

2ESSB 6143 - CONF REPT  
By Conference Committee

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** In order to preserve funding for education,  
4 public safety, health care, environmental protection, and safety net  
5 services for children, elderly, disabled, and vulnerable people, it is  
6 the intent of the legislature to close obsolete tax preferences,  
7 clarify the legislature's intent regarding existing tax policy, and to  
8 ensure balanced tax policy while bolstering emerging industries.

9 **PART I**

10 **Minimum Nexus Standards**

11 NEW SECTION. **Sec. 101.** (1) The legislature finds that out-of-  
12 state businesses that do not have a physical presence in Washington  
13 earn significant income from Washington residents from providing  
14 services or collecting royalties on the use of intangible property in  
15 this state. The legislature further finds that these businesses  
16 receive significant benefits and opportunities provided by the state,  
17 such as: Laws providing protection of business interests or regulating  
18 consumer credit; access to courts and judicial process to enforce  
19 business rights, including debt collection and intellectual property  
20 rights; an orderly and regulated marketplace; and police and fire  
21 protection and a transportation system benefiting in-state agents and  
22 other representatives of out-of-state businesses. Therefore, the  
23 legislature intends to extend the state's business and occupation tax  
24 to these companies to ensure that they pay their fair share of the cost  
25 of services that this state renders and the infrastructure it provides.

26 (2)(a) The legislature also finds that the current cost  
27 apportionment method in RCW 82.04.460(1) for apportioning most service  
28 income has been difficult for both taxpayers and the department to

1 apply due in large part (i) to the difficulty in assigning certain  
2 costs of doing business inside or outside of this state, and (ii) to  
3 its dissimilarity with the apportionment methods used in other states  
4 for their business activity taxes.

5 (b) The legislature further finds that there is a trend among  
6 states to adopt a single factor apportionment formula based on sales.  
7 The legislature recognizes that adoption of a sales factor only  
8 apportionment method has the advantages of simplifying apportionment  
9 and making Washington a more attractive place for businesses to expand  
10 their property and payroll. For these reasons, the legislature adopts  
11 single factor sales apportionment for purposes of apportioning royalty  
12 income and certain service income for state business and occupation tax  
13 purposes.

14 (c) Nothing in this act may be construed, however, to authorize  
15 apportionment of the gross income or value of products taxable under  
16 the following business and occupation tax classifications: Retailing,  
17 wholesaling, manufacturing, processing for hire, extracting, extracting  
18 for hire, printing, government contracting, public road construction,  
19 the classifications in RCW 82.04.280 (2), (4), (6), and (7), and any  
20 other activity not specifically included in the definition of  
21 apportionable activities in RCW 82.04.460.

22 (d) Nothing in this part is intended to modify the nexus and  
23 apportionment requirements for local gross receipts business and  
24 occupation taxes.

25 **Sec. 102.** RCW 82.04.220 and 1961 c 15 s 82.04.220 are each amended  
26 to read as follows:

27 (1) There is levied and ((shall be)) collected from every person  
28 that has a substantial nexus with this state a tax for the act or  
29 privilege of engaging in business activities. ((Such)) The tax ((shall  
30 be)) is measured by the application of rates against value of products,  
31 gross proceeds of sales, or gross income of the business, as the case  
32 may be.

33 (2) A person who has a substantial nexus with this state in any tax  
34 year will be deemed to have a substantial nexus with this state for the  
35 following tax year.

1        NEW SECTION.    **Sec. 103.**    A new section is added to chapter 82.04  
2    RCW to read as follows:

3        "Engaging within this state" and "engaging within the state," when  
4    used in connection with any apportionable activity as defined in RCW  
5    82.04.460, means that a person generates gross income of the business  
6    from sources within this state, such as customers or intangible  
7    property located in this state, regardless of whether the person is  
8    physically present in this state.

9        NEW SECTION.    **Sec. 104.**    A new section is added to chapter 82.04  
10    RCW to read as follows:

11        (1) A person engaging in business is deemed to have substantial  
12    nexus with this state if the person is:

13        (a) An individual and is a resident or domiciliary of this state;

14        (b) A business entity and is organized or commercially domiciled in  
15    this state; or

16        (c) A nonresident individual or a business entity that is organized  
17    or commercially domiciled outside this state, and in any tax year the  
18    person has:

19        (i) More than fifty thousand dollars of property in this state;

20        (ii) More than fifty thousand dollars of payroll in this state;

21        (iii) More than two hundred fifty thousand dollars of receipts from  
22    this state; or

23        (iv) At least twenty-five percent of the person's total property,  
24    total payroll, or total receipts in this state.

25        (2)(a) Property counting toward the thresholds in subsection  
26    (1)(c)(i) and (iv) of this section is the average value of the  
27    taxpayer's property, including intangible property, owned or rented and  
28    used in this state during the tax year.

29        (b)(i) Property owned by the taxpayer, other than loans and credit  
30    card receivables owned by the taxpayer, is valued at its original cost  
31    basis. Loans and credit card receivables owned by the taxpayer are  
32    valued at their outstanding principal balance, without regard to any  
33    reserve for bad debts. However, if a loan or credit card receivable is  
34    charged off in whole or in part for federal income tax purposes, the  
35    portion of the loan or credit card receivable charged off is deducted  
36    from the outstanding principal balance.

1 (ii) Property rented by the taxpayer is valued at eight times the  
2 net annual rental rate. For purposes of this subsection, "net annual  
3 rental rate" means the annual rental rate paid by the taxpayer less any  
4 annual rental rate received by the taxpayer from subrentals.

5 (c) The average value of property must be determined by averaging  
6 the values at the beginning and ending of the tax year; but the  
7 department may require the averaging of monthly values during the tax  
8 year if reasonably required to properly reflect the average value of  
9 the taxpayer's property.

10 (d)(i) For purposes of this subsection (2), loans and credit card  
11 receivables are deemed owned and used in this state as follows:

12 (A) Loans secured by real property, personal property, or both real  
13 and personal property, are deemed owned and used in the state if the  
14 real property or personal property securing the loan is located within  
15 this state. If the property securing the loan is located both within  
16 this state and one or more other states, the loan is deemed owned and  
17 used in this state if more than fifty percent of the fair market value  
18 of the real or personal property is located within this state. If more  
19 than fifty percent of the fair market value of the real or personal  
20 property is not located within any one state, then the loan is deemed  
21 owned and used in this state if the borrower is located in this state.  
22 The determination of whether the real or personal property securing a  
23 loan is located within this state must be made, as of the time the  
24 original agreement was made, and any and all subsequent substitutions  
25 of collateral must be disregarded.

26 (B) Loans not secured by real or personal property are deemed owned  
27 and used in this state if the borrower is located in this state.

28 (C) Credit card receivables are deemed owned and used in this state  
29 if the billing address of the cardholder is in this state.

30 (ii)(A) Except as otherwise provided in (d)(ii)(B) of this  
31 subsection (2), the definitions in the multistate tax commission's  
32 recommended formula for the apportionment and allocation of net income  
33 of financial institutions as existing on the effective date of this  
34 section or such subsequent date as may be provided by the department by  
35 rule, consistent with the purposes of this section, apply to this  
36 section.

37 (B) "Credit card" means a card or device existing for the purpose  
38 of obtaining money, property, labor, or services on credit.

1 (e) Notwithstanding anything else to the contrary in this  
2 subsection, property counting toward the thresholds in subsection  
3 (1)(c)(i) and (iv) of this section does not include a person's  
4 ownership of, or rights in, computer software as defined in RCW  
5 82.04.215, including computer software used in providing a digital  
6 automated service; master copies of software; and digital goods and  
7 digital codes residing on servers located in this state.

8 (3)(a) Payroll counting toward the thresholds in subsection  
9 (1)(c)(ii) and (iv) of this section is the total amount paid by the  
10 taxpayer for compensation in this state during the tax year plus  
11 nonemployee compensation paid to representative third parties in this  
12 state. Nonemployee compensation paid to representative third parties  
13 includes the gross amount paid to nonemployees who represent the  
14 taxpayer in interactions with the taxpayer's clients and includes sales  
15 commissions.

16 (b) Employee compensation is paid in this state if the compensation  
17 is properly reportable to this state for unemployment compensation tax  
18 purposes, regardless of whether the compensation was actually reported  
19 to this state.

20 (c) Nonemployee compensation is paid in this state if the service  
21 performed by the representative third party occurs entirely or  
22 primarily within this state.

23 (d) For purposes of this subsection, "compensation" means wages,  
24 salaries, commissions, and any other form of remuneration paid to  
25 employees or nonemployees and defined as gross income under 26 U.S.C.  
26 Sec. 61 of the federal internal revenue code of 1986, as existing on  
27 the effective date of this section.

28 (4) Receipts counting toward the thresholds in subsection  
29 (1)(c)(iii) and (iv) of this section are those amounts included in the  
30 numerator of the receipts factor under section 105 of this act and, for  
31 financial institutions, those amounts included in the numerator of the  
32 receipts factor under the rule adopted by the department as authorized  
33 in RCW 82.04.460(2).

34 (5)(a) Each December, the department must review the cumulative  
35 percentage change in the consumer price index. The department must  
36 adjust the thresholds in subsection (1)(c)(i) through (iii) of this  
37 section if the consumer price index has changed by five percent or more  
38 since the later of the effective date of this section, or the date that

1 the thresholds were last adjusted under this subsection. For purposes  
2 of determining the cumulative percentage change in the consumer price  
3 index, the department must compare the consumer price index available  
4 as of December 1st of the current year with the consumer price index as  
5 of the later of the effective date of this section, or the date that  
6 the thresholds were last adjusted under this subsection. The  
7 thresholds must be adjusted to reflect that cumulative percentage  
8 change in the consumer price index. The adjusted thresholds must be  
9 rounded to the nearest one thousand dollars. Any adjustment will apply  
10 to tax periods that begin after the adjustment is made.

11 (b) As used in this subsection, "consumer price index" means the  
12 consumer price index for all urban consumers (CPI-U) available from the  
13 bureau of labor statistics of the United States department of labor.

14 (6) Subsections (1) through (5) of this section only apply with  
15 respect to the taxes imposed under this chapter on apportionable  
16 activities as defined in RCW 82.04.460. For purposes of the taxes  
17 imposed under this chapter on any activity not included in the  
18 definition of apportionable activities in RCW 82.04.460, a person is  
19 deemed to have a substantial nexus with this state if the person has a  
20 physical presence in this state, which need only be demonstrably more  
21 than a slightest presence. For purposes of this subsection, a person  
22 is physically present in this state if the person has property or  
23 employees in this state. A person is also physically present in this  
24 state if the person, either directly or through an agent or other  
25 representative, engages in activities in this state that are  
26 significantly associated with the person's ability to establish or  
27 maintain a market for its products in this state.

28 NEW SECTION. **Sec. 105.** A new section is added to chapter 82.04  
29 RCW to read as follows:

30 (1) The apportionable income of a person within the scope of RCW  
31 82.04.460(1) is apportioned to Washington by multiplying its  
32 apportionable income by the receipts factor. Persons who are subject  
33 to tax under more than one of the tax classifications enumerated in RCW  
34 82.04.460(4)(a) (i) through (x) must calculate a separate receipts  
35 factor for each tax classification that the person is taxable under.

36 (2) For purposes of subsection (1) of this section, the receipts  
37 factor is a fraction and is calculated as provided in subsections (3)

1 and (4) of this section and, for financial institutions, as provided in  
2 the rule adopted by the department under the authority of RCW  
3 82.04.460(2).

4 (3)(a) The numerator of the receipts factor is the total gross  
5 income of the business of the taxpayer attributable to this state  
6 during the tax year from engaging in an apportionable activity. The  
7 denominator of the receipts factor is the total gross income of the  
8 business of the taxpayer from engaging in an apportionable activity  
9 everywhere in the world during the tax year.

10 (b) Except as otherwise provided in this section, for purposes of  
11 computing the receipts factor, gross income of the business generated  
12 from each apportionable activity is attributable to the state:

13 (i) Where the customer received the benefit of the taxpayer's  
14 service or, in the case of gross income from royalties, where the  
15 customer used the taxpayer's intangible property.

16 (ii) If the customer received the benefit of the service or used  
17 the intangible property in more than one state, gross income of the  
18 business must be attributed to the state in which the benefit of the  
19 service was primarily received or in which the intangible property was  
20 primarily used.

21 (iii) If the taxpayer is unable to attribute gross income of the  
22 business under the provisions of (b)(i) or (ii) of this subsection (3),  
23 gross income of the business must be attributed to the state from which  
24 the customer ordered the service or, in the case of royalties, the  
25 office of the customer from which the royalty agreement with the  
26 taxpayer was negotiated.

27 (iv) If the taxpayer is unable to attribute gross income of the  
28 business under the provisions of (b)(i), (ii), or (iii) of this  
29 subsection (3), gross income of the business must be attributed to the  
30 state to which the billing statements or invoices are sent to the  
31 customer by the taxpayer.

32 (v) If the taxpayer is unable to attribute gross income of the  
33 business under the provisions of (b)(i), (ii), (iii), or (iv) of this  
34 subsection (3), gross income of the business must be attributed to the  
35 state from which the customer sends payment to the taxpayer.

36 (vi) If the taxpayer is unable to attribute gross income of the  
37 business under the provisions of (b)(i), (ii), (iii), (iv), or (v) of  
38 this subsection (3), gross income of the business must be attributed to

1 the state where the customer is located as indicated by the customer's  
2 address: (A) Shown in the taxpayer's business records maintained in  
3 the regular course of business; or (B) obtained during consummation of  
4 the sale or the negotiation of the contract for services or for the use  
5 of the taxpayer's intangible property, including any address of a  
6 customer's payment instrument when readily available to the taxpayer  
7 and no other address is available.

8 (vii) If the taxpayer is unable to attribute gross income of the  
9 business under the provisions of (b)(i), (ii), (iii), (iv), (v), or  
10 (vi) of this subsection (3), gross income of the business must be  
11 attributed to the commercial domicile of the taxpayer.

12 (viii) For purposes of this subsection (3)(b), "customer" means a  
13 person or entity to whom the taxpayer makes a sale or renders services  
14 or from whom the taxpayer otherwise receives gross income of the  
15 business. "Customer" includes anyone who pays royalties or charges in  
16 the nature of royalties for the use of the taxpayer's intangible  
17 property.

18 (c) Gross income of the business from engaging in an apportionable  
19 activity must be excluded from the denominator of the receipts factor  
20 if, in respect to such activity, at least some of the activity is  
21 performed in this state, and the gross income is attributable under (b)  
22 of this subsection (3) to a state in which the taxpayer is not taxable.  
23 For purposes of this subsection (3)(c), "not taxable" means that the  
24 taxpayer is not subject to a business activities tax by that state,  
25 except that a taxpayer is taxable in a state in which it would be  
26 deemed to have a substantial nexus with that state under the standards  
27 in section 104(1) of this act regardless of whether that state imposes  
28 such a tax. "Business activities tax" means a tax measured by the  
29 amount of, or economic results of, business activity conducted in a  
30 state. The term includes taxes measured in whole or in part on net  
31 income or gross income or receipts. "Business activities tax" does not  
32 include a sales tax, use tax, or a similar transaction tax, imposed on  
33 the sale or acquisition of goods or services, whether or not  
34 denominated a gross receipts tax or a tax imposed on the privilege of  
35 doing business.

36 (d) This subsection (3) does not apply to financial institutions  
37 with respect to apportionable income taxable under RCW 82.04.290.  
38 Financial institutions must calculate the receipts factor as provided



1 in subsection (4) of this section and the rule adopted by the  
2 department under the authority of RCW 82.04.460(2) with respect to  
3 apportionable income taxable under RCW 82.04.290. Financial  
4 institutions that are subject to tax under any other tax classification  
5 enumerated in RCW 82.04.460(4)(a) (i) through (v) and (vii) through (x)  
6 must calculate a separate receipts factor, as provided in this section,  
7 for each of the other tax classifications that the financial  
8 institution is taxable under.

9 (4) A taxpayer may calculate the receipts factor for the current  
10 tax year based on the most recent calendar year for which information  
11 is available for the full calendar year. If a taxpayer does not  
12 calculate the receipts factor for the current tax year based on  
13 previous calendar year information as authorized in this subsection,  
14 the business must use current year information to calculate the  
15 receipts factor for the current tax year. In either case, a taxpayer  
16 must correct the reporting for the current tax year when complete  
17 information is available to calculate the receipts factor for that  
18 year, but not later than October 31st of the following tax year.  
19 Interest will apply to any additional tax due on a corrected tax  
20 return. Interest must be assessed at the rate provided for delinquent  
21 excise taxes under chapter 82.32 RCW, retroactively to the date the  
22 original return was due, and will accrue until the additional taxes are  
23 paid. Penalties as provided in RCW 82.32.090 will apply to any such  
24 additional tax due only if the current tax year reporting is not  
25 corrected and the additional tax is not paid by October 31st of the  
26 following tax year. Interest as provided in RCW 82.32.060 will apply  
27 to any tax paid in excess of that properly due on a return as a result  
28 of a taxpayer using previous calendar year data or incomplete current-  
29 year data to calculate the receipts factor.

30 (5) Unless the context clearly requires otherwise, the definitions  
31 in this subsection apply throughout this section.

32 (a) "Apportionable activities" and "apportionable income" have the  
33 same meaning as in RCW 82.04.460.

34 (b) "State" means a state of the United States, the District of  
35 Columbia, the Commonwealth of Puerto Rico, any territory or possession  
36 of the United States, or any foreign country or political subdivision  
37 of a foreign country.

1           **Sec. 106.** RCW 82.04.2907 and 2009 c 535 s 407 are each amended to  
2 read as follows:

3           (1) Upon every person engaging within this state in the business of  
4 receiving income from royalties (~~(or charges in the nature of royalties~~  
5 ~~for the granting of intangible rights, such as copyrights, licenses,~~  
6 ~~patents, or franchise fees)~~), the amount of tax with respect to  
7 (~~such~~) the business (~~(shall be)~~) is equal to the gross income from  
8 royalties (~~(or charges in the nature of royalties from the business)~~)  
9 multiplied by the rate of 0.484 percent.

10           (2) For the purposes of this section, "gross income from royalties"  
11 means compensation for the use of intangible property, (~~(such as)~~)  
12 including charges in the nature of royalties, regardless of where the  
13 intangible property will be used. For purposes of this subsection,  
14 "intangible property" includes copyrights, patents, licenses,  
15 franchises, trademarks, trade names, and similar items. (~~(It)~~) "Gross  
16 income from royalties" does not include compensation for any natural  
17 resource, the licensing of prewritten computer software to the end  
18 user, or the licensing (~~(or use)~~) of digital goods, digital codes, or  
19 digital automated services to the end user as defined in RCW  
20 82.04.190(11).

21           **Sec. 107.** RCW 82.04.2907 and 2010 c 111 (SHB 2620) s 302 are each  
22 amended to read as follows:

23           (1) Upon every person engaging within this state in the business of  
24 receiving income from royalties (~~(or charges in the nature of royalties~~  
25 ~~for the granting of intangible rights, such as copyrights, licenses,~~  
26 ~~patents, or franchise fees)~~), the amount of tax with respect to the  
27 business is equal to the gross income from royalties (~~(or charges in~~  
28 ~~the nature of royalties from the business)~~) multiplied by the rate of  
29 0.484 percent.

30           (2) For the purposes of this section, "gross income from royalties"  
31 means compensation for the use of intangible property, (~~(such as)~~)  
32 including charges in the nature of royalties, regardless of where the  
33 intangible property will be used. For purposes of this subsection,  
34 "intangible property" includes copyrights, patents, licenses,  
35 franchises, trademarks, trade names, and similar items. (~~(It)~~) "Gross  
36 income from royalties" does not include compensation for any natural

1 resource, the licensing of prewritten computer software to the end  
2 user, or the licensing of digital goods, digital codes, or digital  
3 automated services to the end user as defined in RCW 82.04.190(11).

4 **Sec. 108.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to  
5 read as follows:

6 (1) Except as otherwise provided in this section, any person  
7 ~~((rendering services))~~ earning apportionable income taxable under ~~((RCW~~  
8 ~~82.04.290 or 82.04.2908))~~ this chapter and ~~((maintaining places of~~  
9 ~~business both within and without this state which contribute to the~~  
10 ~~rendition of such services shall))~~ also taxable in another state, must,  
11 for the purpose of computing tax liability under ~~((RCW 82.04.290 or~~  
12 ~~82.04.2908))~~ this chapter, apportion to this state, in accordance with  
13 section 105 of this act, that portion of the person's ~~((gross))~~  
14 apportionable income ~~((which is))~~ derived from ~~((services rendered))~~  
15 business activities performed within this state. ~~((Where such~~  
16 ~~apportionment cannot be accurately made by separate accounting methods,~~  
17 ~~the taxpayer shall apportion to this state that proportion of the~~  
18 ~~taxpayer's total income which the cost of doing business within the~~  
19 ~~state bears to the total cost of doing business both within and without~~  
20 ~~the state.))~~

21 (2) ~~((Notwithstanding the provision of subsection (1) of this~~  
22 ~~section, persons doing business both within and without the state who~~  
23 ~~receive gross income from service charges, as defined in RCW 63.14.010~~  
24 ~~(relating to amounts charged for granting the right or privilege to~~  
25 ~~make deferred or installment payments) or who receive gross income from~~  
26 ~~engaging in business as financial institutions within the scope of~~  
27 ~~chapter 82.14A RCW (relating to city taxes on financial institutions)~~  
28 ~~shall apportion or allocate gross income taxable under RCW 82.04.290 to~~  
29 ~~this state pursuant to rules promulgated by the department consistent~~  
30 ~~with uniform rules for apportionment or allocation developed by the~~  
31 ~~states.))~~ The department must by rule provide a method of apportioning  
32 the apportionable income of financial institutions, where such  
33 apportionable income is taxable under RCW 82.04.290. The rule adopted  
34 by the department must, to the extent feasible, be consistent with the  
35 multistate tax commission's recommended formula for the apportionment  
36 and allocation of net income of financial institutions as existing on

1 the effective date of this section or such subsequent date as may be  
2 provided by the department by rule, consistent with the purposes of  
3 this section, except that:

4 (a) The department's rule must provide for a single factor  
5 apportionment method based on the receipts factor; and

6 (b) The definition of "financial institution" contained in appendix  
7 A to the multistate tax commission's recommended formula for the  
8 apportionment and allocation of net income of financial institutions is  
9 advisory only.

10 (3) The department (~~(shall)~~) may by rule provide a method or  
11 methods of apportioning or allocating gross income derived from sales  
12 of telecommunications service and competitive telephone service(~~(s)~~)  
13 taxed under this chapter, if the gross proceeds of sales subject to tax  
14 under this chapter do not fairly represent the extent of the taxpayer's  
15 income attributable to this state. (~~(The rules shall be, so far as~~  
16 ~~feasible, consistent with the methods of apportionment contained in~~  
17 ~~this section and shall require the consideration of those facts,~~  
18 ~~circumstances, and apportionment factors as will result in an equitable~~  
19 ~~and constitutionally permissible division of the services.)) The rule  
20 must provide for an equitable and constitutionally permissible division  
21 of the tax base.~~

22 (4) For purposes of this section, the following definitions apply  
23 unless the context clearly requires otherwise:

24 (a) "Apportionable income" means gross income of the business  
25 generated from engaging in apportionable activities, including income  
26 received from apportionable activities performed outside this state if  
27 the income would be taxable under this chapter if received from  
28 activities in this state, less the exemptions and deductions allowable  
29 under this chapter. For purposes of this subsection, "apportionable  
30 activities" means only those activities taxed under:

31 (i) RCW 82.04.255;

32 (ii) RCW 82.04.260 (3), (4), (5), (6), (7), (8), (9), and (12);

33 (iii) RCW 82.04.280(5);

34 (iv) RCW 82.04.285;

35 (v) RCW 82.04.286;

36 (vi) RCW 82.04.290;

37 (vii) RCW 82.04.2907;

38 (viii) RCW 82.04.2908;

1 (ix) RCW 82.04.263, but only to the extent of any activity that  
2 would be taxable under any of the provisions enumerated under (a)(i)  
3 through (viii) of this subsection (4) if the tax classification in RCW  
4 82.04.263 did not exist; and

5 (x) RCW 82.04.260(13) and 82.04.280(1), but only with respect to  
6 advertising.

7 (b)(i) "Taxable in another state" means that the taxpayer is  
8 subject to a business activities tax by another state on its income  
9 received from engaging in apportionable activities; or the taxpayer is  
10 not subject to a business activities tax by another state on its income  
11 received from engaging in apportionable activities, but any other state  
12 has jurisdiction to subject the taxpayer to a business activities tax  
13 on such income under the substantial nexus standards in section 104(1)  
14 of this act.

15 (ii) For purposes of this subsection (4)(b), "business activities  
16 tax" and "state" have the same meaning as in section 105 of this act.

17 **Sec. 109.** RCW 82.04.080 and 1961 c 15 s 82.04.080 are each amended  
18 to read as follows:

19 (1) "Gross income of the business" means the value proceeding or  
20 accruing by reason of the transaction of the business engaged in and  
21 includes gross proceeds of sales, compensation for the rendition of  
22 services, gains realized from trading in stocks, bonds, or other  
23 evidences of indebtedness, interest, discount, rents, royalties, fees,  
24 commissions, dividends, and other emoluments however designated, all  
25 without any deduction on account of the cost of tangible property sold,  
26 the cost of materials used, labor costs, interest, discount, delivery  
27 costs, taxes, or any other expense whatsoever paid or accrued and  
28 without any deduction on account of losses.

29 (2) Financial institutions must determine gains realized from  
30 trading in stocks, bonds, and other evidences of indebtedness on a net  
31 annualized basis. For purposes of this subsection, a financial  
32 institution means a person within the scope of the rule adopted by the  
33 department under the authority of RCW 82.04.460(2).

34 NEW SECTION. **Sec. 110.** A new section is added to chapter 82.04  
35 RCW to read as follows:

36 (1) This chapter does not apply to amounts received by a financial

1 institution from an affiliated person if the amounts are received from  
2 transactions that are required to be at arm's length under sections 23A  
3 or 23B of the federal reserve act as existing on the effective date of  
4 this section or such subsequent date as may be provided by the  
5 department by rule, consistent with the purposes of this section. For  
6 purposes of this subsection, "financial institution" has the same  
7 meaning as in RCW 82.04.080.

8 (2) As used in this section, "affiliated" means under common  
9 control. "Common control" means the possession, directly or  
10 indirectly, of more than fifty percent of the power to direct or cause  
11 the direction of the management and policies of a person, whether  
12 through the ownership of voting shares, by contract, or otherwise.

13 NEW SECTION. **Sec. 111.** A new section is added to chapter 82.04  
14 RCW to read as follows:

15 (1) This chapter does not apply to amounts received by investment  
16 conduits or securitization entities from cash and securities.

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

18 (a) "Investment conduit" means an entity formed by a financial  
19 institution as defined in RCW 82.04.080 for the express purpose of  
20 holding or owning cash or securities if the entity formed:

21 (i) Has no employees;

22 (ii) Has no direct profit-making motive;

23 (iii) Owns no tangible assets, other than cash or securities;

24 (iv) Holds or owns cash or securities solely as a conduit,  
25 allocating its income to holders of its ownership interests; and

26 (v) Has, within twelve months of its organization or initial  
27 capitalization date, issued ownership interests to other than  
28 affiliated persons, equal to or greater than twenty-five percent of its  
29 total issued ownership interests.

30 (b) "Securities" has the same meaning as in section 2 of the  
31 securities act of 1933 and includes eligible assets as defined by Rule  
32 3a-7 of the investment company act, as the law and rule exist on the  
33 effective date of this section or such subsequent date as may be  
34 provided by the department by rule, consistent with the purposes of  
35 this section.

36 (c) "Securitization entity" means an entity created by a bank  
37 holding company if the entity created:

- 1 (i) Has no employees;
- 2 (ii) Has no direct profit-making motive;
- 3 (iii) Owns no tangible assets, other than cash, fixed or revolving
- 4 discrete pools of credit or charge card receivables originated by a
- 5 financial institution, or securities;
- 6 (iv) Acts solely as a conduit, allocating its income to holders of
- 7 its ownership interests; and
- 8 (v) Has as its sole business activities the:
- 9 (A) Acquisition of such discrete pools of credit or charge card
- 10 receivables; and
- 11 (B) Issuance or causing the issuance of securities primarily to
- 12 persons not affiliated with the entity.
- 13 (d) "Bank holding company" has the same meaning as provided in the
- 14 bank holding company act of 1956, as existing on the effective date of
- 15 this section or such subsequent date as may be provided by the
- 16 department by rule, consistent with the purposes of this section.
- 17 (e) "No direct profit-making motive" means that all of an entity's
- 18 income, less a reasonable servicing fee, is paid to holders of its
- 19 ownership interests.
- 20 (f) "Ownership interest" means interests categorized as debt or
- 21 equity for purposes of federal tax or generally accepted accounting
- 22 principles.
- 23 (g) "Affiliated" has the same meaning as in section 110 of this
- 24 act.

25 NEW SECTION. **Sec. 112.** A new section is added to chapter 82.04

26 RCW to read as follows:

27 (1) In computing tax there may be deducted from the measure of tax

28 interest and fees on loans secured by commercial aircraft primarily

29 used to provide routine air service and owned by:

30 (a) An air carrier, as defined in RCW 82.42.030, which is primarily

31 engaged in the business of providing passenger air service;

32 (b) An affiliate of such air carrier; or

33 (c) A parent entity for which such air carrier is an affiliate.

34 (2) The deduction authorized under this section is not available to

35 any person who is physically present in this state as determined under

36 section 104(6) of this act.

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

- 1 (a) "Affiliate" means a person is "affiliated," as defined in  
2 section 110 of this act, with another person; and  
3 (b) "Commercial aircraft" means a commercial airplane as defined in  
4 RCW 82.32.550.

5 **PART II**

6 **Tax Avoidance Transactions**

7 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.32  
8 RCW to read as follows:

9 (1) It is the legislature's intent to require all taxpayers to pay  
10 their fair share of taxes. To accomplish this purpose, it is the  
11 legislature's intent to stop transactions or arrangements that are  
12 designed to unfairly avoid taxes.

13 (2) The department must disregard, for tax purposes, the tax  
14 avoidance transactions or arrangements that are described in subsection  
15 (3) of this section. The department must deny the tax benefit that  
16 would otherwise result from the tax avoidance transaction or  
17 arrangement. In determining whether the department must disregard a  
18 transaction or arrangement described under subsection (3) of this  
19 section, the department may consider:

20 (a) Whether an arrangement or transaction changes in a meaningful  
21 way, apart from its tax effects, the economic positions of the  
22 participants in the arrangement when considered as a whole;

23 (b) Whether substantial nontax reasons exist for entering into an  
24 arrangement or transaction;

25 (c) Whether an arrangement or transaction is a reasonable means of  
26 accomplishing a substantial nontax purpose;

27 (d) An entities' relative contributions to the work that generates  
28 income;

29 (e) The location where work is performed; and

30 (f) Other relevant factors.

31 (3) This section applies only to the following transactions or  
32 arrangements:

33 (a) Arrangements that are, in form, a joint venture or similar  
34 arrangement between a construction contractor and the owner or  
35 developer of a construction project but that are, in substance,  
36 substantially guaranteed payments for the purchase of construction



1 services characterized by a failure of the parties' agreement to  
2 provide for the contractor to share substantial profits and bear  
3 significant risk of loss in the venture;

4 (b) Arrangements through which a taxpayer attempts to avoid tax  
5 under chapter 82.04 RCW by disguising income received, or otherwise  
6 avoiding tax on income, from a person that is not affiliated with the  
7 taxpayer from business activities that would be taxable in Washington  
8 by moving that income to another entity that would not be taxable in  
9 Washington; and

10 (c) Arrangements through which a taxpayer attempts to avoid tax  
11 under chapter 82.08 or 82.12 RCW by engaging in a transaction to  
12 disguise its purchase or use of tangible personal property by vesting  
13 legal title or other ownership interest in another entity over which  
14 the taxpayer exercises control in such a manner as to effectively  
15 retain control of the tangible personal property.

16 (4) In determining whether a transaction or arrangement comes  
17 within the scope of subsection (3) of this section, the department is  
18 not required to prove a taxpayer's subjective intent in engaging in the  
19 transaction or arrangement.

20 (5) The department must adopt rules to assist in determining  
21 whether a transaction or arrangement is within the scope of subsection  
22 (3) of this section. The adoption of a rule as required under this  
23 subsection is not a condition precedent for the department's exercise  
24 of the authority provided in this section. Any rules adopted under  
25 this section must include examples of transactions that the department  
26 will disregard for tax purposes.

27 (6) This section does not affect the department's authority to  
28 apply any other remedies available under statutory or common law.

29 (7) For purposes of this section, "affiliated" means under common  
30 control. "Control" means the possession, directly or indirectly, of  
31 more than fifty percent of the power to direct or cause the direction  
32 of the management and policies of a person, whether through the  
33 ownership of voting shares, by contract, or otherwise.

34 NEW SECTION. **Sec. 202.** A new section is added to chapter 82.32  
35 RCW to read as follows:

36 (1)(a) The department may not use section 201 of this act to  
37 disregard any transaction or arrangement initiated before the effective

1 date of this section, if, in respect to such transaction or  
2 arrangement, the taxpayer had reported its tax liability in conformance  
3 with either specific written instructions provided by the department to  
4 the taxpayer, a determination published under the authority of RCW  
5 82.32.410, or other document made available by the department to the  
6 general public.

7 (b) This section does not apply if the transaction or arrangement  
8 engaged in by the taxpayer differs materially from the transaction or  
9 arrangement that was addressed in the specific written instructions,  
10 published determination, or other document made available by the  
11 department to the general public.

12 (2) Section 201 of this act does not apply to any tax periods  
13 ending before May 1, 2010, that were included in a completed field  
14 audit conducted by the department.

15 (3) For purposes of this section, "specific written instructions"  
16 means tax reporting instructions provided to a taxpayer and which  
17 specifically identify the taxpayer to whom the instructions apply.  
18 Specific written instructions may be provided as part of an audit, tax  
19 assessment, determination, closing agreement, or in response to a  
20 binding ruling request.

21 **Sec. 203.** RCW 82.32.090 and 2006 c 256 s 6 are each amended to  
22 read as follows:

23 (1) If payment of any tax due on a return to be filed by a taxpayer  
24 is not received by the department of revenue by the due date, there  
25 (~~shall be~~) is assessed a penalty of five percent of the amount of the  
26 tax; and if the tax is not received on or before the last day of the  
27 month following the due date, there (~~shall be~~) is assessed a total  
28 penalty of fifteen percent of the amount of the tax under this  
29 subsection; and if the tax is not received on or before the last day of  
30 the second month following the due date, there (~~shall be~~) is assessed  
31 a total penalty of twenty-five percent of the amount of the tax under  
32 this subsection. No penalty so added shall be less than five dollars.

33 (2) If the department of revenue determines that any tax has been  
34 substantially underpaid, there (~~shall be~~) is assessed a penalty of  
35 five percent of the amount of the tax determined by the department to  
36 be due. If payment of any tax determined by the department to be due  
37 is not received by the department by the due date specified in the

1 notice, or any extension thereof, there (~~shall be~~) is assessed a  
2 total penalty of fifteen percent of the amount of the tax under this  
3 subsection; and if payment of any tax determined by the department to  
4 be due is not received on or before the thirtieth day following the due  
5 date specified in the notice of tax due, or any extension thereof,  
6 there (~~shall be~~) is assessed a total penalty of twenty-five percent  
7 of the amount of the tax under this subsection. No penalty so added  
8 (~~shall~~) may be less than five dollars. As used in this section,  
9 "substantially underpaid" means that the taxpayer has paid less than  
10 eighty percent of the amount of tax determined by the department to be  
11 due for all of the types of taxes included in, and for the entire  
12 period of time covered by, the department's examination, and the amount  
13 of underpayment is at least one thousand dollars.

14 (3) If a warrant (~~be~~) is issued by the department of revenue for  
15 the collection of taxes, increases, and penalties, there (~~shall be~~)  
16 is added thereto a penalty of ten percent of the amount of the tax, but  
17 not less than ten dollars.

18 (4) If the department finds that a person has engaged in any  
19 business or performed any act upon which a tax is imposed under this  
20 title and that person has not obtained from the department a  
21 registration certificate as required by RCW 82.32.030, the department  
22 (~~shall~~) must impose a penalty of five percent of the amount of tax  
23 due from that person for the period that the person was not registered  
24 as required by RCW 82.32.030. The department (~~shall~~) may not impose  
25 the penalty under this subsection (4) if a person who has engaged in  
26 business taxable under this title without first having registered as  
27 required by RCW 82.32.030, prior to any notification by the department  
28 of the need to register, obtains a registration certificate from the  
29 department.

30 (5) If the department finds that all or any part of a deficiency  
31 resulted from the disregard of specific written instructions as to  
32 reporting or tax liabilities, the department (~~shall~~) must add a  
33 penalty of ten percent of the amount of the additional tax found due  
34 because of the failure to follow the instructions. A taxpayer  
35 disregards specific written instructions when the department (~~of~~  
36 ~~revenue~~) has informed the taxpayer in writing of the taxpayer's tax  
37 obligations and the taxpayer fails to act in accordance with those  
38 instructions unless the department has not issued final instructions

1 because the matter is under appeal pursuant to this chapter or  
2 departmental regulations. The department (~~shall~~) may not assess the  
3 penalty under this section upon any taxpayer who has made a good faith  
4 effort to comply with the specific written instructions provided by the  
5 department to that taxpayer. Specific written instructions may be  
6 given as a part of a tax assessment, audit, determination, or closing  
7 agreement, provided that such specific written instructions (~~shall~~)  
8 apply only to the taxpayer addressed or referenced on such documents.  
9 Any specific written instructions by the department (~~of revenue~~  
10 ~~shall~~) must be clearly identified as such and (~~shall~~) must inform  
11 the taxpayer that failure to follow the instructions may subject the  
12 taxpayer to the penalties imposed by this subsection.

13 (6) If the department finds that all or any part of a deficiency  
14 resulted from engaging in a disregarded transaction, as described in  
15 section 201(3) of this act, the department must assess a penalty of  
16 thirty-five percent of the additional tax found to be due as a result  
17 of engaging in a transaction disregarded by the department under  
18 section 201(2) of this act. The penalty provided in this subsection  
19 may be assessed together with any other applicable penalties provided  
20 in this section on the same tax found to be due, except for the evasion  
21 penalty provided in subsection (7) of this section. The department may  
22 not assess the penalty under this subsection if, before the department  
23 discovers the taxpayer's use of a transaction described under section  
24 201(3) of this act, the taxpayer discloses its participation in the  
25 transaction to the department.

26 (7) If the department finds that all or any part of the deficiency  
27 resulted from an intent to evade the tax payable hereunder, a further  
28 penalty of fifty percent of the additional tax found to be due  
29 (~~shall~~) must be added.

30 (~~(7)~~) (8) The penalties imposed under subsections (1) through (4)  
31 of this section can each be imposed on the same tax found to be due.  
32 This subsection does not prohibit or restrict the application of other  
33 penalties authorized by law.

34 (~~(8)~~) (9) The department (~~of revenue~~) may not impose (~~both~~)  
35 the evasion penalty (~~and~~) in combination with the penalty for  
36 disregarding specific written instructions or the penalty provided in  
37 subsection (6) of this section on the same tax found to be due.

1       (~~(9)~~) (10) For the purposes of this section, "return" means any  
2 document a person is required by the state of Washington to file to  
3 satisfy or establish a tax or fee obligation that is administered or  
4 collected by the department (~~(of revenue)~~), and that has a statutorily  
5 defined due date.

6       NEW SECTION.   **Sec. 204.** A new section is added to chapter 82.32  
7 RCW to read as follows:

8       There is hereby created a joint tax avoidance review committee  
9 which is a bipartisan committee consisting of three members of the  
10 senate, two from the majority caucus and one from the minority caucus,  
11 and three members of the house of representatives, two from the  
12 majority caucus and one from the minority caucus. The senate members  
13 of the committee must be appointed by the majority leader of the  
14 senate, and the house members of the committee must be appointed by the  
15 speaker of the house. The appointing authorities must also appoint one  
16 alternate member from each of the two largest caucuses of each  
17 legislative chamber.

18       (1)(a) Members and alternates must be appointed as soon as possible  
19 after the effective date of this section, and their terms continue  
20 until such persons no longer wish to serve on the committee or no  
21 longer serve in the legislature, whichever occurs first.

22       (b) A vacancy must be filled by the appointment of a legislator  
23 from the same legislative chamber and caucus as the original  
24 appointment. The appropriate appointing authority must make the  
25 appointment within thirty days of the vacancy occurring. Former  
26 committee members and alternates may be reappointed to the committee.

27       (2) The committee must choose its chair and vice-chair from among  
28 its membership. The committee meets at the call of the chair. The  
29 chair of the committee must cause all meeting notices and committee  
30 documents to be sent to the committee members and alternates.

31       (3) Staff support for the committee must be provided by the senate  
32 committee services and the house of representatives office of program  
33 research.

34       (4) The committee must:

35       (a) Generally monitor the department's implementation of Part II of  
36 this act, providing timely advice to the department in any rule making

1 undertaken pursuant to the authority granted under section 201 of this  
2 act;

3 (b) Seek input from stakeholders and other legislators as the  
4 committee may determine is desirable and useful in the furtherance of  
5 its mission herein described;

6 (c) Review other cases, identified by the department, of tax  
7 avoidance transactions not described in section 201 of this act that  
8 may represent examples of arrangements that circumvent the policies of  
9 this state and thus unfairly avoid taxes;

10 (d) Consider the need for an explicit statutory construction  
11 standard to provide direction to the courts on the interpretation of  
12 Part II of this act; and

13 (e) Provide a report to the fiscal committees of the house of  
14 representatives and senate by December 31, 2010, which must include:

15 (i) Recommended legislation on any matters that the committee deems  
16 advisable, including amendments to sections 201, 202, and 203 of this  
17 act; and

18 (ii) Recommendations for future legislative oversight of the  
19 department's implementation of sections 201, 202, and 203 of this act.

20 (5) For the purposes of this section, the disclosure of otherwise  
21 confidential tax information to the members of the committee is deemed  
22 to fall within the exception provided by RCW 82.32.330(3)(d).

23 (6) This section expires July 1, 2011.

24 NEW SECTION. **Sec. 205.** (1) The legislature finds that this  
25 state's tax policy with respect to the taxation of transactions between  
26 affiliated entities and the income derived from such transactions  
27 (intercompany transactions) has motivated some taxpayers to engage in  
28 transactions designed solely or primarily to minimize the tax effects  
29 of intercompany transactions. The legislature further finds that some  
30 intercompany transactions result from taxpayers that are required to  
31 establish affiliated entities to comply with regulatory mandates and  
32 that transactions between such affiliates effectively increases the tax  
33 burden in this state on the affiliated group of entities.

34 (2) Therefore, as existing resources allow, the department of  
35 revenue is directed to conduct a review of the state's tax policy with  
36 respect to the taxation of intercompany transactions. The review must

1 include the impacts of such transactions under the state's business and  
2 occupation tax and state and local sales and use taxes. The department  
3 may include other taxes in the review as it deems appropriate.

4 (3) In conducting the review, the department must examine how this  
5 state's tax policy compares to the tax policy of other states with  
6 respect to the taxation of intercompany transactions. The department's  
7 review must include an analysis of potential alternatives to the  
8 current policy of taxing intercompany transactions, including their  
9 estimated revenue impacts if practicable.

10 (4) In conducting this review, the department may seek input from  
11 members of the business community and others as it deems appropriate.

12 (5) The department must report its findings to the fiscal  
13 committees of the house of representatives and senate by December 1,  
14 2010. However, if the department has not completed its review by  
15 December 1, 2010, the department must provide the fiscal committees of  
16 the legislature with a brief status report by December 1, 2010, and the  
17 final report by December 1, 2011.

18 **Sec. 206.** RCW 82.12.020 and 2009 c 535 s 305 are each amended to  
19 read as follows:

20 (1) There is ~~((hereby))~~ levied and ~~((there shall be))~~ collected  
21 from every person in this state a tax or excise for the privilege of  
22 using within this state as a consumer any:

23 (a) Article of tangible personal property ~~((purchased at retail,~~  
24 ~~or))~~ acquired by ~~((lease, gift, repossession, or bailment, or extracted~~  
25 ~~or produced or manufactured by the person so using the same, or~~  
26 ~~otherwise furnished to a person engaged in any business taxable under~~  
27 ~~RCW 82.04.280 (2) or (7))~~ the user in any manner, including tangible  
28 personal property acquired at a casual or isolated sale, and including  
29 by-products used by the manufacturer thereof, except as otherwise  
30 provided in this chapter, irrespective of whether the article or  
31 similar articles are manufactured or are available for purchase within  
32 this state;

33 (b) Prewritten computer software, regardless of the method of  
34 delivery, but excluding prewritten computer software that is either  
35 provided free of charge or is provided for temporary use in viewing  
36 information, or both;

1 (c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or  
2 (g), (3)(a), or (6)(b), excluding services defined as a retail sale in  
3 RCW 82.04.050(6)(b) that are provided free of charge;

4 (d) Extended warranty; or

5 (e)(i) Digital good, digital code, or digital automated service,  
6 including the use of any services provided by a seller exclusively in  
7 connection with digital goods, digital codes, or digital automated  
8 services, whether or not a separate charge is made for such services.

9 (ii) With respect to the use of digital goods, digital automated  
10 services, and digital codes acquired by purchase, the tax imposed in  
11 this subsection (1)(e) applies in respect to:

12 (A) Sales in which the seller has granted the purchaser the right  
13 of permanent use;

14 (B) Sales in which the seller has granted the purchaser a right of  
15 use that is less than permanent;

16 (C) Sales in which the purchaser is not obligated to make continued  
17 payment as a condition of the sale; and

18 (D) Sales in which the purchaser is obligated to make continued  
19 payment as a condition of the sale.

20 (iii) With respect to digital goods, digital automated services,  
21 and digital codes acquired other than by purchase, the tax imposed in  
22 this subsection (1)(e) applies regardless of whether or not the  
23 consumer has a right of permanent use or is obligated to make continued  
24 payment as a condition of use.

25 (2) The provisions of this chapter do not apply in respect to the  
26 use of any article of tangible personal property, extended warranty,  
27 digital good, digital code, digital automated service, or service  
28 taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), if the  
29 sale to, or the use by, the present user or the present user's bailor  
30 or donor has already been subjected to the tax under chapter 82.08 RCW  
31 or this chapter and the tax has been paid by the present user or by the  
32 present user's bailor or donor.

33 (3)(a) Except as provided in this section, payment of the tax  
34 imposed by this chapter or chapter 82.08 RCW by one purchaser or user  
35 of tangible personal property, extended warranty, digital good, digital  
36 code, digital automated service, or other service does not have the  
37 effect of exempting any other purchaser or user of the same property,



1 extended warranty, digital good, digital code, digital automated  
2 service, or other service from the taxes imposed by such chapters.

3 (b) The tax imposed by this chapter does not apply:

4 (i) If the sale to, or the use by, the present user or his or her  
5 bailor or donor has already been subjected to the tax under chapter  
6 82.08 RCW or this chapter and the tax has been paid by the present user  
7 or by his or her bailor or donor;

8 (ii) In respect to the use of any article of tangible personal  
9 property acquired by bailment and the tax has once been paid based on  
10 reasonable rental as determined by RCW 82.12.060 measured by the value  
11 of the article at time of first use multiplied by the tax rate imposed  
12 by chapter 82.08 RCW or this chapter as of the time of first use;

13 (iii) In respect to the use of any article of tangible personal  
14 property acquired by bailment, if the property was acquired by a  
15 previous bailee from the same bailor for use in the same general  
16 activity and the original bailment was prior to June 9, 1961; or

17 (iv) To the use of digital goods or digital automated services,  
18 which were obtained through the use of a digital code, if the sale of  
19 the digital code to, or the use of the digital code by, the present  
20 user or the present user's bailor or donor has already been subjected  
21 to the tax under chapter 82.08 RCW or this chapter and the tax has been  
22 paid by the present user or by the present user's bailor or donor.

23 (4)(a) Except as provided in (b) of this subsection (4), the tax is  
24 levied and must be collected in an amount equal to the value of the  
25 article used, value of the digital good or digital code used, value of  
26 the extended warranty used, or value of the service used by the  
27 taxpayer, multiplied by the applicable rates in effect for the retail  
28 sales tax under RCW 82.08.020.

29 (b) In the case of a seller required to collect use tax from the  
30 purchaser, the tax must be collected in an amount equal to the purchase  
31 price multiplied by the applicable rate in effect for the retail sales  
32 tax under RCW 82.08.020.

33 (5) For purposes of the tax imposed in this section, "person"  
34 includes anyone within the definition of "buyer," "purchaser," and  
35 "consumer" in RCW 82.08.010.

36 **Sec. 207.** RCW 82.45.010 and 2008 c 116 s 3 and 2008 c 6 s 701 are  
37 each reenacted and amended to read as follows:

1 (1) As used in this chapter, the term "sale" (~~((shall have))~~) has its  
2 ordinary meaning and (~~((shall))~~) includes any conveyance, grant,  
3 assignment, quitclaim, or transfer of the ownership of or title to real  
4 property, including standing timber, or any estate or interest therein  
5 for a valuable consideration, and any contract for such conveyance,  
6 grant, assignment, quitclaim, or transfer, and any lease with an option  
7 to purchase real property, including standing timber, or any estate or  
8 interest therein or other contract under which possession of the  
9 property is given to the purchaser, or any other person at the  
10 purchaser's direction, and title to the property is retained by the  
11 vendor as security for the payment of the purchase price. The term  
12 also includes the grant, assignment, quitclaim, sale, or transfer of  
13 improvements constructed upon leased land.

14 (2)(a) The term "sale" also includes the transfer or acquisition  
15 within any twelve-month period of a controlling interest in any entity  
16 with an interest in real property located in this state for a valuable  
17 consideration.

18 (b) For the sole purpose of determining whether, pursuant to the  
19 exercise of an option, a controlling interest was transferred or  
20 acquired within a twelve-month period, the date that the option  
21 agreement was executed is the date on which the transfer or acquisition  
22 of the controlling interest is deemed to occur. For all other purposes  
23 under this chapter, the date upon which the option is exercised is the  
24 date of the transfer or acquisition of the controlling interest.

25 (c) For purposes of this subsection, all acquisitions of persons  
26 acting in concert (~~((shall))~~) must be aggregated for purposes of  
27 determining whether a transfer or acquisition of a controlling interest  
28 has taken place. The department (~~((of revenue shall))~~) must adopt  
29 standards by rule to determine when persons are acting in concert. In  
30 adopting a rule for this purpose, the department (~~((shall))~~) must  
31 consider the following:

32 (~~((+a))~~) (i) Persons (~~((shall))~~) must be treated as acting in concert  
33 when they have a relationship with each other such that one person  
34 influences or controls the actions of another through common ownership;  
35 and

36 (~~((+b))~~) (ii) When persons are not commonly owned or controlled,  
37 they (~~((shall))~~) must be treated as acting in concert only when the unity  
38 with which the purchasers have negotiated and will consummate the

1 transfer of ownership interests supports a finding that they are acting  
2 as a single entity. If the acquisitions are completely independent,  
3 with each purchaser buying without regard to the identity of the other  
4 purchasers, then the acquisitions (~~(shall be)~~) are considered separate  
5 acquisitions.

6 (3) The term "sale" (~~(shall)~~) does not include:

7 (a) A transfer by gift, devise, or inheritance.

8 (b) A transfer of any leasehold interest other than of the type  
9 mentioned above.

10 (c) A cancellation or forfeiture of a vendee's interest in a  
11 contract for the sale of real property, whether or not such contract  
12 contains a forfeiture clause, or deed in lieu of foreclosure of a  
13 mortgage.

14 (d) The partition of property by tenants in common by agreement or  
15 as the result of a court decree.

16 (e) The assignment of property or interest in property from one  
17 spouse or one domestic partner to the other spouse or other domestic  
18 partner in accordance with the terms of a decree of dissolution of  
19 marriage or state registered domestic partnership or in fulfillment of  
20 a property settlement agreement.

21 (f) The assignment or other transfer of a vendor's interest in a  
22 contract for the sale of real property, even though accompanied by a  
23 conveyance of the vendor's interest in the real property involved.

24 (g) Transfers by appropriation or decree in condemnation  
25 proceedings brought by the United States, the state or any political  
26 subdivision thereof, or a municipal corporation.

27 (h) A mortgage or other transfer of an interest in real property  
28 merely to secure a debt, or the assignment thereof.

29 (i) Any transfer or conveyance made pursuant to a deed of trust or  
30 an order of sale by the court in any mortgage, deed of trust, or lien  
31 foreclosure proceeding or upon execution of a judgment, or deed in lieu  
32 of foreclosure to satisfy a mortgage or deed of trust.

33 (j) A conveyance to the federal housing administration or veterans  
34 administration by an authorized mortgagee made pursuant to a contract  
35 of insurance or guaranty with the federal housing administration or  
36 veterans administration.

37 (k) A transfer in compliance with the terms of any lease or

1 contract upon which the tax as imposed by this chapter has been paid or  
2 where the lease or contract was entered into prior to the date this tax  
3 was first imposed.

4 (l) The sale of any grave or lot in an established cemetery.

5 (m) A sale by the United States, this state or any political  
6 subdivision thereof, or a municipal corporation of this state.

7 (n) A sale to a regional transit authority or public corporation  
8 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
9 81.112.300.

10 (o) A transfer of real property, however effected, if it consists  
11 of a mere change in identity or form of ownership of an entity where  
12 there is no change in the beneficial ownership. These include  
13 transfers to a corporation or partnership which is wholly owned by the  
14 transferor and/or the transferor's spouse or domestic partner or  
15 children of the transferor or the transferor's spouse or domestic  
16 partner(~~(:—PROVIDED, That)~~). However, if thereafter such transferee  
17 corporation or partnership voluntarily transfers such real property, or  
18 such transferor, spouse or domestic partner, or children of the  
19 transferor or the transferor's spouse or domestic partner voluntarily  
20 transfer stock in the transferee corporation or interest in the  
21 transferee partnership capital, as the case may be, to other than  
22 ~~((+1))~~ (i) the transferor and/or the transferor's spouse or domestic  
23 partner or children of the transferor or the transferor's spouse or  
24 domestic partner, ~~((+2))~~ (ii) a trust having the transferor and/or the  
25 transferor's spouse or domestic partner or children of the transferor  
26 or the transferor's spouse or domestic partner as the only  
27 beneficiaries at the time of the transfer to the trust, or ~~((+3))~~  
28 (iii) a corporation or partnership wholly owned by the original  
29 transferor and/or the transferor's spouse or domestic partner or  
30 children of the transferor or the transferor's spouse or domestic  
31 partner, within three years of the original transfer to which this  
32 exemption applies, and the tax on the subsequent transfer has not been  
33 paid within sixty days of becoming due, excise taxes ~~((shall))~~ become  
34 due and payable on the original transfer as otherwise provided by law.

35 (p)(i) A transfer that for federal income tax purposes does not  
36 involve the recognition of gain or loss for entity formation,  
37 liquidation or dissolution, and reorganization, including but not

1 limited to nonrecognition of gain or loss because of application of  
2 (~~section~~) 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the  
3 internal revenue code of 1986, as amended.

4 (ii) However, the transfer described in (p)(i) of this subsection  
5 cannot be preceded or followed within a twelve-month period by another  
6 transfer or series of transfers, that, when combined with the otherwise  
7 exempt transfer or transfers described in (p)(i) of this subsection,  
8 results in the transfer of a controlling interest in the entity for  
9 valuable consideration, and in which one or more persons previously  
10 holding a controlling interest in the entity receive cash or property  
11 in exchange for any interest the person or persons acting in concert  
12 hold in the entity. This subsection (3)(p)(ii) does not apply to that  
13 part of the transfer involving property received that is the real  
14 property interest that the person or persons originally contributed to  
15 the entity or when one or more persons who did not contribute real  
16 property or belong to the entity at a time when real property was  
17 purchased receive cash or personal property in exchange for that person  
18 or persons' interest in the entity. The real estate excise tax under  
19 this subsection (3)(p)(ii) is imposed upon the person or persons who  
20 previously held a controlling interest in the entity.

21 (q) A qualified sale of a manufactured/mobile home community, as  
22 defined in RCW 59.20.030, that takes place on or after June 12, 2008,  
23 but before December 31, 2018.

24 **Sec. 208.** RCW 82.45.033 and 1993 sp.s. c 25 s 505 are each amended  
25 to read as follows:

26 (1) As used in this chapter, the term "controlling interest" has  
27 the following meaning:

28 (~~(1)~~) (a) In the case of a corporation, either fifty percent or  
29 more of the total combined voting power of all classes of stock of the  
30 corporation entitled to vote, or fifty percent of the capital, profits,  
31 or beneficial interest in the voting stock of the corporation; and

32 (~~(2)~~) (b) In the case of a partnership, association, trust, or  
33 other entity, fifty percent or more of the capital, profits, or  
34 beneficial interest in such partnership, association, trust, or other  
35 entity.

36 (2) The department may, at the department's option, enforce the

1 obligation of the seller under this chapter as provided in this  
2 subsection (2):

3 (a) In the transfer or acquisition of a controlling interest as  
4 defined in subsection (1)(a) of this section, either against the  
5 corporation in which a controlling interest is transferred or acquired,  
6 against the person or persons who acquired the controlling interest in  
7 the corporation or, when the corporation is not a publicly traded  
8 company, against the person or persons who transferred the controlling  
9 interest in the corporation; and

10 (b) In the transfer or acquisition of a controlling interest as  
11 defined in subsection (1)(b) of this section, either against the entity  
12 in which a controlling interest is transferred or acquired or against  
13 the person or persons who transferred or acquired the controlling  
14 interest in the entity.

15 **Sec. 209.** RCW 82.45.070 and 1969 ex.s. c 223 s 28A.45.070 are each  
16 amended to read as follows:

17 The tax (~~herein~~) provided for in this chapter and any interest or  
18 penalties thereon (~~shall be~~) is a specific lien upon each (~~piece~~)  
19 parcel of real property located in this state that is either sold or  
20 that is owned by an entity in which a controlling interest has been  
21 transferred or acquired. The lien attaches from the time of sale until  
22 the tax (~~shall have been~~) is paid, which lien may be enforced in the  
23 manner prescribed for the foreclosure of mortgages.

24 **Sec. 210.** RCW 82.45.080 and 1980 c 154 s 3 are each amended to  
25 read as follows:

26 (1) The tax levied under this chapter (~~shall be~~) is the  
27 obligation of the seller and the department (~~of revenue~~) may, at the  
28 department's option, enforce the obligation through an action of debt  
29 against the seller or the department may proceed in the manner  
30 prescribed for the foreclosure of mortgages (~~and resort to~~). The  
31 department's use of one course of enforcement (~~shall~~) is not (~~be~~)  
32 an election not to pursue the other.

33 (2) For purposes of this section and notwithstanding any other  
34 provisions of law, the seller is the parent corporation of a wholly  
35 owned subsidiary, when such subsidiary is the transferor to a third-

1 party transferee and the subsidiary is dissolved before paying the tax  
2 imposed under this chapter.

3 **Sec. 211.** RCW 82.45.100 and 2007 c 111 s 112 are each amended to  
4 read as follows:

5 (1) Payment of the tax imposed under this chapter is due and  
6 payable immediately at the time of sale, and if not paid within one  
7 month thereafter (~~shall~~) will bear interest from the time of sale  
8 until the date of payment.

9 (a) Interest imposed before January 1, 1999, (~~shall-be~~) is  
10 computed at the rate of one percent per month.

11 (b) Interest imposed after December 31, 1998, (~~shall-be~~) is  
12 computed on a monthly basis at the rate as computed under RCW  
13 82.32.050(2). The rate so computed (~~shall~~) must be adjusted on the  
14 first day of January of each year for use in computing interest for  
15 that calendar year. The department (~~of revenue shall~~) must provide  
16 written notification to the county treasurers of the variable rate on  
17 or before December 1st of the year preceding the calendar year in which  
18 the rate applies.

19 (2) In addition to the interest described in subsection (1) of this  
20 section, if the payment of any tax is not received by the county  
21 treasurer or the department of revenue, as the case may be, within one  
22 month of the date due, there (~~shall-be~~) is assessed a penalty of five  
23 percent of the amount of the tax; if the tax is not received within two  
24 months of the date due, there (~~shall~~) will be assessed a total  
25 penalty of ten percent of the amount of the tax; and if the tax is not  
26 received within three months of the date due, there (~~shall~~) will be  
27 assessed a total penalty of twenty percent of the amount of the tax.  
28 The payment of the penalty described in this subsection (~~shall-be~~) is  
29 collectible from the seller only, and RCW 82.45.070 does not apply to  
30 the penalties described in this subsection.

31 (3) If the tax imposed under this chapter is not received by the  
32 due date, the transferee (~~shall-be~~) is personally liable for the tax,  
33 along with any interest as provided in subsection (1) of this section,  
34 unless(~~+~~

35 ~~a~~) an instrument evidencing the sale is recorded in the official  
36 real property records of the county in which the property conveyed is  
37 located(~~;-or~~

1 ~~(b) Either the transferor or transferee notifies the department of~~  
2 ~~revenue in writing of the occurrence of the sale within thirty days~~  
3 ~~following the date of the sale)).~~

4 (4) If upon examination of any affidavits or from other information  
5 obtained by the department or its agents it appears that all or a  
6 portion of the tax is unpaid, the department (~~shall~~) must assess  
7 against the taxpayer the additional amount found to be due plus  
8 interest and penalties as provided in subsections (1) and (2) of this  
9 section. The department (~~shall~~) must notify the taxpayer by mail, or  
10 electronically as provided in RCW 82.32.135, of the additional amount  
11 and the same (~~shall~~) becomes due and (~~shall~~) must be paid within  
12 thirty days from the date of the notice, or within such further time as  
13 the department may provide.

14 (5) No assessment or refund may be made by the department more than  
15 four years after the date of sale except upon a showing of:

16 (a) Fraud or misrepresentation of a material fact by the taxpayer;

17 (b) A failure by the taxpayer to record documentation of a sale or  
18 otherwise report the sale to the county treasurer; or

19 (c) A failure of the transferor or transferee to report the sale  
20 under RCW 82.45.090(2).

21 (6) Penalties collected on taxes due under this chapter under  
22 subsection (2) of this section and RCW 82.32.090 (2) through (~~(+7)~~)  
23 (8) (~~shall~~) must be deposited in the housing trust fund as described  
24 in chapter 43.185 RCW.

25 **Sec. 212.** RCW 82.45.220 and 2005 c 326 s 3 are each amended to  
26 read as follows:

27 (1) An organization that fails to report a transfer of the  
28 controlling interest in the organization under RCW 43.07.390 to the  
29 secretary of state and is later determined to be subject to real estate  
30 excise taxes due to the transfer, (~~shall-be~~) is subject to the  
31 provisions of RCW 82.45.100 as well as the evasion penalty in RCW  
32 82.32.090(~~(+6)~~) (7).

33 (2) Subsection (1) of this section also applies to the failure to  
34 report to the secretary of state the granting of an option to acquire  
35 an interest in the organization if the exercise of the option would  
36 result in a sale as defined in RCW 82.45.010(2).





1 (a) Fees for specific services such as: Document preparation fees;  
2 finder fees; brokerage fees; title examination fees; fees for credit  
3 checks; notary fees; loan application fees; interest lock-in fees if  
4 the loan is not made; servicing fees; and similar fees or amounts;

5 (b) Fees received in consideration for an agreement to make funds  
6 available for a specific period of time at specified terms, commonly  
7 referred to as commitment fees;

8 (c) Any other fees, or portion of a fee, that is not recognized  
9 over the life of the loan as an adjustment to yield in the taxpayer's  
10 books and records according to generally accepted accounting  
11 principles;

12 (d) Gains on the sale of valuable rights such as service release  
13 premiums, which are amounts received when servicing rights are sold;  
14 and

15 (e) Gains on the sale of loans, except deferred loan origination  
16 fees and points deductible under subsection (2) of this section, are  
17 not to be considered part of the proceeds of sale of the loan.

18 (4) Notwithstanding subsection (3) of this section, in computing  
19 tax there may be deducted from the measure of tax by those engaged in  
20 banking, loan, security, or other financial businesses, amounts  
21 received for servicing loans primarily secured by first mortgages or  
22 trust deeds on nontransient residential properties, including such  
23 loans that secure mortgage-backed or mortgage-related securities, but  
24 only if:

25 (a)(i) The loans were originated by the person claiming a deduction  
26 under this subsection (4) and that person either sold the loans on the  
27 secondary market or securitized the loans and sold the securities on  
28 the secondary market; or

29 (ii)(A) The person claiming a deduction under this subsection (4)  
30 acquired the loans from the person that originated the loans through a  
31 merger or acquisition of substantially all of the assets of the person  
32 who originated the loans, or the person claiming a deduction under this  
33 subsection (4) is affiliated with the person that originated the loans.  
34 For purposes of this subsection, "affiliated" means under common  
35 control. "Control" means the possession, directly or indirectly, of  
36 more than fifty percent of the power to direct or cause the direction  
37 of the management and policies of a person, whether through the  
38 ownership of voting shares, by contract, or otherwise; and



1 (4) Therefore, the legislature finds that it is necessary to  
2 reaffirm the legislature's intent in establishing the direct sellers'  
3 exemption and prevent the loss of revenues resulting from the expanded  
4 interpretation of the exemption by amending RCW 82.04.423 retroactively  
5 to conform the exemption to the original intent of the legislature and  
6 by prospectively ending the direct sellers' exemption as of the  
7 effective date of this section.

8 **Sec. 402.** RCW 82.04.423 and 1983 1st ex.s. c 66 s 5 are each  
9 amended to read as follows:

10 (1) Prior to the effective date of this section, this chapter  
11 (~~shall~~) does not apply to any person in respect to gross income  
12 derived from the business of making sales at wholesale or retail if  
13 such person:

14 (a) Does not own or lease real property within this state; and

15 (b) Does not regularly maintain a stock of tangible personal  
16 property in this state for sale in the ordinary course of business; and

17 (c) Is not a corporation incorporated under the laws of this state;  
18 and

19 (d) Makes sales in this state exclusively to or through a direct  
20 seller's representative.

21 (2) For purposes of this section, the term "direct seller's  
22 representative" means a person who buys only consumer products on a  
23 buy-sell basis or a deposit-commission basis for resale, by the buyer  
24 or any other person, in the home or otherwise than in a permanent  
25 retail establishment, or who sells at retail, or solicits the sale at  
26 retail of, only consumer products in the home or otherwise than in a  
27 permanent retail establishment; and

28 (a) Substantially all of the remuneration paid to such person,  
29 whether or not paid in cash, for the performance of services described  
30 in this subsection is directly related to sales or other output,  
31 including the performance of services, rather than the number of hours  
32 worked; and

33 (b) The services performed by the person are performed pursuant to  
34 a written contract between such person and the person for whom the  
35 services are performed and such contract provides that the person will  
36 not be treated as an employee with respect to such purposes for federal  
37 tax purposes.

1 (3) Nothing in this section (~~shall~~) may be construed to imply  
2 that a person exempt from tax under this section was engaged in a  
3 business activity taxable under this chapter prior to (~~the enactment~~  
4 ~~of this section~~) August 23, 1983.

5 **PART V**

6 **Business and Occupation Tax Preferences for Manufacturers of Products**  
7 **Derived from Certain Agricultural Products**

8 NEW SECTION. **Sec. 501.** (1)(a) In 1967, the legislature amended  
9 RCW 82.04.260 in chapter 149, Laws of 1967 ex. sess. to authorize a  
10 preferential business and occupation tax rate for slaughtering,  
11 breaking, and/or processing perishable meat products and/or selling the  
12 same at wholesale. The legislature finds that RCW 82.04.260(4) was  
13 interpreted by the state supreme court on January 13, 2005, in *Agrilink*  
14 *Foods, Inc. v. Department of Revenue*, 153 Wn.2d 392 (2005). The  
15 supreme court held that the preferential business and occupation tax  
16 rate on the slaughtering, breaking, and/or processing of perishable  
17 meat products applied to the processing of perishable meat products  
18 into nonperishable finished products, such as canned food.

19 (b) The legislature intends to narrow the exemption provided for  
20 slaughtering, breaking, and/or processing perishable meat products  
21 and/or selling such products at wholesale by requiring that the end  
22 product be a perishable meat product; a nonperishable meat product that  
23 is comprised primarily of animal carcass by weight or volume, other  
24 than a canned meat product; or a meat by-product.

25 (2)(a) A business and occupation tax exemption is provided for (i)  
26 manufacturing by canning, preserving, freezing, processing, or  
27 dehydrating fresh fruits or vegetables, and (ii) selling such products  
28 at wholesale by the manufacturer to purchasers who transport the goods  
29 out of state in the ordinary course of business. This exemption  
30 expires July 1, 2012, and is replaced by a preferential business and  
31 occupation tax rate.

32 (b) The legislature finds that the rationale of the *Agrilink*  
33 decision, if applied to these tax preferences, could result in  
34 preferential tax treatment for any processed food product that  
35 contained any fresh fruit or vegetable as an ingredient, however small  
36 the amount.

1 (c) The legislature intends to narrow the tax preference provided  
2 to fruit and vegetable manufacturers by requiring that the end product  
3 be comprised either (i) exclusively of fruits and/or vegetables, or  
4 (ii) of any combination of fruits, vegetables, and certain other  
5 substances that, cumulatively, may not exceed the amount of fruits and  
6 vegetables contained in the product measured by weight or volume.

7 NEW SECTION. **Sec. 502.** A new section is added to chapter 82.04  
8 RCW to read as follows:

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

11 (a) Perishable meat products, by slaughtering, breaking, or  
12 processing, if the finished product is a perishable meat product; as to  
13 such persons the tax imposed is equal to the value of the perishable  
14 meat products manufactured, or, in the case of a processor for hire,  
15 the gross income of the business, multiplied by the rate of 0.138  
16 percent;

17 (b) Meat products, by dehydration, curing, smoking, or any  
18 combination of these activities, if the finished meat products are not  
19 canned; as to such persons the tax imposed is equal to the value of the  
20 meat products manufactured, or, in the case of a processor for hire,  
21 the gross income of the business, multiplied by the rate of 0.138  
22 percent;

23 (c) Hides, tallow, meat meal, and other similar meat by-products,  
24 if such products are derived in part from animals and manufactured in  
25 a rendering plant licensed under chapter 16.68 RCW; as to such persons  
26 the tax imposed is equal to the value of the products manufactured, or,  
27 in the case of a processor for hire, the gross income of the business,  
28 multiplied by the rate of 0.138 percent.

29 (2) Upon every person engaging within this state in the business of  
30 selling at wholesale:

31 (a) Perishable meat products; as to such persons the tax imposed is  
32 equal to the gross proceeds derived from such sales multiplied by the  
33 rate of 0.138 percent;

34 (b) Meat products that have been manufactured by the seller by  
35 dehydration, curing, smoking, or any combination of such activities, if  
36 the finished meat products are not canned; as to such persons the tax

1 imposed is equal to the gross proceeds derived from such sales  
2 multiplied by the rate of 0.138 percent;

3 (c) Hides, tallow, meat meal, and other similar meat by-products,  
4 if such products are derived in part from animals and manufactured by  
5 the seller in a rendering plant; as to such persons the tax imposed is  
6 equal to the gross proceeds derived from such sales multiplied by the  
7 rate of 0.138 percent.

8 (3) The definitions in this subsection apply throughout this  
9 section unless the context clearly requires otherwise.

10 (a) "Animal" means all members of the animal kingdom except humans,  
11 fish, and insects.

12 (b) "Carcass" means all or any parts, including viscera, of a  
13 slaughtered animal.

14 (c) "Fish" means any water-breathing animal, including shellfish.

15 (d) "Hide" means any unprocessed animal pelt or skin.

16 (e)(i) "Meat products" means:

17 (A) Products comprised exclusively of animal carcass; and

18 (B) Products, such as jerky, sausage, and other cured meat  
19 products, that are comprised primarily of animal carcass by weight or  
20 volume and may also contain water; nitrates; nitrites; acids; binders  
21 and extenders; natural or synthetic casings; colorings; flavorings such  
22 as soy sauce, liquid smoke, seasonings, citric acid, sugar, molasses,  
23 corn syrup, and vinegar; and similar substances.

24 (ii) Except as provided in (e)(i) of this subsection (3), "meat  
25 products" does not include products containing any cereal grains or  
26 cereal-grain products, dairy products, legumes and legume products,  
27 fruit or vegetable products as defined in RCW 82.04.260, and similar  
28 ingredients, unless the ingredient is used as a flavoring. For  
29 purposes of this subsection, "flavoring" means a substance that  
30 contains the flavoring constituents derived from a spice, fruit or  
31 fruit juice, vegetable or vegetable juice, edible yeast, herb, bark,  
32 bud, root, leaf, or any other edible substance of plant origin, whose  
33 primary function in food is flavoring or seasoning rather than  
34 nutritional, and which may legally appear as "natural flavor,"  
35 "flavor," or "flavorings" in the ingredient statement on the label of  
36 the meat product.

37 (iii) "Meat products" includes only products that are intended for  
38 human consumption as food or animal consumption as feed.

1 (f) "Perishable" means having a high risk of spoilage within thirty  
2 days of manufacture without any refrigeration or freezing.

3 (g) "Rendering plant" means any place of business or location where  
4 dead animals or any part or portion thereof, or packing house refuse,  
5 are processed for the purpose of obtaining the hide, skin, grease  
6 residue, or any other by-product whatsoever.

7 **Sec. 503.** RCW 82.04.4266 and 2006 c 354 s 3 are each amended to  
8 read as follows:

9 (1) This chapter (~~shall~~) does not apply to the value of products  
10 or the gross proceeds of sales derived from:

11 (a) Manufacturing fruit(~~s~~) or vegetable(~~s~~) products by canning,  
12 preserving, freezing, processing, or dehydrating fresh fruits or  
13 vegetables; or

14 (b) Selling at wholesale fruit(~~s~~) or vegetable(~~s~~) products  
15 manufactured by the seller by canning, preserving, freezing,  
16 processing, or dehydrating fresh fruits or vegetables and sold to  
17 purchasers who transport in the ordinary course of business the goods  
18 out of this state. A person taking an exemption under this subsection  
19 (1)(b) must keep and preserve records for the period required by RCW  
20 82.32.070 establishing that the goods were transported by the purchaser  
21 in the ordinary course of business out of this state.

22 (2)(a) "Fruit or vegetable products" means:

23 (i) Products comprised exclusively of fruits, vegetables, or both;  
24 and

25 (ii) Products comprised of fruits, vegetables, or both, and which  
26 may also contain water, sugar, salt, seasonings, preservatives,  
27 binders, stabilizers, flavorings, yeast, and similar substances.  
28 However, the amount of all ingredients contained in the product, other  
29 than fruits, vegetables, and water, may not exceed the amount of fruits  
30 and vegetables contained in the product measured by weight or volume.

31 (b) "Fruit or vegetable products" includes only products that are  
32 intended for human consumption as food or animal consumption as feed.

33 (3) This section expires July 1, 2012.

34 **Sec. 504.** RCW 82.04.4266 and 2010 c 114 (SHB 3066) s 111 are each  
35 amended to read as follows:



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

3 (a) Manufacturing fruit(~~(s)~~) or vegetable(~~(s)~~) products by canning,  
4 preserving, freezing, processing, or dehydrating fresh fruits or  
5 vegetables; or

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

14 (2)(a) "Fruit or vegetable products" means:

15 (i) Products comprised exclusively of fruits, vegetables, or both;  
16 and

17 (ii) Products comprised of fruits, vegetables, or both, and which  
18 may also contain water, sugar, salt, seasonings, preservatives,  
19 binders, stabilizers, flavorings, yeast, and similar substances.  
20 However, the amount of all ingredients contained in the product, other  
21 than fruits, vegetables, and water, may not exceed the amount of fruits  
22 and vegetables contained in the product measured by weight or volume.

23 (b) "Fruit or vegetable products" includes only products that are  
24 intended for human consumption as food or animal consumption as feed.

25 (3) A person claiming the exemption provided in this section must  
26 file a complete annual survey with the department under RCW 82.32.---  
27 (section 102, chapter 114 (SHB 3066), Laws of 2010).

28 (~~(3)~~) (4) This section expires July 1, 2012.

29 **Sec. 505.** RCW 82.04.260 and 2009 c 479 s 64, 2009 c 461 s 1, and  
30 2009 c 162 s 34 are each reenacted and amended to read as follows:

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

33 (a) Wheat into flour, barley into pearl barley, soybeans into  
34 soybean oil, canola into canola oil, canola meal, or canola by-  
35 products, or sunflower seeds into sunflower oil; as to such persons the  
36 amount of tax with respect to such business (~~(shall be)~~) is equal to

1 the value of the flour, pearl barley, oil, canola meal, or canola by-  
2 product manufactured, multiplied by the rate of 0.138 percent;

3 (b) Beginning July 1, 2012, seafood products that remain in a raw,  
4 raw frozen, or raw salted state at the completion of the manufacturing  
5 by that person; or selling manufactured seafood products that remain in  
6 a raw, raw frozen, or raw salted state at the completion of the  
7 manufacturing, to purchasers who transport in the ordinary course of  
8 business the goods out of this state; as to such persons the amount of  
9 tax with respect to such business (~~((shall-be))~~) is equal to the value of  
10 the products manufactured or the gross proceeds derived from such  
11 sales, multiplied by the rate of 0.138 percent. Sellers must keep and  
12 preserve records for the period required by RCW 82.32.070 establishing  
13 that the goods were transported by the purchaser in the ordinary course  
14 of business out of this state;

15 (c) Beginning July 1, 2012, dairy products that as of September 20,  
16 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,  
17 including by-products from the manufacturing of the dairy products such  
18 as whey and casein; or selling the same to purchasers who transport in  
19 the ordinary course of business the goods out of state; as to such  
20 persons the tax imposed (~~((shall-be))~~) is equal to the value of the  
21 products manufactured or the gross proceeds derived from such sales  
22 multiplied by the rate of 0.138 percent. 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)(i) Beginning July 1, 2012, fruit(~~((s))~~) or vegetable(~~((s))~~)  
27 products by canning, preserving, freezing, processing, or dehydrating  
28 fresh fruits or vegetables, or selling at wholesale fruit(~~((s))~~) or  
29 vegetable(~~((s))~~) products manufactured by the seller by canning,  
30 preserving, freezing, processing, or dehydrating fresh fruits or  
31 vegetables and sold to purchasers who transport in the ordinary course  
32 of business the goods out of this state; as to such persons the amount  
33 of tax with respect to such business (~~((shall-be))~~) is equal to the value  
34 of the products manufactured or the gross proceeds derived from such  
35 sales multiplied by the rate of 0.138 percent. Sellers must keep and  
36 preserve records for the period required by RCW 82.32.070 establishing  
37 that the goods were transported by the purchaser in the ordinary course  
38 of business out of this state;

1 (ii) For purposes of this subsection, "fruit or vegetable products"  
2 means:

3 (A) Products comprised exclusively of fruits, vegetables, or both;  
4 or

5 (B) Products comprised of fruits, vegetables, or both, and which  
6 may also contain water, sugar, salt, seasonings, preservatives,  
7 binders, stabilizers, flavorings, yeast, and similar substances.  
8 However, the amount of all ingredients contained in the product, other  
9 than fruits, vegetables, and water, may not exceed the amount of fruits  
10 and vegetables contained in the product measured by weight or volume;

11 (iii) "Fruit and vegetable products" includes only products that  
12 are intended for human consumption as food or animal consumption as  
13 feed;

14 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel  
15 feedstock, as those terms are defined in RCW 82.29A.135; as to such  
16 persons the amount of tax with respect to the business (~~shall be~~) is  
17 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel  
18 feedstock manufactured, multiplied by the rate of 0.138 percent; and

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

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

27 (3) Upon every nonprofit corporation and nonprofit association  
28 engaging within this state in research and development, as to such  
29 corporations and associations, the amount of tax with respect to such  
30 activities (~~shall be~~) is equal to the gross income derived from such  
31 activities multiplied by the rate of 0.484 percent.

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

37 ~~(5))~~ Upon every person engaging within this state in the business  
38 of acting as a travel agent or tour operator; as to such persons the

1 amount of the tax with respect to such activities (~~shall be~~) is equal  
2 to the gross income derived from such activities multiplied by the rate  
3 of 0.275 percent.

4 (~~(+6)~~) (5) Upon every person engaging within this state in  
5 business as an international steamship agent, international customs  
6 house broker, international freight forwarder, vessel and/or cargo  
7 charter broker in foreign commerce, and/or international air cargo  
8 agent; as to such persons the amount of the tax with respect to only  
9 international activities (~~shall be~~) is equal to the gross income  
10 derived from such activities multiplied by the rate of 0.275 percent.

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

1 trailers, and other refrigerated cargo receptacles, and securing ship  
2 hatch covers.

3 ~~((+8))~~ (7)(a) Upon every person engaging within this state in the  
4 business of disposing of low-level waste, as defined in RCW 43.145.010;  
5 as to such persons the amount of the tax with respect to such business  
6 ~~((shall be))~~ is equal to the gross income of the business, excluding  
7 any fees imposed under chapter 43.200 RCW, multiplied by the rate of  
8 3.3 percent.

9 (b) If the gross income of the taxpayer is attributable to  
10 activities both within and without this state, the gross income  
11 attributable to this state ~~((shall))~~ must be determined in accordance  
12 with the methods of apportionment required under RCW 82.04.460.

13 ~~((+9))~~ (8) Upon every person engaging within this state as an  
14 insurance producer or title insurance agent licensed under chapter  
15 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as  
16 to such persons, the amount of the tax with respect to such licensed  
17 activities ~~((shall be))~~ is equal to the gross income of such business  
18 multiplied by the rate of 0.484 percent.

19 ~~((+10))~~ (9) Upon every person engaging within this state in  
20 business as a hospital, as defined in chapter 70.41 RCW, that is  
21 operated as a nonprofit corporation or by the state or any of its  
22 political subdivisions, as to such persons, the amount of tax with  
23 respect to such activities ~~((shall be))~~ is equal to the gross income of  
24 the business multiplied by the rate of 0.75 percent through June 30,  
25 1995, and 1.5 percent thereafter.

26 ~~((+11))~~ (10)(a) Beginning October 1, 2005, upon every person  
27 engaging within this state in the business of manufacturing commercial  
28 airplanes, or components of such airplanes, or making sales, at retail  
29 or wholesale, of commercial airplanes or components of such airplanes,  
30 manufactured by the seller, as to such persons the amount of tax with  
31 respect to such business ~~((shall))~~, in the case of manufacturers,  
32 ~~((be))~~ is equal to the value of the product manufactured and the gross  
33 proceeds of sales of the product manufactured, or in the case of  
34 processors for hire, ~~((be))~~ is equal to the gross income of the  
35 business, multiplied by the rate of:

36 (i) 0.4235 percent from October 1, 2005, through ~~((the later of))~~  
37 June 30, 2007; and

38 (ii) 0.2904 percent beginning July 1, 2007.

1 (b) Beginning July 1, 2008, upon every person who is not eligible  
2 to report under the provisions of (a) of this subsection (~~((+11+))~~) (10)  
3 and is engaging within this state in the business of manufacturing  
4 tooling specifically designed for use in manufacturing commercial  
5 airplanes or components of such airplanes, or making sales, at retail  
6 or wholesale, of such tooling manufactured by the seller, as to such  
7 persons the amount of tax with respect to such business (~~(shall)~~), in  
8 the case of manufacturers, (~~(be)~~) is equal to the value of the product  
9 manufactured and the gross proceeds of sales of the product  
10 manufactured, or in the case of processors for hire, (~~(be)~~) is equal to  
11 the gross income of the business, multiplied by the rate of 0.2904  
12 percent.

13 (c) For the purposes of this subsection (~~((+11+))~~) (10), "commercial  
14 airplane" and "component" have the same meanings as provided in RCW  
15 82.32.550.

16 (d) In addition to all other requirements under this title, a  
17 person eligible for the tax rate under this subsection (~~((+11+))~~) (10)  
18 must report as required under RCW 82.32.545.

19 (e) This subsection (~~((+11+))~~) (10) does not apply on and after July  
20 1, 2024.

21 (~~((+12+))~~) (11)(a) Until July 1, 2024, upon every person engaging  
22 within this state in the business of extracting timber or extracting  
23 for hire timber; as to such persons the amount of tax with respect to  
24 the business (~~(shall)~~), in the case of extractors, (~~(be)~~) is equal to  
25 the value of products, including by-products, extracted, or in the case  
26 of extractors for hire, (~~(be)~~) is equal to the gross income of the  
27 business, multiplied by the rate of 0.4235 percent from July 1, 2006,  
28 through June 30, 2007, and 0.2904 percent from July 1, 2007, through  
29 June 30, 2024.

30 (b) Until July 1, 2024, upon every person engaging within this  
31 state in the business of manufacturing or processing for hire: (i)  
32 Timber into timber products or wood products; or (ii) timber products  
33 into other timber products or wood products; as to such persons the  
34 amount of the tax with respect to the business (~~(shall)~~), in the case  
35 of manufacturers, (~~(be)~~) is equal to the value of products, including  
36 by-products, manufactured, or in the case of processors for hire,  
37 (~~(be)~~) is equal to the gross income of the business, multiplied by the

1 rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and  
2 0.2904 percent from July 1, 2007, through June 30, 2024.

3 (c) Until July 1, 2024, upon every person engaging within this  
4 state in the business of selling at wholesale: (i) Timber extracted by  
5 that person; (ii) timber products manufactured by that person from  
6 timber or other timber products; or (iii) wood products manufactured by  
7 that person from timber or timber products; as to such persons the  
8 amount of the tax with respect to the business (~~shall be~~) is equal to  
9 the gross proceeds of sales of the timber, timber products, or wood  
10 products multiplied by the rate of 0.4235 percent from July 1, 2006,  
11 through June 30, 2007, and 0.2904 percent from July 1, 2007, through  
12 June 30, 2024.

13 (d) Until July 1, 2024, upon every person engaging within this  
14 state in the business of selling standing timber; as to such persons  
15 the amount of the tax with respect to the business (~~shall be~~) is  
16 equal to the gross income of the business multiplied by the rate of  
17 0.2904 percent. For purposes of this subsection (~~(+12+)~~) (11)(d),  
18 "selling standing timber" means the sale of timber apart from the land,  
19 where the buyer is required to sever the timber within thirty months  
20 from the date of the original contract, regardless of the method of  
21 payment for the timber and whether title to the timber transfers  
22 before, upon, or after severance.

23 (e) For purposes of this subsection, the following definitions  
24 apply:

25 (i) "Biocomposite surface products" means surface material products  
26 containing, by weight or volume, more than fifty percent recycled paper  
27 and that also use nonpetroleum-based phenolic resin as a bonding agent.

28 (ii) "Paper and paper products" means products made of interwoven  
29 cellulosic fibers held together largely by hydrogen bonding. "Paper  
30 and paper products" includes newsprint; office, printing, fine, and  
31 pressure-sensitive papers; paper napkins, towels, and toilet tissue;  
32 kraft bag, construction, and other kraft industrial papers; paperboard,  
33 liquid packaging containers, containerboard, corrugated, and solid-  
34 fiber containers including linerboard and corrugated medium; and  
35 related types of cellulosic products containing primarily, by weight or  
36 volume, cellulosic materials. "Paper and paper products" does not  
37 include books, newspapers, magazines, periodicals, and other printed

1 publications, advertising materials, calendars, and similar types of  
2 printed materials.

3 (iii) "Recycled paper" means paper and paper products having fifty  
4 percent or more of their fiber content that comes from postconsumer  
5 waste. For purposes of this subsection (~~((+12+))~~) (11)(e)(iii),  
6 "postconsumer waste" means a finished material that would normally be  
7 disposed of as solid waste, having completed its life cycle as a  
8 consumer item.

9 (iv) "Timber" means forest trees, standing or down, on privately or  
10 publicly owned land. "Timber" does not include Christmas trees that  
11 are cultivated by agricultural methods or short-rotation hardwoods as  
12 defined in RCW 84.33.035.

13 (v) "Timber products" means:

14 (A) Logs, wood chips, sawdust, wood waste, and similar products  
15 obtained wholly from the processing of timber, short-rotation hardwoods  
16 as defined in RCW 84.33.035, or both;

17 (B) Pulp, including market pulp and pulp derived from recovered  
18 paper or paper products; and

19 (C) Recycled paper, but only when used in the manufacture of  
20 biocomposite surface products.

21 (vi) "Wood products" means paper and paper products; dimensional  
22 lumber; engineered wood products such as particleboard, oriented strand  
23 board, medium density fiberboard, and plywood; wood doors; wood  
24 windows; and biocomposite surface products.

25 (~~((+13+))~~) (12) Upon every person engaging within this state in  
26 inspecting, testing, labeling, and storing canned salmon owned by  
27 another person, as to such persons, the amount of tax with respect to  
28 such activities (~~((shall be))~~) is equal to the gross income derived from  
29 such activities multiplied by the rate of 0.484 percent.

30 (~~((+14+))~~) (13) Upon every person engaging within this state in the  
31 business of printing a newspaper, publishing a newspaper, or both, the  
32 amount of tax on such business is equal to the gross income of the  
33 business multiplied by the rate of 0.2904 percent.

34 **Sec. 506.** RCW 82.04.260 and 2010 c 114 (SHB 3066) s 107 are each  
35 amended to read as follows:

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



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

7 (b) Beginning July 1, 2012, seafood products that remain in a raw,  
8 raw frozen, or raw salted state at the completion of the manufacturing  
9 by that person; or selling manufactured seafood products that remain in  
10 a raw, raw frozen, or raw salted state at the completion of the  
11 manufacturing, to purchasers who transport in the ordinary course of  
12 business the goods out of this state; as to such persons the amount of  
13 tax with respect to such business is equal to the value of the products  
14 manufactured or the gross proceeds derived from such sales, multiplied  
15 by the rate of 0.138 percent. Sellers must keep and preserve records  
16 for the period required by RCW 82.32.070 establishing that the goods  
17 were transported by the purchaser in the ordinary course of business  
18 out of this state;

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 by-products 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 is 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)(i) Beginning July 1, 2012, fruit((s)) or vegetable((s))  
31 products by canning, preserving, freezing, processing, or dehydrating  
32 fresh fruits or vegetables, or selling at wholesale fruit((s)) or  
33 vegetable((s)) products manufactured by the seller by canning,  
34 preserving, freezing, processing, or dehydrating fresh fruits or  
35 vegetables and sold to purchasers who transport in the ordinary course  
36 of business the goods out of this state; as to such persons the amount  
37 of tax with respect to such business is equal to the value of the  
38 products manufactured or the gross proceeds derived from such sales

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

5 (ii) For purposes of this subsection, "fruit or vegetable products"  
6 means:

7 (A) Products comprised exclusively of fruits, vegetables, or both;  
8 or

9 (B) Products comprised of fruits, vegetables, or both, and which  
10 may also contain water, sugar, salt, seasonings, preservatives,  
11 binders, stabilizers, flavorings, yeast, and similar substances.  
12 However, the amount of all ingredients contained in the product, other  
13 than fruits, vegetables, and water, may not exceed the amount of fruits  
14 and vegetables contained in the product measured by weight or volume;

15 (iii) "Fruit and vegetable products" includes only products that  
16 are intended for human consumption as food or animal consumption as  
17 feed;

18 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel  
19 feedstock, as those terms are defined in RCW 82.29A.135; as to such  
20 persons the amount of tax with respect to the business is equal to the  
21 value of alcohol fuel, biodiesel fuel, or biodiesel feedstock  
22 manufactured, multiplied by the rate of 0.138 percent; and

23 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such  
24 persons the amount of tax with respect to the business is equal to the  
25 value of wood biomass fuel manufactured, multiplied by the rate of  
26 0.138 percent.

27 (2) Upon every person engaging within this state in the business of  
28 splitting or processing dried peas; as to such persons the amount of  
29 tax with respect to such business is equal to the value of the peas  
30 split or processed, multiplied by the rate of 0.138 percent.

31 (3) Upon every nonprofit corporation and nonprofit association  
32 engaging within this state in research and development, as to such  
33 corporations and associations, the amount of tax with respect to such  
34 activities is equal to the gross income derived from such activities  
35 multiplied by the rate of 0.484 percent.

36 ~~(4) ((Upon every person engaging within this state in the business~~  
37 ~~of slaughtering, breaking and/or processing perishable meat products~~

1 ~~and/or selling the same at wholesale only and not at retail; as to such~~  
2 ~~persons the tax imposed is equal to the gross proceeds derived from~~  
3 ~~such sales multiplied by the rate of 0.138 percent.~~

4 ~~(5))~~ Upon every person engaging within this state in the business  
5 of acting as a travel agent or tour operator; as to such persons the  
6 amount of the tax with respect to such activities is equal to the gross  
7 income derived from such activities multiplied by the rate of 0.275  
8 percent.

9 ~~((6))~~ (5) Upon every person engaging within this state in  
10 business as an international steamship agent, international customs  
11 house broker, international freight forwarder, vessel and/or cargo  
12 charter broker in foreign commerce, and/or international air cargo  
13 agent; as to such persons the amount of the tax with respect to only  
14 international activities is equal to the gross income derived from such  
15 activities multiplied by the rate of 0.275 percent.

16 ~~((7))~~ (6) Upon every person engaging within this state in the  
17 business of stevedoring and associated activities pertinent to the  
18 movement of goods and commodities in waterborne interstate or foreign  
19 commerce; as to such persons the amount of tax with respect to such  
20 business is equal to the gross proceeds derived from such activities  
21 multiplied by the rate of 0.275 percent. Persons subject to taxation  
22 under this subsection are exempt from payment of taxes imposed by  
23 chapter 82.16 RCW for that portion of their business subject to  
24 taxation under this subsection. Stevedoring and associated activities  
25 pertinent to the conduct of goods and commodities in waterborne  
26 interstate or foreign commerce are defined as all activities of a  
27 labor, service or transportation nature whereby cargo may be loaded or  
28 unloaded to or from vessels or barges, passing over, onto or under a  
29 wharf, pier, or similar structure; cargo may be moved to a warehouse or  
30 similar holding or storage yard or area to await further movement in  
31 import or export or may move to a consolidation freight station and be  
32 stuffed, unstuffed, containerized, separated or otherwise segregated or  
33 aggregated for delivery or loaded on any mode of transportation for  
34 delivery to its consignee. Specific activities included in this  
35 definition are: Wharfage, handling, loading, unloading, moving of  
36 cargo to a convenient place of delivery to the consignee or a  
37 convenient place for further movement to export mode; documentation  
38 services in connection with the receipt, delivery, checking, care,

1 custody and control of cargo required in the transfer of cargo;  
2 imported automobile handling prior to delivery to consignee; terminal  
3 stevedoring and incidental vessel services, including but not limited  
4 to plugging and unplugging refrigerator service to containers,  
5 trailers, and other refrigerated cargo receptacles, and securing ship  
6 hatch covers.

7 ~~((+8))~~ (7)(a) Upon every person engaging within this state in the  
8 business of disposing of low-level waste, as defined in RCW 43.145.010;  
9 as to such persons the amount of the tax with respect to such business  
10 is equal to the gross income of the business, excluding any fees  
11 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
12 percent.

13 (b) If the gross income of the taxpayer is attributable to  
14 activities both within and without this state, the gross income  
15 attributable to this state must be determined in accordance with the  
16 methods of apportionment required under RCW 82.04.460.

17 ~~((+9))~~ (8) Upon every person engaging within this state as an  
18 insurance producer or title insurance agent licensed under chapter  
19 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as  
20 to such persons, the amount of the tax with respect to such licensed  
21 activities is equal to the gross income of such business multiplied by  
22 the rate of 0.484 percent.

23 ~~((+10))~~ (9) Upon every person engaging within this state in  
24 business as a hospital, as defined in chapter 70.41 RCW, that is  
25 operated as a nonprofit corporation or by the state or any of its  
26 political subdivisions, as to such persons, the amount of tax with  
27 respect to such activities is equal to the gross income of the business  
28 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
29 percent thereafter.

30 ~~((+11))~~ (10)(a) Beginning October 1, 2005, upon every person  
31 engaging within this state in the business of manufacturing commercial  
32 airplanes, or components of such airplanes, or making sales, at retail  
33 or wholesale, of commercial airplanes or components of such airplanes,  
34 manufactured by the seller, as to such persons the amount of tax with  
35 respect to such business is, in the case of manufacturers, equal to the  
36 value of the product manufactured and the gross proceeds of sales of  
37 the product manufactured, or in the case of processors for hire, equal  
38 to the gross income of the business, multiplied by the rate of:

1 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and  
2 (ii) 0.2904 percent beginning July 1, 2007.

3 (b) Beginning July 1, 2008, upon every person who is not eligible  
4 to report under the provisions of (a) of this subsection (~~((11))~~) (10)  
5 and is engaging within this state in the business of manufacturing  
6 tooling specifically designed for use in manufacturing commercial  
7 airplanes or components of such airplanes, or making sales, at retail  
8 or wholesale, of such tooling manufactured by the seller, as to such  
9 persons the amount of tax with respect to such business is, in the case  
10 of manufacturers, equal to the value of the product manufactured and  
11 the gross proceeds of sales of the product manufactured, or in the case  
12 of processors for hire, be equal to the gross income of the business,  
13 multiplied by the rate of 0.2904 percent.

14 (c) For the purposes of this subsection (~~((11))~~) (10), "commercial  
15 airplane" and "component" have the same meanings as provided in RCW  
16 82.32.550.

17 (d) In addition to all other requirements under this title, a  
18 person reporting under the tax rate provided in this subsection  
19 (~~((11))~~) (10) must file a complete annual report with the department  
20 under RCW 82.32.--- (section 103, chapter 114 (SHB 3066), Laws of  
21 2010).

22 (e) This subsection (~~((11))~~) (10) does not apply on and after July  
23 1, 2024.

24 (~~((12))~~) (11)(a) Until July 1, 2024, upon every person engaging  
25 within this state in the business of extracting timber or extracting  
26 for hire timber; as to such persons the amount of tax with respect to  
27 the business is, in the case of extractors, equal to the value of  
28 products, including by-products, extracted, or in the case of  
29 extractors for hire, equal to the gross income of the business,  
30 multiplied by the rate of 0.4235 percent from July 1, 2006, through  
31 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,  
32 2024.

33 (b) Until July 1, 2024, upon every person engaging within this  
34 state in the business of manufacturing or processing for hire: (i)  
35 Timber into timber products or wood products; or (ii) timber products  
36 into other timber products or wood products; as to such persons the  
37 amount of the tax with respect to the business is, in the case of  
38 manufacturers, equal to the value of products, including by-products,

1 manufactured, or in the case of processors for hire, equal to the gross  
2 income of the business, multiplied by the rate of 0.4235 percent from  
3 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,  
4 2007, through June 30, 2024.

5 (c) Until July 1, 2024, upon every person engaging within this  
6 state in the business of selling at wholesale: (i) Timber extracted by  
7 that person; (ii) timber products manufactured by that person from  
8 timber or other timber products; or (iii) wood products manufactured by  
9 that person from timber or timber products; as to such persons the  
10 amount of the tax with respect to the business is equal to the gross  
11 proceeds of sales of the timber, timber products, or wood products  
12 multiplied by the rate of 0.4235 percent from July 1, 2006, through  
13 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,  
14 2024.

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

25 (e) For purposes of this subsection, the following definitions  
26 apply:

27 (i) "Biocomposite surface products" means surface material products  
28 containing, by weight or volume, more than fifty percent recycled paper  
29 and that also use nonpetroleum-based phenolic resin as a bonding agent.

30 (ii) "Paper and paper products" means products made of interwoven  
31 cellulosic fibers held together largely by hydrogen bonding. "Paper  
32 and paper products" includes newsprint; office, printing, fine, and  
33 pressure-sensitive papers; paper napkins, towels, and toilet tissue;  
34 kraft bag, construction, and other kraft industrial papers; paperboard,  
35 liquid packaging containers, containerboard, corrugated, and solid-  
36 fiber containers including linerboard and corrugated medium; and  
37 related types of cellulosic products containing primarily, by weight or  
38 volume, cellulosic materials. "Paper and paper products" does not

1 include books, newspapers, magazines, periodicals, and other printed  
2 publications, advertising materials, calendars, and similar types of  
3 printed materials.

4 (iii) "Recycled paper" means paper and paper products having fifty  
5 percent or more of their fiber content that comes from postconsumer  
6 waste. For purposes of this subsection (~~((+12+))~~) (11)(e)(iii),  
7 "postconsumer waste" means a finished material that would normally be  
8 disposed of as solid waste, having completed its life cycle as a  
9 consumer item.

10 (iv) "Timber" means forest trees, standing or down, on privately or  
11 publicly owned land. "Timber" does not include Christmas trees that  
12 are cultivated by agricultural methods or short-rotation hardwoods as  
13 defined in RCW 84.33.035.

14 (v) "Timber products" means:

15 (A) Logs, wood chips, sawdust, wood waste, and similar products  
16 obtained wholly from the processing of timber, short-rotation hardwoods  
17 as defined in RCW 84.33.035, or both;

18 (B) Pulp, including market pulp and pulp derived from recovered  
19 paper or paper products; and

20 (C) Recycled paper, but only when used in the manufacture of  
21 biocomposite surface products.

22 (vi) "Wood products" means paper and paper products; dimensional  
23 lumber; engineered wood products such as particleboard, oriented strand  
24 board, medium density fiberboard, and plywood; wood doors; wood  
25 windows; and biocomposite surface products.

26 (f) Except for small harvesters as defined in RCW 84.33.035, a  
27 person reporting under the tax rate provided in this subsection  
28 (~~((+12+))~~) (11) must file a complete annual survey with the department  
29 under RCW 82.32.--- (section 102, chapter 114 (SHB 3066), Laws of  
30 2010).

31 (~~((+13+))~~) (12) Upon every person engaging within this state in  
32 inspecting, testing, labeling, and storing canned salmon owned by  
33 another person, as to such persons, the amount of tax with respect to  
34 such activities is equal to the gross income derived from such  
35 activities multiplied by the rate of 0.484 percent.

36 (~~((+14+))~~) (13)(a) Upon every person engaging within this state in  
37 the business of printing a newspaper, publishing a newspaper, or both,

1 the amount of tax on such business is equal to the gross income of the  
2 business multiplied by the rate of 0.2904 percent.

3 (b) A person reporting under the tax rate provided in this  
4 subsection (~~((+14))~~) (13) must file a complete annual report with the  
5 department under RCW 82.32.--- (section 103, chapter 114 (SHB 3066),  
6 Laws of 2010).

7 **Sec. 507.** RCW 82.04.250 and 2008 c 81 s 5 are each amended to read  
8 as follows:

9 (1) Upon every person engaging within this state in the business of  
10 making sales at retail, except persons taxable as retailers under other  
11 provisions of this chapter, as to such persons, the amount of tax with  
12 respect to such business (~~((shall-be))~~) is equal to the gross proceeds of  
13 sales of the business, multiplied by the rate of 0.471 percent.

14 (2) Upon every person engaging within this state in the business of  
15 making sales at retail that are exempt from the tax imposed under  
16 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
17 82.08.0263, except persons taxable under RCW 82.04.260(~~((+11))~~) (10) or  
18 subsection (3) of this section, as to such persons, the amount of tax  
19 with respect to such business (~~((shall-be))~~) is equal to the gross  
20 proceeds of sales of the business, multiplied by the rate of 0.484  
21 percent.

22 (3) Upon every person classified by the federal aviation  
23 administration as a federal aviation regulation part 145 certificated  
24 repair station and that is engaging within this state in the business  
25 of making sales at retail that are exempt from the tax imposed under  
26 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
27 82.08.0263, as to such persons, the amount of tax with respect to such  
28 business (~~((shall-be))~~) is equal to the gross proceeds of sales of the  
29 business, multiplied by the rate of .2904 percent.

30 **Sec. 508.** RCW 82.04.250 and 2010 1st sp.s. c 11 (SSB 6712) s 1 are  
31 each amended to read as follows:

32 (1) Upon every person engaging within this state in the business of  
33 making sales at retail, except persons taxable as retailers under other  
34 provisions of this chapter, as to such persons, the amount of tax with  
35 respect to such business is equal to the gross proceeds of sales of the  
36 business, multiplied by the rate of 0.471 percent.



1 (2) Upon every person engaging within this state in the business of  
2 making sales at retail that are exempt from the tax imposed under  
3 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
4 82.08.0263, except persons taxable under RCW 82.04.260(~~((+11))~~) (10) or  
5 subsection (3) of this section, as to such persons, the amount of tax  
6 with respect to such business is equal to the gross proceeds of sales  
7 of the business, multiplied by the rate of 0.484 percent.

8 (3) Until July 1, 2024, upon every person classified by the federal  
9 aviation administration as a federal aviation regulation part 145  
10 certificated repair station and that is engaging within this state in  
11 the business of making sales at retail that are exempt from the tax  
12 imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,  
13 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with  
14 respect to such business is equal to the gross proceeds of sales of the  
15 business, multiplied by the rate of .2904 percent.

16 **Sec. 509.** RCW 82.04.250 and 2007 c 54 s 5 are each amended to read  
17 as follows:

18 (1) Upon every person engaging within this state in the business of  
19 making sales at retail, except persons taxable as retailers under other  
20 provisions of this chapter, as to such persons, the amount of tax with  
21 respect to such business (~~((shall be))~~) is equal to the gross proceeds of  
22 sales of the business, multiplied by the rate of 0.471 percent.

23 (2) Upon every person engaging within this state in the business of  
24 making sales at retail that are exempt from the tax imposed under  
25 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
26 82.08.0263, except persons taxable under RCW 82.04.260(~~((+11))~~) (10), as  
27 to such persons, the amount of tax with respect to such business  
28 (~~((shall be))~~) is equal to the gross proceeds of sales of the business,  
29 multiplied by the rate of 0.484 percent.

30 **Sec. 510.** RCW 82.04.261 and 2007 c 54 s 7 and 2007 c 48 s 4 are  
31 each reenacted and amended to read as follows:

32 (1) In addition to the taxes imposed under RCW 82.04.260(~~((+12))~~)  
33 (11), a surcharge is imposed on those persons who are subject to any of  
34 the taxes imposed under RCW 82.04.260(~~((+12))~~) (11). Except as  
35 otherwise provided in this section, the surcharge is equal to 0.052

1 percent. The surcharge is added to the rates provided in RCW  
2 82.04.260(~~(+12+)~~) (11) (a), (b), (c), and (d). The surcharge and this  
3 section expire July 1, 2024.

4 (2) All receipts from the surcharge imposed under this section  
5 (~~shall~~) must be deposited into the forest and fish support account  
6 created in RCW 76.09.405.

7 (3)(a) The surcharge imposed under this section (~~shall-be~~) is  
8 suspended if:

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

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

16 (b)(i) The suspension of the surcharge under (a)(i) of this  
17 subsection (3) (~~shall~~) takes effect on the first day of the calendar  
18 month that is at least thirty days after the end of the month during  
19 which the department determines that receipts from the surcharge total  
20 at least eight million dollars during the fiscal biennium. The  
21 surcharge (~~shall-be~~) is imposed again at the beginning of the  
22 following fiscal biennium.

23 (ii) The suspension of the surcharge under (a)(ii) of this  
24 subsection (3) (~~shall~~) takes effect on the later of the first day of  
25 October of any federal fiscal year for which the federal government  
26 appropriates at least two million dollars for participation in forest  
27 and fish report-related activities by federally recognized Indian  
28 tribes located within the geographical boundaries of the state of  
29 Washington, or the first day of a calendar month that is at least  
30 thirty days following the date that the office of financial management  
31 makes a certification to the department under subsection (5) of this  
32 section. The surcharge (~~shall-be~~) is imposed again on the first day  
33 of the following July.

34 (4)(a) If, by October 1st of any federal fiscal year, the office of  
35 financial management certifies to the department that the federal  
36 government has appropriated funds for participation in forest and fish  
37 report-related activities by federally recognized Indian tribes located  
38 within the geographical boundaries of the state of Washington but the

1 amount of the appropriation is less than two million dollars, the  
2 department (~~shall~~) must adjust the surcharge in accordance with this  
3 subsection.

4 (b) The department (~~shall~~) must adjust the surcharge by an amount  
5 that the department estimates will cause the amount of funds deposited  
6 into the forest and fish support account for the state fiscal year that  
7 begins July 1st and that includes the beginning of the federal fiscal  
8 year for which the federal appropriation is made, to be reduced by  
9 twice the amount of the federal appropriation for participation in  
10 forest and fish report-related activities by federally recognized  
11 Indian tribes located within the geographical boundaries of the state  
12 of Washington.

13 (c) Any adjustment in the surcharge (~~shall~~) takes effect at the  
14 beginning of a calendar month that is at least thirty days after the  
15 date that the office of financial management makes the certification  
16 under subsection (5) of this section.

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

22 (e) Adjustments of the amount of the surcharge by the department  
23 are final and (~~shall~~) may not be used to challenge the validity of  
24 the surcharge imposed under this section.

25 (f) The department (~~shall~~) must provide timely notice to affected  
26 taxpayers of the suspension of the surcharge or an adjustment of the  
27 surcharge.

28 (5) The office of financial management (~~shall~~) must make the  
29 certification to the department as to the status of federal  
30 appropriations for tribal participation in forest and fish report-  
31 related activities.

32 **Sec. 511.** RCW 82.04.298 and 2008 c 49 s 1 are each amended to read  
33 as follows:

34 (1) The amount of tax with respect to a qualified grocery  
35 distribution cooperative's sales of groceries or related goods for  
36 resale, excluding items subject to tax under (~~RCW-82.04.260(4)~~)  
37 section 502 of this act, to customer-owners of the grocery distribution

1 cooperative is equal to the gross proceeds of sales of the grocery  
2 distribution cooperative multiplied by the rate of one and one-half  
3 percent.

4 (2) A qualified grocery distribution cooperative is allowed a  
5 deduction from the gross proceeds of sales of groceries or related  
6 goods for resale, excluding items subject to tax under ((RCW  
7 ~~82.04.260(4)~~)) section 502 of this act, to customer-owners of the  
8 grocery distribution cooperative that is equal to the portion of the  
9 gross proceeds of sales for resale that represents the actual cost of  
10 the merchandise sold by the grocery distribution cooperative to  
11 customer-owners.

12 (3) The definitions in this subsection apply throughout this  
13 section unless the context clearly requires otherwise.

14 (a) "Grocery distribution cooperative" means an entity that sells  
15 groceries and related items to customer-owners of the grocery  
16 distribution cooperative and has customer-owners, in the aggregate, who  
17 own a majority of the outstanding ownership interests of the grocery  
18 distribution cooperative or of the entity controlling the grocery  
19 distribution cooperative. "Grocery distribution cooperative" includes  
20 an entity that controls a grocery distribution cooperative.

21 (b) "Qualified grocery distribution cooperative" means:

22 (i) A grocery distribution cooperative that has been determined by  
23 a court of record of the state of Washington to be not engaged in  
24 wholesaling or making sales at wholesale, within the meaning of RCW  
25 82.04.270 or any similar provision of a municipal ordinance that  
26 imposes a tax on gross receipts, gross proceeds of sales, or gross  
27 income, with respect to purchases made by customer-owners, and  
28 subsequently changes its form of doing business to make sales at  
29 wholesale of groceries or related items to its customer-owners; or

30 (ii) A grocery distribution cooperative that has acquired  
31 substantially all of the assets of a grocery distribution cooperative  
32 described in (b)(i) of this subsection.

33 (c) "Customer-owner" means a person who has an ownership interest  
34 in a grocery distribution cooperative and purchases groceries and  
35 related items at wholesale from that grocery distribution cooperative.

36 (d) "Controlling" means holding fifty percent or more of the voting  
37 interests of an entity and having at least equal power to direct or

1 cause the direction of the management and policies of the entity,  
2 whether through the ownership of voting securities, by contract, or  
3 otherwise.

4 **Sec. 512.** RCW 82.04.334 and 2007 c 48 s 3 are each amended to read  
5 as follows:

6 This chapter does not apply to any sale of standing timber excluded  
7 from the definition of "sale" in RCW 82.45.010(3). The definitions in  
8 RCW 82.04.260(~~((+12+))~~) (11) apply to this section.

9 **Sec. 513.** RCW 82.04.440 and 2006 c 300 s 8 and 2006 c 84 s 6 are  
10 each reenacted and amended to read as follows:

11 (1) Every person engaged in activities that are subject to tax  
12 under two or more provisions of RCW 82.04.230 through 82.04.298,  
13 inclusive, (~~((shall be))~~) is taxable under each provision applicable to  
14 those activities.

15 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,  
16 82.04.294(2), or 82.04.260 (1)(b), (c), (~~((+4+))~~) or (d), (10), or (11),  
17 or (~~((+12+))~~) section 502(2) of this act with respect to selling products  
18 in this state, including those persons who are also taxable under RCW  
19 82.04.261, (~~((shall be))~~) are allowed a credit against those taxes for  
20 any (a) manufacturing taxes paid with respect to the manufacturing of  
21 products so sold in this state, and/or (b) extracting taxes paid with  
22 respect to the extracting of products so sold in this state or  
23 ingredients of products so sold in this state. Extracting taxes taken  
24 as credit under subsection (3) of this section may also be taken under  
25 this subsection, if otherwise allowable under this subsection. The  
26 amount of the credit (~~((shall))~~) may not exceed the tax liability arising  
27 under this chapter with respect to the sale of those products.

28 (3) Persons taxable as manufacturers under RCW 82.04.240 or  
29 82.04.260 (1)(b) or (~~((+12+))~~) (11), including those persons who are also  
30 taxable under RCW 82.04.261, (~~((shall be))~~) are allowed a credit against  
31 those taxes for any extracting taxes paid with respect to extracting  
32 the ingredients of the products so manufactured in this state. The  
33 amount of the credit (~~((shall))~~) may not exceed the tax liability arising  
34 under this chapter with respect to the manufacturing of those products.

35 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),  
36 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (~~((+4+))~~) (10), or

1 (11), or (~~(+12)~~) section 502(1) of this act, including those persons  
2 who are also taxable under RCW 82.04.261, with respect to extracting or  
3 manufacturing products in this state (~~(shall be)~~) are allowed a credit  
4 against those taxes for any (i) gross receipts taxes paid to another  
5 state with respect to the sales of the products so extracted or  
6 manufactured in this state, (ii) manufacturing taxes paid with respect  
7 to the manufacturing of products using ingredients so extracted in this  
8 state, or (iii) manufacturing taxes paid with respect to manufacturing  
9 activities completed in another state for products so manufactured in  
10 this state. The amount of the credit (~~(shall)~~) may not exceed the tax  
11 liability arising under this chapter with respect to the extraction or  
12 manufacturing of those products.

13 (5) For the purpose of this section:

14 (a) "Gross receipts tax" means a tax:

15 (i) Which is imposed on or measured by the gross volume of  
16 business, in terms of gross receipts or in other terms, and in the  
17 determination of which the deductions allowed would not constitute the  
18 tax an income tax or value added tax; and

19 (ii) Which is also not, pursuant to law or custom, separately  
20 stated from the sales price.

21 (b) "State" means (i) the state of Washington, (ii) a state of the  
22 United States other than Washington, or any political subdivision of  
23 such other state, (iii) the District of Columbia, and (iv) any foreign  
24 country or political subdivision thereof.

25 (c) "Manufacturing tax" means a gross receipts tax imposed on the  
26 act or privilege of engaging in business as a manufacturer, and  
27 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404,  
28 82.04.2909(1), 82.04.260 (1), (2), (~~(+4)~~) (10), and (11), (~~and~~  
29 ~~+12~~) section 502(1) of this act, and 82.04.294(1); (ii) the tax  
30 imposed under RCW 82.04.261 on persons who are engaged in business as  
31 a manufacturer; and (iii) similar gross receipts taxes paid to other  
32 states.

33 (d) "Extracting tax" means a gross receipts tax imposed on the act  
34 or privilege of engaging in business as an extractor, and includes (i)  
35 the tax imposed on extractors in RCW 82.04.230 and 82.04.260(~~(+12)~~)  
36 (11); (ii) the tax imposed under RCW 82.04.261 on persons who are  
37 engaged in business as an extractor; and (iii) similar gross receipts  
38 taxes paid to 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. 514.** RCW 82.04.4463 and 2008 c 81 s 8 are each amended to  
6 read as follows:

7 (1) In computing the tax imposed under this chapter, a credit is  
8 allowed for property taxes and leasehold excise taxes paid during the  
9 calendar year.

10 (2) The credit is equal to:

11 (a)(i)(A) Property taxes paid on buildings, and land upon which the  
12 buildings are located, constructed after December 1, 2003, and used  
13 exclusively in manufacturing commercial airplanes or components of such  
14 airplanes; and

15 (B) Leasehold excise taxes paid with respect to buildings  
16 constructed after January 1, 2006, the land upon which the buildings  
17 are located, or both, if the buildings are used exclusively in  
18 manufacturing commercial airplanes or components of such airplanes; and

19 (C) Property taxes or leasehold excise taxes paid on, or with  
20 respect to, buildings constructed after June 30, 2008, the land upon  
21 which the buildings are located, or both, and used exclusively for  
22 aerospace product development or in providing aerospace services, by  
23 persons not within the scope of (a)(i)(A) and (B) of this subsection

24 (2) and are: (I) Engaged in manufacturing tooling specifically  
25 designed for use in manufacturing commercial airplanes or their  
26 components; or (II) taxable under RCW 82.04.290(3) or 82.04.250(3); or

27 (ii) Property taxes attributable to an increase in assessed value  
28 due to the renovation or expansion, after: (A) December 1, 2003, of a  
29 building used exclusively in manufacturing commercial airplanes or  
30 components of such airplanes; and (B) June 30, 2008, of buildings used  
31 exclusively for aerospace product development or in providing aerospace  
32 services, by persons not within the scope of (a)(ii)(A) of this  
33 subsection (2) and are: (I) Engaged in manufacturing tooling  
34 specifically designed for use in manufacturing commercial airplanes or  
35 their components; or (II) taxable under RCW 82.04.290(3) or  
36 82.04.250(3); and

37 (b) An amount equal to:

1 (i)(A) Property taxes paid, by persons taxable under RCW  
2 82.04.260(~~((+11))~~) (10)(a), on machinery and equipment exempt under RCW  
3 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

4 (B) Property taxes paid, by persons taxable under RCW  
5 82.04.260(~~((+11))~~) (10)(b), on machinery and equipment exempt under RCW  
6 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

7 (C) Property taxes paid, by persons taxable under RCW  
8 (~~((82.04.0250(3)) - {82.04.250(3)})~~) 82.04.250(3) or 82.04.290(3), on  
9 computer hardware, computer peripherals, and software exempt under RCW  
10 82.08.975 or 82.12.975 and acquired after June 30, 2008.

11 (ii) For purposes of determining the amount eligible for credit  
12 under (i)(A) and (B) of this subsection (2)(b), the amount of property  
13 taxes paid is multiplied by a fraction.

14 (~~((+I))~~) (A) The numerator of the fraction is the total taxable  
15 amount subject to the tax imposed under RCW 82.04.260(~~((+11))~~) (10) (a)  
16 or (b) on the applicable business activities of manufacturing  
17 commercial airplanes, components of such airplanes, or tooling  
18 specifically designed for use in the manufacturing of commercial  
19 airplanes or components of such airplanes.

20 (~~((+II))~~) (B) The denominator of the fraction is the total taxable  
21 amount subject to the tax imposed under all manufacturing  
22 classifications in chapter 82.04 RCW.

23 (~~((+III))~~) (C) For purposes of both the numerator and denominator of  
24 the fraction, the total taxable amount refers to the total taxable  
25 amount required to be reported on the person's returns for the calendar  
26 year before the calendar year in which the credit under this section is  
27 earned. The department may provide for an alternative method for  
28 calculating the numerator in cases where the tax rate provided in RCW  
29 82.04.260(~~((+11))~~) (10) for manufacturing was not in effect during the  
30 full calendar year before the calendar year in which the credit under  
31 this section is earned.

32 (~~((+IV))~~) (D) No credit is available under (b)(i)(A) or (B) of this  
33 subsection (2) if either the numerator or the denominator of the  
34 fraction is zero. If the fraction is greater than or equal to nine-  
35 tenths, then the fraction is rounded to one.

36 (~~((+V))~~) (E) As used in (~~((+III))~~) (b)(ii)(C) of this subsection  
37 (2)(~~((b)(ii)(C))~~), "returns" means the tax returns for which the tax  
38 imposed under this chapter is reported to the department.



1 (3) The definitions in this subsection apply throughout this  
2 section, unless the context clearly indicates otherwise.

3 (a) "Aerospace product development" has the same meaning as  
4 provided in RCW 82.04.4461.

5 (b) "Aerospace services" has the same meaning given in RCW  
6 82.08.975.

7 (c) "Commercial airplane" and "component" have the same meanings as  
8 provided in RCW 82.32.550.

9 (4) A credit earned during one calendar year may be carried over to  
10 be credited against taxes incurred in a subsequent calendar year, but  
11 may not be carried over a second year. No refunds may be granted for  
12 credits under this section.

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

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

17 **Sec. 515.** RCW 82.04.4463 and 2010 c 114 (SHB 3066) s 116 are each  
18 amended to read as follows:

19 (1) In computing the tax imposed under this chapter, a credit is  
20 allowed for property taxes and leasehold excise taxes paid during the  
21 calendar year.

22 (2) The credit is equal to:

23 (a)(i)(A) Property taxes paid on buildings, and land upon which the  
24 buildings are located, constructed after December 1, 2003, and used  
25 exclusively in manufacturing commercial airplanes or components of such  
26 airplanes; and

27 (B) Leasehold excise taxes paid with respect to buildings  
28 constructed after January 1, 2006, the land upon which the buildings  
29 are located, or both, if the buildings are used exclusively in  
30 manufacturing commercial airplanes or components of such airplanes; and

31 (C) Property taxes or leasehold excise taxes paid on, or with  
32 respect to, buildings constructed after June 30, 2008, the land upon  
33 which the buildings are located, or both, and used exclusively for  
34 aerospace product development, manufacturing tooling specifically  
35 designed for use in manufacturing commercial airplanes or their  
36 components, or in providing aerospace services, by persons not within

1 the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable  
2 under RCW 82.04.290(3), 82.04.260(~~((+11+))~~) (10)(b), or 82.04.250(3); or  
3 (ii) Property taxes attributable to an increase in assessed value  
4 due to the renovation or expansion, after: (A) December 1, 2003, of a  
5 building used exclusively in manufacturing commercial airplanes or  
6 components of such airplanes; and (B) June 30, 2008, of buildings used  
7 exclusively for aerospace product development, manufacturing tooling  
8 specifically designed for use in manufacturing commercial airplanes or  
9 their components, or in providing aerospace services, by persons not  
10 within the scope of (a)(ii)(A) of this subsection (2) and are taxable  
11 under RCW 82.04.290(3), 82.04.260(~~((+11+))~~) (10)(b), or 82.04.250(3); and  
12 (b) An amount equal to:  
13 (i)(A) Property taxes paid, by persons taxable under RCW  
14 82.04.260(~~((+11+))~~) (10)(a), on machinery and equipment exempt under RCW  
15 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;  
16 (B) Property taxes paid, by persons taxable under RCW  
17 82.04.260(~~((+11+))~~) (10)(b), on machinery and equipment exempt under RCW  
18 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or  
19 (C) Property taxes paid, by persons taxable under RCW 82.04.250(3)  
20 or 82.04.290(3), on computer hardware, computer peripherals, and  
21 software exempt under RCW 82.08.975 or 82.12.975 and acquired after  
22 June 30, 2008.  
23 (ii) For purposes of determining the amount eligible for credit  
24 under (i)(A) and (B) of this subsection (2)(b), the amount of property  
25 taxes paid is multiplied by a fraction.  
26 (A) The numerator of the fraction is the total taxable amount  
27 subject to the tax imposed under RCW 82.04.260(~~((+11+))~~) (10) (a) or (b)  
28 on the applicable business activities of manufacturing commercial  
29 airplanes, components of such airplanes, or tooling specifically  
30 designed for use in the manufacturing of commercial airplanes or  
31 components of such airplanes.  
32 (B) The denominator of the fraction is the total taxable amount  
33 subject to the tax imposed under all manufacturing classifications in  
34 chapter 82.04 RCW.  
35 (C) For purposes of both the numerator and denominator of the  
36 fraction, the total taxable amount refers to the total taxable amount  
37 required to be reported on the person's returns for the calendar year  
38 before the calendar year in which the credit under this section is

1 earned. The department may provide for an alternative method for  
2 calculating the numerator in cases where the tax rate provided in RCW  
3 82.04.260(~~((11))~~) (10) for manufacturing was not in effect during the  
4 full calendar year before the calendar year in which the credit under  
5 this section is earned.

6 (D) No credit is available under (b)(i)(A) or (B) of this  
7 subsection (2) if either the numerator or the denominator of the  
8 fraction is zero. If the fraction is greater than or equal to nine-  
9 tenths, then the fraction is rounded to one.

10 (E) As used in (b)(ii)(C) of this subsection (2)(~~((b)(ii))~~),  
11 "returns" means the tax returns for which the tax imposed under this  
12 chapter is reported to the department.

13 (3) The definitions in this subsection apply throughout this  
14 section, unless the context clearly indicates otherwise.

15 (a) "Aerospace product development" has the same meaning as  
16 provided in RCW 82.04.4461.

17 (b) "Aerospace services" has the same meaning given in RCW  
18 82.08.975.

19 (c) "Commercial airplane" and "component" have the same meanings as  
20 provided in RCW 82.32.550.

21 (4) A credit earned during one calendar year may be carried over to  
22 be credited against taxes incurred in a subsequent calendar year, but  
23 may not be carried over a second year. No refunds may be granted for  
24 credits under this section.

25 (5) In addition to all other requirements under this title, a  
26 person claiming the credit under this section must file a complete  
27 annual report with the department under RCW 82.32.--- (section 103,  
28 chapter 114 (SHB 3066), Laws of 2010).

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

30 **Sec. 516.** RCW 82.08.806 and 2009 c 461 s 5 are each amended to  
31 read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to sales, to a  
33 printer or publisher, of computer equipment, including repair parts and  
34 replacement parts for such equipment, when the computer equipment is  
35 used primarily in the printing or publishing of any printed material,  
36 or to sales of or charges made for labor and services rendered in

1 respect to installing, repairing, cleaning, altering, or improving the  
2 computer equipment. This exemption applies only to computer equipment  
3 not otherwise exempt under RCW 82.08.02565.

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

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

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

13 (b) "Computer equipment" means a computer and the associated  
14 physical components that constitute a computer system, including  
15 monitors, keyboards, printers, modems, scanners, pointing devices, and  
16 other computer peripheral equipment, cables, servers, and routers.  
17 "Computer equipment" also includes digital cameras and computer  
18 software.

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

20 (d) "Primarily" means greater than fifty percent as measured by  
21 time.

22 (e) "Printer or publisher" means a person, as defined in RCW  
23 82.04.030, who is subject to tax under RCW 82.04.260(~~(+14)~~) (13) or  
24 82.04.280(1).

25 (4) "Computer equipment" does not include computer equipment that  
26 is used primarily for administrative purposes including but not limited  
27 to payroll processing, accounting, customer service, telemarketing, and  
28 collection. If computer equipment is used simultaneously for  
29 administrative and nonadministrative purposes, the administrative use  
30 (~~shall~~) must be disregarded during the period of simultaneous use for  
31 purposes of determining whether the computer equipment is used  
32 primarily for administrative purposes.

33 **Sec. 517.** RCW 82.32.550 and 2008 c 81 s 12 are each amended to  
34 read as follows:

35 (1)(~~(a) Chapter 1, Laws of 2003 2nd sp. sess. takes effect on the~~  
36 ~~first day of the month in which the governor and a manufacturer of~~  
37 ~~commercial airplanes sign a memorandum of agreement regarding an~~

1 ~~affirmative final decision to site a significant commercial airplane~~  
2 ~~final assembly facility in Washington state. The department shall~~  
3 ~~provide notice of the effective date of chapter 1, Laws of 2003 2nd sp.~~  
4 ~~sess. to affected taxpayers, the legislature, and others as deemed~~  
5 ~~appropriate by the department.~~

6 ~~(b) Chapter 1, Laws of 2003 2nd sp. sess. is contingent upon the~~  
7 ~~siting of a significant commercial airplane final assembly facility in~~  
8 ~~the state of Washington. If a memorandum of agreement under subsection~~  
9 ~~(1) of this section is not signed by June 30, 2005, chapter 1, Laws of~~  
10 ~~2003 2nd sp. sess. is null and void.~~

11 ~~(c)(i) The rate in RCW 82.04.260(11)(a)(ii) takes effect July 1,~~  
12 ~~2007.~~

13 ~~(ii) If on December 31, 2007, final assembly of a superefficient~~  
14 ~~airplane has not begun in Washington state, the department shall~~  
15 ~~provide notice of such to affected taxpayers, the legislature, and~~  
16 ~~others as deemed appropriate by the department.~~

17 ~~(2) The definitions in this subsection apply throughout this~~  
18 ~~section.~~

19 ~~(a)) "Commercial airplane" has its ordinary meaning, which is an~~  
20 ~~airplane certified by the federal aviation administration for~~  
21 ~~transporting persons or property, and any military derivative of such~~  
22 ~~an airplane.~~

23 ~~((b)) (2) "Component" means a part or system certified by the~~  
24 ~~federal aviation administration for installation or assembly into a~~  
25 ~~commercial airplane.~~

26 ~~((c) "Final assembly of a superefficient airplane" means the~~  
27 ~~activity of assembling an airplane from components parts necessary for~~  
28 ~~its mechanical operation such that the finished commercial airplane is~~  
29 ~~ready to deliver to the ultimate consumer.~~

30 ~~(d) "Significant commercial airplane final assembly facility" means~~  
31 ~~a location with the capacity to produce at least thirty six~~  
32 ~~superefficient airplanes a year.~~

33 ~~(e) "Siting" means a final decision by a manufacturer to locate a~~  
34 ~~significant commercial airplane final assembly facility in Washington~~  
35 ~~state.~~

36 ~~(f)) (3) "Superefficient airplane" means a twin aisle airplane~~  
37 ~~that carries between two hundred and three hundred fifty passengers,~~

1 with a range of more than seven thousand two hundred nautical miles, a  
2 cruising speed of approximately mach .85, and that uses fifteen to  
3 twenty percent less fuel than other similar airplanes on the market.

4 **Sec. 518.** RCW 82.45.195 and 2007 c 48 s 7 are each amended to read  
5 as follows:

6 A sale of standing timber is exempt from tax under this chapter if  
7 the gross income from such sale is taxable under RCW 82.04.260(~~(+12+)~~)  
8 (11)(d).

9 **Sec. 519.** RCW 35.102.150 and 2009 c 461 s 4 are each amended to  
10 read as follows:

11 Notwithstanding RCW 35.102.130, a city that imposes a business and  
12 occupation tax must allocate a person's gross income from the  
13 activities of printing, and of publishing newspapers, periodicals, or  
14 magazines, to the principal place in this state from which the  
15 taxpayer's business is directed or managed. As used in this section,  
16 the activities of printing, and of publishing newspapers, periodicals,  
17 or magazines are those activities to which the tax rates in RCW  
18 82.04.260(~~(+14+)~~) (13) and 82.04.280(1) apply.

19 **Sec. 520.** RCW 48.14.080 and 2009 c 535 s 1102 are each amended to  
20 read as follows:

21 (1) As to insurers, other than title insurers and taxpayers under  
22 RCW 48.14.0201, the taxes imposed by this title (~~shall be~~) are in  
23 lieu of all other taxes, except as otherwise provided in this section.

24 (2) Subsection (1) of this section does not apply with respect to:

25 (a) Taxes on real and tangible personal property;

26 (b) Excise taxes on the sale, purchase, use, or possession of (i)  
27 real property; (ii) tangible personal property; (iii) extended  
28 warranties; (iv) services, including digital automated services as  
29 defined in RCW 82.04.192; and (v) digital goods and digital codes as  
30 those terms are defined in RCW 82.04.192; and

31 (c) The tax imposed in RCW 82.04.260(~~(+10+)~~) (9), regarding public  
32 and nonprofit hospitals.

33 (3) For the purposes of this section, the term "taxes" includes  
34 taxes imposed by the state or any county, city, town, municipal

1 corporation, quasi-municipal corporation, or other political  
2 subdivision.

3 **PART VI**

4 **Suspending the Sales and Use Tax Exemption for Livestock Nutrient**  
5 **Equipment and Facilities**

6 **Sec. 601.** RCW 82.08.890 and 2009 c 469 s 601 are each amended to  
7 read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
9 eligible persons of:

10 (a) Qualifying livestock nutrient management equipment;

11 (b) Labor and services rendered in respect to installing,  
12 repairing, cleaning, altering, or improving qualifying livestock  
13 nutrient management equipment; and

14 (c)(i) Labor and services rendered in respect to repairing,  
15 cleaning, altering, or improving of qualifying livestock nutrient  
16 management facilities, or to tangible personal property that becomes an  
17 ingredient or component of qualifying livestock nutrient management  
18 facilities in the course of repairing, cleaning, altering, or improving  
19 of such facilities.

20 (ii) The exemption provided in this subsection (1)(c) does not  
21 apply to the sale of or charge made for: (A) Labor and services  
22 rendered in respect to the constructing of new, or replacing previously  
23 existing, qualifying livestock nutrient management facilities; or (B)  
24 tangible personal property that becomes an ingredient or component of  
25 qualifying livestock nutrient management facilities during the course  
26 of constructing new, or replacing previously existing, qualifying  
27 livestock nutrient management facilities.

28 (2) The exemption provided in subsection (1) of this section  
29 applies to sales made after the livestock nutrient management plan is:

30 (a) Certified under chapter 90.64 RCW; (b) approved as part of the  
31 permit issued under chapter 90.48 RCW; or (c) approved as required  
32 under subsection (4)(c)(iii) of this section.

33 (3)(a) The department of revenue must provide an exemption  
34 certificate to an eligible person upon application by that person. The  
35 department of agriculture must provide a list of eligible persons, as  
36 defined in subsection (4)(c)(i) and (ii) of this section, to the

1 department of revenue. Conservation districts must maintain lists of  
2 eligible persons as defined in subsection (4)(c)(iii) of this section  
3 to allow the department of revenue to verify eligibility. The  
4 application must be in a form and manner prescribed by the department  
5 and must contain information regarding the location of the dairy or  
6 animal feeding operation and other information the department may  
7 require.

8 (b) A person claiming an exemption under this section must keep  
9 records necessary for the department to verify eligibility under this  
10 section. 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 (4) The definitions in this subsection apply to this section and  
15 RCW 82.12.890 unless the context clearly requires otherwise:

16 (a) "Animal feeding operation" means a lot or facility, other than  
17 an aquatic animal production facility, where the following conditions  
18 are met:

19 (i) Animals, other than aquatic animals, have been, are, or will be  
20 stabled or confined and fed or maintained for a total of forty-five  
21 days or more in any twelve-month period; and

22 (ii) Crops, vegetation, forage growth, or postharvest residues are  
23 not sustained in the normal growing season over any portion of the lot  
24 or facility.

25 (b) "Conservation district" means a subdivision of state government  
26 organized under chapter 89.08 RCW.

27 (c) "Eligible person" means a person: (i) Licensed to produce milk  
28 under chapter 15.36 RCW who has a certified dairy nutrient management  
29 plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding  
30 operation and has a permit issued under chapter 90.48 RCW; or (iii) who  
31 owns an animal feeding operation and has a nutrient management plan  
32 approved by a conservation district as meeting natural resource  
33 conservation service field office technical guide standards and who  
34 possesses an exemption certificate under RCW 82.08.855.

35 (d) "Handling and treatment of livestock manure" means the  
36 activities of collecting, storing, moving, or transporting livestock  
37 manure, separating livestock manure solids from liquids, or applying



1 livestock manure to the agricultural lands of an eligible person other  
2 than through the use of pivot or linear type traveling irrigation  
3 systems.

4 (e) "Permit" means either a state waste discharge permit or a  
5 national pollutant discharge elimination system permit, or both.

6 (f) "Qualifying livestock nutrient management equipment" means the  
7 following tangible personal property for exclusive use in the handling  
8 and treatment of livestock manure, including repair and replacement  
9 parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers;  
10 (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler  
11 irrigation systems; (vii) lagoon and pond liners and floating covers;  
12 (viii) loaders; (ix) manure composting devices; (x) manure spreaders;  
13 (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry  
14 house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry  
15 house washers; (xvi) poultry litter saver machines; (xvii) pipes;  
16 (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors  
17 and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

18 (g) "Qualifying livestock nutrient management facilities" means the  
19 following structures and facilities for exclusive use in the handling  
20 and treatment of livestock manure: (i) Flush systems; (ii) lagoons;  
21 (iii) liquid livestock manure storage structures, such as concrete  
22 tanks or glass-lined steel tanks; and (iv) structures used solely for  
23 the dry storage of manure, including roofed stacking facilities.

24 (5) The exemption under this section does not apply to sales made  
25 from the effective date of this section through June 30, 2013.

26 **Sec. 602.** RCW 82.12.890 and 2009 c 469 s 602 are each amended to  
27 read as follows:

28 (1) The provisions of this chapter do not apply with respect to the  
29 use by an eligible person of:

- 30 (a) Qualifying livestock nutrient management equipment;
- 31 (b) Labor and services rendered in respect to installing,  
32 repairing, cleaning, altering, or improving qualifying livestock  
33 nutrient management equipment; and

34 (c)(i) Tangible personal property that becomes an ingredient or  
35 component of qualifying livestock nutrient management facilities in the  
36 course of repairing, cleaning, altering, or improving of such  
37 facilities.

1 (ii) The exemption provided in this subsection (1)(c) does not  
2 apply to the use of tangible personal property that becomes an  
3 ingredient or component of qualifying livestock nutrient management  
4 facilities during the course of constructing new, or replacing  
5 previously existing, qualifying livestock nutrient management  
6 facilities.

7 (2)(a) To be eligible, the equipment and facilities must be used  
8 exclusively for activities necessary to maintain a livestock nutrient  
9 management plan.

10 (b) The exemption applies to the use of tangible personal property  
11 and labor and services made after the livestock nutrient management  
12 plan is: (i) Certified under chapter 90.64 RCW; (ii) approved as part  
13 of the permit issued under chapter 90.48 RCW; or (iii) approved as  
14 required under RCW 82.08.890(4)(c)(iii).

15 (3) The exemption certificate and recordkeeping requirements of RCW  
16 82.08.890 apply to this section. The definitions in RCW 82.08.890  
17 apply to this section.

18 (4) The exemption under this section does not apply to the use of  
19 tangible personal property and services if first use of the property or  
20 services in this state occurs from the effective date of this section  
21 through June 30, 2013.

## 22 PART VII

### 23 Ending the Preferential Business and Occupation Tax Treatment Received 24 by Directors of Corporations

25 NEW SECTION. **Sec. 701.** (1) In adopting the state's business and  
26 occupation tax, the legislature intended to tax virtually all business  
27 activities carried on within the state. See *Simpson Inv. Co. v. Dep't*  
28 *of Revenue*, 141 Wn.2d 139, 149 (2000). The legislature recognizes that  
29 the business and occupation tax applies to all activities engaged in  
30 with the object of gain, benefit, or advantage to the taxpayer or to  
31 another person or class, directly or indirectly, unless a specific  
32 exemption applies.

33 (2) One of the major business and occupation tax exemptions is  
34 provided in RCW 82.04.360 for income earned as an employee or servant  
35 as distinguished from income earned as an independent contractor. The

1 legislature's intent in providing this exemption was to exempt employee  
2 wages from the business and occupation tax but not to exempt income  
3 earned as an independent contractor.

4 (3) The legislature finds that corporate directors are not  
5 employees or servants of the corporation whose board they serve on and  
6 therefore are not entitled to a business and occupation tax exemption  
7 under RCW 82.04.360. The legislature further finds that there are no  
8 business and occupation tax exemptions for compensation received for  
9 serving as a member of a corporation's board of directors.

10 (4) The legislature also finds that there is a widespread  
11 misunderstanding among corporate directors that the business and  
12 occupation tax does not apply to the compensation they receive for  
13 serving as a director of a corporation. It is the legislature's  
14 expectation that the department of revenue will take appropriate  
15 measures to ensure that corporate directors understand and comply with  
16 their business and occupation tax obligations with respect to their  
17 director compensation. However, because of the widespread  
18 misunderstanding by corporate directors of their liability for business  
19 and occupation tax on director compensation, the legislature finds that  
20 it is appropriate in this unique situation to provide limited relief  
21 against the retroactive assessment of business and occupation taxes on  
22 corporate director compensation.

23 (5) The legislature also reaffirms its intent that all income of  
24 all independent contractors is subject to business and occupation tax  
25 unless specifically exempt under the Constitution or laws of this state  
26 or the United States.

27 **Sec. 702.** RCW 82.04.360 and 2010 c 106 (E2SHB 1597) s 207 are each  
28 amended to read as follows:

29 (1) This chapter does not apply to any person in respect to his or  
30 her employment in the capacity of an employee or servant as  
31 distinguished from that of an independent contractor. For the purposes  
32 of this section, the definition of employee (~~shall~~) includes those  
33 persons that are defined in section 3121(d)(3)(B) of the federal  
34 internal revenue code of 1986, as amended through January 1, 1991.

35 (2) Until the effective date of this section, this chapter does not  
36 apply to amounts received by an individual from a corporation as

1 compensation for serving as a member of that corporation's board of  
2 directors. Beginning on the effective date of this section, such  
3 amounts are taxable under RCW 82.04.290(2).

4 (3) A booth renter is an independent contractor for purposes of  
5 this chapter. For purposes of this ((sub))section, "booth renter"  
6 means any person who:

7 (a) Performs cosmetology, barbering, esthetics, or manicuring  
8 services for which a license is required under chapter 18.16 RCW; and

9 (b) Pays a fee for the use of salon or shop facilities and receives  
10 no compensation or other consideration from the owner of the salon or  
11 shop for the services performed.

12 **PART VIII**

13 **Tax Debts**

14 **Sec. 801.** RCW 82.32.145 and 1995 c 318 s 2 are each amended to  
15 read as follows:

16 (1) ~~((Upon termination, dissolution, or abandonment of a corporate~~  
17 ~~or limited liability company business, any officer, member, manager, or~~  
18 ~~other person having control or supervision of retail sales tax funds~~  
19 ~~collected and held in trust under RCW 82.08.050, or who is charged with~~  
20 ~~the responsibility for the filing of returns or the payment of retail~~  
21 ~~sales tax funds collected and held in trust under RCW 82.08.050, shall~~  
22 ~~be personally liable for any unpaid taxes and interest and penalties on~~  
23 ~~those taxes, if such officer or other person wilfully fails to pay or~~  
24 ~~to cause to be paid any taxes due from the corporation pursuant to~~  
25 ~~chapter 82.08 RCW. For the purposes of this section, any retail sales~~  
26 ~~taxes that have been paid but not collected shall be deductible from~~  
27 ~~the retail sales taxes collected but not paid.~~

28 ~~For purposes of this subsection "wilfully fails to pay or to cause~~  
29 ~~to be paid" means that the failure was the result of an intentional,~~  
30 ~~conscious, and voluntary course of action.~~

31 ~~(2) The officer, member or manager, or other person shall be liable~~  
32 ~~only for taxes collected which)) Whenever the department has issued a  
33 warrant under RCW 82.32.210 for the collection of unpaid retail sales  
34 tax funds collected and held in trust under RCW 82.08.050 from a  
35 limited liability business entity and that business entity has been  
36 terminated, dissolved, or abandoned, or is insolvent, the department~~

1 may pursue collection of the entity's unpaid sales taxes, including  
2 penalties and interest on those taxes, against any or all of the  
3 responsible individuals. For purposes of this subsection, "insolvent"  
4 means the condition that results when the sum of the entity's debts  
5 exceeds the fair market value of its assets. The department may  
6 presume that an entity is insolvent if the entity refuses to disclose  
7 to the department the nature of its assets and liabilities.

8 (2) Personal liability under this section may be imposed for state  
9 and local sales taxes.

10 (3)(a) For a responsible individual who is the current or a former  
11 chief executive or chief financial officer, liability under this  
12 section applies regardless of fault or whether the individual was or  
13 should have been aware of the unpaid sales tax liability of the limited  
14 liability business entity.

15 (b) For any other responsible individual, liability under this  
16 section applies only if he or she willfully fails to pay or to cause to  
17 be paid to the department the sales taxes due from the limited  
18 liability business entity.

19 (4)(a) Except as provided in this subsection (4)(a), a responsible  
20 individual who is the current or a former chief executive or chief  
21 financial officer is liable under this section only for sales tax  
22 liability accrued during the period that he or she was the chief  
23 executive or chief financial officer. However, if the responsible  
24 individual had the responsibility or duty to remit payment of the  
25 limited liability business entity's sales taxes to the department  
26 during any period of time that the person was not the chief executive  
27 or chief financial officer, that individual is also liable for sales  
28 tax liability that became due during the period that he or she had the  
29 duty to remit payment of the limited liability business entity's taxes  
30 to the department but was not the chief executive or chief financial  
31 officer.

32 (b) All other responsible individuals are liable under this section  
33 only for sales tax liability that became due during the period he or  
34 she had the ((control, supervision,)) responsibility((,)) or duty to  
35 ((act for the corporation described in subsection (1) of this section,  
36 plus interest and penalties on those taxes.

37 (3)) remit payment of the limited liability business entity's  
38 taxes to the department.

1        ~~(5) Persons ((liable under))~~ described in subsection ((+1)) (3)(b)  
2 of this section are exempt from liability under this section in  
3 situations where nonpayment of the ~~((retail sales tax funds held in~~  
4 ~~trust))~~ limited liability business entity's sales taxes is due to  
5 reasons beyond their control as determined by the department by rule.

6        ~~((+4))~~ (6) Any person having been issued a notice of assessment  
7 under this section is entitled to the appeal procedures under RCW  
8 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

9        ~~((+5) This section applies only in situations where the department~~  
10 ~~has determined that there is no reasonable means of collecting the~~  
11 ~~retail sales tax funds held in trust directly from the corporation.~~

12        ~~(+6))~~ (7) This section does not relieve the ((corporation or))  
13 limited liability ((company)) business entity of ((other tax  
14 liabilities)) its sales tax liability or otherwise impair other tax  
15 collection remedies afforded by law.

16        ~~((+7))~~ (8) Collection authority and procedures prescribed in this  
17 chapter apply to collections under this section.

18        (9) The definitions in this subsection apply throughout this  
19 section unless the context clearly requires otherwise.

20        (a) "Chief executive" means: The president of a corporation; or  
21 for other entities or organizations other than corporations or if the  
22 corporation does not have a president as one of its officers, the  
23 highest ranking executive manager or administrator in charge of the  
24 management of the company or organization.

25        (b) "Chief financial officer" means: The treasurer of a  
26 corporation; or for entities or organizations other than corporations  
27 or if a corporation does not have a treasurer as one of its officers,  
28 the highest senior manager who is responsible for overseeing the  
29 financial activities of the entire company or organization.

30        (c) "Limited liability business entity" means a type of business  
31 entity that generally shields its owners from personal liability for  
32 the debts, obligations, and liabilities of the entity, or a business  
33 entity that is managed or owned in whole or in part by an entity that  
34 generally shields its owners from personal liability for the debts,  
35 obligations, and liabilities of the entity. Limited liability business  
36 entities include corporations, limited liability companies, limited  
37 liability partnerships, trusts, general partnerships and joint ventures  
38 in which one or more of the partners or parties are also limited

1 liability business entities, and limited partnerships in which one or  
2 more of the general partners are also limited liability business  
3 entities.

4 (d) "Manager" has the same meaning as in RCW 25.15.005.

5 (e) "Member" has the same meaning as in RCW 25.15.005, except that  
6 the term only includes members of member-managed limited liability  
7 companies.

8 (f) "Officer" means any officer or assistant officer of a  
9 corporation, including the president, vice-president, secretary, and  
10 treasurer.

11 (g)(i) "Responsible individual" includes any current or former  
12 officer, manager, member, partner, or trustee of a limited liability  
13 business entity with an unpaid tax warrant issued by the department.

14 (ii) "Responsible individual" also includes any current or former  
15 employee or other individual, but only if the individual had the  
16 responsibility or duty to remit payment of the limited liability  
17 business entity's unpaid sales tax liability reflected in a tax warrant  
18 issued by the department.

19 (iii) Whenever any taxpayer has one or more limited liability  
20 business entities as a member, manager, or partner, "responsible  
21 individual" also includes any current and former officers, members, or  
22 managers of the limited liability business entity or entities or of any  
23 other limited liability business entity involved directly in the  
24 management of the taxpayer. For purposes of this subsection  
25 (9)(g)(iii), "taxpayer" means a limited liability business entity with  
26 an unpaid tax warrant issued against it by the department.

27 (h) "Willfully fails to pay or to cause to be paid" means that the  
28 failure was the result of an intentional, conscious, and voluntary  
29 course of action.

## 30 PART IX

### 31 Repealing the Sales and Use Tax Exemptions 32 for Bottled Water and Candy

33 **Sec. 901.** RCW 82.08.0293 and 2009 c 483 s 2 are each amended to  
34 read as follows:

35 (1) The tax levied by RCW 82.08.020 (~~shall~~) does not apply to  
36 sales of food and food ingredients. "Food and food ingredients" means

1 substances, whether in liquid, concentrated, solid, frozen, dried, or  
2 dehydrated form, that are sold for ingestion or chewing by humans and  
3 are consumed for their taste or nutritional value. "Food and food  
4 ingredients" does not include:

5 (a) "Alcoholic beverages," which means beverages that are suitable  
6 for human consumption and contain one-half of one percent or more of  
7 alcohol by volume; and

8 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe  
9 tobacco, or any other item that contains tobacco.

10 (2) Until July 1, 2013, the exemption of "food and food  
11 ingredients" provided for in subsection (1) of this section (~~shall~~)  
12 does not apply to prepared food, soft drinks, bottled water, candy, or  
13 dietary supplements. Beginning July 1, 2013, the exemption of "food  
14 and food ingredients" provided for in subsection (1) of this section  
15 does not apply to prepared food, soft drinks, candy, or dietary  
16 supplements.

17 (a) "Prepared food" means:

18 (i) Food sold in a heated state or heated by the seller;

19 (ii) Food sold with eating utensils provided by the seller,  
20 including plates, knives, forks, spoons, glasses, cups, napkins, or  
21 straws. A plate does not include a container or packaging used to  
22 transport the food; or

23 (iii) Two or more food ingredients mixed or combined by the seller  
24 for sale as a single item, except:

25 (A) Food that is only cut, repackaged, or pasteurized by the  
26 seller; or

27 (B) Raw eggs, fish, meat, poultry, and foods containing these raw  
28 animal foods requiring cooking by the consumer as recommended by the  
29 federal food and drug administration in chapter 3, part 401.11 of The  
30 Food Code, published by the food and drug administration, as amended or  
31 renumbered as of January 1, 2003, so as to prevent foodborne illness.

32 (b) "Prepared food" does not include the following food or food  
33 ingredients, if the food or food ingredients are sold without eating  
34 utensils provided by the seller:

35 (i) Food sold by a seller whose proper primary North American  
36 industry classification system (NAICS) classification is manufacturing  
37 in sector 311, except subsector 3118 (bakeries), as provided in the  
38 "North American industry classification system--United States, 2002";



1 (ii) Food sold in an unheated state by weight or volume as a single  
2 item; or

3 (iii) Bakery items. The term "bakery items" includes bread, rolls,  
4 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,  
5 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

6 (c) "Soft drinks" means nonalcoholic beverages that contain natural  
7 or artificial sweeteners. Soft drinks do not include beverages that  
8 contain: Milk or milk products; soy, rice, or similar milk  
9 substitutes; or greater than fifty percent of vegetable or fruit juice  
10 by volume.

11 (d) "Dietary supplement" means any product, other than tobacco,  
12 intended to supplement the diet that:

13 (i) Contains one or more of the following dietary ingredients:

14 (A) A vitamin;

15 (B) A mineral;

16 (C) An herb or other botanical;

17 (D) An amino acid;

18 (E) A dietary substance for use by humans to supplement the diet by  
19 increasing the total dietary intake; or

20 (F) A concentrate, metabolite, constituent, extract, or combination  
21 of any ingredient described in this subsection;

22 (ii) Is intended for ingestion in tablet, capsule, powder, softgel,  
23 gelcap, or liquid form, or if not intended for ingestion in such form,  
24 is not represented as conventional food and is not represented for use  
25 as a sole item of a meal or of the diet; and

26 (iii) Is required to be labeled as a dietary supplement,  
27 identifiable by the "supplement facts" box found on the label as  
28 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as  
29 of January 1, 2003.

30 (e) "Candy" means a preparation of sugar, honey, or other natural  
31 or artificial sweeteners in combination with chocolate, fruits, nuts,  
32 or other ingredients or flavorings in the form of bars, drops, or  
33 pieces. "Candy" does not include any preparation containing flour and  
34 does not require refrigeration.

35 (f) "Bottled water" means water that is placed in a sealed  
36 container or package for human consumption. Bottled water is calorie  
37 free and does not contain sweeteners or other additives except that it  
38 may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)

1 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;  
2 (vi) preservatives; and (vii) only those flavors, extracts, or essences  
3 derived from a spice or fruit. "Bottled water" includes water that is  
4 delivered to the buyer in a reusable container that is not sold with  
5 the water.

6 (3) Notwithstanding anything in this section to the contrary, the  
7 exemption of "food and food ingredients" provided in this section  
8 (~~shall apply~~) applies to food and food ingredients that are  
9 furnished, prepared, or served as meals:

10 (a) Under a state administered nutrition program for the aged as  
11 provided for in the older Americans act (P.L. 95-478 Title III) and RCW  
12 74.38.040(6);

13 (b) That are provided to senior citizens, individuals with  
14 disabilities, or low-income persons by a not-for-profit organization  
15 organized under chapter 24.03 or 24.12 RCW; or

16 (c) That are provided to residents, sixty-two years of age or  
17 older, of a qualified low-income senior housing facility by the lessor  
18 or operator of the facility. The sale of a meal that is billed to both  
19 spouses of a marital community or both domestic partners of a domestic  
20 partnership meets the age requirement in this subsection (3)(c) if at  
21 least one of the spouses or domestic partners is at least sixty-two  
22 years of age. For purposes of this subsection, "qualified low-income  
23 senior housing facility" means a facility:

24 (i) That meets the definition of a qualified low-income housing  
25 project under (~~Title~~) 26 U.S.C. Sec. 42 of the federal internal  
26 revenue code, as existing on August 1, 2009;

27 (ii) That has been partially funded under (~~Title~~) 42 U.S.C. Sec.  
28 1485 (~~of the federal internal revenue code~~); and

29 (iii) For which the lessor or operator has at any time been  
30 entitled to claim a federal income tax credit under (~~Title~~) 26 U.S.C.  
31 Sec. 42 of the federal internal revenue code.

32 (4)(a) Subsection (1) of this section notwithstanding, the retail  
33 sale of food and food ingredients is subject to sales tax under RCW  
34 82.08.020 if the food and food ingredients are sold through a vending  
35 machine, and in this case the selling price for purposes of RCW  
36 82.08.020 is fifty-seven percent of the gross receipts.

37 (b) This subsection (4) does not apply to hot prepared food and

1 food ingredients, other than food and food ingredients which are heated  
2 after they have been dispensed from the vending machine.

3 (c) For tax collected under this subsection (4), the requirements  
4 that the tax be collected from the buyer and that the amount of tax be  
5 stated as a separate item are waived.

6 **Sec. 902.** RCW 82.08.0293 and 2010 c 106 (E2SHB 1597) s 216 are  
7 each amended to read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to sales of food  
9 and food ingredients. "Food and food ingredients" means substances,  
10 whether in liquid, concentrated, solid, frozen, dried, or dehydrated  
11 form, that are sold for ingestion or chewing by humans and are consumed  
12 for their taste or nutritional value. "Food and food ingredients" does  
13 not include:

14 (a) "Alcoholic beverages," which means beverages that are suitable  
15 for human consumption and contain one-half of one percent or more of  
16 alcohol by volume; and

17 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe  
18 tobacco, or any other item that contains tobacco.

19 (2) Until July 1, 2013, the exemption of "food and food  
20 ingredients" provided for in subsection (1) of this section does not  
21 apply to prepared food, soft drinks, bottled water, candy, or dietary  
22 supplements. Beginning July 1, 2013, the exemption of "food and food  
23 ingredients" provided for in subsection (1) of this section does not  
24 apply to prepared food, soft drinks, candy, or dietary supplements.

25 For purposes of this subsection, the following definitions apply:

26 (a) "Dietary supplement" means any product, other than tobacco,  
27 intended to supplement the diet that:

28 (i) Contains one or more of the following dietary ingredients:

29 (A) A vitamin;

30 (B) A mineral;

31 (C) An herb or other botanical;

32 (D) An amino acid;

33 (E) A dietary substance for use by humans to supplement the diet by  
34 increasing the total dietary intake; or

35 (F) A concentrate, metabolite, constituent, extract, or combination  
36 of any ingredient described in this subsection;

1 (ii) Is intended for ingestion in tablet, capsule, powder, softgel,  
2 gelcap, or liquid form, or if not intended for ingestion in such form,  
3 is not represented as conventional food and is not represented for use  
4 as a sole item of a meal or of the diet; and

5 (iii) Is required to be labeled as a dietary supplement,  
6 identifiable by the "supplement facts" box found on the label as  
7 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as  
8 of January 1, 2003.

9 (b)(i) "Prepared food" means:

10 (A) Food sold in a heated state or heated by the seller;

11 (B) Food sold with eating utensils provided by the seller,  
12 including plates, knives, forks, spoons, glasses, cups, napkins, or  
13 straws. A plate does not include a container or packaging used to  
14 transport the food; or

15 (C) Two or more food ingredients mixed or combined by the seller  
16 for sale as a single item, except:

17 (I) Food that is only cut, repackaged, or pasteurized by the  
18 seller; or

19 (II) Raw eggs, fish, meat, poultry, and foods containing these raw  
20 animal foods requiring cooking by the consumer as recommended by the  
21 federal food and drug administration in chapter 3, part 401.11 of The  
22 Food Code, published by the food and drug administration, as amended or  
23 renumbered as of January 1, 2003, so as to prevent foodborne illness.

24 (ii) "Prepared food" does not include the following food or food  
25 ingredients, if the food or food ingredients are sold without eating  
26 utensils provided by the seller:

27 (A) Food sold by a seller whose proper primary North American  
28 industry classification system (NAICS) classification is manufacturing  
29 in sector 311, except subsector 3118 (bakeries), as provided in the  
30 "North American industry classification system--United States, 2002";

31 (B) Food sold in an unheated state by weight or volume as a single  
32 item; or

33 (C) Bakery items. The term "bakery items" includes bread, rolls,  
34 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,  
35 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

36 (c) "Soft drinks" means nonalcoholic beverages that contain natural  
37 or artificial sweeteners. Soft drinks do not include beverages that

1 contain: Milk or milk products; soy, rice, or similar milk  
2 substitutes; or greater than fifty percent of vegetable or fruit juice  
3 by volume.

4 (d) "Candy" means a preparation of sugar, honey, or other natural  
5 or artificial sweeteners in combination with chocolate, fruits, nuts,  
6 or other ingredients or flavorings in the form of bars, drops, or  
7 pieces. "Candy" does not include any preparation containing flour and  
8 does not require refrigeration.

9 (e) "Bottled water" means water that is placed in a sealed  
10 container or package for human consumption. Bottled water is calorie  
11 free and does not contain sweeteners or other additives except that it  
12 may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)  
13 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;  
14 (vi) preservatives; and (vii) only those flavors, extracts, or essences  
15 derived from a spice or fruit. "Bottled water" includes water that is  
16 delivered to the buyer in a reusable container that is not sold with  
17 the water.

18 (3) Notwithstanding anything in this section to the contrary, the  
19 exemption of "food and food ingredients" provided in this section  
20 applies to food and food ingredients that are furnished, prepared, or  
21 served as meals:

22 (a) Under a state administered nutrition program for the aged as  
23 provided for in the older Americans act (P.L. 95-478 Title III) and RCW  
24 74.38.040(6);

25 (b) That are provided to senior citizens, individuals with  
26 disabilities, or low-income persons by a not-for-profit organization  
27 organized under chapter 24.03 or 24.12 RCW; or

28 (c) That are provided to residents, sixty-two years of age or  
29 older, of a qualified low-income senior housing facility by the lessor  
30 or operator of the facility. The sale of a meal that is billed to both  
31 spouses of a marital community or both domestic partners of a domestic  
32 partnership meets the age requirement in this subsection (3)(c) if at  
33 least one of the spouses or domestic partners is at least sixty-two  
34 years of age. For purposes of this subsection, "qualified low-income  
35 senior housing facility" means a facility:

36 (i) That meets the definition of a qualified low-income housing  
37 project under 26 U.S.C. Sec. 42 of the federal internal revenue code,  
38 as existing on August 1, 2009;

1 (ii) That has been partially funded under 42 U.S.C. Sec. 1485 (~~of~~  
2 ~~the federal internal revenue code~~)); and

3 (iii) For which the lessor or operator has at any time been  
4 entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42  
5 of the federal internal revenue code.

6 (4)(a) Subsection (1) of this section notwithstanding, the retail  
7 sale of food and food ingredients is subject to sales tax under RCW  
8 82.08.020 if the food and food ingredients are sold through a vending  
9 machine. Except as provided in (b) of this subsection, the selling  
10 price of food and food ingredients sold through a vending machine for  
11 purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

12 (b) For soft drinks and hot prepared food and food ingredients,  
13 other than food and food ingredients which are heated after they have  
14 been dispensed from the vending machine, the selling price is the total  
15 gross receipts of such sales divided by the sum of one plus the sales  
16 tax rate expressed as a decimal.

17 (c) For tax collected under this subsection (4), the requirements  
18 that the tax be collected from the buyer and that the amount of tax be  
19 stated as a separate item are waived.

20 **Sec. 903.** RCW 82.12.0293 and 2009 c 483 s 4 are each amended to  
21 read as follows:

22 (1) The provisions of this chapter (~~shall~~) do not apply in  
23 respect to the use of food and food ingredients for human consumption.  
24 "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

25 (2) Until July 1, 2013, the exemption of "food and food  
26 ingredients" provided for in subsection (1) of this section (~~shall~~)  
27 does not apply to prepared food, soft drinks, bottled water, candy, or  
28 dietary supplements. Beginning July 1, 2013, the exemption of "food  
29 and food ingredients" provided for in subsection (1) of this section  
30 does not apply to prepared food, soft drinks, candy, or dietary  
31 supplements. "Prepared food," "soft drinks," (~~and~~) "dietary  
32 supplements," "candy," and "bottled water" have the same meanings as in  
33 RCW 82.08.0293.

34 (3) Notwithstanding anything in this section to the contrary, the  
35 exemption of "food and food ingredients" provided in this section  
36 (~~shall~~) apply to food and food ingredients which are furnished,  
37 prepared, or served as meals:

1 (a) Under a state administered nutrition program for the aged as  
2 provided for in the older Americans act (P.L. 95-478 Title III) and RCW  
3 74.38.040(6);

4 (b) Which are provided to senior citizens, individuals with  
5 disabilities, or low-income persons by a not-for-profit organization  
6 organized under chapter 24.03 or 24.12 RCW; or

7 (c) That are provided to residents, sixty-two years of age or  
8 older, of a qualified low-income senior housing facility by the lessor  
9 or operator of the facility. The sale of a meal that is billed to both  
10 spouses of a marital community or both domestic partners of a domestic  
11 partnership meets the age requirement in this subsection (3)(c) if at  
12 least one of the spouses or domestic partners is at least sixty-two  
13 years of age. For purposes of this subsection, "qualified low-income  
14 senior housing facility" has the same meaning as in RCW 82.08.0293.

15 NEW SECTION. **Sec. 904.** A new section is added to chapter 82.08  
16 RCW to read as follows:

17 (1) Subject to the conditions in this section, the tax levied by  
18 RCW 82.08.020 does not apply to sales of bottled water for human use  
19 dispensed or to be dispensed to patients, pursuant to a prescription  
20 for use in the cure, mitigation, treatment, or prevention of disease or  
21 other medical condition. For purposes of this section, "prescription"  
22 means an order, formula, or recipe issued in any form of oral, written,  
23 electronic, or other means of transmission by a duly licensed  
24 practitioner authorized by the laws of this state to prescribe.

25 (2) Except for sales of bottled water delivered to the buyer in a  
26 reusable container that is not sold with the water, sellers must  
27 collect tax on sales subject to this exemption. Any buyer that has  
28 paid at least twenty-five dollars in state and local sales taxes on  
29 purchases of bottled water subject to this exemption may apply for a  
30 refund of the taxes directly from the department in a form and manner  
31 prescribed by the department. The department must deny any refund  
32 application if the amount of the refund requested is less than twenty-  
33 five dollars. No refund may be made for taxes paid more than four  
34 years after the end of the calendar year in which the tax was paid to  
35 the seller.

36 (3) The provisions of RCW 82.32.060 apply to refunds authorized  
37 under this section.

1 (4) With respect to sales of bottled water delivered to the buyer  
2 in a reusable container that is not sold with the water, buyers  
3 claiming the exemption provided in this section must provide the seller  
4 with an exemption certificate in a form and manner prescribed by the  
5 department. The seller must retain a copy of the certificate for the  
6 seller's files.

7 NEW SECTION. **Sec. 905.** A new section is added to chapter 82.12  
8 RCW to read as follows:

9 The provisions of this chapter do not apply in respect to the use  
10 of bottled water for human use dispensed or to be dispensed to  
11 patients, pursuant to a prescription for use in the cure, mitigation,  
12 treatment, or prevention of disease or medical condition.  
13 "Prescription" has the same meaning as in section 904 of this act.

14 NEW SECTION. **Sec. 906.** A new section is added to chapter 82.08  
15 RCW to read as follows:

16 (1) Subject to the conditions in this section, the tax levied by  
17 RCW 82.08.020 does not apply to sales of bottled water for human use to  
18 persons who do not otherwise have a readily available source of potable  
19 water.

20 (2) Except for sales of bottled water delivered to the buyer in a  
21 reusable container that is not sold with the water, sellers must  
22 collect tax on sales subject to this exemption. Any buyer that has  
23 paid at least twenty-five dollars in state and local sales taxes on  
24 purchases of bottled water subject to this exemption may apply for a  
25 refund of the taxes directly from the department in a form and manner  
26 prescribed by the department. The department must deny any refund  
27 application if the amount of the refund requested is less than twenty-  
28 five dollars. No refund may be made for taxes paid more than four  
29 years after the end of the calendar year in which the tax was paid to  
30 the seller.

31 (3) The provisions of RCW 82.32.060 apply to refunds authorized  
32 under this section.

33 (4)(a) With respect to sales of bottled water delivered to the  
34 buyer in a reusable container that is not sold with the water, buyers  
35 claiming the exemption provided in this section must provide the seller



1 with an exemption certificate in a form and manner prescribed by the  
2 department. The seller must retain a copy of the certificate for the  
3 seller's files.

4 (b) The department may waive the requirement for an exemption  
5 certificate in the event of disaster or similar circumstance.

6 NEW SECTION. **Sec. 907.** A new section is added to chapter 82.12  
7 RCW to read as follows:

8 The provisions of this chapter do not apply in respect to the use  
9 of bottled water for human use by persons who do not otherwise have a  
10 readily available source of potable water.

11 NEW SECTION. **Sec. 908.** A new section is added to chapter 82.04  
12 RCW to read as follows:

13 (1)(a) Subject to the requirements and limits in this section,  
14 candy manufacturers are entitled to a credit against the tax due under  
15 this chapter. The credit equals one thousand dollars for:

16 (i) Each full-time employment position that has been maintained in  
17 this state on a full-time basis for a continuous period of at least  
18 twelve consecutive months; or

19 (ii) Each full-time equivalent seasonal employee hired by a  
20 seasonal employer.

21 (b) Once a full-time employment position has been filled, the  
22 position does not cease to be maintained for a continuous period solely  
23 due to periods in which the position goes vacant, as long as:

24 (i) The cumulative period of any vacancies in that position is not  
25 more than one hundred twenty days in the twelve consecutive month  
26 period for which the position must be filled to earn a credit under  
27 this section; and

28 (ii) During any vacancy, the employer is training or actively  
29 recruiting a replacement permanent, full-time employee for the  
30 position.

31 (c) For full-time employment positions initially filled before July  
32 1, 2010:

33 (i) The twelve consecutive month period for which the position must  
34 be filled to earn a credit under this section begins on the later of  
35 August 1, 2009, or the date that the employment position was initially  
36 filled; and

1 (ii) A second credit may be earned if the employment position is  
2 maintained on a full-time basis for an additional twelve consecutive  
3 month period.

4 (2)(a) The credit may only be claimed on a tax return filed  
5 electronically with the department using the department's online tax  
6 filing service, unless the department grants a waiver for good cause  
7 shown. For purposes of this subsection, "good cause" has the same  
8 meaning as in RCW 82.32.080(8)(a) (i), (ii), (iii), and (vi) and (b).

9 (b) Credit may be claimed only on tax returns originally due after  
10 July 31, 2010.

11 (c) The department must disallow any credit claimed on tax returns  
12 filed with the department after July 31, 2012.

13 (3)(a) Credits claimed may not exceed the tax otherwise due under  
14 this chapter on the manufacturing and retail or wholesale sale of candy  
15 manufactured by the taxpayer.

16 (b) No refunds may be granted for credits under this section.

17 (c) The credit provided in this section is in addition to any other  
18 credit that may be available to the candy manufacturer with respect to  
19 the same employment positions.

20 (4) No application is necessary for the credit. Candy  
21 manufacturers claiming the credit must keep records necessary for the  
22 department to verify eligibility under this section.

23 (5) A candy manufacturer claiming credit under this section must  
24 report to the department as provided in RCW 82.32.--- (section 103,  
25 chapter 114 (SHB 3066), Laws of 2010).

26 (6) The employment security department must provide to the  
27 department such information needed by the department to verify  
28 eligibility under this section.

29 (7) Pursuant to chapter 43.136 RCW, the citizen commission for  
30 performance measurement of tax preferences must schedule the credit  
31 under this section for a tax preference review by the joint legislative  
32 audit and review committee in 2011.

33 (8) For purposes of this section, the following definitions apply:

34 (a) "Candy" has the same meaning as in RCW 82.08.0293.

35 (b) "Candy manufacturer" means a person that manufactures candy.  
36 For purposes of this subsection "manufactures" has the same meaning as  
37 "to manufacture" in RCW 82.04.120.

1 (c) "Full-time" means a normal work week of at least thirty-five  
2 hours.

3 (d) "Seasonal employee" means an employee of a seasonal employer  
4 who works on a seasonal basis. "Seasonal basis" means a continuous  
5 employment period of less than twelve consecutive months.

6 (e) "Seasonal employer" means a person who regularly hires more  
7 than ten percent of its employees to work on a seasonal basis.

8 NEW SECTION. **Sec. 909.** If any provision of section 908 of this  
9 act or its application to any person or circumstance is held  
10 unconstitutional: (1) Section 908 of this act is considered invalid in  
11 its entirety; and (2) section 908 of this act and the application of  
12 any provision of that section to any person or circumstance is  
13 considered null and void and of no effect.

14 NEW SECTION. **Sec. 910.** A new section is added to chapter 82.32  
15 RCW to read as follows:

16 (1) The department must compile a list of products meeting the  
17 definition of candy in RCW 82.08.0293 and products that are similar to  
18 candy but do not meet that definition. The list must identify each  
19 item as either subject to sales or use tax or not subject to sales or  
20 use tax. The list will be made in a form and manner prescribed by the  
21 department and must be made available on the department's internet web  
22 site. The list must also provide information about how to request a  
23 binding ruling from the department on the taxability of products not on  
24 the list.

25 (2) In compiling the list described in subsection (1) of this  
26 section, the department may:

27 (a) Evaluate the experiences of other member states of the  
28 streamlined sales and use tax agreement that impose retail sales tax on  
29 candy;

30 (b) Accept technical assistance from persons that sell, market, or  
31 distribute candy; and

32 (c) Consider any other resource the department finds useful in  
33 compiling the list.

34 (3) The creation of a list under subsection (1) of this section and  
35 any modifications to the list are not subject to the rule-making  
36 provisions of chapter 34.05 RCW.

1 (4) For products that are not identified on the list created by the  
2 department under subsection (1) of this section, taxpayers may request  
3 a binding written ruling from the department on the taxability of the  
4 product.

5 **PART X**

6 **PUD Privilege Tax Clarification**

7 **Sec. 1001.** RCW 54.28.011 and 1957 c 278 s 12 are each amended to  
8 read as follows:

9 "Gross revenue" (~~shall~~) means the amount received from the sale  
10 of electric energy, which also includes any regularly recurring charge  
11 billed to consumers as a condition of receiving electric energy, and  
12 excluding any tax levied by a municipal corporation upon the district  
13 pursuant to RCW 54.28.070.

14 **PART XI**

15 **Temporarily Increasing the Business and Occupation Tax on Service**  
16 **Businesses while Increasing the Small Business Credit for the Same**  
17 **Businesses**

18 NEW SECTION. **Sec. 1101.** A new section is added to chapter 82.04  
19 RCW to read as follows:

20 (1) Beginning May 1, 2010, through June 30, 2013, an additional  
21 rate of tax of 0.30 percent is added to the rate provided for in RCW  
22 82.04.255, 82.04.285, and 82.04.290(2)(a).

23 (2)(a) The additional rate in subsection (1) of this section does  
24 not apply to persons engaging within this state in business as a  
25 hospital. "Hospital" has the meaning provided in chapter 70.41 RCW but  
26 also includes any hospital that comes within the scope of chapter 71.12  
27 RCW if the hospital is also licensed under chapter 70.41 RCW.

28 (b) The additional rate in subsection (1) of this section does not  
29 apply to amounts received from performing scientific research and  
30 development services including but not limited to research and  
31 development in the physical, engineering, and life sciences (such as  
32 agriculture, bacteriological, biotechnology, chemical, life sciences,  
33 and physical science research and development laboratories or  
34 services).

1       **Sec. 1102.** RCW 82.04.4451 and 1997 c 238 s 2 are each amended to  
2 read as follows:

3       (1) In computing the tax imposed under this chapter, a credit is  
4 allowed against the amount of tax otherwise due under this chapter, as  
5 provided in this section. (~~The maximum credit for a taxpayer~~) Except  
6 for taxpayers that report at least fifty percent of their taxable  
7 amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum  
8 credit for a taxpayer for a reporting period is thirty-five dollars  
9 multiplied by the number of months in the reporting period, as  
10 determined under RCW 82.32.045. For a taxpayer that reports at least  
11 fifty percent of its taxable amount under RCW 82.04.255,  
12 82.04.290(2)(a), and 82.04.285, the maximum credit for a reporting  
13 period is seventy dollars multiplied by the number of months in the  
14 reporting period, as determined under RCW 82.32.045.

15       (2) When the amount of tax otherwise due under this chapter is  
16 equal to or less than the maximum credit, a credit is allowed equal to  
17 the amount of tax otherwise due under this chapter.

18       (3) When the amount of tax otherwise due under this chapter exceeds  
19 the maximum credit, a reduced credit is allowed equal to twice the  
20 maximum credit, minus the tax otherwise due under this chapter, but not  
21 less than zero.

22       (4) The department may prepare a tax credit table consisting of tax  
23 ranges using increments of no more than five dollars and a  
24 corresponding tax credit to be applied to those tax ranges. The table  
25 shall be prepared in such a manner that no taxpayer will owe a greater  
26 amount of tax by using the table than would be owed by performing the  
27 calculation under subsections (1) through (3) of this section. A table  
28 prepared by the department under this subsection (~~shall~~) must be used  
29 by all taxpayers in taking the credit provided in this section.

30       **Sec. 1103.** RCW 82.32.045 and 2006 c 256 s 1 are each amended to  
31 read as follows:

32       (1) Except as otherwise provided in this chapter, payments of the  
33 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW,  
34 along with reports and returns on forms prescribed by the department,  
35 are due monthly within twenty-five days after the end of the month in  
36 which the taxable activities occur.

1 (2) The department of revenue may relieve any taxpayer or class of  
2 taxpayers from the obligation of remitting monthly and may require the  
3 return to cover other longer reporting periods, but in no event may  
4 returns be filed for a period greater than one year. For these  
5 taxpayers, tax payments are due on or before the last day of the month  
6 next succeeding the end of the period covered by the return.

7 (3) The department of revenue may also require verified annual  
8 returns from any taxpayer, setting forth such additional information as  
9 it may deem necessary to correctly determine tax liability.

10 (4) Notwithstanding subsections (1) and (2) of this section, the  
11 department may relieve any person of the requirement to file returns if  
12 the following conditions are met:

13 (a) The person's value of products, gross proceeds of sales, or  
14 gross income of the business, from all business activities taxable  
15 under chapter 82.04 RCW, is less than:

16 (i) Twenty-eight thousand dollars per year; or

17 (ii) Forty-six thousand six hundred and sixty-seven dollars per  
18 year for persons generating at least fifty percent of their taxable  
19 amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a),  
20 and 82.04.285;

21 (b) The person's gross income of the business from all activities  
22 taxable under chapter 82.16 RCW is less than twenty-four thousand  
23 dollars per year; and

24 (c) The person is not required to collect or pay to the department  
25 of revenue any other tax or fee which the department is authorized to  
26 collect.

## 27 PART XII

### 28 Property Management Salaries

29 **Sec. 1201.** RCW 82.04.394 and 1998 c 338 s 2 are each amended to  
30 read as follows:

31 (1) This chapter does not apply to:

32 (a) Amounts received by a nonprofit property management company  
33 from the owner of a property for gross wages and benefits paid directly  
34 to or on behalf of on-site personnel from property management trust  
35 accounts that are required to be maintained under RCW ((~~18.85.310~~))  
36 18.85.285; or

1 (b) Amounts received by a property management company from a  
2 housing authority for gross wages and benefits paid directly to or on  
3 behalf of on-site personnel from property management trust accounts  
4 that are required to be maintained under RCW 18.85.285.

5 (2) (~~As used in~~) The definitions in this subsection apply to this  
6 section((τ)).

7 (a) "On-site personnel" means a person who meets all of the  
8 following conditions: ((+a)) (i) The person works primarily at the  
9 owner's property; ((+b)) (ii) the person's duties include leasing  
10 property units, maintaining the property, collecting rents, or similar  
11 activities; and ((+c)) (iii) under a written property management  
12 agreement: ((+i)) (A) The person's compensation is the ultimate  
13 obligation of the property owner and not the property manager; ((+ii))  
14 (B) the property manager is liable for payment only as agent of the  
15 owner; and ((+iii)) (C) the property manager is the agent of the owner  
16 with respect to the on-site personnel and that all actions, including,  
17 but not limited to, hiring, firing, compensation, and conditions of  
18 employment, taken by the property manager with respect to the on-site  
19 personnel are subject to the approval of the property owner.

20 (b) "Nonprofit property management company" means a property  
21 management company that is exempt from tax under 26 U.S.C. Sec. 501(c)  
22 of the federal internal revenue code, as it exists on January 1, 2010.

23 (c) "Housing authority" means a city or county housing authority  
24 created pursuant to chapter 35.82 RCW.

25 **Sec. 1202.** RCW 82.04.394 and 2010 c 106 (E2SHB 1597) s 209 are  
26 each amended to read as follows:

27 (1) This chapter does not apply to:

28 (a) Amounts received by a nonprofit property management company  
29 from the owner of a property for gross wages and benefits paid directly  
30 to or on behalf of on-site personnel from property management trust  
31 accounts that are required to be maintained under RCW 18.85.285; or

32 (b) Amounts received by a property management company from a  
33 housing authority for gross wages and benefits paid directly to or on  
34 behalf of on-site personnel from property management trust accounts  
35 that are required to be maintained under RCW 18.85.285.

36 (2) (~~As used in~~) The definitions in this subsection apply to this  
37 section((τ)).





1 gallons at the rate of one dollar and thirty cents per barrel of  
2 thirty-one gallons.

3 (b) Any brewery or beer distributor whose applicable tax payment is  
4 not postmarked by the twentieth day following the month of sale will be  
5 assessed a penalty at the rate of two percent per month or fraction  
6 thereof. Beer and strong beer shall be sold by breweries and  
7 distributors in sealed barrels or packages.

8 (c) The moneys collected under this subsection shall be distributed  
9 as follows: (i) Three-tenths of a percent shall be distributed to  
10 border areas under RCW 66.08.195; and (ii) of the remaining moneys:  
11 (A) Twenty percent shall be distributed to counties in the same manner  
12 as under RCW 66.08.200; and (B) eighty percent shall be distributed to  
13 incorporated cities and towns in the same manner as under RCW  
14 66.08.210.

15 (d) Any licensed retailer authorized to purchase beer from a  
16 certificate of approval holder with a direct shipment endorsement or a  
17 brewery or microbrewery shall make monthly reports to the liquor  
18 control board on beer purchased during the preceding calendar month in  
19 the manner and upon such forms as may be prescribed by the board.

20 (2) An additional tax is imposed on all beer and strong beer  
21 subject to tax under subsection (1) of this section. The additional  
22 tax is equal to two dollars per barrel of thirty-one gallons. All  
23 revenues collected during any month from this additional tax shall be  
24 deposited in the state general fund by the twenty-fifth day of the  
25 following month.

26 (3)(a) An additional tax is imposed on all beer and strong beer  
27 subject to tax under subsection (1) of this section. The additional  
28 tax is equal to ninety-six cents per barrel of thirty-one gallons  
29 through June 30, 1995, two dollars and thirty-nine cents per barrel of  
30 thirty-one gallons for the period July 1, 1995, through June 30, 1997,  
31 and four dollars and seventy-eight cents per barrel of thirty-one  
32 gallons thereafter.

33 (b) The additional tax imposed under this subsection does not apply  
34 to the sale of the first sixty thousand barrels of beer each year by  
35 breweries that are entitled to a reduced rate of tax under 26 U.S.C.  
36 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may  
37 be provided by the board by rule consistent with the purposes of this  
38 exemption.

1 (c) All revenues collected from the additional tax imposed under  
2 this subsection (3) shall be deposited in the state general fund.

3 (4) An additional tax is imposed on all beer and strong beer that  
4 is subject to tax under subsection (1) of this section that is in the  
5 first sixty thousand barrels of beer and strong beer by breweries that  
6 are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as  
7 existing on July 1, 1993, or such subsequent date as may be provided by  
8 the board by rule consistent with the purposes of the exemption under  
9 subsection (3)(b) of this section. The additional tax is equal to one  
10 dollar and forty-eight and two-tenths cents per barrel of thirty-one  
11 gallons. By the twenty-fifth day of the following month, three percent  
12 of the revenues collected from this additional tax shall be distributed  
13 to border areas under RCW 66.08.195 and the remaining moneys shall be  
14 transferred to the state general fund.

15 (5)(a) From the effective date of this section through June 30,  
16 2013, an additional tax is imposed on all beer and strong beer subject  
17 to tax under subsection (1) of this section. The additional tax is  
18 equal to fifteen dollars and fifty cents per barrel of thirty-one  
19 gallons.

20 (b) The additional tax imposed under this subsection does not apply  
21 to the sale of the first sixty thousand barrels of beer each year by  
22 breweries that are entitled to a reduced rate of tax under 26 U.S.C.  
23 Sec. 5051 of the federal internal revenue code, as existing on July 1,  
24 1993, or such subsequent date as may be provided by the board by rule  
25 consistent with the purposes of this exemption.

26 (c) All revenues collected from the additional tax imposed under  
27 this subsection shall be deposited in the state general fund.

28 (6) The board may make refunds for all taxes paid on beer and  
29 strong beer exported from the state for use outside the state.

30 ((+6+)) (7) The board may require filing with the board of a bond  
31 to be approved by it, in such amount as the board may fix, securing the  
32 payment of the tax. If any licensee fails to pay the tax when due, the  
33 board may forthwith suspend or cancel his or her license until all  
34 taxes are paid.

35 **PART XIV**

36 **Temporarily Imposing Taxes on Carbonated Beverages**

1        NEW SECTION.    **Sec. 1401.** Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

4        (1)(a) "Carbonated beverage" means any packaged nonalcoholic liquid  
5 intended for human consumption that contains carbonation by natural or  
6 artificial means and any of the following substances: Caffeine,  
7 extracts, fruit juice or concentrated fruit juice, herbs, sweeteners,  
8 or syrup. "Packaged" includes cans, bottles, and other similar sealed  
9 containers. "Syrup" means a concentrated mixture in either liquid or  
10 powdered form that contains sugar or a sugar substitute and that is an  
11 ingredient used to make carbonated beverages.

12        (b) "Carbonated beverage" does not include carbonated bottled  
13 water. For the purpose of this subsection, "bottled water" has the  
14 same meaning as provided in section 901 of this act.

15        (2) "Ounce" means United States fluid ounce.

16        (3) "Previously taxed carbonated beverages" means carbonated  
17 beverages to which the tax under this chapter has been previously  
18 imposed.

19        (4) Except for terms defined in this section, the definitions in  
20 chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

21        NEW SECTION.    **Sec. 1402.** (1) From the effective date of this  
22 section through June 30, 2013, a tax is imposed on every person for the  
23 privilege of selling, at wholesale or retail, carbonated beverages in  
24 this state. The rate of the tax is equal to two cents per twelve  
25 ounces of carbonated beverages sold in this state.

26        (2)(a) In calculating the amount of tax due under this section, if  
27 the total amount of carbonated beverages sold in this state during the  
28 reporting period is not a whole number, the taxable quantity must be  
29 rounded as provided in (b) of this subsection.

30        (b) For a fraction of an ounce that is equal to or greater than  
31 one-half ounce, the taxable quantity must be rounded up to the nearest  
32 ounce. For a fraction of an ounce that is less than one-half ounce,  
33 the taxable quantity must be rounded down to the nearest ounce.

34        (3) Chapter 82.32 RCW applies to the tax imposed in this section.  
35 The tax reporting frequency for the tax imposed in this section must  
36 coincide with the taxpayer's reporting frequency for the tax imposed in  
37 chapter 82.04 RCW.

1 (4) The department may require taxpayers to report the taxable  
2 quantity of carbonated beverages in units of measure other than ounces.

3 (5) The tax imposed in this section is in addition to all other  
4 taxes imposed in this title on the same taxable event.

5 NEW SECTION. **Sec. 1403.** (1) The tax imposed in this chapter does  
6 not apply to any successive sale of previously taxed carbonated  
7 beverages.

8 (2) Any person claiming the exemption provided in this section must  
9 maintain documentation establishing that the carbonated beverages were  
10 previously taxed under this chapter. The documentation may be in the  
11 form of information on the invoice, or certification from the previous  
12 seller, stating: (a) That all or a specific stated portion of the  
13 carbonated beverages were previously subject to the tax imposed in this  
14 chapter; and (b) the amount of tax remitted or to be remitted to the  
15 department in respect of the carbonated beverages.

16 NEW SECTION. **Sec. 1404.** (1) For each calendar year, the tax  
17 imposed in this chapter does not apply in respect to the first ten  
18 million dollars of carbonated beverages sold in this state by any  
19 bottler as measured by the gross proceeds of sales of carbonated  
20 beverages at retail and wholesale by the bottler. If a bottler is  
21 affiliated with any other bottler or distributor, the ten million  
22 dollar threshold for the exemption in this subsection (1) is based on  
23 the combined gross proceeds of sales by all affiliated persons from all  
24 sales at wholesale and retail of carbonated beverages in this state  
25 during the calendar year.

26 (2) Successive sales by any person of carbonated beverages exempt  
27 under subsection (1) of this section are also exempt from the tax  
28 imposed in this chapter. Any person claiming the exemption provided in  
29 this subsection (2) must maintain documentation establishing that the  
30 carbonated beverages were previously sold in this state by a person  
31 exempt under subsection (1) of this section. The documentation may be  
32 in the form of information on the invoice, or certification from the  
33 previous seller, stating that the carbonated beverages were previously  
34 exempt under subsection (1) of this section.

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

1 (a) "Affiliated" has the same meaning as provided in section 110 of  
2 this act.

3 (b) "Bottler" means a person who bottles, cans, or otherwise  
4 packages carbonated beverages in beverage containers.

5 (c) "Distributor" means a person, other than a bottler, that makes  
6 sales at wholesale of carbonated beverages.

7 NEW SECTION. **Sec. 1405.** The tax imposed in this chapter does not  
8 apply to any activity or person that the state is prohibited from  
9 taxing under the Constitution of this state or the Constitution or laws  
10 of the United States.

11 NEW SECTION. **Sec. 1406.** This part constitutes a new chapter in  
12 Title 82 RCW.

13 **PART XV**  
14 **Limiting the Bad Debt Deduction**

15 NEW SECTION. **Sec. 1501.** The legislature intends with sections  
16 1502 and 1503 of this act to supersede the holding of the supreme court  
17 of the state of Washington in *Puget Sound National Bank v. Department*  
18 *of Revenue*, 123 Wn.2d 284 (1994).

19 **Sec. 1502.** RCW 82.08.037 and 2007 c 6 s 102 are each amended to  
20 read as follows:

21 (1) A seller is entitled to a credit or refund for sales taxes  
22 previously paid on bad debts, as that term is used in 26 U.S.C. Sec.  
23 166, as amended or renumbered as of January 1, 2003.

24 (2) For purposes of this section, "bad debts" does not include:

25 (a) Amounts due on property that remains in the possession of the  
26 seller until the full purchase price is paid;

27 (b) Expenses incurred in attempting to collect debt; (~~and~~)

28 (c) Debts sold or assigned by the seller to third parties, where  
29 the third party is without recourse against the seller; and

30 (d) Repossessed property.

31 (3) If a credit or refund of sales tax is taken for a bad debt and  
32 the debt is subsequently collected in whole or in part, the tax on the

1 amount collected must be paid and reported on the return filed for the  
2 period in which the collection is made.

3 (4) Payments on a previously claimed bad debt are applied first  
4 proportionally to the taxable price of the property or service and the  
5 sales or use tax thereon, and secondly to interest, service charges,  
6 and any other charges.

7 (5) If the seller uses a certified service provider as defined in  
8 RCW 82.32.020 to administer its sales tax responsibilities, the  
9 certified service provider may claim, on behalf of the seller, the  
10 credit or refund allowed by this section. The certified service  
11 provider must credit or refund the full amount received to the seller.

12 (6) The department (~~shall~~) must allow an allocation of bad debts  
13 among member states to the streamlined sales tax agreement, as defined  
14 in RCW 82.58.010(1), if the books and records of the person claiming  
15 bad debts support the allocation.

16 (7) A person's right to claim a credit or refund under this section  
17 is not assignable. No person other than the original seller in the  
18 transaction that generated the bad debt or, as provided in subsection  
19 (5) of this section, a certified service provider, is entitled to claim  
20 a credit or refund under this section. If the original seller in the  
21 transaction that generated the bad debt has sold or assigned the debt  
22 instrument to a third party with recourse, the original seller may  
23 claim a credit or refund under this section only after the debt  
24 instrument is reassigned by the third party to the original seller.

25 **Sec. 1503.** RCW 82.12.037 and 2007 c 6 s 103 are each amended to  
26 read as follows:

27 (1) A seller is entitled to a credit or refund for use taxes  
28 previously paid on bad debts, as that term is used in 26 U.S.C. Sec.  
29 166, as amended or renumbered as of January 1, 2003.

30 (2) For purposes of this section, "bad debts" does not include:

31 (a) Amounts due on property that remains in the possession of the  
32 seller until the full purchase price is paid;

33 (b) Expenses incurred in attempting to collect debt; (~~and~~)

34 (c) Debts sold or assigned by the seller to third parties, where  
35 the third party is without recourse against the seller; and

36 (d) Repossessed property.

1 (3) If a credit or refund of use tax is taken for a bad debt and  
2 the debt is subsequently collected in whole or in part, the tax on the  
3 amount collected must be paid and reported on the return filed for the  
4 period in which the collection is made.

5 (4) Payments on a previously claimed bad debt are applied first  
6 proportionally to the taxable price of the property or service and the  
7 sales or use tax thereon, and secondly to interest, service charges,  
8 and any other charges.

9 (5) If the seller uses a certified service provider as defined in  
10 RCW 82.32.020 to administer its use tax responsibilities, the certified  
11 service provider may claim, on behalf of the seller, the credit or  
12 refund allowed by this section. The certified service provider must  
13 credit or refund the full amount received to the seller.

14 (6) The department (~~shall~~) must allow an allocation of bad debts  
15 among member states to the streamlined sales and use tax agreement, as  
16 defined in RCW 82.58.010(1), if the books and records of the person  
17 claiming bad debts support the allocation.

18 (7) A person's right to claim a credit or refund under this section  
19 is not assignable. No person other than the original seller in the  
20 transaction that generated the bad debt or, as provided in subsection  
21 (5) of this section, a certified service provider, is entitled to claim  
22 a credit or refund under this section. If the original seller in the  
23 transaction that generated the bad debt has sold or assigned the debt  
24 instrument to a third party with recourse, the original seller may  
25 claim a credit or refund under this section only after the debt  
26 instrument is reassigned by the third party to the original seller.

27 **PART XVI**

28 **Data Centers**

29 **Sec. 1601.** RCW 82.08.--- and 2010 1st sp.s. c 1 (ESSB 6789) s 2  
30 are each amended to read as follows:

31 (1) An exemption from the tax imposed by RCW 82.08.020 is provided  
32 for sales to qualifying businesses of eligible server equipment to be  
33 installed, without intervening use, in an eligible computer data  
34 center, and to charges made for labor and services rendered in respect  
35 to installing eligible server equipment. The exemption also applies to  
36 sales to qualifying businesses of eligible power infrastructure,

1 including labor and services rendered in respect to constructing,  
2 installing, repairing, altering, or improving eligible power  
3 infrastructure.

4 (2)(a) In order to claim the exemption under this section, a  
5 qualifying business must submit an application to the department for an  
6 exemption certificate. The application must include the information  
7 necessary, as required by the department, to determine that a business  
8 qualifies for the exemption under this section. The department must  
9 issue exemption certificates to qualifying businesses. The department  
10 may assign a unique identification number to each exemption certificate  
11 issued under this section.

12 (b) A qualifying business claiming the exemption under this section  
13 must present the seller with an exemption certificate in a form and  
14 manner prescribed by the department. The seller must retain a copy of  
15 the certificate for the seller's files.

16 (3)(a) (~~(A qualifying business must establish)~~) Within six years of  
17 the (~~(first day of the calendar quarter in which the business first~~  
18 ~~receives an exemption under this section or section 3 of this act that~~  
19 ~~it has)~~) date that the department issued an exemption certificate under  
20 this section to a qualifying business with respect to an eligible  
21 computer data center, the qualifying business must establish that net  
22 employment at the eligible computer data center has increased  
23 (~~(employment in a computer data center)~~) by a minimum of:

24 (i) Thirty-five family wage (~~(jobs from the date the eligible~~  
25 ~~computer data center first became operational)~~) employment positions;  
26 or

27 (ii) Three family wage employment positions for each twenty  
28 thousand square feet of space or less that is newly dedicated to  
29 housing working servers at the eligible computer data center. For  
30 qualifying businesses that lease space at an eligible computer data  
31 center, the number of family wage employment positions that must be  
32 increased under this subsection (3)(a)(ii) is based only on the space  
33 occupied by the lessee in the eligible computer data center.

34 (b) In calculating the net increase in family wage employment  
35 positions:

36 (i) The owner of an eligible computer data center, in addition to  
37 its own net increase in family wage employment positions, may include:



1 (A) The net increase in family wage employment positions employed  
2 by qualifying businesses leasing space within the eligible computer  
3 data center from the owner; and

4 (B) The net increase in family wage employment positions described  
5 in (c)(ii)(B) of this subsection (3).

6 (ii)(A) Lessees of the owner of an eligible computer data center,  
7 in addition to their own net increase in family wage employment  
8 positions, may include:

9 (I) A portion of the net increase in family wage employment  
10 positions employed by the owner; and

11 (II) A portion of the net increase in family wage employment  
12 positions described in (c)(ii)(B) of this subsection (3).

13 (B) The portion of the net increase in family wage employment  
14 positions to be counted under this subsection (3)(b)(ii) by each lessee  
15 must be in proportion to the amount of space in the eligible computer  
16 data center occupied by the lessee compared to the total amount of  
17 space in the eligible computer data center occupied by all lessees that  
18 are qualifying businesses.

19 (c)(i) For purposes of this subsection, family wage ((jobs))  
20 employment positions are new permanent employment positions requiring  
21 forty hours of weekly work, or their equivalent, on a full-time basis  
22 at the eligible computer data center and ((paying)) receiving a wage  
23 equivalent to or greater than one hundred fifty percent of the per  
24 capita personal income of the county in which the qualified project is  
25 located. ((The qualifying business must provide)) An employment  
26 position may not be counted as a family wage employment position unless  
27 the employment position is entitled to health insurance coverage ((for  
28 employees)) provided by the employer of the employment position. For  
29 purposes of this subsection (3)(c), "new permanent employment position"  
30 means an employment position that did not exist or that had not  
31 previously been filled as of the date that the department issued an  
32 exemption certificate to the owner or lessee of an eligible computer  
33 data center, as the case may be.

34 (ii)(A) Family wage employment positions include positions filled  
35 by employees of the owner of the eligible computer data center and by  
36 employees of qualifying businesses leasing space from the owner of the  
37 eligible computer data center.

1       (B) Family wage employment positions also include individuals  
2 performing work at an eligible computer data center as an independent  
3 contractor hired by the owner of the eligible computer data center or  
4 as an employee of an independent contractor hired by the owner of the  
5 eligible computer data center, if the work is necessary for the  
6 operation of the computer data center, such as security and building  
7 maintenance, and provided that all of the requirements in (c)(i) of  
8 this subsection (3) are met.

9       ~~((b))~~ (d) All previously exempted sales and use taxes are  
10 immediately due and payable for a qualifying business that does not  
11 meet the requirements of this subsection.

12       (4) A qualifying business claiming an exemption under this section  
13 or RCW 82.12.--- (section 3, chapter 1 (ESSB 6789), Laws of 2010 1st  
14 sp. sess.) must complete an annual report with the department as  
15 required under section 103, chapter 114 (SHB 3066), Laws of 2010.

16       (5)(a) The exemption provided in this section does not apply to:

17       (i) Any person who has received the benefit of the deferral program  
18 under chapter 82.60 RCW on: (A) The construction, renovation, or  
19 expansion of a structure or structures used as a computer data center;  
20 or (B) machinery or equipment used in a computer data center; and

21       (ii) Any person affiliated with a person within the scope of (a)(i)  
22 of this subsection (5). For purposes of this subsection, "affiliated"  
23 means that one person has a direct or indirect ownership interest of at  
24 least twenty percent in another person.

25       (b) If a person claims an exemption under this section and  
26 subsequently receives the benefit of the deferral program under chapter  
27 82.60 RCW on either the construction, renovation, or expansion of a  
28 structure or structures used as a computer data center or machinery or  
29 equipment used in a computer data center, the person must repay the  
30 amount of taxes exempted under this section. Interest as provided in  
31 chapter 82.32 RCW applies to amounts due under this section until paid  
32 in full.

33       (6) For purposes of this section the following definitions apply  
34 unless the context clearly requires otherwise:

35       (a)(i) "Computer data center" means a facility comprised of one or  
36 more buildings, which may be comprised of multiple businesses,  
37 constructed or refurbished specifically, and used primarily, to house  
38 working servers, where the facility has the following characteristics:

1 (A) Uninterruptible power supplies, generator backup power, or both;  
2 (B) sophisticated fire suppression and prevention systems; and (C)  
3 enhanced physical security, such as: Restricted access to the facility  
4 to selected personnel; permanent security guards; video camera  
5 surveillance; an electronic system requiring passcodes, keycards, or  
6 biometric scans, such as hand scans and retinal or fingerprint  
7 recognition; or similar security features.

8 (ii) For a computer data center comprised of multiple buildings,  
9 each separate building constructed or refurbished specifically, and  
10 used primarily, to house working servers is considered a computer data  
11 center if it has all of the characteristics listed in (a)(i)(A) through  
12 (C) of this subsection (6).

13 (iii) A facility comprised of one building or more than one  
14 building must have a combined square footage of at least one hundred  
15 thousand square feet.

16 (b) "Electronic data storage and data management services" include,  
17 but are not limited to: Providing data storage and backup services,  
18 providing computer processing power, hosting enterprise software  
19 applications, and hosting web sites. The term also includes providing  
20 services such as e-mail, web browsing and searching, media  
21 applications, and other online services, regardless of whether a charge  
22 is made for such services.

23 (c)(i) "Eligible computer data center" means a computer data  
24 center:

25 (A) Located in a rural county as defined in RCW 82.14.370;

26 (B) Having at least twenty thousand square feet dedicated to  
27 housing working servers, where the server space has not previously been  
28 dedicated to housing working servers; and

29 (C) For which the commencement of construction occurs after March  
30 31, 2010, and before July 1, 2011. For purposes of this section,  
31 "commencement of construction" means the date that a building permit is  
32 issued under the building code adopted under RCW 19.27.031 for  
33 construction of the computer data center. The construction of a  
34 computer data center includes the expansion, renovation, or other  
35 improvements made to existing facilities, including leased or rented  
36 space. "Commencement of construction" does not include soil testing,  
37 site clearing and grading, site preparation, or any other related

1 activities that are initiated before the issuance of a building permit  
2 for the construction of the foundation of a computer data center.

3 (ii) With respect to facilities in existence on April 1, 2010 that  
4 are expanded, renovated, or otherwise improved after March 31, 2010, an  
5 eligible computer data center includes only the portion of the computer  
6 data center meeting the requirements in (c)(i)(B) of this subsection  
7 (6).

8 (d) "Eligible power infrastructure" means all fixtures and  
9 equipment necessary for the transformation, distribution, or management  
10 of electricity that is required to operate eligible server equipment  
11 within an eligible computer data center. The term includes electrical  
12 substations, generators, wiring, and cogeneration equipment.

13 (e) "Eligible server equipment" means the original server equipment  
14 installed in an eligible computer data center on or after April 1,  
15 2010, and replacement server equipment. For purposes of this  
16 subsection (6)(e), "replacement server equipment" means server  
17 equipment that: (i) Replaces existing server equipment, if the sale or  
18 use of the server equipment to be replaced qualified for an exemption  
19 under this section or RCW 82.12.--- (section 3, chapter 1 (ESSB 6789),  
20 Laws of 2010 1st sp. sess.); and (ii) is installed and put into regular  
21 use before April 1, 2018.

22 (f) "Qualifying business" means a business entity that exists for  
23 the primary purpose of engaging in commercial activity for profit and  
24 that is the owner (~~or lessee~~) of an eligible computer data center or  
25 the lessee of at least twenty thousand square feet within an eligible  
26 computer data center dedicated to housing working servers, where the  
27 server space has not previously been dedicated to housing working  
28 servers. The term does not include the state or federal government or  
29 any of their departments, agencies, and institutions; tribal  
30 governments; political subdivisions of this state; or any municipal,  
31 quasi-municipal, public, or other corporation created by the state or  
32 federal government, tribal government, municipality, or political  
33 subdivision of the state.

34 (g) "Server" means blade or rack-mount server computers used in a  
35 computer data center exclusively to provide electronic data storage and  
36 data management services for internal use by the owner or lessee of the  
37 computer data center, for clients of the owner or lessee of the

1 computer data center, or both. "Server" does not include personal  
2 computers.

3 (h) "Server equipment" means the server chassis and all computer  
4 hardware contained within the server chassis. "Server equipment" also  
5 includes computer software necessary to operate the server. "Server  
6 equipment" does not include the racks upon which the server chassis is  
7 installed, and computer peripherals such as keyboards, monitors,  
8 printers, mice, and other devices that work outside of the computer.

9 (7) This section expires April 1, 2018.

10 **Sec. 1602.** RCW 82.12.--- and 2010 1st sp.s. c 1 (ESSB 6789) s 3  
11 are each amended to read as follows:

12 (1) An exemption from the tax imposed by RCW 82.12.020 is provided  
13 for the use by qualifying businesses of eligible server equipment to be  
14 installed, without intervening use, in an eligible computer data  
15 center, and to the use of labor and services rendered in respect to  
16 installing such server equipment. The exemption also applies to the  
17 use of power infrastructure, including labor and services rendered in  
18 respect to installing, repairing, altering, or improving such  
19 infrastructure.

20 (2) A qualifying business is not eligible for the exemption under  
21 this section unless the department issued an exemption certificate to  
22 the qualifying business for the exemption provided in RCW 82.08.---  
23 (section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.).

24 (3)(a) The exemption provided in this section does not apply to:

25 (i) Any person who has received the benefit of the deferral program  
26 under chapter 82.60 RCW on: (A) The construction, renovation, or  
27 expansion of a structure or structures used as a computer data center;  
28 or (B) machinery or equipment used in a computer data center; and

29 (ii) Any person affiliated with a person within the scope of (a)(i)  
30 of this subsection (3). For purposes of this subsection, "affiliated"  
31 means that one person has a direct or indirect ownership interest of at  
32 least twenty percent in another person.

33 (b) If a person has received the benefit of the exemption under  
34 this section and subsequently receives the benefit of the deferral  
35 program under chapter 82.60 RCW on either the construction, renovation,  
36 or expansion of a structure or structures used as a computer data  
37 center or machinery or equipment used in a computer data center, the

1 person must repay the amount of taxes exempted under this section.  
2 Interest as provided in chapter 82.32 RCW applies to amounts due under  
3 this subsection (3)(b) until paid in full. A person is not required to  
4 repay taxes under this subsection with respect to property and services  
5 for which the person is required to repay taxes under RCW 82.08.---  
6 (section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.).

7 (4) The definitions and requirements in RCW 82.08.--- (section 2,  
8 chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.) apply to this  
9 section.

10 (5) This section expires April 1, 2018.

11 **PART XVII**

12 **Miscellaneous Provisions**

13 NEW SECTION. **Sec. 1701.** If a court of competent jurisdiction, in  
14 a final judgment not subject to appeal, adjudges any provision of  
15 section 104(1)(c) of this act unconstitutional or otherwise invalid,  
16 Part I of this act is null and void in its entirety.

17 NEW SECTION. **Sec. 1702.** Part I of this act applies with respect  
18 to gross income of the business, as defined in RCW 82.04.080, including  
19 gross income from royalties as defined in RCW 82.04.2907, generated on  
20 and after June 1, 2010. For purposes of calculating the thresholds in  
21 section 104(1)(c) of this act for the 2010 tax year, property, payroll,  
22 and receipts are based on the entire 2010 tax year.

23 NEW SECTION. **Sec. 1703.** Except as provided in section 202 of this  
24 act, section 201 of this act applies to tax periods beginning January  
25 1, 2006.

26 NEW SECTION. **Sec. 1704.** Sections 402 and 702 of this act apply  
27 both retroactively and prospectively.

28 NEW SECTION. **Sec. 1705.** In accordance with Article VIII, section  
29 5 of the state Constitution, sections 702 and 1704 of this act do not  
30 authorize refunds of business and occupation tax validly collected  
31 before July 1, 2010, on amounts received by an individual from a

1 corporation as compensation for serving as a member of that  
2 corporation's board of directors.

3 NEW SECTION. **Sec. 1706.** Section 402 of this act does not affect  
4 any final judgments, not subject to appeal, entered by a court of  
5 competent jurisdiction before the effective date of this section.

6 NEW SECTION. **Sec. 1707.** Except as provided in section 1701 of  
7 this act, if any provision of this act or its application to any person  
8 or circumstance is held invalid, the remainder of the act or the  
9 application of the provision to other persons or circumstances is not  
10 affected.

11 NEW SECTION. **Sec. 1708.** Except as otherwise provided in this act,  
12 this act is necessary for the immediate preservation of the public  
13 peace, health, or safety, or support of the state government and its  
14 existing public institutions, and takes effect May 1, 2010.

15 NEW SECTION. **Sec. 1709.** Parts III and XIII and sections 101  
16 through 106, 108 through 112, 501 through 503, 505, 507, 510 through  
17 514, 516 through 519, 901, 903 through 911, and 1201 of this act are  
18 necessary for the immediate preservation of the public peace, health,  
19 or safety, or support of the state government and its existing public  
20 institutions, and take effect June 1, 2010.

21 NEW SECTION. **Sec. 1710.** Sections 106, 901, and 1201 of this act  
22 expire July 1, 2010.

23 NEW SECTION. **Sec. 1711.** Sections 503, 505, and 514 of this act  
24 expire June 10, 2010.

25 NEW SECTION. **Sec. 1712.** Sections 504, 506, and 515 of this act  
26 are necessary for the immediate preservation of the public peace,  
27 health, or safety, or support of the state government and its existing  
28 public institutions, and take effect June 10, 2010.

29 NEW SECTION. **Sec. 1713.** Parts VI, VII, and XIV and sections 107,  
30 702, 902, and 1202 of this act are necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the  
2 state government and its existing public institutions, and take effect  
3 July 1, 2010.

4 NEW SECTION. **Sec. 1714.** Section 507 of this act expires July 13,  
5 2010.

6 NEW SECTION. **Sec. 1715.** Section 508 of this act takes effect July  
7 13, 2010.

8 NEW SECTION. **Sec. 1716.** Section 508 of this act expires July 1,  
9 2011.

10 NEW SECTION. **Sec. 1717.** Section 509 of this act takes effect July  
11 1, 2011.

12 NEW SECTION. **Sec. 1718.** Section 1001 of this act applies  
13 prospectively only.

14 NEW SECTION. **Sec. 1719.** Sections 1502 and 1503 of this act apply  
15 to claims for credit or refund filed with the department of revenue  
16 after June 30, 2010."

17 Correct the title.

--- END ---