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**SUBSTITUTE HOUSE BILL 1513**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Finance (originally sponsored by Representatives Kessler, Orcutt, Grant, Alexander, Blake, VanDeWege, Kretz, Takko, Linville and Ericks)

READ FIRST TIME 03/05/07.

1            AN ACT Relating to the excise taxation of forest products  
2 businesses; amending RCW 76.09.405, 82.04.261, 82.04.333, and  
3 82.32.630; reenacting and amending RCW 82.04.260; adding a new section  
4 to chapter 82.04 RCW; adding a new section to chapter 82.45 RCW;  
5 creating a new section; providing an effective date; providing an  
6 expiration date; and declaring an emergency.

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

8            **Sec. 1.** RCW 76.09.405 and 2006 c 300 s 3 are each amended to read  
9 as follows:

10            The forest and fish support account is hereby created in the state  
11 treasury. Receipts from appropriations, the surcharge imposed under  
12 RCW ((82.04.260(12))) 82.04.261, and other sources must be deposited  
13 into the account. Expenditures from the account shall be used for  
14 activities pursuant to the state's implementation of the forests and  
15 fish report as defined in this chapter ((76.09—RCW)) and related  
16 activities((7)) including, but not limited to, adaptive management,  
17 monitoring, and participation grants to tribes, state and local  
18 agencies, and not-for-profit public interest organizations.

1 Expenditures from the account may be made only after appropriation by  
2 the legislature.

3 **Sec. 2.** RCW 82.04.260 and 2006 c 354 s 4 and 2006 c 300 s 1 are  
4 each reenacted and amended to read as follows:

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

7 (a) Wheat into flour, barley into pearl barley, soybeans into  
8 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
9 or sunflower seeds into sunflower oil; as to such persons the amount of  
10 tax with respect to such business shall be equal to the value of the  
11 flour, pearl barley, oil, canola meal, or canola byproduct  
12 manufactured, multiplied by the rate of 0.138 percent;

13 (b) Beginning July 1, 2012, seafood products which remain in a raw,  
14 raw frozen, or raw salted state at the completion of the manufacturing  
15 by that person; as to such persons the amount of tax with respect to  
16 such business shall be equal to the value of the products manufactured  
17 or the gross proceeds derived from such sales, multiplied by the rate  
18 of 0.138 percent;

19 (c) Beginning July 1, 2012, dairy products that as of September 20,  
20 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,  
21 including byproducts from the manufacturing of the dairy products such  
22 as whey and casein; or selling the same to purchasers who transport in  
23 the ordinary course of business the goods out of state; as to such  
24 persons the tax imposed shall be equal to the value of the products  
25 manufactured or the gross proceeds derived from such sales multiplied  
26 by the rate of 0.138 percent. Sellers must keep and preserve records  
27 for the period required by RCW 82.32.070 establishing that the goods  
28 were transported by the purchaser in the ordinary course of business  
29 out of this state;

30 (d) Beginning July 1, 2012, fruits or vegetables by canning,  
31 preserving, freezing, processing, or dehydrating fresh fruits or  
32 vegetables, or selling at wholesale fruits or vegetables manufactured  
33 by the seller by canning, preserving, freezing, processing, or  
34 dehydrating fresh fruits or vegetables and sold to purchasers who  
35 transport in the ordinary course of business the goods out of this  
36 state; as to such persons the amount of tax with respect to such  
37 business shall be equal to the value of the products manufactured or

1 the gross proceeds derived from such sales multiplied by the rate of  
2 0.138 percent. Sellers must keep and preserve records for the period  
3 required by RCW 82.32.070 establishing that the goods were transported  
4 by the purchaser in the ordinary course of business out of this state;

5 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel  
6 feedstock, as those terms are defined in RCW 82.29A.135; as to such  
7 persons the amount of tax with respect to the business shall be equal  
8 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock  
9 manufactured, multiplied by the rate of 0.138 percent; and

10 (f) Alcohol fuel or wood biomass fuel, as those terms are defined  
11 in RCW 82.29A.135; as to such persons the amount of tax with respect to  
12 the business shall be equal to the value of alcohol fuel or wood  
13 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

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

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

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

28 (5) Upon every person engaging within this state in the business of  
29 acting as a travel agent or tour operator; as to such persons the  
30 amount of the tax with respect to such activities shall be equal to the  
31 gross income derived from such activities multiplied by the rate of  
32 0.275 percent.

33 (6) Upon every person engaging within this state in business as an  
34 international steamship agent, international customs house broker,  
35 international freight forwarder, vessel and/or cargo charter broker in  
36 foreign commerce, and/or international air cargo agent; as to such  
37 persons the amount of the tax with respect to only international

1 activities shall be equal to the gross income derived from such  
2 activities multiplied by the rate of 0.275 percent.

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

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

37 If the gross income of the taxpayer is attributable to activities

1 both within and without this state, the gross income attributable to  
2 this state shall be determined in accordance with the methods of  
3 apportionment required under RCW 82.04.460.

4 (9) Upon every person engaging within this state as an insurance  
5 agent, insurance broker, or insurance solicitor licensed under chapter  
6 48.17 RCW; as to such persons, the amount of the tax with respect to  
7 such licensed activities shall be equal to the gross income of such  
8 business multiplied by the rate of 0.484 percent.

9 (10) Upon every person engaging within this state in business as a  
10 hospital, as defined in chapter 70.41 RCW, that is operated as a  
11 nonprofit corporation or by the state or any of its political  
12 subdivisions, as to such persons, the amount of tax with respect to  
13 such activities shall be equal to the gross income of the business  
14 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
15 percent thereafter. The moneys collected under this subsection shall  
16 be deposited in the health services account created under RCW  
17 43.72.900.

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

25 (i) 0.4235 percent from October 1, 2005, through the later of June  
26 30, 2007, or the day preceding the date final assembly of a  
27 superefficient airplane begins in Washington state, as determined under  
28 RCW 82.32.550; and

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

32 (b) Beginning October 1, 2005, upon every person engaging within  
33 this state in the business of making sales, at retail or wholesale, of  
34 commercial airplanes, or components of such airplanes, manufactured by  
35 that person, as to such persons the amount of tax with respect to such  
36 business shall be equal to the gross proceeds of sales of the airplanes  
37 or components multiplied by the rate of:

1 (i) 0.4235 percent from October 1, 2005, through the later of June  
2 30, 2007, or the day preceding the date final assembly of a  
3 superefficient airplane begins in Washington state, as determined under  
4 RCW 82.32.550; and

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

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

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

14 (e) This subsection (11) does not apply after the earlier of: July  
15 1, 2024; or December 31, 2007, if assembly of a superefficient airplane  
16 does not begin by December 31, 2007, as determined under RCW 82.32.550.

17 (12)(a) Until July 1, 2024, upon every person engaging within this  
18 state in the business of extracting timber or extracting for hire  
19 timber; as to such persons the amount of tax with respect to the  
20 business shall, in the case of extractors, be equal to the value of  
21 products, including byproducts, extracted, or in the case of extractors  
22 for hire, be equal to the gross income of the business, multiplied by  
23 the rate of 0.4235 percent from July 1, 2006, through June 30, 2007,  
24 and 0.2904 percent from July 1, 2007, through June 30, 2024.

25 (b) Until July 1, 2024, upon every person engaging within this  
26 state in the business of manufacturing or processing for hire: (i)  
27 Timber into timber products or wood products; or (ii) timber products  
28 into other timber products or wood products; as to such persons the  
29 amount of the tax with respect to the business shall, in the case of  
30 manufacturers, be equal to the value of products, including byproducts,  
31 manufactured, or in the case of processors for hire, be equal to the  
32 gross income of the business, multiplied by the rate of 0.4235 percent  
33 from July 1, 2006, through June 30, 2007, and 0.2904 percent from July  
34 1, 2007, through June 30, 2024.

35 (c) Until July 1, 2024, upon every person engaging within this  
36 state in the business of selling at wholesale: (i) Timber extracted by  
37 that person; (ii) timber products manufactured by that person from  
38 timber or other timber products; or (iii) wood products manufactured by

1 that person from timber or timber products; as to such persons the  
2 amount of the tax with respect to the business shall be equal to the  
3 gross proceeds of sales of the timber, timber products, or wood  
4 products multiplied by the rate of 0.4235 percent from July 1, 2006,  
5 through June 30, 2007, and 0.2904 percent from July 1, 2007, through  
6 June 30, 2024.

7 (d) Until July 1, 2024, upon every person engaging within this  
8 state in the business of selling standing timber; as to such persons  
9 the amount of the tax with respect to the business shall be equal to  
10 the gross income of the business multiplied by the rate of 0.2904  
11 percent. For purposes of this subsection (12)(d), "selling standing  
12 timber" means the sale of timber apart from the land, where the buyer  
13 is required to sever the timber within thirty months from the date of  
14 the original contract, regardless of the method of payment for the  
15 timber and whether title to the timber transfers before, upon, or after  
16 severance.

17 (e) For purposes of this subsection, the following definitions  
18 apply:

19 (i) "Paper and paper products" means products made of interwoven  
20 cellulosic fibers held together largely by hydrogen bonding. "Paper  
21 and paper products" includes newsprint; office, printing, fine, and  
22 pressure-sensitive papers; paper napkins, towels, and toilet tissue;  
23 kraft bag, construction, and other kraft industrial papers; paperboard,  
24 liquid packaging containers, containerboard, corrugated, and solid-  
25 fiber containers including linerboard and corrugated medium; and  
26 related types of cellulosic products containing primarily, by weight or  
27 volume, cellulosic materials. "Paper and paper products" does not  
28 include books, newspapers, magazines, periodicals, and other printed  
29 publications, advertising materials, calendars, and similar types of  
30 printed materials.

31 (ii) "Timber" means forest trees, standing or down, on privately or  
32 publicly owned land. "Timber" does not include Christmas trees that  
33 are cultivated by agricultural methods or short-rotation hardwoods as  
34 defined in RCW 84.33.035.

35 (iii) "Timber products" means logs, wood chips, sawdust, wood  
36 waste, and similar products obtained wholly from the processing of  
37 timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

1 and pulp((; and recycled paper products)), including market pulp and  
2 pulp derived from recovered paper or paper products.

3 ((~~(ii)~~)) (iv) "Wood products" means paper and paper products;  
4 dimensional lumber; engineered wood products such as particleboard,  
5 oriented strand board, medium density fiberboard, and plywood; wood  
6 doors; and wood windows.

7 (13) Upon every person engaging within this state in inspecting,  
8 testing, labeling, and storing canned salmon owned by another person,  
9 as to such persons, the amount of tax with respect to such activities  
10 shall be equal to the gross income derived from such activities  
11 multiplied by the rate of 0.484 percent.

12 NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW  
13 to read as follows:

14 This chapter does not apply to any sale of standing timber excluded  
15 from the definition of "sale" in RCW 82.45.010(3). The definitions in  
16 RCW 82.04.260(12) apply to this section.

17 **Sec. 4.** RCW 82.04.261 and 2006 c 300 s 2 are each amended to read  
18 as follows:

19 (1) In addition to the taxes imposed under RCW 82.04.260(12), a  
20 surcharge is imposed on those persons who are subject to any of the  
21 taxes imposed under RCW 82.04.260(12). Except as otherwise provided in  
22 this section, the surcharge is equal to 0.052 percent. The surcharge  
23 is added to the rates provided in RCW 82.04.260(12) (a), (b), (~~and~~)  
24 (c), and (d). The surcharge and this section expire July 1, 2024.

25 (2) All receipts from the surcharge imposed under this section  
26 shall be deposited into the forest and fish support account created in  
27 RCW 76.09.405.

28 (3)(a) The surcharge imposed under this section shall be suspended  
29 if:

30 (i) Receipts from the surcharge total at least eight million  
31 dollars during any fiscal biennium; or

32 (ii) The office of financial management certifies to the department  
33 that the federal government has appropriated at least two million  
34 dollars for participation in forest and fish report-related activities  
35 by federally recognized Indian tribes located within the geographical  
36 boundaries of the state of Washington for any federal fiscal year.

1 (b)(i) The suspension of the surcharge under (a)(i) of this  
2 subsection (3) shall take effect on the first day of the calendar month  
3 that is at least thirty days after the end of the month during which  
4 the department determines that receipts from the surcharge total at  
5 least eight million dollars during the fiscal biennium. The surcharge  
6 shall be imposed again at the beginning of the following fiscal  
7 biennium.

8 (ii) The suspension of the surcharge under (a)(ii) of this  
9 subsection (3) shall take effect on the later of the first day of  
10 October of any federal fiscal year for which the federal government  
11 appropriates at least two million dollars for participation in forest  
12 and fish report-related activities by federally recognized Indian  
13 tribes located within the geographical boundaries of the state of  
14 Washington, or the first day of a calendar month that is at least  
15 thirty days following the date that the office of financial management  
16 makes a certification to the department under subsection (5) of this  
17 section. The surcharge shall be imposed again on the first day of the  
18 following July.

19 (4)(a) If, by October 1st of any federal fiscal year, the office of  
20 financial management certifies to the department that the federal  
21 government has appropriated funds for participation in forest and fish  
22 report-related activities by federally recognized Indian tribes located  
23 within the geographical boundaries of the state of Washington but the  
24 amount of the appropriation is less than two million dollars, the  
25 department shall adjust the surcharge in accordance with this  
26 subsection.

27 (b) The department shall adjust the surcharge by an amount that the  
28 department estimates will cause the amount of funds deposited into the  
29 forest and fish support account for the state fiscal year that begins  
30 July 1st and that includes the beginning of the federal fiscal year for  
31 which the federal appropriation is made, to be reduced by twice the  
32 amount of the federal appropriation for participation in forest and  
33 fish report-related activities by federally recognized Indian tribes  
34 located within the geographical boundaries of the state of Washington.

35 (c) Any adjustment in the surcharge shall take effect at the  
36 beginning of a calendar month that is at least thirty days after the  
37 date that the office of financial management makes the certification  
38 under subsection (5) of this section.

1 (d) The surcharge shall be imposed again at the rate provided in  
2 subsection (1) of this section on the first day of the following state  
3 fiscal year unless the surcharge is suspended under subsection (3) of  
4 this section or adjusted for that fiscal year under this subsection.

5 (e) Adjustments of the amount of the surcharge by the department  
6 are final and shall not be used to challenge the validity of the  
7 surcharge imposed under this section.

8 (f) The department shall provide timely notice to affected  
9 taxpayers of the suspension of the surcharge or an adjustment of the  
10 surcharge.

11 (5) The office of financial management shall make the certification  
12 to the department as to the status of federal appropriations for tribal  
13 participation in forest and fish report-related activities.

14 **Sec. 5.** RCW 82.04.333 and 1990 c 141 s 1 are each amended to read  
15 as follows:

16 ~~((This chapter shall not apply to the gross receipts or value of  
17 products proceeding or accruing from timber harvested by))~~ In computing  
18 tax under this chapter, a person who is a small harvester as defined in  
19 RCW ~~((84.33.073 and whose value of products, gross proceeds of sales,~~  
20 ~~or gross income of the business is less than))~~ 84.33.035(14) may deduct  
21 an amount not to exceed one hundred thousand dollars per tax year from  
22 the gross receipts or value of products proceeding or accruing from  
23 timber harvested by that person. A deduction under this section may  
24 not reduce the amount of tax due to less than zero.

25 **Sec. 6.** RCW 82.32.630 and 2006 c 300 s 9 are each amended to read  
26 as follows:

27 (1) The legislature finds that accountability and effectiveness are  
28 important aspects of setting tax policy. In order to make policy  
29 choices regarding the best use of limited state resources, the  
30 legislature needs information on how a tax incentive is used.

31 (2)(a) A person who reports taxes under RCW 82.04.260(12) shall  
32 file a complete annual survey with the department. The survey is due  
33 by March 31st following any year in which a person reports taxes under  
34 RCW 82.04.260(12). The department may extend the due date for timely  
35 filing of annual surveys under this section as provided in RCW  
36 82.32.590. The survey shall include the amount of tax reduced under

1 the preferential rate in RCW 82.04.260(12). The survey shall also  
2 include the following information for employment positions in  
3 Washington:

4 (i) The number of total employment positions;

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

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

14 (b) The first survey filed under this subsection shall include  
15 employment, wage, and benefit information for the twelve-month period  
16 immediately before first use of a preferential tax rate under RCW  
17 82.04.260(12).

18 (c) As part of the annual survey, the department may request  
19 additional information, including the amount of investment in equipment  
20 used in the activities taxable under the preferential rate in RCW  
21 82.04.260(12), necessary to measure the results of, or determine  
22 eligibility for, the preferential tax rate in RCW 82.04.260(12).

23 (d) All information collected under this section, except the amount  
24 of the tax reduced under the preferential rate in RCW 82.04.260(12), is  
25 deemed taxpayer information under RCW 82.32.330. Information on the  
26 amount of tax reduced is not subject to the confidentiality provisions  
27 of RCW 82.32.330 and may be disclosed to the public upon request,  
28 except as provided in (e) of this subsection. If the amount of the tax  
29 reduced as reported on the survey is different than the amount actually  
30 reduced based on the taxpayer's excise tax returns or otherwise allowed  
31 by the department, the amount actually reduced may be disclosed.

32 (e) Persons for whom the actual amount of the tax reduction is less  
33 than ten thousand dollars during the period covered by the survey may  
34 request the department to treat the amount of the tax reduction as  
35 confidential under RCW 82.32.330.

36 (f) Small harvesters as defined in RCW 84.33.035 are not required  
37 to file the annual survey under this section.

1 (3) If a person fails to submit a complete annual survey under  
2 subsection (2) of this section by the due date or any extension under  
3 RCW 82.32.590, the department shall declare the amount of taxes reduced  
4 under the preferential rate in RCW 82.04.260(12) for the period covered  
5 by the survey to be immediately due and payable. The department shall  
6 assess interest, but not penalties, on the taxes. Interest shall be  
7 assessed at the rate provided for delinquent excise taxes under this  
8 chapter, retroactively to the date the reduced taxes were due, and  
9 shall accrue until the amount of the reduced taxes is repaid.

10 (4) The department shall use the information from the annual survey  
11 required under subsection (2) of this section to prepare summary  
12 descriptive statistics by category. The department shall report these  
13 statistics to the legislature each year by September 1st. The  
14 requirement to prepare and report summary descriptive statistics shall  
15 cease after September 1, 2025.

16 (5) By November 1, 2011, and November 1, 2023, the fiscal  
17 committees of the house of representatives and the senate, in  
18 consultation with the department, shall report to the legislature on  
19 the effectiveness of the preferential tax rate provided in RCW  
20 82.04.260(12). The report shall measure the effect of the preferential  
21 tax rate provided in RCW 82.04.260(12) on job retention, net jobs  
22 created for Washington residents, company growth, and other factors as  
23 the committees select. The report shall include a discussion of  
24 principles to apply in evaluating whether the legislature should  
25 continue the preferential tax rate provided in RCW 82.04.260(12).

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.45 RCW  
27 to read as follows:

28 A sale of standing timber is exempt from tax under this chapter if  
29 the gross income from such sale is taxable under RCW 82.04.260(12)(d).

30 NEW SECTION. **Sec. 8.** The expiration of RCW 82.04.261 does not  
31 affect any existing right acquired or liability or obligation incurred  
32 under that section or under any rule or order adopted under that  
33 section, nor does it affect any proceeding instituted under that  
34 section.

1        NEW SECTION.   **Sec. 9.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   July 1, 2007.

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