
HOUSE BILL 1549

State of Washington

65th Legislature

2017 Regular Session

By Representatives Lytton, Appleton, and Ormsby; by request of Office of Financial Management

Read first time 01/23/17. Referred to Committee on Finance.

1 AN ACT Relating to investing in education and other vital public
2 services by narrowing or eliminating tax preferences, making
3 administrative revenue changes, and redirecting existing revenue
4 sources; amending RCW 82.12.0263, 82.08.0273, 82.08.0293, 82.12.0293,
5 82.45.010, 82.45.080, 82.08.010, 19.02.075, 19.02.210, 82.32.050,
6 82.32.060, 82.32.145, 82.04.066, 82.04.067, 82.04.220, 82.45.060,
7 82.16.020, 82.18.040, and 43.155.060; adding new sections to chapter
8 82.12 RCW; adding new sections to chapter 82.08 RCW; creating new
9 sections; repealing RCW 82.04.424; prescribing penalties; providing
10 effective dates; and declaring an emergency.

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

12 **PART I**
13 **Narrowing the Use Tax Exemption for Extracted Fuel**

14 **Sec. 101.** RCW 82.12.0263 and 1980 c 37 s 62 are each amended to
15 read as follows:

16 The provisions of this chapter (~~shall~~) do not apply in respect
17 to the use of biomass fuel by the extractor or manufacturer thereof
18 when used directly in the operation of the particular extractive
19 operation or manufacturing plant which produced or manufactured the
20 same. For purposes of this section, "biomass fuel" means wood waste

1 and other wood residuals, including forest derived biomass, but does
2 not include firewood or wood pellets. "Biomass fuel" also includes
3 partially organic by-products of pulp, paper, and wood manufacturing
4 processes.

5 NEW SECTION. Sec. 102. A new section is added to chapter 82.12
6 RCW to read as follows:

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

11 PART II

12 Modifying the Nonresident Sales and Use Tax Exemption

13 **Sec. 201.** RCW 82.08.0273 and 2014 c 140 s 17 are each amended to
14 read as follows:

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

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

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

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

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

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

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

20 (3)(a) Any person claiming exemption from retail sales tax under
21 the provisions of this section must ~~((display proof of his or her~~
22 ~~current nonresident status as provided in this section)) pay the~~
23 ~~state and local sales tax to the seller at the time of purchase and~~
24 ~~then request a remittance from the department in accordance with this~~
25 ~~subsection and subsection (4) of this section. A request for~~
26 ~~remittance must include proof of the person's status as a nonresident~~
27 ~~at the time of the purchase for which a remittance is requested. The~~
28 ~~request for a remittance must also include any additional information~~
29 ~~and documentation as required by the department, which may include a~~
30 ~~description of the item purchased for which a remittance is~~
31 ~~requested, the sales price of the item, the amount of sales tax paid~~
32 ~~on the item, the date of the purchase, the name of the seller and the~~
33 ~~physical address where the sale took place, and copies of sales~~
34 ~~receipts showing the qualified purchases.~~

35 (b) Acceptable proof of a nonresident person's status includes
36 one piece of identification such as a valid driver's license from the
37 jurisdiction in which the out-of-state residency is claimed or a
38 valid identification card which has a photograph of the holder and is
39 issued by the out-of-state jurisdiction. Identification under this
40 subsection (3)(b) must show the holder's residential address and have

1 as one of its legal purposes the establishment of residency in that
2 out-of-state jurisdiction.

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

8 ~~(4)(a) Nothing in this section requires the vendor to make tax
9 exempt retail sales to nonresidents. A vendor may choose to make
10 sales to nonresidents, collect the sales tax, and remit the amount of
11 sales tax collected to the state as otherwise provided by law. If the
12 vendor chooses to make a sale to a nonresident without collecting the
13 sales tax, the vendor must examine the purchaser's proof of
14 nonresidence, determine whether the proof is acceptable under
15 subsection (3)(b) of this section, and maintain records for each
16 nontaxable sale which must show the type of proof accepted, including
17 any identification numbers where appropriate, and the expiration
18 date, if any.~~

19 ~~(b) In lieu of using the method provided in (a) of this
20 subsection to document an exempt sale to a nonresident, a seller may
21 accept from the purchaser a properly completed uniform exemption
22 certificate approved by the streamlined sales and use tax agreement
23 governing board or any other exemption certificate as may be
24 authorized by the department and properly completed by the purchaser.
25 A nonresident purchaser who uses an exemption certificate authorized
26 in this subsection (4)(b) must include the purchaser's driver's
27 license number or other state issued identification number and the
28 state of issuance.~~

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

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

37 ~~(b) Any person making tax exempt purchases under this section by
38 displaying proof of identification not his or her own, or counterfeit
39 identification, with intent to violate the provisions of this
40 section, is guilty of a misdemeanor and, in addition, is liable for~~

1 ~~the tax and subject to a penalty equal to the greater of one hundred~~
2 ~~dollars or the tax due on such purchases.~~

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

6 ~~(b) Any vendor who makes sales without collecting the retail~~
7 ~~sales tax under this section and who has actual knowledge that the~~
8 ~~purchaser's proof of identification establishing out-of-state~~
9 ~~residency is fraudulent is guilty of a misdemeanor and, in addition,~~
10 ~~is liable for the tax and subject to a penalty equal to the greater~~
11 ~~of one thousand dollars or the tax due on such sales. In addition,~~
12 ~~both the purchaser and the vendor are liable for any penalties and~~
13 ~~interest assessable under chapter 82.32 RCW)) (4)(a)(i) Beginning~~
14 ~~January 1, 2018, through December 31, 2018, a person may request a~~
15 ~~remittance from the department for state sales taxes paid by the~~
16 ~~person on qualified retail purchases made in Washington between July~~
17 ~~1, 2017, and December 31, 2017.~~

18 ~~(ii) Beginning January 1, 2019, a person may request a remittance~~
19 ~~from the department during any calendar year for state sales taxes~~
20 ~~paid by the person on qualified retail purchases made in Washington~~
21 ~~during the immediately preceding calendar year only. No application~~
22 ~~may be made with respect to purchases made before the immediately~~
23 ~~preceding calendar year.~~

24 ~~(b) The remittance request, including proof of nonresident status~~
25 ~~and any other documentation and information required by the~~
26 ~~department, must be provided in a form and manner as prescribed by~~
27 ~~the department. Only one remittance request may be made by a person~~
28 ~~per calendar year.~~

29 ~~(c) The total amount of a remittance request must be at least~~
30 ~~twenty-five dollars. The department must deny any request for a~~
31 ~~remittance that is less than twenty-five dollars.~~

32 ~~(d) The department will examine the applicant's proof of~~
33 ~~nonresident status and any other documentation and information as~~
34 ~~required in the application to determine whether the applicant is~~
35 ~~entitled to a remittance under this section.~~

36 ~~(5)(a) Any person making fraudulent statements to the department,~~
37 ~~which includes the offer of fraudulent or fraudulently procured~~
38 ~~identification or fraudulent sales receipts, in order to receive a~~
39 ~~remittance of retail sales tax is guilty of perjury under chapter~~

1 9A.72 RCW and is ineligible to receive any further remittances from
2 the department under this section.

3 (b) Any person obtaining a remittance of retail sales tax from
4 the department by providing proof of identification or sales receipts
5 not the person's own, or counterfeit identification or sales receipts
6 is (i) liable for repayment of the remittance, including interest as
7 provided in chapter 82.32 RCW from the date the remittance was
8 transmitted to the person until repaid in full, (ii) liable for a
9 civil penalty equal to the greater of one hundred dollars or the
10 amount of the remittance obtained in violation of this subsection
11 (5)(b), and (iii) ineligible to receive any further remittances from
12 the department under this section.

13 (c) Any person assisting another person in obtaining a remittance
14 of retail sales tax in violation of (b) of this subsection (5) is
15 jointly and severally liable for amounts due under (b) of this
16 subsection (5) and is also ineligible to receive any further
17 remittances from the department under this section.

18 (6) A person who receives a refund of sales tax from the seller
19 for any reason with respect to a purchase made in this state is not
20 entitled to a remittance for the tax paid on the purchase. A person
21 who receives both a remittance under this section and a refund of
22 sales tax from the seller with respect to the same purchase must
23 immediately repay the remittance to the department. Interest as
24 provided in chapter 82.32 RCW applies to amounts due under this
25 section from the date that the department made the remittance until
26 the amount due under this subsection is paid to the department. A
27 person who receives a remittance with respect to a purchase for which
28 the person had, at the time the person submitted the application for
29 a remittance, already received a refund of sales tax from the seller
30 is also liable for a civil penalty equal to the greater of one
31 hundred dollars or the amount of the remittance obtained in violation
32 of this subsection (6) and is ineligible to receive any further
33 remittances from the department under this section.

34 (7) The exemption provided by this section is only for the state
35 portion of the sales tax. For purposes of this section, the state
36 portion of the sales tax is not reduced by any local sales tax that
37 is deducted or credited against the state sales tax as provided by
38 law.

39 ((+7)) (8) The exemption in this section does not apply to sales
40 of marijuana, useable marijuana, or marijuana-infused products.

PART III

Eliminating Sales and Use Tax Exemption for Bottled Water

Sec. 301. RCW 82.08.0293 and 2014 c 140 s 22 are each amended to read as follows:

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

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

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco; and

(c) Marijuana, useable marijuana, or marijuana-infused products.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. (~~For purposes of this subsection, the following definitions apply:~~) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

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

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

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

1 (E) A dietary substance for use by humans to supplement the diet
2 by increasing the total dietary intake; or
3 (F) A concentrate, metabolite, constituent, extract, or
4 combination of any ingredient described in this subsection;
5 (ii) Is intended for ingestion in tablet, capsule, powder,
6 softgel, gelcap, or liquid form, or if not intended for ingestion in
7 such form, is not represented as conventional food and is not
8 represented for use as a sole item of a meal or of the diet; and
9 (iii) Is required to be labeled as a dietary supplement,
10 identifiable by the "supplement facts" box found on the label as
11 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered
12 as of January 1, 2003.
13 (~~(b)~~) (c)(i) "Prepared food" means:
14 (A) Food sold in a heated state or heated by the seller;
15 (B) Food sold with eating utensils provided by the seller,
16 including plates, knives, forks, spoons, glasses, cups, napkins, or
17 straws. A plate does not include a container or packaging used to
18 transport the food; or
19 (C) Two or more food ingredients mixed or combined by the seller
20 for sale as a single item, except:
21 (I) Food that is only cut, repackaged, or pasteurized by the
22 seller; or
23 (II) Raw eggs, fish, meat, poultry, and foods containing these
24 raw animal foods requiring cooking by the consumer as recommended by
25 the federal food and drug administration in chapter 3, part 401.11 of
26 The Food Code, published by the food and drug administration, as
27 amended or renumbered as of January 1, 2003, so as to prevent
28 foodborne illness.
29 (ii) "Prepared food" does not include the following food or food
30 ingredients, if the food or food ingredients are sold without eating
31 utensils provided by the seller:
32 (A) Food sold by a seller whose proper primary North American
33 industry classification system (NAICS) classification is
34 manufacturing in sector 311, except subsector 3118 (bakeries), as
35 provided in the "North American industry classification system—United
36 States, 2002";
37 (B) Food sold in an unheated state by weight or volume as a
38 single item; or

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

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

9 (3) Notwithstanding anything in this section to the contrary, the
10 exemption of "food and food ingredients" provided in this section
11 applies to food and food ingredients that are furnished, prepared, or
12 served as meals:

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

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

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

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

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

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

35 (4)(a) Subsection (1) of this section notwithstanding, the retail
36 sale of food and food ingredients is subject to sales tax under RCW
37 82.08.020 if the food and food ingredients are sold through a vending
38 machine. Except as provided in (b) of this subsection, the selling
39 price of food and food ingredients sold through a vending machine for

1 purposes of RCW 82.08.020 is fifty-seven percent of the gross
2 receipts.

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

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

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

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

16 (2) The exemption of "food and food ingredients" provided for in
17 subsection (1) of this section does not apply to prepared food, soft
18 drinks, bottled water, or dietary supplements. "Prepared food," "soft
19 drinks," "bottled water," and "dietary supplements" have the same
20 meanings as in RCW 82.08.0293.

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 which are furnished, prepared,
24 or 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
27 RCW 74.38.040(6);

28 (b) Which 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
33 lessor or operator of the facility. The sale of a meal that is billed
34 to both spouses of a marital community or both domestic partners of a
35 domestic partnership meets the age requirement in this subsection
36 (3)(c) if at least one of the spouses or domestic partners is at
37 least sixty-two years of age. For purposes of this subsection,
38 "qualified low-income senior housing facility" has the same meaning
39 as in RCW 82.08.0293.

1 NEW SECTION. **Sec. 303.** A new section is added to chapter 82.08
2 RCW to read as follows:

3 (1) Subject to the conditions in this section, the tax levied by
4 RCW 82.08.020 does not apply to sales of bottled water dispensed or
5 to be dispensed to patients pursuant to a prescription for use in the
6 cure, mitigation, treatment, or prevention of disease or medical
7 condition.

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

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

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

29 NEW SECTION. **Sec. 304.** A new section is added to chapter 82.12
30 RCW to read as follows:

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

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

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

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

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

6 (i) The public water system providing the drinking water has
7 issued a public notification that the drinking water may pose a
8 health risk, and the notification is still in effect on the date that
9 the bottled water was purchased;

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

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

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

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

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

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

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

4 NEW SECTION. **Sec. 307.** Sections 303 through 306 of this act are
5 not subject to RCW 82.32.805 and 82.32.808.

6 **PART IV**

7 **Real Estate Excise Tax on Foreclosures**

8 **Sec. 401.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
9 read as follows:

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

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

27 (b) For the sole purpose of determining whether, pursuant to the
28 exercise of an option, a controlling interest was transferred or
29 acquired within a twelve-month period, the date that the option
30 agreement was executed is the date on which the transfer or
31 acquisition of the controlling interest is deemed to occur. For all
32 other purposes under this chapter, the date upon which the option is
33 exercised is the date of the transfer or acquisition of the
34 controlling interest.

35 (c) For purposes of this subsection, all acquisitions of persons
36 acting in concert must be aggregated for purposes of determining
37 whether a transfer or acquisition of a controlling interest has taken

1 place. The department must adopt standards by rule to determine when
2 persons are acting in concert. In adopting a rule for this purpose,
3 the department must consider the following:

4 (i) Persons must be treated as acting in concert when they have a
5 relationship with each other such that one person influences or
6 controls the actions of another through common ownership; and

7 (ii) When persons are not commonly owned or controlled, they must
8 be treated as acting in concert only when the unity with which the
9 purchasers have negotiated and will consummate the transfer of
10 ownership interests supports a finding that they are acting as a
11 single entity. If the acquisitions are completely independent, with
12 each purchaser buying without regard to the identity of the other
13 purchasers, then the acquisitions are considered separate
14 acquisitions.

15 (3) The term "sale" does not include:

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

17 (b) A transfer by transfer on death deed, to the extent that it
18 is not in satisfaction of a contractual obligation of the decedent
19 owed to the recipient of the property.

20 (c) A transfer of any leasehold interest other than of the type
21 mentioned above.

22 (d) A cancellation or forfeiture of a vendee's interest in a
23 contract for the sale of real property, whether or not such contract
24 contains a forfeiture clause, or deed in lieu of foreclosure of ((a
25 mortgage)) either a mortgage or deed of trust, except to the extent
26 of any additional consideration provided to the grantor.

27 (e) The partition of property by tenants in common by agreement
28 or as the result of a court decree.

29 (f) The assignment of property or interest in property from one
30 spouse or one domestic partner to the other spouse or other domestic
31 partner in accordance with the terms of a decree of dissolution of
32 marriage or state registered domestic partnership or in fulfillment
33 of a property settlement agreement.

34 (g) The assignment or other transfer of a vendor's interest in a
35 contract for the sale of real property, even though accompanied by a
36 conveyance of the vendor's interest in the real property involved.

37 (h) Transfers by appropriation or decree in condemnation
38 proceedings brought by the United States, the state or any political
39 subdivision thereof, or a municipal corporation.

1 (i) A mortgage, deed of trust, or other transfer of an interest
2 in real property merely to secure a debt, or the assignment,
3 reconveyance, or release thereof.

4 (j) Any transfer or conveyance made pursuant to a foreclosure of
5 a mortgage or deed of trust or an order of sale by the court in any
6 mortgage, deed of trust, or lien foreclosure proceeding or upon
7 execution of a judgment(~~(, or deed in lieu of foreclosure to satisfy~~
8 ~~a mortgage or deed of trust))~~ pursuant to chapter 6.17 RCW, but only
9 when:

10 (i) The transfer or conveyance is to other than the mortgagee,
11 beneficiary of the deed of trust, lienholder, or judgment creditor,
12 and the selling price exceeds the amount of the lien, security
13 interest, or judgment that is the subject of the foreclosure or
14 execution; or

15 (ii) The transfer or conveyance is to the United States, this
16 state, or any political subdivision thereof, or a municipal
17 corporation of this state.

18 (k) A conveyance to the federal housing administration or
19 veterans administration by an authorized mortgagee made pursuant to a
20 contract of insurance or guaranty with the federal housing
21 administration or veterans administration.

22 (l) A transfer in compliance with the terms of any lease or
23 contract upon which the tax as imposed by this chapter has been paid
24 or where the lease or contract was entered into prior to the date
25 this tax was first imposed.

26 (m) The sale of any grave or lot in an established cemetery.

27 (n) A sale by the United States, this state or any political
28 subdivision thereof, or a municipal corporation of this state.

29 (o) A sale to a regional transit authority or public corporation
30 under RCW 81.112.320 under a sale/leaseback agreement under RCW
31 81.112.300.

32 (p) A transfer of real property, however effected, if it consists
33 of a mere change in identity or form of ownership of an entity where
34 there is no change in the beneficial ownership. These include
35 transfers to a corporation or partnership which is wholly owned by
36 the transferor and/or the transferor's spouse or domestic partner or
37 children of the transferor or the transferor's spouse or domestic
38 partner. However, if thereafter such transferee corporation or
39 partnership voluntarily transfers such real property, or such
40 transferor, spouse or domestic partner, or children of the transferor

1 or the transferor's spouse or domestic partner voluntarily transfer
2 stock in the transferee corporation or interest in the transferee
3 partnership capital, as the case may be, to other than (i) the
4 transferor and/or the transferor's spouse or domestic partner or
5 children of the transferor or the transferor's spouse or domestic
6 partner, (ii) a trust having the transferor and/or the transferor's
7 spouse or domestic partner or children of the transferor or the
8 transferor's spouse or domestic partner as the only beneficiaries at
9 the time of the transfer to the trust, or (iii) a corporation or
10 partnership wholly owned by the original transferor and/or the
11 transferor's spouse or domestic partner or children of the transferor
12 or the transferor's spouse or domestic partner, within three years of
13 the original transfer to which this exemption applies, and the tax on
14 the subsequent transfer has not been paid within sixty days of
15 becoming due, excise taxes become due and payable on the original
16 transfer as otherwise provided by law.

17 (q)(i) A transfer that for federal income tax purposes does not
18 involve the recognition of gain or loss for entity formation,
19 liquidation or dissolution, and reorganization, including but not
20 limited to nonrecognition of gain or loss because of application of
21 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
22 revenue code of 1986, as amended.

23 (ii) However, the transfer described in (q)(i) of this subsection
24 cannot be preceded or followed within a twelve-month period by
25 another transfer or series of transfers, that, when combined with the
26 otherwise exempt transfer or transfers described in (q)(i) of this
27 subsection, results in the transfer of a controlling interest in the
28 entity for valuable consideration, and in which one or more persons
29 previously holding a controlling interest in the entity receive cash
30 or property in exchange for any interest the person or persons acting
31 in concert hold in the entity. This subsection (3)(q)(ii) does not
32 apply to that part of the transfer involving property received that
33 is the real property interest that the person or persons originally
34 contributed to the entity or when one or more persons who did not
35 contribute real property or belong to the entity at a time when real
36 property was purchased receive cash or personal property in exchange
37 for that person or persons' interest in the entity. The real estate
38 excise tax under this subsection (3)(q)(ii) is imposed upon the
39 person or persons who previously held a controlling interest in the
40 entity.

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

4 **Sec. 402.** RCW 82.45.080 and 2010 1st sp.s. c 23 s 210 are each
5 amended to read as follows:

6 (1) Except as otherwise provided in this chapter, the tax levied
7 under this chapter is the obligation of the seller and the department
8 may, at the department's option, enforce the obligation through an
9 action of debt against the seller or the department may proceed in
10 the manner prescribed for the foreclosure of mortgages. The
11 department's use of one course of enforcement is not an election not
12 to pursue the other.

13 (2) When a transfer or conveyance made pursuant to a judicial or
14 nonjudicial foreclosure of a mortgage, deed of trust, lien, or
15 enforcement of a judgment is subject to tax under this chapter, and
16 notwithstanding any other provisions of law, the tax levied under
17 this chapter is the obligation of the transferee or grantee, and
18 provisions of this chapter applicable to the seller apply to the
19 transferee or grantee. The department may enforce the obligation
20 against the transferee or grantee as provided in subsection (1) of
21 this section.

22 (3) For purposes of this section and notwithstanding any other
23 provisions of law, the seller is the parent corporation of a wholly
24 owned subsidiary, when such subsidiary is the transferor to a third-
25 party transferee and the subsidiary is dissolved before paying the
26 tax imposed under this chapter.

27 NEW SECTION. **Sec. 403.** RCW 82.32.805 and 82.32.808 do not apply
28 to section 401 of this act.

29 **PART V**

30 **Limit Trade-In Exclusion**

31 **Sec. 501.** RCW 82.08.010 and 2014 c 140 s 11 are each amended to
32 read as follows:

33 For the purposes of this chapter:

34 (1)(a)(i) "Selling price" includes "sales price." "Sales price"
35 means the total amount of consideration, (~~except separately stated~~
36 ~~trade-in property of like kind,~~) including cash, credit, property,

1 and services, for which tangible personal property, extended
2 warranties, digital goods, digital codes, digital automated services,
3 or other services or anything else defined as a "retail sale" under
4 RCW 82.04.050 are sold, leased, or rented, valued in money, whether
5 received in money or otherwise. No deduction from the total amount of
6 consideration is allowed for the following: (A) The seller's cost of
7 the property sold; (B) the cost of materials used, labor or service
8 cost, interest, losses, all costs of transportation to the seller,
9 all taxes imposed on the seller, and any other expense of the seller;
10 (C) charges by the seller for any services necessary to complete the
11 sale, other than delivery and installation charges; (D) delivery
12 charges; and (E) installation charges.

13 (ii) When tangible personal property is rented or leased under
14 circumstances that the consideration paid does not represent a
15 reasonable rental for the use of the articles so rented or leased,
16 the "selling price" must be determined as nearly as possible
17 according to the value of such use at the places of use of similar
18 products of like quality and character under such rules as the
19 department may prescribe;

20 (b) "Selling price" or "sales price" does not include:

21 (i) The value of separately stated trade-in property of like
22 kind, up to a maximum amount of ten thousand dollars;

23 (ii) Discounts, including cash, term, or coupons that are not
24 reimbursed by a third party that are allowed by a seller and taken by
25 a purchaser on a sale;

26 (iii) Interest, financing, and carrying charges from credit
27 extended on the sale of tangible personal property, extended
28 warranties, digital goods, digital codes, digital automated services,
29 or other services or anything else defined as a retail sale in RCW
30 82.04.050, if the amount is separately stated on the invoice, bill of
31 sale, or similar document given to the purchaser; and

32 (iv) Any taxes legally imposed directly on the consumer that are
33 separately stated on the invoice, bill of sale, or similar document
34 given to the purchaser;

35 (c) "Selling price" or "sales price" includes consideration
36 received by the seller from a third party if:

37 (i) The seller actually receives consideration from a party other
38 than the purchaser, and the consideration is directly related to a
39 price reduction or discount on the sale;

1 (ii) The seller has an obligation to pass the price reduction or
2 discount through to the purchaser;

3 (iii) The amount of the consideration attributable to the sale is
4 fixed and determinable by the seller at the time of the sale of the
5 item to the purchaser; and

6 (iv) One of the criteria in this subsection (1)(c)(iv) is met:

7 (A) The purchaser presents a coupon, certificate, or other
8 documentation to the seller to claim a price reduction or discount
9 where the coupon, certificate, or documentation is authorized,
10 distributed, or granted by a third party with the understanding that
11 the third party will reimburse any seller to whom the coupon,
12 certificate, or documentation is presented;

13 (B) The purchaser identifies himself or herself to the seller as
14 a member of a group or organization entitled to a price reduction or
15 discount, however a "preferred customer" card that is available to
16 any patron does not constitute membership in such a group; or

17 (C) The price reduction or discount is identified as a third
18 party price reduction or discount on the invoice received by the
19 purchaser or on a coupon, certificate, or other documentation
20 presented by the purchaser;

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

25 (i) The state and its departments and institutions when making
26 sales to the state and its departments and institutions; or

27 (ii) A professional employer organization when a covered employee
28 coemployed with the client under the terms of a professional employer
29 agreement engages in activities that constitute a sale at retail that
30 is subject to the tax imposed by this chapter. In such cases, the
31 client, and not the professional employer organization, is deemed to
32 be the seller and is responsible for collecting and remitting the tax
33 imposed by this chapter.

34 (b) For the purposes of (a) of this subsection, the terms
35 "client," "covered employee," "professional employer agreement," and
36 "professional employer organization" have the same meanings as in RCW
37 82.04.540;

38 (3) "Buyer," "purchaser," and "consumer" include, without
39 limiting the scope hereof, every individual, receiver, assignee,
40 trustee in bankruptcy, trust, estate, firm, copartnership, joint

1 venture, club, company, joint stock company, business trust,
2 corporation, association, society, or any group of individuals acting
3 as a unit, whether mutual, cooperative, fraternal, nonprofit, or
4 otherwise, municipal corporation, quasi municipal corporation, and
5 also the state, its departments and institutions and all political
6 subdivisions thereof, irrespective of the nature of the activities
7 engaged in or functions performed, and also the United States or any
8 instrumentality thereof;

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

14 (5) "Direct mail" means printed material delivered or distributed
15 by United States mail or other delivery service to a mass audience or
16 to addressees on a mailing list provided by the purchaser or at the
17 direction of the purchaser when the cost of the items are not billed
18 directly to the recipients. "Direct mail" includes tangible personal
19 property supplied directly or indirectly by the purchaser to the
20 direct mail seller for inclusion in the package containing the
21 printed material. "Direct mail" does not include multiple items of
22 printed material delivered to a single address;

23 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
24 year," "taxable year," "person," "company," "sale," "sale at
25 wholesale," "wholesale," "business," "engaging in business," "cash
26 discount," "successor," "consumer," "in this state," "within this
27 state," "marijuana," "useable marijuana," and "marijuana-infused
28 products" applies equally to the provisions of this chapter;

29 (7) For the purposes of the taxes imposed under this chapter and
30 under chapter 82.12 RCW, "tangible personal property" means personal
31 property that can be seen, weighed, measured, felt, or touched, or
32 that is in any other manner perceptible to the senses. Tangible
33 personal property includes electricity, water, gas, steam, and
34 prewritten computer software;

35 (8) "Extended warranty" has the same meaning as in RCW
36 82.04.050(7);

37 (9) The definitions in RCW 82.04.192 apply to this chapter;

38 (10) For the purposes of the taxes imposed under this chapter and
39 chapter 82.12 RCW, whenever the terms "property" or "personal

1 property" are used, those terms must be construed to include digital
2 goods and digital codes unless:

3 (a) It is clear from the context that the term "personal
4 property" is intended only to refer to tangible personal property;

5 (b) It is clear from the context that the term "property" is
6 intended only to refer to tangible personal property, real property,
7 or both; or

8 (c) To construe the term "property" or "personal property" as
9 including digital goods and digital codes would yield unlikely,
10 absurd, or strained consequences; and

11 (11) "Retail sale" or "sale at retail" means any sale, lease, or
12 rental for any purpose other than for resale, sublease, or subrent.

13 (12) The terms "agriculture," "farming," "horticulture,"
14 "horticultural," and "horticultural product" may not be construed to
15 include or relate to marijuana, useable marijuana, or marijuana-
16 infused products unless the applicable term is explicitly defined to
17 include marijuana, useable marijuana, or marijuana-infused products.

18

PART VI

19

Business License Fee

20 **Sec. 601.** RCW 19.02.075 and 2013 c 144 s 20 are each amended to
21 read as follows:

22 The department must collect a handling fee on each business
23 license application and each renewal application filing. The
24 department must set the amount of the handling fees by rule, as
25 authorized by RCW 19.02.030. The handling fees may not exceed
26 (~~nineteen~~) fifty dollars for each business license application, and
27 (~~eleven~~) twenty-five dollars for each business license renewal
28 application filing, and must be deposited in the business license
29 account. The department may increase handling and renewal fees for
30 the purposes of making improvements in the business licensing service
31 program, including improvements in technology and customer services,
32 expanded access, and infrastructure.

33 **Sec. 602.** RCW 19.02.210 and 2016 sp.s. c 36 s 916 are each
34 amended to read as follows:

35 The business license account is created in the state treasury.
36 Unless otherwise indicated in RCW 19.02.075, all receipts from
37 handling and business license delinquency fees must be deposited into

1 the account. Moneys in the account may be spent only after
2 appropriation beginning in fiscal year 1993. Expenditures from the
3 account may be used only to administer the business licensing service
4 program and for operations of the department of revenue. During the
5 2015-2017 fiscal biennium, moneys from the business license account
6 may be used for operations of the department of revenue.

7 **PART VII**

8 **Interest Rate on Assessments and Refunds**

9 **Sec. 701.** RCW 82.32.050 and 2008 c 181 s 501 are each amended to
10 read as follows:

11 (1)(a) If upon examination of any returns or from other
12 information obtained by the department it appears that a tax or
13 penalty has been paid less than that properly due, the department
14 (~~shall~~) must assess against the taxpayer such additional amount
15 found to be due and (~~shall~~) must add thereto interest on the tax
16 only. The department (~~shall~~) must notify the taxpayer by mail, or
17 electronically as provided in RCW 82.32.135, of the additional amount
18 and the additional amount (~~shall~~) becomes due and (~~shall~~) must be
19 paid within thirty days from the date of the notice, or within such
20 further time as the department may provide.

21 (~~(a) For tax liabilities arising before January 1, 1992,~~
22 ~~interest shall be computed at the rate of nine percent per annum from~~
23 ~~the last day of the year in which the deficiency is incurred until~~
24 ~~the earlier of December 31, 1998, or the date of payment. After~~
25 ~~December 31, 1998, the rate of interest shall be variable and~~
26 ~~computed as provided in subsection (2) of this section. The rate so~~
27 ~~computed shall be adjusted on the first day of January of each year~~
28 ~~for use in computing interest for that calendar year.~~

29 (~~b) For tax liabilities arising after December 31, 1991,))~~

30 (b) The rate of interest (~~shall~~) must be variable and computed
31 as provided in subsection (2) of this section from the last day of
32 the year in which the deficiency is incurred until the date of
33 payment. (~~The rate so computed shall be adjusted on the first day of~~
34 ~~January of each year for use in computing interest for that calendar~~
35 ~~year.))~~

36 (c) Interest (~~imposed after December 31, 1998, shall~~) must be
37 computed from the last day of the month following each calendar year
38 included in a notice, and the last day of the month following the

1 final month included in a notice if not the end of a calendar year,
2 until the due date of the notice. If payment in full is not made by
3 the due date of the notice, additional interest (~~shall~~) must be
4 computed until the date of payment. The rate of interest (~~shall be~~)
5 is variable and computed as provided in subsection (2) of this
6 section. The rate so computed (~~shall~~) must be adjusted on the first
7 day of January of each year for use in computing interest for that
8 calendar year.

9 (2)(a) For the purposes of this section, the rate of interest to
10 be charged to the taxpayer (~~shall be an~~) is as follows:

11 (i) For all interest imposed through December 31, 2017, and for
12 interest imposed after December 31, 2017, except qualifying interest,
13 the rate of interest is the average of the federal short-term rate as
14 defined in Title 26 U.S.C. Sec. 1274(d) of the internal revenue code
15 plus two percentage points.

16 (ii) For qualifying interest imposed beginning January 1, 2018,
17 the rate of interest is the average of the federal short-term rate as
18 defined in Title 26 U.S.C. Sec. 1274(d) of the internal revenue code
19 plus four percentage points.

20 (b) The rate set for each new year (~~shall~~) must be computed by
21 taking an arithmetical average to the nearest percentage point of the
22 federal short-term rate, compounded annually. That average (~~shall~~)
23 must be calculated using the rates from four months: January, April,
24 and July of the calendar year immediately preceding the new year, and
25 October of the previous preceding year.

26 (c) For the purposes of this subsection (2), the following
27 definitions apply:

28 (i) "Combined excise tax return" means any version of the return
29 used for reporting the primary excise taxes administered by the
30 department, including taxes due under chapters 82.04, 82.08, 82.12,
31 and 82.16 RCW, whether such return is filed electronically or on a
32 paper document; and

33 (ii) "Qualifying interest" means interest added to any taxes that
34 are required to be reported on the department's combined excise tax
35 return.

36 (3) During a state of emergency declared under RCW 43.06.010(12),
37 the department, on its own motion or at the request of any taxpayer
38 affected by the emergency, may extend the due date of any assessment
39 or correction of an assessment for additional taxes, penalties, or
40 interest as the department deems proper.

1 (4) No assessment or correction of an assessment for additional
2 taxes, penalties, or interest due may be made by the department more
3 than four years after the close of the tax year, except (a) against a
4 taxpayer who has not registered as required by this chapter, (b) upon
5 a showing of fraud or of misrepresentation of a material fact by the
6 taxpayer, or (c) where a taxpayer has executed a written waiver of
7 such limitation. The execution of a written waiver (~~shall~~) also
8 extends the period for making a refund or credit as provided in RCW
9 82.32.060(2).

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

15 **Sec. 702.** RCW 82.32.060 and 2009 c 176 s 4 are each amended to
16 read as follows:

17 (1) If, upon receipt of an application by a taxpayer for a refund
18 or for an audit of the taxpayer's records, or upon an examination of
19 the returns or records of any taxpayer, it is determined by the
20 department that within the statutory period for assessment of taxes,
21 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,
22 penalty, or interest has been paid in excess of that properly due,
23 the excess amount paid within, or attributable to, such period must
24 be credited to the taxpayer's account or must be refunded to the
25 taxpayer, at the taxpayer's option. Except as provided in subsection
26 (2) of this section, no refund or credit may be made for taxes,
27 penalties, or interest paid more than four years prior to the
28 beginning of the calendar year in which the refund application is
29 made or examination of records is completed.

30 (2)(a) The execution of a written waiver under RCW 82.32.050 or
31 82.32.100 will extend the time for making a refund or credit of any
32 taxes paid during, or attributable to, the years covered by the
33 waiver if, prior to the expiration of the waiver period, an
34 application for refund of such taxes is made by the taxpayer or the
35 department discovers a refund or credit is due.

36 (b) A refund or credit must be allowed for an excess payment
37 resulting from the failure to claim a bad debt deduction, credit, or
38 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or
39 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec.

1 166, as amended or renumbered as of January 1, 2003, less than four
2 years prior to the beginning of the calendar year in which the refund
3 application is made or examination of records is completed.

4 (3) Any such refunds must be made by means of vouchers approved
5 by the department and by the issuance of state warrants drawn upon
6 and payable from such funds as the legislature may provide. However,
7 taxpayers who are required to pay taxes by electronic funds transfer
8 under RCW 82.32.080 must have any refunds paid by electronic funds
9 transfer if the department has the necessary account information to
10 facilitate a refund by electronic funds transfer.

11 (4) Any judgment for which a recovery is granted by any court of
12 competent jurisdiction, not appealed from, for tax, penalties, and
13 interest which were paid by the taxpayer, and costs, in a suit by any
14 taxpayer must be paid in the same manner, as provided in subsection
15 (3) of this section, upon the filing with the department of a
16 certified copy of the order or judgment of the court.

17 ~~((a) Interest at the rate of three percent per annum must be
18 allowed by the department and by any court on the amount of any
19 refund, credit, or other recovery allowed to a taxpayer for taxes,
20 penalties, or interest paid by the taxpayer before January 1, 1992.
21 This rate of interest applies for all interest allowed through
22 December 31, 1998. Interest allowed after December 31, 1998, must be
23 computed at the rate as computed under RCW 82.32.050(2). The rate so
24 computed must be adjusted on the first day of January of each year
25 for use in computing interest for that calendar year.~~

26 ~~(b) For refunds or credits of amounts paid or other recovery
27 allowed to a taxpayer after December 31, 1991, the rate of interest
28 must be the rate as computed for assessments under RCW 82.32.050(2)
29 less one percent. This rate of interest applies for all interest
30 allowed through December 31, 1998. Interest allowed after December
31 31, 1998, must be computed at the rate as computed under RCW
32 82.32.050(2). The rate so computed must be adjusted on the first day
33 of January of each year for use in computing interest for that
34 calendar year.))~~

35 (5)(a) Interest must be added to the amount of any refund,
36 credit, or other recovery allowed under this section for taxes,
37 penalties, or interest paid by the taxpayer at the following rates:

38 (i) For all interest allowed through December 31, 2017, and for
39 interest allowed after December 31, 2017, except qualifying interest,
40 the interest rate is the same as provided in RCW 82.32.050(2)(a)(i).

1 (ii) For qualifying interest allowed beginning January 1, 2018,
2 the interest rate is the same as provided in RCW 82.32.050(2)(a)(ii),
3 reduced by four percentage points.

4 (b) The rate so computed under (a) of this subsection (5) must be
5 adjusted on the first day of January of each year for use in
6 computing interest for that calendar year.

7 (c) For purposes of this subsection (5), the following
8 definitions apply:

9 (i) "Combined excise tax return" has the same meaning as in RCW
10 82.32.050; and

11 (ii) "Qualifying interest" means interest due on amounts paid in
12 excess of the proper amount due for any tax required to be reported
13 on the department's combined excise tax return, including any
14 penalties and interest added to such tax.

15 (6) Interest allowed on a credit notice or refund issued after
16 December 31, 2003, must be computed as follows:

17 (a) If all overpayments for each calendar year and all reporting
18 periods ending with the final month included in a notice or refund
19 were made on or before the due date of the final return for each
20 calendar year or the final reporting period included in the notice or
21 refund:

22 (i) Interest must be computed from January 31st following each
23 calendar year included in a notice or refund; or

24 (ii) Interest must be computed from the last day of the month
25 following the final month included in a notice or refund.

26 (b) If the taxpayer has not made all overpayments for each
27 calendar year and all reporting periods ending with the final month
28 included in a notice or refund on or before the dates specified by
29 RCW 82.32.045 for the final return for each calendar year or the
30 final month included in the notice or refund, interest must be
31 computed from the last day of the month following the date on which
32 payment in full of the liabilities was made for each calendar year
33 included in a notice or refund, and the last day of the month
34 following the date on which payment in full of the liabilities was
35 made if the final month included in a notice or refund is not the end
36 of a calendar year.

37 (c) Interest included in a credit notice must accrue up to the
38 date the taxpayer could reasonably be expected to use the credit
39 notice, as defined by the department's rules. If a credit notice is
40 converted to a refund, interest must be recomputed to the date the

1 refund is issued, but not to exceed the amount of interest that would
2 have been allowed with the credit notice.

3 **PART VIII**

4 **Trust Fund Accountability**

5 **Sec. 801.** RCW 82.32.145 and 2015 c 188 s 121 are each amended to
6 read as follows:

7 (1) Whenever the department has issued a warrant under RCW
8 82.32.210 for the collection of unpaid (~~trust-fund~~) recoverable
9 taxes from a limited liability business entity and that business
10 entity has been terminated, dissolved, or abandoned, or is insolvent,
11 the department may pursue collection of the entity's unpaid (~~trust~~
12 ~~fund~~) recoverable taxes, including penalties and interest on those
13 taxes, against any or all of the responsible individuals. For
14 purposes of this subsection, "insolvent" means the condition that
15 results when the sum of the entity's debts exceeds the fair market
16 value of its assets. The department may presume that an entity is
17 insolvent if the entity refuses to disclose to the department the
18 nature of its assets and liabilities.

19 (2) Personal liability under this section may be imposed only for
20 state and local (~~trust-fund~~) recoverable taxes.

21 (3)(a) For a responsible individual who is the current or a
22 former chief executive or chief financial officer, liability under
23 this section applies regardless of fault or whether the individual
24 was or should have been aware of the unpaid (~~trust-fund~~)
25 recoverable tax liability of the limited liability business entity.
26 This subsection (3)(a) applies only with respect to recoverable tax
27 liability described in subsection (4)(a)(i) of this section.

28 (b) For any other responsible individual, liability under this
29 section applies only if he or she willfully fails to pay or to cause
30 to be paid to the department the (~~trust-fund~~) recoverable taxes due
31 from the limited liability business entity.

32 (4)(a)(i) Except as provided in (a)(ii) of this subsection (4)
33 (~~(a)~~), a responsible individual who is the current or a former
34 chief executive or chief financial officer is liable under this
35 section only for (~~trust-fund~~) recoverable tax liability accrued
36 during the period that he or she was the chief executive or chief
37 financial officer.

1 (ii) However, if the responsible individual had the
2 responsibility or duty to remit payment of the limited liability
3 business entity's (~~trust-fund~~) recoverable taxes to the department
4 during any period of time that the person was not the chief executive
5 or chief financial officer, that individual is also liable for
6 (~~trust-fund~~) recoverable tax liability that became due during the
7 period that he or she had the duty to remit payment of the limited
8 liability business entity's taxes to the department but was not the
9 chief executive or chief financial officer. The provisions of
10 subsection (3)(b) of this section apply to recoverable tax liability
11 imposed under this subsection (4)(a)(ii).

12 (b) All other responsible individuals are liable under this
13 section only for (~~trust-fund~~) recoverable tax liability that became
14 due during the period he or she had the responsibility or duty to
15 remit payment of the limited liability business entity's taxes to the
16 department.

17 (5) Persons described in subsection (3)(b) of this section are
18 exempt from liability under this section in situations where
19 nonpayment of the limited liability business entity's (~~trust-fund~~)
20 recoverable taxes is due to reasons beyond their control as
21 determined by the department by rule.

22 (6) Any person having been issued a notice of assessment under
23 this section is entitled to the appeal procedures under RCW
24 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

25 (7) This section does not relieve the limited liability business
26 entity of its (~~trust-fund~~) recoverable tax liability or otherwise
27 impair other tax collection remedies afforded by law.

28 (8) Collection authority and procedures prescribed in this
29 chapter apply to collections under this section.

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

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

37 (b) "Chief financial officer" means: The treasurer of a
38 corporation; or for entities or organizations other than corporations
39 or if a corporation does not have a treasurer as one of its officers,

1 the highest senior manager who is responsible for overseeing the
2 financial activities of the entire company or organization.

3 (c) "Limited liability business entity" means a type of business
4 entity that generally shields its owners from personal liability for
5 the debts, obligations, and liabilities of the entity, or a business
6 entity that is managed or owned in whole or in part by an entity that
7 generally shields its owners from personal liability for the debts,
8 obligations, and liabilities of the entity. Limited liability
9 business entities include corporations, limited liability companies,
10 limited liability partnerships, trusts, general partnerships and
11 joint ventures in which one or more of the partners or parties are
12 also limited liability business entities, and limited partnerships in
13 which one or more of the general partners are also limited liability
14 business entities.

15 (d) "Manager" has the same meaning as in RCW 25.15.006.

16 (e) "Member" has the same meaning as in RCW 25.15.006, except
17 that the term only includes members of member-managed limited
18 liability companies.

19 (f) "Officer" means any officer or assistant officer of a
20 corporation, including the president, vice president, secretary, and
21 treasurer.

22 (g) "Recoverable tax" means:

23 (i) State sales and use taxes imposed under chapters 82.08 and
24 82.12 RCW, including spirits taxes imposed under RCW 82.08.150,
25 whether collected by a limited liability business entity or imposed
26 on a limited liability business entity as a purchaser or consumer;

27 (ii) Local sales and use taxes imposed under the authority of
28 chapter 82.14 RCW, RCW 81.104.170, or any other provision of law, and
29 administered by the department, whether collected by a limited
30 liability business entity or imposed on a limited liability business
31 entity as a purchaser or consumer;

32 (iii) State business and occupation taxes imposed under chapter
33 82.04 RCW;

34 (iv) Cigarette taxes imposed under chapter 82.24 RCW; and

35 (v) Tobacco products taxes imposed under chapter 82.26 RCW.

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

39 (ii) "Responsible individual" also includes any current or former
40 employee or other individual, but only if the individual had the

1 responsibility or duty to remit payment of the limited liability
2 business entity's unpaid (~~trust fund~~) recoverable tax liability
3 reflected in a tax warrant issued by the department.

4 (iii) Whenever any taxpayer has one or more limited liability
5 business entities as a member, manager, or partner, "responsible
6 individual" also includes any current and former officers, members,
7 or managers of the limited liability business entity or entities or
8 of any other limited liability business entity involved directly in
9 the management of the taxpayer. For purposes of this subsection (9)
10 (~~(g)~~) (h)(iii), "taxpayer" means a limited liability business
11 entity with an unpaid tax warrant issued against it by the
12 department.

13 (~~(h) "Trust fund taxes" means taxes collected from purchasers~~
14 ~~and held in trust under RCW 82.08.050, including taxes imposed under~~
15 ~~RCW 82.08.020 and 82.08.150.~~)

16 (i) "Willfully fails to pay or to cause to be paid" means that
17 the failure was the result of an intentional, conscious, and
18 voluntary course of action.

19 PART IX

20 Economic Nexus for Retailing Business and Occupation Tax

21 **Sec. 901.** RCW 82.04.066 and 2015 3rd sp.s. c 5 s 203 are each
22 amended to read as follows:

23 "Engaging within this state" and "engaging within the state,"
24 when used in connection with any apportionable activity as defined in
25 RCW 82.04.460 or (~~wholesale sales~~) selling activity taxable under
26 RCW 82.04.250(1), 82.04.257(1), or 82.04.270, means that a person
27 generates gross income of the business from sources within this
28 state, such as customers or intangible property located in this
29 state, regardless of whether the person is physically present in this
30 state.

31 **Sec. 902.** RCW 82.04.067 and 2016 c 137 s 2 are each amended to
32 read as follows:

33 (1) A person engaging in business is deemed to have substantial
34 nexus with this state if, in the current or immediately preceding
35 calendar year, the person is:

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

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

3 (c) A nonresident individual or a business entity that is
4 organized or commercially domiciled outside this state, and (~~in the~~
5 ~~immediately preceding tax year~~) the person had:

6 (i) More than (~~fifty~~) fifty-three thousand dollars of property
7 in this state;

8 (ii) More than (~~fifty~~) fifty-three thousand dollars of payroll
9 in this state;

10 (iii) More than two hundred (~~fifty~~) sixty-seven thousand
11 dollars of receipts from this state; or

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

14 (2)(a) Property counting toward the thresholds in subsection
15 (1)(c)(i) and (iv) of this section is the average value of the
16 taxpayer's property, including intangible property, owned or rented
17 and used in this state during the current or immediately preceding
18 (~~tax~~) calendar year.

19 (b)(i) Property owned by the taxpayer, other than loans and
20 credit card receivables owned by the taxpayer, is valued at its
21 original cost basis. Loans and credit card receivables owned by the
22 taxpayer are valued at their outstanding principal balance, without
23 regard to any reserve for bad debts. However, if a loan or credit
24 card receivable is charged off in whole or in part for federal income
25 tax purposes, the portion of the loan or credit card receivable
26 charged off is deducted from the outstanding principal balance.

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

31 (c) The average value of property must be determined by averaging
32 the values at the beginning and ending of the (~~tax~~) applicable
33 calendar year; but the department may require the averaging of
34 monthly values during the (~~tax~~) applicable calendar year if
35 reasonably required to properly reflect the average value of the
36 taxpayer's property.

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

39 (A) Loans secured by real property, personal property, or both
40 real and personal property are deemed owned and used in the state if

1 the real property or personal property securing the loan is located
2 within this state. If the property securing the loan is located both
3 within this state and one or more other states, the loan is deemed
4 owned and used in this state if more than fifty percent of the fair
5 market value of the real or personal property is located within this
6 state. If more than fifty percent of the fair market value of the
7 real or personal property is not located within any one state, then
8 the loan is deemed owned and used in this state if the borrower is
9 located in this state. The determination of whether the real or
10 personal property securing a loan is located within this state must
11 be made, as of the time the original agreement was made, and any and
12 all subsequent substitutions of collateral must be disregarded.

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

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

18 (ii)(A) Except as otherwise provided in (d)(ii)(B) of this
19 subsection (2), the definitions in the multistate tax commission's
20 recommended formula for the apportionment and allocation of net
21 income of financial institutions as existing on June 1, 2010, or such
22 subsequent date as may be provided by the department by rule,
23 consistent with the purposes of this section, apply to this section.

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

26 (e) Notwithstanding anything else to the contrary in this
27 subsection, property counting toward the thresholds in subsection
28 (1)(c)(i) and (iv) of this section does not include a person's
29 ownership of, or rights in, computer software as defined in RCW
30 82.04.215, including computer software used in providing a digital
31 automated service; master copies of software; and digital goods and
32 digital codes residing on servers located in this state.

33 (3)(a) Payroll counting toward the thresholds in subsection
34 (1)(c)(ii) and (iv) of this section is the total amount paid by the
35 taxpayer for compensation in this state during the current or
36 immediately preceding ~~((tax))~~ calendar year plus nonemployee
37 compensation paid to representative third parties in this state.
38 Nonemployee compensation paid to representative third parties
39 includes the gross amount paid to nonemployees who represent the

1 taxpayer in interactions with the taxpayer's clients and includes
2 sales commissions.

3 (b) Employee compensation is paid in this state if the
4 compensation is properly reportable to this state for unemployment
5 compensation tax purposes, regardless of whether the compensation was
6 actually reported to this state.

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

10 (d) For purposes of this subsection, "compensation" means wages,
11 salaries, commissions, and any other form of remuneration paid to
12 employees or nonemployees and defined as gross income under 26 U.S.C.
13 Sec. 61 of the federal internal revenue code of 1986, as existing on
14 June 1, 2010.

15 (4) Receipts counting toward the thresholds in subsection
16 (1)(c)(iii) and (iv) of this section are:

17 (a) Those amounts included in the numerator of the receipts
18 factor under RCW 82.04.462;

19 (b) For financial institutions, those amounts included in the
20 numerator of the receipts factor under the rule adopted by the
21 department as authorized in RCW 82.04.460(2); and

22 (c) For persons taxable under RCW 82.04.250(1), 82.04.257(1), or
23 82.04.270 (~~((with respect to wholesale sales))~~), the gross proceeds of
24 sales taxable under those statutory provisions and sourced to this
25 state in accordance with RCW 82.32.730.

26 (5)(a) Each December, the department must review the cumulative
27 percentage change in the consumer price index. The department must
28 adjust the thresholds in subsection (1)(c)(i) through (iii) of this
29 section if the consumer price index has changed by five percent or
30 more since the later of June 1, 2010, or the date that the thresholds
31 were last adjusted under this subsection. For purposes of determining
32 the cumulative percentage change in the consumer price index, the
33 department must compare the consumer price index available as of
34 December 1st of the current year with the consumer price index as of
35 the later of June 1, 2010, or the date that the thresholds were last
36 adjusted under this subsection. The thresholds must be adjusted to
37 reflect that cumulative percentage change in the consumer price
38 index. The adjusted thresholds must be rounded to the nearest one
39 thousand dollars. Any adjustment will apply to tax periods that begin
40 after the adjustment is made.

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

5 (6)(a)(i) Except as provided in (a)(iii) of this subsection (6),
6 subsections (1) through (5) of this section only apply with respect
7 to the taxes on persons engaged in apportionable activities as
8 defined in RCW 82.04.460 or making wholesale sales taxable under RCW
9 82.04.257(1) or 82.04.270.

10 (ii) Subject to the limitation in RCW 82.32.531, for purposes of
11 the taxes imposed under this chapter on ((any)) the business of
12 making sales at retail or any other activity not included in the
13 definition of apportionable activities in RCW 82.04.460, other than
14 the business of making wholesale sales taxed under RCW 82.04.257(1)
15 or 82.04.270, ((except as provided in RCW 82.32.531,)) a person is
16 deemed to have a substantial nexus with this state if the person has
17 a physical presence in this state during the ((tax)) current or
18 immediately preceding calendar year, which need only be demonstrably
19 more than a slightest presence.

20 (iii) For purposes of the taxes imposed under this chapter on the
21 business of making sales at retail taxable under RCW 82.04.250(1) or
22 82.04.257(1), a person is also deemed to have a substantial nexus
23 with this state if the person's receipts from this state, pursuant to
24 subsection (4)(c) of this section, meet either criterion in
25 subsection (1)(c)(iii) or (iv) of this section, as adjusted under
26 subsection (5) of this section.

27 (b) For purposes of this subsection, a person is physically
28 present in this state if the person has property or employees in this
29 state.

30 (c)(i) A person is also physically present in this state for the
31 purposes of this subsection if the person, either directly or through
32 an agent or other representative, engages in activities in this state
33 that are significantly associated with the person's ability to
34 establish or maintain a market for its products in this state.

35 (ii) A remote seller as defined in RCW 82.08.052 is presumed to
36 be engaged in activities in this state that are significantly
37 associated with the remote seller's ability to establish or maintain
38 a market for its products in this state if the remote seller is
39 presumed to have a substantial nexus with this state under RCW
40 82.08.052. The presumption in this subsection (6)(c)(ii) may be

1 rebutted as provided in RCW 82.08.052. To the extent that the
2 presumption in RCW 82.08.052 is no longer operative pursuant to RCW
3 82.32.762, the presumption in this subsection (6)(c)(ii) is no longer
4 operative. Nothing in this section may be construed to affect in any
5 way RCW ~~((82.04.424,))~~ 82.08.050(11)~~((7))~~ or 82.12.040(5) or to
6 narrow the scope of the terms "agent" or "other representative" in
7 this subsection (6)(c).

8 **Sec. 903.** RCW 82.04.220 and 2011 1st sp.s. c 20 s 101 are each
9 amended to read as follows:

10 (1) There is levied and collected from every person that has a
11 substantial nexus with this state, as provided in RCW 82.04.067, a
12 tax for the act or privilege of engaging in business activities. The
13 tax is measured by the application of rates against value of
14 products, gross proceeds of sales, or gross income of the business,
15 as the case may be.

16 (2)(a) A person who has a substantial nexus with this state in
17 ((any tax)) the current calendar year under the provisions of RCW
18 82.04.067 ((will be deemed to have a substantial nexus with this
19 state for the following tax year)), based solely on the person's
20 property, payroll, or receipts in this state during the current
21 calendar year, is subject to the tax imposed under this chapter
22 beginning with business activity occurring on and after the date that
23 the person established a substantial nexus with this state in the
24 current calendar year.

25 (b) This subsection (2) does not apply to any person who also had
26 a substantial nexus with this state (i) during the immediately
27 preceding calendar year under RCW 82.04.067, or (ii) during the
28 current calendar year under RCW 82.04.067 (1)(a) or (b) or (6)(a)(ii)
29 or (c).

30 NEW SECTION. **Sec. 904.** RCW 82.04.424 (Exemptions—Certain in-
31 state activities) and 2015 3rd sp.s. c 5 s 206 & 2003 c 76 s 2 are
32 each repealed.

33 **PART X**
34 **Public Works Assistance Account**

35 **Sec. 1001.** RCW 82.45.060 and 2013 2nd sp.s. c 9 s 6 are each
36 amended to read as follows:

1 There is imposed an excise tax upon each sale of real property at
2 the rate of one and twenty-eight one-hundredths percent of the
3 selling price. Beginning July 1, 2013, and ending June 30, 2019, an
4 amount equal to two percent of the proceeds of this tax must be
5 deposited in the public works assistance account created in RCW
6 43.155.050, and an amount equal to four and one-tenth percent must be
7 deposited in the education legacy trust account created in RCW
8 83.100.230. ~~((Thereafter, an amount equal to six and one-tenth
9 percent of the proceeds of this tax to the state treasurer must be
10 deposited in the public works assistance account created in RCW
11 43.155.050.))~~ Beginning July 1, 2019, an amount equal to one percent
12 of the proceeds of this tax must be deposited in the public works
13 assistance account created in RCW 43.155.050, and an amount equal to
14 five and one-tenth percent must be deposited in the education legacy
15 trust account created in RCW 83.100.230. Except as otherwise provided
16 in this section, an amount equal to one and six-tenths percent of the
17 proceeds of this tax to the state treasurer must be deposited in the
18 city-county assistance account created in RCW 43.08.290.

19 **Sec. 1002.** RCW 82.16.020 and 2015 3rd sp.s. c 6 s 703 are each
20 amended to read as follows:

21 (1) There is levied and collected from every person a tax for the
22 act or privilege of engaging within this state in any one or more of
23 the businesses herein mentioned. The tax is equal to the gross income
24 of the business, multiplied by the rate set out after the business,
25 as follows:

26 (a) Express, sewerage collection, and telegraph businesses: Three
27 and six-tenths percent;

28 (b) Light and power business: Three and sixty-two one-hundredths
29 percent;

30 (c) Gas distribution business: Three and six-tenths percent;

31 (d) Urban transportation business: Six-tenths of one percent;

32 (e) Vessels under sixty-five feet in length, except tugboats,
33 operating upon the waters within the state: Six-tenths of one
34 percent;

35 (f) Motor transportation, railroad, railroad car, and tugboat
36 businesses, and all public service businesses other than ones
37 mentioned above: One and eight-tenths of one percent;

38 (g) Water distribution business: Four and seven-tenths percent;

1 (h) Log transportation business: One and twenty-eight one-
2 hundredths percent. The reduced rate established in this subsection
3 (1)(h) is not subject to the ten-year expiration provision in RCW
4 82.32.805(1)(a).

5 (2) An additional tax is imposed equal to the rate specified in
6 RCW 82.02.030 multiplied by the tax payable under subsection (1) of
7 this section.

8 (3) Twenty percent of the moneys collected under subsection (1)
9 of this section on water distribution businesses and sixty percent of
10 the moneys collected under subsection (1) of this section on sewerage
11 collection businesses must be deposited in the education legacy trust
12 account created in RCW 83.100.230 from July 1, 2013, through June 30,
13 2019, and thereafter in the (~~public works assistance account created~~
14 ~~in RCW 43.155.050~~) education legacy trust account created in RCW
15 83.100.230.

16 **Sec. 1003.** RCW 82.18.040 and 2013 2nd sp.s. c 9 s 8 are each
17 amended to read as follows:

18 (1) Taxes collected under this chapter must be held in trust
19 until paid to the state. Except as otherwise provided in this
20 subsection (1), taxes received by the state must be deposited in the
21 public works assistance account created in RCW 43.155.050. For the
22 period beginning July 1, 2011, and ending June 30, 2015, taxes
23 received by the state under this chapter must be deposited in the
24 general fund for general purpose expenditures. For fiscal years 2016,
25 2017, and 2018, one-half of the taxes received by the state under
26 this chapter must be deposited in the general fund for general
27 purpose expenditures and the remainder deposited in the education
28 legacy trust account created in RCW 83.100.230. (~~For fiscal year~~
29 ~~2019~~) Beginning in fiscal year 2019 and each fiscal year thereafter,
30 taxes received by the state under this chapter must be deposited in
31 the education legacy trust account created in RCW 83.100.230. Any
32 person collecting the tax who appropriates or converts the tax
33 collected is guilty of a gross misdemeanor if the money required to
34 be collected is not available for payment on the date payment is due.
35 If a taxpayer fails to pay the tax imposed by this chapter to the
36 person charged with collection of the tax and the person charged with
37 collection fails to pay the tax to the department, the department
38 may, in its discretion, proceed directly against the taxpayer for
39 collection of the tax.

1 (2) The tax is due from the taxpayer within twenty-five days from
2 the date the taxpayer is billed by the person collecting the tax.

3 (3) The tax is due from the person collecting the tax at the end
4 of the tax period in which the tax is received from the taxpayer. If
5 the taxpayer remits only a portion of the total amount billed for
6 taxes, consideration, and related charges, the amount remitted must
7 be applied first to payment of the solid waste collection tax and
8 this tax has priority over all other claims to the amount remitted.

9 **Sec. 1004.** RCW 43.155.060 and 1988 c 93 s 2 are each amended to
10 read as follows:

11 (1) In order to aid the financing of public works projects, the
12 board may:

13 ((+1)) (a) Make low-interest or interest-free loans to local
14 governments from the public works assistance account or other funds
15 and accounts for the purpose of assisting local governments in
16 financing public works projects. The board may require such terms and
17 conditions and may charge such rates of interest on its loans as it
18 deems necessary or convenient to carry out the purposes of this
19 chapter. Money received from local governments in repayment of loans
20 made under this section ((shall)) must be paid into the public works
21 assistance account for uses consistent with this chapter until June
22 30, 2019. Beginning July 1, 2019, all moneys received from local
23 governments in repayment of loans made under this chapter must be
24 deposited into the education legacy trust account created in RCW
25 83.100.230.

26 ((+2)) (b) Pledge money in the public works assistance account,
27 or money to be received by the public works assistance account, to
28 the repayment of all or a portion of the principal of or interest on
29 obligations issued by local governments to finance public works
30 projects. The board ((shall)) may not pledge any amount greater than
31 the sum of money in the public works assistance account plus money to
32 be received from the payment of the debt service on loans made from
33 that account, nor ((shall)) may the board pledge the faith and credit
34 or the taxing power of the state or any agency or subdivision thereof
35 to the repayment of obligations issued by any local government.

36 ((+3)) (c) Create such subaccounts in the public works
37 assistance account as the board deems necessary to carry out the
38 purposes of this chapter.

1 (~~(4)~~) (d) Provide a method for the allocation of loans and
2 financing guarantees and the provision of technical assistance under
3 this chapter.

4 (2) All local public works projects aided in whole or in part
5 under the provisions of this chapter (~~(shall)~~) must be put out for
6 competitive bids, except for emergency public works under RCW
7 43.155.065 for which the recipient jurisdiction (~~(shall)~~) must comply
8 with this requirement to the extent feasible and practicable. The
9 competitive bids called for (~~(shall)~~) must be administered in the
10 same manner as all other public works projects put out for
11 competitive bidding by the local governmental entity aided under this
12 chapter.

13 **PART XI**

14 **Miscellaneous Provisions**

15 NEW SECTION. **Sec. 1101.** Sections 701 and 702 of this act take
16 effect January 1, 2018.

17 NEW SECTION. **Sec. 1102.** Section 801 of this act applies
18 beginning with assessments issued by the department of revenue under
19 RCW 82.32.145 on or after the effective date of this section,
20 regardless of when the underlying recoverable tax liability of the
21 limited liability business entity was incurred.

22 NEW SECTION. **Sec. 1103.** Section 1003 of this act takes effect
23 July 1, 2018.

24 NEW SECTION. **Sec. 1104.** Sections 1001, 1002, and 1004 of this
25 act take effect June 30, 2019.

26 NEW SECTION. **Sec. 1105.** Except for sections 701, 702, and 1001
27 through 1004 of this act, this act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of
29 the state government and its existing public institutions, and takes
30 effect July 1, 2017.

--- END ---