

**HOUSE BILL 2038**

**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Representatives Carlyle, Hunter, Ormsby, Tharinger, Reykdal, and Pollet

Read first time 04/17/13. Referred to Committee on Finance.

1 AN ACT Relating to investing in the education legacy trust account  
2 for K-12 basic education and higher education by narrowing or  
3 eliminating tax preferences and extending taxes set to expire; amending  
4 RCW 82.04.29002, 82.04.260, 82.08.0293, 82.12.0293, 82.08.0273,  
5 66.24.290, 82.04.050, 82.04.4452, 82.63.030, 82.16.050, 82.04.610,  
6 82.12.0263, 82.04.250, 82.04.261, 82.04.334, 82.04.4463, 82.04.460,  
7 82.08.806, 82.45.195, 48.14.080, and 35.102.150; reenacting and  
8 amending RCW 82.04.260; adding new sections to chapter 82.08 RCW;  
9 adding new sections to chapter 82.12 RCW; adding a new section to  
10 chapter 82.16 RCW; adding a new section to chapter 82.32 RCW; repealing  
11 RCW 82.04.272; providing effective dates; providing expiration dates;  
12 and declaring an emergency.

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

**PART I**

**Permanently Extending the Business and Occupation Surtax**

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

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

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

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

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

## 17 PART II

### 18 **Eliminating the Preferential Business and Occupation Tax Rates for** 19 **Insurance Agents, Travel Agents, and Stevedoring**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ~~(8))~~ (6)(a) Upon every person engaging within this state in the  
19 business of disposing of low-level waste, as defined in RCW 43.145.010;  
20 as to such persons the amount of the tax with respect to such business  
21 is equal to the gross income of the business, excluding any fees  
22 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
23 percent.

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

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

34 ~~(10))~~ (7) Upon every person engaging within this state in business  
35 as a hospital, as defined in chapter 70.41 RCW, that is operated as a  
36 nonprofit corporation or by the state or any of its political  
37 subdivisions, as to such persons, the amount of tax with respect to

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

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

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

15 (b) Beginning July 1, 2008, upon every person who is not eligible  
16 to report under the provisions of (a) of this subsection ~~((+11+))~~ (8)  
17 and is engaging within this state in the business of manufacturing  
18 tooling specifically designed for use in manufacturing commercial  
19 airplanes or components of such airplanes, or making sales, at retail  
20 or wholesale, of such tooling manufactured by the seller, as to such  
21 persons the amount of tax with respect to such business is, in the case  
22 of manufacturers, equal to the value of the product manufactured and  
23 the gross proceeds of sales of the product manufactured, or in the case  
24 of processors for hire, be equal to the gross income of the business,  
25 multiplied by the rate of 0.2904 percent.

26 (c) For the purposes of this subsection ~~((+11+))~~ (8), "commercial  
27 airplane" and "component" have the same meanings as provided in RCW  
28 82.32.550.

29 (d) In addition to all other requirements under this title, a  
30 person reporting under the tax rate provided in this subsection  
31 ~~((+11+))~~ (8) must file a complete annual report with the department  
32 under RCW 82.32.534.

33 (e) This subsection ~~((+11+))~~ (8) does not apply on and after July  
34 1, 2024.

35 ~~((+12+))~~ (9)(a) Until July 1, 2024, upon every person engaging  
36 within this state in the business of extracting timber or extracting  
37 for hire timber; as to such persons the amount of tax with respect to  
38 the business is, in the case of extractors, equal to the value of

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

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

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

26 (d) Until July 1, 2024, upon every person engaging within this  
27 state in the business of selling standing timber; as to such persons  
28 the amount of the tax with respect to the business is equal to the  
29 gross income of the business multiplied by the rate of 0.2904 percent.  
30 For purposes of this subsection (~~((+12+))~~) (9)(d), "selling standing  
31 timber" means the sale of timber apart from the land, where the buyer  
32 is required to sever the timber within thirty months from the date of  
33 the original contract, regardless of the method of payment for the  
34 timber and whether title to the timber transfers before, upon, or after  
35 severance.

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

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

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

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

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

26 (v) "Timber products" means:

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

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

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

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



1 (f) Except for small harvesters as defined in RCW 84.33.035, a  
2 person reporting under the tax rate provided in this subsection  
3 (~~((12))~~) (9) must file a complete annual survey with the department  
4 under RCW 82.32.585.

5 (~~((13))~~) (10) Upon every person engaging within this state in  
6 inspecting, testing, labeling, and storing canned salmon owned by  
7 another person, as to such persons, the amount of tax with respect to  
8 such activities is equal to the gross income derived from such  
9 activities multiplied by the rate of 0.484 percent.

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

15 (b) A person reporting under the tax rate provided in this  
16 subsection (~~((14))~~) (11) must file a complete annual report with the  
17 department under RCW 82.32.534.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 ~~(8))~~ (6)(a) Upon every person engaging within this state in the  
17 business of disposing of low-level waste, as defined in RCW 43.145.010;  
18 as to such persons the amount of the tax with respect to such business  
19 is equal to the gross income of the business, excluding any fees  
20 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
21 percent.

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

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

32 ~~(10))~~ (7) Upon every person engaging within this state in business  
33 as a hospital, as defined in chapter 70.41 RCW, that is operated as a  
34 nonprofit corporation or by the state or any of its political  
35 subdivisions, as to such persons, the amount of tax with respect to  
36 such activities is equal to the gross income of the business multiplied  
37 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent  
38 thereafter.

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

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

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

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

23           (c) For the purposes of this subsection (~~(+11+)~~) (8), "commercial  
24 airplane" and "component" have the same meanings as provided in RCW  
25 82.32.550.

26           (d) In addition to all other requirements under this title, a  
27 person reporting under the tax rate provided in this subsection  
28 (~~(+11+)~~) (8) must file a complete annual report with the department  
29 under RCW 82.32.534.

30           (e) This subsection (~~(+11+)~~) (8) does not apply on and after July  
31 1, 2024.

32           (~~(+12+)~~) (9)(a) Until July 1, 2024, upon every person engaging  
33 within this state in the business of extracting timber or extracting  
34 for hire timber; as to such persons the amount of tax with respect to  
35 the business is, in the case of extractors, equal to the value of  
36 products, including by-products, extracted, or in the case of  
37 extractors for hire, equal to the gross income of the business,

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

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

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

24 (d) Until July 1, 2024, upon every person engaging within this  
25 state in the business of selling standing timber; as to such persons  
26 the amount of the tax with respect to the business is equal to the  
27 gross income of the business multiplied by the rate of 0.2904 percent.  
28 For purposes of this subsection (~~((+12+))~~) (9)(d), "selling standing  
29 timber" means the sale of timber apart from the land, where the buyer  
30 is required to sever the timber within thirty months from the date of  
31 the original contract, regardless of the method of payment for the  
32 timber and whether title to the timber transfers before, upon, or after  
33 severance.

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

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

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

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

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

- 23 (v) "Timber products" means:
- 24 (A) Logs, wood chips, sawdust, wood waste, and similar products  
25 obtained wholly from the processing of timber, short-rotation hardwoods  
26 as defined in RCW 84.33.035, or both;
  - 27 (B) Pulp, including market pulp and pulp derived from recovered  
28 paper or paper products; and
  - 29 (C) Recycled paper, but only when used in the manufacture of  
30 biocomposite surface products.

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

35 (f) Except for small harvesters as defined in RCW 84.33.035, a  
36 person reporting under the tax rate provided in this subsection  
37 (~~((+12+))~~) (9) must file a complete annual survey with the department  
38 under RCW 82.32.585.

1 ((+13+)) (10) Upon every person engaging within this state in  
2 inspecting, testing, labeling, and storing canned salmon owned by  
3 another person, as to such persons, the amount of tax with respect to  
4 such activities is equal to the gross income derived from such  
5 activities multiplied by the rate of 0.484 percent.

6 ((+14+)) (11)(a) Upon every person engaging within this state in  
7 the business of printing a newspaper, publishing a newspaper, or both,  
8 the amount of tax on such business is equal to the gross income of the  
9 business multiplied by the rate of 0.2904 percent.

10 (b) A person reporting under the tax rate provided in this  
11 subsection ((+14+)) (11) must file a complete annual report with the  
12 department under RCW 82.32.534.

### 13 PART III

#### 14 **Eliminating the Sales and Use Tax Exemption for Bottled Water**

15 **Sec. 301.** RCW 82.08.0293 and 2011 c 2 s 301 are each amended to  
16 read as follows:

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

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

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

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

34 (a) "Bottled water" means water that is placed in a sealed  
35 container or package for human consumption. Bottled water is calorie  
36 free and does not contain sweeteners or other additives except that it



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

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

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

10 (A) A vitamin;

11 (B) A mineral;

12 (C) An herb or other botanical;

13 (D) An amino acid;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (1) Subject to the conditions in this section, the tax levied by  
17 RCW 82.08.020 does not apply to sales of bottled water for human use  
18 dispensed or to be dispensed to patients, pursuant to a prescription  
19 for use in the cure, mitigation, treatment, or prevention of disease or  
20 other medical condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **PART IV**

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

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

27 (1) Until July 1, 2013, the tax levied by RCW 82.08.020 does not  
28 apply to sales to nonresidents of this state of tangible personal  
29 property, digital goods, and digital codes, when:

- 30 (a) The property is for use outside this state;
- 31 (b) The purchaser is a bona fide resident of a province or  
32 territory of Canada or a state, territory, or possession of the United  
33 States, other than the state of Washington; and
- 34 (i) Such state, possession, territory, or province does not impose,

1 or have imposed on its behalf, a generally applicable retail sales tax,  
2 use tax, value added tax, gross receipts tax on retailing activities,  
3 or similar generally applicable tax, of three percent or more; or

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

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

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

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

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

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

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

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

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

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

33 (b) Any person making tax exempt purchases under this section by  
34 displaying proof of identification not his or her own, or counterfeit  
35 identification, with intent to violate the provisions of this section,  
36 is guilty of a misdemeanor and, in addition, is liable for the tax and  
37 subject to a penalty equal to the greater of one hundred dollars or the  
38 tax due on such purchases.



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

4 (b) Any vendor who makes sales without collecting the retail sales  
5 tax under this section and who has actual knowledge that the  
6 purchaser's proof of identification establishing out-of-state residency  
7 is fraudulent is guilty of a misdemeanor and, in addition, is liable  
8 for the tax and subject to a penalty equal to the greater of one  
9 thousand dollars or the tax due on such sales. In addition, both the  
10 purchaser and the vendor are liable for any penalties and interest  
11 assessable under chapter 82.32 RCW.

12 **PART V**

13 **Extending and Modifying the Beer Tax**

14 **Sec. 501.** RCW 66.24.290 and 2010 1st sp.s. c 23 s 1301 are each  
15 amended to read as follows:

16 (1) Any microbrewer or domestic brewery or beer distributor  
17 licensed under this title may sell and deliver beer and strong beer to  
18 holders of authorized licenses direct, but to no other person, other  
19 than the board. Any certificate of approval holder authorized to act  
20 as a distributor under RCW 66.24.270 (~~shall~~) must pay the taxes  
21 imposed by this section.

22 (a) Every such brewery or beer distributor (~~shall~~) must report  
23 all sales to the board monthly, pursuant to the regulations, and  
24 (~~shall~~) must pay to the board as an added tax for the privilege of  
25 manufacturing and selling the beer and strong beer within the state a  
26 tax of one dollar and thirty cents per barrel of thirty-one gallons on  
27 sales to licensees within the state and on sales to licensees within  
28 the state of bottled and canned beer, including strong beer, (~~shall~~)  
29 must pay a tax computed in gallons at the rate of one dollar and thirty  
30 cents per barrel of thirty-one gallons.

31 (b) Any brewery or beer distributor whose applicable tax payment is  
32 not postmarked by the twentieth day following the month of sale will be  
33 assessed a penalty at the rate of two percent per month or fraction  
34 thereof. Beer and strong beer (~~shall~~) must be sold by breweries and  
35 distributors in sealed barrels or packages.

1 (c) The moneys collected under this subsection (~~shall~~) must be  
2 distributed as follows: (i) Three-tenths of a percent (~~shall~~) must  
3 be distributed to border areas under RCW 66.08.195; and (ii) of the  
4 remaining moneys: (A) Twenty percent (~~shall~~) must be distributed to  
5 counties in the same manner as under RCW 66.08.200; and (B) eighty  
6 percent (~~shall~~) must be distributed to incorporated cities and towns  
7 in the same manner as under RCW 66.08.210.

8 (d) Any licensed retailer authorized to purchase beer from a  
9 certificate of approval holder with a direct shipment endorsement or a  
10 brewery or microbrewery (~~shall~~) must make monthly reports to the  
11 liquor control board on beer purchased during the preceding calendar  
12 month in the manner and upon such forms as may be prescribed by the  
13 board.

14 (2) An additional tax is imposed on all beer and strong beer  
15 subject to tax under subsection (1) of this section. The additional  
16 tax is equal to two dollars per barrel of thirty-one gallons. All  
17 revenues collected during any month from this additional tax (~~shall~~)  
18 must be deposited in the state general fund by the twenty-fifth day of  
19 the following month.

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

27 (b) The additional tax imposed under this subsection does not apply  
28 to the sale of the first sixty thousand barrels of beer each year by  
29 breweries that are entitled to a reduced rate of tax under 26 U.S.C.  
30 Sec. 5051 of the federal internal revenue code, as existing on July 1,  
31 1993, or such subsequent date as may be provided by the board by rule  
32 consistent with the purposes of this exemption.

33 (c) All revenues collected from the additional tax imposed under  
34 this subsection (3) (~~shall~~) must be deposited in the state general  
35 fund.

36 (4) An additional tax is imposed on all beer and strong beer that  
37 is subject to tax under subsection (1) of this section that is in the  
38 first sixty thousand barrels of beer and strong beer by breweries that

1 are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051 of the  
2 federal internal revenue code, as existing on July 1, 1993, or such  
3 subsequent date as may be provided by the board by rule consistent with  
4 the purposes of the exemption under subsection (3)(b) of this section.  
5 The additional tax is equal to one dollar and forty-eight and two-  
6 tenths cents per barrel of thirty-one gallons. By the twenty-fifth day  
7 of the following month, three percent of the revenues collected from  
8 this additional tax (~~shall~~) must be distributed to border areas under  
9 RCW 66.08.195 and the remaining moneys (~~shall~~) must be transferred to  
10 the state general fund.

11 (5)(a) (~~From June 1, 2010, through June 30, 2013,~~) An additional  
12 tax is imposed on all beer and strong beer subject to tax under  
13 subsection (1) of this section. ((The additional tax is equal to  
14 fifteen dollars and fifty cents per barrel of thirty-one gallons.

15 ~~(b) The additional tax imposed under this subsection does not apply~~  
16 ~~to the sale of the first sixty thousand barrels of beer each year by))~~  
17 Except as provided in (b) of this subsection, the additional tax is  
18 equal to seven dollars and seventy-five cents per barrel of thirty-one  
19 gallons.

20 (b) The additional tax is equal to four dollars and sixty-five  
21 cents per barrel of thirty-one gallons for breweries that are entitled  
22 to a reduced rate of tax under 26 U.S.C. Sec. 5051 of the federal  
23 internal revenue code, as existing on July 1, 1993, or such subsequent  
24 date as may be provided by the board by rule consistent with the  
25 purposes of this exemption.

26 (c) All revenues collected from the additional tax imposed under  
27 this subsection (~~shall~~) must be deposited in the (~~state general~~  
28 ~~fund~~) education legacy trust account created in RCW 83.100.230.

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

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

36 **PART VI**

1 **Imposing Sales Tax on Janitorial Services**

2 **Sec. 601.** RCW 82.04.050 and 2011 c 174 s 202 are each amended to  
3 read as follows:

4 (1)(a) "Sale at retail" or "retail sale" means every sale of  
5 tangible personal property (including articles produced, fabricated, or  
6 imprinted) to all persons irrespective of the nature of their business  
7 and including, among others, without limiting the scope hereof, persons  
8 who install, repair, clean, alter, improve, construct, or decorate real  
9 or personal property of or for consumers other than a sale to a person  
10 who:

11 (i) Purchases for the purpose of resale as tangible personal  
12 property in the regular course of business without intervening use by  
13 such person, but a purchase for the purpose of resale by a regional  
14 transit authority under RCW 81.112.300 is not a sale for resale; or

15 (ii) Installs, repairs, cleans, alters, imprints, improves,  
16 constructs, or decorates real or personal property of or for consumers,  
17 if such tangible personal property becomes an ingredient or component  
18 of such real or personal property without intervening use by such  
19 person; or

20 (iii) Purchases for the purpose of consuming the property purchased  
21 in producing for sale as a new article of tangible personal property or  
22 substance, of which such property becomes an ingredient or component or  
23 is a chemical used in processing, when the primary purpose of such  
24 chemical is to create a chemical reaction directly through contact with  
25 an ingredient of a new article being produced for sale; or

26 (iv) Purchases for the purpose of consuming the property purchased  
27 in producing ferrosilicon which is subsequently used in producing  
28 magnesium for sale, if the primary purpose of such property is to  
29 create a chemical reaction directly through contact with an ingredient  
30 of ferrosilicon; or

31 (v) Purchases for the purpose of providing the property to  
32 consumers as part of competitive telephone service, as defined in RCW  
33 82.04.065; or

34 (vi) Purchases for the purpose of satisfying the person's  
35 obligations under an extended warranty as defined in subsection (7) of  
36 this section, if such tangible personal property replaces or becomes an  
37 ingredient or component of property covered by the extended warranty  
38 without intervening use by such person.

1 (b) The term includes every sale of tangible personal property that  
2 is used or consumed or to be used or consumed in the performance of any  
3 activity defined as a "sale at retail" or "retail sale" even though  
4 such property is resold or used as provided in (a)(i) through (vi) of  
5 this subsection following such use.

6 (c) The term also means every sale of tangible personal property to  
7 persons engaged in any business that is taxable under RCW 82.04.280(1)  
8 (a), (b), and (g), 82.04.290, and 82.04.2908.

9 (2) The term "sale at retail" or "retail sale" includes the sale of  
10 or charge made for tangible personal property consumed and/or for labor  
11 and services rendered in respect to the following:

12 (a) The installing, repairing, cleaning, altering, imprinting, or  
13 improving of tangible personal property of or for consumers, including  
14 charges made for the mere use of facilities in respect thereto, but  
15 excluding charges made for the use of self-service laundry facilities,  
16 and also excluding sales of laundry service to nonprofit health care  
17 facilities, and excluding services rendered in respect to live animals,  
18 birds and insects;

19 (b) The constructing, repairing, decorating, or improving of new or  
20 existing buildings or other structures under, upon, or above real  
21 property of or for consumers, including the installing or attaching of  
22 any article of tangible personal property therein or thereto, whether  
23 or not such personal property becomes a part of the realty by virtue of  
24 installation, and also includes the sale of services or charges made  
25 for the clearing of land and the moving of earth excepting the mere  
26 leveling of land used in commercial farming or agriculture;

27 (c) The constructing, repairing, or improving of any structure  
28 upon, above, or under any real property owned by an owner who conveys  
29 the property by title, possession, or any other means to the person  
30 performing such construction, repair, or improvement for the purpose of  
31 performing such construction, repair, or improvement and the property  
32 is then reconveyed by title, possession, or any other means to the  
33 original owner;

34 (d) The cleaning, fumigating, razing, or moving of existing  
35 buildings or structures(~~(, but does not include the charge made for~~  
36 ~~janitorial services; and for purposes of this section the term~~  
37 ~~"janitorial services" means those cleaning and caretaking services~~  
38 ~~ordinarily performed by commercial janitor service businesses~~

1 ~~including, but not limited to, wall and window washing, floor cleaning~~  
2 ~~and waxing, and the cleaning in place of rugs, drapes and upholstery.~~  
3 ~~The term "janitorial services" does not include painting, papering,~~  
4 ~~repairing, furnace or septic tank cleaning, snow removal or~~  
5 ~~sandblasting));~~

6 (e) Automobile towing and similar automotive transportation  
7 services, but not in respect to those required to report and pay taxes  
8 under chapter 82.16 RCW;

9 (f) The furnishing of lodging and all other services by a hotel,  
10 rooming house, tourist court, motel, trailer camp, and the granting of  
11 any similar license to use real property, as distinguished from the  
12 renting or leasing of real property, and it is presumed that the  
13 occupancy of real property for a continuous period of one month or more  
14 constitutes a rental or lease of real property and not a mere license  
15 to use or enjoy the same. For the purposes of this subsection, it is  
16 presumed that the sale of and charge made for the furnishing of lodging  
17 for a continuous period of one month or more to a person is a rental or  
18 lease of real property and not a mere license to enjoy the same;

19 (g) The installing, repairing, altering, or improving of digital  
20 goods for consumers;

21 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of  
22 this subsection when such sales or charges are for property, labor and  
23 services which are used or consumed in whole or in part by such persons  
24 in the performance of any activity defined as a "sale at retail" or  
25 "retail sale" even though such property, labor and services may be  
26 resold after such use or consumption. Nothing contained in this  
27 subsection may be construed to modify subsection (1) of this section  
28 and nothing contained in subsection (1) of this section may be  
29 construed to modify this subsection.

30 (3) The term "sale at retail" or "retail sale" includes the sale of  
31 or charge made for personal, business, or professional services  
32 including amounts designated as interest, rents, fees, admission, and  
33 other service emoluments however designated, received by persons  
34 engaging in the following business activities:

35 (a) Amusement and recreation services including but not limited to  
36 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips  
37 for sightseeing purposes, and others, when provided to consumers;

38 (b) Abstract, title insurance, and escrow services;

1 (c) Credit bureau services;

2 (d) Automobile parking and storage garage services;

3 (e) Landscape maintenance and horticultural services but excluding

4 (i) horticultural services provided to farmers and (ii) pruning,

5 trimming, repairing, removing, and clearing of trees and brush near

6 electric transmission or distribution lines or equipment, if performed

7 by or at the direction of an electric utility;

8 (f) Service charges associated with tickets to professional

9 sporting events; and

10 (g) The following personal services: Physical fitness services,

11 tanning salon services, tattoo parlor services, steam bath services,

12 turkish bath services, escort services, and dating services.

13 (4)(a) The term also includes the renting or leasing of tangible

14 personal property to consumers.

15 (b) The term does not include the renting or leasing of tangible

16 personal property where the lease or rental is for the purpose of

17 sublease or subrent.

18 (5) The term also includes the providing of "competitive telephone

19 service," "telecommunications service," or "ancillary services," as

20 those terms are defined in RCW 82.04.065, to consumers.

21 (6)(a) The term also includes the sale of prewritten computer

22 software to a consumer, regardless of the method of delivery to the end

23 user. For purposes of this subsection (6)(a), the sale of prewritten

24 computer software includes the sale of or charge made for a key or an

25 enabling or activation code, where the key or code is required to

26 activate prewritten computer software and put the software into use.

27 There is no separate sale of the key or code from the prewritten

28 computer software, regardless of how the sale may be characterized by

29 the vendor or by the purchaser.

30 The term "retail sale" does not include the sale of or charge made

31 for:

32 (i) Custom software; or

33 (ii) The customization of prewritten computer software.

34 (b)(i) The term also includes the charge made to consumers for the

35 right to access and use prewritten computer software, where possession

36 of the software is maintained by the seller or a third party,

37 regardless of whether the charge for the service is on a per use, per

38 user, per license, subscription, or some other basis.

1 (ii)(A) The service described in (b)(i) of this subsection (6)  
2 includes the right to access and use prewritten computer software to  
3 perform data processing.

4 (B) For purposes of this subsection (6)(b)(ii), "data processing"  
5 means the systematic performance of operations on data to extract the  
6 required information in an appropriate form or to convert the data to  
7 usable information. Data processing includes check processing, image  
8 processing, form processing, survey processing, payroll processing,  
9 claim processing, and similar activities.

10 (7) The term also includes the sale of or charge made for an  
11 extended warranty to a consumer. For purposes of this subsection,  
12 "extended warranty" means an agreement for a specified duration to  
13 perform the replacement or repair of tangible personal property at no  
14 additional charge or a reduced charge for tangible personal property,  
15 labor, or both, or to provide indemnification for the replacement or  
16 repair of tangible personal property, based on the occurrence of  
17 specified events. The term "extended warranty" does not include an  
18 agreement, otherwise meeting the definition of extended warranty in  
19 this subsection, if no separate charge is made for the agreement and  
20 the value of the agreement is included in the sales price of the  
21 tangible personal property covered by the agreement. For purposes of  
22 this subsection, "sales price" has the same meaning as in RCW  
23 82.08.010.

24 (8)(a) The term also includes the following sales to consumers of  
25 digital goods, digital codes, and digital automated services:

26 (i) Sales in which the seller has granted the purchaser the right  
27 of permanent use;

28 (ii) Sales in which the seller has granted the purchaser a right of  
29 use that is less than permanent;

30 (iii) Sales in which the purchaser is not obligated to make  
31 continued payment as a condition of the sale; and

32 (iv) Sales in which the purchaser is obligated to make continued  
33 payment as a condition of the sale.

34 (b) A retail sale of digital goods, digital codes, or digital  
35 automated services under this subsection (8) includes any services  
36 provided by the seller exclusively in connection with the digital  
37 goods, digital codes, or digital automated services, whether or not a  
38 separate charge is made for such services.



1 (c) For purposes of this subsection, "permanent" means perpetual or  
2 for an indefinite or unspecified length of time. A right of permanent  
3 use is presumed to have been granted unless the agreement between the  
4 seller and the purchaser specifies or the circumstances surrounding the  
5 transaction suggest or indicate that the right to use terminates on the  
6 occurrence of a condition subsequent.

7 (9) The term also includes the charge made for providing tangible  
8 personal property along with an operator for a fixed or indeterminate  
9 period of time. A consideration of this is that the operator is  
10 necessary for the tangible personal property to perform as designed.  
11 For the purpose of this subsection (9), an operator must do more than  
12 maintain, inspect, or set up the tangible personal property.

13 (10) The term does not include the sale of or charge made for labor  
14 and services rendered in respect to the building, repairing, or  
15 improving of any street, place, road, highway, easement, right-of-way,  
16 mass public transportation terminal or parking facility, bridge,  
17 tunnel, or trestle which is owned by a municipal corporation or  
18 political subdivision of the state or by the United States and which is  
19 used or to be used primarily for foot or vehicular traffic including  
20 mass transportation vehicles of any kind.

21 (11) The term also does not include sales of chemical sprays or  
22 washes to persons for the purpose of postharvest treatment of fruit for  
23 the prevention of scald, fungus, mold, or decay, nor does it include  
24 sales of feed, seed, seedlings, fertilizer, agents for enhanced  
25 pollination including insects such as bees, and spray materials to:  
26 (a) Persons who participate in the federal conservation reserve  
27 program, the environmental quality incentives program, the wetlands  
28 reserve program, and the wildlife habitat incentives program, or their  
29 successors administered by the United States department of agriculture;  
30 (b) farmers for the purpose of producing for sale any agricultural  
31 product; and (c) farmers acting under cooperative habitat development  
32 or access contracts with an organization exempt from federal income tax  
33 under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or  
34 the Washington state department of fish and wildlife to produce or  
35 improve wildlife habitat on land that the farmer owns or leases.

36 (12) The term does not include the sale of or charge made for labor  
37 and services rendered in respect to the constructing, repairing,  
38 decorating, or improving of new or existing buildings or other

1 structures under, upon, or above real property of or for the United  
2 States, any instrumentality thereof, or a county or city housing  
3 authority created pursuant to chapter 35.82 RCW, including the  
4 installing, or attaching of any article of tangible personal property  
5 therein or thereto, whether or not such personal property becomes a  
6 part of the realty by virtue of installation. Nor does the term  
7 include the sale of services or charges made for the clearing of land  
8 and the moving of earth of or for the United States, any  
9 instrumentality thereof, or a county or city housing authority. Nor  
10 does the term include the sale of services or charges made for cleaning  
11 up for the United States, or its instrumentalities, radioactive waste  
12 and other by-products of weapons production and nuclear research and  
13 development.

14 (13) The term does not include the sale of or charge made for  
15 labor, services, or tangible personal property pursuant to agreements  
16 providing maintenance services for bus, rail, or rail fixed guideway  
17 equipment when a regional transit authority is the recipient of the  
18 labor, services, or tangible personal property, and a transit agency,  
19 as defined in RCW 81.104.015, performs the labor or services.

20 (14) The term does not include the sale for resale of any service  
21 described in this section if the sale would otherwise constitute a  
22 "sale at retail" and "retail sale" under this section.

23 **PART VII**  
24 **Modifying Tax Preferences for High-Tech Research and Development**

25 **Sec. 701.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to  
26 read as follows:

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

31 (2)(a) The credit is calculated as follows:  
32 ((+a)) (i) Determine the greater of the amount of qualified  
33 research and development expenditures of a person or eighty percent of  
34 amounts received by a person other than a public educational or  
35 research institution in compensation for the conduct of qualified  
36 research and development;

1       ~~((b))~~ (ii) Subtract 0.92 percent of the person's taxable amount  
2 from the amount determined under (a)(i) of this subsection;

3       ~~((c))~~ (iii) Multiply the amount determined under ~~((b))~~ (a)(ii)  
4 of this subsection by ~~(the following:~~

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

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

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

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

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

16       (b) For purposes of calculating the credit, if a person's reporting  
17 period is less than annual, the person may use an estimated average tax  
18 rate for the calendar year for which the credit is claimed by using the  
19 person's average tax rate for each reporting period. A person who uses  
20 an estimated average tax rate must make an adjustment to the total  
21 credit claimed for the calendar year using the person's actual average  
22 tax rate for the calendar year when the person files its last return  
23 for the calendar year for which the credit is claimed.

24       (3) Any person entitled to the credit provided in subsection (2) of  
25 this section as a result of qualified research and development  
26 conducted under contract may assign all or any portion of the credit to  
27 the person contracting for the performance of the qualified research  
28 and development.

29       (4) The credit, including any credit assigned to a person under  
30 subsection (3) of this section, must be claimed against taxes due for  
31 the same calendar year in which the qualified research and development  
32 expenditures are incurred. The credit, including any credit assigned  
33 to a person under subsection (3) of this section, for each calendar  
34 year may not exceed the lesser of two million dollars or the amount of  
35 tax otherwise due under this chapter for the calendar year.

36       (5) For any person claiming the credit, including any credit  
37 assigned to a person under subsection (3) of this section, whose  
38 research and development spending during the calendar year in which the

1 credit is claimed fails to exceed 0.92 percent of the person's taxable  
2 amount during the same calendar year or who is otherwise ineligible,  
3 the department must declare the taxes against which the credit was  
4 claimed to be immediately due and payable. The department must assess  
5 interest, but not penalties, on the taxes against which the credit was  
6 claimed. Interest must be assessed at the rate provided for delinquent  
7 excise taxes under chapter 82.32 RCW, retroactively to the date the  
8 credit was claimed, and accrues until the taxes against which the  
9 credit was claimed are repaid. Any credit assigned to a person under  
10 subsection (3) of this section that is disallowed as a result of this  
11 section may be claimed by the person who performed the qualified  
12 research and development subject to the limitations set forth in  
13 subsection (4) of this section.

14 (6) A person may not claim a credit under this section if the  
15 person reported an annual gross amount of ten million dollars or more  
16 in the prior calendar year. Taxpayers disallowed from claiming the  
17 credit under this subsection (6) are not required to refund any credit  
18 claimed in calendar year 2013 prior to the effective date of this  
19 section.

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

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

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

29 (b) "Qualified research and development expenditures" means  
30 operating expenses, including wages, compensation of a proprietor or a  
31 partner in a partnership as determined under rules adopted by the  
32 department, benefits, supplies, and computer expenses, directly  
33 incurred in qualified research and development by a person claiming the  
34 credit provided in this section. The term does not include amounts  
35 paid to a person other than a public educational or research  
36 institution to conduct qualified research and development. Nor does  
37 the term include capital costs and overhead, such as expenses for land,  
38 structures, or depreciable property.

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

3 (d) "Research and development spending" means qualified research  
4 and development expenditures plus eighty percent of amounts paid to a  
5 person other than a public educational or research institution to  
6 conduct qualified research and development.

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

12 (~~(8)~~) (9) This section expires January 1, 2015.

13 **Sec. 702.** RCW 82.63.030 and 2008 c 15 s 4 are each amended to read  
14 as follows:

15 (1) Except as provided in subsection (2) of this section, the  
16 department (~~shall~~) must issue a sales and use tax deferral  
17 certificate for state and local sales and use taxes due under chapters  
18 82.08, 82.12, and 82.14 RCW on each eligible investment project.

19 (2) No certificate may be issued for an investment project that has  
20 already received a deferral under chapter 82.60 RCW or this chapter,  
21 except that an investment project for qualified research and  
22 development that has already received a deferral may also receive an  
23 additional deferral certificate for adapting the investment project for  
24 use in pilot scale manufacturing.

25 (~~(3) (This section shall expire January 1, 2015.)~~) The department  
26 may not issue a certificate under this section on or after July 1,  
27 2013.

## 29 PART VIII

### 30 **Eliminating the Public Utility Tax Deduction on Interstate Hauls**

31 **Sec. 801.** RCW 82.16.050 and 2007 c 330 s 1 are each amended to  
32 read as follows:

33 In computing tax there may be deducted from the gross income the  
34 following items:

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

6 (2) Amounts derived from the sale of commodities to persons in the  
7 same public service business as the seller, for resale as such within  
8 this state. This deduction is allowed only with respect to water  
9 distribution, gas distribution or other public service businesses which  
10 furnish water, gas or any other commodity in the performance of public  
11 service businesses;

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

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

19 (5) The amount of bad debts, as that term is used in 26 U.S.C. Sec.  
20 166 of the federal internal revenue code, as amended (~~or renumbered~~)  
21 as of January 1, 2003, on which tax was previously paid under this  
22 chapter;

23 (6) Amounts derived from business which the state is prohibited  
24 from taxing under the Constitution of this state or the Constitution or  
25 laws of the United States;

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

28 (8) Until July 1, 2013, amounts derived from the transportation of  
29 commodities from points of origin in this state to final destination  
30 outside this state, or from points of origin outside this state to  
31 final destination in this state, with respect to which the carrier  
32 grants to the shipper the privilege of stopping the shipment in transit  
33 at some point in this state for the purpose of storing, manufacturing,  
34 milling, or other processing, and thereafter forwards the same  
35 commodity, or its equivalent, in the same or converted form, under a  
36 through freight rate from point of origin to final destination;

37 (9) Amounts derived from the transportation of commodities from  
38 points of origin in the state to an export elevator, wharf, dock or

1 ship side on tidewater or its navigable tributaries to be forwarded,  
2 without intervening transportation, by vessel, in their original form,  
3 to interstate or foreign destinations. No deduction is allowed under  
4 this subsection when the point of origin and the point of delivery to  
5 the export elevator, wharf, dock, or ship side are located within the  
6 corporate limits of the same city or town;

7 (10) Amounts derived from the transportation of agricultural  
8 commodities, not including manufactured substances or articles, from  
9 points of origin in the state to interim storage facilities in this  
10 state for transshipment, without intervening transportation, to an  
11 export elevator, wharf, dock, or ship side on tidewater or its  
12 navigable tributaries to be forwarded, without intervening  
13 transportation, by vessel, in their original form, to interstate or  
14 foreign destinations. If agricultural commodities are transshipped  
15 from interim storage facilities in this state to storage facilities at  
16 a port on tidewater or its navigable tributaries, the same agricultural  
17 commodity dealer must operate both the interim storage facilities and  
18 the storage facilities at the port.

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

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

28 (ii) Any of the agricultural commodity that is transshipped to  
29 ports on tidewater or its navigable tributaries will be received at  
30 storage facilities operated by the same agricultural commodity dealer  
31 and will be shipped from such facilities, without intervening  
32 transportation, by vessel, in their original form, to interstate or  
33 foreign destinations.

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

36 (11) Amounts derived from the production, sale, or transfer of  
37 electrical energy for resale within or outside the state or for  
38 consumption outside the state;

1 (12) Amounts derived from the distribution of water by a nonprofit  
2 water association and used for capital improvements by that nonprofit  
3 water association;

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

7 (14) Amounts derived from fees or charges imposed on persons for  
8 transit services provided by a public transportation agency. For the  
9 purposes of this subsection, "public transportation agency" means a  
10 municipality, as defined in RCW 35.58.272, and urban public  
11 transportation systems, as defined in RCW 47.04.082. Public  
12 transportation agencies (~~shall~~) must spend an amount equal to the  
13 reduction in tax provided by this tax deduction solely to adjust routes  
14 to improve access for citizens using food banks and senior citizen  
15 services or to extend or add new routes to assist low-income citizens  
16 and seniors;

17 (15) Until July 1, 2013, amounts received from interstate  
18 transportation. For purposes of this subsection, "interstate  
19 transportation" means transporting persons or property between states  
20 or between a state and a foreign country. "State" means a state of the  
21 United States, the District of Columbia, the Commonwealth of Puerto  
22 Rico, and any territory or possession of the United States.

23 NEW SECTION. Sec. 802. A new section is added to chapter 82.16  
24 RCW to read as follows:

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

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

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

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



1 (iii) Then multiply the percentage for property transported as  
2 determined under (a) of this subsection by the percentage of gross  
3 income from transporting property as determined under (b)(ii) of this  
4 subsection, and multiply the percentage for persons transported as  
5 determined under (a) of this subsection by the percentage of gross  
6 income from transporting persons as determined under (b)(ii) of this  
7 subsection.

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

12 (3) For persons that transport gas, oil, petroleum products, or  
13 other products by pipeline, gross income must be apportioned to this  
14 state based on the ratio that the total number of traffic units in this  
15 state during the tax period bear to the total number of traffic units  
16 everywhere during the tax period.

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

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

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

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

## 27 PART IX

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

29 **Sec. 901.** RCW 82.04.610 and 2007 c 477 s 2 are each amended to  
30 read as follows:

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

34 (2) ~~((Tangible personal property))~~ (a) An aerospace product is in  
35 import commerce while the ~~((property))~~ product is in the process of  
36 import transportation. Except as provided in (a)(i) through ~~((e))~~

1 (iii) of this subsection, ~~((property))~~ an aerospace product is in the  
2 process of import transportation from the time the ~~((property))~~ product  
3 begins its transportation at a point outside of the United States until  
4 the time that the ~~((property))~~ product is delivered to the buyer in  
5 this state. ~~((Property))~~ An aerospace product is also in the process  
6 of import transportation if it is merely flowing through this state on  
7 its way to a destination in some other state or country. However,  
8 ~~((property))~~ an aerospace product is no longer in the process of import  
9 transportation when the ~~((property))~~ product is:

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

12 ~~((+b))~~ (ii) Resold by the importer or any other person after the  
13 ~~((property))~~ product has arrived in this state or any other state,  
14 territory, or possession of the United States, regardless of whether  
15 the ~~((property))~~ product is in its original unbroken package or  
16 container; or

17 ~~((+c))~~ (iii) Processed, handled, or otherwise stopped in transit  
18 for a business purpose other than shipping needs, if the processing,  
19 handling, or other stoppage of transit occurs within the United States,  
20 including any of its possessions or territories, or the territorial  
21 waters of this state or any other state, regardless of whether the  
22 processing, handling, or other stoppage of transit occurs within a  
23 foreign trade zone.

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

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

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

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

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

34 (iv) The buyer in this state if the property is capable of being  
35 transported to a foreign destination under its own power, the seller  
36 files a shipper's export declaration with respect to the property  
37 listing the seller as the exporter, and the buyer immediately

1 transports the property directly to a destination in a foreign country.  
2 This subsection (3)(a)(iv) does not apply to sales of motor vehicles as  
3 defined in RCW 46.04.320.

4 (b) The exemption under this subsection (3) applies with respect to  
5 property delivered to the buyer in this state if, at the time of  
6 delivery, there is a certainty of export, and the process of export has  
7 begun. The process of exportation will not be deemed to have begun if  
8 the property is merely in storage awaiting shipment, even though there  
9 is reasonable certainty that the property will be exported. The  
10 intention to export, as evidenced for example, by financial and  
11 contractual relationships does not indicate certainty of export. The  
12 process of exportation begins when the property starts its final and  
13 certain continuous movement to a destination in a foreign country.

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

17 **PART X**

18 **Repealing the Preferential Rate B&O Rate for Sellers of Prescription**  
19 **Drugs**

20 NEW SECTION. **Sec. 1001.** RCW 82.04.272 (Tax on warehousing and  
21 reselling prescription drugs) and 2003 c 168 s 401 & 1998 c 343 s 1 are  
22 each repealed.

23 **PART XI**

24 **The Use Tax Exemption for Extracted Fuel**

25 **Sec. 1101.** RCW 82.12.0263 and 1980 c 37 s 62 are each amended to  
26 read as follows:

27 The provisions of this chapter (~~shall~~) do not apply in respect to  
28 the use of hog fuel by the extractor or manufacturer thereof when used  
29 directly in the operation of the particular extractive operation or  
30 manufacturing plant which produced or manufactured the same. For  
31 purposes of this section, "hog fuel" means wood waste and other wood  
32 residuals, including forest derived biomass, but does not include  
33 firewood or wood pellets. "Hog fuel" also includes organic by-products  
34 of pulp, paper, and wood manufacturing processes.

1 NEW SECTION. Sec. 1102. A new section is added to chapter 82.12  
2 RCW to read as follows:  
3 The value of the article used with respect to refinery fuel gas  
4 under this chapter is the most recent monthly United States natural gas  
5 wellhead price, as published by the federal energy information  
6 administration.

7 **PART XII**  
8 **Technical Amendments**

9 **Sec. 1201.** RCW 82.04.250 and 2010 1st sp.s. c 23 s 509 are each  
10 amended to read as follows:

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

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

23 (3) Until July 1, 2024, upon every person classified by the federal  
24 aviation administration as a federal aviation regulation part 145  
25 certificated repair station and that is engaging within this state in  
26 the business of making sales at retail that are exempt from the tax  
27 imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,  
28 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with  
29 respect to such business is equal to the gross proceeds of sales of the  
30 business, multiplied by the rate of .2904 percent.

31 **Sec. 1202.** RCW 82.04.261 and 2010 1st sp.s. c 23 s 510 are each  
32 amended to read as follows:

33 (1) In addition to the taxes imposed under RCW 82.04.260((+11+))  
34 (9), a surcharge is imposed on those persons who are subject to any of  
35 the taxes imposed under RCW 82.04.260((+11+)) (9). Except as otherwise

1 provided in this section, the surcharge is equal to 0.052 percent. The  
2 surcharge is added to the rates provided in RCW 82.04.260(~~((+11+))~~) (9)  
3 (a), (b), (c), and (d). The surcharge and this section expire July 1,  
4 2024.

5 (2) All receipts from the surcharge imposed under this section must  
6 be deposited into the forest and fish support account created in RCW  
7 76.09.405.

8 (3)(a) The surcharge imposed under this section is suspended if:

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

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

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

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

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

1 department must adjust the surcharge in accordance with this  
2 subsection.

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

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

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

19 (e) Adjustments of the amount of the surcharge by the department  
20 are final and may not be used to challenge the validity of the  
21 surcharge imposed under this section.

22 (f) The department must provide timely notice to affected taxpayers  
23 of the suspension of the surcharge or an adjustment of the surcharge.

24 (5) The office of financial management must make the certification  
25 to the department as to the status of federal appropriations for tribal  
26 participation in forest and fish report-related activities.

27 **Sec. 1203.** RCW 82.04.334 and 2010 1st sp.s. c 23 s 512 are each  
28 amended to read as follows:

29 This chapter does not apply to any sale of standing timber excluded  
30 from the definition of "sale" in RCW 82.45.010(3). The definitions in  
31 RCW 82.04.260(~~((+11))~~) (9) apply to this section.

32 **Sec. 1204.** RCW 82.04.4463 and 2010 1st sp.s. c 23 s 515 are each  
33 amended to read as follows:

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

1 (2) The credit is equal to:

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

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

10 (C) Property taxes or leasehold excise taxes paid on, or with  
11 respect to, buildings constructed after June 30, 2008, the land upon  
12 which the buildings are located, or both, and used exclusively for  
13 aerospace product development, manufacturing tooling specifically  
14 designed for use in manufacturing commercial airplanes or their  
15 components, or in providing aerospace services, by persons not within  
16 the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable  
17 under RCW 82.04.290(3), 82.04.260(~~(+10+)~~) (8)(b), or 82.04.250(3); or

18 (ii) Property taxes attributable to an increase in assessed value  
19 due to the renovation or expansion, after: (A) December 1, 2003, of a  
20 building used exclusively in manufacturing commercial airplanes or  
21 components of such airplanes; and (B) June 30, 2008, of buildings used  
22 exclusively for aerospace product development, manufacturing tooling  
23 specifically designed for use in manufacturing commercial airplanes or  
24 their components, or in providing aerospace services, by persons not  
25 within the scope of (a)(ii)(A) of this subsection (2) and are taxable  
26 under RCW 82.04.290(3), 82.04.260(~~(+10+)~~) (8)(b), or 82.04.250(3); and

27 (b) An amount equal to:

28 (i)(A) Property taxes paid, by persons taxable under RCW  
29 82.04.260(~~(+10+)~~) (8)(a), on machinery and equipment exempt under RCW  
30 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

31 (B) Property taxes paid, by persons taxable under RCW  
32 82.04.260(~~(+10+)~~) (8)(b), on machinery and equipment exempt under RCW  
33 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

34 (C) Property taxes paid, by persons taxable under RCW 82.04.250(3)  
35 or 82.04.290(3), on computer hardware, computer peripherals, and  
36 software exempt under RCW 82.08.975 or 82.12.975 and acquired after  
37 June 30, 2008.

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

4 (A) The numerator of the fraction is the total taxable amount  
5 subject to the tax imposed under RCW 82.04.260(~~(+10)~~) (8) (a) or (b)  
6 on the applicable business activities of manufacturing commercial  
7 airplanes, components of such airplanes, or tooling specifically  
8 designed for use in the manufacturing of commercial airplanes or  
9 components of such airplanes.

10 (B) The denominator of the fraction is the total taxable amount  
11 subject to the tax imposed under all manufacturing classifications in  
12 chapter 82.04 RCW.

13 (C) For purposes of both the numerator and denominator of the  
14 fraction, the total taxable amount refers to the total taxable amount  
15 required to be reported on the person's returns for the calendar year  
16 before the calendar year in which the credit under this section is  
17 earned. The department may provide for an alternative method for  
18 calculating the numerator in cases where the tax rate provided in RCW  
19 82.04.260(~~(+10)~~) (8) for manufacturing was not in effect during the  
20 full calendar year before the calendar year in which the credit under  
21 this section is earned.

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

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

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

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

33 (b) "Aerospace services" has the same meaning given in RCW  
34 82.08.975.

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

37 (4) A credit earned during one calendar year may be carried over to



1 be credited against taxes incurred in a subsequent calendar year, but  
2 may not be carried over a second year. No refunds may be granted for  
3 credits under this section.

4 (5) In addition to all other requirements under this title, a  
5 person claiming the credit under this section must file a complete  
6 annual report with the department under RCW 82.32.534.

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

8 **Sec. 1205.** RCW 82.04.460 and 2011 c 174 s 203 are each amended to  
9 read as follows:

10 (1) Except as otherwise provided in this section, any person  
11 earning apportionable income taxable under this chapter and also  
12 taxable in another state must, for the purpose of computing tax  
13 liability under this chapter, apportion to this state, in accordance  
14 with RCW 82.04.462, that portion of the person's apportionable income  
15 derived from business activities performed within this state.

16 (2) The department must by rule provide a method of apportioning  
17 the apportionable income of financial institutions, where such  
18 apportionable income is taxable under RCW 82.04.290. The rule adopted  
19 by the department must, to the extent feasible, be consistent with the  
20 multistate tax commission's recommended formula for the apportionment  
21 and allocation of net income of financial institutions as existing on  
22 June 1, 2010, or such subsequent date as may be provided by the  
23 department by rule, consistent with the purposes of this section,  
24 except that:

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

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

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

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

3 (a) "Apportionable income" means gross income of the business  
4 generated from engaging in apportionable activities, including income  
5 received from apportionable activities performed outside this state if  
6 the income would be taxable under this chapter if received from  
7 activities in this state, less the exemptions and deductions allowable  
8 under this chapter. For purposes of this subsection, "apportionable  
9 activities" means only those activities taxed under:

10 (i) RCW 82.04.255;

11 (ii) RCW 82.04.260 (3), (~~(4), (5), (6), (7), (8), (9), and (12)~~)  
12 (5), (6), and (10);

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

14 (iv) RCW 82.04.285;

15 (v) RCW 82.04.286;

16 (vi) RCW 82.04.290;

17 (vii) RCW 82.04.2907;

18 (viii) RCW 82.04.2908;

19 (ix) RCW 82.04.263, but only to the extent of any activity that  
20 would be taxable under any of the provisions enumerated under (a)(i)  
21 through (viii) of this subsection (4) if the tax classification in RCW  
22 82.04.263 did not exist; and

23 (x) RCW 82.04.260(~~(13)~~) (11) and 82.04.280(1)(a), but only with  
24 respect to advertising.

25 (b)(i) "Taxable in another state" means that the taxpayer is  
26 subject to a business activities tax by another state on its income  
27 received from engaging in apportionable activities; or the taxpayer is  
28 not subject to a business activities tax by another state on its income  
29 received from engaging in apportionable activities, but any other state  
30 has jurisdiction to subject the taxpayer to a business activities tax  
31 on such income under the substantial nexus standards in RCW  
32 82.04.067(1).

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

35 **Sec. 1206.** RCW 82.08.806 and 2011 c 174 s 204 are each amended to  
36 read as follows:

37 (1) The tax levied by RCW 82.08.020 does not apply to sales, to a

1 printer or publisher, of computer equipment, including repair parts and  
2 replacement parts for such equipment, when the computer equipment is  
3 used primarily in the printing or publishing of any printed material,  
4 or to sales of or charges made for labor and services rendered in  
5 respect to installing, repairing, cleaning, altering, or improving the  
6 computer equipment. This exemption applies only to computer equipment  
7 not otherwise exempt under RCW 82.08.02565.

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

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

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

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

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

24 (d) "Primarily" means greater than fifty percent as measured by  
25 time.

26 (e) "Printer or publisher" means a person, as defined in RCW  
27 82.04.030, who is subject to tax under RCW 82.04.260(~~(+13+)~~) (11) or  
28 82.04.280(1)(a).

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

1       **Sec. 1207.** RCW 82.45.195 and 2010 1st sp.s. c 23 s 518 are each  
2 amended to read as follows:

3       A sale of standing timber is exempt from tax under this chapter if  
4 the gross income from such sale is taxable under RCW 82.04.260(~~(+11)~~)  
5 (9)(d).

6       **Sec. 1208.** RCW 48.14.080 and 2010 1st sp.s. c 23 s 520 are each  
7 amended to read as follows:

8       (1) As to insurers, other than title insurers and taxpayers under  
9 RCW 48.14.0201, the taxes imposed by this title are in lieu of all  
10 other taxes, except as otherwise provided in this section.

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

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

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

18       (c) The tax imposed in RCW 82.04.260(~~(+9)~~) (7), regarding public  
19 and nonprofit hospitals.

20       (3) For the purposes of this section, the term "taxes" includes  
21 taxes imposed by the state or any county, city, town, municipal  
22 corporation, quasi-municipal corporation, or other political  
23 subdivision.

24       **Sec. 1209.** RCW 35.102.150 and 2011 c 174 s 201 are each amended to  
25 read as follows:

26       Notwithstanding RCW 35.102.130, a city that imposes a business and  
27 occupation tax must allocate a person's gross income from the  
28 activities of printing, and of publishing newspapers, periodicals, or  
29 magazines, to the principal place in this state from which the  
30 taxpayer's business is directed or managed. As used in this section,  
31 the activities of printing, and of publishing newspapers, periodicals,  
32 or magazines are those activities to which the tax rates in RCW  
33 82.04.260(~~(+13)~~) (11) and 82.04.280(1)(a) apply.

34                               **PART XIII**

1                                   **Transfers to Education Legacy Trust Account**

2           NEW SECTION.   **Sec. 1301.**   A new section is added to chapter 82.32  
3 RCW to read as follows:

4           (1) By the last workday of the first and third calendar quarters,  
5 the state treasurer must transfer the amount specified in subsection  
6 (2) of this section from the general fund to the education legacy trust  
7 account. The first two transfers under this subsection (1) must occur  
8 by April 30, 2013, and September 30, 2013.

9           (2) The department must estimate the increase in state general fund  
10 revenues from the changes made under parts II through IV and VI through  
11 XI of this act for the immediately preceding third and fourth calendar  
12 quarters for the April transfer under subsection (1) of this section  
13 and the immediately preceding first and second calendar quarters for  
14 the September transfer under subsection (1) of this section. The  
15 department must notify the state treasurer of this amount at least  
16 twenty days prior to the April or September transfer under subsection  
17 (1) of this section.

18   **PART XIV**

19   **Miscellaneous Technical Provisions**

20           NEW SECTION.   **Sec. 1401.**   (1) Except as otherwise provided in this  
21 section, this act is necessary for the immediate preservation of the  
22 public peace, health, or safety, or support of the state government and  
23 its existing public institutions, and takes effect July 1, 2013.

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

25           NEW SECTION.   **Sec. 1402.**   Section 201 of this act expires July 1,  
26 2015.

27           NEW SECTION.   **Sec. 1403.**   Sections 701 and 702 of this act expire  
28 January 1, 2015.

29           NEW SECTION.   **Sec. 1404.**   Sections 1202 and 1204 of this act expire  
30 July 1, 2024.

**--- END ---**