
ENGROSSED SUBSTITUTE HOUSE BILL 2038

State of Washington

63rd Legislature

2013 Regular Session

By House Finance (originally sponsored by Representatives Carlyle, Hunter, Ormsby, Tharinger, Reykdal, and Pollet)

READ FIRST TIME 04/24/13.

1 AN ACT Relating to investing in the education legacy trust account
2 for K-12 basic education and higher education by narrowing or
3 eliminating tax preferences and extending taxes set to expire; amending
4 RCW 82.04.29002, 82.04.260, 82.08.0293, 82.12.0293, 82.08.0273,
5 82.04.4452, 82.63.030, 82.16.050, 82.04.610, 82.12.0263, 82.04.440, and
6 82.04.460; reenacting and amending RCW 82.04.260; adding new sections
7 to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding
8 a new section to chapter 82.16 RCW; adding a new section to chapter
9 82.32 RCW; adding a new section to chapter 43.135 RCW; adding a new
10 section to chapter 39.42 RCW; repealing RCW 82.04.272; prescribing
11 penalties; providing effective dates; providing an expiration date; and
12 declaring an emergency.

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

14 **PART I**

15 **Permanently Extending the Business and Occupation Surtax**

16 **Sec. 101.** RCW 82.04.29002 and 2010 1st sp.s. c 23 s 1101 are each
17 amended to read as follows:

18 (1) (~~(Beginning May 1, 2010, through June 30, 2013,)~~) An additional

1 rate of tax of 0.30 percent is added to the rate provided for in RCW
2 82.04.255, 82.04.285, and 82.04.290(2)(a). Revenue collected from the
3 additional rate of tax under this subsection (1) must be deposited in
4 the education legacy trust account created in RCW 83.100.230.

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

10 (b) The additional rate in subsection (1) of this section does not
11 apply to amounts received from performing scientific research and
12 development services including but not limited to research and
13 development in the physical, engineering, and life sciences (such as
14 agriculture, bacteriological, biotechnology, chemical, life sciences,
15 and physical science research and development laboratories or
16 services).

17 PART II

18 **Eliminating the Preferential Business and Occupation Tax Rate for** 19 **Travel Agents**

20 **Sec. 201.** RCW 82.04.260 and 2012 2nd sp.s. c 6 s 602 and 2012 2nd
21 sp.s. c 6 s 204 are each reenacted and amended to read as follows:

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

24 (a) Wheat into flour, barley into pearl barley, soybeans into
25 soybean oil, canola into canola oil, canola meal, or canola by-
26 products, or sunflower seeds into sunflower oil; as to such persons the
27 amount of tax with respect to such business is equal to the value of
28 the flour, pearl barley, oil, canola meal, or canola by-product
29 manufactured, multiplied by the rate of 0.138 percent;

30 (b) Beginning July 1, 2015, seafood products that remain in a raw,
31 raw frozen, or raw salted state at the completion of the manufacturing
32 by that person; or selling manufactured seafood products that remain in
33 a raw, raw frozen, or raw salted state at the completion of the
34 manufacturing, to purchasers who transport in the ordinary course of
35 business the goods out of this state; as to such persons the amount of
36 tax with respect to such business is equal to the value of the products

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

6 (c) Beginning July 1, 2015, dairy products that as of September 20,
7 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
8 including by-products from the manufacturing of the dairy products such
9 as whey and casein; or selling the same to purchasers who transport in
10 the ordinary course of business the goods out of state; as to such
11 persons the tax imposed is equal to the value of the products
12 manufactured or the gross proceeds derived from such sales multiplied
13 by the rate of 0.138 percent. Sellers must keep and preserve records
14 for the period required by RCW 82.32.070 establishing that the goods
15 were transported by the purchaser in the ordinary course of business
16 out of this state;

17 (d) Beginning July 1, 2015, fruits or vegetables by canning,
18 preserving, freezing, processing, or dehydrating fresh fruits or
19 vegetables, or selling at wholesale fruits or vegetables manufactured
20 by the seller by canning, preserving, freezing, processing, or
21 dehydrating fresh fruits or vegetables and sold to purchasers who
22 transport in the ordinary course of business the goods out of this
23 state; as to such persons the amount of tax with respect to such
24 business is equal to the value of the products manufactured or the
25 gross proceeds derived from such sales multiplied by the rate of 0.138
26 percent. Sellers must keep and preserve records for the period
27 required by RCW 82.32.070 establishing that the goods were transported
28 by the purchaser in the ordinary course of business out of this state;

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

34 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
35 persons the amount of tax with respect to the business is equal to the
36 value of wood biomass fuel manufactured, multiplied by the rate of
37 0.138 percent.

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

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

10 (4) Upon every person engaging within this state in the business of
11 slaughtering, breaking and/or processing perishable meat products
12 and/or selling the same at wholesale only and not at retail; as to such
13 persons the tax imposed is equal to the gross proceeds derived from
14 such sales multiplied by the rate of 0.138 percent.

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

20 ~~(6))~~ Upon every person engaging within this state in business as
21 an international steamship agent, international customs house broker,
22 international freight forwarder, vessel and/or cargo charter broker in
23 foreign commerce, and/or international air cargo agent; as to such
24 persons the amount of the tax with respect to only international
25 activities is equal to the gross income derived from such activities
26 multiplied by the rate of 0.275 percent.

27 ~~((7))~~ (6) Upon every person engaging within this state in the
28 business of stevedoring and associated activities pertinent to the
29 movement of goods and commodities in waterborne interstate or foreign
30 commerce; as to such persons the amount of tax with respect to such
31 business is equal to the gross proceeds derived from such activities
32 multiplied by the rate of 0.275 percent. Persons subject to taxation
33 under this subsection are exempt from payment of taxes imposed by
34 chapter 82.16 RCW for that portion of their business subject to
35 taxation under this subsection. Stevedoring and associated activities
36 pertinent to the conduct of goods and commodities in waterborne
37 interstate or foreign commerce are defined as all activities of a
38 labor, service or transportation nature whereby cargo may be loaded or

1 unloaded to or from vessels or barges, passing over, onto or under a
2 wharf, pier, or similar structure; cargo may be moved to a warehouse or
3 similar holding or storage yard or area to await further movement in
4 import or export or may move to a consolidation freight station and be
5 stuffed, unstuffed, containerized, separated or otherwise segregated or
6 aggregated for delivery or loaded on any mode of transportation for
7 delivery to its consignee. Specific activities included in this
8 definition are: Wharfage, handling, loading, unloading, moving of
9 cargo to a convenient place of delivery to the consignee or a
10 convenient place for further movement to export mode; documentation
11 services in connection with the receipt, delivery, checking, care,
12 custody and control of cargo required in the transfer of cargo;
13 imported automobile handling prior to delivery to consignee; terminal
14 stevedoring and incidental vessel services, including but not limited
15 to plugging and unplugging refrigerator service to containers,
16 trailers, and other refrigerated cargo receptacles, and securing ship
17 hatch covers.

18 ~~((+8))~~ (7)(a) Upon every person engaging within this state in the
19 business of disposing of low-level waste, as defined in RCW 43.145.010;
20 as to such persons the amount of the tax with respect to such business
21 is equal to the gross income of the business, excluding any fees
22 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
23 percent.

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

28 ~~((+9))~~ (8) Upon every person engaging within this state as an
29 insurance producer or title insurance agent licensed under chapter
30 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as
31 to such persons, the amount of the tax with respect to such licensed
32 activities is equal to the gross income of such business multiplied by
33 the rate of 0.484 percent.

34 ~~((+10))~~ (9) Upon every person engaging within this state in
35 business as a hospital, as defined in chapter 70.41 RCW, that is
36 operated as a nonprofit corporation or by the state or any of its
37 political subdivisions, as to such persons, the amount of tax with

1 respect to such activities is equal to the gross income of the business
2 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
3 percent thereafter.

4 ~~((11))~~ (10)(a) Beginning October 1, 2005, upon every person
5 engaging within this state in the business of manufacturing commercial
6 airplanes, or components of such airplanes, or making sales, at retail
7 or wholesale, of commercial airplanes or components of such airplanes,
8 manufactured by the seller, as to such persons the amount of tax with
9 respect to such business is, in the case of manufacturers, equal to the
10 value of the product manufactured and the gross proceeds of sales of
11 the product manufactured, or in the case of processors for hire, equal
12 to the gross income of the business, multiplied by the rate of:

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

15 (b) Beginning July 1, 2008, upon every person who is not eligible
16 to report under the provisions of (a) of this subsection ~~((11))~~ (10)
17 and is engaging within this state in the business of manufacturing
18 tooling specifically designed for use in manufacturing commercial
19 airplanes or components of such airplanes, or making sales, at retail
20 or wholesale, of such tooling manufactured by the seller, as to such
21 persons the amount of tax with respect to such business is, in the case
22 of manufacturers, equal to the value of the product manufactured and
23 the gross proceeds of sales of the product manufactured, or in the case
24 of processors for hire, be equal to the gross income of the business,
25 multiplied by the rate of 0.2904 percent.

26 (c) For the purposes of this subsection ~~((11))~~ (10), "commercial
27 airplane" and "component" have the same meanings as provided in RCW
28 82.32.550.

29 (d) In addition to all other requirements under this title, a
30 person reporting under the tax rate provided in this subsection
31 ~~((11))~~ (10) must file a complete annual report with the department
32 under RCW 82.32.534.

33 (e) This subsection ~~((11))~~ (10) does not apply on and after July
34 1, 2024.

35 ~~((12))~~ (11)(a) Until July 1, 2024, upon every person engaging
36 within this state in the business of extracting timber or extracting
37 for hire timber; as to such persons the amount of tax with respect to
38 the business is, in the case of extractors, equal to the value of

1 products, including by-products, extracted, or in the case of
2 extractors for hire, equal to the gross income of the business,
3 multiplied by the rate of 0.4235 percent from July 1, 2006, through
4 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
5 2024.

6 (b) Until July 1, 2024, upon every person engaging within this
7 state in the business of manufacturing or processing for hire: (i)
8 Timber into timber products or wood products; or (ii) timber products
9 into other timber products or wood products; as to such persons the
10 amount of the tax with respect to the business is, in the case of
11 manufacturers, equal to the value of products, including by-products,
12 manufactured, or in the case of processors for hire, equal to the gross
13 income of the business, multiplied by the rate of 0.4235 percent from
14 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,
15 2007, through June 30, 2024.

16 (c) Until July 1, 2024, upon every person engaging within this
17 state in the business of selling at wholesale: (i) Timber extracted by
18 that person; (ii) timber products manufactured by that person from
19 timber or other timber products; or (iii) wood products manufactured by
20 that person from timber or timber products; as to such persons the
21 amount of the tax with respect to the business is equal to the gross
22 proceeds of sales of the timber, timber products, or wood products
23 multiplied by the rate of 0.4235 percent from July 1, 2006, through
24 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
25 2024.

26 (d) Until July 1, 2024, upon every person engaging within this
27 state in the business of selling standing timber; as to such persons
28 the amount of the tax with respect to the business is equal to the
29 gross income of the business multiplied by the rate of 0.2904 percent.
30 For purposes of this subsection (~~((+12+))~~) (11)(d), "selling standing
31 timber" means the sale of timber apart from the land, where the buyer
32 is required to sever the timber within thirty months from the date of
33 the original contract, regardless of the method of payment for the
34 timber and whether title to the timber transfers before, upon, or after
35 severance.

36 (e) For purposes of this subsection, the following definitions
37 apply:

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

4 (ii) "Paper and paper products" means products made of interwoven
5 cellulosic fibers held together largely by hydrogen bonding. "Paper
6 and paper products" includes newsprint; office, printing, fine, and
7 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
8 kraft bag, construction, and other kraft industrial papers; paperboard,
9 liquid packaging containers, containerboard, corrugated, and solid-
10 fiber containers including linerboard and corrugated medium; and
11 related types of cellulosic products containing primarily, by weight or
12 volume, cellulosic materials. "Paper and paper products" does not
13 include books, newspapers, magazines, periodicals, and other printed
14 publications, advertising materials, calendars, and similar types of
15 printed materials.

16 (iii) "Recycled paper" means paper and paper products having fifty
17 percent or more of their fiber content that comes from postconsumer
18 waste. For purposes of this subsection (~~((12))~~) (11)(e)(iii),
19 "postconsumer waste" means a finished material that would normally be
20 disposed of as solid waste, having completed its life cycle as a
21 consumer item.

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

26 (v) "Timber products" means:

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

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

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

34 (vi) "Wood products" means paper and paper products; dimensional
35 lumber; engineered wood products such as particleboard, oriented strand
36 board, medium density fiberboard, and plywood; wood doors; wood
37 windows; and biocomposite surface products.

1 (f) Except for small harvesters as defined in RCW 84.33.035, a
2 person reporting under the tax rate provided in this subsection
3 (~~((12))~~) (11) must file a complete annual survey with the department
4 under RCW 82.32.585.

5 (~~((13))~~) (12) Upon every person engaging within this state in
6 inspecting, testing, labeling, and storing canned salmon owned by
7 another person, as to such persons, the amount of tax with respect to
8 such activities is equal to the gross income derived from such
9 activities multiplied by the rate of 0.484 percent.

10 (~~((14))~~) (13)(a) Upon every person engaging within this state in
11 the business of printing a newspaper, publishing a newspaper, or both,
12 the amount of tax on such business is equal to the gross income of the
13 business multiplied by the rate of 0.365 percent through June 30, 2013,
14 and beginning July 1, 2013, multiplied by the rate of 0.35 percent.

15 (b) A person reporting under the tax rate provided in this
16 subsection (~~((14))~~) (13) must file a complete annual report with the
17 department under RCW 82.32.534.

18 **Sec. 202.** RCW 82.04.260 and 2012 2nd sp.s. c 6 s 204 are each
19 amended to read as follows:

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

22 (a) Wheat into flour, barley into pearl barley, soybeans into
23 soybean oil, canola into canola oil, canola meal, or canola by-
24 products, or sunflower seeds into sunflower oil; as to such persons the
25 amount of tax with respect to such business is equal to the value of
26 the flour, pearl barley, oil, canola meal, or canola by-product
27 manufactured, multiplied by the rate of 0.138 percent;

28 (b) Beginning July 1, 2015, seafood products that remain in a raw,
29 raw frozen, or raw salted state at the completion of the manufacturing
30 by that person; or selling manufactured seafood products that remain in
31 a raw, raw frozen, or raw salted state at the completion of the
32 manufacturing, to purchasers who transport in the ordinary course of
33 business the goods out of this state; as to such persons the amount of
34 tax with respect to such business is equal to the value of the products
35 manufactured or the gross proceeds derived from such sales, multiplied
36 by the rate of 0.138 percent. Sellers must keep and preserve records

1 for the period required by RCW 82.32.070 establishing that the goods
2 were transported by the purchaser in the ordinary course of business
3 out of this state;

4 (c) Beginning July 1, 2015, dairy products that as of September 20,
5 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
6 including by-products from the manufacturing of the dairy products such
7 as whey and casein; or selling the same to purchasers who transport in
8 the ordinary course of business the goods out of state; as to such
9 persons the tax imposed is equal to the value of the products
10 manufactured or the gross proceeds derived from such sales multiplied
11 by the rate of 0.138 percent. Sellers must keep and preserve records
12 for the period required by RCW 82.32.070 establishing that the goods
13 were transported by the purchaser in the ordinary course of business
14 out of this state;

15 (d) Beginning July 1, 2015, fruits or vegetables by canning,
16 preserving, freezing, processing, or dehydrating fresh fruits or
17 vegetables, or selling at wholesale fruits or vegetables manufactured
18 by the seller by canning, preserving, freezing, processing, or
19 dehydrating fresh fruits or vegetables and sold to purchasers who
20 transport in the ordinary course of business the goods out of this
21 state; as to such persons the amount of tax with respect to such
22 business is equal to the value of the products manufactured or the
23 gross proceeds derived from such sales multiplied by the rate of 0.138
24 percent. Sellers must keep and preserve records for the period
25 required by RCW 82.32.070 establishing that the goods were transported
26 by the purchaser in the ordinary course of business out of this state;

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

32 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
33 persons the amount of tax with respect to the business is equal to the
34 value of wood biomass fuel manufactured, multiplied by the rate of
35 0.138 percent.

36 (2) Upon every person engaging within this state in the business of
37 splitting or processing dried peas; as to such persons the amount of

1 tax with respect to such business is equal to the value of the peas
2 split or processed, multiplied by the rate of 0.138 percent.

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

8 (4) Upon every person engaging within this state in the business of
9 slaughtering, breaking and/or processing perishable meat products
10 and/or selling the same at wholesale only and not at retail; as to such
11 persons the tax imposed is equal to the gross proceeds derived from
12 such sales multiplied by the rate of 0.138 percent.

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

18 ~~(6))~~ Upon every person engaging within this state in business as
19 an international steamship agent, international customs house broker,
20 international freight forwarder, vessel and/or cargo charter broker in
21 foreign commerce, and/or international air cargo agent; as to such
22 persons the amount of the tax with respect to only international
23 activities is equal to the gross income derived from such activities
24 multiplied by the rate of 0.275 percent.

25 ~~((7))~~ (6) Upon every person engaging within this state in the
26 business of stevedoring and associated activities pertinent to the
27 movement of goods and commodities in waterborne interstate or foreign
28 commerce; as to such persons the amount of tax with respect to such
29 business is equal to the gross proceeds derived from such activities
30 multiplied by the rate of 0.275 percent. Persons subject to taxation
31 under this subsection are exempt from payment of taxes imposed by
32 chapter 82.16 RCW for that portion of their business subject to
33 taxation under this subsection. Stevedoring and associated activities
34 pertinent to the conduct of goods and commodities in waterborne
35 interstate or foreign commerce are defined as all activities of a
36 labor, service or transportation nature whereby cargo may be loaded or
37 unloaded to or from vessels or barges, passing over, onto or under a
38 wharf, pier, or similar structure; cargo may be moved to a warehouse or

1 similar holding or storage yard or area to await further movement in
2 import or export or may move to a consolidation freight station and be
3 stuffed, unstuffed, containerized, separated or otherwise segregated or
4 aggregated for delivery or loaded on any mode of transportation for
5 delivery to its consignee. Specific activities included in this
6 definition are: Wharfage, handling, loading, unloading, moving of
7 cargo to a convenient place of delivery to the consignee or a
8 convenient place for further movement to export mode; documentation
9 services in connection with the receipt, delivery, checking, care,
10 custody and control of cargo required in the transfer of cargo;
11 imported automobile handling prior to delivery to consignee; terminal
12 stevedoring and incidental vessel services, including but not limited
13 to plugging and unplugging refrigerator service to containers,
14 trailers, and other refrigerated cargo receptacles, and securing ship
15 hatch covers.

16 ~~((+8+))~~ (7)(a) Upon every person engaging within this state in the
17 business of disposing of low-level waste, as defined in RCW 43.145.010;
18 as to such persons the amount of the tax with respect to such business
19 is equal to the gross income of the business, excluding any fees
20 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
21 percent.

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

26 ~~((+9+))~~ (8) Upon every person engaging within this state as an
27 insurance producer or title insurance agent licensed under chapter
28 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as
29 to such persons, the amount of the tax with respect to such licensed
30 activities is equal to the gross income of such business multiplied by
31 the rate of 0.484 percent.

32 ~~((+10+))~~ (9) Upon every person engaging within this state in
33 business as a hospital, as defined in chapter 70.41 RCW, that is
34 operated as a nonprofit corporation or by the state or any of its
35 political subdivisions, as to such persons, the amount of tax with
36 respect to such activities is equal to the gross income of the business
37 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
38 percent thereafter.

1 (~~(11)~~) (10)(a) Beginning October 1, 2005, upon every person
2 engaging within this state in the business of manufacturing commercial
3 airplanes, or components of such airplanes, or making sales, at retail
4 or wholesale, of commercial airplanes or components of such airplanes,
5 manufactured by the seller, as to such persons the amount of tax with
6 respect to such business is, in the case of manufacturers, equal to the
7 value of the product manufactured and the gross proceeds of sales of
8 the product manufactured, or in the case of processors for hire, equal
9 to the gross income of the business, multiplied by the rate of:

10 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

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

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

23 (c) For the purposes of this subsection (~~(11)~~) (10), "commercial
24 airplane" and "component" have the same meanings as provided in RCW
25 82.32.550.

26 (d) In addition to all other requirements under this title, a
27 person reporting under the tax rate provided in this subsection
28 (~~(11)~~) (10) must file a complete annual report with the department
29 under RCW 82.32.534.

30 (e) This subsection (~~(11)~~) (10) does not apply on and after July
31 1, 2024.

32 (~~(12)~~) (11)(a) Until July 1, 2024, upon every person engaging
33 within this state in the business of extracting timber or extracting
34 for hire timber; as to such persons the amount of tax with respect to
35 the business is, in the case of extractors, equal to the value of
36 products, including by-products, extracted, or in the case of
37 extractors for hire, equal to the gross income of the business,

1 multiplied by the rate of 0.4235 percent from July 1, 2006, through
2 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
3 2024.

4 (b) Until July 1, 2024, upon every person engaging within this
5 state in the business of manufacturing or processing for hire: (i)
6 Timber into timber products or wood products; or (ii) timber products
7 into other timber products or wood products; as to such persons the
8 amount of the tax with respect to the business is, in the case of
9 manufacturers, equal to the value of products, including by-products,
10 manufactured, or in the case of processors for hire, equal to the gross
11 income of the business, multiplied by the rate of 0.4235 percent from
12 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,
13 2007, through June 30, 2024.

14 (c) Until July 1, 2024, upon every person engaging within this
15 state in the business of selling at wholesale: (i) Timber extracted by
16 that person; (ii) timber products manufactured by that person from
17 timber or other timber products; or (iii) wood products manufactured by
18 that person from timber or timber products; as to such persons the
19 amount of the tax with respect to the business is equal to the gross
20 proceeds of sales of the timber, timber products, or wood products
21 multiplied by the rate of 0.4235 percent from July 1, 2006, through
22 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
23 2024.

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

34 (e) For purposes of this subsection, the following definitions
35 apply:

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

1 (ii) "Paper and paper products" means products made of interwoven
2 cellulosic fibers held together largely by hydrogen bonding. "Paper
3 and paper products" includes newsprint; office, printing, fine, and
4 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
5 kraft bag, construction, and other kraft industrial papers; paperboard,
6 liquid packaging containers, containerboard, corrugated, and solid-
7 fiber containers including linerboard and corrugated medium; and
8 related types of cellulosic products containing primarily, by weight or
9 volume, cellulosic materials. "Paper and paper products" does not
10 include books, newspapers, magazines, periodicals, and other printed
11 publications, advertising materials, calendars, and similar types of
12 printed materials.

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

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

23 (v) "Timber products" means:

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

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

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

31 (vi) "Wood products" means paper and paper products; dimensional
32 lumber; engineered wood products such as particleboard, oriented strand
33 board, medium density fiberboard, and plywood; wood doors; wood
34 windows; and biocomposite surface products.

35 (f) Except for small harvesters as defined in RCW 84.33.035, a
36 person reporting under the tax rate provided in this subsection
37 (~~((+12+))~~) (11) must file a complete annual survey with the department
38 under RCW 82.32.585.

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

7 (b) "Dietary supplement" means any product, other than tobacco,
8 intended to supplement the diet that:

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

10 (A) A vitamin;

11 (B) A mineral;

12 (C) An herb or other botanical;

13 (D) An amino acid;

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

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

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

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

26 (~~(b)~~) (c)(i) "Prepared food" means:

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

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

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

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

36 (II) Raw eggs, fish, meat, poultry, and foods containing these raw
37 animal foods requiring cooking by the consumer as recommended by the

1 federal food and drug administration in chapter 3, part 401.11 of The
2 Food Code, published by the food and drug administration, as amended or
3 renumbered as of January 1, 2003, so as to prevent foodborne illness.

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

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

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

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

16 ((+e+)) (d) "Soft drinks" means nonalcoholic beverages that contain
17 natural or artificial sweeteners. Soft drinks do not include beverages
18 that contain: Milk or milk products; soy, rice, or similar milk
19 substitutes; or greater than fifty percent of vegetable or fruit juice
20 by volume.

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

25 (a) Under a state administered nutrition program for the aged as
26 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
27 74.38.040(6);

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

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

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

4 (ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

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

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

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

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

22 **Sec. 302.** RCW 82.12.0293 and 2011 c 2 s 303 are each amended to
23 read as follows:

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

27 (2) The exemption of "food and food ingredients" provided for in
28 subsection (1) of this section does not apply to prepared food, soft
29 drinks, bottled water, or dietary supplements. "Prepared food," "soft
30 drinks," "bottled water," and "dietary supplements" have the same
31 meanings as in RCW 82.08.0293.

32 (3) Notwithstanding anything in this section to the contrary, the
33 exemption of "food and food ingredients" provided in this section
34 applies to food and food ingredients which are furnished, prepared, or
35 served as meals:

36 (a) Under a state administered nutrition program for the aged as

1 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
2 74.38.040(6);

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

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

14 NEW SECTION. **Sec. 303.** 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 dispensed or to
18 be dispensed to patients, pursuant to a prescription for use in the
19 cure, mitigation, treatment, or prevention of disease or other medical
20 condition.

21 (2) For purposes of this section, "prescription" means an order,
22 formula, or recipe issued in any form of oral, written, electronic, or
23 other means of transmission by a duly licensed practitioner authorized
24 by the laws of this state to prescribe.

25 (3) 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 (4) The provisions of RCW 82.32.060 apply to refunds authorized
37 under this section.

1 (5) 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. 304.** A new section is added to chapter 82.12
8 RCW to read as follows:

9 (1) The provisions of this chapter do not apply in respect to the
10 use of bottled water dispensed or to be dispensed to patients, pursuant
11 to a prescription for use in the cure, mitigation, treatment, or
12 prevention of disease or medical condition.

13 (2) For the purposes of this section, "prescription" has the same
14 meaning as provided in section 303 of this act.

15 NEW SECTION. **Sec. 305.** A new section is added to chapter 82.08
16 RCW to read as follows:

17 (1)(a) Subject to the conditions in this section, the tax levied by
18 RCW 82.08.020 does not apply to sales of bottled water to persons whose
19 primary source of drinking water is unsafe.

20 (b) For purposes of this subsection and section 306 of this act, a
21 person's primary source of drinking water is unsafe if:

22 (i) The public water system providing the drinking water has issued
23 a public notification that the drinking water may pose a health risk,
24 and the notification is still in effect on the date that the bottled
25 water was purchased;

26 (ii) Test results on the person's drinking water, which are no more
27 than twelve months old, from a laboratory certified to perform drinking
28 water testing show that the person's drinking water does not meet safe
29 drinking water standards applicable to public water systems; or

30 (iii) The person otherwise establishes, to the department's
31 satisfaction, that the person's drinking water does not meet safe
32 drinking water standards applicable to public water systems.

33 (2) Except for sales of bottled water delivered to the buyer in a
34 reusable container that is not sold with the water, sellers must
35 collect tax on sales subject to this exemption. Any buyer that has
36 paid at least twenty-five dollars in state and local sales taxes on

1 purchases of bottled water subject to this exemption may apply for a
2 refund of the taxes directly from the department in a form and manner
3 prescribed by the department. The department must deny any refund
4 application if the amount of the refund requested is less than
5 twenty-five dollars. No refund may be made for taxes paid more than
6 four years after the end of the calendar year in which the tax was paid
7 to the seller.

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

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

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

18 NEW SECTION. **Sec. 306.** A new section is added to chapter 82.12
19 RCW to read as follows:

20 The provisions of this chapter do not apply in respect to the use
21 of bottled water by persons whose primary source of drinking water is
22 unsafe as provided in section 305 of this act.

23 **PART IV**

24 **Repealing the Nonresident Sales and Use Tax Exemption**

25 **Sec. 401.** RCW 82.08.0273 and 2011 c 7 s 1 are each amended to read
26 as follows:

27 (1) Subject to the conditions and limitations in this section, an
28 exemption from the tax levied by RCW 82.08.020 ((does not apply to)) in
29 the form of a remittance from the department is provided for sales to
30 nonresidents of this state of tangible personal property, digital
31 goods, and digital codes((, when)). The exemption only applies if:

32 (a) The property is for use outside this state;

33 (b) The purchaser is a bona fide resident of a province or
34 territory of Canada or a state, territory, or possession of the United
35 States, other than the state of Washington; and

1 (i) Such state, possession, territory, or province does not impose,
2 or have imposed on its behalf, a generally applicable retail sales tax,
3 use tax, value added tax, gross receipts tax on retailing activities,
4 or similar generally applicable tax, of three percent or more; or

5 (ii) If imposing a tax described in (b)(i) of this subsection,
6 provides an exemption for sales to Washington residents by reason of
7 their residence; and

8 (c) The purchaser agrees, when requested, to grant the department
9 of revenue access to such records and other forms of verification at
10 ~~((his or her))~~ the purchaser's place of residence to assure that such
11 purchases are not first used substantially in the state of Washington.

12 (2) Notwithstanding anything to the contrary in this chapter, if
13 parts or other tangible personal property are installed by the seller
14 during the course of repairing, cleaning, altering, or improving motor
15 vehicles, trailers, or campers and the seller makes a separate charge
16 for the tangible personal property, the tax levied by RCW 82.08.020
17 does not apply to the separately stated charge to a nonresident
18 purchaser for the tangible personal property but only if the separately
19 stated charge does not exceed either the seller's current publicly
20 stated retail price for the tangible personal property or, if no
21 publicly stated retail price is available, the seller's cost for the
22 tangible personal property. However, the exemption provided by this
23 section does not apply if tangible personal property is installed by
24 the seller during the course of repairing, cleaning, altering, or
25 improving motor vehicles, trailers, or campers and the seller makes a
26 single nonitemized charge for providing the tangible personal property
27 and service. All of the ~~((requirements))~~ provisions in subsections (1)
28 and (3) through ~~((+6))~~ (7) of this section apply to this subsection.

29 (3)(a) Any person claiming exemption from retail sales tax under
30 the provisions of this section must ~~((display proof of his or her
31 current nonresident status as provided in this section))~~ pay the state
32 and local sales tax to the seller at the time of purchase and then
33 request a remittance from the department in accordance with this
34 subsection and subsection (4) of this section. A request for
35 remittance must include proof of the person's status as a nonresident
36 at the time of the purchase for which a remittance is requested. The
37 request for a remittance must also include any additional information
38 and documentation as required by the department, which may include a

1 description of the item purchased for which a remittance is requested,
2 the sales price of the item, the amount of state and local sales tax
3 paid on the item, the date of the purchase, the name of the seller and
4 the physical address where the sale took place, and copies of sales
5 receipts showing the qualified purchases.

6 (b) Acceptable proof of a nonresident person's status includes one
7 piece of identification such as a valid driver's license from the
8 jurisdiction in which the out-of-state residency is claimed or a valid
9 identification card which has a photograph of the holder and is issued
10 by the out-of-state jurisdiction. Identification under this subsection
11 (3)(b) must show the holder's residential address and have as one of
12 its legal purposes the establishment of residency in that out-of-state
13 jurisdiction.

14 (c) In lieu of furnishing proof of a person's nonresident status
15 under (b) of this subsection (3), a person claiming exemption from
16 retail sales tax under the provisions of this section may provide the
17 seller with an exemption certificate in compliance with subsection
18 (4)(b) of this section.

19 ~~(4)(a) ((Nothing in this section requires the vendor to make tax~~
20 ~~exempt retail sales to nonresidents. A vendor may choose to make sales~~
21 ~~to nonresidents, collect the sales tax, and remit the amount of sales~~
22 ~~tax collected to the state as otherwise provided by law. If the vendor~~
23 ~~chooses to make a sale to a nonresident without collecting the sales~~
24 ~~tax, the vendor must examine the purchaser's proof of nonresidence,~~
25 ~~determine whether the proof is acceptable under subsection (3)(b) of~~
26 ~~this section, and maintain records for each nontaxable sale which shall~~
27 ~~show the type of proof accepted, including any identification numbers~~
28 ~~where appropriate, and the expiration date, if any.~~

29 ~~(b) In lieu of using the method provided in (a) of this subsection~~
30 ~~to document an exempt sale to a nonresident, a seller may accept from~~
31 ~~the purchaser a properly completed uniform exemption certificate~~
32 ~~approved by the streamlined sales and use tax agreement governing board~~
33 ~~or any other exemption certificate as may be authorized by the~~
34 ~~department and properly completed by the purchaser. A nonresident~~
35 ~~purchaser who uses an exemption certificate authorized in this~~
36 ~~subsection (4)(b) must include the purchaser's driver's license number~~
37 ~~or other state issued identification number and the state of issuance.~~

1 ~~(c) In lieu of using the methods provided in (a) and (b) of this~~
2 ~~subsection to document an exempt sale to a nonresident, a seller may~~
3 ~~capture the relevant data elements as allowed under the streamlined~~
4 ~~sales and use tax agreement.~~

5 ~~(5)(a) Any person making fraudulent statements, which includes the~~
6 ~~offer — of — fraudulent — identification — or — fraudulently — procured~~
7 ~~identification to a vendor, in order to purchase goods without paying~~
8 ~~retail sales tax is guilty of perjury under chapter 9A.72 RCW.~~

9 ~~(b) Any person making tax exempt purchases under this section by~~
10 ~~displaying proof of identification not his or her own, or counterfeit~~
11 ~~identification, with intent to violate the provisions of this section,~~
12 ~~is guilty of a misdemeanor and, in addition, is liable for the tax and~~
13 ~~subject to a penalty equal to the greater of one hundred dollars or the~~
14 ~~tax due on such purchases.~~

15 ~~(6)(a) Any vendor who makes sales without collecting the tax and~~
16 ~~who fails to maintain records of sales to nonresidents as provided in~~
17 ~~this section is personally liable for the amount of tax due.~~

18 ~~(b) Any vendor who makes sales without collecting the retail sales~~
19 ~~tax — under — this — section — and — who — has — actual — knowledge — that — the~~
20 ~~purchaser's proof of identification establishing out of state residency~~
21 ~~is fraudulent is guilty of a misdemeanor and, in addition, is liable~~
22 ~~for the tax and subject to a penalty equal to the greater of one~~
23 ~~thousand dollars or the tax due on such sales. In addition, both the~~
24 ~~purchaser and the vendor are liable for any penalties and interest~~
25 ~~assessable under chapter 82.32 RCW.)) (i) Beginning January 1, 2014,~~
26 ~~through December 31, 2014, a person may request a remittance from the~~
27 ~~department for state and local sales taxes paid by the person on~~
28 ~~qualified retail purchases made in Washington between July 1, 2013, and~~
29 ~~December 31, 2013.~~

30 ~~(ii) Beginning January 1, 2014, a person may request a remittance~~
31 ~~from the department during any calendar year for state and local sales~~
32 ~~taxes paid by the person on qualified retail purchases made in~~
33 ~~Washington during the immediately preceding calendar year only. No~~
34 ~~application may be made with respect to purchases made before the~~
35 ~~immediately preceding calendar year.~~

36 ~~(b) The remittance request, including proof of nonresident status~~
37 ~~and any other documentation and information required by the department,~~

1 must be made using an electronic application process as prescribed by
2 the department. Only one remittance request may be made by a person
3 per calendar year.

4 (c) The total amount of a remittance request must be at least
5 twenty-five dollars. The department must deny any request for a
6 remittance that is less than twenty-five dollars.

7 (d) The department will examine the applicant's proof of
8 nonresident status and any other documentation and information as
9 required in the application to determine whether the applicant is
10 entitled to a remittance under this section.

11 (5)(a) Any person making fraudulent statements to the department,
12 which includes the offer of fraudulent or fraudulently procured
13 identification or fraudulent sales receipts, in order to receive a
14 remittance of retail sales tax is guilty of perjury under chapter 9A.72
15 RCW.

16 (b) Any person requesting a remittance of sales tax from the
17 department by providing proof of identification or sales receipts not
18 the person's own, or counterfeit identification or sales receipts, with
19 intent to violate the provisions of this section, is guilty of a
20 misdemeanor and, in addition, is liable for the tax and subject to a
21 penalty equal to the greater of one hundred dollars or the tax due on
22 such purchases.

23 (6) The exemption provided by this section is for both state and
24 local sales taxes. For purposes of this section, "local sales tax"
25 means a sales tax imposed by a local government under the authority of
26 chapter 82.14 RCW, RCW 81.104.170, or other provision of law, and which
27 is imposed on the same taxable event as the state sales tax imposed in
28 this chapter.

29 (7) A nonresident who receives a refund of sales tax from the
30 seller for any reason with respect to a purchase made in this state is
31 not entitled to a remittance for the tax paid on the purchase. A
32 person who receives both a remittance under this section and a refund
33 from the seller with respect to the same purchase must immediately
34 repay the remittance to the department. Interest as provided in
35 chapter 82.32 RCW applies to amounts due under this section from the
36 date that the department made the remittance until the amount due under
37 this subsection is paid to the department. A person who receives a
38 remittance with respect to a purchase for which the person had, at the

1 time the person submitted the application for a remittance, already
2 received a refund of sales tax from the seller is also liable for the
3 evasion penalty in RCW 82.32.090(7) and is ineligible to receive any
4 further remittances from the department under this section.

5 **PART V**

6 **Modifying Tax Preferences for High-Tech Research and Development**

7 **Sec. 501.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to
8 read as follows:

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

13 (2)(a) The credit is calculated as follows:

14 ((+a)) (i) Determine the greater of the amount of qualified
15 research and development expenditures of a person or eighty percent of
16 amounts received by a person other than a public educational or
17 research institution in compensation for the conduct of qualified
18 research and development;

19 ((+b)) (ii) Subtract 0.92 percent of the person's taxable amount
20 from the amount determined under (a)(i) of this subsection;

21 ((+c)) (iii) Multiply the amount determined under ((+b)) (a)(ii)
22 of this subsection by ((the following):

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

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

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

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

32 (v) ~~For the calendar year ending December 31, 2010, and~~
33 ~~thereafter,)) 1.50 percent.~~

34 (b) For purposes of calculating the credit, if a person's reporting
35 period is less than annual, the person may use an estimated average tax
36 rate for the calendar year for which the credit is claimed by using the

1 person's average tax rate for each reporting period. A person who uses
2 an estimated average tax rate must make an adjustment to the total
3 credit claimed for the calendar year using the person's actual average
4 tax rate for the calendar year when the person files its last return
5 for the calendar year for which the credit is claimed.

6 (3) Any person entitled to the credit provided in subsection (2) of
7 this section as a result of qualified research and development
8 conducted under contract may assign all or any portion of the credit to
9 the person contracting for the performance of the qualified research
10 and development.

11 (4) The credit, including any credit assigned to a person under
12 subsection (3) of this section, must be claimed against taxes due for
13 the same calendar year in which the qualified research and development
14 expenditures are incurred. The credit, including any credit assigned
15 to a person under subsection (3) of this section, for each calendar
16 year may not exceed the lesser of two million dollars or the amount of
17 tax otherwise due under this chapter for the calendar year.

18 (5) For any person claiming the credit, including any credit
19 assigned to a person under subsection (3) of this section, whose
20 research and development spending during the calendar year in which the
21 credit is claimed fails to exceed 0.92 percent of the person's taxable
22 amount during the same calendar year or who is otherwise ineligible,
23 the department must declare the taxes against which the credit was
24 claimed to be immediately due and payable. The department must assess
25 interest, but not penalties, on the taxes against which the credit was
26 claimed. Interest must be assessed at the rate provided for delinquent
27 excise taxes under chapter 82.32 RCW, retroactively to the date the
28 credit was claimed, and accrues until the taxes against which the
29 credit was claimed are repaid. Any credit assigned to a person under
30 subsection (3) of this section that is disallowed as a result of this
31 section may be claimed by the person who performed the qualified
32 research and development subject to the limitations set forth in
33 subsection (4) of this section.

34 (6) A person may not claim a credit under this section if the
35 person reported an annual gross amount, as reported on the state
36 combined excise tax return, of ten million dollars or more in the prior
37 calendar year. Taxpayers disallowed from claiming the credit under

1 this subsection (6) are not required to refund any credit claimed in
2 calendar year 2013 prior to the effective date of this section.

3 (7) A person claiming the credit provided in this section must file
4 a complete annual survey with the department under RCW 82.32.585.

5 ~~((7) For the purpose of this section:)~~ The definitions in this
6 subsection apply throughout this section unless the context clearly
7 requires otherwise.

8 (8)(a) "Average tax rate" means a person's total tax liability
9 under this chapter for the calendar year for which the credit is
10 claimed divided by the taxpayer's total taxable amount under this
11 chapter for the calendar year for which the credit is claimed.

12 (b) "Qualified research and development expenditures" means
13 operating expenses, including wages, compensation of a proprietor or a
14 partner in a partnership as determined under rules adopted by the
15 department, benefits, supplies, and computer expenses, directly
16 incurred in qualified research and development by a person claiming the
17 credit provided in this section. The term does not include amounts
18 paid to a person other than a public educational or research
19 institution to conduct qualified research and development. Nor does
20 the term include capital costs and overhead, such as expenses for land,
21 structures, or depreciable property.

22 (c) "Qualified research and development" ~~((shall have))~~ has the
23 same meaning as provided in RCW 82.63.010.

24 (d) "Research and development spending" means qualified research
25 and development expenditures plus eighty percent of amounts paid to a
26 person other than a public educational or research institution to
27 conduct qualified research and development.

28 (e) "Taxable amount" means the taxable amount subject to the tax
29 imposed in this chapter required to be reported on the person's
30 combined excise tax returns for the calendar year for which the credit
31 is claimed, less any taxable amount for which a credit is allowed under
32 RCW 82.04.440.

33 ~~((8))~~ (9) This section expires January 1, 2015.

34 **Sec. 502.** RCW 82.63.030 and 2008 c 15 s 4 are each amended to read
35 as follows:

36 (1) Except as provided in subsection (2) of this section, the

1 department (~~shall~~) must issue a sales and use tax deferral
2 certificate for state and local sales and use taxes due under chapters
3 82.08, 82.12, and 82.14 RCW on each eligible investment project.

4 (2) No certificate may be issued for an investment project that has
5 already received a deferral under chapter 82.60 RCW or this chapter,
6 except that an investment project for qualified research and
7 development that has already received a deferral may also receive an
8 additional deferral certificate for adapting the investment project for
9 use in pilot scale manufacturing.

10 (3) The department may not issue a certificate under this section
11 on or after July 1, 2013.

12 (4) This section (~~shall~~) expires January 1, 2015.
13

14 **PART VI**

15 **Eliminating the Public Utility Tax Deduction on Interstate Hauls**

16 **Sec. 601.** RCW 82.16.050 and 2007 c 330 s 1 are each amended to
17 read as follows:

18 In computing tax there may be deducted from the gross income the
19 following items:

20 (1) Amounts derived by municipally owned or operated public service
21 businesses, directly from taxes levied for the support or maintenance
22 thereof. This subsection may not be construed to exempt service
23 charges which are spread on the property tax rolls and collected as
24 taxes;

25 (2) Amounts derived from the sale of commodities to persons in the
26 same public service business as the seller, for resale as such within
27 this state. This deduction is allowed only with respect to water
28 distribution, gas distribution or other public service businesses which
29 furnish water, gas or any other commodity in the performance of public
30 service businesses;

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

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

3 (5) The amount of bad debts, as that term is used in 26 U.S.C. Sec.
4 166 of the federal internal revenue code, as amended (~~or renumbered~~)
5 as of January 1, 2003, on which tax was previously paid under this
6 chapter;

7 (6) Amounts derived from business which the state is prohibited
8 from taxing under the Constitution of this state or the Constitution or
9 laws of the United States;

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

12 (8) Until July 1, 2013, amounts derived from the transportation of
13 commodities from points of origin in this state to final destination
14 outside this state, or from points of origin outside this state to
15 final destination in this state, with respect to which the carrier
16 grants to the shipper the privilege of stopping the shipment in transit
17 at some point in this state for the purpose of storing, manufacturing,
18 milling, or other processing, and thereafter forwards the same
19 commodity, or its equivalent, in the same or converted form, under a
20 through freight rate from point of origin to final destination;

21 (9) Amounts derived from the transportation of commodities from
22 points of origin in the state to an export elevator, wharf, dock or
23 ship side on tidewater or its navigable tributaries to be forwarded,
24 without intervening transportation, by vessel, in their original form,
25 to interstate or foreign destinations. No deduction is allowed under
26 this subsection when the point of origin and the point of delivery to
27 the export elevator, wharf, dock, or ship side are located within the
28 corporate limits of the same city or town;

29 (10) Amounts derived from the transportation of agricultural
30 commodities, not including manufactured substances or articles, from
31 points of origin in the state to interim storage facilities in this
32 state for transshipment, without intervening transportation, to an
33 export elevator, wharf, dock, or ship side on tidewater or its
34 navigable tributaries to be forwarded, without intervening
35 transportation, by vessel, in their original form, to interstate or
36 foreign destinations. If agricultural commodities are transshipped
37 from interim storage facilities in this state to storage facilities at

1 a port on tidewater or its navigable tributaries, the same agricultural
2 commodity dealer must operate both the interim storage facilities and
3 the storage facilities at the port.

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

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

13 (ii) Any of the agricultural commodity that is transshipped to
14 ports on tidewater or its navigable tributaries will be received at
15 storage facilities operated by the same agricultural commodity dealer
16 and will be shipped from such facilities, without intervening
17 transportation, by vessel, in their original form, to interstate or
18 foreign destinations.

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

21 (11) Amounts derived from the production, sale, or transfer of
22 electrical energy for resale within or outside the state or for
23 consumption outside the state;

24 (12) Amounts derived from the distribution of water by a nonprofit
25 water association and used for capital improvements by that nonprofit
26 water association;

27 (13) Amounts paid by a sewerage collection business taxable under
28 RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the
29 treatment or disposal of sewage;

30 (14) Amounts derived from fees or charges imposed on persons for
31 transit services provided by a public transportation agency. For the
32 purposes of this subsection, "public transportation agency" means a
33 municipality, as defined in RCW 35.58.272, and urban public
34 transportation systems, as defined in RCW 47.04.082. Public
35 transportation agencies (~~shall~~) must spend an amount equal to the
36 reduction in tax provided by this tax deduction solely to adjust routes
37 to improve access for citizens using food banks and senior citizen

1 services or to extend or add new routes to assist low-income citizens
2 and seniors;

3 (15) Until July 1, 2013, amounts received from interstate
4 transportation. For purposes of this subsection, "interstate
5 transportation" means transporting persons or property between states
6 or between a state and a foreign country. "State" means a state of the
7 United States, the District of Columbia, the Commonwealth of Puerto
8 Rico, and any territory or possession of the United States.

9 **NEW SECTION. Sec. 602.** A new section is added to chapter 82.16
10 RCW to read as follows:

11 (1) Persons taxable both within and without this state on the
12 business of transporting persons or property for hire must apportion to
13 this state that portion of gross income as provided in this section.

14 (2)(a) Except as otherwise provided in this section, gross income
15 must be apportioned to this state based on the ratio that revenue miles
16 of the person in this state during the tax period bear to the revenue
17 miles of the person everywhere during the tax period.

18 (b)(i) If both property and passengers are transported, a person
19 must determine the portion of gross income apportioned to this state by
20 first computing separate percentages as provided in (a) of this
21 subsection for property transported and for passengers transported.

22 (ii) Then separately divide gross income for each activity by the
23 total gross income from transporting persons and property for hire.

24 (iii) Then multiply the percentage for property transported as
25 determined under (a) of this subsection by the percentage of gross
26 income from transporting property as determined under (b)(ii) of this
27 subsection, and multiply the percentage for persons transported as
28 determined under (a) of this subsection by the percentage of gross
29 income from transporting persons as determined under (b)(ii) of this
30 subsection.

31 (iv) Then sum the results of both calculations in (b)(iii) of this
32 subsection and use this percentage to determine the portion of gross
33 income apportioned to this state from transporting persons and property
34 for hire.

35 (3) For persons that transport gas, oil, petroleum products, or
36 other products by pipeline, gross income must be apportioned to this

1 state based on the ratio that the total number of traffic units in this
2 state during the tax period bear to the total number of traffic units
3 everywhere during the tax period.

4 (4) The definitions in this subsection apply throughout this
5 section unless the context clearly requires otherwise.

6 (a) "Revenue mile" means the transportation of one net ton of
7 property or one passenger, for the distance of one mile.

8 (b)(i) "Traffic unit" means the movement of one unit of product for
9 a distance of one mile.

10 (ii) For purposes of this subsection (4)(b), "one unit" means one
11 barrel consisting of forty-two United States gallons, except that for
12 natural gas and manufactured gas, "one unit" means one thousand cubic
13 feet of gas.

14 PART VII

15 Narrowing B&O and Sales and Use Tax Exemptions for Import Commerce

16 **Sec. 701.** RCW 82.04.610 and 2007 c 477 s 2 are each amended to
17 read as follows:

18 (1) This chapter does not apply to the sale of tangible personal
19 property in ~~((import or))~~ export commerce or to the sale of aerospace
20 products in import commerce.

21 (2) ~~((Tangible personal property))~~ (a) An aerospace product is in
22 import commerce while the ~~((property))~~ product is in the process of
23 import transportation. Except as provided in (a)~~((i))~~ through ~~((e))~~
24 (iii) of this subsection, ~~((property))~~ an aerospace product is in the
25 process of import transportation from the time the ~~((property))~~ product
26 begins its transportation at a point outside of the United States until
27 the time that the ~~((property))~~ product is delivered to the buyer in
28 this state. ~~((Property))~~ An aerospace product is also in the process
29 of import transportation if it is merely flowing through this state on
30 its way to a destination in some other state or country. However,
31 ~~((property))~~ an aerospace product is no longer in the process of import
32 transportation when the ~~((property))~~ product is:

33 ~~((a))~~ (i) Put to actual use in any state, territory, or
34 possession of the United States for any purpose;

35 ~~((b))~~ (ii) Resold by the importer or any other person after the
36 ~~((property))~~ product has arrived in this state or any other state,

1 territory, or possession of the United States, regardless of whether
2 the (~~property~~) product is in its original unbroken package or
3 container; or

4 (~~(c)~~) (iii) Processed, handled, or otherwise stopped in transit
5 for a business purpose other than shipping needs, if the processing,
6 handling, or other stoppage of transit occurs within the United States,
7 including any of its possessions or territories, or the territorial
8 waters of this state or any other state, regardless of whether the
9 processing, handling, or other stoppage of transit occurs within a
10 foreign trade zone.

11 (b) For the purposes of this subsection (2), "aerospace product"
12 has the same meaning as provided in RCW 82.08.975.

13 (3)(a) Tangible personal property is in export commerce when the
14 seller delivers the property to:

15 (i) The buyer at a destination in a foreign country;

16 (ii) A carrier consigned to and for transportation to a destination
17 in a foreign country;

18 (iii) The buyer at shipside or aboard the buyer's vessel or other
19 vehicle of transportation under circumstances where it is clear that
20 the process of exportation of the property has begun; or

21 (iv) The buyer in this state if the property is capable of being
22 transported to a foreign destination under its own power, the seller
23 files a shipper's export declaration with respect to the property
24 listing the seller as the exporter, and the buyer immediately
25 transports the property directly to a destination in a foreign country.
26 This subsection (3)(a)(iv) does not apply to sales of motor vehicles as
27 defined in RCW 46.04.320.

28 (b) The exemption under this subsection (3) applies with respect to
29 property delivered to the buyer in this state if, at the time of
30 delivery, there is a certainty of export, and the process of export has
31 begun. The process of exportation will not be deemed to have begun if
32 the property is merely in storage awaiting shipment, even though there
33 is reasonable certainty that the property will be exported. The
34 intention to export, as evidenced for example, by financial and
35 contractual relationships does not indicate certainty of export. The
36 process of exportation begins when the property starts its final and
37 certain continuous movement to a destination in a foreign country.

1 (4) Persons claiming an exemption under this section must keep and
2 maintain records for the period required by RCW 82.32.070 establishing
3 their right to the exemption.

4 **PART VIII**

5 **Repealing the Preferential B&O Tax Rate for Sellers of Prescription**
6 **Drugs**

7 NEW SECTION. **Sec. 801.** RCW 82.04.272 (Tax on warehousing and
8 reselling prescription drugs) and 2003 c 168 s 401 & 1998 c 343 s 1 are
9 each repealed.

10 NEW SECTION. **Sec. 802.** Section 801 of this act applies to taxes
11 due for reporting periods beginning on or after the effective date of
12 section 801 of this act.

13 **PART IX**

14 **Narrowing the Use Tax Exemption for Extracted Fuel**

15 **Sec. 901.** RCW 82.12.0263 and 1980 c 37 s 62 are each amended to
16 read as follows:

17 The provisions of this chapter (~~shall~~) do not apply in respect to
18 the use of biomass fuel by the extractor or manufacturer thereof when
19 used directly in the operation of the particular extractive operation
20 or manufacturing plant which produced or manufactured the same. For
21 purposes of this section, "biomass fuel" means wood waste and other
22 wood residuals, including forest derived biomass, but does not include
23 firewood or wood pellets. "Biomass fuel" also includes partially
24 organic by-products of pulp, paper, and wood manufacturing processes.

25 NEW SECTION. **Sec. 902.** A new section is added to chapter 82.12
26 RCW to read as follows:

27 The value of the article used with respect to refinery fuel gas
28 under this chapter is the most recent monthly United States natural gas
29 wellhead price, as published by the federal energy information
30 administration.

1 **PART X**

2 **Technical Amendments**

3 **Sec. 1001.** RCW 82.04.440 and 2011 c 2 s 205 are each amended to
4 read as follows:

5 (1) Every person engaged in activities that are subject to tax
6 under two or more provisions of RCW 82.04.230 through 82.04.298,
7 inclusive, is taxable under each provision applicable to those
8 activities.

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

22 (3) Persons taxable as manufacturers under RCW 82.04.240 or
23 82.04.260 (1)(b) or (~~((12))~~) (11), including those persons who are also
24 taxable under RCW 82.04.261, are allowed a credit against those taxes
25 for any extracting taxes paid with respect to extracting the
26 ingredients of the products so manufactured in this state. The amount
27 of the credit may not exceed the tax liability arising under this
28 chapter with respect to the manufacturing of those products.

29 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),
30 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (4), (~~((11), or (12))~~)
31 (10), or (11), including those persons who are also taxable under RCW
32 82.04.261, with respect to extracting or manufacturing products in this
33 state are allowed a credit against those taxes for any (i) gross
34 receipts taxes paid to another state with respect to the sales of the
35 products so extracted or manufactured in this state, (ii) manufacturing
36 taxes paid with respect to the manufacturing of products using
37 ingredients so extracted in this state, or (iii) manufacturing taxes
38 paid with respect to manufacturing activities completed in another

1 state for products so manufactured in this state. The amount of the
2 credit may not exceed the tax liability arising under this chapter with
3 respect to the extraction or manufacturing of those products.

4 (5) For the purpose of this section:

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

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

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

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

16 (c) "Manufacturing tax" means a gross receipts tax imposed on the
17 act or privilege of engaging in business as a manufacturer, and
18 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404,
19 82.04.2909(1), 82.04.260 (1), (2), (4), (~~((11), and (12))~~) (10), and
20 (11), and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on
21 persons who are engaged in business as a manufacturer; and (iii)
22 similar gross receipts taxes paid to other states.

23 (d) "Extracting tax" means a gross receipts tax imposed on the act
24 or privilege of engaging in business as an extractor, and includes (i)
25 the tax imposed on extractors in RCW 82.04.230 and 82.04.260(~~((12))~~)
26 (11); (ii) the tax imposed under RCW 82.04.261 on persons who are
27 engaged in business as an extractor; and (iii) similar gross receipts
28 taxes paid to other states.

29 (e) "Business", "manufacturer", "extractor", and other terms used
30 in this section have the meanings given in RCW 82.04.020 through
31 (~~((82.04.212 [82.04.217])~~) 82.04.217, notwithstanding the use of those
32 terms in the context of describing taxes imposed by other states.

33 **Sec. 1002.** RCW 82.04.460 and 2011 c 174 s 203 are each amended to
34 read as follows:

35 (1) Except as otherwise provided in this section, any person
36 earning apportionable income taxable under this chapter and also
37 taxable in another state must, for the purpose of computing tax

1 liability under this chapter, apportion to this state, in accordance
2 with RCW 82.04.462, that portion of the person's apportionable income
3 derived from business activities performed within this state.

4 (2) The department must by rule provide a method of apportioning
5 the apportionable income of financial institutions, where such
6 apportionable income is taxable under RCW 82.04.290. The rule adopted
7 by the department must, to the extent feasible, be consistent with the
8 multistate tax commission's recommended formula for the apportionment
9 and allocation of net income of financial institutions as existing on
10 June 1, 2010, or such subsequent date as may be provided by the
11 department by rule, consistent with the purposes of this section,
12 except that:

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

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

19 (3) The department may by rule provide a method or methods of
20 apportioning or allocating gross income derived from sales of
21 telecommunications service and competitive telephone service taxed
22 under this chapter, if the gross proceeds of sales subject to tax under
23 this chapter do not fairly represent the extent of the taxpayer's
24 income attributable to this state. The rule must provide for an
25 equitable and constitutionally permissible division of the tax base.

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

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

35 (i) RCW 82.04.255;

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

37 (iii) RCW 82.04.280(1)(e);

38 (iv) RCW 82.04.285;

1 (v) RCW 82.04.286;
2 (vi) RCW 82.04.290;
3 (vii) RCW 82.04.2907;
4 (viii) RCW 82.04.2908;
5 (ix) RCW 82.04.263, but only to the extent of any activity that
6 would be taxable under any of the provisions enumerated under (a)(i)
7 through (viii) of this subsection (4) if the tax classification in RCW
8 82.04.263 did not exist; and
9 (x) RCW 82.04.260(13) and 82.04.280(1)(a), but only with respect to
10 advertising.

11 (b)(i) "Taxable in another state" means that the taxpayer is
12 subject to a business activities tax by another state on its income
13 received from engaging in apportionable activities; or the taxpayer is
14 not subject to a business activities tax by another state on its income
15 received from engaging in apportionable activities, but any other state
16 has jurisdiction to subject the taxpayer to a business activities tax
17 on such income under the substantial nexus standards in RCW
18 82.04.067(1).

19 (ii) For purposes of this subsection (4)(b), "business activities
20 tax" and "state" have the same meaning as in RCW 82.04.462.

21 **PART XI**
22 **Transfers to Education Legacy Trust Account**

23 NEW SECTION. **Sec. 1101.** A new section is added to chapter 82.32
24 RCW to read as follows:

25 (1) By the last workday of the second and fourth calendar quarters,
26 the state treasurer must transfer the amount specified in subsection
27 (2) of this section from the general fund to the education legacy trust
28 account. The first transfer under this subsection (1) must occur by
29 December 31, 2013.

30 (2) By December 15th and by June 15th of each year, the department
31 must estimate the increase in state general fund revenues from the
32 changes made under parts II through IX of this act for the current and
33 prior calendar quarters and notify the state treasurer of the increase.

34 NEW SECTION. **Sec. 1102.** A new section is added to chapter 43.135
35 RCW to read as follows:

1 RCW 43.135.034(4) does not apply to the transfers under section
2 1101 of this act.

3 NEW SECTION. **Sec. 1103.** A new section is added to chapter 39.42
4 RCW to read as follows:

5 The purpose of repealing or narrowing tax preferences in parts II
6 through IX of this act is to support education-related expenditures
7 from the education legacy trust account. For this reason, general
8 state revenues transferred to the education legacy trust account under
9 section 1101 of this act are excluded from the calculation of general
10 state revenues for purposes of Article VIII, section 1 of the state
11 Constitution and RCW 39.42.130 and 39.42.140.

12 **PART XII**

13 **Miscellaneous Technical Provisions**

14 NEW SECTION. **Sec. 1201.** (1) Except as otherwise provided in this
15 section, this act is necessary for the immediate preservation of the
16 public peace, health, or safety, or support of the state government and
17 its existing public institutions, and takes effect July 1, 2013.

18 (2) Section 202 of this act takes effect July 1, 2015.

19 NEW SECTION. **Sec. 1202.** Section 201 of this act expires July 1,
20 2015.

--- END ---