

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SUBSTITUTE SENATE BILL 5967

Chapter 25, Laws of 1993

(partial veto)

53rd Legislature
1993 First Special Session

STATE REVENUE ENHANCEMENT MEASURES

EFFECTIVE DATE: 7/1/93 - Except Sections 901 & 902 which take effect on 5/28/93; & Sections 601 through 603 which take effect on 1/1/94.

Passed by the Senate May 6, 1993
YEAS 26 NAYS 22

JOEL PRITCHARD

President of the Senate

Passed by the House May 6, 1993
YEAS 50 NAYS 48

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Approved May 28, 1993, with the exception of sections 306, 405, 406, 407 and 1001, which are vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE SENATE BILL 5967** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 28, 1993 - 4:25 p.m.

**Secretary of State
State of Washington**

SECOND ENGROSSED SUBSTITUTE SENATE BILL 5967

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1993 First Special Session

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senator Rinehart; by request of Governor Lowry)

Read first time 04/01/93.

1 AN ACT Relating to taxation; amending RCW 82.04.230, 82.04.240,
2 82.04.250, 82.04.260, 82.04.270, 82.04.280, 82.02.030, 82.04.255,
3 82.04.290, 82.04.300, 82.04.050, 82.04.280, 82.04.330, 82.08.0273,
4 82.08.0281, 82.12.0275, 82.60.020, 82.60.050, 82.61.010, 82.61.020,
5 82.61.030, 82.61.040, 82.61.070, 82.62.010, 82.62.040, 82.45.010,
6 82.45.030, 82.45.032, 82.45.090, 82.45.100, 82.45.150, 82.45.180,
7 43.84.092, 48.14.---, 48.14.080, 82.04.470, 82.08.050, 48.32.145, and
8 48.32A.090; amending 1993 c ... (Engrossed Second Substitute Senate
9 Bill No. 5304) s 495 (uncodified); adding new sections to chapter 82.04
10 RCW; adding new sections to chapter 43.63A RCW; adding a new section to
11 chapter 82.45 RCW; adding a new section to chapter 82.08 RCW; adding a
12 new section to chapter 82.32 RCW; creating new sections; repealing RCW
13 82.04.2901, 82.04.2904, 82.45A.010, 82.45A.020, 82.45A.030, 82.45.120,

1 and 82.04.417; repealing 1991 sp.s. c 22 s 1 (uncodified); prescribing
2 penalties; providing effective dates; and declaring an emergency.

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

4 **PART I**
5 **CURRENT BUSINESS AND**
6 **OCCUPATION SURTAXES INCORPORATED INTO BASE**

7 **Sec. 101.** RCW 82.04.230 and 1971 ex.s. c 281 s 2 are each amended
8 to read as follows:

9 **EXTRACTORS.** Upon every person engaging within this state in
10 business as an extractor; as to such persons the amount of the tax with
11 respect to such business shall be equal to the value of the products,
12 including byproducts, extracted for sale or for commercial or
13 industrial use, multiplied by the rate of (~~forty-four one-hundredths~~
14 ~~of one~~) 0.484 percent(~~(\div)~~).

15 The measure of the tax is the value of the products, including
16 byproducts, so extracted, regardless of the place of sale or the fact
17 that deliveries may be made to points outside the state.

18 **Sec. 102.** RCW 82.04.240 and 1981 c 172 s 1 are each amended to
19 read as follows:

20 **MANUFACTURERS.** Upon every person except persons taxable under
21 (~~subsections~~) RCW 82.04.260 (2), (3), (4), (5), (7), (8), or (9) (~~of~~
22 ~~RCW 82.04.260~~) engaging within this state in business as a
23 manufacturer; as to such persons the amount of the tax with respect to
24 such business shall be equal to the value of the products, including
25 byproducts, manufactured, multiplied by the rate of (~~forty-four one-~~
26 ~~hundredths of one~~) 0.484 percent.

27 The measure of the tax is the value of the products, including
28 byproducts, so manufactured regardless of the place of sale or the fact
29 that deliveries may be made to points outside the state.

30 **Sec. 103.** RCW 82.04.250 and 1981 c 172 s 2 are each amended to
31 read as follows:

32 **RETAILERS.** (1) Upon every person except persons taxable under RCW
33 82.04.260(8) or subsection (2) of this section engaging within this
34 state in the business of making sales at retail, as to such persons,

1 the amount of tax with respect to such business shall be equal to the
2 gross proceeds of sales of the business, multiplied by the rate of
3 (~~forty four one hundredths of one~~) 0.471 percent.

4 (2) Upon every person engaging within this state in the business of
5 making sales at retail that are exempt from the tax imposed under
6 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
7 82.08.0263, as to such persons, the amount of tax with respect to such
8 business shall be equal to the gross proceeds of sales of the business,
9 multiplied by the rate of 0.484 percent.

10 **Sec. 104.** RCW 82.04.260 and 1993 c ____ (Engrossed Second
11 Substitute Senate Bill No. 5304) s 304 are each amended to read as
12 follows:

13 MISCELLANEOUS BUSINESSES. (1) Upon every person engaging within
14 this state in the business of buying wheat, oats, dry peas, dry beans,
15 lentils, triticale, corn, rye and barley, but not including any
16 manufactured or processed products thereof, and selling the same at
17 wholesale; the tax imposed shall be equal to the gross proceeds derived
18 from such sales multiplied by the rate of (~~one one hundredth of one~~)
19 0.011 percent.

20 (2) Upon every person engaging within this state in the business of
21 manufacturing wheat into flour, barley into pearl barley, soybeans into
22 soybean oil, or sunflower seeds into sunflower oil; as to such persons
23 the amount of tax with respect to such business shall be equal to the
24 value of the flour, pearl barley, or oil manufactured, multiplied by
25 the rate of (~~one eighth of one~~) 0.138 percent.

26 (3) Upon every person engaging within this state in the business of
27 splitting or processing dried peas; as to such persons the amount of
28 tax with respect to such business shall be equal to the value of the
29 peas split or processed, multiplied by the rate of (~~one quarter of~~
30 ~~one~~) 0.275 percent.

31 (4) Upon every person engaging within this state in the business of
32 manufacturing seafood products which remain in a raw, raw frozen, or
33 raw salted state at the completion of the manufacturing by that person;
34 as to such persons the amount of tax with respect to such business
35 shall be equal to the value of the products manufactured, multiplied by
36 the rate of (~~one eighth of one~~) 0.138 percent.

37 (5) Upon every person engaging within this state in the business of
38 manufacturing by canning, preserving, freezing or dehydrating fresh

1 fruits and vegetables; as to such persons the amount of tax with
2 respect to such business shall be equal to the value of the products
3 canned, preserved, frozen or dehydrated multiplied by the rate of
4 (~~three tenths of one~~) 0.33 percent.

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

11 (7) Upon every person engaging within this state in the business of
12 slaughtering, breaking and/or processing perishable meat products
13 and/or selling the same at wholesale only and not at retail; as to such
14 persons the tax imposed shall be equal to the gross proceeds derived
15 from such sales multiplied by the rate of (~~twenty five one hundredths~~
16 ~~of one percent through June 30, 1986, and one eighth of one~~) 0.138
17 percent (~~thereafter~~).

18 (8) Upon every person engaging within this state in the business of
19 making sales, at retail or wholesale, of nuclear fuel assemblies
20 manufactured by that person, as to such persons the amount of tax with
21 respect to such business shall be equal to the gross proceeds of sales
22 of the assemblies multiplied by the rate of (~~twenty five one~~
23 ~~hundredths of one~~) 0.275 percent.

24 (9) Upon every person engaging within this state in the business of
25 manufacturing nuclear fuel assemblies, as to such persons the amount of
26 tax with respect to such business shall be equal to the value of the
27 products manufactured multiplied by the rate of (~~twenty five one~~
28 ~~hundredths of one~~) 0.275 percent.

29 (10) Upon every person engaging within this state in the business
30 of acting as a travel agent; as to such persons the amount of the tax
31 with respect to such activities shall be equal to the gross income
32 derived from such activities multiplied by the rate of (~~twenty five~~
33 ~~one hundredths of one~~) 0.275 percent.

34 (11) Upon every person engaging within this state in business as an
35 international steamship agent, international customs house broker,
36 international freight forwarder, vessel and/or cargo charter broker in
37 foreign commerce, and/or international air cargo agent; as to such
38 persons the amount of the tax with respect to only international
39 activities shall be equal to the gross income derived from such

1 activities multiplied by the rate of (~~(thirty-three one-hundredths of~~
2 ~~one)~~) 0.363 percent.

3 (12) Upon every person engaging within this state in the business
4 of stevedoring and associated activities pertinent to the movement of
5 goods and commodities in waterborne interstate or foreign commerce; as
6 to such persons the amount of tax with respect to such business shall
7 be equal to the gross proceeds derived from such activities multiplied
8 by the rate of (~~(thirty-three one-hundredths of one)~~) 0.363 percent.
9 Persons subject to taxation under this subsection shall be exempt from
10 payment of taxes imposed by chapter 82.16 RCW for that portion of their
11 business subject to taxation under this subsection. Stevedoring and
12 associated activities pertinent to the conduct of goods and commodities
13 in waterborne interstate or foreign commerce are defined as all
14 activities of a labor, service or transportation nature whereby cargo
15 may be loaded or unloaded to or from vessels or barges, passing over,
16 onto or under a wharf, pier, or similar structure; cargo may be moved
17 to a warehouse or similar holding or storage yard or area to await
18 further movement in import or export or may move to a consolidation
19 freight station and be stuffed, unstuffed, containerized, separated or
20 otherwise segregated or aggregated for delivery or loaded on any mode
21 of transportation for delivery to its consignee. Specific activities
22 included in this definition are: Wharfage, handling, loading,
23 unloading, moving of cargo to a convenient place of delivery to the
24 consignee or a convenient place for further movement to export mode;
25 documentation services in connection with the receipt, delivery,
26 checking, care, custody and control of cargo required in the transfer
27 of cargo; imported automobile handling prior to delivery to consignee;
28 terminal stevedoring and incidental vessel services, including but not
29 limited to plugging and unplugging refrigerator service to containers,
30 trailers, and other refrigerated cargo receptacles, and securing ship
31 hatch covers.

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

38 ~~(a) The rate specified in this subsection shall be reduced to ten~~
39 ~~percent on May 20, 1991.~~

1 (b) The rate specified in this subsection shall be further reduced
2 to five percent on January 1, 1992.

3 (c) The rate specified in this subsection shall be further reduced
4 to three percent on July 1, 1993)) 3.3 percent.

5 If the gross income of the taxpayer is attributable to activities
6 both within and without this state, the gross income attributable to
7 this state shall be determined in accordance with the methods of
8 apportionment required under RCW 82.04.460.

9 (14) Upon every person engaging within this state as an insurance
10 agent, insurance broker, or insurance solicitor licensed under chapter
11 48.17 RCW; as to such persons, the amount of the tax with respect to
12 such licensed activities shall be equal to the gross income of such
13 business multiplied by the rate of (~~one~~) 1.1 percent.

14 (15) Upon every person engaging within this state in business as a
15 hospital, as defined in chapter 70.41 RCW, that is operated as a
16 nonprofit corporation or by the state or any of its political
17 subdivisions, as to such persons, the amount of tax with respect to
18 such activities shall be equal to the gross income of the business
19 multiplied by the rate of (~~seventy five one hundredths of one~~) 0.75
20 percent through June 30, 1995, and (~~one and five tenths~~) 1.5 percent
21 thereafter. The moneys collected under this subsection shall be
22 deposited in the health services account created under RCW 43._____
23 (section 469, chapter ____ (Engrossed Second Substitute Senate Bill No.
24 5304), Laws of 1993).

25 **Sec. 105.** RCW 82.04.270 and 1981 c 172 s 4 are each amended to
26 read as follows:

27 WHOLESALEERS, DISTRIBUTORS. (1) Upon every person except persons
28 taxable under subsections (1) or (8) of RCW 82.04.260 engaging within
29 this state in the business of making sales at wholesale; as to such
30 persons the amount of tax with respect to such business shall be equal
31 to the gross proceeds of sales of such business multiplied by the rate
32 of (~~forty four one hundredths of one~~) 0.484 percent.

33 (2) The tax imposed by this section is levied and shall be
34 collected from every person engaged in the business of distributing in
35 this state articles of tangible personal property, owned by them from
36 their own warehouse or other central location in this state to two or
37 more of their own retail stores or outlets, where no change of title or
38 ownership occurs, the intent hereof being to impose a tax equal to the

1 wholesaler's tax upon persons performing functions essentially
2 comparable to those of a wholesaler, but not actually making sales:
3 PROVIDED, That the tax designated in this section may not be assessed
4 twice to the same person for the same article. The amount of the tax
5 as to such persons shall be computed by multiplying (~~forty four one~~
6 ~~hundredths of one~~) 0.484 percent of the value of the article so
7 distributed as of the time of such distribution: PROVIDED, That
8 persons engaged in the activities described in this subsection shall
9 not be liable for the tax imposed if by proper invoice it can be shown
10 that they have purchased such property from a wholesaler who has paid
11 a business and occupation tax to the state upon the same articles.
12 This proviso shall not apply to purchases from manufacturers as defined
13 in RCW 82.04.110. The department of revenue shall prescribe uniform
14 and equitable rules for the purpose of ascertaining such value, which
15 value shall correspond as nearly as possible to the gross proceeds from
16 sales at wholesale in this state of similar articles of like quality
17 and character, and in similar quantities by other taxpayers: PROVIDED
18 FURTHER, That delivery trucks or vans will not under the purposes of
19 this section be considered to be retail stores or outlets.

20 **Sec. 106.** RCW 82.04.280 and 1986 c 226 s 2 are each amended to
21 read as follows:

22 PRINTING AND PUBLISHING. Upon every person engaging within this
23 state in the business of: (1) Printing, and of publishing newspapers,
24 periodicals or magazines; (2) building, repairing or improving any
25 street, place, road, highway, easement, right of way, mass public
26 transportation terminal or parking facility, bridge, tunnel, or trestle
27 which is owned by a municipal corporation or political subdivision of
28 the state or by the United States and which is used or to be used,
29 primarily for foot or vehicular traffic including mass transportation
30 vehicles of any kind and including any readjustment, reconstruction or
31 relocation of the facilities of any public, private or cooperatively
32 owned utility or railroad in the course of such building, repairing or
33 improving, the cost of which readjustment, reconstruction, or
34 relocation, is the responsibility of the public authority whose street,
35 place, road, highway, easement, right of way, mass public
36 transportation terminal or parking facility, bridge, tunnel, or trestle
37 is being built, repaired or improved; (3) extracting for hire or
38 processing for hire; (4) operating a cold storage warehouse or storage

1 warehouse, but not including the rental of cold storage lockers; (5)
2 representing and performing services for fire or casualty insurance
3 companies as an independent resident managing general agent licensed
4 under the provisions of RCW 48.05.310; (6) radio and television
5 broadcasting, excluding network, national and regional advertising
6 computed as a standard deduction based on the national average thereof
7 as annually reported by the Federal Communications Commission, or in
8 lieu thereof by itemization by the individual broadcasting station, and
9 excluding that portion of revenue represented by the out-of-state
10 audience computed as a ratio to the station's total audience as
11 measured by the 100 micro-volt signal strength and delivery by wire, if
12 any; (7) engaging in activities which bring a person within the
13 definition of consumer contained in RCW 82.04.190(6)((~~, as now or~~
14 ~~hereafter amended~~)); as to such persons, the amount of tax on such
15 business shall be equal to the gross income of the business multiplied
16 by the rate of ((~~forty-four one hundredths of one~~)) 0.484 percent.

17 As used in this section, "cold storage warehouse" means a storage
18 warehouse used to store fresh and/or frozen perishable fruits or
19 vegetables, meat, seafood, dairy products, or fowl, or any combination
20 thereof, at a desired temperature to maintain the quality of the
21 product for orderly marketing.

22 As used in this section, "storage warehouse" means a building or
23 structure, or any part thereof, in which goods, wares, or merchandise
24 are received for storage for compensation, except field warehouses,
25 fruit warehouses, fruit packing plants, warehouses licensed under
26 chapter 22.09 RCW, public garages storing automobiles, railroad freight
27 sheds, docks and wharves, and "self-storage" or "mini storage"
28 facilities whereby customers have direct access to individual storage
29 areas by separate entrance.

30 **Sec. 107.** RCW 82.02.030 and 1993 c ____ (Engrossed Second
31 Substitute Senate Bill No. 5304) s 312 are each amended to read as
32 follows:

33 **ADDITIONAL TAX RATES.** The rate of the additional taxes under RCW
34 54.28.020(2), 54.28.025(2), 66.24.210(2), ((~~82.04.2901,~~)) 82.16.020(2),
35 82.27.020(5), and 82.29A.030(2) shall be seven percent.

36 NEW SECTION. **Sec. 108.** The following acts or parts of acts are
37 each repealed:

1 REPEALS--ADDITIONAL TAXES. (1) RCW 82.04.2901 and 1985 c 32 s 4;
2 and
3 (2) RCW 82.04.2904 and 1985 c 32 s 5, 1983 2nd ex.s. c 3 s 3, &
4 1983 c 9 s 3.

5 **PART II**
6 **ADDITIONAL EXCISE TAXES**

7 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.04
8 RCW to read as follows:

9 **SELECTED BUSINESS SERVICES DEFINED.** (1) "Selected business
10 services" means:

11 (a) Stenographic, secretarial, and clerical services.

12 (b) Computer services, including but not limited to computer
13 programming, custom software modification, custom software
14 installation, custom software maintenance, custom software repair,
15 training in the use of custom software, computer systems design, and
16 custom software update services.

17 (c) Data processing services, including but not limited to word
18 processing, data entry, data retrieval, data search, information
19 compilation, payroll processing, business accounts processing, data
20 production, and other computerized data and information storage or
21 manipulation. Data processing services also includes the use of a
22 computer or computer time for data processing whether the processing is
23 performed by the provider of the computer or by the purchaser or other
24 beneficiary of the service.

25 (d) Information services, including but not limited to electronic
26 data retrieval or research that entails furnishing financial or legal
27 information, data or research, general or specialized news, or current
28 information unless such news or current information is furnished to a
29 newspaper publisher or to a radio or television station licensed by the
30 federal communications commission.

31 (e) Legal, arbitration, and mediation services, including but not
32 limited to paralegal services, legal research services, and court
33 reporting services.

34 (f) Accounting, auditing, actuarial, bookkeeping, tax preparation,
35 and similar services.

36 (g) Design services whether or not performed by persons licensed or
37 certified, including but not limited to the following:

1 (i) Engineering services, including civil, electrical, mechanical,
2 petroleum, marine, nuclear, and design engineering, machine designing,
3 machine tool designing, and sewage disposal system designing;

4 (ii) Architectural services, including but not limited to:
5 Structural or landscape design or architecture, interior design,
6 building design, building program management, and space planning.

7 (h) Business consulting services. Business consulting services are
8 those primarily providing operating counsel, advice, or assistance to
9 the management or owner of any business, private, nonprofit, or public
10 organization, including but not limited to those in the following
11 areas: Administrative management consulting, general management
12 consulting, human resource consulting or training, management
13 engineering consulting, management information systems consulting,
14 manufacturing management consulting, marketing consulting, operations
15 research consulting, personnel management consulting, physical
16 distribution consulting, site location consulting, economic consulting,
17 motel, hotel, and resort consulting, restaurant consulting, government
18 affairs consulting, and lobbying.

19 (i) Business management services, including but not limited to
20 administrative management, business management, and office management,
21 but not including property management or property leasing, motel,
22 hotel, and resort management, or automobile parking management.

23 (j) Protective services, including but not limited to detective
24 agency services and private investigating services, armored car
25 services, guard or protective services, lie detection or polygraph
26 services, and security system, burglar, or fire alarm monitoring and
27 maintenance services.

28 (k) Public relations or advertising services, including but not
29 limited to layout, art direction, graphic design, copy writing,
30 mechanical preparation, opinion research, marketing research,
31 marketing, or production supervision, but excluding services provided
32 as part of broadcast or print advertising.

33 (l) Aerial and land surveying, geological consulting, and real
34 estate appraising.

35 (2) Subsection (1) of this section notwithstanding, the term
36 "selected business services" does not include:

37 (a) The provision of either permanent or temporary employees.

1 (b) Services provided by a public benefit nonprofit organization,
2 as defined in RCW 82.04.366, to the state of Washington, its political
3 subdivisions, municipal corporations, or quasi-municipal corporations.

4 (c) Services related to the identification, investigation, or
5 cleanup arising out of the release or threatened release of hazardous
6 substances when the services are remedial or response actions performed
7 under federal or state law, or when the services are performed to
8 determine if a release of hazardous substances has occurred or is
9 likely to occur.

10 (d) Services provided to or performed for, on behalf of, or for the
11 benefit of a collective investment fund such as: (i) A mutual fund or
12 other regulated investment company as defined in section 851(a) of the
13 Internal Revenue Code of 1986, as amended; (ii) an "investment company"
14 as that term is used in section 3(a) of the Investment Company Act of
15 1940 as well as an entity that would be an investment company under
16 section 3(a) of the Investment Company Act of 1940 except for the
17 section 3(c)(1) or (11) exemptions, or except that it is a foreign
18 investment company organized under laws of a foreign country; (iii) an
19 "employee benefit plan," which includes any plan, trust, commingled
20 employee benefit trusts, or custodial arrangement that is subject to
21 the Employee Retirement Income Security Act of 1974, as amended, 29
22 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401,
23 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal
24 Revenue Code of 1986, as amended, or similar plan maintained by state
25 or local governments, or plans, trusts, or custodial arrangements
26 established to self-insure benefits required by federal, state, or
27 local law; (iv) a fund maintained by a tax exempt organization as
28 defined in section 501(c)(3) or 509(a) of the Internal Revenue Code of
29 1986, as amended, for operating, quasi-endowment, or endowment
30 purposes; or (v) funds that are established for the benefit of such tax
31 exempt organization such as charitable remainder trusts, charitable
32 lead trusts, charitable annuity trusts, or other similar trusts.

33 (e) Research or experimental services eligible for expense
34 treatment under section 174 of the Internal Revenue Code of 1986, as
35 amended.

36 (f) Financial services provided by a financial institution. The
37 term "financial institution" means a corporation, partnership, or other
38 business organization chartered under Title 30, 31, 32, or 33 RCW, or
39 under the National Bank Act, as amended, the Homeowners Loan Act, as

1 amended, or the Federal Credit Union Act, as amended, or a holding
2 company of any such business organization that is subject to the Bank
3 Holding Company Act, as amended, or the Homeowners Loan Act, as
4 amended, or a subsidiary or affiliate wholly owned or controlled by one
5 or more financial institutions, as well as a lender approved by the
6 United States secretary of housing and urban development for
7 participation in any mortgage insurance program under the National
8 Housing Act, as amended. The term "financial services" means those
9 activities authorized by the laws cited in this subsection (2)(f) and
10 includes services such as mortgage servicing, contract collection
11 servicing, finance leasing, and services provided in a fiduciary
12 capacity to a trust or estate.

13 **Sec. 202.** RCW 82.04.255 and 1985 c 32 s 2 are each amended to read
14 as follows:

15 TAX ON REAL ESTATE BROKERS. Upon every person engaging within the
16 state as a real estate broker; as to such persons, the amount of the
17 tax with respect to such business shall be equal to the gross income of
18 the business, multiplied by the rate of (~~1.50~~) 2.0 percent.

19 The measure of the tax on real estate commissions earned by the
20 real estate broker shall be the gross commission earned by the
21 particular real estate brokerage office including that portion of the
22 commission paid to salesmen or associate brokers in the same office on
23 a particular transaction: PROVIDED, HOWEVER, That where a real estate
24 commission is divided between an originating brokerage office and a
25 cooperating brokerage office on a particular transaction, each
26 brokerage office shall pay the tax only upon their respective shares of
27 said commission: AND PROVIDED FURTHER, That where the brokerage office
28 has paid the tax as provided herein, salesmen or associate brokers
29 within the same brokerage office shall not be required to pay a similar
30 tax upon the same transaction.

31 **Sec. 203.** RCW 82.04.290 and 1985 c 32 s 3 are each amended to read
32 as follows:

33 TAX ON SELECTED BUSINESS, FINANCIAL, AND OTHER BUSINESSES OR
34 SERVICES--NEW RATE. (1) Upon every person engaging within this state
35 in the business of providing selected business services other than or
36 in addition to those enumerated in RCW 82.04.250 or 82.04.270; as to
37 such persons the amount of tax on account of such activities shall be

1 equal to the gross income of the business multiplied by the rate of 2.5
2 percent.

3 (2) Upon every person engaging within this state in banking, loan,
4 security, investment management, investment advisory, or other
5 financial businesses; as to such persons, the amount of the tax with
6 respect to such business shall be equal to the gross income of the
7 business, multiplied by the rate of 1.70 percent.

8 (3) Upon every person engaging within this state in any business
9 activity other than or in addition to those enumerated in RCW
10 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and
11 82.04.280, and subsections (1) and (2) of this section; as to such
12 persons the amount of tax on account of such activities shall be equal
13 to the gross income of the business multiplied by the rate of ((1.50))
14 2.0 percent. This section includes, among others, and without limiting
15 the scope hereof (whether or not title to materials used in the
16 performance of such business passes to another by accession, confusion
17 or other than by outright sale), persons engaged in the business of
18 rendering any type of service which does not constitute a "sale at
19 retail" or a "sale at wholesale." The value of advertising,
20 demonstration, and promotional supplies and materials furnished to an
21 agent by his principal or supplier to be used for informational,
22 educational and promotional purposes shall not be considered a part of
23 the agent's remuneration or commission and shall not be subject to
24 taxation under this section.

25 NEW SECTION. Sec. 204. A new section is added to chapter 82.04
26 RCW to read as follows:

27 TEMPORARY BUSINESS AND OCCUPATION SURTAXES. There is levied and
28 shall be collected for the period July 1, 1993, through June 30, 1997,
29 from every person for the act or privilege of engaging in business
30 activities, as a part of the tax imposed under RCW 82.04.220 through
31 82.04.280 and 82.04.290(3), except RCW 82.04.250(1) and 82.04.260(15),
32 an additional tax equal to 6.5 percent multiplied by the tax payable
33 under those sections.

34 To facilitate collection of these additional taxes, the department
35 of revenue is authorized to adjust the basic rates of persons to which
36 this section applies in such manner as to reflect the amount to the
37 nearest one-thousandth of one percent of the additional tax hereby

1 imposed, adjusting ten-thousandths equal to or greater than five ten-
2 thousandths to the greater thousandth.

3 **Sec. 205.** RCW 82.04.300 and 1992 c 206 s 7 are each amended to
4 read as follows:

5 BUSINESS AND OCCUPATION TAX THRESHOLD. This chapter shall apply to
6 any person engaging in any business activity taxable under RCW
7 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,
8 82.04.280, and 82.04.290 other than those whose value of products,
9 gross proceeds of sales, or gross income of the business is less than
10 one thousand dollars per month: PROVIDED, That where one person
11 engages in more than one business activity and the combined measures of
12 the tax applicable to such businesses equal or exceed one thousand
13 dollars per month, no exemption or deduction from the amount of tax is
14 allowed by this section.

15 Any person claiming exemption under the provisions of this section
16 may be required, according to rules adopted by the department, to file
17 returns even though no tax may be due. The department of revenue may
18 allow exemptions, by general rule or regulation, in those instances in
19 which quarterly, semiannual, or annual returns are permitted.
20 Exemptions for such periods shall be equivalent in amount to the total
21 of exemptions for each month of a reporting period.

22 PART III

23 RETAIL SALES AND USE TAXES

24 **Sec. 301.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to
25 read as follows:

26 SALE AT RETAIL--SERVICES--DEFINED. (1) "Sale at retail" or "retail
27 sale" means every sale of tangible personal property (including
28 articles produced, fabricated, or imprinted) to all persons
29 irrespective of the nature of their business and including, among
30 others, without limiting the scope hereof, persons who install, repair,
31 clean, alter, improve, construct, or decorate real or personal property
32 of or for consumers other than a sale to a person who presents a resale
33 certificate under RCW 82.04.470 and who:

34 (a) Purchases for the purpose of resale as tangible personal
35 property in the regular course of business without intervening use by
36 such person((τ))i or

1 (b) Installs, repairs, cleans, alters, imprints, improves,
2 constructs, or decorates real or personal property of or for consumers,
3 if such tangible personal property becomes an ingredient or component
4 of such real or personal property without intervening use by such
5 person((~~7~~))i or

6 (c) Purchases for the purpose of consuming the property purchased
7 in producing for sale a new article of tangible personal property or
8 substance, of which such property becomes an ingredient or component or
9 is a chemical used in processing, when the primary purpose of such
10 chemical is to create a chemical reaction directly through contact with
11 an ingredient of a new article being produced for sale((~~7~~))i or

12 (d) Purchases for the purpose of consuming the property purchased
13 in producing ferrosilicon which is subsequently used in producing
14 magnesium for sale, if the primary purpose of such property is to
15 create a chemical reaction directly through contact with an ingredient
16 of ferrosilicon((~~7~~))i or

17 (e) Purchases for the purpose of providing the property to
18 consumers as part of competitive telephone service, as defined in RCW
19 82.04.065. The term shall include every sale of tangible personal
20 property which is used or consumed or to be used or consumed in the
21 performance of any activity classified as a "sale at retail" or "retail
22 sale" even though such property is resold or utilized as provided in
23 (a), (b), (c), (d), or (e) ((~~above~~)) of this subsection following such
24 use. The term also means every sale of tangible personal property to
25 persons engaged in any business which is taxable under RCW 82.04.280((~~7~~
26 ~~subsections~~)) (2) and (7) and RCW 82.04.290.

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

30 (a) The installing, repairing, cleaning, altering, imprinting, or
31 improving of tangible personal property of or for consumers, including
32 charges made for the mere use of facilities in respect thereto, but
33 ((~~excluding charges made for the use of coin operated laundry~~
34 ~~facilities when such facilities are situated in an apartment house,~~
35 ~~hotel, motel, rooming house, trailer camp or tourist camp for the~~
36 ~~exclusive use of the tenants thereof, and also~~)) excluding sales of
37 laundry service to members by nonprofit associations composed
38 exclusively of nonprofit hospitals, and excluding services rendered in
39 respect to live animals, birds and insects;

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

9 (c) The charge for labor and services rendered in respect to
10 constructing, repairing, or improving any structure upon, above, or
11 under any real property owned by an owner who conveys the property by
12 title, possession, or any other means to the person performing such
13 construction, repair, or improvement for the purpose of performing such
14 construction, repair, or improvement and the property is then
15 reconveyed by title, possession, or any other means to the original
16 owner;

17 (d) The sale of or charge made for labor and services rendered in
18 respect to the cleaning, fumigating, razing or moving of existing
19 buildings or structures, but shall not include the charge made for
20 janitorial services; and for purposes of this section the term
21 "janitorial services" shall mean those cleaning and caretaking services
22 ordinarily performed by commercial janitor service businesses
23 including, but not limited to, wall and window washing, floor cleaning
24 and waxing, and the cleaning in place of rugs, drapes and upholstery.
25 The term "janitorial services" does not include painting, papering,
26 repairing, furnace or septic tank cleaning, snow removal or
27 sandblasting;

28 (e) The sale of or charge made for labor and services rendered in
29 respect to automobile towing and similar automotive transportation
30 services, but not in respect to those required to report and pay taxes
31 under chapter 82.16 RCW;

32 (f) The sale of and charge made for the furnishing of lodging and
33 all other services by a hotel, rooming house, tourist court, motel,
34 trailer camp, and the granting of any similar license to use real
35 property, as distinguished from the renting or leasing of real
36 property, and it shall be presumed that the occupancy of real property
37 for a continuous period of one month or more constitutes a rental or
38 lease of real property and not a mere license to use or enjoy the same;

1 (g) The sale of or charge made for tangible personal property,
2 labor and services to persons taxable under (a), (b), (c), (d), (e),
3 and (f) (~~(above)~~) of this subsection when such sales or charges are for
4 property, labor and services which are used or consumed in whole or in
5 part by such persons in the performance of any activity defined as a
6 "sale at retail" or "retail sale" even though such property, labor and
7 services may be resold after such use or consumption. Nothing
8 contained in this (~~(paragraph)~~) subsection shall be construed to modify
9 (~~(the first paragraph)~~) subsection (1) of this section and nothing
10 contained in (~~(the first paragraph)~~) subsection (1) of this section
11 shall be construed to modify this (~~(paragraph)~~) subsection.

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

17 (a) Amusement and recreation (~~(businesses)~~) services including but
18 not limited to golf, pool, billiards, skating, bowling, ski lifts and
19 tows, and others;

20 (b) Abstract, title insurance, and escrow (~~(businesses)~~) services;

21 (c) Credit bureau (~~(businesses)~~) services;

22 (d) Automobile parking and storage garage (~~(businesses)~~) services;

23 (e) Landscape maintenance and horticultural services but excluding
24 horticultural services provided to farmers;

25 (f) Service charges associated with tickets to professional
26 sporting events;

27 (g) Guided tours and guided charters; and

28 (h) The following personal services: Physical fitness services,
29 tanning salon services, tattoo parlor services, massage services, steam
30 bath services, turkish bath services, escort services, and dating
31 services.

32 (4) The term shall also include the renting or leasing of tangible
33 personal property to consumers and the rental of equipment with an
34 operator.

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

37 (6) The term shall not include the sale of or charge made for labor
38 and services rendered in respect to the building, repairing, or
39 improving of any street, place, road, highway, easement, right of way,

1 mass public transportation terminal or parking facility, bridge,
2 tunnel, or trestle which is owned by a municipal corporation or
3 political subdivision of the state or by the United States and which is
4 used or to be used primarily for foot or vehicular traffic including
5 mass transportation vehicles of any kind.

6 (7) The term shall also not include sales of feed, seed, seedlings,
7 fertilizer, agents for enhanced pollination including insects such as
8 bees, and spray materials to persons who participate in the federal
9 conservation reserve program or its successor administered by the
10 United States department of agriculture, or to ~~((persons))~~ farmers for
11 the purpose of producing for sale any agricultural product
12 ~~((whatsoever, including plantation Christmas trees and milk, eggs,~~
13 ~~wool, fur, meat, honey, or other substances obtained from animals,~~
14 ~~birds, or insects but only when such production and subsequent sale are~~
15 ~~exempt from tax under RCW 82.04.330))~~, nor shall it include sales of
16 chemical sprays or washes to persons for the purpose of post-harvest
17 treatment of fruit for the prevention of scald, fungus, mold, or decay.

18 ~~((+7))~~ (8) The term shall not include the sale of or charge made
19 for labor and services rendered in respect to the constructing,
20 repairing, decorating, or improving of new or existing buildings or
21 other structures under, upon, or above real property of or for the
22 United States, any instrumentality thereof, or a county or city housing
23 authority created pursuant to chapter 35.82 RCW, including the
24 installing, or attaching of any article of tangible personal property
25 therein or thereto, whether or not such personal property becomes a
26 part of the realty by virtue of installation. Nor shall the term
27 include the sale of services or charges made for the clearing of land
28 and the moving of earth of or for the United States, any
29 instrumentality thereof, or a county or city housing authority.

30 NEW SECTION. Sec. 302. A new section is added to chapter 82.04
31 RCW to read as follows:

32 AGRICULTURAL PRODUCT--FARMER--DEFINED. (1) "Agricultural product"
33 means any product of plant cultivation or animal husbandry including,
34 but not limited to: A product of horticulture, grain cultivation,
35 vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020;
36 plantation Christmas trees; turf; or any animal including but not
37 limited to an animal that is a private sector cultured aquatic product
38 as defined in RCW 15.85.020, or a bird, or insect, or the substances

1 obtained from such an animal. "Agricultural product" does not include
2 animals intended to be pets.

3 (2) "Farmer" means any person engaged in the business of growing or
4 producing, upon the person's own lands or upon the lands in which the
5 person has a present right of possession, any agricultural product
6 whatsoever for sale. "Farmer" does not include a person using such
7 products as ingredients in a manufacturing process, or a person growing
8 or producing such products for the person's own consumption. "Farmer"
9 does not include a person selling any animal or substance obtained
10 therefrom in connection with the person's business of operating a
11 stockyard or a slaughter or packing house. "Farmer" does not include
12 any person in respect to the business of taking, cultivating, or
13 raising timber.

14 **Sec. 303.** RCW 82.04.280 and 1993 c ... s 106 (section 106 of this
15 act) are each amended to read as follows:

16 PRINTING AND PUBLISHING. Upon every person engaging within this
17 state in the business of: (1) Printing, and of publishing
18 newspapers(~~(, periodicals or magazines)~~); (2) building, repairing or
19 improving any street, place, road, highway, easement, right of way,
20 mass public transportation terminal or parking facility, bridge,
21 tunnel, or trestle which is owned by a municipal corporation or
22 political subdivision of the state or by the United States and which is
23 used or to be used, primarily for foot or vehicular traffic including
24 mass transportation vehicles of any kind and including any
25 readjustment, reconstruction or relocation of the facilities of any
26 public, private or cooperatively owned utility or railroad in the
27 course of such building, repairing or improving, the cost of which
28 readjustment, reconstruction, or relocation, is the responsibility of
29 the public authority whose street, place, road, highway, easement,
30 right of way, mass public transportation terminal or parking facility,
31 bridge, tunnel, or trestle is being built, repaired or improved; (3)
32 extracting for hire or processing for hire; (4) operating a cold
33 storage warehouse or storage warehouse, but not including the rental of
34 cold storage lockers; (5) representing and performing services for fire
35 or casualty insurance companies as an independent resident managing
36 general agent licensed under the provisions of RCW 48.05.310; (6) radio
37 and television broadcasting, excluding network, national and regional
38 advertising computed as a standard deduction based on the national

1 average thereof as annually reported by the Federal Communications
2 Commission, or in lieu thereof by itemization by the individual
3 broadcasting station, and excluding that portion of revenue represented
4 by the out-of-state audience computed as a ratio to the station's total
5 audience as measured by the 100 micro-volt signal strength and delivery
6 by wire, if any; (7) engaging in activities which bring a person within
7 the definition of consumer contained in RCW 82.04.190(6); as to such
8 persons, the amount of tax on such business shall be equal to the gross
9 income of the business multiplied by the rate of 0.484 percent.

10 As used in this section, "cold storage warehouse" means a storage
11 warehouse used to store fresh and/or frozen perishable fruits or
12 vegetables, meat, seafood, dairy products, or fowl, or any combination
13 thereof, at a desired temperature to maintain the quality of the
14 product for orderly marketing.

15 As used in this section, "storage warehouse" means a building or
16 structure, or any part thereof, in which goods, wares, or merchandise
17 are received for storage for compensation, except field warehouses,
18 fruit warehouses, fruit packing plants, warehouses licensed under
19 chapter 22.09 RCW, public garages storing automobiles, railroad freight
20 sheds, docks and wharves, and "self-storage" or "mini storage"
21 facilities whereby customers have direct access to individual storage
22 areas by separate entrance.

23 NEW SECTION. **Sec. 304.** A new section is added to chapter 82.04
24 RCW to read as follows:

25 **NEWSPAPER DEFINED.** "Newspaper" means a publication issued
26 regularly at stated intervals at least once a week and printed on
27 newsprint in tabloid or broadsheet format folded loosely together
28 without stapling, glue, or any other binding of any kind.

29 **Sec. 305.** RCW 82.04.330 and 1988 c 253 s 2 are each amended to
30 read as follows:

31 **AGRICULTURAL EXEMPTIONS.** This chapter shall not apply to any
32 ~~((person in respect to the business of growing or producing for sale~~
33 ~~upon the person's own lands or upon land in which the person has a~~
34 ~~present right of possession, any agricultural or horticultural produce~~
35 ~~or crop, or of raising upon the person's own lands or upon land in~~
36 ~~which the person has a present right of possession, any plantation~~
37 ~~Christmas tree or any animal, bird, fish, or insect, or the milk, eggs,~~

1 wool, fur, meat, honey, or other substance obtained therefrom, or in
2 respect to the sale of such products)) farmer that sells any
3 agricultural product at wholesale ((by such grower, producer, or raiser
4 thereof)). This exemption shall not apply to any person selling such
5 products at retail ((or using such products as ingredients in a
6 manufacturing process; nor to the sale of any animal or substance
7 obtained therefrom by a person in connection with the person's business
8 of operating a stockyard or a slaughter or packing house; nor to any
9 person in respect to the business of taking, cultivating, or raising
10 timber; nor to any association of persons whatever, whether mutual,
11 cooperative or otherwise, engaging in any business activity with
12 respect to which tax liability is imposed under the provisions of this
13 chapter. As used in this section, "fish" means fish which are
14 cultivated or raised entirely within confined rearing areas on the
15 person's own land or on land in which the person has a present right of
16 possession)).

17 This chapter shall also not apply to any persons who participate in
18 the federal conservation reserve program or its successor administered
19 by the United States department of agriculture with respect to land
20 enrolled in that program.

21 **Sec. 306. RCW 82.08.0273 and 1988 c 96 s 1 are each amended to*
22 *read as follows:*

23 *SALES TO NONRESIDENTS OF TANGIBLE PERSONAL PROPERTY FOR USE OUTSIDE*
24 *OF STATE--EXEMPTION LIMITED. (1) The tax levied by RCW 82.08.020 shall*
25 *not apply to sales to nonresidents of this state of tangible personal*
26 *property for use outside this state when the purchaser (a) is a bona*
27 *fide resident of a state or possession or Province of Canada other than*
28 *the state of Washington and such state, possession, or Province of*
29 *Canada is contiguous to the state of Washington and does not impose a*
30 *retail sales tax or use tax of three percent or more or, if imposing*
31 *such a tax, permits Washington residents exemption from otherwise*
32 *taxable sales by reason of their residence, and (b) agrees, when*
33 *requested, to grant the department of revenue access to such records*
34 *and other forms of verification at his or her place of residence to*
35 *assure that such purchases are not first used substantially in the*
36 *state of Washington.*

1 (2)(a) Any person claiming exemption from retail sales tax under
2 the provisions of this section must display proof of his or her current
3 nonresident status as herein provided.

4 (b) Acceptable proof of a nonresident person's status shall include
5 two pieces of identification: (i) A valid driver's license from the
6 jurisdiction in which the out-of-state residency is claimed or a valid
7 identification card which has a photograph of the holder and is issued
8 by the out-of-state jurisdiction and (ii) a credit card, checks, or
9 other reliable identification. Identification under (i) of this
10 subsection (2)(b) must show the holder's residential address and have
11 as one of its legal purposes the establishment of residency in that
12 out-of-state jurisdiction.

13 (3) Nothing in this section requires the vendor to make tax exempt
14 retail sales to nonresidents. A vendor may choose to make sales to
15 nonresidents, collect the sales tax, and remit the amount of sales tax
16 collected to the state as otherwise provided by law. If the vendor
17 chooses to make a sale to a nonresident without collecting the sales
18 tax, the vendor shall, in good faith, examine the proof of
19 nonresidence, determine whether the proof is acceptable under
20 subsection (2)(b) of this section, and maintain records for each
21 nontaxable sale which shall show the type of proof accepted, including
22 any identification numbers where appropriate, and the expiration date,
23 if any.

24 (4)(a) Any person making fraudulent statements, which includes the
25 offer of fraudulent identification or fraudulently procured
26 identification to a vendor, in order to purchase goods without paying
27 retail sales tax shall be guilty of perjury. Any person making tax
28 exempt purchases under this section by displaying proof of
29 identification not his or her own, or counterfeit identification, with
30 intent to violate the provisions of this section, shall be guilty of a
31 misdemeanor and, in addition, shall be liable for the tax and subject
32 to a penalty equal to the greater of one hundred dollars or the tax due
33 on such purchases.

34 (b) Any vendor who makes sales without collecting the tax to a
35 person who does not hold valid identification establishing out-of-state
36 residency, and any vendor who fails to maintain records of sales to
37 nonresidents as provided in this section, shall be personally liable
38 for the amount of tax due. Any vendor who makes sales without
39 collecting the retail sales tax under this section and who has actual

1 *knowledge that the purchaser's proof of identification establishing*
2 *out-of-state residency is fraudulent shall be guilty of a misdemeanor*
3 *and, in addition, shall be liable for the tax and subject to a penalty*
4 *equal to the greater of one thousand dollars or the tax due on such*
5 *sales. In addition, both the purchaser and the vendor shall be liable*
6 *for any penalties and interest assessable under chapter 82.32 RCW.*
7 *Sec. 306 was vetoed, see message at end of chapter.

8 NEW SECTION. **Sec. 307.** FINDING--PRESCRIPTION DRUGS. The
9 legislature finds that prevention is a significant element in the
10 reduction of health care costs. The legislature further finds that
11 taxing some physician prescriptions and not others is unfair to
12 patients. It is, therefore, the intent of the legislature to remove
13 the taxes from prescriptions issued for family planning purposes.

14 **Sec. 308.** RCW 82.08.0281 and 1980 c 37 s 46 are each amended to
15 read as follows:

16 RETAIL SALES TAX EXEMPTION--PRESCRIPTION DRUGS. The tax levied by
17 RCW 82.08.020 shall not apply to sales of prescription drugs, including
18 sales to the state or a political subdivision or municipal corporation
19 thereof of drugs to be dispensed to patients by prescription without
20 charge. The term "prescription drugs" shall include any medicine,
21 drug, prescription lens, or other substance other than food for use in
22 the diagnosis, cure, mitigation, treatment, or prevention of disease or
23 other ailment in humans (~~ordered by~~), or for use for family planning
24 purposes, including the prevention of conception, supplied:

25 (1) By a family planning clinic that is under contract with the
26 department of health to provide family planning services; or

27 (2) Under the written prescription to a pharmacist by a
28 practitioner authorized by law of this state or laws of another
29 jurisdiction to issue prescriptions((7)); or

30 ((+2)) (3) Upon an oral prescription of such practitioner which is
31 reduced promptly to writing and filed by a duly licensed
32 pharmacist((7)); or

33 ((+3)) (4) By refilling any such written or oral prescription if
34 such refilling is authorized by the prescriber either in the original
35 prescription or by oral order which is reduced promptly to writing and
36 filed by the pharmacist((7)); or

1 (~~(4)~~) (5) By physicians or optometrists by way of written
2 directions and specifications for the preparation, grinding, and
3 fabrication of lenses intended to aid or correct visual defects or
4 anomalies of humans.

5 **Sec. 309.** RCW 82.12.0275 and 1980 c 37 s 73 are each amended to
6 read as follows:

7 USE TAX EXEMPTION--PRESCRIPTION DRUGS. The provisions of this
8 chapter shall not apply in respect to the use of prescription drugs,
9 including the use by the state or a political subdivision or municipal
10 corporation thereof of drugs to be dispensed to patients by
11 prescription without charge. The term "prescription drugs" shall
12 include any medicine, drug, prescription lens, or other substance other
13 than food for use in the diagnosis, cure, mitigation, treatment, or
14 prevention of disease or other ailment in humans (~~(ordered by)~~), or for
15 use for family planning purposes, including the prevention of
16 conception, supplied:

17 (1) By a family planning clinic that is under contract with the
18 department of health to provide family planning services; or

19 (2) Under the written prescription to a pharmacist by a
20 practitioner authorized by law of this state or laws of another
21 jurisdiction to issue prescriptions(~~(7)~~); or

22 (~~(2)~~) (3) Upon an oral prescription of such practitioner which is
23 reduced promptly to writing and filed by a duly licensed
24 pharmacist(~~(7)~~); or

25 (~~(3)~~) (4) By refilling any such written or oral prescription if
26 such refilling is authorized by the prescriber either in the original
27 prescription or by oral order which is reduced promptly to writing and
28 filed by the pharmacist(~~(7)~~); or

29 (~~(4)~~) (5) By physicians or optometrists by way of written
30 directions and specifications for the preparation, grinding, and

1 fabrication of lenses intended to aid or correct visual defects or
2 anomalies of humans.

3
4

PART IV
SALES TAX DEFERRAL PROGRAMS

5 NEW SECTION. **Sec. 401.** A new section is added to chapter 43.63A
6 RCW to read as follows:

7 NEIGHBORHOOD REINVESTMENT AREA--APPLICATION. (1) The department,
8 in cooperation with the department of revenue, the employment security
9 department, and the office of financial management, shall approve
10 applications submitted by local governments for designation as a
11 neighborhood reinvestment area under this section. The application
12 shall be in the form and manner and contain such information as the
13 department may prescribe, provided that the application for designation
14 shall:

15 (a) Contain information sufficient for the director to determine if
16 the criteria established in section 402 of this act have been met.

17 (b) Be submitted on behalf of the local government by its chief
18 elected official, or, if none, by the governing body of the local
19 government.

20 (c) Contain a five-year neighborhood reinvestment plan that
21 describes the proposed designated neighborhood reinvestment area's
22 community development needs and present a strategy for meeting those
23 needs. The plan shall address the following categories: Housing
24 needs; public infrastructure needs, such as transportation, water,
25 sanitation, energy, and drainage/flood control; other public facilities
26 needs, such as neighborhood facilities or facilities for provision of
27 health, education, recreation, public safety, or other services;
28 community economic development needs, such as commercial/industrial
29 revitalization, job creation and retention considering the unemployment
30 and underemployment of area residents, accessibility to financial
31 resources by area residents and businesses, investment within the area,
32 or other related components of community economic development; and
33 social service needs.

34 The local government is required to provide a description of its
35 strategy for meeting the needs identified in this subsection (1)(c).
36 As part of the strategy, the local government is required to identify
37 the needs for which specific plans are currently in place and the

1 source of funds expected to be used. For the balance of the area's
2 needs, the local government must identify the source of funds expected
3 to become available during the next two-year period and actions the
4 local government will take to acquire those funds.

5 (d) Certify that neighborhood residents were given the opportunity
6 to participate in the development of the five-year neighborhood
7 reinvestment strategy required under (c) of this subsection.

8 (2) No local government shall submit more than two neighborhoods to
9 the department for possible designation as a designated neighborhood
10 reinvestment area under this section.

11 (3)(a) Within ninety days after January 1, 1994, the director may
12 designate up to six designated neighborhood reinvestment areas from
13 among the applications eligible for designation as a designated
14 neighborhood reinvestment area under this section. The director shall
15 make determinations of designated neighborhood reinvestment areas on
16 the basis of the following factors:

17 (i) The strength and quality of the local government commitments to
18 meet the needs identified in the five-year neighborhood reinvestment
19 plan required under this section.

20 (ii) The level of private commitments by private entities of
21 additional resources and contribution to the designated neighborhood
22 reinvestment area.

23 (iii) The potential for reinvestment in the area as a result of
24 designation as a designated neighborhood reinvestment area.

25 (iv) Other factors the director of the department of community
26 development deems necessary.

27 (b) The determination of the director as to the areas designated as
28 neighborhood reinvestment areas shall be final.

29 NEW SECTION. **Sec. 402.** A new section is added to chapter 43.63A
30 RCW to read as follows:

31 NEIGHBORHOOD REINVESTMENT AREA--REQUIREMENTS. (1) The director may
32 not designate an area as a designated neighborhood reinvestment area
33 unless that area meets the following requirements:

34 (a) The area must be designated by the legislative authority of the
35 local government as an area to receive federal, state, and local
36 assistance designed to increase economic, physical, or social activity
37 in the area;

1 (b) The area must have at least fifty-one percent of the households
2 in the area with incomes at or below eighty percent of the county's
3 median income, adjusted for household size;

4 (c) The average unemployment rate for the area, for the most recent
5 twelve-month period for which data is available must be at least one
6 hundred twenty percent of the average unemployment rate of the county;
7 and

8 (d) A five-year neighborhood reinvestment plan for the area that
9 meets the requirements of section 401(1)(c) of this act and as further
10 defined by the director must be adopted.

11 (2) The director may establish, by rule, such other requirements as
12 the director may reasonably determine necessary and appropriate to
13 assure that the purposes of this section are satisfied.

14 (3) In determining if an area meets the requirements of this
15 section, the director may consider data provided by the United States
16 bureau of the census from the most recent census or any other reliable
17 data that the director determines to be acceptable for the purposes for
18 which the data is used.

19 **Sec. 403.** RCW 82.60.020 and 1988 c 42 s 16 are each amended to
20 read as follows:

21 DEFINITIONS. Unless the context clearly requires otherwise, the
22 definitions in this section apply throughout this chapter.

23 (1) "Applicant" means a person applying for a tax deferral under
24 this chapter.

25 (2) "Department" means the department of revenue.

26 (3) "Eligible area" means: (a) A county in which the average level
27 of unemployment for the three years before the year in which an
28 application is filed under this chapter exceeds the average state
29 unemployment for those years by twenty percent; ~~((or))~~ (b) a
30 metropolitan statistical area, as defined by the office of federal
31 statistical policy and standards, United States department of commerce,
32 in which the average level of unemployment for the calendar year
33 immediately preceding the year in which an application is filed under
34 this chapter exceeds the average state unemployment for such calendar
35 year by twenty percent ~~((. Applications under this subsection (3)(b)
36 shall be filed by April 30, 1989))~~; or (c) a designated neighborhood
37 reinvestment area approved under section 401 of this act.

1 (4)(a) "Eligible investment project" means that portion of an
2 investment project which:

3 (i) Is directly utilized to create at least one new full-time
4 qualified employment position for each three hundred thousand dollars
5 of investment on which a deferral is requested; and

6 (ii) Either initiates a new operation, or expands or diversifies a
7 current operation by expanding or renovating an existing building with
8 costs in excess of twenty-five percent of the true and fair value of
9 the plant complex prior to improvement; or

10 (iii) Acquires machinery and equipment to be used for either
11 manufacturing or research and development if the machinery and
12 equipment is housed in a new leased structure(~~(:—PROVIDED, That))~~).
13 The lessor/owner of the structure is not eligible for a deferral unless
14 the underlying ownership of the buildings, machinery, and equipment
15 vests exclusively in the same person.

16 (b) "Eligible investment project" does not include any portion of
17 an investment project undertaken by a light and power business as
18 defined in RCW 82.16.010(5) or investment projects which have already
19 received deferrals under this chapter.

20 (5) "Investment project" means an investment in qualified buildings
21 and qualified machinery and equipment, including labor and services
22 rendered in the planning, installation, and construction of the
23 project.

24 (6) "Manufacturing" means all activities of a commercial or
25 industrial nature wherein labor or skill is applied, by hand or
26 machinery, to materials so that as a result thereof a new, different,
27 or useful substance or article of tangible personal property is
28 produced for sale or commercial or industrial use and shall include the
29 production or fabrication of specially made or custom made articles.
30 "Manufacturing" also includes computer programming, the production of
31 computer software, and other computer-related services, and the
32 activities performed by research and development laboratories and
33 commercial testing laboratories.

34 (7) "Person" has the meaning given in RCW 82.04.030.

35 (8) "Qualified buildings" means new structures used for
36 manufacturing and research and development activities, including plant
37 offices and warehouses or other facilities for the storage of raw
38 material or finished goods if such facilities are an essential or an
39 integral part of a factory, mill, plant, or laboratory used for

1 manufacturing or research and development. If a building is used
2 partly for manufacturing or research and development and partly for
3 other purposes, the applicable tax deferral shall be determined by
4 apportionment of the costs of construction under rules adopted by the
5 department.

6 (9) "Qualified employment position" means a permanent full-time
7 employee employed in the eligible investment project during the entire
8 tax year.

9 (10) "Qualified machinery and equipment" means all new industrial
10 and research fixtures, equipment, and support facilities that are an
11 integral and necessary part of a manufacturing or research and
12 development operation. "Qualified machinery and equipment" includes:
13 Computers; software; data processing equipment; laboratory equipment;
14 manufacturing components such as belts, pulleys, shafts, and moving
15 parts; molds, tools, and dies; operating structures; and all equipment
16 used to control or operate the machinery.

17 (11) "Recipient" means a person receiving a tax deferral under this
18 chapter.

19 (12) "Research and development" means the development, refinement,
20 testing, marketing, and commercialization of a product, service, or
21 process before commercial sales have begun. As used in this
22 subsection, "commercial sales" excludes sales of prototypes or sales
23 for market testing if the total gross receipts from such sales of the
24 product, service, or process do not exceed one million dollars.

25 **Sec. 404.** RCW 82.60.050 and 1988 c 41 s 5 are each amended to read
26 as follows:

27 EXPIRATION--TAX DEFERRAL CERTIFICATE. RCW 82.60.030 and 82.60.040
28 shall expire July 1, (~~1994~~) 1998.

29 **Sec. 405. RCW 82.61.010 and 1988 c 41 s 1 are each amended to*
30 *read as follows:*

31 **DEFINITIONS--THRESHOLD DATE MODIFIED--ELIGIBLE PROJECTS MODIFIED.**
32 *Unless the context clearly requires otherwise, the definitions in this*
33 *section apply throughout this chapter.*

34 (1) "Applicant" means a person applying for a tax deferral under
35 this chapter.

36 (2) "Person" has the meaning given in RCW 82.04.030.

37 (3) "Department" means the department of revenue.

1 (4) "Eligible investment project" means:

2 (a) Construction of new buildings and the acquisition of new
3 related machinery and equipment when the buildings, machinery, and
4 equipment are to be used for either manufacturing or research and
5 development activities, which construction is commenced prior to
6 December 31, (~~1994~~) 1998; or

7 (b) Acquisition prior to December 31, (~~1994~~) 1998, of new
8 machinery and equipment to be used for either manufacturing or research
9 and development if the machinery and equipment is housed in a new
10 leased structure(~~(:—PROVIDED,—That)~~). The lessor/owner of the
11 structure is not eligible for a deferral unless the underlying
12 ownership of the buildings, machinery, and equipment vests exclusively
13 in the same person; or

14 (c) Acquisition of all new or used machinery, equipment, or other
15 personal property for use in the production or casting of aluminum at
16 an aluminum smelter or at facilities related to an aluminum smelter, if
17 the plant was in operation prior to 1975 and has ceased operations or
18 is in imminent danger of ceasing operations for economic reasons, as
19 determined by the department, and if the person applying for a deferral
20 (i) has consulted with any collective bargaining unit that represented
21 employees of the plant pursuant to a collective bargaining agreement
22 that was in effect either immediately prior to the time the plant
23 ceased operations or during the period when the plant was in imminent
24 danger of ceasing operations, on the proposed operation of the plant
25 and on the terms and conditions of employment for wage and salaried
26 employees and (ii) has obtained a written concurrence from the
27 bargaining unit on the decision to apply for a deferral under this
28 chapter; or

29 (d) Modernization projects involving construction, acquisition, or
30 upgrading of equipment or machinery, including services and labor,
31 which are commenced after May 19, 1987, and are intended to increase
32 the operating efficiency of existing plants which are either aluminum
33 smelters or aluminum rolling mills or of facilities related to such
34 plants, if the plant was in operation prior to 1975, and if the person
35 applying for a deferral (i) has consulted with any collective
36 bargaining unit that represents employees of the plant on the proposed
37 operation of the plant and the terms and conditions of employment for
38 wage and salaried employees and (ii) has obtained a written concurrence

1 from the bargaining unit on the decision to apply for a deferral under
2 this chapter; or

3 (e) Acquisition of all new or used machinery, equipment, or other
4 personal property for use in the production of pulp and paper-related
5 products if the plant was in operation prior to 1960 and is located in
6 a county with a population between forty thousand and seventy thousand
7 as last determined by the office of financial management; or

8 (f) Modernization projects involving construction, acquisition, or
9 upgrading of equipment or machinery, including services and labor, that
10 are commenced after the effective date of this section and are intended
11 to increase the operating efficiency of existing pulp and paper mills
12 or facilities, if the plant was in operation prior to 1960 and is
13 located in a county with a population between forty thousand and
14 seventy thousand as last determined by the office of financial
15 management.

16 (5) "Manufacturing" means all activities of a commercial or
17 industrial nature wherein labor or skill is applied, by hand or
18 machinery, to materials so that as a result thereof a new, different,
19 or useful substance or article of tangible personal property is
20 produced for sale or commercial or industrial use and includes the
21 production or fabrication of specially made or custom-made articles.

22 (6) "Research and development" means the development, refinement,
23 testing, marketing, and commercialization of a product, service, or
24 process before commercial sales have begun.

25 (7) "Buildings" means only those new structures used for either
26 manufacturing or research and development activities, including plant
27 offices and warehouses or other facilities for the storage of raw
28 materials or finished goods if such facilities are an essential or an
29 integral part of a factory, mill, plant, or laboratory used for
30 manufacturing or research and development purposes. If a building is
31 used partly for manufacturing or research and development and partly
32 for other purposes, the applicable tax deferral shall be determined by
33 apportionment of the costs of construction under rules adopted by the
34 department.

35 (8) "Machinery and equipment" means all industrial and research
36 fixtures, equipment, and support facilities that are an integral and
37 necessary part of a manufacturing or research and development
38 operation. "Qualified machinery and equipment" includes computers;
39 software; data processing equipment; laboratory equipment;

1 manufacturing components such as belts, pulleys, shafts, and moving
2 parts; molds, tools, and dies; operating structures; and all equipment
3 used to control or operate the machinery. For purposes of this
4 chapter, new machinery and equipment means either new to the taxing
5 jurisdiction of the state or new to the certificate holder. Used
6 machinery and equipment may be treated as new equipment and machinery
7 if the certificate holder either brings the machinery and equipment
8 into Washington or makes a retail purchase of the machinery and
9 equipment in Washington or elsewhere.

10 (9) "Qualified employment position" means a permanent full-time
11 employee employed in the eligible investment project during the entire
12 tax year.

13 (10) "Recipient" means a person receiving a tax deferral under this
14 chapter.

15 (11) "Certificate holder" means an applicant to whom a tax deferral
16 certificate has been issued.

17 (12) "Operationally complete" means constructed or improved to the
18 point of being functionally useable for the intended purpose.

19 (13) "Initiation of construction" means that date upon which on-
20 site construction commences.

21 *Sec. 405 was vetoed, see message at end of chapter.

22 *Sec. 406. RCW 82.61.020 and 1987 c 497 s 2 are each amended to
23 read as follows:

24 APPLICATION PROCESS. Application for deferral of taxes under this
25 chapter shall be made before initiation of the construction of the
26 investment project or acquisition of equipment or machinery or plant.
27 Application for deferral of taxes for modernization projects as defined
28 in RCW 82.61.010(4)(d) and (f) shall be made during the calendar year
29 in which construction begins or acquisition of equipment or machinery
30 occurs. The application shall be made to the department in a form and
31 manner prescribed by the department. The application shall contain
32 information regarding the location of the investment project, estimated
33 or actual costs, time schedules for completion and operation, and other
34 information required by the department. The department shall rule on
35 the application within sixty days. A certificate holder shall initiate
36 construction of the investment project within one hundred eighty days

1 of receiving approval from the department and issuance of the tax
2 deferral certificate.

3 *Sec. 406 was vetoed, see message at end of chapter.

4 *Sec. 407. RCW 82.61.030 and 1987 c 497 s 3 are each amended to
5 read as follows:

6 TAX DEFERRAL ELIGIBILITY. Except for eligible projects within the
7 definitions in RCW 82.61.010(4) (c) (~~(d)~~) through (f), a tax
8 deferral certificate shall only be issued to persons who, on June 14,
9 1985, are not engaged in manufacturing or research and development
10 activities within this state. For purposes of this section, a person
11 shall not be considered to be engaged in manufacturing or research and
12 development activities where the only activities performed by such
13 person in this state are sales, installation, repair, or promotional
14 activities in respect to products manufactured outside this state. Any
15 person who has succeeded by merger, consolidation, incorporation or any
16 other form or change of identity to the business of a person engaged in
17 manufacturing or research and development activities in this state on
18 June 14, 1985, and any person who is a subsidiary of a person engaged
19 in manufacturing or research and development activities in this state
20 on June 14, 1985, shall also be ineligible to receive a tax deferral
21 certificate.

22 *Sec. 407 was vetoed, see message at end of chapter.

23 **Sec. 408.** RCW 82.61.040 and 1988 c 41 s 2 are each amended to read
24 as follows:

25 EXPIRATION--TAX DEFERRAL ELIGIBILITY. RCW 82.61.020 and 82.61.030
26 shall expire July 1, (~~(1994)~~) 1998.

27 **Sec. 409.** RCW 82.61.070 and 1988 c 41 s 3 are each amended to read
28 as follows:

29 REPORTS. The department and the department of trade and economic
30 development shall jointly report to the legislature about the effects
31 of this chapter on new manufacturing and research and development
32 activities in this state. The report shall contain information
33 concerning the number of deferral certificates granted, the amount of
34 sales tax deferred, the number of jobs created and other information
35 useful in measuring such effects. Reports shall be submitted by
36 January 1, 1986, and by January 1 of each year through (~~(1995)~~) 1999.

1 **Sec. 410.** RCW 82.62.010 and 1988 c 42 s 17 are each amended to
2 read as follows:

3 DEFINITIONS. Unless the context clearly requires otherwise, the
4 definitions in this section apply throughout this chapter.

5 (1) "Applicant" means a person applying for a tax credit under this
6 chapter.

7 (2) "Department" means the department of revenue.

8 (3) "Eligible area" means: (a) A county in which the average level
9 of unemployment for the three years before the year in which an
10 application is filed under this chapter exceeds the average state
11 unemployment for those years by twenty percent; ~~((or))~~ (b) a
12 metropolitan statistical area, as defined by the office of federal
13 statistical policy and standards, United States department of commerce,
14 in which the average level of unemployment for the calendar year
15 immediately preceding the year in which an application is filed under
16 this chapter exceeds the average state unemployment for such calendar
17 year by twenty percent ~~((. Applications under this subsection (3)(b)~~
18 ~~shall be filed by April 30, 1989));~~ (c) a designated neighborhood
19 reinvestment area approved under section 401 of this act; or (d)
20 subcounty areas in those counties that are not covered under (a) of
21 this subsection that are timber impact areas as defined in RCW
22 43.31.601.

23 (4)(a) "Eligible business project" means manufacturing or research
24 and development activities which are conducted by an applicant in an
25 eligible area at a specific facility ~~((: PROVIDED, That))~~, provided the
26 applicant's average full-time qualified employment positions at the
27 specific facility will be at least fifteen percent greater in the year
28 for which the credit is being sought than the applicant's average full-
29 time qualified employment positions at the same facility in the
30 immediately preceding year.

31 (b) "Eligible business project" does not include any portion of a
32 business project undertaken by a light and power business as defined in
33 RCW 82.16.010(5) or that portion of a business project creating
34 qualified full-time employment positions outside an eligible area or
35 those recipients of a sales tax deferral under chapter 82.61 RCW.

36 (5) "Manufacturing" means all activities of a commercial or
37 industrial nature wherein labor or skill is applied, by hand or
38 machinery, to materials so that as a result thereof a new, different,
39 or useful substance or article of tangible personal property is

1 produced for sale or commercial or industrial use and shall include the
2 production or fabrication of specially made or custom made articles.
3 "Manufacturing" also includes computer programming, the production of
4 computer software, and other computer-related services, and the
5 activities performed by research and development laboratories and
6 commercial testing laboratories.

7 (6) "Person" has the meaning given in RCW 82.04.030.

8 (7) "Qualified employment position" means a permanent full-time
9 employee employed in the eligible business project during the entire
10 tax year.

11 (8) "Tax year" means the calendar year in which taxes are due.

12 (9) "Recipient" means a person receiving tax credits under this
13 chapter.

14 (10) "Research and development" means the development, refinement,
15 testing, marketing, and commercialization of a product, service, or
16 process before commercial sales have begun. As used in this
17 subsection, "commercial sales" excludes sales of prototypes or sales
18 for market testing if the total gross receipts from such sales of the
19 product, service, or process do not exceed one million dollars.

20 **Sec. 411.** RCW 82.62.040 and 1988 c 41 s 4 are each amended to read
21 as follows:

1 EXPIRATION--APPLICATIONS AND ELIGIBILITY. RCW 82.62.020 ((and
2 82.62.030)) shall expire July 1, ((1994)) 1998.

3 **PART V**

4 **REAL ESTATE EXCISE TAX**

5 NEW SECTION. Sec. 501. FINDINGS--INTENT. (1) The legislature
6 finds that transfers of ownership of entities may be essentially
7 equivalent to the sale of real property held by the entity. The
8 legislature further finds that all transfers of possession or use of
9 real property should be subject to the same excise tax burdens.

10 (2) The legislature intends to apply the real estate excise tax of
11 chapter 82.45 RCW to transfers of entity ownership when the transfer of
12 entity ownership is comparable to the sale of real property. The
13 legislature intends to equate the excise tax burdens on all sales of
14 real property and transfers of entity ownership essentially equivalent
15 to a sale of real property under chapter 82.45 RCW.

16 **Sec. 502.** RCW 82.45.010 and 1981 c 93 s 1 are each amended to read
17 as follows:

18 SALE--DEFINED. (1) As used in this chapter, the term "sale" shall
19 have its ordinary meaning and shall include any conveyance, grant,
20 assignment, quitclaim, or transfer of the ownership of or title to real
21 property, including standing timber, or any estate or interest therein
22 for a valuable consideration, and any contract for such conveyance,
23 grant, assignment, quitclaim, or transfer, and any lease with an option
24 to purchase real property, including standing timber, or any estate or
25 interest therein or other contract under which possession of the
26 property is given to the purchaser, or any other person ((~~by his~~)) at
27 the purchaser's direction, ((which)) and title to the property is
28 retained by the vendor as security for the payment of the purchase
29 price. The term also includes the grant, assignment, quitclaim, sale,
30 or transfer of improvements constructed upon leased land.

31 (2) The term "sale" also includes the transfer or acquisition
32 within any twelve-month period of a controlling interest in any entity
33 with an interest in real property located in this state for a valuable
34 consideration. For purposes of this subsection, all acquisitions of
35 persons acting in concert shall be aggregated for purposes of
36 determining whether a transfer or acquisition of a controlling interest

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

4 (a) Persons shall 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 (b) When persons are not commonly owned or controlled, they shall
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 single
11 entity. If the acquisitions are completely independent, with each
12 purchaser buying without regard to the identity of the other
13 purchasers, then the acquisitions shall be considered separate
14 acquisitions.

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

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

17 (b) A transfer of any leasehold interest other than of the type
18 mentioned above((~~7~~)).

19 (c) A cancellation or forfeiture of a vendee's interest in a
20 contract for the sale of real property, whether or not such contract
21 contains a forfeiture clause, or deed in lieu of foreclosure of a
22 mortgage ((~~or the assumption by a grantee of the balance owing on an~~
23 obligation which is secured by a mortgage or deed in lieu of forfeiture
24 of the vendee's interest in a contract of sale where no consideration
25 passes otherwise or)).

26 (d) The partition of property by tenants in common by agreement or
27 as the result of a court decree((~~any transfer, conveyance, or~~)).

28 (e) The assignment of property or interest in property from one
29 spouse to the other in accordance with the terms of a decree of divorce
30 or in fulfillment of a property settlement agreement ((~~incident~~
31 thereto~~7~~)).

32 (f) The assignment or other transfer of a vendor's interest in a
33 contract for the sale of real property, even though accompanied by a
34 conveyance of the vendor's interest in the real property involved((~~7~~)).

35 (g) Transfers by appropriation or decree in condemnation
36 proceedings brought by the United States, the state or any political
37 subdivision thereof, or a municipal corporation((~~7~~)).

38 (h) A mortgage or other transfer of an interest in real property
39 merely to secure a debt, or the assignment thereof((~~7~~)).

1 (i) Any transfer or conveyance made pursuant to a deed of trust or
2 an order of sale by the court in any mortgage, deed of trust, or lien
3 foreclosure proceeding or upon execution of a judgment, or deed in lieu
4 of foreclosure to satisfy a mortgage(~~(7)~~) or deed of trust.

5 (j) A conveyance to the federal housing administration or veterans
6 administration by an authorized mortgagee made pursuant to a contract
7 of insurance or guaranty with the federal housing administration or
8 veterans administration(~~(7-nor)~~).

9 (k) A transfer in compliance with the terms of any lease or
10 contract upon which the tax as imposed by this chapter has been paid or
11 where the lease or contract was entered into prior to the date this tax
12 was first imposed(~~(7-nor)~~).

13 (l) The sale of any grave or lot in an established cemetery(~~(7~~
14 nor)).

15 (m) A sale by (~~(or to)~~) the United States, this state or any
16 political subdivision thereof, or a municipal corporation of this
17 state.

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

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

1 limited to nonrecognition of gain or loss because of application of
2 section 332, 337, 351, 368(a)(1), 721, or 731 of the Internal Revenue
3 Code of 1986, as amended.

4 **Sec. 503.** RCW 82.45.030 and 1969 ex.s. c 223 s 28A.45.030 are each
5 amended to read as follows:

6 SELLING PRICE--DEFINED. (1) As used in this chapter, the term
7 "selling price" means the ((consideration, including)) true and fair
8 value of the property conveyed. If property has been conveyed in an
9 arm's length transaction between unrelated persons for a valuable
10 consideration, a rebuttable presumption exists that the selling price
11 is equal to the total consideration paid or contracted to be paid to
12 the transferor, or to another for the transferor's benefit.

13 (2) If the sale is a transfer of a controlling interest in an
14 entity with an interest in real property located in this state, the
15 selling price shall be the true and fair value of the real property
16 owned by the entity and located in this state. If the true and fair
17 value of the real property located in this state cannot reasonably be
18 determined, the selling price shall be determined according to
19 subsection (4) of this section.

20 (3) As used in this section, "total consideration paid or
21 contracted to be paid" includes money or anything of value, paid or
22 delivered or contracted to be paid or delivered in return for the
23 ((transfer of the real property or estate or interest in real
24 property)) sale, and shall include the amount of any lien, mortgage,
25 contract indebtedness, or other incumbrance, either given to secure the
26 purchase price, or any part thereof, or remaining unpaid on such
27 property at the time of sale.

28 ((The term)) Total consideration shall not include the amount of
29 any outstanding lien or incumbrance in favor of the United States, the
30 state, or a municipal corporation for ((the)) taxes, special benefits,
31 or improvements.

32 (4) If the total consideration for the sale cannot be ascertained
33 or the true and fair value of the property to be valued at the time of
34 the sale cannot reasonably be determined, the market value assessment
35 for the property maintained on the county property tax rolls at the
36 time of the sale shall be used as the selling price.

1 **Sec. 504.** RCW 82.45.032 and 1986 c 211 s 1 are each amended to
2 read as follows:

3 REAL ESTATE--REAL PROPERTY--DEFINED. Unless the context clearly
4 requires otherwise, the definitions in this section apply throughout
5 this chapter.

6 (1) "Real estate" or "real property" means (~~real property but~~
7 ~~includes~~) any interest, estate, or beneficial interest in land or
8 anything affixed to land, including the ownership interest or
9 beneficial interest in any entity which itself owns land or anything
10 affixed to land. The term includes used mobile homes ((and)), used
11 floating homes, and improvements constructed upon leased land.

12 (2) "Used mobile home" means a mobile home which has been
13 previously sold at retail and has been subjected to tax under chapter
14 82.08 RCW, or which has been previously used and has been subjected to
15 tax under chapter 82.12 RCW, and which has substantially lost its
16 identity as a mobile unit at the time of sale by virtue of its being
17 fixed in location upon land owned or leased by the owner of the mobile
18 home and placed on a foundation (posts or blocks) with fixed pipe
19 connections with sewer, water, and other utilities.

20 (3) "Mobile home" means a mobile home as defined by RCW 46.04.302,
21 as now or hereafter amended.

22 (4) "Used floating home" means a floating home in respect to which
23 tax has been paid under chapter 82.08 or 82.12 RCW.

24 (5) "Floating home" means a building on a float used in whole or in
25 part for human habitation as a single-family dwelling, which is not
26 designed for self propulsion by mechanical means or for propulsion by
27 means of wind, and which is on the property tax rolls of the county in
28 which it is located.

29 NEW SECTION. **Sec. 505.** A new section is added to chapter 82.45
30 RCW to read as follows:

31 CONTROLLING INTEREST--DEFINED. As used in this chapter, the term
32 "controlling interest" has the following meaning:

33 (1) In the case of a corporation, either fifty percent or more of
34 the total combined voting power of all classes of stock of the
35 corporation entitled to vote, or fifty percent of the capital, profits,
36 or beneficial interest in the voting stock of the corporation; and

1 (2) In the case of a partnership, association, trust, or other
2 entity, fifty percent or more of the capital, profits, or beneficial
3 interest in such partnership, association, trust, or other entity.

4 **Sec. 506.** RCW 82.45.090 and 1991 c 327 s 6 are each amended to
5 read as follows:

6 SALE OF BENEFICIAL INTEREST IN REAL PROPERTY--NO RECORDED
7 INSTRUMENT. (1) Except for a sale of a beneficial interest in real
8 property where no instrument evidencing the sale is recorded in the
9 official real property records of the county in which the property is
10 located, the tax imposed by this chapter shall be paid to and collected
11 by the treasurer of the county within which is located the real
12 property which was sold(~~(, said)~~). In collecting the tax the treasurer
13 (~~(acting)~~) shall act as agent for the state. The county treasurer
14 shall cause a stamp evidencing satisfaction of the lien to be affixed
15 to the instrument of sale or conveyance prior to its recording or to
16 the real estate excise tax affidavit in the case of used mobile home
17 sales and used floating home sales. A receipt issued by the county
18 treasurer for the payment of the tax imposed under this chapter shall
19 be evidence of the satisfaction of the lien imposed hereunder and may
20 be recorded in the manner prescribed for recording satisfactions of
21 mortgages. No instrument of sale or conveyance evidencing a sale
22 subject to the tax shall be accepted by the county auditor for filing
23 or recording until the tax shall have been paid and the stamp affixed
24 thereto; in case the tax is not due on the transfer, the instrument
25 shall not be so accepted until suitable notation of such fact has been
26 made on the instrument by the treasurer.

27 (2) For a sale of a beneficial interest in real property where a
28 tax is due under this chapter and where no instrument is recorded in
29 the official real property records of the county in which the property
30 is located, the sale shall be reported to the department of revenue
31 within five days from the date of the sale on such returns or forms and
32 according to such procedures as the department may prescribe. Such
33 forms or returns shall be signed by both the transferor and the
34 transferee and shall be accompanied by payment of the tax due. Any
35 person who intentionally makes a false statement on any return or form
36 required to be filed with the department under this chapter shall be
37 guilty of perjury.

1 **Sec. 507.** RCW 82.45.100 and 1988 c 286 s 5 are each amended to
2 read as follows:

3 LIABILITY FOR TAX NOT RECEIVED--EXCEPTIONS. (1) The tax imposed
4 under this chapter is due and payable immediately at the time of sale,
5 and if not paid within thirty days thereafter shall bear interest at
6 the rate of one percent per month from the time of sale until the date
7 of payment.

8 (2) In addition to the interest described in subsection (1) of this
9 section, if the payment of any tax is not received by the county
10 treasurer or the department of revenue, as the case may be, within
11 thirty days of the date due, there shall be assessed a penalty of five
12 percent of the amount of the tax; if the tax is not received within
13 sixty days of the date due, there shall be assessed a total penalty of
14 ten percent of the amount of the tax; and if the tax is not received
15 within ninety days of the date due, there shall be assessed a total
16 penalty of twenty percent of the amount of the tax. The payment of the
17 penalty described in this subsection shall be collectible from the
18 seller only, and RCW 82.45.070 does not apply to the penalties
19 described in this subsection.

20 (3) If the tax imposed under this chapter is not received by the
21 due date, the transferee shall be personally liable for the tax, along
22 with any interest as provided in subsection (1) of this section,
23 unless:

24 (a) An instrument evidencing the sale is recorded in the official
25 real property records of the county in which the property conveyed is
26 located; or

27 (b) Either the transferor or transferee notifies the department of
28 revenue in writing of the occurrence of the sale within thirty days
29 following the date of the sale.

30 (4) If upon examination of any affidavits or from other information
31 obtained by the department or its agents it appears that all or a
32 portion of the tax is unpaid, the department shall assess against the
33 taxpayer the additional amount found to be due plus interest and
34 penalties as provided in subsections (1) and (2) of this section. If
35 the department finds that all or any part of the deficiency resulted
36 from an intent to evade the tax payable under this chapter, an
37 additional penalty of fifty percent of the additional tax found to be
38 due shall be added.

1 ~~((4))~~ (5) No assessment or refund may be made by the department
2 more than four years after the date of sale except upon a showing of:
3 (a) Fraud or ~~((ef))~~ misrepresentation of a material fact by the
4 taxpayer ~~((or))~~;
5 (b) A failure by the taxpayer to record documentation of a sale or
6 otherwise report the sale to the county treasurer; or
7 (c) A failure of the transferor or transferee to report the sale
8 under RCW 82.45.090(2).

9 ~~((5))~~ (6) Penalties collected pursuant to subsection (2) of this
10 section shall be deposited in the housing trust fund as described in
11 chapter 43.185 RCW.

12 NEW SECTION. Sec. 508. TAX IMPOSED BY ORDINANCE--APPLICATION.
13 Any ordinance imposing a tax under chapter 82.46 RCW which is in effect
14 on the effective date of this section shall apply to all sales taxable
15 under chapter 82.45 RCW on the effective date of this section at the
16 rate specified in the ordinance, until such time as the ordinance is
17 otherwise amended or repealed.

18 **Sec. 509.** RCW 82.45.150 and 1981 c 167 s 1 are each amended to
19 read as follows:

20 TAX AFFIDAVIT--FORM. All of chapter 82.32 RCW, except RCW
21 82.32.030, 82.32.040, 82.32.050, 82.32.140, and 82.32.270 and except
22 for the penalties and the limitations thereon imposed by RCW 82.32.090,
23 applies to the tax imposed by this chapter, in addition to any other
24 provisions of law for the payment and enforcement of the tax imposed by
25 this chapter. The department of revenue shall by rule provide for the
26 effective administration of this chapter. The rules shall ~~((also~~
27 ~~include a manual which defines transactions which are taxable under))~~
28 prescribe and furnish a real estate excise tax affidavit form verified
29 by both the seller and the buyer, or agents of each, to be used by each
30 county, or the department, as the case may be, in the collection of the
31 tax imposed by this chapter. The department of revenue shall annually
32 conduct audits of transactions and affidavits filed under this chapter.

33 **Sec. 510.** RCW 82.45.180 and 1991 c 245 s 15 are each amended to
34 read as follows:

35 DISTRIBUTION. (1) For taxes collected by the county under this
36 chapter, the county treasurer shall collect a two-dollar fee on all

1 transactions required by this chapter where the transaction does not
2 require the payment of tax. The county treasurer shall place one
3 percent of the proceeds of the tax imposed by this chapter and the
4 treasurer's fee in the county current expense fund to defray costs of
5 collection and shall pay over to the state treasurer and account to the
6 department of revenue for the remainder of the proceeds at the same
7 time the county treasurer remits funds to the state under RCW
8 84.56.280. (~~The proceeds of the tax on any sale occurring prior to~~
9 ~~September 1, 1981, when the proceeds have not been certified by an~~
10 ~~educational service district superintendent for school districts prior~~
11 ~~to September 1, 1981, shall be included in the amount remitted to the~~
12 ~~state treasurer.~~) The state treasurer shall deposit the proceeds in
13 the general fund for the support of the common schools.

14 (2) For taxes collected by the department of revenue under this
15 chapter, the department shall remit the tax to the state treasurer who
16 shall deposit the proceeds of any state tax in the general fund for the
17 support of the common schools. The state treasurer shall deposit the
18 proceeds of any local taxes imposed under chapter 82.46 RCW in the
19 local real estate excise tax account hereby created in the state
20 treasury. Moneys in the local real estate excise tax account may be
21 spent only for distribution to counties, cities, and towns imposing a
22 tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all
23 earnings of investments of balances in the local real estate excise tax
24 account shall be credited to the local real estate excise tax account
25 and distributed to the counties, cities, and towns monthly. Monthly
26 the state treasurer shall make distribution from the local real estate
27 excise tax account to the counties, cities, and towns the amount of tax
28 collected on behalf of each taxing authority. The state treasurer
29 shall make the distribution under this subsection without
30 appropriation.

31 **Sec. 511.** RCW 43.84.092 and 1993 c 4 s 9 are each amended to read
32 as follows:

33 INTEREST ON LOCAL REAL ESTATE EXCISE TAX ACCOUNT. (1) All earnings
34 of investments of surplus balances in the state treasury shall be
35 deposited to the treasury income account, which account is hereby
36 established in the state treasury.

37 (2) Monthly, the state treasurer shall distribute the earnings
38 credited to the treasury income account. The state treasurer shall

1 credit the general fund with all the earnings credited to the treasury
2 income account except:

3 (a) The following accounts and funds shall receive their
4 proportionate share of earnings based upon each account's and fund's
5 average daily balance for the period: The capitol building
6 construction account, the Cedar River channel construction and
7 operation account, the Central Washington University capital projects
8 account, the charitable, educational, penal and reformatory
9 institutions account, the common school construction fund, the county
10 criminal justice assistance account, the county sales and use tax
11 equalization account, the data processing building construction
12 account, the deferred compensation administrative account, the deferred
13 compensation principal account, the department of retirement systems
14 expense account, the Eastern Washington University capital projects
15 account, the federal forest revolving account, the industrial insurance
16 premium refund account, the judges' retirement account, the judicial
17 retirement administrative account, the judicial retirement principal
18 account, the local leasehold excise tax account, the local real estate
19 excise tax account, the local sales and use tax account, the medical
20 aid account, the municipal criminal justice assistance account, the
21 municipal sales and use tax equalization account, the natural resources
22 deposit account, the perpetual surveillance and maintenance account,
23 the public employees' retirement system plan I account, the public
24 employees' retirement system plan II account, the Puyallup tribal
25 settlement account, the resource management cost account, the site
26 closure account, the special wildlife account, the state employees'
27 insurance account, the state employees' insurance reserve account, the
28 state investment board expense account, the state investment board
29 commingled trust fund accounts, the supplemental pension account, the
30 teachers' retirement system plan I account, the teachers' retirement
31 system plan II account, the University of Washington bond retirement
32 fund, the University of Washington building account, the volunteer fire
33 fighters' relief and pension principal account, the volunteer fire
34 fighters' relief and pension administrative account, the Washington
35 judicial retirement system account, the Washington law enforcement
36 officers' and fire fighters' system plan I retirement account, the
37 Washington law enforcement officers' and fire fighters' system plan II
38 retirement account, the Washington state patrol retirement account, the
39 Washington State University building account, the Washington State

1 University bond retirement fund, and the Western Washington University
2 capital projects account. Earnings derived from investing balances of
3 the agricultural permanent fund, the normal school permanent fund, the
4 permanent common school fund, the scientific permanent fund, and the
5 state university permanent fund shall be allocated to their respective
6 beneficiary accounts. All earnings to be distributed under this
7 subsection (2)(a) shall first be reduced by the allocation to the state
8 treasurer's service fund pursuant to RCW 43.08.190.

9 (b) The following accounts and funds shall receive eighty percent
10 of their proportionate share of earnings based upon each account's or
11 fund's average daily balance for the period: The central Puget Sound
12 public transportation account, the city hardship assistance account,
13 the county arterial preservation account, the economic development
14 account, the essential rail assistance account, the essential rail
15 banking account, the ferry bond retirement fund, the grade crossing
16 protective fund, the high capacity transportation account, the highway
17 bond retirement fund, the highway construction stabilization account,
18 the highway safety account, the marine operating fund, the motor
19 vehicle fund, the motorcycle safety education account, the pilotage
20 account, the public transportation systems account, the Puget Sound
21 capital construction account, the Puget Sound ferry operations account,
22 the recreational vehicle account, the rural arterial trust account, the
23 special category C account, the state patrol highway account, the
24 transfer relief account, the transportation capital facilities account,
25 the transportation equipment fund, the transportation fund, the
26 transportation improvement account, and the urban arterial trust
27 account.

28 (3) In conformance with Article II, section 37 of the state
29 Constitution, no treasury accounts or funds shall be allocated earnings
30 without the specific affirmative directive of this section.

31 NEW SECTION. **Sec. 512.** REPORTING, APPLICATION, COLLECTION,
32 AFFIDAVIT STANDARDS--OWNERSHIP TRANSFER OF A CORPORATION--REPEALED.
33 The following acts or parts of acts are each repealed:

- 34 (1) 1991 sp.s. c 22 s 1 (uncodified);
35 (2) RCW 82.45A.010 and 1991 sp.s. c 22 s 2;
36 (3) RCW 82.45A.020 and 1991 sp.s. c 22 s 3;
37 (4) RCW 82.45A.030 and 1991 sp.s. c 22 s 4; and

1 (5) RCW 82.45.120 and 1981 c 167 s 5, 1980 c 134 s 1, & 1969 ex.s.
2 c 223 s 28A.45.120.

3 NEW SECTION. **Sec. 513.** REPEALS--NO EFFECT ON EXISTING RIGHT,
4 LIABILITY, OBLIGATION. The repeals in section 512 of this act shall
5 not be construed as affecting any existing right acquired or liability
6 or obligation incurred under the sections repealed or under any rule or
7 order adopted under those sections, nor as affecting any proceeding
8 instituted under those sections.

9 **PART VI**

10 **INSURANCE PREMIUMS AND PREPAYMENTS TAXES**

11 **Sec. 601.** RCW 48.14.--- and 1993 c ... (Engrossed Second
12 Substitute Senate Bill No. 5304) s 301 are each amended to read as
13 follows:

14 TAX ON PREMIUMS AND PREPAYMENTS. (1) As used in this section,
15 "taxpayer" means a health maintenance organization, as defined in RCW
16 48.46.020, a health care service contractor, as defined in RCW
17 48.44.010, or a certified health plan certified under RCW 48.---.---
18 (section 434, chapter . . . (Engrossed Second Substitute Senate Bill
19 No. 5304), Laws of 1993).

20 (2) Each taxpayer shall pay a tax on or before the first day of
21 March of each year to the state treasurer through the insurance
22 commissioner's office. The tax shall be equal to the total amount of
23 all premiums and prepayments for health care services received by the
24 taxpayer during the preceding calendar year multiplied by the rate of
25 two percent.

26 (3) Taxpayers shall prepay their tax obligations under this
27 section. The minimum amount of the prepayments shall be percentages of
28 the taxpayer's tax obligation for the preceding calendar year
29 recomputed using the rate in effect for the current year. For the
30 prepayment of taxes due during the first calendar year, the minimum
31 amount of the prepayments shall be percentages of the taxpayer's tax
32 obligation that would have been due had the tax been in effect during
33 the previous calendar year. The tax prepayments shall be paid to the
34 state treasurer through the commissioner's office by the due dates and
35 in the following amounts:

36 (a) On or before June 15, forty-five percent;

1 (b) On or before September 15, twenty-five percent;

2 (c) On or before December 15, twenty-five percent.

3 (4) For good cause demonstrated in writing, the commissioner may
4 approve an amount smaller than the preceding calendar year's tax
5 obligation as recomputed for calculating the health maintenance
6 organization's, health care service contractor's, or certified health
7 plan's prepayment obligations for the current tax year.

8 (5) Moneys collected under this section shall be deposited in the
9 general fund through March 31, 1996, and in the health services account
10 under RCW 43.---.--- (section 469, chapter . . . (Engrossed Second
11 Substitute Senate Bill No. 5304), Laws of 1993) after March 31, 1996.

12 (6) The taxes imposed in this section do not apply to:

13 (a) Amounts received by any taxpayer from the United States or any
14 instrumentality thereof as prepayments for health care services
15 provided under Title XVIII (medicare) of the federal social security
16 act. This exemption shall expire July 1, 1997.

17 (b) Amounts received by any health care service contractor, as
18 defined in RCW 48.44.010, as prepayments for health care services
19 included within the definition of practice of dentistry under RCW
20 18.32.020. This exemption does not apply to amounts received under a
21 certified health plan certified under RCW 48.---.--- (section 434,
22 chapter . . . (Engrossed Second Substitute Senate Bill No. 5304), Laws
23 of 1993).

24 **Sec. 602.** RCW 48.14.080 and 1993 c ____ (Engrossed Second
25 Substitute Senate Bill No. 5304) s 302 are each amended to read as
26 follows:

27 PREMIUM TAX IN LIEU OF OTHER FORMS. As to insurers, other than
28 title insurers and taxpayers under section 601 of this act, the taxes
29 imposed by this title shall be in lieu of all other taxes, except taxes
30 on real and tangible personal property, excise taxes on the sale,
31 purchase or use of such property, and the tax imposed in RCW
32 82.04.260(15).

33 **Sec. 603.** 1993 c ... (Engrossed Second Substitute Senate Bill No.
34 5304) s 495 (uncodified) is amended to read as follows:

35 EFFECTIVE DATE OF PREPAYMENTS TAX IN ENGROSSED SECOND SUBSTITUTE
36 SENATE BILL NO. 5304. This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect July 1, 1993, except for:
3 (1) Sections 234 through 257 of this act, which shall take effect
4 July 1, 1995; and

1 (2) Sections 301 through 303 of this act, which shall take effect
2 January 1, (~~1996~~) 1994.

3 **PART VII**

4 **RESALE CERTIFICATE ABUSE CURTAILED**

5 **Sec. 701.** RCW 82.04.470 and 1983 2nd ex.s. c 3 s 29 are each
6 amended to read as follows:

7 RESALE CERTIFICATES. (1) Unless a seller has taken from the
8 (~~purchaser~~) ~~buyer~~ a resale certificate (~~signed by, and bearing the~~
9 ~~name and address and registration number of the purchaser to the effect~~
10 ~~that the property or service was purchased for resale, or unless the~~
11 ~~nature of the transaction is clearly shown as a sale at wholesale by~~
12 ~~the books and records of the taxpayer in such other manner as the~~
13 ~~department of revenue shall by regulation provide~~), the burden of
14 proving that a sale of tangible personal property, or of (~~telephone~~)
15 services (~~as defined in RCW 82.04.065~~), was not a sale at retail
16 shall be upon the person who made it.

17 (2) If a seller does not receive a resale certificate at the time
18 of the sale, have a resale certificate on file at the time of the sale,
19 or obtain a resale certificate from the buyer within a reasonable time
20 after the sale, the seller shall remain liable for the tax as provided
21 in RCW 82.08.050, unless the seller can demonstrate facts and
22 circumstances according to rules adopted by the department of revenue
23 that show the sale was properly made without payment of sales tax.

24 (3) Resale certificates shall be valid for a period of four years
25 from the date the certificate is provided to the seller.

26 (4) The department may provide by rule for suggested forms for
27 resale certificates or equivalent documents containing the information
28 that will be accepted as resale certificates. The department shall
29 provide by rule the categories of items or services that must be
30 specified on resale certificates and the business classifications that
31 may use a blanket resale certificate.

32 (5) As used in this section, "resale certificate" means
33 documentation provided by a buyer to a seller stating that the purchase
34 is for resale in the regular course of business, or that the buyer is
35 exempt from retail sales tax, and containing the following information:

36 (a) The name and address of the buyer;

1 (b) The uniform business identifier or revenue registration number
2 of the buyer, if the buyer is required to registered;

3 (c) The type of business engaged in;

4 (d) The categories of items or services to be purchased for resale
5 or that are exempt, unless the buyer is in a business classification
6 that may present a blanket resale certificate as provided by the
7 department by rule;

8 (e) The date on which the certificate was provided;

9 (f) A statement that the items or services purchased either: (i)
10 Are purchased for resale in the regular course of business; or (ii) are
11 exempt from tax pursuant to statute;

12 (g) A statement that the buyer acknowledges that the buyer is
13 solely responsible for purchasing within the categories specified on
14 the certificate and that misuse of the resale or exemption privilege
15 claimed on the certificate subjects the buyer to a penalty of fifty
16 percent of the tax due, in addition to the tax, interest, and any other
17 penalties imposed by law;

18 (h) The name of the individual authorized to sign the certificate,
19 printed in a legible fashion;

20 (i) The signature of the authorized individual; and

21 (j) The name of the seller.

22 NEW SECTION. Sec. 702. A new section is added to chapter 82.08
23 RCW to read as follows:

24 RESALE CERTIFICATE--PURCHASE AND RESALE. If a buyer normally is
25 engaged in both consuming and reselling certain types of articles of
26 tangible personal property and is not able to determine at the time of
27 purchase whether the particular property acquired will be consumed or
28 resold, the buyer may use a resale certificate for the entire purchase
29 if the buyer principally resells the articles according to the general
30 nature of the buyer's business. The buyer shall account for the value
31 of any articles purchased with a resale certificate that are used by
32 the buyer and remit the sales tax on the articles to the department.

33 A buyer who pays a tax on all purchases and subsequently resells an
34 article at retail, without intervening use by the buyer, shall collect
35 the tax from the purchaser as otherwise provided by law and is entitled
36 to a deduction on the buyer's tax return equal to the cost to the buyer
37 of the property resold upon which retail sales tax has been paid. The
38 deduction is allowed only if the taxpayer keeps and preserves records

1 that show the names of the persons from whom the articles were
2 purchased, the date of the purchase, the type of articles, the amount
3 of the purchase, and the tax that was paid. The department shall
4 provide by rule for the refund or credit of retail sales tax paid by a
5 buyer for purchases that are later sold at wholesale without
6 intervening use by the buyer.

7 NEW SECTION. **Sec. 703.** A new section is added to chapter 82.32
8 RCW to read as follows:

9 PENALTY. Any person who uses a resale certificate to purchase
10 items or services without payment of sales tax and who is not entitled
11 to use the certificate for the purchase shall be assessed a penalty of
12 fifty percent of the tax due, in addition to all other taxes,
13 penalties, and interest due, on the improperly purchased item or
14 service. The department may waive the penalty imposed under this
15 section if it finds that the use of the certificate was due to
16 circumstances beyond the taxpayer's control or if the certificate was
17 properly used for purchases for dual purposes. The department shall
18 define by rule what circumstances are considered to be beyond the
19 taxpayer's control.

20 **Sec. 704.** RCW 82.08.050 and 1992 c 206 s 2 are each amended to
21 read as follows:

22 SELLER TO COLLECT TAX. The tax hereby imposed shall be paid by the
23 buyer to the seller, and each seller shall collect from the buyer the
24 full amount of the tax payable in respect to each taxable sale in
25 accordance with the schedule of collections adopted by the department
26 pursuant to the provisions of RCW 82.08.060. The tax required by this
27 chapter, to be collected by the seller, shall be deemed to be held in
28 trust by the seller until paid to the department, and any seller who
29 appropriates or converts the tax collected to his or her own use or to
30 any use other than the payment of the tax to the extent that the money
31 required to be collected is not available for payment on the due date
32 as prescribed in this chapter shall be guilty of a gross misdemeanor.

33 In case any seller fails to collect the tax herein imposed or
34 having collected the tax, fails to pay it to the department in the
35 manner prescribed by this chapter, whether such failure is the result
36 of his or her own acts or the result of acts or conditions beyond his
37 or her control, he or she shall, nevertheless, be personally liable to

1 the state for the amount of the tax, unless the seller has taken from
2 the buyer in good faith a properly executed resale certificate under
3 RCW 82.04.470.

4 The amount of tax, until paid by the buyer to the seller or to the
5 department, shall constitute a debt from the buyer to the seller and
6 any seller who fails or refuses to collect the tax as required with
7 intent to violate the provisions of this chapter or to gain some
8 advantage or benefit, either direct or indirect, and any buyer who
9 refuses to pay any tax due under this chapter shall be guilty of a
10 misdemeanor. The tax required by this chapter to be collected by the
11 seller shall be stated separately from the selling price in any sales
12 invoice or other instrument of sale. On all retail sales through
13 vending machines, the tax need not be stated separately from the
14 selling price or collected separately from the buyer. For purposes of
15 determining the tax due from the buyer to the seller and from the
16 seller to the department it shall be conclusively presumed that the
17 selling price quoted in any price list, sales document, contract or
18 other agreement between the parties does not include the tax imposed by
19 this chapter, but if the seller advertises the price as including the
20 tax or that the seller is paying the tax, the advertised price shall
21 not be considered the selling price.

22 Where a buyer has failed to pay to the seller the tax imposed by
23 this chapter and the seller has not paid the amount of the tax to the
24 department, the department may, in its discretion, proceed directly
25 against the buyer for collection of the tax, in which case a penalty of
26 ten percent may be added to the amount of the tax for failure of the
27 buyer to pay the same to the seller, regardless of when the tax may be
28 collected by the department; and all of the provisions of chapter 82.32
29 RCW, including those relative to interest and penalties, shall apply in
30 addition; and, for the sole purpose of applying the various provisions
31 of chapter 82.32 RCW, the twenty-fifth day of the month following the
32 tax period in which the purchase was made shall be considered as the
33 due date of the tax.

34 **PART VIII**

35 **BUSINESS & OCCUPATION AND PUBLIC UTILITY TAX**
36 **DEDUCTIONS FOR CAPITAL CONTRIBUTIONS REPEALED**

1 NEW SECTION. **Sec. 801.** EXEMPTION OF AMOUNTS PAID TO POLITICAL
2 SUBDIVISIONS FOR CAPITAL FACILITIES. RCW 82.04.417 and 1969 ex.s. c
3 156 s 1 are each repealed.

4 **PART IX**
5 **REPEAL OF INSURANCE PREMIUMS TAX CREDIT FOR**
6 **PAYMENTS TO GUARANTY ASSOCIATIONS**

7 **Sec. 901.** RCW 48.32.145 and 1977 ex.s. c 183 s 1 are each amended
8 to read as follows:

9 CREDIT AGAINST PREMIUM TAX. Every member insurer (~~which during~~
10 ~~any calendar year~~) that prior to April 1, 1993, shall have paid one or
11 more assessments levied pursuant to RCW 48.32.060(1)(c) (~~as now or~~
12 ~~hereafter amended~~) shall be entitled to take, as a credit against any
13 premium tax falling due under RCW 48.14.020, one-fifth of the aggregate
14 amount of such aggregate assessments during such calendar year for each
15 of the five consecutive calendar years beginning with the calendar year
16 following the calendar year in which such assessments are paid(~~+~~
17 ~~PROVIDED, That~~)). Whenever an assessment or uncredited portion
18 (~~thereof~~) of an assessment is or becomes less than one thousand
19 dollars, the entire amount may be credited against the premium tax at
20 the next time the premium tax is paid.

21 This section shall expire January 1, 1999.

22 **Sec. 902.** RCW 48.32A.090 and 1990 c 51 s 6 are each amended to
23 read as follows:

24 CERTIFICATES OF CONTRIBUTION. (1) The association shall issue to
25 each insurer paying an assessment under this chapter certificates of
26 contribution, in appropriate form and terms as prescribed or approved
27 by the commissioner, for the amounts so paid into the respective funds.
28 All outstanding certificates against a particular fund shall be of
29 equal dignity and priority without reference to amounts or dates of
30 issue.

31 (2) An outstanding certificate of contribution issued prior to
32 April 1, 1993, shall be shown by the insurer in its financial
33 statements as an admitted asset for such amount and period of time as
34 the commissioner may approve(~~+~~ ~~PROVIDED, That~~)). Unless a longer
35 period has been allowed by the commissioner the insurer shall in any
36 event at its option have the right to so show a certificate of

1 contribution as an admitted asset at percentages of original face
2 amount for calendar years as follows:

3 100% for the calendar year of issuance;
4 80% for the first calendar year after the year of issuance;
5 60% for the second calendar year after the year of issuance;
6 40% for the third calendar year after the year of issuance;
7 20% for the fourth calendar year after the year of issuance; and
8 0% for the fifth and subsequent calendar years after the year of
9 issuance.

10 Notwithstanding the foregoing, if the value of a certificate of
11 contribution is or becomes less than one thousand dollars, the entire
12 amount may be written off by the insurer in that year.

13 (3) The insurer shall offset the amount written off by it in a
14 calendar year under subsection (2) of this section against its premium
15 tax liability to this state accrued with respect to business transacted
16 in such year.

17 (4) Any sums recovered by the association representing sums which
18 have theretofore been written off by contributing insurers and offset
19 against premium taxes as provided in subsection (3) of this section,
20 shall be paid by the association to the commissioner and ((by him))
21 then deposited with the state treasurer for credit to the general fund
22 of the state of Washington.

23 (5) No distribution to stockholders, if any, of a liquidating
24 insurer shall be made unless and until the total amount of assessments
25 levied by the association with respect to such insurer have been fully
26 recovered by the association.

27 **PART X**
28 **MISCELLANEOUS**

29 ****NEW SECTION. Sec. 1001. TRANSFER TO BUDGET STABILIZATION***
30 ***ACCOUNT. If the revenues generated under this act during the biennium***
31 ***exceed the amounts projected to be generated, the department of revenue***
32 ***shall certify the excess to the state treasurer as soon as the excess***
33 ***is known and the state treasurer shall transfer an amount equal to the***
34 ***excess from the general fund to the budget stabilization account.***

35 ****Sec. 1001 was vetoed, see message at end of chapter.***

1 NEW SECTION. **Sec. 1002.** SEVERABILITY. If any provision of this
2 act or its application to any person or circumstance is held invalid,
3 the remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 1003.** EFFECTIVE DATES. This act is necessary
6 for the immediate preservation of the public peace, health, or safety,
7 or support of the state government and its existing public
8 institutions, and shall take effect July 1, 1993, except:

9 (1) Sections 901 and 902 of this act take effect immediately.

10 (2) Sections 601 through 603 of this act take effect January 1,
11 1994.

12 NEW SECTION. **Sec. 1004.** PART HEADINGS AND CAPTIONS. Part
13 headings and captions as used in this act constitute no part of the
14 law.

 Passed the Senate May 6, 1993.

 Passed the House May 6, 1993.

 Approved by the Governor May 28, 1993, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 28, 1993.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 306,
3 405, 406, 407, and 1001, Second Engrossed Substitute Senate Bill No.
4 5967 entitled:

5 "AN ACT Relating to taxation;"

6 Section 306 amends current law which provides a sales tax exemption
7 for property purchased for use outside this state by nonresidents of
8 Washington who live in a state or Canadian province with a sales tax
9 rate of less than three percent by adding the requirement that the
10 beneficiary state be "contiguous to the state of Washington." This
11 would effectively limit the exemption to only Oregon residents.

12 This amendment presents a constitutional problem, since there does
13 not appear to be a rational basis for distinguishing between residents
14 of noncontiguous states and residents of contiguous states. If a
15 successful class action lawsuit was brought on behalf of all affected
16 parties, the state's costs for administering any payout to members of
17 the class could be substantial.

18 While I agree that amending current law is necessary, I have vetoed
19 this section because I am concerned with the possible
20 unconstitutionality of this amendment and the consequences of potential
21 lawsuits. Therefore, I will ask the Department of Revenue to develop
22 legislation which addresses the proponents concerns and avoids the
23 constitutional problems for consideration during the 1994 Legislative
24 Session.

1 Sections 405, 406, and 407 extend the sales and use tax deferral
2 program of chapter 82.61 RCW to include any pulp and paper products
3 plant in operation prior to 1960 and located in a county with a
4 population between 40,000 and 70,000. It was the intent of the sales
5 tax deferral program to encourage new business locations in the state,
6 not to provide a tax break for existing businesses. These sections
7 were not intended to benefit the pulp and paper products industry
8 generally; rather, these criteria were very carefully drawn in order to
9 limit availability of the deferral program to a single taxpayer.

10 However, the impact could be significantly greater because several
11 taxpayers potentially qualify for the program. Counties that are
12 eligible based on the population range of 40,000 to 70,000 are Chelan,
13 Clallam, Grant, Grays Harbor, Island, Lewis, and Walla Walla. At least
14 four pulp and paper products companies located in these counties where
15 in operation prior to 1960. In addition, there are 21 other pulp and
16 paper products companies that were established prior to 1960, but which
17 are headquartered in non-eligible counties. If any of these 21 other
18 companies also have a plant in an eligible county, they could
19 potentially qualify.

20 For these reasons, I have vetoed section 405, 406, and 407.

21 Sections 1001 requires the Department of Revenue to determine the
22 amount of revenue generated in excess of projections during the
23 biennium as a result of this act. The State Treasurer would transfer
24 the excess revenue from the general fund to the budget stabilization
25 account. If actual revenue collections exceed the forecast, the
26 Legislature can always choose to make transfers to the budget
27 stabilization account. Therefore, it is not clear why this section is
28 needed.

29 In addition, this section would require costly and burdensome
30 accounting procedures for the Department of Revenue and would require
31 the department to make unreasonable, and in some cases impossible
32 requests for information from taxpayers. The Department of Revenue
33 already has the capability to measure these and other revenues by other
34 means which are less costly to administer and do not place unreasonable
35 burdens on taxpayers.

36 For these reasons, I have vetoed section 1001. However, in line
37 with the intent of this section, I am directing the Department of
38 Revenue to report quarterly how well estimates for all of these revenue
39 sources are tracking.

40 With the exception of sections 306, 405, 406, 407, and 1001, Second
41 Engrossed Substitute Senate Bill No. 5967 is approved."