the account  
24 may be spent only after appropriation. Moneys in the account shall  
25 only be used to provide financial assistance under this chapter to  
26 distressed counties that have experienced extraordinary costs due to  
27 the location of a major new business facility or the substantial  
28 expansion of an existing business facility in the county.

29 For purposes of this section, the term "distressed counties"  
30 includes any county in which the average level of unemployment for the  
31 three years before the year in which an application for financial  
32 assistance is filed exceeds the average state employment for those  
33 years by twenty percent.

34 NEW SECTION. **Sec. 631.** The following acts or parts of acts are  
35 each repealed:

- 1 (1) RCW 82.14.032 (Alteration of tax rate pursuant to government  
2 service agreement) and 1994 c 266 s 11;
- 3 (2) RCW 82.14.046 (Sales and use tax equalization payments from  
4 local transit taxes) and 1998 c 321 s 37, 1995 c 298 s 1, & 1994 c 241  
5 s 2;
- 6 (3) RCW 82.14.070 (Uniformity--Rule making--Model ordinance) and  
7 2003 c 168 s 202, 2000 c 104 s 5, & 1970 ex.s. c 94 s 10;
- 8 (4) RCW 82.14.200 (County sales and use tax equalization account--  
9 Allocation procedure) and 2003 1st sp.s. c 25 s 941, 1998 c 321 s 8,  
10 1997 c 333 s 2, 1991 sp.s. c 13 s 15, 1990 c 42 s 313, 1985 c 57 s 82,  
11 1984 c 225 s 5, 1983 c 99 s 1, & 1982 1st ex.s. c 49 s 21;
- 12 (5) RCW 82.14.210 (Municipal sales and use tax equalization  
13 account--Allocation procedure) and 2003 1st sp.s. c 25 s 942, 1996 c 64  
14 s 1, 1991 sp.s. c 13 s 16, 1990 2nd ex.s. c 1 s 701, 1990 c 42 s 314,  
15 1985 c 57 s 83, 1984 c 225 s 2, & 1982 1st ex.s. c 49 s 22;
- 16 (6) RCW 82.14.220 (Figures for apportionments and distributions  
17 under RCW 82.14.200 and 82.14.210) and 1984 c 225 s 4;
- 18 (7) RCW 82.14.380 (Distressed county assistance account--Created--  
19 Distributions) and 1999 c 311 s 201 & 1998 c 321 s 10;
- 20 (8) RCW 35.02.135 (Newly incorporated city or town--May borrow from  
21 municipal sales and use tax equalization account) and 1991 c 360 s 5;
- 22 (9) RCW 82.44.155 (City police and fire protection assistance  
23 account--Distribution to cities and towns--Apportionment) and 1998 c  
24 321 s 40, 1993 c 492 s 254, 1991 c 199 s 223, & 1990 c 42 s 309;
- 25 (10) RCW 82.14.034 (Alteration of county's share of city's tax  
26 receipts pursuant to government service agreement) and 1994 c 266 s 12;  
27 and
- 28 (11) RCW 82.14.212 (Transfer of funds pursuant to government  
29 service agreement) and 1994 c 266 s 13.

30 **PART VII**  
31 **RETAIL SALES AND USE TAX EXEMPTIONS**

32 NEW SECTION. **Sec. 701.** A new section is added to chapter 82.12  
33 RCW, to be codified between RCW 82.12.024 and 82.12.0251, to read as  
34 follows:

- 35 (1) The tax imposed by RCW 82.12.020 does not apply to the use of  
36 any article of tangible personal property, service, or extended

1 warranty, if the article, service, or extended warranty is specifically  
2 described in and used solely by a person and solely for the purposes  
3 specified in RCW 82.08.02525, 82.08.0252, 82.08.0253, 82.08.02537,  
4 82.08.02567, 82.08.02568, 82.08.02569, 82.08.0256, 82.08.0257,  
5 82.08.0258, 82.08.0259, 82.08.0267, 82.08.0272, 82.08.0274, 82.08.0275,  
6 82.08.0277, 82.08.0278, 82.08.02795, 82.08.02805, 82.08.02806,  
7 82.08.02807, 82.08.0281, 82.08.0282, 82.08.0283, 82.08.0285,  
8 82.08.0288, 82.08.0291, 82.08.02915, 82.08.0293, 82.08.0294,  
9 82.08.0296, 82.08.0297, 82.08.0298, 82.08.031, 82.08.0311, 82.08.0316,  
10 82.08.032, 82.08.033, 82.08.034, 82.08.803, 82.08.804, 82.08.806,  
11 82.08.808, 82.08.809, 82.08.813, 82.08.832, 82.08.841, 82.08.880,  
12 82.08.890, 82.08.900, 82.08.910, 82.08.920, 82.08.925, 82.08.935,  
13 82.08.940, 82.08.945, 82.08.950, 82.08.955, 82.08.975, or 82.08.985.

14 (2) Subsection (1) of this section is in addition to the specific  
15 exemptions from the tax imposed by RCW 82.12.020 provided in other  
16 provisions of this or any other chapter.

17 **Sec. 702.** RCW 82.08.0266 and 1999 c 358 s 5 are each amended to  
18 read as follows:

19 The tax levied by RCW 82.08.020 shall not apply to sales to  
20 nonresidents of this state for use outside of this state of watercraft  
21 requiring coast guard registration or registration by the state of  
22 principal use according to the Federal Boating Act of 1958, even though  
23 delivery be made within this state, but only when (1) the watercraft  
24 will not be used within this state for more than forty-five days and  
25 (2) an appropriate exemption certificate supported by identification  
26 ascertaining residence as required by the department (~~(of revenue)~~) and  
27 signed by the (~~(purchaser)~~) buyer or (~~(his)~~) the buyer's agent  
28 establishing the fact that the (~~(purchaser)~~) buyer is a nonresident and  
29 that the watercraft is for use outside of this state, a copy of which  
30 shall be retained by the (~~(dealer)~~) seller.

31 **Sec. 703.** RCW 82.08.02665 and 1999 c 358 s 6 are each amended to  
32 read as follows:

33 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
34 vessels to residents of foreign countries for use outside of this  
35 state, even though delivery is made within this state, but only if  
36 (~~(+1)~~):

1        (a) The vessel will not be used within this state for more than  
2 forty-five days; and

3        ~~((+2))~~ (b) An appropriate exemption certificate supported by  
4 identification as required by the department ~~((of revenue))~~ and signed  
5 by the ~~((purchaser))~~ buyer or the ~~((purchaser's))~~ buyer's agent  
6 establishes the fact that the ~~((purchaser))~~ buyer is a resident of a  
7 foreign country and that the vessel is for use outside of this state.  
8 A copy of the exemption certificate is to be retained by the ~~((dealer))~~  
9 seller.

10        (2) As used in this section, "vessel" means every watercraft used  
11 or capable of being used as a means of transportation on the water,  
12 other than a seaplane.

13        **Sec. 704.** RCW 82.08.0283 and 2004 c 153 s 101 are each amended to  
14 read as follows:

15        (1) The tax levied by RCW 82.08.020 shall not apply to sales of:

16        (a) Prosthetic devices prescribed, fitted, or furnished for an  
17 individual by a person licensed under the laws of this state to  
18 prescribe, fit, or furnish prosthetic devices, and the components of  
19 prosthetic devices;

20        (b) Medicines of mineral, animal, and botanical origin prescribed,  
21 administered, dispensed, or used in the treatment of an individual by  
22 a person licensed under chapter 18.36A RCW; ~~((and))~~ or

23        (c) (i) Medically prescribed oxygen, including, but not limited to,  
24 oxygen concentrator systems, oxygen enricher systems, liquid oxygen  
25 systems, and gaseous, bottled oxygen systems prescribed for an  
26 individual by a person licensed under chapter 18.57 or 18.71 RCW for  
27 use in the medical treatment of that individual; and

28        (ii) Repair, replacement, and component parts for medically  
29 prescribed oxygen.

30        (2) In addition, the tax levied by RCW 82.08.020 shall not apply to  
31 charges made for labor and services rendered in respect to the  
32 repairing, cleaning, altering, or improving of any of the items  
33 exempted under subsection (1) of this section.

34        (3) The exemption in subsection (1) of this section shall not apply  
35 to sales of durable medical equipment or mobility enhancing equipment.

36        (4) The definitions in this subsection apply throughout this  
37 section.

1 (a) "Prosthetic device" means a replacement, corrective, or  
2 supportive device, including repair and replacement parts for a  
3 prosthetic device, worn on or in the body to:

4 (i) Artificially replace a missing portion of the body;

5 (ii) Prevent or correct a physical deformity or malfunction; or

6 (iii) Support a weak or deformed portion of the body.

7 (b) "Durable medical equipment" means equipment, including repair  
8 and replacement parts for durable medical equipment that:

9 (i) Can withstand repeated use;

10 (ii) Is primarily and customarily used to serve a medical purpose;

11 (iii) Generally is not useful to a person in the absence of illness  
12 or injury; and

13 (iv) (~~Does not work~~) Is not worn in or on the body.

14 (c) "Mobility enhancing equipment" means equipment, including  
15 repair and replacement parts for mobility enhancing equipment that:

16 (i) Is primarily and customarily used to provide or increase the  
17 ability to move from one place to another and that is appropriate for  
18 use either in a home or a motor vehicle;

19 (ii) Is not generally used by persons with normal mobility; and

20 (iii) Does not include any motor vehicle or equipment on a motor  
21 vehicle normally provided by a motor vehicle manufacturer.

22 (d) The terms "durable medical equipment" and "mobility enhancing  
23 equipment" are mutually exclusive.

24 **Sec. 705.** RCW 82.08.945 and 2004 c 153 s 110 are each amended to  
25 read as follows:

26 The tax levied by RCW 82.08.020 shall not apply to sales of kidney  
27 dialysis devices, including repair (~~and~~), replacement, and component  
28 parts, for human use pursuant to a prescription. In addition, the tax  
29 levied by RCW 82.08.020 shall not apply to charges made for labor and  
30 services rendered in respect to the repairing, cleaning, altering, or  
31 improving of kidney dialysis devices.

32 **Sec. 706.** RCW 82.12.0284 and 2003 c 168 s 603 are each amended to  
33 read as follows:

34 The provisions of this chapter shall not apply in respect to the  
35 use of computers, computer components, computer accessories, or  
36 computer software irrevocably donated to any public or private

1 nonprofit school or college, as defined under chapter 84.36 RCW, in  
2 this state. For purposes of this section, "computer" (~~has~~) and  
3 "computer software" have the same meaning as in RCW 82.04.215.

4 **Sec. 707.** RCW 82.08.02569 and 1996 c 113 s 1 are each amended to  
5 read as follows:

6 The tax levied by RCW 82.08.020 shall not apply to sales of  
7 tangible personal property to a consumer as defined in RCW  
8 82.04.190(~~(+6)~~) (1)(f) if the tangible personal property is  
9 incorporated into, installed in, or attached to a building or other  
10 structure that is an integral part of a laser interferometer  
11 gravitational wave observatory on which construction is commenced  
12 before December 1, 1996.

13 **Sec. 708.** RCW 82.08.02917 and 1995 c 346 s 3 are each amended to  
14 read as follows:

15 For the purposes of RCW 82.08.02915 (~~and 82.12.02915~~), "youth in  
16 crisis" means any youth under eighteen years of age who is either:  
17 Homeless; a runaway from the home of a parent, guardian, or legal  
18 custodian; abused; neglected; abandoned by a parent, guardian, or legal  
19 custodian; or suffering from a substance abuse or mental disorder.

20 **Sec. 709.** RCW 82.08.832 and 1998 c 178 s 1 are each amended to  
21 read as follows:

22 (1) The tax levied by RCW 82.08.020 does not apply to sales of gun  
23 safes.

24 (2) As used in this section (~~and RCW 82.12.832~~), "gun safe" means  
25 an enclosure specifically designed or modified for the purpose of  
26 storing a firearm and equipped with a padlock, key lock, combination  
27 lock, or similar locking device which, when locked, prevents the  
28 unauthorized use of the firearm.

29 **Sec. 710.** RCW 82.08.880 and 2001 2nd sp.s. c 17 s 1 are each  
30 amended to read as follows:

31 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
32 farmers or to veterinarians of animal pharmaceuticals approved by the  
33 United States department of agriculture or by the United States food



1 and drug administration, if the pharmaceutical is to be administered to  
2 an animal that is raised by a farmer for the purpose of producing for  
3 sale an agricultural product.

4 (2) The exemption is available only when the buyer provides the  
5 seller with an exemption certificate in a form and manner prescribed by  
6 the department. The seller must retain a copy of the certificate for  
7 the seller's files.

8 (3) For the purposes of this section (~~and RCW 82.12.880~~), the  
9 following definitions apply:

10 (a) "Farmer" and "agricultural product" mean the same as in RCW  
11 82.04.213.

12 (b) "Veterinarian" means a person who is licensed to practice  
13 veterinary medicine, surgery, or dentistry under chapter 18.92 RCW.

14 **Sec. 711.** RCW 82.08.890 and 2001 2nd sp.s. c 18 s 2 are each  
15 amended to read as follows:

16 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
17 eligible persons of services rendered in respect to operating,  
18 repairing, cleaning, altering, or improving of dairy nutrient  
19 management equipment and facilities, or to sales of tangible personal  
20 property that becomes an ingredient or component of the equipment and  
21 facilities. The equipment and facilities must be used exclusively for  
22 activities necessary to maintain a dairy nutrient management plan as  
23 required under chapter 90.64 RCW. This exemption applies to sales made  
24 after the dairy nutrient management plan is certified under chapter  
25 90.64 RCW.

26 (2)(a) The department of revenue must provide an exemption  
27 certificate to an eligible person upon application by that person. The  
28 department of agriculture must provide a list of eligible persons to  
29 the department of revenue. The application must be in a form and  
30 manner prescribed by the department and must contain information  
31 regarding the location of the dairy and other information the  
32 department may require.

33 (b) The exemption is available only when the buyer provides the  
34 seller with an exemption certificate in a form and manner prescribed by  
35 the department. The seller must retain a copy of the certificate for  
36 the seller's files.

1 (3) The definitions in this subsection apply to this section ((~~and~~  
2 ~~RCW 82.12.890~~)) unless the context clearly requires otherwise:

3 (a) "Dairy nutrient management equipment and facilities" means  
4 machinery, equipment, and structures used in the handling and treatment  
5 of dairy manure, such as aerators, agitators, alley scrapers, augers,  
6 dams, gutter cleaners, loaders, lagoons, pipes, pumps, separators, and  
7 tanks. The term also includes tangible personal property that becomes  
8 an ingredient or component of the equipment and facilities, including  
9 repair and replacement parts.

10 (b) "Eligible person" means a person licensed to produce milk under  
11 chapter 15.36 RCW who has a certified dairy nutrient management plan by  
12 December 31, 2003, as required by chapter 90.64 RCW.

13 **Sec. 712.** RCW 82.08.900 and 2001 2nd sp.s. c 18 s 4 are each  
14 amended to read as follows:

15 (1) The tax levied by RCW 82.08.020 does not apply to sales to an  
16 eligible person establishing or operating an anaerobic digester or to  
17 services rendered in respect to installing, constructing, repairing,  
18 cleaning, altering, or improving an anaerobic digester, or to sales of  
19 tangible personal property that becomes an ingredient or component of  
20 the anaerobic digester. The anaerobic digester must be used primarily  
21 to treat dairy manure.

22 (2)(a) The department of revenue must provide an exemption  
23 certificate to an eligible person upon application by that person. The  
24 application must be in a form and manner prescribed by the department  
25 and must contain information regarding the location of the facility and  
26 other information as the department may require.

27 (b) The exemption is available only when the buyer provides the  
28 seller with an exemption certificate in a form and manner prescribed by  
29 the department. The seller must retain a copy of the certificate for  
30 the seller's files.

31 (3) The definitions in this subsection apply to this section ((~~and~~  
32 ~~RCW 82.12.900~~)) unless the context clearly requires otherwise:

33 (a) "Anaerobic digester" means a facility that processes manure  
34 from cattle into biogas and dried manure using microorganisms in a  
35 decomposition process within a closed, oxygen-free container.

36 (b) "Eligible person" means any person establishing or operating an  
37 anaerobic digester to treat primarily dairy manure.

1 (c) "Primarily" means more than fifty percent measured by volume or  
2 weight.

3 **Sec. 713.** RCW 82.08.910 and 2001 2nd sp.s. c 25 s 3 are each  
4 amended to read as follows:

5 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
6 farmers of propane or natural gas used to heat structures used to house  
7 chickens. The propane or natural gas must be used exclusively to heat  
8 the structures. The structures must be used exclusively to house  
9 chickens that are sold as agricultural products.

10 (2) The exemption is available only when the buyer provides the  
11 seller with an exemption certificate in a form and manner prescribed by  
12 the department. The seller must retain a copy of the certificate for  
13 the seller's files.

14 (3) The definitions in this subsection apply to this section (~~and~~  
15 ~~RCW 82.12.910~~)).

16 (a) "Structures" means barns, sheds, and other similar buildings in  
17 which chickens are housed.

18 (b) "Farmer" has the same meaning as provided in RCW 82.04.213.

19 (c) "Agricultural product" has the same meaning as provided in RCW  
20 82.04.213.

21 **Sec. 714.** RCW 82.08.920 and 2001 2nd sp.s. c 25 s 5 are each  
22 amended to read as follows:

23 (1) The tax levied by RCW 82.08.020 does not apply to sales to a  
24 farmer of bedding materials used to accumulate and facilitate the  
25 removal of chicken manure. The farmer must be raising chickens that  
26 are sold as agricultural products.

27 (2) The exemption is available only when the buyer provides the  
28 seller with an exemption certificate in a form and manner prescribed by  
29 the department. The seller must retain a copy of the certificate for  
30 the seller's files.

31 (3) The definitions in this subsection apply to this section (~~and~~  
32 ~~RCW 82.12.920~~)).

33 (a) "Bedding materials" means wood shavings, straw, sawdust,  
34 shredded paper, and other similar materials.

35 (b) "Farmer" has the same meaning as provided in RCW 82.04.213.

1 (c) "Agricultural product" has the same meaning as provided in RCW  
2 82.04.213.

3 NEW SECTION. **Sec. 715.** The following acts or parts of acts are  
4 each repealed:

5 (1) RCW 82.12.02525 (Exemptions--Sale of copied public records by  
6 state and local agencies) and 1996 c 63 s 2;

7 (2) RCW 82.12.0253 (Exemptions--Use of tangible personal property  
8 taxable under chapter 82.16 RCW) and 1980 c 37 s 53;

9 (3) RCW 82.12.02567 (Exemptions--Use of machinery and equipment  
10 used in generating electricity) and 2004 c 152 s 2, 2003 c 5 s 6, 2001  
11 c 213 s 2, 1999 c 358 s 10, 1998 c 309 s 2, & 1996 c 166 s 2;

12 (4) RCW 82.12.02568 (Exemptions--Use of carbon and similar  
13 substances that become an ingredient or component of anodes or cathodes  
14 used in producing aluminum for sale) and 1996 c 170 s 2;

15 (5) RCW 82.12.02569 (Exemptions--Use of tangible personal property  
16 related to a building or structure that is an integral part of a laser  
17 interferometer gravitational wave observatory) and 1996 c 113 s 2;

18 (6) RCW 82.12.0257 (Exemptions--Use of tangible personal property  
19 of the operating property of a public utility by state or political  
20 subdivision) and 1980 c 37 s 57;

21 (7) RCW 82.12.0258 (Exemptions--Use of tangible personal property  
22 previously used in farming and purchased from farmer at auction) and  
23 1980 c 37 s 58;

24 (8) RCW 82.12.0259 (Exemptions--Use of tangible personal property  
25 by federal corporations providing aid and relief) and 2003 c 5 s 7 &  
26 1980 c 37 s 59;

27 (9) RCW 82.12.0261 (Exemptions--Use of livestock) and 2001 c 118 s  
28 5 & 1980 c 37 s 60;

29 (10) RCW 82.12.0262 (Exemptions--Use of poultry for producing  
30 poultry and poultry products for sale) and 1980 c 37 s 61;

31 (11) RCW 82.12.0267 (Exemptions--Use of semen in artificial  
32 insemination of livestock) and 1980 c 37 s 66;

33 (12) RCW 82.12.0268 (Exemptions--Use of form lumber by persons  
34 engaged in constructing, repairing, etc., structures for consumers) and  
35 1980 c 37 s 67;

36 (13) RCW 82.12.0269 (Exemptions--Use of sand, gravel, or rock to

1 extent of labor and service charges for mining, sorting, crushing,  
2 etc., thereof from county or city quarry for public road purposes) and  
3 1980 c 37 s 68;

4 (14) RCW 82.12.0271 (Exemptions--Use of wearing apparel only as a  
5 sample for display for sale) and 1980 c 37 s 69;

6 (15) RCW 82.12.0273 (Exemptions--Use of pollen) and 1980 c 37 s 71;

7 (16) RCW 82.12.0274 (Exemptions--Use of tangible personal property  
8 by political subdivision resulting from annexation or incorporation)  
9 and 1980 c 37 s 72;

10 (17) RCW 82.12.02745 (Exemptions--Use by free hospitals of certain  
11 items) and 1993 c 205 s 2;

12 (18) RCW 82.12.02747 (Exemptions--Use of medical products by  
13 qualifying blood, tissue, or blood and tissue banks) and 2004 c 82 s 3  
14 & 1995 2nd sp.s. c 9 s 5;

15 (19) RCW 82.12.02748 (Exemptions--Use of human blood, tissue,  
16 organs, bodies, or body parts for medical research or quality control  
17 testing) and 1996 c 141 s 2;

18 (20) RCW 82.12.02749 (Exemptions--Use of medical supplies,  
19 chemicals, or materials by organ procurement organization) and 2002 c  
20 113 s 3;

21 (21) RCW 82.12.0275 (Exemptions--Use of certain drugs or family  
22 planning devices) and 2003 c 168 s 406, 1993 sp.s. c 25 s 309, & 1980  
23 c 37 s 73;

24 (22) RCW 82.12.0276 (Exemptions--Use of returnable containers for  
25 beverages and foods) and 1980 c 37 s 74;

26 (23) RCW 82.12.0277 (Exemptions--Certain medical items) and 2004 c  
27 153 s 109;

28 (24) RCW 82.12.0279 (Exemptions--Use of ferry vessels by the state  
29 or local governmental units--Components thereof) and 2003 c 5 s 9 &  
30 1980 c 37 s 77;

31 (25) RCW 82.12.0283 (Exemptions--Use of certain irrigation  
32 equipment) and 1983 1st ex.s. c 55 s 6;

33 (26) RCW 82.12.02915 (Exemptions--Use of items by health or social  
34 welfare organizations for alternative housing for youth in crisis) and  
35 1998 c 183 s 2, 1997 c 386 s 57, & 1995 c 346 s 2;

36 (27) RCW 82.12.02917 (Exemptions--Use of amusement and recreation  
37 services by nonprofit youth organization) and 1999 c 358 s 7;

1 (28) RCW 82.12.0293 (Exemptions--Use of food and food ingredients)  
2 and 2003 c 168 s 303, 1988 c 103 s 2, 1986 c 182 s 2, 1985 c 104 s 2,  
3 & 1982 1st ex.s. c 35 s 34;

4 (29) RCW 82.12.0294 (Exemptions--Use of feed for cultivating or  
5 raising fish for sale) and 1985 c 148 s 4;

6 (30) RCW 82.12.0296 (Exemptions--Use of feed consumed by livestock  
7 at a public livestock market) and 1986 c 265 s 2;

8 (31) RCW 82.12.0297 (Exemptions--Use of food purchased with food  
9 stamps) and 1998 c 79 s 19 & 1987 c 28 s 2;

10 (32) RCW 82.12.0298 (Exemptions--Use of diesel fuel in operating  
11 watercraft in commercial deep sea fishing or commercial passenger  
12 fishing boat operations outside the state) and 1987 c 494 s 2;

13 (33) RCW 82.12.031 (Exemptions--Use by artistic or cultural  
14 organizations of certain objects) and 1981 c 140 s 5;

15 (34) RCW 82.12.0311 (Exemptions--Use of materials and supplies in  
16 packing horticultural products) and 1988 c 68 s 2;

17 (35) RCW 82.12.0316 (Exemptions--Sales of cigarettes by Indian  
18 retailers) and 2005 c 11 s 4 & 2001 c 235 s 5;

19 (36) RCW 82.12.032 (Exemption--Use of used park model trailers) and  
20 2001 c 282 s 4;

21 (37) RCW 82.12.033 (Exemption--Use of certain used mobile homes)  
22 and 1986 c 211 s 3 & 1979 ex.s. c 266 s 4;

23 (38) RCW 82.12.034 (Exemption--Use of used floating homes) and 1984  
24 c 192 s 4;

25 (39) RCW 82.12.0345 (Exemptions--Use of newspapers) and 1994 c 124  
26 s 11;

27 (40) RCW 82.12.0347 (Exemptions--Use of academic transcripts) and  
28 1996 c 272 s 3;

29 (41) RCW 82.12.803 (Exemptions--Nebulizers) and 2004 c 153 s 105;

30 (42) RCW 82.12.804 (Exemptions--Ostomic items) and 2004 c 153 s  
31 107;

32 (43) RCW 82.12.806 (Exemptions--Use of computer equipment parts and  
33 services by printer or publisher) and 2004 c 8 s 3;

34 (44) RCW 82.12.808 (Exemptions--Use of medical supplies, chemicals,  
35 or materials by comprehensive cancer centers) and 2005 c 514 s 403;

36 (45) RCW 82.12.809 (Exemptions--Vehicles using clean alternative  
37 fuels) and 2005 c 296 s 3;

- 1 (46) RCW 82.12.813 (Exemptions--High gas mileage vehicles) and 2005  
2 c 296 s 4;
- 3 (47) RCW 82.12.832 (Exemptions--Use of gun safes) and 1998 c 178 s  
4 2;
- 5 (48) RCW 82.12.841 (Exemptions--Farming equipment--Hay sheds) and  
6 2005 c 420 s 3;
- 7 (49) RCW 82.12.880 (Exemptions--Animal pharmaceuticals) and 2001  
8 2nd sp.s. c 17 s 2;
- 9 (50) RCW 82.12.890 (Exemptions--Dairy nutrient management equipment  
10 and facilities) and 2003 c 5 s 15 & 2001 2nd sp.s. c 18 s 3;
- 11 (51) RCW 82.12.900 (Exemptions--Anaerobic digesters) and 2003 c 5  
12 s 16 & 2001 2nd sp.s. c 18 s 5;
- 13 (52) RCW 82.12.910 (Exemptions--Propane or natural gas to heat  
14 chicken structures) and 2001 2nd sp.s. c 25 s 4;
- 15 (53) RCW 82.12.920 (Exemptions--Chicken bedding materials) and 2001  
16 2nd sp.s. c 25 s 6;
- 17 (54) RCW 82.12.925 (Exemptions--Dietary supplements) and 2003 c 168  
18 s 304;
- 19 (55) RCW 82.12.935 (Exemptions--Disposable devices used to deliver  
20 prescription drugs for human use) and 2003 c 168 s 407;
- 21 (56) RCW 82.12.940 (Exemptions--Over-the-counter drugs for human  
22 use) and 2003 c 168 s 408;
- 23 (57) RCW 82.12.945 (Exemptions--Kidney dialysis devices) and 2004  
24 c 153 s 111 & 2003 c 168 s 411;
- 25 (58) RCW 82.12.950 (Exemptions--Steam, electricity, electrical  
26 energy) and 2003 c 168 s 704;
- 27 (59) RCW 82.12.955 (Exemptions--Use of machinery, equipment,  
28 vehicles, and services related to biodiesel or alcohol fuel blend) and  
29 2003 c 63 s 3;
- 30 (60) RCW 82.12.960 (Exemptions--Use of machinery, equipment,  
31 vehicles, and services related to wood biomass fuel blend) and 2003 c  
32 339 s 14;
- 33 (61) RCW 82.12.975 (Computer parts and software related to the  
34 manufacture of commercial airplanes) and 2003 2nd sp.s. c 1 s 10; and
- 35 (62) RCW 82.12.985 (Exemptions--Insulin) and 2004 c 153 s 103.

36 NEW SECTION. **Sec. 716.** The sole purpose of the legislature in  
37 enacting section 701, chapter . . ., Laws of 2006 is to consolidate a

1 number of use tax exemptions into a single section for purposes of  
2 simplification. It is not the intent of the legislature in enacting  
3 section 701, chapter . . . , Laws of 2006 to create new use tax  
4 exemptions, or to eliminate, narrow, or expand any existing use tax  
5 exemptions. Therefore, the courts, taxpayers, the department of  
6 revenue, and the board of tax appeals should construe section 701,  
7 chapter . . . , Laws of 2006 as a consolidation of existing law with no  
8 substantive effect.

9 **PART VIII**  
10 **TOBACCO**

11 **Sec. 801.** RCW 82.24.520 and 1986 c 321 s 6 are each amended to  
12 read as follows:

13 (1) A fee of six hundred fifty dollars shall accompany each  
14 wholesaler's license application or license renewal application. If a  
15 wholesaler sells or intends to sell cigarettes at two or more places of  
16 business, whether established or temporary, a separate license with a  
17 license fee of one hundred fifteen dollars shall be required for each  
18 additional place of business. Each license, or certificate thereof,  
19 and such other evidence of license as the department of revenue  
20 requires, shall be exhibited in the place of business for which it is  
21 issued and in such manner as is prescribed for the display of a master  
22 license. The department of revenue shall require each licensed  
23 wholesaler to file with the department a bond in an amount not less  
24 than one thousand dollars to guarantee the proper performance of the  
25 duties and the discharge of the liabilities under this chapter. The  
26 bond shall be executed by such licensed wholesaler as principal, and by  
27 a corporation approved by the department of revenue and authorized to  
28 engage in business as a surety company in this state, as surety. The  
29 bond shall run concurrently with the wholesaler's license.

30 (2) The fees imposed under subsection (1) of this section do not  
31 apply to any person applying for a wholesaler's license or for renewal  
32 of a wholesaler's license if the person has a valid distributor's  
33 license under RCW 82.26.150 for the place of business associated with  
34 the wholesaler's license application or license renewal application.



1       **Sec. 802.** RCW 82.24.530 and 1993 c 507 s 15 are each amended to  
2 read as follows:

3       (1)(a) A fee of ninety-three dollars shall accompany each  
4 retailer's license application or license renewal application. A  
5 separate license is required for each separate location at which the  
6 retailer operates.

7       (b) A fee of thirty additional dollars for each vending machine  
8 shall accompany each application or renewal for a license issued to a  
9 retail dealer operating a cigarette vending machine.

10       (2) The fee imposed under subsection (1) of this section does not  
11 apply to any person applying for a retailer's license or for renewal of  
12 a retailer's license if the person has a valid retailer's license under  
13 RCW 82.26.150 for the place of business associated with the retailer's  
14 license application or renewal application.

15       **Sec. 803.** RCW 43.06.455 and 2001 c 235 s 2 are each amended to  
16 read as follows:

17       (1) The governor may enter into cigarette tax contracts concerning  
18 the sale of cigarettes. All cigarette tax contracts shall meet the  
19 requirements for cigarette tax contracts under this section. Except  
20 for cigarette tax contracts under RCW 43.06.460, the rates, revenue  
21 sharing, and exemption terms of a cigarette tax contract are not  
22 effective unless authorized in a bill enacted by the legislature.

23       (2) Cigarette tax contracts shall be in regard to retail sales in  
24 which Indian retailers make delivery and physical transfer of  
25 possession of the cigarettes from the seller to the buyer within Indian  
26 country, and are not in regard to transactions by non-Indian retailers.  
27 In addition, contracts shall provide that retailers shall not sell or  
28 give, or permit to be sold or given, cigarettes to any person under the  
29 age of eighteen years.

30       (3) A cigarette tax contract with a tribe shall provide for a  
31 tribal cigarette tax in lieu of all state cigarette taxes and state and  
32 local sales and use taxes on sales of cigarettes in Indian country by  
33 Indian retailers. The tribe may allow an exemption for sales to tribal  
34 members.

35       (4) Cigarette tax contracts shall provide that all cigarettes  
36 possessed or sold by a retailer shall bear a cigarette stamp obtained  
37 by wholesalers from a bank or other suitable stamp vendor and applied

1 to the cigarettes. The procedures to be used by the tribe in obtaining  
2 tax stamps must include a means to assure that the tribal tax will be  
3 paid by the wholesaler obtaining such cigarettes. Tribal stamps must  
4 have serial numbers or some other discrete identification so that each  
5 stamp can be traced to its source.

6 (5) Cigarette tax contracts shall provide that retailers shall  
7 purchase cigarettes only from:

8 (a) Wholesalers or manufacturers licensed to do business in the  
9 state of Washington;

10 (b) Out-of-state wholesalers or manufacturers who, although not  
11 licensed to do business in the state of Washington, agree to comply  
12 with the terms of the cigarette tax contract, are certified to the  
13 state as having so agreed, and who do in fact so comply. However, the  
14 state may in its sole discretion exercise its administrative and  
15 enforcement powers over such wholesalers or manufacturers to the extent  
16 permitted by law;

17 (c) A tribal wholesaler that purchases only from a wholesaler or  
18 manufacturer described in (a), (b), or (d) of this subsection; and

19 (d) A tribal manufacturer.

20 (6) Cigarette tax contracts shall be for renewable periods of no  
21 more than eight years. A renewal may not include a renewal of the  
22 phase-in period.

23 (7) Cigarette tax contracts shall include provisions for  
24 compliance, such as transport and notice requirements, inspection  
25 procedures, stamping requirements, recordkeeping, and audit  
26 requirements.

27 (8) Tax revenue retained by a tribe must be used for essential  
28 government services. Use of tax revenue for subsidization of cigarette  
29 and food retailers is prohibited.

30 (9) The cigarette tax contract may include provisions to resolve  
31 disputes using a nonjudicial process, such as mediation.

32 (10) The governor may delegate the power to negotiate cigarette tax  
33 contracts to the department of revenue. The department of revenue  
34 shall consult with the liquor control board during the negotiations.

35 (11) Information received by the state or open to state review  
36 under the terms of a contract is subject to the provisions of RCW  
37 82.32.330.

1 (12) It is the intent of the legislature that the liquor control  
2 board and the department of revenue continue the division of duties and  
3 shared authority under chapter 82.24 RCW and therefore the liquor  
4 control board is responsible for enforcement activities that come under  
5 the terms of chapter 82.24 RCW.

6 (13) Each cigarette tax contract shall include a procedure for  
7 notifying the other party that a violation has occurred, a procedure  
8 for establishing whether a violation has in fact occurred, an  
9 opportunity to correct such violation, and a provision providing for  
10 termination of the contract should the violation fail to be resolved  
11 through this process, such termination subject to mediation should the  
12 terms of the contract so allow. A contract shall provide for  
13 termination of the contract if resolution of a dispute does not occur  
14 within twenty-four months from the time notification of a violation has  
15 occurred. Intervening violations do not extend this time period. In  
16 addition, the contract shall include provisions delineating the  
17 respective roles and responsibilities of the tribe, the department of  
18 revenue, and the liquor control board.

19 (14) For purposes of this section and RCW 43.06.460, 82.08.0316,  
20 (~~82.12.0316~~) and 82.24.295:

21 (a) "Essential government services" means services such as tribal  
22 administration, public facilities, fire, police, public health,  
23 education, job services, sewer, water, environmental and land use,  
24 transportation, utility services, and economic development;

25 (b) "Indian retailer" or "retailer" means (i) a retailer wholly  
26 owned and operated by an Indian tribe, (ii) a business wholly owned and  
27 operated by a tribal member and licensed by the tribe, or (iii) a  
28 business owned and operated by the Indian person or persons in whose  
29 name the land is held in trust; and

30 (c) "Indian tribe" or "tribe" means a federally recognized Indian  
31 tribe located within the geographical boundaries of the state of  
32 Washington.

33 NEW SECTION. **Sec. 804.** The repealed sections in section 23,  
34 chapter 180, Laws of 2005, do not affect any rights, liabilities,  
35 obligations, or proceedings, incurred or instituted prior to July 1,  
36 2005, under those sections or rules adopted by the department of  
37 revenue pursuant to those sections.

1 PART IX

2 MISCELLANEOUS B&O AND RETAIL SALES TAX PROVISIONS

3 **Sec. 901.** RCW 82.04.140 and 1961 c 15 s 82.04.140 are each amended  
4 to read as follows:

5 (1) "Business" includes all activities engaged in with the object  
6 of gain, benefit, or advantage to the taxpayer or to another person or  
7 class, directly or indirectly.

8 (2) "Engaging in business" means commencing, conducting, or  
9 continuing in business and also the exercise of corporate or franchise  
10 powers as well as liquidating a business when the liquidators thereof  
11 hold themselves out to the public as conducting such business.

12 **Sec. 902.** RCW 82.04.250 and 2003 2nd sp.s. c 1 s 2 are each  
13 reenacted and amended to read as follows:

14 (1) Upon every person (~~((except persons taxable under RCW 82.04.260~~  
15 ~~(5) or (13), 82.04.272, or subsection (2) of this section))~~) engaging  
16 within this state in the business of making sales at retail, except  
17 persons taxable as retailers under other provisions of this chapter, as  
18 to such persons, the amount of tax with respect to such business shall  
19 be equal to the gross proceeds of sales of the business, multiplied by  
20 the rate of 0.471 percent.

21 (2) Upon every person engaging within this state in the business of  
22 making sales at retail that are exempt from the tax imposed under  
23 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
24 82.08.0263, ~~except persons taxable under RCW 82.04.260((13))~~ (11), as  
25 to such persons, the amount of tax with respect to such business shall  
26 be equal to the gross proceeds of sales of the business, multiplied by  
27 the rate of 0.484 percent.

28 **Sec. 903.** RCW 82.04.280 and 2004 c 24 s 6 are each amended to read  
29 as follows:

30 Upon every person engaging within this state in the business of:  
31 (1) Printing, and of publishing newspapers, periodicals, or magazines;  
32 (2) building, repairing or improving any street, place, road, highway,  
33 easement, right of way, mass public transportation terminal or parking  
34 facility, bridge, tunnel, or trestle which is owned by a municipal  
35 corporation or political subdivision of the state or by the United  
36 States and which is used or to be used, primarily for foot or vehicular

1 traffic including mass transportation vehicles of any kind and  
2 including any readjustment, reconstruction or relocation of the  
3 facilities of any public, private or cooperatively owned utility or  
4 railroad in the course of such building, repairing or improving, the  
5 cost of which readjustment, reconstruction, or relocation, is the  
6 responsibility of the public authority whose street, place, road,  
7 highway, easement, right of way, mass public transportation terminal or  
8 parking facility, bridge, tunnel, or trestle is being built, repaired  
9 or improved; (3) extracting for hire or processing for hire, except  
10 persons taxable as processors for hire under another section of this  
11 chapter; (4) operating a cold storage warehouse or storage warehouse,  
12 but not including the rental of cold storage lockers; (5) representing  
13 and performing services for fire or casualty insurance companies as an  
14 independent resident managing general agent licensed under the  
15 provisions of RCW 48.05.310; (6) radio and television broadcasting,  
16 excluding network, national and regional advertising computed as a  
17 standard deduction based on the national average thereof as annually  
18 reported by the Federal Communications Commission, or in lieu thereof  
19 by itemization by the individual broadcasting station, and excluding  
20 that portion of revenue represented by the out-of-state audience  
21 computed as a ratio to the station's total audience as measured by the  
22 100 micro-volt signal strength and delivery by wire, if any; (7)  
23 engaging in activities which bring a person within the definition of  
24 consumer contained in RCW 82.04.190(~~(+6+)~~) (1)(f); as to such persons,  
25 the amount of tax on such business shall be equal to the gross income  
26 of the business multiplied by the rate of 0.484 percent.

27 As used in this section, "cold storage warehouse" means a storage  
28 warehouse used to store fresh and/or frozen perishable fruits or  
29 vegetables, meat, seafood, dairy products, or fowl, or any combination  
30 thereof, at a desired temperature to maintain the quality of the  
31 product for orderly marketing.

32 As used in this section, "storage warehouse" means a building or  
33 structure, or any part thereof, in which goods, wares, or merchandise  
34 are received for storage for compensation, except field warehouses,  
35 fruit warehouses, fruit packing plants, warehouses licensed under  
36 chapter 22.09 RCW, public garages storing automobiles, railroad freight  
37 sheds, docks and wharves, and "self-storage" or "mini storage"  
38 facilities whereby customers have direct access to individual storage

1 areas by separate entrance. "Storage warehouse" does not include a  
2 building or structure, or that part of such building or structure, in  
3 which an activity taxable under RCW 82.04.272 is conducted.

4 As used in this section, "periodical or magazine" means a printed  
5 publication, other than a newspaper, issued regularly at stated  
6 intervals at least once every three months, including any supplement or  
7 special edition of the publication.

8 **Sec. 904.** RCW 82.04.280 and 2003 c 149 s 4 are each amended to  
9 read as follows:

10 Upon every person engaging within this state in the business of:  
11 (1) Printing, and of publishing newspapers, periodicals, or magazines;  
12 (2) building, repairing or improving any street, place, road, highway,  
13 easement, right of way, mass public transportation terminal or parking  
14 facility, bridge, tunnel, or trestle which is owned by a municipal  
15 corporation or political subdivision of the state or by the United  
16 States and which is used or to be used, primarily for foot or vehicular  
17 traffic including mass transportation vehicles of any kind and  
18 including any readjustment, reconstruction or relocation of the  
19 facilities of any public, private or cooperatively owned utility or  
20 railroad in the course of such building, repairing or improving, the  
21 cost of which readjustment, reconstruction, or relocation, is the  
22 responsibility of the public authority whose street, place, road,  
23 highway, easement, right of way, mass public transportation terminal or  
24 parking facility, bridge, tunnel, or trestle is being built, repaired  
25 or improved; (3) extracting for hire or processing for hire, except  
26 persons taxable as processors for hire under another section of this  
27 chapter; (4) operating a cold storage warehouse or storage warehouse,  
28 but not including the rental of cold storage lockers; (5) representing  
29 and performing services for fire or casualty insurance companies as an  
30 independent resident managing general agent licensed under the  
31 provisions of RCW 48.05.310; (6) radio and television broadcasting,  
32 excluding network, national and regional advertising computed as a  
33 standard deduction based on the national average thereof as annually  
34 reported by the Federal Communications Commission, or in lieu thereof  
35 by itemization by the individual broadcasting station, and excluding  
36 that portion of revenue represented by the out-of-state audience  
37 computed as a ratio to the station's total audience as measured by the

1 100 micro-volt signal strength and delivery by wire, if any; (7)  
2 engaging in activities which bring a person within the definition of  
3 consumer contained in RCW 82.04.190(~~(+6+)~~) (1)(f); as to such persons,  
4 the amount of tax on such business shall be equal to the gross income  
5 of the business multiplied by the rate of 0.484 percent.

6 As used in this section, "cold storage warehouse" means a storage  
7 warehouse used to store fresh and/or frozen perishable fruits or  
8 vegetables, meat, seafood, dairy products, or fowl, or any combination  
9 thereof, at a desired temperature to maintain the quality of the  
10 product for orderly marketing.

11 As used in this section, "storage warehouse" means a building or  
12 structure, or any part thereof, in which goods, wares, or merchandise  
13 are received for storage for compensation, except field warehouses,  
14 fruit warehouses, fruit packing plants, warehouses licensed under  
15 chapter 22.09 RCW, public garages storing automobiles, railroad freight  
16 sheds, docks and wharves, and "self-storage" or "mini storage"  
17 facilities whereby customers have direct access to individual storage  
18 areas by separate entrance. "Storage warehouse" does not include a  
19 building or structure, or that part of such building or structure, in  
20 which an activity taxable under RCW 82.04.272 is conducted.

21 As used in this section, "periodical or magazine" means a printed  
22 publication, other than a newspaper, issued regularly at stated  
23 intervals at least once every three months, including any supplement or  
24 special edition of the publication.

25 **Sec. 905.** RCW 82.04.418 and 1983 1st ex.s. c 66 s 2 are each  
26 amended to read as follows:

27 The provisions of this chapter (~~shall~~) do not apply to:

28 (1) Grants received from the state or the United States government  
29 by municipal corporations or political subdivisions of the state of  
30 Washington;

31 (2) Amounts received by any person for research and development  
32 under the federal small business innovation research program (114 Stat.  
33 2763A; 15 U.S.C. Sec. 638 et seq.);

34 (3) Amounts received by any person for research and development  
35 under the federal small business technology transfer program (115 Stat.  
36 263; 15 U.S.C. Sec. 638 et seq.); and

1       (4) Income received by the life sciences discovery fund authority  
2 under chapter 43.350 RCW.

3       **Sec. 906.** RCW 82.04.4281 and 2002 c 150 s 2 are each amended to  
4 read as follows:

5       (1) In computing tax there may be deducted from the measure of tax:

6       (a) Amounts derived from investments;

7       (b) Amounts derived as dividends or distributions from (~~{the}~~)  
8 the capital account by a parent from its subsidiary entities; and

9       (c) Amounts derived from interest on loans between subsidiary  
10 entities and a parent entity or between subsidiaries of a common parent  
11 entity, but only if the total investment and loan income is less than  
12 five percent of gross receipts of the business annually.

13       (2) The following are not deductible under subsection (1)(a) of  
14 this section:

15       (a) Amounts received from loans, except as provided in subsection  
16 (1)(c) of this section, or the extension of credit to another,  
17 revolving credit arrangements, installment sales, the acceptance of  
18 payment over time for goods or services, or any of the foregoing that  
19 have been transferred by the originator of the same to an affiliate of  
20 the transferor; or

21       (b) Amounts received by a banking, lending, or security business.

22       (3) The definitions in this subsection apply only to this section.

23       (a) "Banking business" means a person engaging in business as a  
24 national or state-chartered bank, a mutual savings bank, a savings and  
25 loan association, a trust company, an alien bank, a foreign bank, a  
26 credit union, a stock savings bank, or a similar entity that is  
27 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title  
28 12 U.S.C.

29       (b) "Lending business" means a person engaged in the business of  
30 making secured or unsecured loans of money, or extending credit, and  
31 (i) more than one-half of the person's gross income is earned from such  
32 activities and (ii) more than one-half of the person's total  
33 expenditures are incurred in support of such activities.

34       (c) The terms "loan" and "extension of credit" do not include  
35 ownership of or trading in publicly traded debt instruments, or  
36 substantially equivalent instruments offered in a private placement.



1 (d) "Security business" means a person, other than an issuer, who  
2 is engaged in the business of effecting transactions in securities as  
3 a broker, dealer, or broker-dealer, as those terms are defined in the  
4 securities act of Washington, chapter 21.20 RCW, or the federal  
5 securities act of 1933. "Security business" does not include any  
6 company excluded from the definition of broker or dealer under the  
7 federal investment company act of 1940 or any entity that is not an  
8 investment company by reason of sections 3(c)(1) and 3(c)(3) through  
9 3(c)(14) thereof.

10 **Sec. 907.** RCW 82.04.4286 and 1980 c 37 s 7 are each amended to  
11 read as follows:

12 ~~((In computing tax there may be deducted from the measure of tax))~~  
13 This chapter does not apply to amounts derived from business which the  
14 state is prohibited from taxing under the Constitution of this state or  
15 the Constitution or laws of the United States.

16 **Sec. 908.** RCW 82.04.440 and 2005 c 301 s 3 are each amended to  
17 read as follows:

18 (1) Every person engaged in activities ~~((which))~~ that are ~~((within~~  
19 ~~the purview of the provisions of two or more of sections))~~ subject to  
20 tax under two or more provisions of RCW 82.04.230 ~~((to))~~ through  
21 82.04.298, inclusive, shall be taxable under each ~~((paragraph))~~  
22 provision applicable to ~~((the))~~ those activities ~~((engaged in))~~.

23 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,  
24 82.04.294(2), or 82.04.260~~(1)(c)~~, (4), or ~~((13))~~ (11) with respect to  
25 selling products in this state shall be allowed a credit against those  
26 taxes for any (a) manufacturing taxes paid with respect to the  
27 manufacturing of products so sold in this state, and/or (b) extracting  
28 taxes paid with respect to the extracting of products so sold in this  
29 state or ingredients of products so sold in this state. Extracting  
30 taxes taken as credit under subsection (3) of this section may also be  
31 taken under this subsection, if otherwise allowable under this  
32 subsection. The amount of the credit shall not exceed the tax  
33 liability arising under this chapter with respect to the sale of those  
34 products.

35 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be  
36 allowed a credit against those taxes for any extracting taxes paid with

1 respect to extracting the ingredients of the products so manufactured  
2 in this state. The amount of the credit shall not exceed the tax  
3 liability arising under this chapter with respect to the manufacturing  
4 of those products.

5 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),  
6 82.04.294(1), or 82.04.260 (1), (2), (4), (~~((6))~~) or (~~((13))~~) (11)  
7 with respect to extracting or manufacturing products in this state  
8 shall be allowed a credit against those taxes for any (i) gross  
9 receipts taxes paid to another state with respect to the sales of the  
10 products so extracted or manufactured in this state, (ii) manufacturing  
11 taxes paid with respect to the manufacturing of products using  
12 ingredients so extracted in this state, or (iii) manufacturing taxes  
13 paid with respect to manufacturing activities completed in another  
14 state for products so manufactured in this state. The amount of the  
15 credit shall not exceed the tax liability arising under this chapter  
16 with respect to the extraction or manufacturing of those products.

17 (5) For the purpose of this section:

18 (a) "Gross receipts tax" means a tax:

19 (i) Which is imposed on or measured by the gross volume of  
20 business, in terms of gross receipts or in other terms, and in the  
21 determination of which the deductions allowed would not constitute the  
22 tax an income tax or value added tax; and

23 (ii) Which is also not, pursuant to law or custom, separately  
24 stated from the sales price.

25 (b) "State" means (i) the state of Washington, (ii) a state of the  
26 United States other than Washington, or any political subdivision of  
27 such other state, (iii) the District of Columbia, and (iv) any foreign  
28 country or political subdivision thereof.

29 (c) "Manufacturing tax" means a gross receipts tax imposed on the  
30 act or privilege of engaging in business as a manufacturer, and  
31 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1),  
32 82.04.260 (1), (2), (4), and (~~((13))~~) (11), and 82.04.294(1); and (ii)  
33 similar gross receipts taxes paid to other states.

34 (d) "Extracting tax" means a gross receipts tax imposed on the act  
35 or privilege of engaging in business as an extractor, and includes the  
36 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to  
37 other states.

1 (e) "Business", "manufacturer", "extractor", and other terms used  
2 in this section have the meanings given in RCW 82.04.020 through  
3 82.04.212, notwithstanding the use of those terms in the context of  
4 describing taxes imposed by other states.

5 **Sec. 909.** RCW 82.04.440 and 2006 c . . . s 908 (section 908 of  
6 this act) are each amended to read as follows:

7 (1) Every person engaged in activities that are subject to tax  
8 under two or more provisions of RCW 82.04.230 through 82.04.298,  
9 inclusive, shall be taxable under each provision applicable to those  
10 activities.

11 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,  
12 82.04.294(2), or 82.04.260(1) (c) or (e), (4), or (11) with respect to  
13 selling products in this state shall be allowed a credit against those  
14 taxes for any (a) manufacturing taxes paid with respect to the  
15 manufacturing of products so sold in this state, and/or (b) extracting  
16 taxes paid with respect to the extracting of products so sold in this  
17 state or ingredients of products so sold in this state. Extracting  
18 taxes taken as credit under subsection (3) of this section may also be  
19 taken under this subsection, if otherwise allowable under this  
20 subsection. The amount of the credit shall not exceed the tax  
21 liability arising under this chapter with respect to the sale of those  
22 products.

23 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be  
24 allowed a credit against those taxes for any extracting taxes paid with  
25 respect to extracting the ingredients of the products so manufactured  
26 in this state. The amount of the credit shall not exceed the tax  
27 liability arising under this chapter with respect to the manufacturing  
28 of those products.

29 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),  
30 82.04.294(1), or 82.04.260 (1), (2), (4), or (11) with respect to  
31 extracting or manufacturing products in this state shall be allowed a  
32 credit against those taxes for any (i) gross receipts taxes paid to  
33 another state with respect to the sales of the products so extracted or  
34 manufactured in this state, (ii) manufacturing taxes paid with respect  
35 to the manufacturing of products using ingredients so extracted in this  
36 state, or (iii) manufacturing taxes paid with respect to manufacturing  
37 activities completed in another state for products so manufactured in

1 this state. The amount of the credit shall not exceed the tax  
2 liability arising under this chapter with respect to the extraction or  
3 manufacturing of those products.

4 (5) For the purpose of this section:

5 (a) "Gross receipts tax" means a tax:

6 (i) Which is imposed on or measured by the gross volume of  
7 business, in terms of gross receipts or in other terms, and in the  
8 determination of which the deductions allowed would not constitute the  
9 tax an income tax or value added tax; and

10 (ii) Which is also not, pursuant to law or custom, separately  
11 stated from the sales price.

12 (b) "State" means (i) the state of Washington, (ii) a state of the  
13 United States other than Washington, or any political subdivision of  
14 such other state, (iii) the District of Columbia, and (iv) any foreign  
15 country or political subdivision thereof.

16 (c) "Manufacturing tax" means a gross receipts tax imposed on the  
17 act or privilege of engaging in business as a manufacturer, and  
18 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1),  
19 82.04.260 (1), (2), (4), and (11), and 82.04.294(1); and (ii) similar  
20 gross receipts taxes paid to other states.

21 (d) "Extracting tax" means a gross receipts tax imposed on the act  
22 or privilege of engaging in business as an extractor, and includes the  
23 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to  
24 other states.

25 (e) "Business", "manufacturer", "extractor", and other terms used  
26 in this section have the meanings given in RCW 82.04.020 through  
27 82.04.212, notwithstanding the use of those terms in the context of  
28 describing taxes imposed by other states.

29 **Sec. 910.** RCW 82.04.4461 and 2003 2nd sp.s. c 1 s 7 are each  
30 amended to read as follows:

31 (1)(a) In computing the tax imposed under this chapter, a credit is  
32 allowed for each person for qualified preproduction development  
33 (~~(spending)~~) expenditures occurring after December 1, 2003.

34 (b) Before July 1, 2005, any credits earned under this section must  
35 be accrued and carried forward and may not be used until July 1, 2005.  
36 These carryover credits may be used at any time thereafter, and may be

1 carried over until used. Refunds may not be granted in the place of a  
2 credit.

3 (2) The credit is equal to the amount of qualified preproduction  
4 development expenditures of a person, multiplied by the rate of 1.5  
5 percent.

6 (3) Except as provided in subsection (1)(b) of this section the  
7 credit shall be taken against taxes due for the same calendar year in  
8 which the qualified preproduction development expenditures are  
9 incurred. Credit earned on or after July 1, 2005, may not be carried  
10 over. The credit for each calendar year shall not exceed the amount of  
11 tax otherwise due under this chapter for the calendar year. Refunds  
12 may not be granted in the place of a credit.

13 ~~(4) ((Any person claiming the credit shall file an affidavit form  
14 prescribed by the department that shall include the amount of the  
15 credit claimed, an estimate of the anticipated preproduction  
16 development expenditures during the calendar year for which the credit  
17 is claimed, an estimate of the taxable amount during the calendar year  
18 for which the credit is claimed, and such additional information as the  
19 department may prescribe.~~

20 ~~(5))~~) The definitions in this subsection apply throughout this  
21 section.

22 (a) "Aeronautics" means the study of flight and the science of  
23 building and operating commercial aircraft.

24 (b) "Person" means a person as defined in RCW 82.04.030, who is a  
25 manufacturer or processor for hire of commercial airplanes, or  
26 components of such airplanes, as those terms are defined in RCW  
27 82.32.550.

28 (c) "Preproduction development" means research, design, and  
29 engineering activities performed in relation to the development of a  
30 product, product line, model, or model derivative, including prototype  
31 development, testing, and certification. The term includes the  
32 discovery of technological information, the translating of  
33 technological information into new or improved products, processes,  
34 techniques, formulas, or inventions, and the adaptation of existing  
35 products and models into new products or new models, or derivatives of  
36 products or models. The term does not include manufacturing activities  
37 or other production-oriented activities, however the term does include  
38 tool design and engineering design for the manufacturing process. The

1 term does not include surveys and studies, social science and  
2 humanities research, market research or testing, quality control, sale  
3 promotion and service, computer software developed for internal use,  
4 and research in areas such as improved style, taste, and seasonal  
5 design.

6 ~~((("Preproduction development spending" means qualified  
7 preproduction development expenditures plus eighty percent of amounts  
8 paid to a person other than a public educational or research  
9 institution to conduct qualified preproduction development.~~

10 ~~(e))~~ "Qualified preproduction development" means preproduction  
11 development performed within this state in the field of aeronautics.

12 ~~((f))~~ (e) "Qualified preproduction development expenditures"  
13 means operating expenses, including wages, compensation of a proprietor  
14 or a partner in a partnership as determined by the department,  
15 benefits, supplies, and computer expenses, directly incurred in  
16 qualified preproduction development by a person claiming the credit  
17 provided in this section. The term does not include amounts paid to a  
18 person, as defined in RCW 82.04.030, other than a public educational or  
19 research institution to conduct qualified preproduction development.  
20 The term does not include capital costs and overhead, such as expenses  
21 for land, structures, or depreciable property.

22 ~~((g) "Taxable amount" means the taxable amount subject to the tax  
23 imposed in this chapter required to be reported on the person's tax  
24 returns during the year in which the credit is claimed, less any  
25 taxable amount for which a credit is allowed under RCW 82.04.440.~~

26 ~~(6))~~ (5) In addition to all other requirements under this title,  
27 a person taking the credit under this section must report as required  
28 under RCW 82.32.545.

29 ~~((7))~~ (6) Credit may not be claimed for expenditures for which a  
30 credit is claimed under RCW 82.04.4452.

31 ~~((8))~~ (7) This section expires July 1, 2024.

32 **Sec. 911.** RCW 82.04.4462 and 2003 2nd sp.s. c 1 s 8 are each  
33 amended to read as follows:

34 (1) In computing the tax imposed under this chapter, a credit is  
35 allowed for the investment related to design and preproduction  
36 development computer software and hardware acquired between July 1,  
37 1995, and December 1, 2003, and used by an eligible person primarily

1 for the digital design and development of commercial airplanes. The  
2 credit shall be equal to the purchase price of such property,  
3 multiplied by 8.44 percent. Credit taken in any one calendar year may  
4 not exceed ten million dollars, and total lifetime credit taken under  
5 this section by any one person may not exceed twenty million dollars.  
6 Credit may be carried over until used.

7 (2) The definitions in this subsection apply throughout this  
8 section.

9 (a) "Commercial airplane" has the meaning given in RCW 82.32.550.

10 (b) "Design and preproduction development computer software and  
11 hardware" means computer-aided three-dimensional interactive  
12 applications and other solid modeling computer technology that allow  
13 for electronic design and testing during product development.

14 (c) "Eligible person" means a person as defined in RCW 82.04.030,  
15 who is a manufacturer of commercial airplanes.

16 (3) An application must be made to the department before taking the  
17 credit under this section. The application shall be made to the  
18 department in a form and manner prescribed by the department. The  
19 application shall contain information regarding the uses of the  
20 computer software and hardware, purchase price, dates of acquisition,  
21 and other information required by the department. The department shall  
22 rule on the application within sixty days. All applications must be  
23 received by the department within one year of December 1, 2003.

24 (4) This section expires July 1, (~~2024~~) 2006.

25 **Sec. 912.** RCW 82.04.4328 and 1985 c 471 s 7 are each amended to  
26 read as follows:

27 (1) For the purposes of RCW 82.04.4322, 82.04.4324, 82.04.4326,  
28 82.04.4327, and 82.08.031, (~~and 82.12.031,~~) the term "artistic or  
29 cultural organization" means an organization which is organized and  
30 operated exclusively for the purpose of providing artistic or cultural  
31 exhibitions, presentations, or performances or cultural or art  
32 education programs, as defined in subsection (2) of this section, for  
33 viewing or attendance by the general public. The organization must be  
34 a not-for-profit corporation under chapter 24.03 RCW and managed by a  
35 governing board of not less than eight individuals none of whom is a  
36 paid employee of the organization or by a corporation sole under  
37 chapter 24.12 RCW. In addition, to qualify for deduction or exemption

1 from taxation under RCW 82.04.4322, 82.04.4324, 82.04.4326, 82.04.4327,  
2 82.08.031, and (~~82.12.031~~) section 701 of this act, the corporation  
3 shall satisfy the following conditions:

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

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

11 (c) Assets of the corporation must be irrevocably dedicated to the  
12 activities for which the exemption is granted and, on the liquidation,  
13 dissolution, or abandonment by the corporation, may not inure directly  
14 or indirectly to the benefit of any member or individual except a  
15 nonprofit organization, association, or corporation which also would be  
16 entitled to the exemption;

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

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

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

23 (g) The director of revenue shall have access to its books in order  
24 to determine whether the corporation is exempt from taxes.

25 (2) The term "artistic or cultural exhibitions, presentations, or  
26 performances or cultural or art education programs" includes and is  
27 limited to:

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

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

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

35 **Sec. 913.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to  
36 read as follows:

37 (1)(a) Except as otherwise provided in this section, any person



1 (~~rendering services~~) engaging in business activities in this state  
2 taxable under RCW 82.04.290 or 82.04.2908, and (~~maintaining places of~~  
3 ~~business both within and without this state which contribute to the~~  
4 ~~rendition of such services~~) engaging in business activities outside  
5 this state that contribute more than incidentally to such in-state  
6 activities, shall, for the purpose of computing tax liability under RCW  
7 82.04.290 or 82.04.2908, apportion to this state that portion of the  
8 person's gross income which is derived from (~~services rendered~~)  
9 business activities performed within this state. Where such  
10 apportionment cannot be accurately made by separate accounting methods,  
11 the taxpayer shall apportion to this state that proportion of the  
12 taxpayer's total income which the cost of doing business within the  
13 state bears to the total cost of doing business both within and without  
14 the state.

15 (b) Activities performed outside this state contribute more than  
16 incidentally to in-state activities only to the extent that such  
17 activities would subject the taxpayer to the tax imposed under this  
18 chapter if performed in this state.

19 (2) (~~Notwithstanding the provision of subsection (1) of this~~  
20 ~~section,~~) Persons doing business both within and without the state who  
21 receive gross income from service charges, as defined in RCW 63.14.010  
22 (relating to amounts charged for granting the right or privilege to  
23 make deferred or installment payments) or who receive gross income from  
24 engaging in business as financial institutions within the scope of  
25 chapter 82.14A RCW (relating to city taxes on financial institutions)  
26 shall apportion or allocate gross income taxable under RCW 82.04.290 to  
27 this state pursuant to rules (~~promulgated~~) adopted by the department  
28 consistent with uniform rules for apportionment or allocation developed  
29 by the states.

30 (~~(3) The department shall by rule provide a method or methods of~~  
31 ~~apportioning or allocating gross income derived from sales of telephone~~  
32 ~~services taxed under this chapter, if the gross proceeds of sales~~  
33 ~~subject to tax under this chapter do not fairly represent the extent of~~  
34 ~~the taxpayer's income attributable to this state. The rules shall be,~~  
35 ~~so far as feasible, consistent with the methods of apportionment~~  
36 ~~contained in this section and shall require the consideration of those~~  
37 ~~facts, circumstances, and apportionment factors as will result in an~~  
38 ~~equitable and constitutionally permissible division of the services.))~~





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)~~) that is assessed and taxed  
5 as a 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. The exemption provided by this  
10 subsection does not apply to leasehold interests in any portion of  
11 student housing facilities that is not used to provide housing for  
12 students.

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

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

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

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

36 (7) All leasehold interests in any real property of any Indian or  
37 Indian tribe, band, or community that is held in trust by the United  
38 States or is subject to a restriction against alienation imposed by the

1 United States: PROVIDED, That this exemption shall apply only where it  
2 is determined that contract rent paid is greater than or equal to  
3 ninety percent of fair market rental, to be determined by the  
4 department of revenue using the same criteria used to establish taxable  
5 rent in RCW 82.29A.020(2)(b).

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

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

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

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

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

34 (13) All leasehold interests used to provide organized and  
35 supervised recreational activities for disabled persons of all ages in  
36 a camp facility and for public recreational purposes by a nonprofit  
37 organization, association, or corporation that would be exempt from  
property tax under RCW 84.36.030(1) if it owned the property. If the

1 publicly owned property is used for any taxable purpose, the leasehold  
2 excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be  
3 imposed and shall be apportioned accordingly.

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

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

26 (16) All leasehold interests in public facilities district(~~s~~)  
27 facilities, as (~~provided~~) described in (~~chapter 36.100 or 35.57~~)  
28 RCW 36.100.030(1) or 35.57.020(1).

29 (17) All leasehold interests in property that is: (a) Owned by a  
30 municipal corporation; (b) listed on any federal or state register of  
31 historical sites; and (c) wholly contained within a designated national  
32 historic reserve under 16 U.S.C. Sec. 461.

33 (18) All leasehold interests in the public or entertainment areas  
34 of an amphitheater if a private entity is responsible for one hundred  
35 percent of the cost of constructing the amphitheater which is not  
36 reimbursed by the public owner, both the public owner and the private  
37 lessee sponsor events at the facility on a regular basis, the lessee is  
38 responsible under the lease or agreement to operate and maintain the

1 facility, and the amphitheater has a seating capacity of over seventeen  
2 thousand reserved and general admission seats and is in a county with  
3 a population of over three hundred fifty thousand, but less than four  
4 hundred twenty-five thousand. For the purposes of this subsection,  
5 "public or entertainment areas" include box offices or other ticket  
6 sales areas, entrance gates, ramps and stairs, lobbies and concourses,  
7 parking areas, concession areas, restaurants, hospitality areas,  
8 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 including  
13 lawn seating areas and suites, stages, and any other areas to which the  
14 public has access or which are used for the production of the  
15 entertainment event or other public usage, and any other personal  
16 property used for these purposes. "Public or entertainment areas" does  
17 not include office areas used predominately by the lessee.

18 NEW SECTION. **Sec. 1102.** RCW 82.29A.150 (Cancellation of taxes  
19 levied for collection in 1976) and 1975-'76 2nd ex.s. c 61 s 17 are  
20 each repealed.

21 **PART XII**

22 **GENERAL ADMINISTRATIVE PROVISIONS**

23 **Sec. 1201.** RCW 82.32.033 and 2004 c 253 s 1 are each amended to  
24 read as follows:

25 (1) A promoter of a special event within the state of Washington  
26 shall not permit a vendor to make or solicit retail sales of tangible  
27 personal property or services at the special event unless the promoter  
28 makes a good faith effort to obtain verification that the vendor has  
29 obtained a certificate of registration from the department.

30 (2) A promoter of a special event shall:

31 (a) Keep, in addition to the records required under RCW 82.32.070,  
32 a record of the dates and place of each special event, and the name,  
33 address, and registration certificate number of each vendor permitted  
34 to make or solicit retail sales of tangible personal property or  
35 services at the special event. The record of the date and place of a

1 special event, and the name, address, and registration certificate  
2 number of each vendor at the event shall be preserved for a period of  
3 one year from the date of a special event; and

4 (b) Provide to the department, within twenty days of receipt of a  
5 written request from the department, a list of vendors permitted to  
6 make or solicit retail sales of tangible personal property or services.  
7 The list shall be in a form and contain such information as the  
8 department may require, and shall include the date and place of the  
9 event, and the name, address, and registration certificate number of  
10 each vendor.

11 (3) If a promoter fails to make a good faith effort to comply with  
12 the provisions of this section, the promoter is liable for the  
13 penalties provided in this subsection (3).

14 (a) If a promoter fails to make a good faith effort to comply with  
15 the provisions of subsection (1) of this section, the department shall  
16 impose a penalty of one hundred dollars for each vendor permitted to  
17 make or solicit retail sales of tangible personal property or services  
18 at the special event.

19 (b) If a promoter fails to make a good faith effort to comply with  
20 the provisions of subsection (2)(b) of this section, the department  
21 shall impose a penalty of:

22 (i) Two hundred fifty dollars if the information requested is not  
23 received by the department within twenty days of the department's  
24 written request; and

25 (ii) One hundred dollars for each vendor for whom the information  
26 as required by subsection (2)(b) of this section is not provided to the  
27 department.

28 (4) The aggregate of penalties imposed under subsection (3) of this  
29 section may not exceed two thousand five hundred dollars for a special  
30 event if the promoter has not previously been penalized under this  
31 section. Under no circumstances is a promoter liable for sales tax or  
32 business and occupation tax not remitted to the department by a vendor  
33 at a special event.

34 (5) The department shall notify a promoter by mail of any penalty  
35 imposed under this section, and the penalty shall be due within thirty  
36 days from the date of the notice. If any penalty imposed under this  
37 section is not received by the department by the due date, there shall  
38 be assessed interest on the unpaid amount beginning the day following



1 the due date until the penalty is paid in full. The rate of interest  
2 shall be computed on a daily basis on the amount of outstanding penalty  
3 at the rate as computed under RCW 82.32.050(2). The rate computed  
4 shall be adjusted annually in the same manner as provided in RCW  
5 82.32.050(1)(c).

6 (6) For purposes of this section:

7 (a) "Promoter" means a person who organizes, operates, or sponsors  
8 a special event and who contracts with vendors for participation in the  
9 special event.

10 (b) "Special event" means an entertainment, amusement,  
11 recreational, educational, or marketing event, whether held on a  
12 regular or irregular basis, at which more than one vendor makes or  
13 solicits retail sales of tangible personal property or services. The  
14 term includes, but is not limited to: Auto shows, recreational vehicle  
15 shows, boat shows, home shows, garden shows, hunting and fishing shows,  
16 stamp shows, comic book shows, sports memorabilia shows, craft shows,  
17 art shows, antique shows, flea markets, exhibitions, festivals,  
18 concerts, swap meets, bazaars, carnivals, athletic contests, circuses,  
19 fairs, or other similar activities. "Special event" does not include  
20 an event that is organized for the exclusive benefit of any nonprofit  
21 organization as defined in RCW 82.04.3651. An event is organized for  
22 the exclusive benefit of a nonprofit organization if all of the gross  
23 proceeds of retail sales of all vendors at the event inure to the  
24 benefit of the nonprofit organization on whose behalf the event is  
25 being held. "Special event" does not include athletic contests that  
26 involve competition between teams, when such competition consists of  
27 more than five contests in a calendar year by at least one team at the  
28 same facility or site.

29 (c) "Vendor" means a person who, at a special event, makes or  
30 solicits retail sales of tangible personal property or services.  
31 "Vendor" does not include any person who is not required to obtain a  
32 certificate of registration with the department under RCW 82.32.030.

33 (7) "Good faith effort to comply" and "good faith effort to obtain"  
34 may be shown by, but is not limited to, circumstances where a promoter:

35 (a) Includes a statement on all written contracts with its vendors  
36 that a valid registration certificate number issued by the department  
37 of revenue is required for participation in the special event and

1 requires vendors to indicate their registration certificate number on  
2 these contracts; and

3 (b) Provides the department with a list of vendors and their  
4 associated registration certificate numbers as provided in subsection  
5 (2)(b) of this section.

6 (8) This section does not apply to:

7 (a) A special event whose promoter does not charge more than two  
8 hundred dollars for a vendor to participate in a special event;

9 (b) A special event whose promoter charges a percentage of sales  
10 instead of, or in addition to, a flat charge for a vendor to  
11 participate in a special event if the promoter, in good faith, believes  
12 that no vendor will pay more than two hundred dollars to participate in  
13 the special event; or

14 (c) A person who does not organize, operate, or sponsor a special  
15 event, but only provides a venue, supplies, furnishings, fixtures,  
16 equipment, or services to a promoter of a special event.

17 **Sec. 1202.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to  
18 read as follows:

19 (1) If the department of revenue finds that the payment by a  
20 taxpayer of a tax less than that properly due or the failure of a  
21 taxpayer to pay any tax by the due date was the result of circumstances  
22 beyond the control of the taxpayer, the department of revenue shall  
23 waive or cancel any penalties imposed under this chapter with respect  
24 to such tax.

25 (2) The department shall waive or cancel the penalty imposed under  
26 RCW 82.32.090(1) when the circumstances under which the delinquency  
27 occurred do not qualify for waiver or cancellation under subsection (1)  
28 of this section if:

29 (a) The taxpayer requests the waiver for a tax return required to  
30 be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060,  
31 82.29A.050, 82.72.050, or 84.33.086; and

32 (b) The taxpayer has timely filed and remitted payment on all tax  
33 returns due for that tax program for a period of twenty-four months  
34 immediately preceding the period covered by the return for which the  
35 waiver is being requested.

36 (3) The department shall waive or cancel interest imposed under  
37 this chapter if:

1 (a) The failure to timely pay the tax was the direct result of  
2 written instructions given the taxpayer by the department; or

3 (b) The extension of a due date for payment of an assessment of  
4 deficiency was not at the request of the taxpayer and was for the sole  
5 convenience of the department.

6 (4) The department of revenue shall adopt rules for the waiver or  
7 cancellation of penalties and interest imposed by this chapter.

8 **Sec. 1203.** RCW 82.32.330 and 2005 c 326 s 1 and 2005 c 274 s 361  
9 are each reenacted and amended to read as follows:

10 (1) For purposes of this section:

11 (a) "Disclose" means to make known to any person in any manner  
12 whatever a return or tax information;

13 (b) "Return" means a tax or information return or claim for refund  
14 required by, or provided for or permitted under, the laws of this state  
15 which is filed with the department of revenue by, on behalf of, or with  
16 respect to a person, and any amendment or supplement thereto, including  
17 supporting schedules, attachments, or lists that are supplemental to,  
18 or part of, the return so filed;

19 (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
20 nature, source, or amount of the taxpayer's income, payments, receipts,  
21 deductions, exemptions, credits, assets, liabilities, net worth, tax  
22 liability deficiencies, overassessments, or tax payments, whether taken  
23 from the taxpayer's books and records or any other source, (iii)  
24 whether the taxpayer's return was, is being, or will be examined or  
25 subject to other investigation or processing, (iv) a part of a written  
26 determination that is not designated as a precedent and disclosed  
27 pursuant to RCW 82.32.410, or a background file document relating to a  
28 written determination, and (v) other data received by, recorded by,  
29 prepared by, furnished to, or collected by the department of revenue  
30 with respect to the determination of the existence, or possible  
31 existence, of liability, or the amount thereof, of a person under the  
32 laws of this state for a tax, penalty, interest, fine, forfeiture, or  
33 other imposition, or offense: PROVIDED, That data, material, or  
34 documents that do not disclose information related to a specific or  
35 identifiable taxpayer do not constitute tax information under this  
36 section. Except as provided by RCW 82.32.410, nothing in this chapter

1 shall require any person possessing data, material, or documents made  
2 confidential and privileged by this section to delete information from  
3 such data, material, or documents so as to permit its disclosure;

4 (d) "State agency" means every Washington state office, department,  
5 division, bureau, board, commission, or other state agency;

6 (e) "Taxpayer identity" means the taxpayer's name, address,  
7 telephone number, registration number, or any combination thereof, or  
8 any other information disclosing the identity of the taxpayer; and

9 (f) "Department" means the department of revenue or its officer,  
10 agent, employee, or representative.

11 (2) Returns and tax information shall be confidential and  
12 privileged, and except as authorized by this section, neither the  
13 department of revenue nor any other person may disclose any return or  
14 tax information.

15 (3) This section does not prohibit the department of revenue from:

16 (a) Disclosing such return or tax information in a civil or  
17 criminal judicial proceeding or an administrative proceeding:

18 (i) In respect of any tax imposed under the laws of this state if  
19 the taxpayer or its officer or other person liable under Title 82 RCW  
20 is a party in the proceeding; or

21 (ii) In which the taxpayer about whom such return or tax  
22 information is sought and another state agency are adverse parties in  
23 the proceeding;

24 (b) Disclosing, subject to such requirements and conditions as the  
25 director shall prescribe by rules adopted pursuant to chapter 34.05  
26 RCW, such return or tax information regarding a taxpayer to such  
27 taxpayer or to such person or persons as that taxpayer may designate in  
28 a request for, or consent to, such disclosure, or to any other person,  
29 at the taxpayer's request, to the extent necessary to comply with a  
30 request for information or assistance made by the taxpayer to such  
31 other person: PROVIDED, That tax information not received from the  
32 taxpayer shall not be so disclosed if the director determines that such  
33 disclosure would compromise any investigation or litigation by any  
34 federal, state, or local government agency in connection with the civil  
35 or criminal liability of the taxpayer or another person, or that such  
36 disclosure would identify a confidential informant, or that such  
37 disclosure is contrary to any agreement entered into by the department  
38 that provides for the reciprocal exchange of information with other

1 government agencies which agreement requires confidentiality with  
2 respect to such information unless such information is required to be  
3 disclosed to the taxpayer by the order of any court;

4 (c) Disclosing the name of a taxpayer with a deficiency greater  
5 than five thousand dollars and against whom a warrant under RCW  
6 82.32.210 has been either issued or filed and remains outstanding for  
7 a period of at least ten working days. The department shall not be  
8 required to disclose any information under this subsection if a  
9 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued  
10 a warrant that has not been filed; and (iii) has entered a deferred  
11 payment arrangement with the department of revenue and is making  
12 payments upon such deficiency that will fully satisfy the indebtedness  
13 within twelve months;

14 (d) Disclosing the name of a taxpayer with a deficiency greater  
15 than five thousand dollars and against whom a warrant under RCW  
16 82.32.210 has been filed with a court of record and remains  
17 outstanding;

18 (e) Publishing statistics so classified as to prevent the  
19 identification of particular returns or reports or items thereof;

20 (f) Disclosing such return or tax information, for official  
21 purposes only, to the governor or attorney general, or to any state  
22 agency, or to any committee or subcommittee of the legislature dealing  
23 with matters of taxation, revenue, trade, commerce, the control of  
24 industry or the professions;

25 (g) Permitting the department of revenue's records to be audited  
26 and examined by the proper state officer, his or her agents and  
27 employees;

28 (h) Disclosing any such return or tax information to a peace  
29 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for  
30 official purposes. The disclosure may be made only in response to a  
31 search warrant, subpoena, or other court order, unless the disclosure  
32 is for the purpose of criminal tax enforcement. A peace officer or  
33 county prosecuting attorney who receives the return or tax information  
34 may disclose that return or tax information only for use in the  
35 investigation and a related court proceeding, or in the court  
36 proceeding for which the return or tax information originally was  
37 sought;

1 (i) Disclosing any such return or tax information to the proper  
2 officer of the internal revenue service of the United States, the  
3 Canadian government or provincial governments of Canada, or to the  
4 proper officer of the tax department of any state or city or town or  
5 county, for official purposes, but only if the statutes of the United  
6 States, Canada or its provincial governments, or of such other state or  
7 city or town or county, as the case may be, grants substantially  
8 similar privileges to the proper officers of this state;

9 (j) Disclosing any such return or tax information to the Department  
10 of Justice, including the Bureau of Alcohol, Tobacco ~~((and))~~, Firearms  
11 ~~((of the Department of the Treasury))~~ and Explosives within the  
12 Department of Justice, the Department of Defense, the Immigration and  
13 Customs Enforcement and the Customs and Border Protection agencies of  
14 the United States ((Customs Service)) Department of Homeland Security,  
15 the Coast Guard of the United States, and the United States Department  
16 of Transportation, or any authorized representative thereof, for  
17 official purposes;

18 (k) Publishing or otherwise disclosing the text of a written  
19 determination designated by the director as a precedent pursuant to RCW  
20 82.32.410;

21 (l) Disclosing, in a manner that is not associated with other tax  
22 information, the taxpayer name, entity type, business address, mailing  
23 address, revenue tax registration numbers, North American industry  
24 classification system or standard industrial classification code of a  
25 taxpayer, and the dates of opening and closing of business. This  
26 subsection shall not be construed as giving authority to the department  
27 to give, sell, or provide access to any list of taxpayers for any  
28 commercial purpose;

29 (m) Disclosing such return or tax information that is also  
30 maintained by another Washington state or local governmental agency as  
31 a public record available for inspection and copying under the  
32 provisions of chapter 42.56 RCW or is a document maintained by a court  
33 of record not otherwise prohibited from disclosure;

34 (n) Disclosing such return or tax information to the United States  
35 department of agriculture for the limited purpose of investigating food  
36 stamp fraud by retailers;

37 (o) Disclosing to a financial institution, escrow company, or title

1 company, in connection with specific real property that is the subject  
2 of a real estate transaction, current amounts due the department for a  
3 filed tax warrant, judgment, or lien against the real property;

4 (p) Disclosing to a person against whom the department has asserted  
5 liability as a successor under RCW 82.32.140 return or tax information  
6 pertaining to the specific business of the taxpayer to which the person  
7 has succeeded; (~~or~~)

8 (q) Disclosing to a county or city such return or tax information  
9 in the possession of the department relating to the administration or  
10 enforcement of the real estate excise tax imposed under chapter 82.45  
11 RCW, including information regarding transactions exempt or otherwise  
12 not subject to tax;

13 (r) Disclosing to a program as defined in RCW 82.73.010 the names  
14 of applicants approved for credit under chapter 82.73 RCW based on a  
15 proposed contribution to the program, the amount of the proposed  
16 contribution contained in the application for credit, and the amount of  
17 the approved credit; or

18 (s) Disclosing the least amount of return or tax information  
19 necessary for the reports of the effectiveness of tax incentive  
20 programs when the number of taxpayers included in the reports or any  
21 part of the reports cannot be classified to prevent the identification  
22 of taxpayers or particular returns, reports, tax information, or items  
23 in the possession of the department.

24 (4)(a) The department may disclose return or taxpayer information  
25 to a person under investigation or during any court or administrative  
26 proceeding against a person under investigation as provided in this  
27 subsection (4). The disclosure must be in connection with the  
28 department's official duties relating to an audit, collection activity,  
29 or a civil or criminal investigation. The disclosure may occur only  
30 when the person under investigation and the person in possession of  
31 data, materials, or documents are parties to the return or tax  
32 information to be disclosed. The department may disclose return or tax  
33 information such as invoices, contracts, bills, statements, resale or  
34 exemption certificates, or checks. However, the department may not  
35 disclose general ledgers, sales or cash receipt journals, check  
36 registers, accounts receivable/payable ledgers, general journals,  
37 financial statements, expert's workpapers, income tax returns, state

1 tax returns, tax return workpapers, or other similar data, materials,  
2 or documents.

3 (b) Before disclosure of any tax return or tax information under  
4 this subsection (4), the department shall, through written  
5 correspondence, inform the person in possession of the data, materials,  
6 or documents to be disclosed. The correspondence shall clearly  
7 identify the data, materials, or documents to be disclosed. The  
8 department may not disclose any tax return or tax information under  
9 this subsection (4) until the time period allowed in (c) of this  
10 subsection has expired or until the court has ruled on any challenge  
11 brought under (c) of this subsection.

12 (c) The person in possession of the data, materials, or documents  
13 to be disclosed by the department has twenty days from the receipt of  
14 the written request required under (b) of this subsection to petition  
15 the superior court of the county in which the petitioner resides for  
16 injunctive relief. The court shall limit or deny the request of the  
17 department if the court determines that:

18 (i) The data, materials, or documents sought for disclosure are  
19 cumulative or duplicative, or are obtainable from some other source  
20 that is more convenient, less burdensome, or less expensive;

21 (ii) The production of the data, materials, or documents sought  
22 would be unduly burdensome or expensive, taking into account the needs  
23 of the department, the amount in controversy, limitations on the  
24 petitioner's resources, and the importance of the issues at stake; or

25 (iii) The data, materials, or documents sought for disclosure  
26 contain trade secret information that, if disclosed, could harm the  
27 petitioner.

28 (d) The department shall reimburse reasonable expenses for the  
29 production of data, materials, or documents incurred by the person in  
30 possession of the data, materials, or documents to be disclosed.

31 (e) Requesting information under (b) of this subsection that may  
32 indicate that a taxpayer is under investigation does not constitute a  
33 disclosure of tax return or tax information under this section.

34 (5) Any person acquiring knowledge of any return or tax information  
35 in the course of his or her employment with the department of revenue  
36 and any person acquiring knowledge of any return or tax information as  
37 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this  
38 section, who discloses any such return or tax information to another



1 person not entitled to knowledge of such return or tax information  
2 under the provisions of this section, is guilty of a misdemeanor. If  
3 the person guilty of such violation is an officer or employee of the  
4 state, such person shall forfeit such office or employment and shall be  
5 incapable of holding any public office or employment in this state for  
6 a period of two years thereafter.

7 **Sec. 1204.** RCW 82.32.550 and 2003 2nd sp.s. c 1 s 17 are each  
8 amended to read as follows:

9 (1)(a) Chapter 1, Laws of 2003 2nd sp. sess. takes effect on the  
10 first day of the month in which the governor and a manufacturer of  
11 commercial airplanes sign a memorandum of agreement regarding an  
12 affirmative final decision to site a significant commercial airplane  
13 final assembly facility in Washington state. The department shall  
14 provide notice of the effective date of chapter 1, Laws of 2003 2nd sp.  
15 sess. to affected taxpayers, the legislature, and others as deemed  
16 appropriate by the department.

17 (b) Chapter 1, Laws of 2003 2nd sp. sess. is contingent upon the  
18 siting of a significant commercial airplane final assembly facility in  
19 the state of Washington. If a memorandum of agreement under subsection  
20 (1) of this section is not signed by June 30, 2005, chapter 1, Laws of  
21 2003 2nd sp. sess. is null and void.

22 (c)(i) The department shall make a determination regarding the date  
23 final assembly of a superefficient airplane begins in Washington state.  
24 The rates in RCW 82.04.260(~~(+13)~~) (11) (a)(ii) and (b)(ii) take effect  
25 the first day of the month such assembly begins, or July 1, 2007,  
26 whichever is later. The department shall provide notice of the  
27 effective date of such rates to affected taxpayers, the legislature,  
28 and others as deemed appropriate by the department.

29 (ii) If on December 31, 2007, final assembly of a superefficient  
30 airplane has not begun in Washington state, the department shall  
31 provide notice of such to affected taxpayers, the legislature, and  
32 others as deemed appropriate by the department.

33 (2) The definitions in this subsection apply throughout this  
34 section.

35 (a) "Commercial airplane" has its ordinary meaning, which is an  
36 airplane certified by the federal aviation administration for

1 transporting persons or property, and any military derivative of such  
2 an airplane.

3 (b) "Component" means a part or system certified by the federal  
4 aviation administration for installation or assembly into a commercial  
5 airplane.

6 (c) "Final assembly of a superefficient airplane" means the  
7 activity of assembling an airplane from components parts necessary for  
8 its mechanical operation such that the finished commercial airplane is  
9 ready to deliver to the ultimate consumer.

10 (d) "Significant commercial airplane final assembly facility" means  
11 a location with the capacity to produce at least thirty-six  
12 superefficient airplanes a year.

13 (e) "Siting" means a final decision by a manufacturer to locate a  
14 significant commercial airplane final assembly facility in Washington  
15 state.

16 (f) "Superefficient airplane" means a twin aisle airplane that  
17 carries between two hundred and three hundred fifty passengers, with a  
18 range of more than seven thousand two hundred nautical miles, a  
19 cruising speed of approximately mach .85, and that uses fifteen to  
20 twenty percent less fuel than other similar airplanes on the market.

21 NEW SECTION. **Sec. 1205.** A new section is added to chapter 82.32  
22 RCW to read as follows:

23 (1) Whenever the department is required to provide any assessment,  
24 notice, or other information to persons by regular mail, the department  
25 may instead provide the assessment, notice, or other information  
26 electronically if the following conditions are met:

27 (a)(i) The person entitled to receive the information is registered  
28 with the department to file its returns electronically using the  
29 department's secure internet-based electronic filing system, or is  
30 registered to communicate electronically with the department using the  
31 department's secure messaging service; or

32 (ii) The person entitled to receive the information has authorized  
33 the department to provide the assessment, notice, or other information  
34 electronically; and

35 (b) If the assessment, notice, or other information is subject to  
36 the confidentiality provisions of RCW 82.32.330, the manner of  
37 electronic communication must protect the information from unauthorized

1 disclosure. The provisions of this subsection (1)(b) may be waived by  
2 a taxpayer. Such waiver must be in writing and may be provided to the  
3 department electronically or by mail.

4 (2) A person may authorize the department under subsection  
5 (1)(a)(ii) of this section to provide a particular item of information  
6 electronically or may give blanket authorization to provide any item of  
7 information electronically. Such blanket authorization will continue  
8 until revoked in writing by the taxpayer. Such revocation may be  
9 provided to the department by mail or electronically in a manner  
10 provided or approved by the department.

11 (3) Any assessment, notice, or other information provided by the  
12 department electronically to a person is deemed to be received by the  
13 taxpayer on the date that the department electronically sends the  
14 information to the person or electronically notifies the person that  
15 the information is available to be accessed by the person.

### 16 PART XIII

#### 17 USE TAX COLLECTION BY AGENTS OF THE DEPARTMENT OF REVENUE

18 **Sec. 1301.** RCW 82.12.045 and 2003 c 361 s 303 are each amended to  
19 read as follows:

20 (1) ~~((In the collection of the use tax on motor vehicles,))~~ (a) The  
21 department ~~((of revenue))~~ may designate the county auditors of the  
22 several counties of the state as its collecting agents in the  
23 collection of the use tax on: (i) Tangible personal property  
24 consisting of vehicles as defined in RCW 46.04.670, off-road vehicles  
25 as defined in RCW 46.09.020, snowmobiles as defined in RCW 46.10.010,  
26 or vessels as defined in RCW 88.02.010; and (ii) any extended warranty  
27 or maintenance agreement for any item of tangible personal property  
28 described in (a)(i) of this subsection.

29 (b) Upon such designation, ~~((it shall be the duty of))~~ each county  
30 auditor ~~((to))~~ shall collect the tax ~~((at the time))~~ when an applicant  
31 applies for the registration of, and transfer of certificate of  
32 ownership or vessel certificate of title to, the ~~((motor vehicle))~~  
33 property, except ((in the following instances)) where the:

34 ~~((a) Where the))~~ (i) Applicant exhibits a dealer's report of sale  
35 showing that ~~((the retail sales tax has been collected by))~~ the dealer

1 has collected the retail sales tax on the tangible personal property in  
2 question and on any extended warranty or maintenance agreement on that  
3 tangible personal property;

4 ~~((b) Where the))~~ (ii) Application is for the renewal of  
5 registration;

6 ~~((c) Where the))~~ (iii) Applicant presents a written statement  
7 signed by the department ((of revenue)), or its duly authorized agent  
8 showing that no use tax is legally due; or

9 ~~((d) Where the))~~ (iv) Applicant presents satisfactory evidence  
10 showing that the applicant has paid the retail sales tax or the use tax  
11 ((has been paid by the applicant)) on the ((vehicle)) tangible personal  
12 property in question and on any extended warranty or maintenance  
13 agreement on that tangible personal property.

14 ~~(2) ((The term "motor vehicle," as used in this section means and~~  
15 ~~includes all motor vehicles, trailers and semitrailers used, or of a~~  
16 ~~type designed primarily to be used, upon the public streets and~~  
17 ~~highways, for the convenience or pleasure of the owner, or for the~~  
18 ~~conveyance, for hire or otherwise, of persons or property, including~~  
19 ~~fixed loads, facilities for human habitation, and vehicles carrying~~  
20 ~~exempt licenses.~~

21 ~~(3) It shall be the duty of))~~ Every applicant applying for  
22 registration and transfer of certificate of ownership or vessel  
23 certificate of title who is subject to payment of tax under this  
24 section ((to)) shall declare upon the application the value of the  
25 ((vehicle)) property for which application is made, which shall consist  
26 of the consideration paid or contracted to be paid therefor.

27 ~~((4) Each county auditor who acts as agent of the department of~~  
28 ~~revenue shall at the time of))~~ (3) When remitting license fee receipts  
29 on ((motor vehicles)) tangible personal property subject to the  
30 provisions of this section, each county auditor shall pay over and  
31 account to the state treasurer for all use tax revenue collected under  
32 this section((, after first deducting as)). Each county auditor may  
33 deduct a collection fee ((the sum)) of two dollars for each ((motor  
34 vehicle)) transfer of personal property upon which the tax ((has been))  
35 was collected. Except as provided in subsection (6) of this section,  
36 the state treasurer shall credit all revenue received ((by the state  
37 treasurer)) under this section ((shall be credited)) to the general  
38 fund. Each county auditor shall deposit the ((auditor's)) collection

1 fee (~~shall be deposited~~) in the county current expense fund. A  
2 duplicate of the county auditor's transmittal report to the state  
3 treasurer shall be forwarded (~~forthwith~~) immediately to the  
4 department (~~of revenue~~).

5 (~~(+5)~~) (4) Any applicant who (~~has~~) paid use tax to a county  
6 auditor under this section may apply to the department (~~of revenue~~)  
7 for refund (~~thereof~~) if (~~he or she~~) that person has reason to  
8 believe that such tax was not legally due and owing. No refund shall  
9 be allowed unless application therefor is received by the department  
10 (~~of revenue~~) within the statutory period for assessment of taxes,  
11 penalties, or interest prescribed by RCW 82.32.050(3). Upon receipt of  
12 an application for refund the department (~~of revenue~~) shall consider  
13 the same and issue its order either granting or denying it and if  
14 refund is denied, the taxpayer (~~shall have the right of~~) may appeal  
15 as provided in RCW 82.32.170(~~(7)~~) and 82.32.180 (~~(and 82.32.190)~~).

16 (~~(+6)~~) (5) The provisions of this section shall be construed as  
17 cumulative of other methods prescribed in (~~chapters 82.04 to 82.32~~  
18 ~~RCW, inclusive,~~) this title for the collection of the tax imposed by  
19 this chapter. The department (~~of revenue shall have power to~~  
20 ~~promulgate such~~) may adopt rules (~~as may be~~) necessary to administer  
21 the provisions of this section. Any duties required by this section to  
22 be performed by the county auditor may be performed by the director of  
23 licensing but no collection fee shall be deductible by said director in  
24 remitting use tax revenue to the state treasurer.

25 (~~(+7)~~) (6) The use tax revenue collected on the rate provided in  
26 RCW 82.08.020(3) shall be deposited in the multimodal transportation  
27 account under RCW 47.66.070.

28 **PART XIV**  
29 **PROPERTY TAX PROVISIONS**

30 **Sec. 1401.** RCW 84.33.140 and 2003 c 170 s 5 are each amended to  
31 read as follows:

32 (1) When land has been designated as forest land under RCW  
33 84.33.130, a notation of the designation shall be made each year upon  
34 the assessment and tax rolls. A copy of the notice of approval  
35 together with the legal description or assessor's parcel numbers for

1 the land shall, at the expense of the applicant, be filed by the  
2 assessor in the same manner as deeds are recorded.

3 (2) In preparing the assessment roll as of January 1, 2002, for  
4 taxes payable in 2003 and each January 1st thereafter, the assessor  
5 shall list each parcel of designated forest land at a value with  
6 respect to the grade and class provided in this subsection and adjusted  
7 as provided in subsection (3) of this section. The assessor shall  
8 compute the assessed value of the land using the same assessment ratio  
9 applied generally in computing the assessed value of other property in  
10 the county. Values for the several grades of bare forest land shall be  
11 as follows:

12	LAND	OPERABILITY	VALUES
13	GRADE	CLASS	PER ACRE
14		1	\$234
15	1	2	229
16		3	217
17		4	157
18		1	198
19	2	2	190
20		3	183
21		4	132
22		1	154
23	3	2	149
24		3	148
25		4	113
26		1	117
27	4	2	114
28		3	113
29		4	86
30		1	85
31	5	2	78
32		3	77
33		4	52
34		1	43
35	6	2	39
36		3	39

1		4	37
2		1	21
3	7	2	21
4		3	20
5		4	20
6	8		1

7 (3) On or before December 31, 2001, the department shall adjust by  
8 rule under chapter 34.05 RCW, the forest land values contained in  
9 subsection (2) of this section in accordance with this subsection, and  
10 shall certify the adjusted values to the assessor who will use these  
11 values in preparing the assessment roll as of January 1, 2002. For the  
12 adjustment to be made on or before December 31, 2001, for use in the  
13 2002 assessment year, the department shall:

14 (a) Divide the aggregate value of all timber harvested within the  
15 state between July 1, 1996, and June 30, 2001, by the aggregate harvest  
16 volume for the same period, as determined from the harvester excise tax  
17 returns filed with the department under RCW 84.33.074; and

18 (b) Divide the aggregate value of all timber harvested within the  
19 state between July 1, 1995, and June 30, 2000, by the aggregate harvest  
20 volume for the same period, as determined from the harvester excise tax  
21 returns filed with the department under RCW 84.33.074; and

22 (c) Adjust the forest land values contained in subsection (2) of  
23 this section by a percentage equal to one-half of the percentage change  
24 in the average values of harvested timber reflected by comparing the  
25 resultant values calculated under (a) and (b) of this subsection.

26 (4) For the adjustments to be made on or before December 31, 2002,  
27 and each succeeding year thereafter, the same procedure described in  
28 subsection (3) of this section shall be followed using harvester excise  
29 tax returns filed under RCW 84.33.074. However, this adjustment shall  
30 be made to the prior year's adjusted value, and the five-year periods  
31 for calculating average harvested timber values shall be successively  
32 one year more recent.

33 (5) Land graded, assessed, and valued as forest land shall continue  
34 to be so graded, assessed, and valued until removal of designation by  
35 the assessor upon the occurrence of any of the following:

36 (a) Receipt of notice from the owner to remove the designation;

37 (b) Sale or transfer to an ownership making the land exempt from ad  
38 valorem taxation;

1 (c) Sale or transfer of all or a portion of the land to a new  
2 owner, unless the new owner has signed a notice of forest land  
3 designation continuance, except transfer to an owner who is an heir or  
4 devisee of a deceased owner, shall not, by itself, result in removal of  
5 designation. The signed notice of continuance shall be attached to the  
6 real estate excise tax affidavit provided for in RCW 82.45.150. The  
7 notice of continuance shall be on a form prepared by the department.  
8 If the notice of continuance is not signed by the new owner and  
9 attached to the real estate excise tax affidavit, all compensating  
10 taxes calculated under subsection (11) of this section shall become due  
11 and payable by the seller or transferor at time of sale. The auditor  
12 shall not accept an instrument of conveyance regarding designated  
13 forest land for filing or recording unless the new owner has signed the  
14 notice of continuance or the compensating tax has been paid, as  
15 evidenced by the real estate excise tax stamp affixed thereto by the  
16 treasurer. The seller, transferor, or new owner may appeal the new  
17 assessed valuation calculated under subsection (11) of this section to  
18 the county board of equalization in accordance with the provisions of  
19 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of  
20 equalization to hear these appeals;

21 (d) Determination by the assessor, after giving the owner written  
22 notice and an opportunity to be heard, that:

23 (i) The land is no longer primarily devoted to and used for growing  
24 and harvesting timber. However, land shall not be removed from  
25 designation if a governmental agency, organization, or other recipient  
26 identified in subsection (13) or (14) of this section as exempt from  
27 the payment of compensating tax has manifested its intent in writing or  
28 by other official action to acquire a property interest in the  
29 designated forest land by means of a transaction that qualifies for an  
30 exemption under subsection (13) or (14) of this section. The  
31 governmental agency, organization, or recipient shall annually provide  
32 the assessor of the county in which the land is located reasonable  
33 evidence in writing of the intent to acquire the designated land as  
34 long as the intent continues or within sixty days of a request by the  
35 assessor. The assessor may not request this evidence more than once in  
36 a calendar year;

37 (ii) The owner has failed to comply with a final administrative or  
38 judicial order with respect to a violation of the restocking, forest



1 management, fire protection, insect and disease control, and forest  
2 debris provisions of Title 76 RCW or any applicable rules under Title  
3 76 RCW; or

4 (iii) Restocking has not occurred to the extent or within the time  
5 specified in the application for designation of such land.

6 (6) Land shall not be removed from designation if there is a  
7 governmental restriction that prohibits, in whole or in part, the owner  
8 from harvesting timber from the owner's designated forest land. If  
9 only a portion of the parcel is impacted by governmental restrictions  
10 of this nature, the restrictions cannot be used as a basis to remove  
11 the remainder of the forest land from designation under this chapter.

12 For the purposes of this section, "governmental restrictions" includes:

13 (a) Any law, regulation, rule, ordinance, program, or other action  
14 adopted or taken by a federal, state, county, city, or other  
15 governmental entity; or (b) the land's zoning or its presence within an  
16 urban growth area designated under RCW 36.70A.110.

17 (7) The assessor shall have the option of requiring an owner of  
18 forest land to file a timber management plan with the assessor upon the  
19 occurrence of one of the following:

20 (a) An application for designation as forest land is submitted; or

21 (b) Designated forest land is sold or transferred and a notice of  
22 continuance, described in subsection (5)(c) of this section, is signed.

23 (8) If land is removed from designation because of any of the  
24 circumstances listed in subsection (5)(a) through (c) of this section,  
25 the removal shall apply only to the land affected. If land is removed  
26 from designation because of subsection (5)(d) of this section, the  
27 removal shall apply only to the actual area of land that is no longer  
28 primarily devoted to the growing and harvesting of timber, without  
29 regard to any other land that may have been included in the application  
30 and approved for designation, as long as the remaining designated  
31 forest land meets the definition of forest land contained in RCW  
32 84.33.035.

33 (9) Within thirty days after the removal of designation as forest  
34 land, the assessor shall notify the owner in writing, setting forth the  
35 reasons for the removal. The seller, transferor, or owner may appeal  
36 the removal to the county board of equalization in accordance with the  
37 provisions of RCW 84.40.038.

1 (10) Unless the removal is reversed on appeal a copy of the notice  
2 of removal with a notation of the action, if any, upon appeal, together  
3 with the legal description or assessor's parcel numbers for the land  
4 removed from designation shall, at the expense of the applicant, be  
5 filed by the assessor in the same manner as deeds are recorded and a  
6 notation of removal from designation shall immediately be made upon the  
7 assessment and tax rolls. The assessor shall revalue the land to be  
8 removed with reference to its true and fair value as of January 1st of  
9 the year of removal from designation. Both the assessed value before  
10 and after the removal of designation shall be listed. Taxes based on  
11 the value of the land as forest land shall be assessed and payable up  
12 until the date of removal and taxes based on the true and fair value of  
13 the land shall be assessed and payable from the date of removal from  
14 designation.

15 (11) Except as provided in subsection (5)(c), (13), or (14) of this  
16 section, a compensating tax shall be imposed on land removed from  
17 designation as forest land. The compensating tax shall be due and  
18 payable to the treasurer thirty days after the owner is notified of the  
19 amount of this tax. As soon as possible after the land is removed from  
20 designation, the assessor shall compute the amount of compensating tax  
21 and mail a notice to the owner of the amount of compensating tax owed  
22 and the date on which payment of this tax is due. The amount of  
23 compensating tax shall be equal to the difference between the amount of  
24 tax last levied on the land as designated forest land and an amount  
25 equal to the new assessed value of the land multiplied by the dollar  
26 rate of the last levy extended against the land, multiplied by a  
27 number, in no event greater than nine, equal to the number of years for  
28 which the land was designated as forest land, plus compensating taxes  
29 on the land at forest land values up until the date of removal and the  
30 prorated taxes on the land at true and fair value from the date of  
31 removal to the end of the current tax year.

32 (12) Compensating tax, together with applicable interest thereon,  
33 shall become a lien on the land which shall attach at the time the land  
34 is removed from designation as forest land and shall have priority to  
35 and shall be fully paid and satisfied before any recognizance,  
36 mortgage, judgment, debt, obligation, or responsibility to or with  
37 which the land may become charged or liable. The lien may be  
38 foreclosed upon expiration of the same period after delinquency and in

1 the same manner provided by law for foreclosure of liens for delinquent  
2 real property taxes as provided in RCW 84.64.050. Any compensating tax  
3 unpaid on its due date shall thereupon become delinquent. From the  
4 date of delinquency until paid, interest shall be charged at the same  
5 rate applied by law to delinquent ad valorem property taxes.

6 (13) The compensating tax specified in subsection (11) of this  
7 section shall not be imposed if the removal of designation under  
8 subsection (5) of this section resulted solely from:

9 (a) Transfer to a government entity in exchange for other forest  
10 land located within the state of Washington;

11 (b) A taking through the exercise of the power of eminent domain,  
12 or sale or transfer to an entity having the power of eminent domain in  
13 anticipation of the exercise of such power;

14 (c) A donation of fee title, development rights, or the right to  
15 harvest timber, to a government agency or organization qualified under  
16 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
17 sections, or the sale or transfer of fee title to a governmental entity  
18 or a nonprofit nature conservancy corporation, as defined in RCW  
19 64.04.130, exclusively for the protection and conservation of lands  
20 recommended for state natural area preserve purposes by the natural  
21 heritage council and natural heritage plan as defined in chapter 79.70  
22 RCW. At such time as the land is not used for the purposes enumerated,  
23 the compensating tax specified in subsection (11) of this section shall  
24 be imposed upon the current owner;

25 (d) The sale or transfer of fee title to the parks and recreation  
26 commission for park and recreation purposes;

27 (e) Official action by an agency of the state of Washington or by  
28 the county or city within which the land is located that disallows the  
29 present use of the land;

30 (f) The creation, sale, or transfer of forestry riparian easements  
31 under RCW 76.13.120;

32 (g) The creation, sale, or transfer of a fee interest or a  
33 conservation easement for the riparian open space program under RCW  
34 76.09.040; or

35 (h) The sale or transfer of land within two years after the death  
36 of the owner of at least a fifty percent interest in the land if the  
37 land has been assessed and valued as classified forest land, designated  
38 as forest land under this chapter, or classified under chapter 84.34

1 RCW continuously since 1993. The date of death shown on a death  
2 certificate is the date used for the purposes of this subsection  
3 (13)(h)(~~i~~ or

4 ~~(i) The sale or transfer of land after the death of the owner of at~~  
5 ~~least a fifty percent interest in the land if the land has been~~  
6 ~~assessed and valued as classified forest land, designated as forest~~  
7 ~~land under this chapter, or classified under chapter 84.34 RCW~~  
8 ~~continuously since 1993 and the sale or transfer takes place after July~~  
9 ~~22, 2001, and on or before July 22, 2003, and the death of the owner~~  
10 ~~occurred after January 1, 1991. The date of death shown on a death~~  
11 ~~certificate is the date used for the purposes of this subsection~~  
12 ~~(13)(i)).~~

13 (14) In a county with a population of more than one million  
14 inhabitants, the compensating tax specified in subsection (11) of this  
15 section shall not be imposed if the removal of designation as forest  
16 land under subsection (5) of this section resulted solely from:

17 (a) An action described in subsection (13) of this section; or

18 (b) A transfer of a property interest to a government entity, or to  
19 a nonprofit historic preservation corporation or nonprofit nature  
20 conservancy corporation, as defined in RCW 64.04.130, to protect or  
21 enhance public resources, or to preserve, maintain, improve, restore,  
22 limit the future use of, or otherwise to conserve for public use or  
23 enjoyment, the property interest being transferred. At such time as  
24 the property interest is not used for the purposes enumerated, the  
25 compensating tax shall be imposed upon the current owner.

26 **Sec. 1402.** RCW 84.33.140 and 2005 c 303 s 13 are each amended to  
27 read as follows:

28 (1) When land has been designated as forest land under RCW  
29 84.33.130, a notation of the designation shall be made each year upon  
30 the assessment and tax rolls. A copy of the notice of approval  
31 together with the legal description or assessor's parcel numbers for  
32 the land shall, at the expense of the applicant, be filed by the  
33 assessor in the same manner as deeds are recorded.

34 (2) In preparing the assessment roll as of January 1, 2002, for  
35 taxes payable in 2003 and each January 1st thereafter, the assessor  
36 shall list each parcel of designated forest land at a value with  
37 respect to the grade and class provided in this subsection and adjusted

1 as provided in subsection (3) of this section. The assessor shall  
 2 compute the assessed value of the land using the same assessment ratio  
 3 applied generally in computing the assessed value of other property in  
 4 the county. Values for the several grades of bare forest land shall be  
 5 as follows:

6	LAND	OPERABILITY	VALUES
7	GRADE	CLASS	PER ACRE
8		1	\$234
9	1	2	229
10		3	217
11		4	157
12		1	198
13	2	2	190
14		3	183
15		4	132
16		1	154
17	3	2	149
18		3	148
19		4	113
20		1	117
21	4	2	114
22		3	113
23		4	86
24		1	85
25	5	2	78
26		3	77
27		4	52
28		1	43
29	6	2	39
30		3	39
31		4	37
32		1	21
33	7	2	21
34		3	20
35		4	20
36	8		1

1 (3) On or before December 31, 2001, the department shall adjust by  
2 rule under chapter 34.05 RCW, the forest land values contained in  
3 subsection (2) of this section in accordance with this subsection, and  
4 shall certify the adjusted values to the assessor who will use these  
5 values in preparing the assessment roll as of January 1, 2002. For the  
6 adjustment to be made on or before December 31, 2001, for use in the  
7 2002 assessment year, the department shall:

8 (a) Divide the aggregate value of all timber harvested within the  
9 state between July 1, 1996, and June 30, 2001, by the aggregate harvest  
10 volume for the same period, as determined from the harvester excise tax  
11 returns filed with the department under RCW 84.33.074; and

12 (b) Divide the aggregate value of all timber harvested within the  
13 state between July 1, 1995, and June 30, 2000, by the aggregate harvest  
14 volume for the same period, as determined from the harvester excise tax  
15 returns filed with the department under RCW 84.33.074; and

16 (c) Adjust the forest land values contained in subsection (2) of  
17 this section by a percentage equal to one-half of the percentage change  
18 in the average values of harvested timber reflected by comparing the  
19 resultant values calculated under (a) and (b) of this subsection.

20 (4) For the adjustments to be made on or before December 31, 2002,  
21 and each succeeding year thereafter, the same procedure described in  
22 subsection (3) of this section shall be followed using harvester excise  
23 tax returns filed under RCW 84.33.074. However, this adjustment shall  
24 be made to the prior year's adjusted value, and the five-year periods  
25 for calculating average harvested timber values shall be successively  
26 one year more recent.

27 (5) Land graded, assessed, and valued as forest land shall continue  
28 to be so graded, assessed, and valued until removal of designation by  
29 the assessor upon the occurrence of any of the following:

30 (a) Receipt of notice from the owner to remove the designation;

31 (b) Sale or transfer to an ownership making the land exempt from ad  
32 valorem taxation;

33 (c) Sale or transfer of all or a portion of the land to a new  
34 owner, unless the new owner has signed a notice of forest land  
35 designation continuance, except transfer to an owner who is an heir or  
36 devisee of a deceased owner, shall not, by itself, result in removal of  
37 designation. The signed notice of continuance shall be attached to the  
38 real estate excise tax affidavit provided for in RCW 82.45.150. The

1 notice of continuance shall be on a form prepared by the department.  
2 If the notice of continuance is not signed by the new owner and  
3 attached to the real estate excise tax affidavit, all compensating  
4 taxes calculated under subsection (11) of this section shall become due  
5 and payable by the seller or transferor at time of sale. The auditor  
6 shall not accept an instrument of conveyance regarding designated  
7 forest land for filing or recording unless the new owner has signed the  
8 notice of continuance or the compensating tax has been paid, as  
9 evidenced by the real estate excise tax stamp affixed thereto by the  
10 treasurer. The seller, transferor, or new owner may appeal the new  
11 assessed valuation calculated under subsection (11) of this section to  
12 the county board of equalization in accordance with the provisions of  
13 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of  
14 equalization to hear these appeals;

15 (d) Determination by the assessor, after giving the owner written  
16 notice and an opportunity to be heard, that:

17 (i) The land is no longer primarily devoted to and used for growing  
18 and harvesting timber. However, land shall not be removed from  
19 designation if a governmental agency, organization, or other recipient  
20 identified in subsection (13) or (14) of this section as exempt from  
21 the payment of compensating tax has manifested its intent in writing or  
22 by other official action to acquire a property interest in the  
23 designated forest land by means of a transaction that qualifies for an  
24 exemption under subsection (13) or (14) of this section. The  
25 governmental agency, organization, or recipient shall annually provide  
26 the assessor of the county in which the land is located reasonable  
27 evidence in writing of the intent to acquire the designated land as  
28 long as the intent continues or within sixty days of a request by the  
29 assessor. The assessor may not request this evidence more than once in  
30 a calendar year;

31 (ii) The owner has failed to comply with a final administrative or  
32 judicial order with respect to a violation of the restocking, forest  
33 management, fire protection, insect and disease control, and forest  
34 debris provisions of Title 76 RCW or any applicable rules under Title  
35 76 RCW; or

36 (iii) Restocking has not occurred to the extent or within the time  
37 specified in the application for designation of such land.

1 (6) Land shall not be removed from designation if there is a  
2 governmental restriction that prohibits, in whole or in part, the owner  
3 from harvesting timber from the owner's designated forest land. If  
4 only a portion of the parcel is impacted by governmental restrictions  
5 of this nature, the restrictions cannot be used as a basis to remove  
6 the remainder of the forest land from designation under this chapter.  
7 For the purposes of this section, "governmental restrictions" includes:  
8 (a) Any law, regulation, rule, ordinance, program, or other action  
9 adopted or taken by a federal, state, county, city, or other  
10 governmental entity; or (b) the land's zoning or its presence within an  
11 urban growth area designated under RCW 36.70A.110.

12 (7) The assessor shall have the option of requiring an owner of  
13 forest land to file a timber management plan with the assessor upon the  
14 occurrence of one of the following:

15 (a) An application for designation as forest land is submitted; or

16 (b) Designated forest land is sold or transferred and a notice of  
17 continuance, described in subsection (5)(c) of this section, is signed.

18 (8) If land is removed from designation because of any of the  
19 circumstances listed in subsection (5)(a) through (c) of this section,  
20 the removal shall apply only to the land affected. If land is removed  
21 from designation because of subsection (5)(d) of this section, the  
22 removal shall apply only to the actual area of land that is no longer  
23 primarily devoted to the growing and harvesting of timber, without  
24 regard to any other land that may have been included in the application  
25 and approved for designation, as long as the remaining designated  
26 forest land meets the definition of forest land contained in RCW  
27 84.33.035.

28 (9) Within thirty days after the removal of designation as forest  
29 land, the assessor shall notify the owner in writing, setting forth the  
30 reasons for the removal. The seller, transferor, or owner may appeal  
31 the removal to the county board of equalization in accordance with the  
32 provisions of RCW 84.40.038.

33 (10) Unless the removal is reversed on appeal a copy of the notice  
34 of removal with a notation of the action, if any, upon appeal, together  
35 with the legal description or assessor's parcel numbers for the land  
36 removed from designation shall, at the expense of the applicant, be  
37 filed by the assessor in the same manner as deeds are recorded and a  
38 notation of removal from designation shall immediately be made upon the



1 assessment and tax rolls. The assessor shall revalue the land to be  
2 removed with reference to its true and fair value as of January 1st of  
3 the year of removal from designation. Both the assessed value before  
4 and after the removal of designation shall be listed. Taxes based on  
5 the value of the land as forest land shall be assessed and payable up  
6 until the date of removal and taxes based on the true and fair value of  
7 the land shall be assessed and payable from the date of removal from  
8 designation.

9 (11) Except as provided in subsection (5)(c), (13), or (14) of this  
10 section, a compensating tax shall be imposed on land removed from  
11 designation as forest land. The compensating tax shall be due and  
12 payable to the treasurer thirty days after the owner is notified of the  
13 amount of this tax. As soon as possible after the land is removed from  
14 designation, the assessor shall compute the amount of compensating tax  
15 and mail a notice to the owner of the amount of compensating tax owed  
16 and the date on which payment of this tax is due. The amount of  
17 compensating tax shall be equal to the difference between the amount of  
18 tax last levied on the land as designated forest land and an amount  
19 equal to the new assessed value of the land multiplied by the dollar  
20 rate of the last levy extended against the land, multiplied by a  
21 number, in no event greater than nine, equal to the number of years for  
22 which the land was designated as forest land, plus compensating taxes  
23 on the land at forest land values up until the date of removal and the  
24 prorated taxes on the land at true and fair value from the date of  
25 removal to the end of the current tax year.

26 (12) Compensating tax, together with applicable interest thereon,  
27 shall become a lien on the land which shall attach at the time the land  
28 is removed from designation as forest land and shall have priority to  
29 and shall be fully paid and satisfied before any recognizance,  
30 mortgage, judgment, debt, obligation, or responsibility to or with  
31 which the land may become charged or liable. The lien may be  
32 foreclosed upon expiration of the same period after delinquency and in  
33 the same manner provided by law for foreclosure of liens for delinquent  
34 real property taxes as provided in RCW 84.64.050. Any compensating tax  
35 unpaid on its due date shall thereupon become delinquent. From the  
36 date of delinquency until paid, interest shall be charged at the same  
37 rate applied by law to delinquent ad valorem property taxes.

1 (13) The compensating tax specified in subsection (11) of this  
2 section shall not be imposed if the removal of designation under  
3 subsection (5) of this section resulted solely from:

4 (a) Transfer to a government entity in exchange for other forest  
5 land located within the state of Washington;

6 (b) A taking through the exercise of the power of eminent domain,  
7 or sale or transfer to an entity having the power of eminent domain in  
8 anticipation of the exercise of such power;

9 (c) A donation of fee title, development rights, or the right to  
10 harvest timber, to a government agency or organization qualified under  
11 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
12 sections, or the sale or transfer of fee title to a governmental entity  
13 or a nonprofit nature conservancy corporation, as defined in RCW  
14 64.04.130, exclusively for the protection and conservation of lands  
15 recommended for state natural area preserve purposes by the natural  
16 heritage council and natural heritage plan as defined in chapter 79.70  
17 RCW or approved for state natural resources conservation area purposes  
18 as defined in chapter 79.71 RCW. At such time as the land is not used  
19 for the purposes enumerated, the compensating tax specified in  
20 subsection (11) of this section shall be imposed upon the current  
21 owner;

22 (d) The sale or transfer of fee title to the parks and recreation  
23 commission for park and recreation purposes;

24 (e) Official action by an agency of the state of Washington or by  
25 the county or city within which the land is located that disallows the  
26 present use of the land;

27 (f) The creation, sale, or transfer of forestry riparian easements  
28 under RCW 76.13.120;

29 (g) The creation, sale, or transfer of a fee interest or a  
30 conservation easement for the riparian open space program under RCW  
31 76.09.040; or

32 (h) The sale or transfer of land within two years after the death  
33 of the owner of at least a fifty percent interest in the land if the  
34 land has been assessed and valued as classified forest land, designated  
35 as forest land under this chapter, or classified under chapter 84.34  
36 RCW continuously since 1993. The date of death shown on a death  
37 certificate is the date used for the purposes of this subsection

38 (13)(h)((~~;~~→~~or~~

1       ~~(i) The sale or transfer of land after the death of the owner of at~~  
2 ~~least a fifty percent interest in the land if the land has been~~  
3 ~~assessed and valued as classified forest land, designated as forest~~  
4 ~~land under this chapter, or classified under chapter 84.34 RCW~~  
5 ~~continuously since 1993 and the sale or transfer takes place after July~~  
6 ~~22, 2001, and on or before July 22, 2003, and the death of the owner~~  
7 ~~occurred after January 1, 1991. The date of death shown on a death~~  
8 ~~certificate is the date used for the purposes of this subsection~~  
9 ~~(13)(i)).~~

10       (14) In a county with a population of more than one million  
11 inhabitants, the compensating tax specified in subsection (11) of this  
12 section shall not be imposed if the removal of designation as forest  
13 land under subsection (5) of this section resulted solely from:

14       (a) An action described in subsection (13) of this section; or

15       (b) A transfer of a property interest to a government entity, or to  
16 a nonprofit historic preservation corporation or nonprofit nature  
17 conservancy corporation, as defined in RCW 64.04.130, to protect or  
18 enhance public resources, or to preserve, maintain, improve, restore,  
19 limit the future use of, or otherwise to conserve for public use or  
20 enjoyment, the property interest being transferred. At such time as  
21 the property interest is not used for the purposes enumerated, the  
22 compensating tax shall be imposed upon the current owner.

23       **Sec. 1403.** RCW 84.34.108 and 2003 c 170 s 6 are each amended to  
24 read as follows:

25       (1) When land has once been classified under this chapter, a  
26 notation of the classification shall be made each year upon the  
27 assessment and tax rolls and the land shall be valued pursuant to RCW  
28 84.34.060 or 84.34.065 until removal of all or a portion of the  
29 classification by the assessor upon occurrence of any of the following:

30       (a) Receipt of notice from the owner to remove all or a portion of  
31 the classification;

32       (b) Sale or transfer to an ownership, except a transfer that  
33 resulted from a default in loan payments made to or secured by a  
34 governmental agency that intends to or is required by law or regulation  
35 to resell the property for the same use as before, making all or a  
36 portion of the land exempt from ad valorem taxation;

1 (c) Sale or transfer of all or a portion of the land to a new  
2 owner, unless the new owner has signed a notice of classification  
3 continuance, except transfer to an owner who is an heir or devisee of  
4 a deceased owner shall not, by itself, result in removal of  
5 classification. The notice of continuance shall be on a form prepared  
6 by the department. If the notice of continuance is not signed by the  
7 new owner and attached to the real estate excise tax affidavit, all  
8 additional taxes calculated pursuant to subsection (4) of this section  
9 shall become due and payable by the seller or transferor at time of  
10 sale. The auditor shall not accept an instrument of conveyance  
11 regarding classified land for filing or recording unless the new owner  
12 has signed the notice of continuance or the additional tax has been  
13 paid, as evidenced by the real estate excise tax stamp affixed thereto  
14 by the treasurer. The seller, transferor, or new owner may appeal the  
15 new assessed valuation calculated under subsection (4) of this section  
16 to the county board of equalization in accordance with the provisions  
17 of RCW 84.40.038. Jurisdiction is hereby conferred on the county board  
18 of equalization to hear these appeals;

19 (d) Determination by the assessor, after giving the owner written  
20 notice and an opportunity to be heard, that all or a portion of the  
21 land no longer meets the criteria for classification under this  
22 chapter. The criteria for classification pursuant to this chapter  
23 continue to apply after classification has been granted.

24 The granting authority, upon request of an assessor, shall provide  
25 reasonable assistance to the assessor in making a determination whether  
26 the land continues to meet the qualifications of RCW 84.34.020 (1) or  
27 (3). The assistance shall be provided within thirty days of receipt of  
28 the request.

29 (2) Land may not be removed from classification because of:

30 (a) The creation, sale, or transfer of forestry riparian easements  
31 under RCW 76.13.120; or

32 (b) The creation, sale, or transfer of a fee interest or a  
33 conservation easement for the riparian open space program under RCW  
34 76.09.040.

35 (3) Within thirty days after such removal of all or a portion of  
36 the land from current use classification, the assessor shall notify the  
37 owner in writing, setting forth the reasons for the removal. The

1 seller, transferor, or owner may appeal the removal to the county board  
2 of equalization in accordance with the provisions of RCW 84.40.038.

3 (4) Unless the removal is reversed on appeal, the assessor shall  
4 revalue the affected land with reference to its true and fair value on  
5 January 1st of the year of removal from classification. Both the  
6 assessed valuation before and after the removal of classification shall  
7 be listed and taxes shall be allocated according to that part of the  
8 year to which each assessed valuation applies. Except as provided in  
9 subsection (6) of this section, an additional tax, applicable interest,  
10 and penalty shall be imposed which shall be due and payable to the  
11 treasurer thirty days after the owner is notified of the amount of the  
12 additional tax. As soon as possible, the assessor shall compute the  
13 amount of additional tax, applicable interest, and penalty and the  
14 treasurer shall mail notice to the owner of the amount thereof and the  
15 date on which payment is due. The amount of the additional tax,  
16 applicable interest, and penalty shall be determined as follows:

17 (a) The amount of additional tax shall be equal to the difference  
18 between the property tax paid as "open space land((=)),\_" "farm and  
19 agricultural land((=)),\_" or "timber land" and the amount of property  
20 tax otherwise due and payable for the seven years last past had the  
21 land not been so classified;

22 (b) The amount of applicable interest shall be equal to the  
23 interest upon the amounts of the additional tax paid at the same  
24 statutory rate charged on delinquent property taxes from the dates on  
25 which the additional tax could have been paid without penalty if the  
26 land had been assessed at a value without regard to this chapter;

27 (c) The amount of the penalty shall be as provided in RCW  
28 84.34.080. The penalty shall not be imposed if the removal satisfies  
29 the conditions of RCW 84.34.070.

30 (5) Additional tax, applicable interest, and penalty, shall become  
31 a lien on the land which shall attach at the time the land is removed  
32 from classification under this chapter and shall have priority to and  
33 shall be fully paid and satisfied before any recognizance, mortgage,  
34 judgment, debt, obligation or responsibility to or with which the land  
35 may become charged or liable. This lien may be foreclosed upon  
36 expiration of the same period after delinquency and in the same manner  
37 provided by law for foreclosure of liens for delinquent real property  
38 taxes as provided in RCW 84.64.050 (~~now or as hereafter amended~~)).

1 Any additional tax unpaid on its due date shall thereupon become  
2 delinquent. From the date of delinquency until paid, interest shall be  
3 charged at the same rate applied by law to delinquent ad valorem  
4 property taxes.

5 (6) The additional tax, applicable interest, and penalty specified  
6 in subsection (4) of this section shall not be imposed if the removal  
7 of classification pursuant to subsection (1) of this section resulted  
8 solely from:

9 (a) Transfer to a government entity in exchange for other land  
10 located within the state of Washington;

11 (b)(i) A taking through the exercise of the power of eminent  
12 domain, or (ii) sale or transfer to an entity having the power of  
13 eminent domain in anticipation of the exercise of such power, said  
14 entity having manifested its intent in writing or by other official  
15 action;

16 (c) A natural disaster such as a flood, windstorm, earthquake, or  
17 other such calamity rather than by virtue of the act of the landowner  
18 changing the use of the property;

19 (d) Official action by an agency of the state of Washington or by  
20 the county or city within which the land is located which disallows the  
21 present use of the land;

22 (e) Transfer of land to a church when the land would qualify for  
23 exemption pursuant to RCW 84.36.020;

24 (f) Acquisition of property interests by state agencies or agencies  
25 or organizations qualified under RCW 84.34.210 and 64.04.130 for the  
26 purposes enumerated in those sections. At such time as these property  
27 interests are not used for the purposes enumerated in RCW 84.34.210 and  
28 64.04.130 the additional tax specified in subsection (4) of this  
29 section shall be imposed;

30 (g) Removal of land classified as farm and agricultural land under  
31 RCW 84.34.020(2)(e);

32 (h) Removal of land from classification after enactment of a  
33 statutory exemption that qualifies the land for exemption and receipt  
34 of notice from the owner to remove the land from classification;

35 (i) The creation, sale, or transfer of forestry riparian easements  
36 under RCW 76.13.120;

37 (j) The creation, sale, or transfer of a fee interest or a

1 conservation easement for the riparian open space program under RCW  
2 76.09.040; or

3 (k) The sale or transfer of land within two years after the death  
4 of the owner of at least a fifty percent interest in the land if the  
5 land has been assessed and valued as classified forest land, designated  
6 as forest land under chapter 84.33 RCW, or classified under this  
7 chapter continuously since 1993. The date of death shown on a death  
8 certificate is the date used for the purposes of this subsection  
9 (6)(k)(~~or~~

10 ~~(l) The sale or transfer of land after the death of the owner of at~~  
11 ~~least a fifty percent interest in the land if the land has been~~  
12 ~~assessed and valued as classified forest land, designated as forest~~  
13 ~~land under chapter 84.33 RCW, or classified under this chapter~~  
14 ~~continuously since 1993 and the sale or transfer takes place after July~~  
15 ~~22, 2001, and on or before July 22, 2003, and the death of the owner~~  
16 ~~occurred after January 1, 1991. The date of death shown on a death~~  
17 ~~certificate is the date used for the purpose of this subsection~~  
18 ~~(6)(l)).~~

19 **Sec. 1404.** RCW 84.36.815 and 2001 c 126 s 4 are each amended to  
20 read as follows:

21 In order to qualify for exempt status for any real or personal  
22 property under this chapter except personal property under RCW  
23 84.36.600, all foreign national governments; cemeteries;  
24 nongovernmental nonprofit corporations, organizations, and  
25 associations; hospitals owned and operated by a public hospital  
26 district for purposes of exemption under RCW 84.36.040(2); and soil and  
27 water conservation districts shall file an initial application on or  
28 before March 31<sup>st</sup> with the state department of revenue. All  
29 applications shall be filed on forms prescribed by the department and  
30 shall be signed by an authorized agent of the applicant.

31 In order to requalify for exempt status, all applicants except  
32 nonprofit cemeteries shall file an annual renewal declaration on or  
33 before March 31<sup>st</sup> each year. The renewal declaration shall be on forms  
34 prescribed by the department of revenue and shall contain (~~an~~  
35 ~~affidavit~~) a statement certifying the exempt status of the real or  
36 personal property owned by the exempt organization. When an  
37 organization acquires real property qualified for exemption or converts

1 real property to exempt status, (~~such~~) the organization shall file an  
2 initial application for the property within sixty days following the  
3 acquisition or conversion. If the application is filed after the  
4 expiration of the sixty-day period a late filing penalty shall be  
5 imposed (~~pursuant to~~) under RCW 84.36.825(~~, as now or hereafter~~  
6 ~~amended~~)).

7 When organizations acquire real property qualified for exemption or  
8 convert real property to an exempt use, the property, upon approval of  
9 the application for exemption, is entitled to a property tax exemption  
10 for property taxes due and payable the following year. If the owner  
11 has paid taxes for the year following the year the property qualified  
12 for exemption, the owner is entitled to a refund of the amount paid on  
13 the property so acquired or converted.

14 **Sec. 1405.** RCW 84.36.830 and 1998 c 310 s 1 are each amended to  
15 read as follows:

16 The department of revenue shall review each application for  
17 exemption and make a determination thereon prior to August 1st of the  
18 assessment year for which such application is made(~~:- PROVIDED, That~~  
19 ~~each~~). However, exemption applications received after March 31<sup>st</sup>  
20 shall be reviewed and a determination made thereon within thirty days  
21 of the date received or by August 1<sup>st</sup>, whichever is later. The  
22 department of revenue may request (~~such~~) additional relevant  
23 information as it deems necessary. The department of revenue (~~shall~~  
24 ~~make a physical inspection of~~) may physically inspect the property and  
25 satisfy itself as to the use of all parcels prior to approving or  
26 denying the application, and thereafter at regular intervals designed  
27 to insure compliance with this chapter. When the department of revenue  
28 has examined the application and the subject property, it shall either  
29 approve or deny the request and clearly state the reasons for denial in  
30 written notification by mail to the applicant. The department shall  
31 also notify the assessor of the county in which the property is  
32 located. The county assessor shall place such property on the  
33 assessment roll for the current year.

34 **Sec. 1406.** RCW 84.39.020 and 2005 c 253 s 2 are each amended to  
35 read as follows:

36 (1) Each claimant applying for assistance under RCW 84.39.010 shall



1 file a claim with the department, on forms prescribed by the  
2 department, no later than thirty days before the tax is due. The  
3 department may waive this requirement for good cause shown. The  
4 department shall supply forms to the county assessor to allow persons  
5 to apply for the program at the county assessor's office.

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

14 (3) The following documentation shall be filed with a claim along  
15 with any other documentation required by the department:

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

18 (b) A copy of the applicant's certificate of marriage to the  
19 deceased;

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

21 (d) A letter from the United States veterans' administration  
22 certifying that the death of the veteran meets the requirements of RCW  
23 84.39.010(2).

24 The department of veterans affairs shall assist an eligible widow  
25 or widower in the preparation and submission of an application and the  
26 procurement of necessary substantiating documentation.

27 (4) The department shall determine if each claimant is eligible  
28 each year. Any applicant aggrieved by the department's denial of  
29 assistance or the amount of the assistance granted may petition the  
30 state board of tax appeals to review the denial and the board shall  
31 consider any appeals to determine (a) if the claimant is entitled to  
32 assistance and (b) the amount or portion thereof. Appeals from a  
33 department of revenue decision must be made within thirty days after  
34 the mailing of the approval or denial.

35 **Sec. 1407.** RCW 84.52.010 and 2005 c 122 s 2 are each amended to  
36 read as follows:

1 Except as is permitted under RCW 84.55.050, all taxes shall be  
2 levied or voted in specific amounts.

3 The rate percent of all taxes for state and county purposes, and  
4 purposes of taxing districts coextensive with the county, shall be  
5 determined, calculated, and fixed by the county assessors of the  
6 respective counties, within the limitations provided by law, upon the  
7 assessed valuation of the property of the county, as shown by the  
8 completed tax rolls of the county, and the rate percent of all taxes  
9 levied for purposes of taxing districts within any county shall be  
10 determined, calculated, and fixed by the county assessors of the  
11 respective counties, within the limitations provided by law, upon the  
12 assessed valuation of the property of the taxing districts  
13 respectively.

14 When a county assessor finds that the aggregate rate of tax levy on  
15 any property, that is subject to the limitations set forth in RCW  
16 84.52.043 or 84.52.050, exceeds the limitations provided in either of  
17 these sections, the assessor shall recompute and establish a  
18 consolidated levy in the following manner:

19 (1) The full certified rates of tax levy for state, county, county  
20 road district, and city or town purposes shall be extended on the tax  
21 rolls in amounts not exceeding the limitations established by law;  
22 however any state levy shall take precedence over all other levies and  
23 shall not be reduced for any purpose other than that required by RCW  
24 84.55.010. If, as a result of the levies imposed under RCW  
25 (~~84.52.125, 84.52.135, 36.54.130, 84.52.069, 84.34.230, the portion of~~  
26 ~~the levy by a metropolitan park district that was protected under RCW~~  
27 ~~84.52.120, and 84.52.105)) 36.54.130, 84.34.230, 84.52.069, 84.52.105,  
28 the portion of the levy by a metropolitan park district that was  
29 protected under RCW 84.52.120, 84.52.125, and 84.52.135, the combined  
30 rate of regular property tax levies that are subject to the one percent  
31 limitation exceeds one percent of the true and fair value of any  
32 property, then these levies shall be reduced as follows:~~

33 (a) The portion of the levy by a fire protection district that is  
34 protected under RCW 84.52.125 shall be reduced until the combined rate  
35 no longer exceeds one percent of the true and fair value of any  
36 property or shall be eliminated;

37 (b) If the combined rate of regular property tax levies that are  
38 subject to the one percent limitation still exceeds one percent of the

1 true and fair value of any property, the levy imposed by a county under  
2 RCW 84.52.135 must be reduced until the combined rate no longer exceeds  
3 one percent of the true and fair value of any property or must be  
4 eliminated;

5 (c) If the combined rate of regular property tax levies that are  
6 subject to the one percent limitation still exceeds one percent of the  
7 true and fair value of any property, the levy imposed by a ferry  
8 district under RCW 36.54.130 must be reduced until the combined rate no  
9 longer exceeds one percent of the true and fair value of any property  
10 or must be eliminated;

11 (d) If the combined rate of regular property tax levies that are  
12 subject to the one percent limitation still exceeds one percent of the  
13 true and fair value of any property, the portion of the levy by a  
14 metropolitan park district that is protected under RCW 84.52.120 shall  
15 be reduced until the combined rate no longer exceeds one percent of the  
16 true and fair value of any property or shall be eliminated;

17 (e) If the combined rate of regular property tax levies that are  
18 subject to the one percent limitation still exceeds one percent of the  
19 true and fair value of any property, then the levies imposed under RCW  
20 84.34.230, 84.52.105, and any portion of the levy imposed under RCW  
21 84.52.069 that is in excess of thirty cents per thousand dollars of  
22 assessed value, shall be reduced on a pro rata basis until the combined  
23 rate no longer exceeds one percent of the true and fair value of any  
24 property or shall be eliminated; and

25 (f) If the combined rate of regular property tax levies that are  
26 subject to the one percent limitation still exceeds one percent of the  
27 true and fair value of any property, then the thirty cents per thousand  
28 dollars of assessed value of tax levy imposed under RCW 84.52.069 shall  
29 be reduced until the combined rate no longer exceeds one percent of the  
30 true and fair value of any property or eliminated.

31 (2) The certified rates of tax levy subject to these limitations by  
32 all junior taxing districts imposing taxes on such property shall be  
33 reduced or eliminated as follows to bring the consolidated levy of  
34 taxes on such property within the provisions of these limitations:

35 (a) First, the certified property tax levy rates of those junior  
36 taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100,  
37 and 67.38.130 shall be reduced on a pro rata basis or eliminated;

1 (b) Second, if the consolidated tax levy rate still exceeds these  
2 limitations, the certified property tax levy rates of flood control  
3 zone districts shall be reduced on a pro rata basis or eliminated;

4 (c) Third, if the consolidated tax levy rate still exceeds these  
5 limitations, the certified property tax levy rates of all other junior  
6 taxing districts, other than fire protection districts, regional fire  
7 protection service authorities, library districts, the first fifty cent  
8 per thousand dollars of assessed valuation levies for metropolitan park  
9 districts, and the first fifty cent per thousand dollars of assessed  
10 valuation levies for public hospital districts, shall be reduced on a  
11 pro rata basis or eliminated;

12 (d) Fourth, if the consolidated tax levy rate still exceeds these  
13 limitations, the first fifty cent per thousand dollars of assessed  
14 valuation levies for metropolitan park districts created on or after  
15 January 1, 2002, shall be reduced on a pro rata basis or eliminated;

16 (e) Fifth, if the consolidated tax levy rate still exceeds these  
17 limitations, the certified property tax levy rates authorized to  
18 (~~regional fire protection service authorities under RCW 52.26.140(1)~~  
19 ~~(b) and (c) and~~) fire protection districts under RCW 52.16.140 and  
20 52.16.160 and regional fire protection service authorities under RCW  
21 52.26.140(1) (b) and (c) shall be reduced on a pro rata basis or  
22 eliminated; and

23 (f) Sixth, if the consolidated tax levy rate still exceeds these  
24 limitations, the certified property tax levy rates authorized for fire  
25 protection districts under RCW 52.16.130, regional fire protection  
26 service authorities under RCW 52.26.140(1)(a), (~~fire protection~~  
27 ~~districts under RCW 52.16.130,~~) library districts, metropolitan park  
28 districts created before January 1, 2002, under their first fifty cent  
29 per thousand dollars of assessed valuation levy, and public hospital  
30 districts under their first fifty cent per thousand dollars of assessed  
31 valuation levy, shall be reduced on a pro rata basis or eliminated.

32 **Sec. 1408.** RCW 84.52.020 and 2005 c 52 s 1 are each amended to  
33 read as follows:

34 It shall be the duty of the city council or other governing body of  
35 every city, other than a city having a population of three hundred  
36 thousand or more, the board of directors of school districts of the  
37 first class, the superintendent of each educational service district

1 for each constituent second class school district, commissioners of  
2 port districts, commissioners of metropolitan park districts, and of  
3 all officials or boards of taxing districts within or coextensive with  
4 any county required by law to certify to the county legislative  
5 authority, for the purpose of levying district taxes, budgets or  
6 estimates of the amounts to be raised by taxation on the assessed  
7 valuation of the property in the city or district, through their chair  
8 and clerk, or secretary, to make and file such certified budget or  
9 estimates with the clerk of the county legislative authority on or  
10 before the thirtieth day of November. However, if a statute specifies  
11 a date other than the thirtieth day of November by which a taxing  
12 district is required to file such information with the clerk of the  
13 county legislative authority, the budget or estimates of the amounts to  
14 be raised by taxation in the district shall be filed with the clerk on  
15 or before the date in that statute, rather than the thirtieth of  
16 November as provided in this section.

17 **Sec. 1409.** RCW 84.52.054 and 1986 c 133 s 2 are each amended to  
18 read as follows:

19 The additional tax provided for in ~~((subparagraph (a) of the~~  
20 ~~seventeenth amendment to))~~ Article VII, section 2 of the state  
21 Constitution ~~((as amended by Amendment 59 and as thereafter amended))~~,  
22 and specifically authorized by RCW 84.52.052, ~~((as now or hereafter~~  
23 ~~amended, and RCW))~~ 84.52.053 ~~((and))~~, 84.52.0531, and 84.52.130, shall  
24 be set forth in terms of dollars on the ballot of the proposition to be  
25 submitted to the voters, together with an estimate of the dollar rate  
26 of tax levy that will be required to produce the dollar amount; and the  
27 county assessor, in spreading this tax upon the rolls, shall determine  
28 the eventual dollar rate required to produce the amount of dollars so  
29 voted upon, regardless of the estimate of dollar rate of tax levy  
30 carried in said proposition. In the case of a school district or fire  
31 protection district proposition for a particular period, the dollar  
32 amount and the corresponding estimate of the dollar rate of tax levy  
33 shall be set forth for each of the years in that period. The dollar  
34 amount for each annual levy in the particular period may be equal or in  
35 different amounts.



1                   **B&O TAX DEDUCTION FOR CERTAIN FUEL DISTRIBUTORS**

2           NEW SECTION.   **Sec. 1501.**   A new section is added to chapter 82.04  
3   RCW to read as follows:

4           (1) In computing tax, there may be deducted from the measure of tax  
5   amounts derived from wholesale sales of:

6           (a) Motor vehicle fuel by a motor vehicle fuel distributor to  
7   another motor vehicle fuel distributor, but only if the buyer purchases  
8   a cumulative total of no more than ten million gallons of motor vehicle  
9   fuel from the person claiming the deduction during the calendar year  
10   for which the deduction is claimed; and

11           (b) Special fuel by a special fuel distributor to another special  
12   fuel distributor, but only if the buyer purchases a cumulative total of  
13   no more than ten million gallons of special fuel from the person  
14   claiming the deduction during the calendar year for which the deduction  
15   is claimed.

16           (2) This section does not apply to:

17           (a) A motor vehicle fuel distributor that is also a motor vehicle  
18   fuel supplier, refiner, or terminal operator; and

19           (b) A special fuel distributor that is also a special fuel  
20   supplier, refiner, or terminal operator.

21           (3) The definitions in RCW 82.36.010 and 82.38.020 apply to this  
22   section.

23                                   **PART XVI**

24                   **TAX DEFERRALS FOR INVESTMENT PROJECTS IN QUALIFIED ACTIVITIES**

25           NEW SECTION.   **Sec. 1601.**   (1) The legislature finds that the  
26   state's retail sales tax on construction discourages capital investment  
27   by new and existing Washington businesses. Without relief from the  
28   state's retail sales tax on construction, Washington businesses in  
29   certain sectors and areas will be adversely impacted. The legislature  
30   recognizes the importance of such businesses for employment and  
31   economic development in Washington state.

32           (2) In 1985 and 2004, the legislature found that there were several  
33   areas in the state that are characterized by very high levels of  
34   unemployment and poverty. The legislature further found that economic  
35   stagnation was the primary cause of this high unemployment rate and  
36   poverty. The legislature reaffirms that policies providing tax

1 incentives for manufacturing and research and development businesses in  
2 these distressed areas are essential to promote economic stimulation,  
3 economic growth, and new employment opportunities in these distressed  
4 areas.

5 (3) In 1994 and 2004, the legislature found that high-wage,  
6 high-skilled jobs were vital to the economic health of the state's  
7 citizens. The legislature reaffirms that high-technology businesses  
8 are a vital and growing source of high-wage, high-skilled jobs in this  
9 state, and that the high-technology sector is a key component of the  
10 state's effort to encourage economic diversification. The legislature  
11 found that many high-technology businesses incur significant costs  
12 associated with research and development and pilot scale manufacturing  
13 many years before a marketable product can be produced, and that  
14 current state tax policy discourages the growth of these companies by  
15 taxing them long before they become profitable. The legislature  
16 reaffirms that stimulating growth of high-technology businesses early  
17 in their development cycle, when they are turning ideas into marketable  
18 products, will build upon the state's established high-technology base,  
19 creating additional research and development jobs and subsequent  
20 manufacturing facilities.

21 (4) In 2005, the legislature found that the fruit and vegetable  
22 processing industry was important to the Washington state economy. The  
23 legislature further found that businesses engaged in fruit and  
24 vegetable processing are often located in areas in need of economic  
25 stimulation and new employment opportunities. The legislature  
26 reaffirms that state policies providing tax incentives for economic  
27 growth in the fruit and vegetable processing industry are essential.

28 (5) For these reasons, the legislature established tax incentive  
29 programs to defer retail sales and use tax on investments in buildings  
30 and machinery and equipment used by the businesses in this section. To  
31 further encourage investments, the legislature subsequently modified  
32 the deferral programs to authorize the waiver of the deferred sales and  
33 use tax if the business fulfilled certain requirements, to recapture  
34 the deferred sales and use tax if the business failed to meet those  
35 requirements, and to clarify definitions. These subsequent  
36 modifications to the deferral programs have led to inconsistencies  
37 between programs that confuse taxpayers and complicate administration.



1 Therefore, the legislature declares that these programs must be  
2 consolidated and simplified to ensure that taxpayers receive consistent  
3 treatment and benefits under these tax deferral programs.

4 (6) The legislature further declares that tax incentives should be  
5 subject to the same rigorous requirements for efficiency and  
6 accountability as are other expenditure programs, and that tax  
7 incentives should therefore be focused to provide the greatest possible  
8 return on the state's investment.

9 NEW SECTION. **Sec. 1602.** The definitions in this section apply  
10 throughout this chapter unless the context clearly requires otherwise.

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

13 (2) "Department" means the department of revenue.

14 (3)(a) "Eligible investment project" means an investment project  
15 used in qualified activities.

16 (i) The lessor or owner of a qualified building is not eligible for  
17 a deferral unless the underlying ownership of the buildings, machinery,  
18 and equipment vests exclusively in the same person; or

19 (ii)(A) The lessee that receives the economic benefit of the  
20 deferral agrees in writing with the department to file the complete  
21 annual survey under section 1605 of this act; and

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

27 (b) "Eligible investment project" does not include: (i) Any  
28 portion of an investment project undertaken by a light and power  
29 business as defined in RCW 82.16.010(5), other than that portion of a  
30 cogeneration project that is used to generate power for consumption  
31 within the manufacturing site of which the cogeneration project is an  
32 integral part; or (ii) investment projects to replace qualified  
33 machinery and equipment that have already received deferrals under this  
34 chapter or chapters 82.60, 82.63, or 82.74 RCW.

35 (4)(a) "Initiation of construction" means the date that a building  
36 permit is issued under the building code adopted under RCW 19.27.031  
37 for:

1 (i) Construction of the qualified building, if the underlying  
2 ownership of the building vests exclusively with the person receiving  
3 the economic benefit of the deferral;

4 (ii) Construction of the qualified building, if the economic  
5 benefits of the deferral are passed to a lessee as provided in  
6 subsection (3)(a)(ii)(B) of this section; or

7 (iii) Tenant improvements for a qualified building, if the economic  
8 benefits of the deferral are passed to a lessee as provided in  
9 subsection (3)(a)(ii)(B) of this section.

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

14 (c) If the investment project includes more than one qualified  
15 building, initiation of construction applies separately to each  
16 qualified building.

17 (5) "Investment project" means an investment in qualified buildings  
18 or qualified machinery and equipment, including labor and services  
19 rendered in the planning, installation, and construction of the  
20 project.

21 (6) "Operationally complete" means that the investment project is  
22 capable of being used for its intended purpose as described in the  
23 application.

24 (7) "Person" has the meaning given in RCW 82.04.030. For the  
25 purpose of the qualified activities of high-technology research and  
26 development as defined in subsection (8)(b) of this section, "person"  
27 also includes state universities as defined in RCW 28B.10.016.

28 (8) "Qualified activities" means the activities described in (a),  
29 (b), and (c) of this subsection only.

30 (a)(i) "Qualified activities" includes manufacturing or research  
31 and development in an eligible area.

32 (ii) For purposes of (a) of this subsection, the following  
33 definitions apply:

34 (A) "Eligible area" means a rural county as defined in RCW  
35 82.14.370. "Eligible area" also means a designated community  
36 empowerment zone approved under RCW 43.31C.020 or a county containing  
37 a community empowerment zone, if, in addition to all other provisions

1 and requirements of this chapter, the applicant establishes that at the  
2 time the project is operationally complete:

3 (I) The applicant will hire at least one qualified employment  
4 position for each seven hundred fifty thousand dollars of investment  
5 for which a deferral is requested;

6 (II) The positions will be filled by persons who at the time of  
7 hire are residents of the community empowerment zone. As used in this  
8 subsection (8)(a)(ii)(A), "resident" means the person makes his or her  
9 home in the community empowerment zone. A mailing address alone is  
10 insufficient to establish that a person is a resident for the purposes  
11 of this subsection (8)(a)(ii)(A). The persons must be hired after the  
12 date the application is filed with the department; and

13 (III) The qualified employment position must be filled by the end  
14 of the calendar year following the year in which the project is  
15 certified as operationally complete. If a person does not meet the  
16 requirements for qualified employment positions by the end of the  
17 second calendar year following the year in which the project is  
18 certified as operationally complete, all deferred taxes are immediately  
19 due. The department shall assess interest, but not penalties, on  
20 amounts due under this subsection (8)(a)(ii)(A). The interest shall be  
21 assessed at the rate provided for delinquent taxes under chapter 82.32  
22 RCW, retroactively to the date of deferral, and shall accrue until the  
23 deferred taxes due are repaid.

24 (B) "Manufacturing" means the same as defined in RCW 82.04.120.  
25 "Manufacturing" also includes computer programming, the production of  
26 computer software, and other computer-related services, and the  
27 activities performed by research and development laboratories and  
28 commercial testing laboratories.

29 (C) "Research and development" means the development, refinement,  
30 testing, marketing, and commercialization of a product, service, or  
31 process before commercial sales have begun. As used in this subsection  
32 (8)(a)(ii)(C), "commercial sales" excludes sales of prototypes or sales  
33 for market testing if the total gross receipts from such sales of the  
34 product, service, or process do not exceed one million dollars.

35 (D) "Qualified employment position" means a permanent full-time  
36 employee employed in the eligible investment project during the entire  
37 tax year. The term "entire tax year" means a full-time position that  
38 is filled for a period of twelve consecutive months. The term

1 "full-time" means at least thirty-five hours a week, four hundred  
2 fifty-five hours a quarter, or one thousand eight hundred twenty hours  
3 a year.

4 (b)(i) "Qualified activities" includes high-technology research and  
5 development and pilot scale manufacturing.

6 (ii) For purposes of (b) of this subsection, the following  
7 definitions apply:

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

22 (B) "High technology" means technology in the fields of advanced  
23 computing, advanced materials, biotechnology, electronic device  
24 technology, and environmental technology.

25 (C) "Advanced computing" means technologies used in the designing  
26 and developing of computing hardware and software, including  
27 innovations in designing the full spectrum of hardware from hand-held  
28 calculators to super computers, and peripheral equipment.

29 (D) "Advanced materials" means materials with engineered properties  
30 created through the development of specialized processing and synthesis  
31 technology, including ceramics, high value-added metals, electronic  
32 materials, composites, polymers, and biomaterials.

33 (E) "Biotechnology" means the application of technologies, such as  
34 recombinant DNA techniques, biochemistry, molecular and cellular  
35 biology, genetics and genetic engineering, cell fusion techniques, and  
36 new bioprocesses, using living organisms, or parts of organisms, to  
37 produce or modify products, to improve plants or animals, to develop  
38 microorganisms for specific uses, to identify targets for small

1 molecule pharmaceutical development, or to transform biological systems  
2 into useful processes and products or to develop microorganisms for  
3 specific uses.

4 (F) "Electronic device technology" means technologies involving  
5 microelectronics; semiconductors; electronic equipment and  
6 instrumentation; radio frequency, microwave, and millimeter  
7 electronics; optical and optic-electrical devices; and data and digital  
8 communications and imaging devices.

9 (G) "Environmental technology" means assessment and prevention of  
10 threats or damage to human health or the environment, environmental  
11 cleanup, and the development of alternative energy sources.

12 (H) "Pilot scale manufacturing" means design, construction, and  
13 testing of preproduction prototypes and models in the fields of  
14 biotechnology, advanced computing, electronic device technology,  
15 advanced materials, and environmental technology other than for  
16 commercial sale. As used in this subsection (8)(b)(ii)(H), "commercial  
17 sale" excludes sales of prototypes or sales for market testing if the  
18 total gross receipts from such sales of the product, service, or  
19 process do not exceed one million dollars.

20 (c)(i) "Qualified activities" includes fresh fruit and vegetable  
21 processing, cold storage warehousing as related to fresh fruit and  
22 vegetable processing, and research and development activities as  
23 related to fresh fruit and vegetable processing or cold storage  
24 warehousing.

25 (ii) For purposes of (c) of this subsection, the following  
26 definitions apply:

27 (A) "Fresh fruit and vegetable processing" means manufacturing as  
28 defined in RCW 82.04.120 which consists of the canning, preserving,  
29 freezing, processing, or dehydrating fresh fruits and/or vegetables.

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

35 (C) "Research and development" has the same meaning as in  
36 (a)(ii)(C) of this subsection (8).

37 (9)(a) "Qualified buildings" means:

38 (i) Construction of new buildings used for qualified activities.

1 (ii) Expansion or renovation of existing buildings for the purpose  
2 of increasing floor space or production capacity used for qualified  
3 activities.

4 (iii) Construction of new warehouses, or the expansion or  
5 renovation of existing warehouses, used to support qualified activities  
6 located at a manufacturing operation or research and development  
7 operation.

8 (iv) Construction of new offices exclusively occupied by employees  
9 of a recipient, or a lessee as provided in subsection (3)(a)(ii) of  
10 this section, whose job responsibilities exclusively support qualified  
11 activities or employees performing qualified activities. Offices must  
12 be located within or adjacent to a qualified building under (a)(i) or  
13 (ii) of this subsection. Employees engaged in sales, marketing, and  
14 similar activities do not support qualified activities or employees  
15 performing qualified activities.

16 (v) Construction of new parking facilities located within or  
17 adjacent to a qualified building under (a)(i) or (ii) of this  
18 subsection. New parking facilities must be constructed under the same  
19 tax deferral certificate used to construct, expand, or renovate the  
20 building in which the parking facility supports.

21 (b) If a qualified building is used partly for qualified activities  
22 and partly for other purposes, the applicable tax deferral shall be  
23 determined by apportionment of the costs of construction under rules  
24 adopted by the department.

25 (c) For the purposes of this subsection, the following definitions  
26 apply:

27 (i) "Warehouse" means a building, structure, or storage yard in  
28 which raw materials or finished goods are stored. A warehouse may have  
29 more than one storage room and more than one floor.

30 (ii) "Manufacturing operation" has the same meaning as in RCW  
31 82.08.02565(2)(d).

32 (iii) "Research and development operation" has the same meaning as  
33 in RCW 82.08.02565(2)(f).

34 (10) "Qualified machinery and equipment" means:

35 (a) All industrial and research fixtures, equipment, and support  
36 facilities, not otherwise eligible for exemption under RCW 82.08.02565  
37 or 82.12.02565, that are used primarily in qualified activities; and

1 (b) Computers; software; data processing equipment; laboratory  
2 equipment; manufacturing components such as belts, pulleys, shafts, and  
3 moving parts; molds, tools, and dies; operating structures; and all  
4 equipment used to control or operate the machinery, that are used  
5 primarily in qualified activities.

6 (11) "Recipient" means a person receiving a tax deferral under this  
7 chapter.

8 NEW SECTION. Sec. 1603. (1) Application for deferral of taxes  
9 under this chapter must be made before the initiation of construction  
10 of the qualified buildings or acquisition of qualified machinery or  
11 equipment. The application shall be made to the department in a form  
12 and manner prescribed by the department. The application shall contain  
13 information regarding the location of the investment project, the  
14 applicant's average employment in the state for the prior year,  
15 estimated or actual new employment related to the project, estimated or  
16 actual wages of employees related to the project, estimated or actual  
17 costs, time schedules for completion and operation, and other  
18 information required by the department.

19 (2) The department shall rule on the application within sixty days.  
20 The department shall track, by type of qualified activities, the amount  
21 of all deferrals granted under this chapter during each fiscal  
22 biennium.

23 NEW SECTION. Sec. 1604. (1) The department shall issue a sales  
24 and use tax deferral certificate for state and local sales and use  
25 taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW  
26 for the following eligible investment projects.

27 (a) Until July 1, 2010, investment projects in the qualified  
28 activities described in section 1602(8)(a) of this act;

29 (b) Until July 1, 2015, investment projects in the qualified  
30 activities described in section 1602(8)(b) of this act;

31 (c) From July 1, 2007, through June 30, 2012, investment projects  
32 in the qualified activities described in section 1602(8)(c) of this  
33 act;

34 (2) Use of a sales and use tax deferral certificate by the  
35 recipient is deemed a waiver under RCW 82.32.050(3)(c) of the period of

1 limitations under RCW 82.32.050(3) for sales and use taxes deferred  
2 under this chapter.

3 NEW SECTION. **Sec. 1605.** (1) Except as provided in subsection (2)  
4 of this section, section 1602(8)(a)(ii)(A)(III) of this act, and  
5 section 1606 of this act, taxes deferred under this chapter need not be  
6 repaid.

7 (2) If, on the basis of a survey under section 1606 of this act or  
8 other information, the department finds that an investment project is  
9 not eligible for tax deferral under this chapter, a portion of deferred  
10 taxes shall be immediately due and payable according to the following  
11 schedule:

12	Year in Which	% of Deferred
13	Ineligibility	Taxes Due
14	Occurs	
15	1	100%
16	2	87.5%
17	3	75%
18	4	62.5%
19	5	50%
20	6	37.5%
21	7	25%
22	8	12.5%

23 (3) The department shall assess interest, but not penalties, on  
24 amounts due under subsection (2) of this section. The interest shall  
25 be assessed at the rate provided for delinquent taxes under chapter  
26 82.32 RCW, retroactively to the date of deferral, and shall accrue  
27 until the deferred taxes due are repaid. The debt for deferred taxes  
28 is not extinguished by insolvency or other failure of the recipient.  
29 Transfer of ownership does not terminate the deferral. The deferral is  
30 transferred, subject to the new owner meeting the eligibility  
31 requirements of this chapter and agreeing in writing to assume  
32 liability for payment of any deferred taxes under subsection (2) of  
33 this section, for the remaining periods of the deferral. The original  
34 recipient of a deferral that is transferred is not responsible for



1 payment of any deferred tax under subsection (2) of this section for  
2 periods subsequent to the transfer.

3 NEW SECTION. **Sec. 1606.** (1) The legislature finds that  
4 accountability and effectiveness are important aspects of setting tax  
5 policy. In order to make policy choices regarding the best use of  
6 limited state resources the legislature needs information on how a tax  
7 incentive is used.

8 (2) Recipients for deferral of taxes under this chapter and persons  
9 subject to this chapter by reason of section 1610 of this act shall  
10 file a complete annual survey with the department. If the economic  
11 benefits of the deferral are passed to a lessee as provided in section  
12 1602(3)(a)(ii)(B) of this act, the lessee shall agree to file the  
13 annual survey and the applicant is not required to file the annual  
14 survey. The annual survey is due by April 30th of the year following  
15 the calendar year in which the investment project is certified by the  
16 department as having been operationally complete and the seven  
17 succeeding calendar years. The department may extend the due date for  
18 timely filing annual surveys under this section as provided in RCW  
19 82.32.590. The annual survey shall include the amount of tax deferred,  
20 the number of new products or research projects by general  
21 classification, and the number of trademarks, patents, and copyrights  
22 associated with activities at the investment project. The survey shall  
23 also include the following information for employment positions in  
24 Washington:

25 (a) The number of total employment positions;

26 (b) Full-time, part-time, and temporary employment positions as a  
27 percent of total employment;

28 (c) The number of employment positions according to the following  
29 wage bands: Less than thirty thousand dollars; thirty thousand dollars  
30 or greater, but less than sixty thousand dollars; and sixty thousand  
31 dollars or greater. A wage band containing fewer than three  
32 individuals may be combined with another wage band; and

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

35 (3) The department may request additional information necessary to  
36 measure the results of the deferral program, to be submitted at the  
37 same time as the survey.

1 (4)(a) If a recipient of the deferral fails to file a complete  
2 annual survey required under this subsection by the date due or any  
3 extension under RCW 82.32.590, the portion of deferred taxes that need  
4 not be repaid for the previous calendar year according to the schedule  
5 in section 1605 of this act shall be immediately due and payable. If  
6 the economic benefits of the deferral are passed to a lessee as  
7 provided in section 1602(3)(a)(ii)(B) of this act, the lessee is  
8 responsible for payment to the extent the lessee has received the  
9 economic benefit. The department shall assess interest, but not  
10 penalties, on the deferred taxes payable under this subsection. The  
11 interest shall be assessed at the rate provided for delinquent excise  
12 taxes under chapter 82.32 RCW, retroactively to the date of deferral,  
13 and shall accrue until the deferred taxes are repaid.

14 (b) A recipient who must repay deferred taxes under section 1605 of  
15 this act because the department has found that an investment project is  
16 used for purposes other than qualified activities is no longer required  
17 to file annual surveys under this section beginning on the date an  
18 investment project is used for nonqualified activities.

19 (5) For purposes of this section, "complete annual survey" means a  
20 survey that is filed on a form or in a format required by the  
21 department by the due date and substantially responds to all survey  
22 questions to enable the department to provide summary statistics and to  
23 study the effectiveness of the tax deferral program.

24 (6) All information collected under this section, except the amount  
25 of the total tax deferred, is deemed taxpayer information under RCW  
26 82.32.330. Information on the amount of tax deferred is not subject to  
27 the confidentiality provisions of RCW 82.32.330 and may be disclosed to  
28 the public upon request. If the amount of the total tax deferred as  
29 reported on the survey is different than the amount actually deferred  
30 or otherwise allowed by the department, the amount actually deferred or  
31 allowed may be disclosed.

32 (7) The department shall use the information from this section to  
33 prepare summary descriptive statistics by category. No fewer than  
34 three taxpayers shall be included in any category. The department  
35 shall report these statistics to the legislature each year by September  
36 1st.

37 (8) The department shall use the information to study the tax  
38 deferral program authorized under this chapter. The department shall

1 report to the legislature by December 1, 2009, December 1, 2011, and  
2 December 1, 2013. The reports shall measure the effect of the program  
3 on job creation, job retention, net jobs for Washington residents,  
4 company growth, diversification of the state's economy, cluster  
5 dynamics, and such other factors as the department selects.

6 (9) A person who is subject to the requirements in RCW 82.32.535,  
7 82.32.545, 82.32.560, or 82.32.570 is not required to file a complete  
8 annual survey under this section if the person timely files the annual  
9 report required by RCW 82.32.535, 82.32.545, 82.32.560, or 82.32.570.

10 NEW SECTION. **Sec. 1607.** Chapter 82.32 RCW applies to the  
11 administration of this chapter.

12 NEW SECTION. **Sec. 1608.** Applications received by the department  
13 under this chapter are not subject to the confidentiality provisions of  
14 RCW 82.32.330 and may be disclosed to the public upon request.

15 NEW SECTION. **Sec. 1609.** The employment security department shall  
16 make, and certify to the department of revenue, all determinations of  
17 employment and wages as requested by the department under this chapter.

18 NEW SECTION. **Sec. 1610.** Persons who have received a sales and use  
19 tax deferral certificate from the department under chapter 82.60,  
20 82.63, or 82.74 RCW are subject to the provisions of chapter 82.-- RCW  
21 (sections 1601 through 1610 of this act). This act does not apply to,  
22 or authorize refunds for, investment projects that are not eligible as  
23 of December 31, 2006, for tax deferrals granted under chapter 82.60 or  
24 82.63 RCW before January 1, 2007.

25 NEW SECTION. **Sec. 1611.** Sections 1601 through 1610 of this act  
26 constitute a new chapter in Title 82 RCW.

27 NEW SECTION. **Sec. 1612.** The following acts or parts of acts are  
28 each repealed:

29 (1) RCW 82.60.010 (Legislative findings and declaration) and 1985  
30 c 232 s 1;

31 (2) RCW 82.60.020 (Definitions) and 2004 c 25 s 3, 1999 sp.s. c 9  
32 s 2, 1999 c 164 s 301, 1996 c 290 s 4, & 1995 1st sp.s. c 3 s 5;

1 (3) RCW 82.60.030 (Application for deferral--Contents) and 1994  
2 sp.s. c 1 s 2 & 1985 c 232 s 3;

3 (4) RCW 82.60.040 (Issuance of tax deferral certificate) and 2004  
4 c 25 s 4, 1999 c 164 s 302, 1997 c 156 s 5, 1995 1st sp.s. c 3 s 6,  
5 1994 sp.s. c 1 s 3, 1986 c 116 s 13, & 1985 c 232 s 4;

6 (5) RCW 82.60.049 (Additional eligible projects) and 2004 c 25 s 5,  
7 2000 c 106 s 8, & 1999 c 164 s 304;

8 (6) RCW 82.60.050 (Expiration of RCW 82.60.030 and 82.60.040) and  
9 2004 c 25 s 6, 1994 sp.s. c 1 s 7, 1993 sp.s. c 25 s 404, 1988 c 41 s  
10 5, & 1985 c 232 s 10;

11 (7) RCW 82.60.060 (Repayment schedule) and 2000 c 106 s 5 & 1985 c  
12 232 s 5;

13 (8) RCW 82.60.065 (Tax deferral on construction labor and  
14 investment projects--Repayment forgiven) and 1995 1st sp.s. c 3 s 8,  
15 1994 sp.s. c 1 s 6, & 1986 c 116 s 14;

16 (9) RCW 82.60.070 (Annual survey by recipients--Assessment of  
17 taxes, interest) and 2004 c 25 s 7, 1999 c 164 s 303, 1995 1st sp.s. c  
18 3 s 9, 1994 sp.s. c 1 s 5, & 1985 c 232 s 6;

19 (10) RCW 82.60.080 (Employment and wage determinations) and 2000 c  
20 106 s 6 & 1985 c 232 s 7;

21 (11) RCW 82.60.090 (Applicability of general administrative  
22 provisions) and 1985 c 232 s 8;

23 (12) RCW 82.60.100 (Applications, reports, and information subject  
24 to disclosure) and 1987 c 49 s 1;

25 (13) RCW 82.60.110 (Competing projects--Impact study) and 1998 c  
26 245 s 169 & 1994 sp.s. c 1 s 8;

27 (14) RCW 82.60.900 (Effective date, applicability--1985 c 232) and  
28 1985 c 232 s 11;

29 (15) RCW 82.60.901 (Effective date--1994 sp.s. c 1) and 1994 sp.s.  
30 c 1 s 10;

31 (16) RCW 82.63.005 (Findings--Intent to create a contract) and 2004  
32 c 2 s 1 & 1994 sp.s. c 5 s 1;

33 (17) RCW 82.63.010 (Definitions) and 2004 c 2 s 3, 1995 1st sp.s.  
34 c 3 s 12, & 1994 sp.s. c 5 s 3;

35 (18) RCW 82.63.020 (Application--Annual survey--Reports) and 2004  
36 c 2 s 4 & 1994 sp.s. c 5 s 4;

37 (19) RCW 82.63.030 (Sales and use tax deferral certificate--

1 Eligible investment projects and pilot scale manufacturing) and 2004 c  
2 2 s 5 & 1994 sp.s. c 5 s 5;  
3 (20) RCW 82.63.045 (Repayment not required--Repayment schedule for  
4 unqualified investment project--Exceptions) and 2004 c 2 s 6, 2000 c  
5 106 s 10, & 1995 1st sp.s. c 3 s 13;  
6 (21) RCW 82.63.060 (Administration) and 1994 sp.s. c 5 s 8;  
7 (22) RCW 82.63.070 (Public disclosure) and 2004 c 2 s 7 & 1994  
8 sp.s. c 5 s 9;  
9 (23) RCW 82.63.900 (Effective date--1994 sp.s. c 5) and 1994 sp.s.  
10 c 5 s 12;  
11 (24) RCW 82.74.010 (Definitions) and 2005 c 513 s 4;  
12 (25) RCW 82.74.020 (Application for tax deferral) and 2005 c 513 s  
13 5;  
14 (26) RCW 82.74.030 (Issuance of certificate) and 2005 c 513 s 6;  
15 (27) RCW 82.74.040 (Annual survey) and 2005 c 513 s 7;  
16 (28) RCW 82.74.050 (Repayment of deferred taxes) and 2005 c 513 s  
17 8;  
18 (29) RCW 82.74.060 (Application of chapter 82.32 RCW) and 2005 c  
19 513 s 9; and  
20 (30) RCW 82.74.070 (Confidentiality of applications) and 2005 c 513  
21 s 10.

## 22 PART XVII

### 23 TAX CREDITS FOR NEW JOBS IN RURAL AREAS

24 **Sec. 1701.** RCW 82.62.020 and 1986 c 116 s 16 are each amended to  
25 read as follows:

26 Application for tax credits under this chapter must be made  
27 ((before)) within ninety consecutive days after the actual hiring of  
28 qualified employment positions. The application shall be made to the  
29 department in a form and manner prescribed by the department. The  
30 application shall contain information regarding the location of the  
31 business project, the applicant's average employment, if any, at the  
32 facility for the prior year, estimated or actual new employment related  
33 to the project, estimated or actual wages of employees related to the  
34 project, estimated or actual costs, time schedules for completion and  
35 operation, and other information required by the department. The  
36 department shall rule on the application within sixty days.

PART XVIII

TAX INCENTIVES ACCOUNTABILITY

**Sec. 1801.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual survey or annual report under RCW 82.04.4452, 82.32.545, 82.32.560, 82.32.570, 82.32.610, 82.32.620, or section 1606 of this act, by the due date was the result of circumstances beyond the control of the taxpayer, the department shall extend the time for filing the survey or report. Such extension shall be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

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

**Sec. 1802.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to read as follows:

(1) Persons required to file annual surveys or annual reports under RCW 82.04.4452, 82.32.545, 82.32.560, 82.32.570, 82.32.610, 82.32.620, or section 1606 of this act, must electronically file with the department all surveys, reports, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department (~~(, unless the department grants relief under subsection (2) of this section)~~). As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

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

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

5       (4)) Any survey, report, return, or any other form or information  
6 required to be filed in an electronic format under subsection (1) of  
7 this section is not filed until received by the department in an  
8 electronic format.

9       (3) The department may waive the electronic filing requirement in  
10 subsection (1) of this section for good cause shown.

11       **Sec. 1803.** RCW 82.04.4452 and 2005 c 514 s 1003 are each amended  
12 to read as follows:

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

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

18       (a) Determine the greater of the amount of qualified research and  
19 development expenditures of a person or eighty percent of amounts  
20 received by a person other than a public educational or research  
21 institution in compensation for the conduct of qualified research and  
22 development;

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

25       (c) Multiply the amount determined under (b) of this subsection by  
26 the following:

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

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

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

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

36       (v) For the calendar year ending December 31, 2010, and thereafter,  
37 1.50 percent.

1 For purposes of calculating the credit, if a person's reporting  
2 period is less than annual, the person may use an estimated average tax  
3 rate for the calendar year for which the credit is claimed by using the  
4 person's average tax rate for each reporting period. A person who uses  
5 an estimated average tax rate must make an adjustment to the total  
6 credit claimed for the calendar year using the person's actual average  
7 tax rate for the calendar year when the person files its last return  
8 for the calendar year for which the credit is claimed.

9 (3) Any person entitled to the credit provided in subsection (2) of  
10 this section as a result of qualified research and development  
11 conducted under contract may assign all or any portion of the credit to  
12 the person contracting for the performance of the qualified research  
13 and development.

14 (4) The credit, including any credit assigned to a person under  
15 subsection (3) of this section, shall be claimed against taxes due for  
16 the same calendar year in which the qualified research and development  
17 expenditures are incurred. The credit, including any credit assigned  
18 to a person under subsection (3) of this section, for each calendar  
19 year shall not exceed the lesser of two million dollars or the amount  
20 of tax otherwise due under this chapter for the calendar year.

21 (5) For any person claiming the credit, including any credit  
22 assigned to a person under subsection (3) of this section, whose  
23 research and development spending during the calendar year in which the  
24 credit is claimed fails to exceed 0.92 percent of the person's taxable  
25 amount during the same calendar year or who is otherwise ineligible,  
26 the department shall declare the taxes against which the credit was  
27 claimed to be immediately due and payable. The department shall assess  
28 interest, but not penalties, on the taxes against which the credit was  
29 claimed. Interest shall be assessed at the rate provided for  
30 delinquent excise taxes under chapter 82.32 RCW, retroactively to the  
31 date the credit was claimed, and shall accrue until the taxes against  
32 which the credit was claimed are repaid. Any credit assigned to a  
33 person under subsection (3) of this section that is disallowed as a  
34 result of this section may be claimed by the person who performed the  
35 qualified research and development subject to the limitations set forth  
36 in subsection (4) of this section.

37 (6)(a) The legislature finds that accountability and effectiveness



1 are important aspects of setting tax policy. In order to make policy  
2 choices regarding the best use of limited state resources the  
3 legislature needs information on how a tax incentive is used.

4 (b) A person claiming the credit shall file a complete annual  
5 survey with the department. The survey is due by (~~March 31st~~) April  
6 30th following any year in which a credit is claimed. The department  
7 may extend the due date for timely filing of annual surveys under this  
8 section as provided in RCW 82.32.590. The survey shall include the  
9 amount of the tax credit claimed, the qualified research and  
10 development expenditures during the calendar year for which the credit  
11 is claimed, the taxable amount during the calendar year for which the  
12 credit is claimed, the number of new products or research projects by  
13 general classification, the number of trademarks, patents, and  
14 copyrights associated with the research and development activities for  
15 which a credit was claimed, and whether the credit has been assigned  
16 under subsection (3) of this section and who assigned the credit. The  
17 survey shall also include the following information for employment  
18 positions in Washington:

19 (i) The number of total employment positions;

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

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

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

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

32 (d)(i) All information collected under this subsection, except the  
33 amount of the tax credit claimed, is deemed taxpayer information under  
34 RCW 82.32.330. Information on the amount of tax credit claimed is not  
35 subject to the confidentiality provisions of RCW 82.32.330 and may be  
36 disclosed to the public upon request, except as provided in this  
37 subsection (6)(d). If the amount of the tax credit as reported on the

1 survey is different than the amount actually claimed on the taxpayer's  
2 tax returns or otherwise allowed by the department, the amount actually  
3 claimed or allowed may be disclosed.

4 (ii) Persons for whom the actual amount of the tax credit claimed  
5 on the taxpayer's returns or otherwise allowed by the department is  
6 less than ten thousand dollars during the period covered by the survey  
7 may request the department to treat the tax credit amount as  
8 confidential under RCW 82.32.330.

9 (e) If a person fails to file a complete annual survey required  
10 under this subsection with the department by the due date or any  
11 extension under RCW 82.32.590, the person entitled to the credit  
12 provided in subsection (2) of this section is not eligible to claim or  
13 assign the credit provided in subsection (2) of this section in the  
14 year the person failed to timely file a complete survey.

15 (7) The department shall use the information from subsection (6) of  
16 this section to prepare summary descriptive statistics by category. No  
17 fewer than three taxpayers shall be included in any category. The  
18 department shall report these statistics to the legislature each year  
19 by September 1st.

20 (8) The department shall use the information from subsection (6) of  
21 this section to study the tax credit program authorized under this  
22 section. The department shall report to the legislature by December 1,  
23 2009, and December 1, 2013. The reports shall measure the effect of  
24 the program on job creation, ~~((the number of))~~ job retention, net jobs  
25 ~~((created))~~ for Washington residents, company growth, ~~((the~~  
26 ~~introduction of new products,))~~ the diversification of the state's  
27 economy, ~~((growth in research and development investment, the movement~~  
28 ~~of firms or the consolidation of firms' operations into the state))~~  
29 cluster dynamics, and such other factors as the department selects.

30 (9) For the purpose of this section:

31 (a) "Average tax rate" means a person's total tax liability under  
32 this chapter for the calendar year for which the credit is claimed  
33 divided by the taxpayer's total taxable amount under this chapter for  
34 the calendar year for which the credit is claimed.

35 (b) "Complete annual survey" means a survey that is filed on a form  
36 or in a format required by the department by the due date, or any  
37 extension under RCW 82.32.590, and substantially responds to all survey

1 questions to enable the department to provide summary statistics and to  
2 study the effectiveness of the tax credit.

3 (c) "Qualified research and development expenditures" means  
4 operating expenses, including wages, compensation of a proprietor or a  
5 partner in a partnership as determined under rules adopted by the  
6 department, benefits, supplies, and computer expenses, directly  
7 incurred in qualified research and development by a person claiming the  
8 credit provided in this section. The term does not include amounts  
9 paid to a person other than a public educational or research  
10 institution to conduct qualified research and development. Nor does  
11 the term include capital costs and overhead, such as expenses for land,  
12 structures, or depreciable property.

13 ((+e)) (d) "Qualified research and development" shall have the  
14 same meaning as high technology research and development in ((RCW  
15 ~~82.63.010~~) section 1602(8)(b) of this act.

16 ((+d)) (e) "Research and development spending" means qualified  
17 research and development expenditures plus eighty percent of amounts  
18 paid to a person other than a public educational or research  
19 institution to conduct qualified research and development.

20 ((+e)) (f) "Taxable amount" means the taxable amount subject to  
21 the tax imposed in this chapter required to be reported on the person's  
22 combined excise tax returns for the calendar year for which the credit  
23 is claimed, less any taxable amount for which a credit is allowed under  
24 RCW 82.04.440.

25 (10) This section expires January 1, 2015.

26 **Sec. 1804.** RCW 82.32.560 and 2004 c 240 s 2 are each amended to  
27 read as follows:

28 (1) For the purposes of this section, "electrolytic processing  
29 business tax exemption" means the exemption ((and preferential tax rate  
30 under)) in RCW 82.16.0421.

31 (2) The legislature finds that accountability and effectiveness are  
32 important aspects of setting tax policy. In order to make policy  
33 choices regarding the best use of limited state resources, the  
34 legislature needs information to evaluate whether the stated goals of  
35 legislation were achieved.

36 (3) The goals of the electrolytic processing business tax exemption  
37 are:

1 (a) To retain family wage jobs by enabling electrolytic processing  
2 businesses to maintain production of chlor-alkali and sodium chlorate  
3 at a level that will preserve at least seventy-five percent of the jobs  
4 that were on the payroll effective January 1, 2004; and

5 (b) To allow the electrolytic processing industries to continue  
6 production in this state through 2011 so that the industries will be  
7 positioned to preserve and create new jobs when the anticipated  
8 reduction of energy costs occur.

9 (4)(a) A person who receives the benefit of an electrolytic  
10 processing business tax exemption shall make an annual report to the  
11 department detailing employment, wages, and employer-provided health  
12 and retirement benefits per job at the manufacturing site. The report  
13 is due by (~~March 31st~~) April 30th following any year in which a tax  
14 exemption is claimed or used. The department may extend the due date  
15 for timely filing annual reports under this section as provided in RCW  
16 82.32.590. The report shall not include names of employees. The  
17 report shall detail employment by the total number of full-time, part-  
18 time, and temporary positions. The report shall indicate the quantity  
19 of product produced at the plant during the time period covered by the  
20 report. The first report filed under this subsection shall include  
21 employment, wage, and benefit information for the twelve-month period  
22 immediately before first use of a tax exemption. Employment reports  
23 shall include data for actual levels of employment and identification  
24 of the number of jobs affected by any employment reductions that have  
25 been publicly announced at the time of the report. Information in a  
26 report under this section is not subject to the confidentiality  
27 provisions of RCW 82.32.330 and may be disclosed to the public upon  
28 request.

29 (b) If a person fails to submit an annual report under (a) of this  
30 subsection by the due date of the report or any extension under RCW  
31 82.32.590, the department shall declare the amount of taxes exempted  
32 for that year to be immediately due and payable. Public utility taxes  
33 payable under this subsection are subject to interest but not  
34 penalties, as provided under this chapter. This information is not  
35 subject to the confidentiality provisions of RCW 82.32.330 and may be  
36 disclosed to the public upon request.

37 (5) By December 1, 2007, and by December 1, 2010, the fiscal  
38 committees of the house of representatives and the senate, in

1 consultation with the department, shall report to the legislature on  
2 the effectiveness of the tax incentive under RCW 82.16.0421. The  
3 report shall measure the effect of the incentive on job retention for  
4 Washington residents, and other factors as the committees select. The  
5 report shall also discuss expected trends or changes to electricity  
6 prices as they affect the industries that benefit from the incentives.

7 **Sec. 1805.** RCW 82.32.570 and 2004 c 24 s 14 are each amended to  
8 read as follows:

9 (1) For the purposes of this section, "smelter tax incentive" means  
10 the preferential tax rate under RCW 82.04.2909, or an exemption or  
11 credit under RCW 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5).

12 (2) The legislature finds that accountability and effectiveness are  
13 important aspects of setting tax policy. In order to make policy  
14 choices regarding the best use of limited state resources the  
15 legislature needs information to evaluate whether the stated goals of  
16 legislation were achieved.

17 (3) The goals of the smelter tax incentives are to retain family-  
18 wage jobs in rural areas by:

19 (a) Enabling the aluminum industry to maintain production of  
20 aluminum at a level that will preserve at least 75 percent of the jobs  
21 that were on the payroll effective January 1, 2004, as adjusted for  
22 employment reductions publicly announced before November 30, 2003; and

23 (b) Allowing the aluminum industry to continue producing aluminum  
24 in this state through 2006 so that the industry will be positioned to  
25 preserve and create new jobs when the anticipated reduction of energy  
26 costs occurs.

27 (4)(a) An aluminum smelter receiving the benefit of a smelter tax  
28 incentive shall make an annual report to the department detailing  
29 employment, wages, and employer-provided health and retirement benefits  
30 per job at the manufacturing site. The report is due by (~~March 31st~~)  
31 April 30th following any year in which a tax incentive is claimed or  
32 used. The department may extend the due date for timely filing annual  
33 reports under this section as provided in RCW 82.32.590. The report  
34 shall not include names of employees. The report shall detail  
35 employment by the total number of full-time, part-time, and temporary  
36 positions. The report shall indicate the quantity of aluminum smelted  
37 at the plant during the time period covered by the report. The first

1 report filed under this subsection shall include employment, wage, and  
2 benefit information for the twelve-month period immediately before  
3 first use of a tax incentive. Employment reports shall include data  
4 for actual levels of employment and identification of the number of  
5 jobs affected by any employment reductions that have been publicly  
6 announced at the time of the report. Information in a report under  
7 this section is not subject to the confidentiality provisions of RCW  
8 82.32.330 and may be disclosed to the public upon request.

9 (b) If a person fails to submit an annual report under (a) of this  
10 subsection by the due date of the report or any extension under RCW  
11 82.32.590, the department shall declare the amount of taxes exempted or  
12 credited, or reduced in the case of the preferential business and  
13 occupation tax rate, for that year to be immediately due and payable.  
14 Excise taxes payable under this subsection are subject to interest but  
15 not penalties, as provided under this chapter. This information is not  
16 subject to the confidentiality provisions of RCW 82.32.330 and may be  
17 disclosed to the public upon request.

18 (5) By December 1, 2005, and by December 1, 2006, the fiscal  
19 committees of the house of representatives and the senate, in  
20 consultation with the department, shall report to the legislature on  
21 the effectiveness of the smelter tax incentives and, by December 1,  
22 2010, on the effectiveness of the incentives under RCW 82.04.4482 and  
23 82.16.0498. The reports shall measure the effect of the tax incentives  
24 on job retention for Washington residents and any other factors the  
25 committees may select.

26 **Sec. 1806.** RCW 82.32.610 and 2005 c 513 s 3 are each amended to  
27 read as follows:

28 (1) The legislature finds that accountability and effectiveness are  
29 important aspects of setting tax policy. In order to make policy  
30 choices regarding the best use of limited state resources the  
31 legislature needs information on how a tax incentive is used.

32 (2) Each person claiming a tax exemption under RCW 82.04.4266 shall  
33 report information to the department by filing a complete annual  
34 survey. The survey is due by (~~March 31st~~) April 30th of the year  
35 following any calendar year in which a tax exemption under RCW  
36 82.04.4266 is taken. The department may extend the due date for timely  
37 filing annual reports under this section as provided in RCW 82.32.590.

1 The survey shall include the amount of tax exemption taken. The survey  
2 shall also include the following information for employment positions  
3 in Washington:

4 (a) The number of total employment positions;

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

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

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

14 The first survey filed under this subsection shall also include  
15 information for the twelve-month period immediately before first use of  
16 a tax incentive.

17 (3) The department may request additional information necessary to  
18 measure the results of the exemption program, to be submitted at the  
19 same time as the survey.

20 (4) All information collected under this section, except the amount  
21 of the tax exemption taken, is deemed taxpayer information under RCW  
22 82.32.330. Information on the amount of tax exemption taken is not  
23 subject to the confidentiality provisions of RCW 82.32.330.

24 (5) If a person fails to submit an annual survey under subsection  
25 (2) of this section by the due date of the report or any extension  
26 under RCW 82.32.590, the department shall declare the amount of taxes  
27 exempted for the previous calendar year to be immediately due and  
28 payable. The department shall assess interest, but not penalties, on  
29 the amounts due under this section. The amount due shall be calculated  
30 using a rate of 0.138 percent. The interest shall be assessed at the  
31 rate provided for delinquent taxes under this chapter, retroactively to  
32 the date the exemption was claimed, and shall accrue until the taxes  
33 for which the exemption was claimed are repaid. This information is  
34 not subject to the confidentiality provisions of RCW 82.32.330.

35 (6) The department shall use the information from this section to  
36 prepare summary descriptive statistics by category. No fewer than  
37 three taxpayers shall be included in any category. The department

1 shall report these statistics to the legislature each year by September  
2 1st.

3 (7) The department shall study the tax exemption authorized in RCW  
4 82.04.4266. The department shall submit a report to the finance  
5 committee of the house of representatives and the ways and means  
6 committee of the senate by December 1, 2011. The report shall measure  
7 the effect of the exemption on job creation, job retention, net jobs  
8 for Washington residents, company growth, (~~the movement of firms or~~  
9 ~~the consolidation of firms' operations into the state~~) diversification  
10 of the state's economy, cluster dynamics, and such other factors as the  
11 department selects.

12 **Sec. 1807.** RCW 82.32.620 and 2005 c 301 s 4 are each amended to  
13 read as follows:

14 (1) The legislature finds that accountability and effectiveness are  
15 important aspects of setting tax policy. In order to make policy  
16 choices regarding the best use of limited state resources the  
17 legislature needs information on how a tax incentive is used.

18 (2)(a) A person who reports taxes under RCW 82.04.294 shall make an  
19 annual report to the department detailing employment, wages, and  
20 employer-provided health and retirement benefits per job at the  
21 manufacturing site. The report shall not include names of employees.  
22 The report shall also detail employment by the total number of full-  
23 time, part-time, and temporary positions. The first report filed under  
24 this subsection shall include employment, wage, and benefit information  
25 for the twelve-month period immediately before first use of a  
26 preferential tax rate under RCW 82.04.294. The report is due by  
27 (~~March 31st~~) April 30th following any year in which a preferential  
28 tax rate under RCW 82.04.294 is used. The department may extend the  
29 due date for timely filing annual reports under this section as  
30 provided in RCW 82.32.590. This information is not subject to the  
31 confidentiality provisions of RCW 82.32.330.

32 (b) If a person fails to submit an annual report under (a) of this  
33 subsection, the department shall declare the amount of taxes reduced  
34 for the previous calendar year to be immediately due and payable.  
35 Excise taxes payable under this subsection are subject to interest, but  
36 not penalties, at the rate provided for delinquent taxes, as provided  
37 under this chapter. The department shall assess interest,



1 retroactively to the date the preferential tax rate under RCW  
2 82.04.294, was used. The interest shall be assessed at the rate  
3 provided for delinquent excise taxes under this chapter, and shall  
4 accrue until the taxes for which the preferential tax rate was used are  
5 repaid. This information is not subject to the confidentiality  
6 provisions of RCW 82.32.330.

7 **Sec. 1808.** RCW 82.32.545 and 2003 2nd sp.s. c 1 s 16 are each  
8 amended to read as follows:

9 (1) The legislature finds that accountability and effectiveness are  
10 important aspects of setting tax policy. In order to make policy  
11 choices regarding the best use of limited state resources the  
12 legislature needs information on how a tax incentive is used.

13 (2)(a) A person who reports taxes under RCW 82.04.260(~~((+13))~~) (11)  
14 or who claims an exemption or credit under RCW 82.04.4461, 82.08.980,  
15 82.12.980, 82.29A.137, 84.36.655, and 82.04.4463 shall make an annual  
16 report to the department detailing employment, wages, and employer-  
17 provided health and retirement benefits per job at the manufacturing  
18 site. The report shall not include names of employees. The report  
19 shall also detail employment by the total number of full-time, part-  
20 time, and temporary positions. The first report filed under this  
21 subsection shall include employment, wage, and benefit information for  
22 the twelve-month period immediately before first use of a preferential  
23 tax rate under RCW 82.04.260(~~((+13))~~) (11), or tax exemption or credit  
24 under RCW 82.04.4461, 82.08.980, 82.12.980, 82.29A.137, 84.36.655, and  
25 82.04.4463. The report is due by (~~March 31st~~) April 30th following  
26 any year in which a preferential tax rate under RCW 82.04.260(~~((+13))~~)  
27 (11) is used, or tax exemption or credit under RCW 82.04.4461,  
28 82.08.980, 82.12.980, 82.29A.137, 84.36.655, and 82.04.4463 is taken.  
29 The department may extend the due date for timely filing annual reports  
30 under this section as provided in RCW 82.32.590. This information is  
31 not subject to the confidentiality provisions of RCW 82.32.330 and may  
32 be disclosed to the public upon request.

33 (b) If a person fails to submit an annual report under (a) of this  
34 subsection by the due date of the report or any extension under RCW  
35 82.32.590, the department shall declare the amount of taxes exempted or  
36 credited, or reduced in the case of the preferential business and  
37 occupation tax rate, for that year to be immediately due and payable.

1 Excise taxes payable under this subsection are subject to interest but  
2 not penalties, as provided under this chapter. This information is not  
3 subject to the confidentiality provisions of RCW 82.32.330 and may be  
4 disclosed to the public upon request.

5 (3) By November 1, 2010, and by November 1, 2023, the fiscal  
6 committees of the house of representatives and the senate, in  
7 consultation with the department, shall report to the legislature on  
8 the effectiveness of chapter 1, Laws of 2003 2nd sp. sess. in regard to  
9 keeping Washington competitive. The report shall measure the effect of  
10 chapter 1, Laws of 2003 2nd sp. sess. on job retention, net jobs  
11 created for Washington residents, company growth, diversification of  
12 the state's economy, cluster dynamics, and other factors as the  
13 committees select. The reports shall include a discussion of  
14 principles to apply in evaluating whether the legislature should  
15 reenact any or all of the tax preferences in chapter 1, Laws of 2003  
16 2nd sp. sess.

17 **PART XIX**

18 **MISCELLANEOUS TECHNICAL CORRECTIONS**

19 **Sec. 1901.** RCW 82.46.010 and 1994 c 272 s 1 are each amended to  
20 read as follows:

21 (1) The legislative authority of any county or city shall identify  
22 in the adopted budget the capital projects funded in whole or in part  
23 from the proceeds of the tax authorized in subsection (2) of this  
24 section, and shall indicate that such tax is intended to be in addition  
25 to other funds that may be reasonably available for such capital  
26 projects.

27 (2) The legislative authority of any county or any city may impose  
28 an excise tax on each sale of real property in the unincorporated areas  
29 of the county for the county tax and in the corporate limits of the  
30 city for the city tax at a rate not exceeding one-quarter of one  
31 percent of the selling price. The revenues from this tax shall be used  
32 by any city or county with a population of five thousand or less and  
33 any city or county that does not plan under RCW 36.70A.040 for any  
34 capital purpose identified in a capital improvements plan and local  
35 capital improvements, including those listed in RCW 35.43.040.

1 After April 30, 1992, revenues generated from the tax imposed under  
2 this subsection in counties over five thousand population and cities  
3 over five thousand population that are required or choose to plan under  
4 RCW 36.70A.040 shall be used solely for financing capital projects  
5 specified in a capital facilities plan element of a comprehensive plan  
6 and housing relocation assistance under RCW 59.18.440 and 59.18.450.  
7 However, revenues (a) pledged by such counties and cities to debt  
8 retirement prior to April 30, 1992, may continue to be used for that  
9 purpose until the original debt for which the revenues were pledged is  
10 retired, or (b) committed prior to April 30, 1992, by such counties or  
11 cities to a project may continue to be used for that purpose until the  
12 project is completed.

13 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the  
14 legislative authority of any county or any city may impose an  
15 additional excise tax on each sale of real property in the  
16 unincorporated areas of the county for the county tax and in the  
17 corporate limits of the city for the city tax at a rate not exceeding  
18 one-half of one percent of the selling price.

19 (4) Taxes imposed under this section shall be collected from  
20 persons who are taxable by the state under chapter 82.45 RCW upon the  
21 occurrence of any taxable event within the unincorporated areas of the  
22 county or within the corporate limits of the city, as the case may be.

23 (5) Taxes imposed under this section shall comply with all  
24 applicable rules, regulations, laws, and court decisions regarding real  
25 estate excise taxes as imposed by the state under chapter 82.45 RCW.

26 (6) As used in this section, "city" means any city or town and  
27 "capital project" means those public works projects of a local  
28 government for planning, acquisition, construction, reconstruction,  
29 repair, replacement, rehabilitation, or improvement of streets; roads;  
30 highways; sidewalks; street and road lighting systems; traffic signals;  
31 bridges; domestic water systems; storm and sanitary sewer systems;  
32 parks; recreational facilities; law enforcement facilities; fire  
33 protection facilities; trails; libraries; administrative and/or  
34 judicial facilities; river and/or waterway flood control projects by  
35 those jurisdictions that, prior to June 11, 1992, have expended funds  
36 derived from the tax authorized by this section for such purposes; and,  
37 until December 31, 1995, housing projects for those jurisdictions that,

1 prior to June 11, 1992, have expended or committed to expend funds  
2 derived from the tax authorized by this section or the tax authorized  
3 by RCW 82.46.035 for such purposes.

4 **PART XX**  
5 **MISCELLANEOUS**

6 NEW SECTION. **Sec. 2001.** The repealed sections in sections 117,  
7 631, 715, and 1102 of this act do not affect any rights, liabilities,  
8 obligations, or proceedings, incurred or instituted under those  
9 repealed sections or rules or orders adopted by the department of  
10 revenue pursuant to those repealed sections prior to the effective date  
11 of section 117, 631, 715, or 1102 of this act.

12 NEW SECTION. **Sec. 2002.** (1) Unless expressly provided otherwise,  
13 this act takes effect July 1, 2006.

14 (2) Sections 1601 through 1610, 1612, and 1701 of this act take  
15 effect January 1, 2007.

16 (3) Sections 109 and 1402 of this act take effect July 1, 2007.

17 (4) Sections 110 and 111 of this act take effect July 1, 2012.

18 (5) Section 909 of this act takes effect July 1, 2012.

19 (6) Sections 116, 609 through 611, 801, 802, 804, and 1801 through  
20 1808 of this act are necessary for the immediate preservation of the  
21 public peace, health, or safety, or support of the state government and  
22 its existing public institutions, and take effect immediately.

23 NEW SECTION. **Sec. 2003.** Section 904 of this act takes effect if  
24 chapter 149, Laws of 2003 takes effect.

25 NEW SECTION. **Sec. 2004.** Section 903 of this act expires if  
26 chapter 149, Laws of 2003 takes effect.

27 NEW SECTION. **Sec. 2005.** Section 1401 of this act expires July 1,  
28 2007.

29 NEW SECTION. **Sec. 2006.** Part headings used in this act are not  
30 part of the law.

1        NEW SECTION.    **Sec. 2007.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

--- END ---