

SUBSTITUTE SENATE BILL 6333

State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senators Schoesler and Hargrove)

READ FIRST TIME 02/03/14.

1 AN ACT Relating to tax statute clarifications, simplifications, and
2 technical corrections; amending RCW 34.05.010, 82.32.534, 82.32.585,
3 82.32.235, 82.04.285, 82.04.460, 82.04.462, 82.08.02807, 82.45.150,
4 82.45.195, 84.33.140, 84.34.065, 84.34.300, 84.34.330, 84.34.370,
5 84.55.005, 82.08.02061, 82.04.250, 82.04.250, 82.04.290, 82.04.290,
6 82.08.9651, 82.12.9651, 84.40.038, 84.40.175, 82.44.015, 82.08.0287,
7 82.12.0282, 82.08.855, 82.08.890, 82.12.855, and 82.12.890; reenacting
8 and amending RCW 60.28.040, 82.04.190, 84.34.108, 84.34.320, and
9 46.74.010; repealing RCW 82.32.795; and providing a contingent
10 expiration date.

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

Part I

Improving Administrative Efficiency

14 **Sec. 101.** RCW 34.05.010 and 2013 c 110 s 3 are each amended to
15 read as follows:

16 The definitions ((set forth)) in this section ((shall)) apply
17 throughout this chapter((,)) unless the context clearly requires
18 otherwise.

1 (1) "Adjudicative proceeding" means a proceeding before an agency
2 in which an opportunity for hearing before that agency is required by
3 statute or constitutional right before or after the entry of an order
4 by the agency. Adjudicative proceedings also include all cases of
5 licensing and rate making in which an application for a license or rate
6 change is denied except as limited by RCW 66.08.150, or a license is
7 revoked, suspended, or modified, or in which the granting of an
8 application is contested by a person having standing to contest under
9 the law.

10 (2) "Agency" means any state board, commission, department,
11 institution of higher education, or officer, authorized by law to make
12 rules or to conduct adjudicative proceedings, except those in the
13 legislative or judicial branches, the governor, or the attorney general
14 except to the extent otherwise required by law and any local
15 governmental entity that may request the appointment of an
16 administrative law judge under chapter 42.41 RCW.

17 (3) "Agency action" means licensing, the implementation or
18 enforcement of a statute, the adoption or application of an agency rule
19 or order, the imposition of sanctions, or the granting or withholding
20 of benefits.

21 Agency action does not include an agency decision regarding (a)
22 contracting or procurement of goods, services, public works, and the
23 purchase, lease, or acquisition by any other means, including eminent
24 domain, of real estate, as well as all activities necessarily related
25 to those functions, or (b) determinations as to the sufficiency of a
26 showing of interest filed in support of a representation petition, or
27 mediation or conciliation of labor disputes or arbitration of labor
28 disputes under a collective bargaining law or similar statute, or (c)
29 any sale, lease, contract, or other proprietary decision in the
30 management of public lands or real property interests, or (d) the
31 granting of a license, franchise, or permission for the use of
32 trademarks, symbols, and similar property owned or controlled by the
33 agency.

34 (4) "Agency head" means the individual or body of individuals in
35 whom the ultimate legal authority of the agency is vested by any
36 provision of law. If the agency head is a body of individuals, a
37 majority of those individuals constitutes the agency head.

1 (5) "Entry" of an order means the signing of the order by all
2 persons who are to sign the order, as an official act indicating that
3 the order is to be effective.

4 (6) "Filing" of a document that is required to be filed with an
5 agency means delivery of the document to a place designated by the
6 agency by rule for receipt of official documents, or in the absence of
7 such designation, at the office of the agency head.

8 (7) "Institutions of higher education" are the University of
9 Washington, Washington State University, Central Washington University,
10 Eastern Washington University, Western Washington University, The
11 Evergreen State College, the various community colleges, and the
12 governing boards of each of the above, and the various colleges,
13 divisions, departments, or offices authorized by the governing board of
14 the institution involved to act for the institution, all of which are
15 sometimes referred to in this chapter as "institutions."

16 (8) "Interpretive statement" means a written expression of the
17 opinion of an agency, entitled an interpretive statement by the agency
18 head or its designee, as to the meaning of a statute or other provision
19 of law, of a court decision, or of an agency order.

20 (9)(a) "License" means a franchise, permit, certification,
21 approval, registration, charter, or similar form of authorization
22 required by law, but does not include (i) a license required solely for
23 revenue purposes, or (ii) a certification of an exclusive bargaining
24 representative, or similar status, under a collective bargaining law or
25 similar statute, or (iii) a license, franchise, or permission for use
26 of trademarks, symbols, and similar property owned or controlled by the
27 agency.

28 (b) "Licensing" includes the agency process respecting the
29 issuance, denial, revocation, suspension, or modification of a license.

30 (10) "Mail" or "send," for purposes of any notice relating to rule
31 making or policy or interpretive statements, means regular mail or
32 electronic distribution, as provided in RCW 34.05.260. "Electronic
33 distribution" or "electronically" means distribution by electronic mail
34 or facsimile mail.

35 (11)(a) "Order," without further qualification, means a written
36 statement of particular applicability that finally determines the legal
37 rights, duties, privileges, immunities, or other legal interests of a
38 specific person or persons.

1 (b) "Order of adoption" means the official written statement by
2 which an agency adopts, amends, or repeals a rule.

3 (12) "Party to agency proceedings," or "party" in a context so
4 indicating, means:

5 (a) A person to whom the agency action is specifically directed; or

6 (b) A person named as a party to the agency proceeding or allowed
7 to intervene or participate as a party in the agency proceeding.

8 (13) "Party to judicial review or civil enforcement proceedings,"
9 or "party" in a context so indicating, means:

10 (a) A person who files a petition for a judicial review or civil
11 enforcement proceeding; or

12 (b) A person named as a party in a judicial review or civil
13 enforcement proceeding, or allowed to participate as a party in a
14 judicial review or civil enforcement proceeding.

15 (14) "Person" means any individual, partnership, corporation,
16 association, governmental subdivision or unit thereof, or public or
17 private organization or entity of any character, and includes another
18 agency.

19 (15) "Policy statement" means a written description of the current
20 approach of an agency, entitled a policy statement by the agency head
21 or its designee, to implementation of a statute or other provision of
22 law, of a court decision, or of an agency order, including where
23 appropriate the agency's current practice, procedure, or method of
24 action based upon that approach.

25 (16) "Rule" means any agency order, directive, or regulation of
26 general applicability (a) the violation of which subjects a person to
27 a penalty or administrative sanction; (b) which establishes, alters, or
28 revokes any procedure, practice, or requirement relating to agency
29 hearings; (c) which establishes, alters, or revokes any qualification
30 or requirement relating to the enjoyment of benefits or privileges
31 conferred by law; (d) which establishes, alters, or revokes any
32 qualifications or standards for the issuance, suspension, or revocation
33 of licenses to pursue any commercial activity, trade, or profession; or
34 (e) which establishes, alters, or revokes any mandatory standards for
35 any product or material which must be met before distribution or sale.
36 The term includes the amendment or repeal of a prior rule, but does not
37 include (i) statements concerning only the internal management of an
38 agency and not affecting private rights or procedures available to the

1 public, (ii) declaratory rulings issued pursuant to RCW 34.05.240,
2 (iii) traffic restrictions for motor vehicles, bicyclists, and
3 pedestrians established by the secretary of transportation or his or
4 her designee where notice of such restrictions is given by official
5 traffic control devices, (~~(iv)~~) (iv) rules of institutions of higher
6 education involving standards of admission, academic advancement,
7 academic credit, graduation and the granting of degrees, employment
8 relationships, or fiscal processes, or (v) the determination and
9 publication of updated nexus thresholds by the department of revenue in
10 accordance with RCW 82.04.067.

11 (17) "Rules review committee" or "committee" means the joint
12 administrative rules review committee created pursuant to RCW 34.05.610
13 for the purpose of selectively reviewing existing and proposed rules of
14 state agencies.

15 (18) "Rule making" means the process for formulation and adoption
16 of a rule.

17 (19) "Service," except as otherwise provided in this chapter, means
18 posting in the United States mail, properly addressed, postage prepaid,
19 or personal or electronic service. Service by mail is complete upon
20 deposit in the United States mail. Agencies may, by rule, authorize
21 service by electronic transmission, or by commercial parcel delivery
22 company.

23 **Sec. 102.** RCW 82.32.534 and 2010 c 114 s 103 are each amended to
24 read as follows:

25 (1)(a) Every person claiming a tax preference that requires a
26 report under this section must file a complete annual report with the
27 department. The report is due by April 30th of the year following any
28 calendar year in which a person becomes eligible to claim the tax
29 preference that requires a report under this section. The department
30 may extend the due date for timely filing of annual reports under this
31 section as provided in RCW 82.32.590.

32 (b) The report must include information detailing employment,
33 wages, and employer-provided health and retirement benefits for
34 employment positions in Washington for the year that the tax preference
35 was claimed. However, persons engaged in manufacturing commercial
36 airplanes or components of such airplanes may report employment, wage,
37 and benefit information per job at the manufacturing site for the year

1 that the tax preference was claimed. The report must not include names
2 of employees. The report must also detail employment by the total
3 number of full-time, part-time, and temporary positions for the year
4 that the tax preference was claimed.

5 (c) Persons receiving the benefit of the tax preference provided by
6 RCW 82.16.0421 or claiming any of the tax preferences provided by RCW
7 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must
8 indicate on the annual report the quantity of product produced in this
9 state during the time period covered by the report.

10 (d) If a person filing a report under this section did not file a
11 report with the department in the previous calendar year, the report
12 filed under this section must also include employment, wage, and
13 benefit information for the calendar year immediately preceding the
14 calendar year for which a tax preference was claimed.

15 (2) As part of the annual report, the department may request
16 additional information necessary to measure the results of, or
17 determine eligibility for, the tax preference.

18 (3) Other than information requested under subsection (2) of this
19 section, the information contained in an annual report filed under this
20 section is not subject to the confidentiality provisions of RCW
21 82.32.330 and may be disclosed to the public upon request.

22 (4) Except as otherwise provided by law, if a person claims a tax
23 preference that requires an annual report under this section but fails
24 to submit a complete report by the due date or any extension under RCW
25 82.32.590, the department must declare the amount of the tax preference
26 claimed for the previous calendar year to be immediately due and
27 payable. The department must assess interest, but not penalties, on
28 the amounts due under this subsection. The interest must be assessed
29 at the rate provided for delinquent taxes under this chapter,
30 retroactively to the date the tax preference was claimed, and accrues
31 until the taxes for which the tax preference was claimed are repaid.
32 Amounts due under this subsection are not subject to the
33 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
34 public upon request.

35 (5) The department must use the information from this section to
36 prepare summary descriptive statistics by category. No fewer than
37 three taxpayers may be included in any category. The department must

1 report these statistics to the legislature each year by (~~October~~)
2 December 1st.

3 (6) For the purposes of this section:

4 (a) "Person" has the meaning provided in RCW 82.04.030 and also
5 includes the state and its departments and institutions.

6 (b) "Tax preference" has the meaning provided in RCW 43.136.021 and
7 includes only the tax preferences requiring a survey under this
8 section.

9 **Sec. 103.** RCW 82.32.585 and 2011 c 23 s 6 are each amended to read
10 as follows:

11 (1)(a) Every person claiming a tax preference that requires a
12 survey under this section must file a complete annual survey with the
13 department.

14 (i) Except as provided in (a)(ii) of this subsection, the survey is
15 due by April 30th of the year following any calendar year in which a
16 person becomes eligible to claim the tax preference that requires a
17 survey under this section.

18 (ii) If the tax preference is a deferral of tax, the first survey
19 must be filed by April 30th of the calendar year following the calendar
20 year in which the investment project is certified by the department as
21 operationally complete, and a survey must be filed by April 30th of
22 each of the seven succeeding calendar years.

23 (b) The department may extend the due date for timely filing of
24 annual surveys under this section as provided in RCW 82.32.590.

25 (2)(a) The survey must include the amount of the tax preference
26 claimed for the calendar year covered by the survey. For a person that
27 claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the
28 survey must include the amount of tax exempted under those sections in
29 the prior calendar year for each general area or category of research
30 and development for which exempt machinery and equipment and labor and
31 services were acquired in the prior calendar year.

32 (b) The survey must also include the following information for
33 employment positions in Washington, not to include names of employees,
34 for the year that the tax preference was claimed:

35 (i) The number of total employment positions;

36 (ii) Full-time, part-time, and temporary employment positions as a
37 percent of total employment;

1 (iii) The number of employment positions according to the following
2 wage bands: Less than thirty thousand dollars; thirty thousand dollars
3 or greater, but less than sixty thousand dollars; and sixty thousand
4 dollars or greater. A wage band containing fewer than three
5 individuals may be combined with another wage band; and

6 (iv) The number of employment positions that have employer-provided
7 medical, dental, and retirement benefits, by each of the wage bands.

8 (c) For persons claiming the tax preference provided under chapter
9 82.60 or 82.63 RCW, the survey must also include the number of new
10 products or research projects by general classification, and the number
11 of trademarks, patents, and copyrights associated with activities at
12 the investment project.

13 (d) For persons claiming the credit provided under RCW 82.04.4452,
14 the survey must also include the qualified research and development
15 expenditures during the calendar year for which the credit was claimed,
16 the taxable amount during the calendar year for which the credit was
17 claimed, the number of new products or research projects by general
18 classification, the number of trademarks, patents, and copyrights
19 associated with the research and development activities for which the
20 credit was claimed, and whether the tax preference has been assigned,
21 and who assigned the credit. The definitions in RCW 82.04.4452 apply
22 to this subsection (2)(d).

23 (e) For persons claiming the tax exemption in RCW 82.08.025651 or
24 82.12.025651, the survey must also include the general areas or
25 categories of research and development for which machinery and
26 equipment and labor and services were acquired, exempt from tax under
27 RCW 82.08.025651 or 82.12.025651, in the prior calendar year.

28 (f) If the person filing a survey under this section did not file
29 a survey with the department in the previous calendar year, the survey
30 filed under this section must also include the employment, wage, and
31 benefit information required under (b)(i) through (iv) of this
32 subsection for the calendar year immediately preceding the calendar
33 year for which a tax preference was claimed.

34 (3) As part of the annual survey, the department may request
35 additional information necessary to measure the results of, or
36 determine eligibility for, the tax preference.

37 (4) All information collected under this section, except the
38 information required in subsection (2)(a) of this section, is deemed

1 taxpayer information under RCW 82.32.330. Information required in
2 subsection (2)(a) of this section is not subject to the confidentiality
3 provisions of RCW 82.32.330 and may be disclosed to the public upon
4 request, except as provided in subsection (5) of this section. If the
5 amount of the tax preference claimed as reported on the survey is
6 different than the amount actually claimed or otherwise allowed by the
7 department based on the taxpayer's excise tax returns or other
8 information known to the department, the amount actually claimed or
9 allowed may be disclosed.

10 (5) Persons for whom the actual amount of the tax reduced or saved
11 is less than ten thousand dollars during the period covered by the
12 survey may request the department to treat the amount of the tax
13 reduction or savings as confidential under RCW 82.32.330.

14 (6)(a) Except as otherwise provided by law, if a person claims a
15 tax preference that requires an annual survey under this section but
16 fails to submit a complete annual survey by the due date of the survey
17 or any extension under RCW 82.32.590, the department must declare the
18 amount of the tax preference claimed for the previous calendar year to
19 be immediately due. If the tax preference is a deferral of tax, twelve
20 and one-half percent of the deferred tax is immediately due. If the
21 economic benefits of the deferral are passed to a lessee, the lessee is
22 responsible for payment to the extent the lessee has received the
23 economic benefit.

24 (b) The department must assess interest, but not penalties, on the
25 amounts due under this subsection. The interest must be assessed at
26 the rate provided for delinquent taxes under this chapter,
27 retroactively to the date the tax preference was claimed, and accrues
28 until the taxes for which the tax preference was claimed are repaid.
29 Amounts due under this subsection are not subject to the
30 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
31 public upon request.

32 (7) The department must use the information from this section to
33 prepare summary descriptive statistics by category. No fewer than
34 three taxpayers may be included in any category. The department must
35 report these statistics to the legislature each year by (~~October~~)
36 December 1st.

37 (8) For the purposes of this section:

1 (a) "Person" has the meaning provided in RCW 82.04.030 and also
2 includes the state and its departments and institutions.

3 (b) "Tax preference" has the meaning provided in RCW 43.136.021 and
4 includes only the tax preferences requiring a survey under this
5 section.

6 **Sec. 104.** RCW 82.32.235 and 2009 c 562 s 1 are each amended to
7 read as follows:

8 (1) In addition to the remedies provided in this chapter the
9 department is authorized to issue to any person, including the
10 department, a notice and order to withhold and deliver property of any
11 kind whatsoever when there is reason to believe that there is in the
12 possession of such person, property which is or will become due, owing,
13 or belonging to any taxpayer against whom a warrant has been filed.

14 (2) The sheriff of the county where the service is made, or his or
15 her deputy, or any duly authorized representative of the department may
16 personally serve the notice and order to withhold and deliver upon the
17 person to whom it is directed or may do so by certified mail, with
18 return receipt requested. Upon written consent of the person to be
19 served, a notice and order to withhold and deliver issued under
20 subsection (1) of this section may be served electronically.

21 (3)(a) The department is authorized to issue a notice and order to
22 withhold and deliver to any financial institution in the form of a
23 listing of all or a portion of the unsatisfied tax warrants filed under
24 this chapter with the clerk of the superior court of a county of the
25 state, except tax warrants subject to a payment agreement, which is not
26 in default, between the department and the taxpayer. The department
27 may also issue a notice and order to withhold and deliver in the form
28 authorized in this subsection (3)(a) to itself or any other person upon
29 that person's written consent.

30 (b) (~~As an alternative to the methods of service in subsection (2)~~
31 ~~of this section,~~) The department may serve the notice and order to
32 withhold and deliver authorized under this subsection electronically.
33 The remedy in this subsection (3) is in addition to any other remedies
34 authorized by law.

35 (c) No more than one notice and order to withhold and deliver under
36 this subsection (3) may be served on the same (~~financial institution~~

1 ~~in a calendar month))~~ person in a calendar month except upon the
2 person's written consent.

3 (d) A notice and order to withhold and deliver served on a
4 financial institution under this subsection (3) must include the
5 federal taxpayer identification number of each taxpayer listed in the
6 notice.

7 (e) For purposes of this subsection, "financial institution" means
8 a bank, trust company, mutual savings bank, savings and loan
9 association, or credit union authorized to do business and accept
10 deposits in this state under state or federal law.

11 (f) The department may provide a financial institution relief from
12 a notice and order to withhold and deliver in the form provided under
13 this subsection (3) upon the request of the financial institution. The
14 department must consider the size, customer base, and geographic
15 location of the financial institution when considering whether to
16 provide relief. The department must serve any financial institution so
17 relieved under subsection (1) of this section.

18 (4) Any person who has been served with a notice and order to
19 withhold and deliver under subsection (1) of this section must answer
20 the notice within twenty days, exclusive of the day of service. Any
21 person who has been served with a notice and order to withhold and
22 deliver under subsection (3) of this section must answer the notice
23 within thirty days, exclusive of the day of service. The answer must
24 be in writing, under oath if required by the department, and include
25 true answers to the matters inquired of in the notice. Any person
26 served under subsection (3) of this section may answer in aggregate
27 within thirty days, but must answer separately as to each taxpayer
28 listed and specify any property by taxpayer which is delivered. The
29 department must allow any person served electronically (~~under~~
30 ~~subsection (3))~~ as authorized in subsection (2) or (3) of this section
31 to answer the notice and order to withhold and deliver electronically
32 in a format provided or approved by the department.

33 (5) In the event there is in the possession of any person served
34 with a notice and order to withhold and deliver, any property which may
35 be subject to the claim of the department, such property must be
36 delivered immediately to the department of revenue or its duly
37 authorized representative upon demand. The department must hold the
38 property in trust for application on the indebtedness involved or for

1 return, without interest, in accordance with final determination of
2 liability or nonliability. Instead of delivering the property to the
3 department or the department's duly authorized representative, the
4 person may furnish a bond satisfactory to the department conditioned
5 upon final determination of liability.

6 (6) Should any person, having been served with a notice and order
7 to withhold and deliver, fail to answer the notice and order to
8 withhold and deliver within the time prescribed in this section or
9 otherwise fail to comply with the duties imposed in this section, the
10 department may bring a proceeding, in the superior court of Thurston
11 county or of the county in which service of the notice was made, to
12 enforce the notice and order to withhold and deliver. The court may
13 render judgment by default against such person for the full amount
14 claimed by the department in the notice and order to withhold and
15 deliver or may grant such other relief as the court deems just,
16 together with costs.

17 (7) For purposes of this section, "person" has the same meaning as
18 in RCW 82.04.030 and also includes any agency, department, or
19 institution of the state.

20 **Part II**

21 **Repealing Obsolete Statutes**

22 NEW SECTION. **Sec. 201.** RCW 82.32.795 (Candy list--Compilation)
23 and 2010 1st sp.s. c 23 s 910 are each repealed.

24 **Part III**

25 **Clarifying and Corrective Amendments**

26 **Sec. 301.** RCW 60.28.040 and 2009 c 432 s 7 and 2009 c 219 s 7 are
27 each reenacted and amended to read as follows:

28 (1) Subject to subsection (5) of this section, the amount of all
29 taxes, increases, and penalties due or to become due under Title 82
30 RCW, from a contractor or the contractor's successors or assignees with
31 respect to a public improvement contract wherein the contract price is
32 thirty-five thousand dollars or more, (~~shall be~~) is a lien prior to
33 all other liens upon the amount of the retained percentage withheld by
34 the disbursing officer under such contract.

1 (2) Subject to subsection (5) of this section, after payment of all
2 taxes, increases, and penalties due or to become due under Title 82
3 RCW, from a contractor or the contractor's successors or assignees with
4 respect to a public improvement contract wherein the contract price is
5 (~~twenty~~) thirty-five thousand dollars or more, the amount of all
6 other taxes, increases, and penalties under Title 82 RCW, due and owing
7 from the contractor, (~~shall be~~) is a lien prior to all other liens
8 upon the amount of the retained percentage withheld by the disbursing
9 officer under such contract.

10 (3) Subject to subsection (5) of this section, after payment of all
11 taxes, increases, and penalties due or to become due under Title 82
12 RCW, the amount of all taxes, increases, and penalties due or to become
13 due under Titles 50 and 51 RCW from the contractor or the contractor's
14 successors or assignees with respect to a public improvement contract
15 wherein the contract price is (~~twenty~~) thirty-five thousand dollars
16 or more (~~shall be~~) is a lien prior to all other liens upon the amount
17 of the retained percentage withheld by the disbursing officer under
18 such contract.

19 (4) Subject to subsection (5) of this section, the amount of all
20 other taxes, increases, and penalties due and owing from the contractor
21 (~~shall be~~) is a lien upon the balance of such retained percentage
22 remaining in the possession of the disbursing officer after all other
23 statutory lien claims have been paid.

24 (5) The employees of a contractor or the contractor's successors or
25 assignees who have not been paid the prevailing wage under such a
26 public improvement contract shall have a first priority lien against
27 the bond or retainage prior to all other liens.

28 **Sec. 302.** RCW 82.04.190 and 2010 c 111 s 202 and 2010 c 106 s 204
29 are each reenacted and amended to read as follows:

30 "Consumer" means the following:

31 (1) Any person who purchases, acquires, owns, holds, or uses any
32 article of tangible personal property irrespective of the nature of the
33 person's business and including, among others, without limiting the
34 scope hereof, persons who install, repair, clean, alter, improve,
35 construct, or decorate real or personal property of or for consumers
36 other than for the purpose of:

1 (a) Resale as tangible personal property in the regular course of
2 business;

3 (b) Incorporating such property as an ingredient or component of
4 real or personal property when installing, repairing, cleaning,
5 altering, imprinting, improving, constructing, or decorating such real
6 or personal property of or for consumers;

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

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

17 (e) Satisfying the person's obligations under an extended warranty
18 as defined in RCW 82.04.050(7), if such tangible personal property
19 replaces or becomes an ingredient or component of property covered by
20 the extended warranty without intervening use by such person;

21 (2)(a) Any person engaged in any business activity taxable under
22 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or
23 uses any competitive telephone service, ancillary services, or
24 telecommunications service as those terms are defined in RCW 82.04.065,
25 other than for resale in the regular course of business; (c) any person
26 who purchases, acquires, or uses any service defined in RCW
27 82.04.050(2) (a) or (g), other than for resale in the regular course of
28 business or for the purpose of satisfying the person's obligations
29 under an extended warranty as defined in RCW 82.04.050(7); (d) any
30 person who purchases, acquires, or uses any amusement and recreation
31 service defined in RCW 82.04.050(3)(a), other than for resale in the
32 regular course of business; (e) any person who purchases or acquires an
33 extended warranty as defined in RCW 82.04.050(7) other than for resale
34 in the regular course of business; and (f) any person who is an end
35 user of software. For purposes of this subsection (2)(f) and RCW
36 82.04.050(6), a person who purchases or otherwise acquires prewritten
37 computer software, who provides services described in RCW

1 82.04.050(6)(b) and who will charge consumers for the right to access
2 and use the prewritten computer software, is not an end user of the
3 prewritten computer software;

4 (3) Any person engaged in the business of contracting for the
5 building, repairing or improving of any street, place, road, highway,
6 easement, right-of-way, mass public transportation terminal or parking
7 facility, bridge, tunnel, or trestle which is owned by a municipal
8 corporation or political subdivision of the state of Washington or by
9 the United States and which is used or to be used primarily for foot or
10 vehicular traffic including mass transportation vehicles of any kind as
11 defined in RCW 82.04.280, in respect to tangible personal property when
12 such person incorporates such property as an ingredient or component of
13 such publicly owned street, place, road, highway, easement,
14 right-of-way, mass public transportation terminal or parking facility,
15 bridge, tunnel, or trestle by installing, placing or spreading the
16 property in or upon the right-of-way of such street, place, road,
17 highway, easement, bridge, tunnel, or trestle or in or upon the site of
18 such mass public transportation terminal or parking facility;

19 (4) Any person who is an owner, lessee or has the right of
20 possession to or an easement in real property which is being
21 constructed, repaired, decorated, improved, or otherwise altered by a
22 person engaged in business, excluding only (a) municipal corporations
23 or political subdivisions of the state in respect to labor and services
24 rendered to their real property which is used or held for public road
25 purposes, and (b) the United States, instrumentalities thereof, and
26 county and city housing authorities created pursuant to chapter 35.82
27 RCW in respect to labor and services rendered to their real property.
28 Nothing contained in this or any other subsection of this definition
29 shall be construed to modify any other definition of "consumer";

30 (5) Any person who is an owner, lessee, or has the right of
31 possession to personal property which is being constructed, repaired,
32 improved, cleaned, imprinted, or otherwise altered by a person engaged
33 in business;

34 (6) Any person engaged in the business of constructing, repairing,
35 decorating, or improving new or existing buildings or other structures
36 under, upon, or above real property of or for the United States, any
37 instrumentality thereof, or a county or city housing authority created
38 pursuant to chapter 35.82 RCW, including the installing or attaching of

1 any article of tangible personal property therein or thereto, whether
2 or not such personal property becomes a part of the realty by virtue of
3 installation; also, any person engaged in the business of clearing land
4 and moving earth of or for the United States, any instrumentality
5 thereof, or a county or city housing authority created pursuant to
6 chapter 35.82 RCW. Any such person is a consumer within the meaning of
7 this subsection in respect to tangible personal property incorporated
8 into, installed in, or attached to such building or other structure by
9 such person, except that consumer does not include any person engaged
10 in the business of constructing, repairing, decorating, or improving
11 new or existing buildings or other structures under, upon, or above
12 real property of or for the United States, or any instrumentality
13 thereof, if the investment project would qualify for sales and use tax
14 deferral under chapter 82.63 RCW if undertaken by a private entity;

15 (7) Any person who is a lessor of machinery and equipment, the
16 rental of which is exempt from the tax imposed by RCW 82.08.020 under
17 RCW 82.08.02565, with respect to the sale of or charge made for
18 tangible personal property consumed in respect to repairing the
19 machinery and equipment, if the tangible personal property has a useful
20 life of less than one year. Nothing contained in this or any other
21 subsection of this section may be construed to modify any other
22 definition of "consumer";

23 (8) Any person engaged in the business of cleaning up for the
24 United States, or its instrumentalities, radioactive waste and other
25 by-products of weapons production and nuclear research and development;

26 (9) Any person who is an owner, lessee, or has the right of
27 possession of tangible personal property that, under the terms of an
28 extended warranty as defined in RCW 82.04.050(7), has been repaired or
29 is replacement property, but only with respect to the sale of or charge
30 made for the repairing of the tangible personal property or the
31 replacement property;

32 (10) Any person who purchases, acquires, or uses services described
33 in RCW 82.04.050(6)(b) other than:

34 (a) For resale in the regular course of business; or

35 (b) For purposes of consuming the service described in RCW
36 82.04.050(6)(b) in producing for sale a new product, but only if such
37 service becomes a component of the new product. For purposes of this

1 subsection (10), "product" means a digital product, an article of
2 tangible personal property, or the service described in RCW
3 82.04.050(6)(b);

4 (11)(a) Any end user of a digital product or digital code.
5 "Consumer" does not include any person who is not an end user of a
6 digital product or a digital code and purchases, acquires, owns, holds,
7 or uses any digital product or digital code for purposes of consuming
8 the digital product or digital code in producing for sale a new
9 product, but only if the digital product or digital code becomes a
10 component of the new product. A digital code becomes a component of a
11 new product if the digital good or digital automated service acquired
12 through the use of the digital code becomes incorporated into a new
13 product. For purposes of this subsection, "product" has the same
14 meaning as in subsection (10) of this section.

15 (b)(i) For purposes of this subsection, "end user" means any
16 taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives
17 by contract a digital product for further commercial broadcast,
18 rebroadcast, transmission, retransmission, licensing, relicensing,
19 distribution, redistribution or exhibition of the product, in whole or
20 in part, to others. A person that purchases digital products or
21 digital codes for the purpose of giving away such products or codes
22 will not be considered to have engaged in the distribution or
23 redistribution of such products or codes and will be treated as an end
24 user;

25 (ii) If a purchaser of a digital code does not receive the
26 contractual right to further redistribute, after the digital code is
27 redeemed, the underlying digital product to which the digital code
28 relates, then the purchaser of the digital code is an end user. If the
29 purchaser of the digital code receives the contractual right to further
30 redistribute, after the digital code is redeemed, the underlying
31 digital product to which the digital code relates, then the purchaser
32 of the digital code is not an end user. A purchaser of a digital code
33 who has the contractual right to further redistribute the digital code
34 is an end user if that purchaser does not have the right to further
35 redistribute, after the digital code is redeemed, the underlying
36 digital product to which the digital code relates; (~~and~~)

37 (12) Any person who provides services described in RCW
38 82.04.050(9). Any such person is a consumer with respect to the

1 purchase, acquisition, or use of the tangible personal property that
2 the person provides along with an operator in rendering services
3 defined as a retail sale in RCW 82.04.050(9). Any such person may also
4 be a consumer under other provisions of this section;

5 (13) Any person who purchases, acquires, owns, holds, or uses
6 chemical sprays or washes for the purpose of postharvest treatment of
7 fruit for the prevention of scald, fungus, mold, or decay, or who
8 purchases feed, seed, seedlings, fertilizer, agents for enhanced
9 pollination including insects such as bees, and spray materials, is not
10 a consumer of such items, but only to the extent that the items:

11 (a) Are used in relation to the person's participation in the
12 federal conservation reserve program, the environmental quality
13 incentives program, the wetlands reserve program, the wildlife habitat
14 incentives program, or their successors administered by the United
15 States department of agriculture;

16 (b) Are for use by a farmer for the purpose of producing for sale
17 any agricultural product; or

18 (c) Are for use by a farmer to produce or improve wildlife habitat
19 on land the farmer owns or leases while acting under cooperative
20 habitat development or access contracts with an organization exempt
21 from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal
22 internal revenue code or the Washington state department of fish and
23 wildlife; and

24 (14) A regional transit authority is not a consumer with respect to
25 labor, services, or tangible personal property purchased pursuant to
26 agreements providing maintenance services for bus, rail, or rail fixed
27 guideway equipment when a transit agency, as defined in RCW 81.104.015,
28 performs the labor or services.

29 **Sec. 303.** RCW 82.04.285 and 2005 c 369 s 5 are each amended to
30 read as follows:

31 (1) Upon every person engaging within this state in the business of
32 operating contests of chance; as to such persons, the amount of tax
33 with respect to the business of operating contests of chance is equal
34 to the gross income of the business derived from contests of chance
35 multiplied by the rate of 1.5 percent.

36 (2) An additional tax is imposed on those persons subject to tax in
37 subsection (1) of this section. The amount of the additional tax with

1 respect to the business of operating contests of chance is equal to the
2 gross income of the business derived from contests of chance multiplied
3 by the rate of 0.1 percent through June 30, 2006, and 0.13 percent
4 thereafter. The money collected under this subsection (2) shall be
5 deposited in the problem gambling account created in RCW 43.20A.892.
6 This subsection does not apply to businesses operating contests of
7 chance when the gross income from the operation of contests of chance
8 is less than fifty thousand dollars per year.

9 (3)(a) For the purpose of this section, "contests of chance" means
10 any contests, games, gaming schemes, or gaming devices, other than the
11 state lottery as defined in RCW 67.70.010, in which the outcome depends
12 in a material degree upon an element of chance, notwithstanding that
13 skill of the contestants may also be a factor in the outcome. The term
14 includes social card games, bingo, raffle, and punchboard games, and
15 pull-tabs as defined in chapter 9.46 RCW.

16 (b) The term does not include: (i) Race meet(~~s~~) for the conduct
17 of which a license must be secured from the Washington horse racing
18 commission, (~~or~~) (ii) "amusement game" as defined in RCW 9.46.0201,
19 or (iii) any activity that is not subject to regulation by the gambling
20 commission.

21 (4) "Gross income of the business" does not include the monetary
22 value or actual cost of any prizes that are awarded, amounts paid to
23 players for winning wagers, accrual of prizes for progressive jackpot
24 contests, or repayment of amounts used to seed guaranteed progressive
25 jackpot prizes.

26 **Sec. 304.** RCW 82.04.460 and 2011 c 174 s 203 are each amended to
27 read as follows:

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

34 (2) The department must by rule provide a method of apportioning
35 the apportionable income of financial institutions, where such
36 apportionable income is taxable under RCW 82.04.290. The rule adopted
37 by the department must, to the extent feasible, be consistent with the

1 multistate tax commission's recommended formula for the apportionment
2 and allocation of net income of financial institutions as existing on
3 June 1, 2010, or such subsequent date as may be provided by the
4 department by rule, consistent with the purposes of this section,
5 except that:

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

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

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

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

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

- 28 (i) RCW 82.04.255;
- 29 (ii) RCW 82.04.260 (3), (~~((4))~~) (5), (6), (7), (8), (9), (10), and
30 (~~((12))~~) (13);
- 31 (iii) RCW 82.04.280 (1)(e);
- 32 (iv) RCW 82.04.285;
- 33 (v) RCW 82.04.286;
- 34 (vi) RCW 82.04.290;
- 35 (vii) RCW 82.04.2907;
- 36 (viii) RCW 82.04.2908;
- 37 (ix) RCW 82.04.263, but only to the extent of any activity that

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

4 (x) RCW 82.04.260(~~(+13)~~) (14) and 82.04.280(1)(a), but only with
5 respect to advertising.

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

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

16 **Sec. 305.** RCW 82.04.462 and 2010 1st sp.s. c 23 s 105 are each
17 amended to read as follows:

18 (1) The apportionable income of a person within the scope of RCW
19 82.04.460(1) is apportioned to Washington by multiplying its
20 apportionable income by the receipts factor. Persons who are subject
21 to tax under more than one of the tax classifications enumerated in RCW
22 82.04.460(4)(a) (i) through (x) must calculate a separate receipts
23 factor for each tax classification that the person is taxable under.

24 (2) For purposes of subsection (1) of this section, the receipts
25 factor is a fraction and is calculated as provided in subsections (3)
26 and (4) of this section and, for financial institutions, as provided in
27 the rule adopted by the department under the authority of RCW
28 82.04.460(2).

29 (3)(a) The numerator of the receipts factor is the total gross
30 income of the business of the taxpayer attributable to this state
31 during the tax year from engaging in an apportionable activity. The
32 denominator of the receipts factor is the total gross income of the
33 business of the taxpayer from engaging in an apportionable activity
34 everywhere in the world during the tax year.

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

1 (i) Where the customer received the benefit of the taxpayer's
2 service or, in the case of gross income from royalties, where the
3 customer used the taxpayer's intangible property. When a customer
4 receives the benefit of the taxpayer's services or uses the taxpayer's
5 intangible property in this and one or more other states and the amount
6 of gross income of the business that was received by the taxpayer in
7 return for the services received or intangible property used by the
8 customer in this state can be reasonably determined by the taxpayer,
9 such amount of gross income must be attributed to this state.

10 (ii) If the customer received the benefit of the service or used
11 the intangible property in more than one state and if the taxpayer is
12 unable to attribute gross income of the business under the provisions
13 of (b)(i) of this subsection (3), gross income of the business must be
14 attributed to the state in which the benefit of the service was
15 primarily received or in which the intangible property was primarily
16 used.

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

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

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

32 (vi) If the taxpayer is unable to attribute gross income of the
33 business under the provisions of (b)(i), (ii), (iii), (iv), or (v) of
34 this subsection (3), gross income of the business must be attributed to
35 the state where the customer is located as indicated by the customer's
36 address: (A) Shown in the taxpayer's business records maintained in
37 the regular course of business; or (B) obtained during consummation of
38 the sale or the negotiation of the contract for services or for the use

1 of the taxpayer's intangible property, including any address of a
2 customer's payment instrument when readily available to the taxpayer
3 and no other address is available.

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

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

14 (c) Gross income of the business from engaging in an apportionable
15 activity must be excluded from the denominator of the receipts factor
16 if, in respect to such activity, at least some of the activity is
17 performed in this state, and the gross income is attributable under (b)
18 of this subsection (3) to a state in which the taxpayer is not taxable.
19 For purposes of this subsection (3)(c), "not taxable" means that the
20 taxpayer is not subject to a business activities tax by that state,
21 except that a taxpayer is taxable in a state in which it would be
22 deemed to have a substantial nexus with that state under the standards
23 in RCW 82.04.067(1) regardless of whether that state imposes such a
24 tax. "Business activities tax" means a tax measured by the amount of,
25 or economic results of, business activity conducted in a state. The
26 term includes taxes measured in whole or in part on net income or gross
27 income or receipts. "Business activities tax" does not include a sales
28 tax, use tax, or a similar transaction tax, imposed on the sale or
29 acquisition of goods or services, whether or not denominated a gross
30 receipts tax or a tax imposed on the privilege of doing business.

31 (d) This subsection (3) does not apply to financial institutions
32 with respect to apportionable income taxable under RCW 82.04.290.
33 Financial institutions must calculate the receipts factor as provided
34 in subsection (4) of this section and the rule adopted by the
35 department under the authority of RCW 82.04.460(2) with respect to
36 apportionable income taxable under RCW 82.04.290. Financial
37 institutions that are subject to tax under any other tax classification
38 enumerated in RCW 82.04.460(4)(a) (i) through (v) and (vii) through (x)

1 must calculate a separate receipts factor, as provided in this section,
2 for each of the other tax classifications that the financial
3 institution is taxable under.

4 (4) A taxpayer may calculate the receipts factor for the current
5 tax year based on the most recent calendar year for which information
6 is available for the full calendar year. If a taxpayer does not
7 calculate the receipts factor for the current tax year based on
8 previous calendar year information as authorized in this subsection,
9 the business must use current year information to calculate the
10 receipts factor for the current tax year. In either case, a taxpayer
11 must correct the reporting for the current tax year when complete
12 information is available to calculate the receipts factor for that
13 year, but not later than October 31st of the following tax year.
14 Interest will apply to any additional tax due on a corrected tax
15 return. Interest must be (~~assessed at the rate provided for~~
16 ~~delinquent excise taxes under chapter 82.32 RCW, retroactively to the~~
17 ~~date the original return was due, and will accrue~~) computed and
18 assessed as provided in RCW 82.32.050 and accrues until the additional
19 taxes are paid. Penalties as provided in RCW 82.32.090 will apply to
20 any such additional tax due only if the current tax year reporting is
21 not corrected and the additional tax is not paid by October 31st of the
22 following tax year. Interest as provided in RCW 82.32.060 will apply
23 to any tax paid in excess of that properly due on a return as a result
24 of a taxpayer using previous calendar year data or incomplete current-
25 year data to calculate the receipts factor.

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

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

30 (b) "State" means a state of the United States, the District of
31 Columbia, the Commonwealth of Puerto Rico, any territory or possession
32 of the United States, or any foreign country or political subdivision
33 of a foreign country.

34 **Sec. 306.** RCW 82.08.02807 and 2002 c 113 s 2 are each amended to
35 read as follows:

36 The tax levied by RCW 82.08.020 shall not apply to the sales of
37 medical supplies, chemicals, or materials to an organ procurement

1 organization exempt under RCW 82.04.326. (~~The definitions of medical~~
2 ~~supplies, chemicals, and materials in RCW 82.04.324 apply to this~~
3 ~~section.~~) This exemption does not apply to the sale of construction
4 materials, office equipment, building equipment, administrative
5 supplies, or vehicles.

6 **Sec. 307.** RCW 82.45.150 and 1996 c 149 s 6 are each amended to
7 read as follows:

8 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.050,
9 82.32.140, 82.32.270, and 82.32.090 (1) and (~~(+8+)~~) (10), applies to
10 the tax imposed by this chapter, in addition to any other provisions of
11 law for the payment and enforcement of the tax imposed by this chapter.
12 The department of revenue shall by rule provide for the effective
13 administration of this chapter. The rules shall prescribe and furnish
14 a real estate excise tax affidavit form verified by both the seller and
15 the buyer, or agents of each, to be used by each county, or the
16 department, as the case may be, in the collection of the tax imposed by
17 this chapter, except that an affidavit given in connection with grant
18 of an easement or right-of-way to a gas, electrical, or
19 telecommunications company, as defined in RCW 80.04.010, or to a public
20 utility district or cooperative that distributes electricity, need be
21 verified only on behalf of the company, district, or cooperative. The
22 department of revenue shall annually conduct audits of transactions and
23 affidavits filed under this chapter.

24 **Sec. 308.** RCW 82.45.195 and 2010 1st sp.s. c 23 s 518 are each
25 amended to read as follows:

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

29 **Sec. 309.** RCW 84.33.140 and 2013 2nd sp.s. c 11 s 13 are each
30 amended to read as follows:

31 (1) When land has been designated as forest land under RCW
32 84.33.130, a notation of the designation must be made each year upon
33 the assessment and tax rolls. A copy of the notice of approval
34 together with the legal description or assessor's parcel numbers for

1 the land must, at the expense of the applicant, be filed by the
2 assessor in the same manner as deeds are recorded.

3 (2) In preparing the assessment roll as of January 1, 2002, for
4 taxes payable in 2003 and each January 1st thereafter, the assessor
5 must list each parcel of designated forest land at a value with respect
6 to the grade and class provided in this subsection and adjusted as
7 provided in subsection (3) of this section. The assessor must compute
8 the assessed value of the land using the same assessment ratio applied
9 generally in computing the assessed value of other property in the
10 county. Values for the several grades of bare forest land are as
11 follows:

12	LAND	OPERABILITY	VALUES
13	GRADE	CLASS	PER ACRE
14		1	\$234
15	1	2	229
16		3	217
17		4	157
18		1	198
19	2	2	190
20		3	183
21		4	132
22		1	154
23	3	2	149
24		3	148
25		4	113
26		1	117
27	4	2	114
28		3	113
29		4	86
30		1	85
31	5	2	78
32		3	77
33		4	52
34		1	43
35	6	2	39
36		3	39

1		4	37
2		1	21
3	7	2	21
4		3	20
5		4	20
6	8		1

7 (3) On or before December 31, 2001, the department must adjust by
8 rule under chapter 34.05 RCW, the forest land values contained in
9 subsection (2) of this section in accordance with this subsection, and
10 must certify the adjusted values to the assessor who will use these
11 values in preparing the assessment roll as of January 1, 2002. For the
12 adjustment to be made on or before December 31, 2001, for use in the
13 2002 assessment year, the department must:

14 (a) Divide the aggregate value of all timber harvested within the
15 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
16 volume for the same period, as determined from the harvester excise tax
17 returns filed with the department under RCW 84.33.074; and

18 (b) Divide the aggregate value of all timber harvested within the
19 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
20 volume for the same period, as determined from the harvester excise tax
21 returns filed with the department under RCW 84.33.074; and

22 (c) Adjust the forest land values contained in subsection (2) of
23 this section by a percentage equal to one-half of the percentage change
24 in the average values of harvested timber reflected by comparing the
25 resultant values calculated under (a) and (b) of this subsection.

26 (4) For the adjustments to be made on or before December 31, 2002,
27 and each succeeding year thereafter, the same procedure described in
28 subsection (3) of this section must be followed using harvester excise
29 tax returns filed under RCW 84.33.074. However, this adjustment must
30 be made to the prior year's adjusted value, and the five-year periods
31 for calculating average harvested timber values must be successively
32 one year more recent.

33 (5) Land graded, assessed, and valued as forest land must continue
34 to be so graded, assessed, and valued until removal of designation by
35 the assessor upon the occurrence of any of the following:

36 (a) Receipt of notice from the owner to remove the designation;

1 (b) Sale or transfer to an ownership making the land exempt from ad
2 valorem taxation;

3 (c) Sale or transfer of all or a portion of the land to a new
4 owner, unless the new owner has signed a notice of forest land
5 designation continuance, except transfer to an owner who is an heir or
6 devisee of a deceased owner, does not, by itself, result in removal of
7 designation. The signed notice of continuance must be attached to the
8 real estate excise tax affidavit provided for in RCW 82.45.150. The
9 notice of continuance must be on a form prepared by the department. If
10 the notice of continuance is not signed by the new owner and attached
11 to the real estate excise tax affidavit, all compensating taxes
12 calculated under subsection (11) of this section are due and payable by
13 the seller or transferor at time of sale. The auditor may not accept
14 an instrument of conveyance regarding designated forest land for filing
15 or recording unless the new owner has signed the notice of continuance
16 or the compensating tax has been paid, as evidenced by the real estate
17 excise tax stamp affixed thereto by the treasurer. The seller,
18 transferor, or new owner may appeal the new assessed valuation
19 calculated under subsection (11) of this section to the county board of
20 equalization in accordance with the provisions of RCW 84.40.038.
21 Jurisdiction is hereby conferred on the county board of equalization to
22 hear these appeals;

23 (d) Determination by the assessor, after giving the owner written
24 notice and an opportunity to be heard, that:

25 (i) The land is no longer primarily devoted to and used for growing
26 and harvesting timber. However, land may not be removed from
27 designation if a governmental agency, organization, or other recipient
28 identified in subsection (13) or (14) of this section as exempt from
29 the payment of compensating tax has manifested its intent in writing or
30 by other official action to acquire a property interest in the
31 designated forest land by means of a transaction that qualifies for an
32 exemption under subsection (13) or (14) of this section. The
33 governmental agency, organization, or recipient must annually provide
34 the assessor of the county in which the land is located reasonable
35 evidence in writing of the intent to acquire the designated land as
36 long as the intent continues or within sixty days of a request by the
37 assessor. The assessor may not request this evidence more than once in
38 a calendar year;

1 (ii) The owner has failed to comply with a final administrative or
2 judicial order with respect to a violation of the restocking, forest
3 management, fire protection, insect and disease control, and forest
4 debris provisions of Title 76 RCW or any applicable rules under Title
5 76 RCW; or

6 (iii) Restocking has not occurred to the extent or within the time
7 specified in the application for designation of such land.

8 (6) Land may not be removed from designation if there is a
9 governmental restriction that prohibits, in whole or in part, the owner
10 from harvesting timber from the owner's designated forest land. If
11 only a portion of the parcel is impacted by governmental restrictions
12 of this nature, the restrictions cannot be used as a basis to remove
13 the remainder of the forest land from designation under this chapter.
14 For the purposes of this section, "governmental restrictions" includes:

15 (a) Any law, regulation, rule, ordinance, program, or other action
16 adopted or taken by a federal, state, county, city, or other
17 governmental entity; or (b) the land's zoning or its presence within an
18 urban growth area designated under RCW 36.70A.110.

19 (7) The assessor has the option of requiring an owner of forest
20 land to file a timber management plan with the assessor upon the
21 occurrence of one of the following:

22 (a) An application for designation as forest land is submitted; or

23 (b) Designated forest land is sold or transferred and a notice of
24 continuance, described in subsection (5)(c) of this section, is signed.

25 (8) If land is removed from designation because of any of the
26 circumstances listed in subsection (5)(a) through (c) of this section,
27 the removal applies only to the land affected. If land is removed from
28 designation because of subsection (5)(d) of this section, the removal
29 applies only to the actual area of land that is no longer primarily
30 devoted to the growing and harvesting of timber, without regard to any
31 other land that may have been included in the application and approved
32 for designation, as long as the remaining designated forest land meets
33 the definition of forest land contained in RCW 84.33.035.

34 (9) Within thirty days after the removal of designation as forest
35 land, the assessor must notify the owner in writing, setting forth the
36 reasons for the removal. The seller, transferor, or owner may appeal
37 the removal to the county board of equalization in accordance with the
38 provisions of RCW 84.40.038.

1 (10) Unless the removal is reversed on appeal a copy of the notice
2 of removal with a notation of the action, if any, upon appeal, together
3 with the legal description or assessor's parcel numbers for the land
4 removed from designation must, at the expense of the applicant, be
5 filed by the assessor in the same manner as deeds are recorded and a
6 notation of removal from designation must immediately be made upon the
7 assessment and tax rolls. The assessor must revalue the land to be
8 removed with reference to its true and fair value as of January 1st of
9 the year of removal from designation. Both the assessed value before
10 and after the removal of designation must be listed. Taxes based on
11 the value of the land as forest land are assessed and payable up until
12 the date of removal and taxes based on the true and fair value of the
13 land are assessed and payable from the date of removal from
14 designation.

15 (11) Except as provided in subsection (5)(c), (13), or (14) of this
16 section, a compensating tax is imposed on land removed from designation
17 as forest land. The compensating tax is due and payable to the
18 treasurer thirty days after the owner is notified of the amount of this
19 tax. As soon as possible after the land is removed from designation,
20 the assessor must compute the amount of compensating tax, and the
21 treasurer must mail a notice to the owner of the amount of compensating
22 tax owed and the date on which payment of this tax is due. The amount
23 of compensating tax is equal to the difference between the amount of
24 tax last levied on the land as designated forest land and an amount
25 equal to the new assessed value of the land multiplied by the dollar
26 rate of the last levy extended against the land, multiplied by a
27 number, in no event greater than nine, equal to the number of years for
28 which the land was designated as forest land, plus compensating taxes
29 on the land at forest land values up until the date of removal and the
30 prorated taxes on the land at true and fair value from the date of
31 removal to the end of the current tax year.

32 (12) Compensating tax, together with applicable interest thereon,
33 becomes a lien on the land, which attaches at the time the land is
34 removed from designation as forest land and has priority and must be
35 fully paid and satisfied before any recognizance, mortgage, judgment,
36 debt, obligation, or responsibility to or with which the land may
37 become charged or liable. The lien may be foreclosed upon expiration
38 of the same period after delinquency and in the same manner provided by

1 law for foreclosure of liens for delinquent real property taxes as
2 provided in RCW 84.64.050. Any compensating tax unpaid on its due date
3 will thereupon become delinquent. From the date of delinquency until
4 paid, interest is charged at the same rate applied by law to delinquent
5 ad valorem property taxes.

6 (13) The compensating tax specified in subsection (11) of this
7 section may not be imposed if the removal of designation under
8 subsection (5) of this section resulted solely from:

9 (a) Transfer to a government entity in exchange for other forest
10 land located within the state of Washington;

11 (b)(i) A taking through the exercise of the power of eminent
12 domain, or (ii) a sale or transfer to an entity having the power of
13 eminent domain in anticipation of the exercise of such power based on
14 official action taken by the entity and confirmed in writing;

15 (c) A donation of fee title, development rights, or the right to
16 harvest timber, to a government agency or organization qualified under
17 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
18 sections, or the sale or transfer of fee title to a governmental entity
19 or a nonprofit nature conservancy corporation, as defined in RCW
20 64.04.130, exclusively for the protection and conservation of lands
21 recommended for state natural area preserve purposes by the natural
22 heritage council and natural heritage plan as defined in chapter 79.70
23 RCW or approved for state natural resources conservation area purposes
24 as defined in chapter 79.71 RCW, or for acquisition and management as
25 a community forest trust as defined in chapter 79.155 RCW. At such
26 time as the land is not used for the purposes enumerated, the
27 compensating tax specified in subsection (11) of this section is
28 imposed upon the current owner;

29 (d) The sale or transfer of fee title to the parks and recreation
30 commission for park and recreation purposes;

31 (e) Official action by an agency of the state of Washington or by
32 the county or city within which the land is located that disallows the
33 present use of the land;

34 (f) The creation, sale, or transfer of forestry riparian easements
35 under RCW 76.13.120;

36 (g) The creation, sale, or transfer of a conservation easement of
37 private forest lands within unconfined channel migration zones or

1 containing critical habitat for threatened or endangered species under
2 RCW 76.09.040;

3 (h) The sale or transfer of land within two years after the death
4 of the owner of at least a fifty percent interest in the land if the
5 land has been assessed and valued as classified forest land, designated
6 as forest land under this chapter, or classified under chapter 84.34
7 RCW continuously since 1993. The date of death shown on a death
8 certificate is the date used for the purposes of this subsection
9 (13)(h); or

10 (i)(i) The discovery that the land was designated under this
11 chapter in error through no fault of the owner. For purposes of this
12 subsection (13)(i), "fault" means a knowingly false or misleading
13 statement, or other act or omission not in good faith, that contributed
14 to the approval of designation under this chapter or the failure of the
15 assessor to remove the land from designation under this chapter.

16 (ii) For purposes of this subsection (13), the discovery that land
17 was designated under this chapter in error through no fault of the
18 owner is not the sole reason for removal of designation under
19 subsection (5) of this section if an independent basis for removal
20 exists. An example of an independent basis for removal includes the
21 land no longer being devoted to and used for growing and harvesting
22 timber.

23 (14) In a county with a population of more than six hundred
24 thousand inhabitants or in a county with a population of at least two
25 hundred forty-five thousand inhabitants that borders Puget Sound as
26 defined in RCW 90.71.010, the compensating tax specified in subsection
27 (11) of this section may not be imposed if the removal of designation
28 as forest land under subsection (5) of this section resulted solely
29 from:

- 30 (a) An action described in subsection (13) of this section; or
- 31 (b) A transfer of a property interest to a government entity, or to
32 a nonprofit historic preservation corporation or nonprofit nature
33 conservancy corporation, as defined in RCW 64.04.130, to protect or
34 enhance public resources, or to preserve, maintain, improve, restore,
35 limit the future use of, or otherwise to conserve for public use or
36 enjoyment, the property interest being transferred. At such time as
37 the property interest is not used for the purposes enumerated, the
38 compensating tax is imposed upon the current owner.

1 **Sec. 310.** RCW 84.34.065 and 2001 c 249 s 13 are each amended to
2 read as follows:

3 (1) The true and fair value of farm and agricultural land shall be
4 determined by consideration of the earning or productive capacity of
5 comparable lands from crops grown most typically in the area averaged
6 over not less than five years, capitalized at indicative rates. The
7 earning or productive capacity of farm and agricultural lands (~~shall~~
8 ~~be~~) is the "net cash rental," capitalized at a "rate of interest"
9 charged on long term loans secured by a mortgage on farm or
10 agricultural land plus a component for property taxes. The current use
11 value of land under RCW 84.34.020(2)(~~e~~~~shall~~) (f) must be
12 established as: The prior year's average value of open space farm and
13 agricultural land used in the county plus the value of land
14 improvements such as septic, water, and power used to serve the
15 residence. This (~~shall~~) may not be interpreted to require the
16 assessor to list improvements to the land with the value of the land.

17 (2) For the purposes of the above computation:

18 (~~1~~) (a)(i) The term "net cash rental" (~~shall~~) means the
19 average rental paid on an annual basis, in cash, for the land being
20 appraised and other farm and agricultural land of similar quality and
21 similarly situated that is available for lease for a period of at least
22 three years to any reliable person without unreasonable restrictions on
23 its use for production of agricultural crops. There (~~shall-be~~) is
24 allowed as a deduction from the rental received or computed any costs
25 of crop production charged against the landlord if the costs are such
26 as are customarily paid by a landlord. If "net cash rental" data is
27 not available, the earning or productive capacity of farm and
28 agricultural lands (~~shall-be~~) is determined by the cash value of
29 typical or usual crops grown on land of similar quality and similarly
30 situated averaged over not less than five years. Standard costs of
31 production (~~shall-be~~) are allowed as a deduction from the cash value
32 of the crops.

33 (ii) The current "net cash rental" or "earning capacity" (~~shall~~
34 ~~be~~) is determined by the assessor with the advice of the advisory
35 committee as provided in RCW 84.34.145, and through a continuing
36 internal study, assisted by studies of the department of revenue. This
37 net cash rental figure as it applies to any farm and agricultural land

1 may be challenged before the same boards or authorities as would be the
2 case with regard to assessed values on general property.

3 ~~((+2))~~ (b)(i) The term "rate of interest" ~~((shall))~~ means the rate
4 of interest charged by the farm credit administration and other large
5 financial institutions regularly making loans secured by farm and
6 agricultural lands through mortgages or similar legal instruments,
7 averaged over the immediate past five years.

8 (ii) The "rate of interest" ~~((shall))~~ must be determined annually
9 by a rule adopted by the department of revenue and such rule ~~((shall))~~
10 must be published in the state register not later than January 1 of
11 each year for use in that assessment year. The department of revenue
12 determination may be appealed to the state board of tax appeals within
13 thirty days after the date of publication by any owner of farm or
14 agricultural land or the assessor of any county containing farm and
15 agricultural land.

16 ~~((+3))~~ (c) The "component for property taxes" ~~((shall-be))~~ is a
17 figure obtained by dividing the assessed value of all property in the
18 county into the property taxes levied within the county in the year
19 preceding the assessment and multiplying the quotient obtained by one
20 hundred.

21 **Sec. 311.** RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009
22 c 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as
23 follows:

24 (1) When land has once been classified under this chapter, a
25 notation of the classification ~~((shall))~~ must be made each year upon
26 the assessment and tax rolls and the land ~~((shall))~~ must be valued
27 pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a
28 portion of the classification by the assessor upon occurrence of any of
29 the following:

30 (a) Receipt of notice from the owner to remove all or a portion of
31 the classification;

32 (b) Sale or transfer to an ownership, except a transfer that
33 resulted from a default in loan payments made to or secured by a
34 governmental agency that intends to or is required by law or regulation
35 to resell the property for the same use as before, making all or a
36 portion of the land exempt from ad valorem taxation;

1 (c) Sale or transfer of all or a portion of the land to a new
2 owner, unless the new owner has signed a notice of classification
3 continuance, except transfer to an owner who is an heir or devisee of
4 a deceased owner (~~shall~~) does not, by itself, result in removal of
5 classification. The notice of continuance (~~shall~~) must be on a form
6 prepared by the department. If the notice of continuance is not signed
7 by the new owner and attached to the real estate excise tax affidavit,
8 all additional taxes, applicable interest, and penalty calculated
9 pursuant to subsection (4) of this section (~~shall~~) become due and
10 payable by the seller or transferor at time of sale. The auditor
11 (~~shall~~) may not accept an instrument of conveyance regarding
12 classified land for filing or recording unless the new owner has signed
13 the notice of continuance or the additional tax, applicable interest,
14 and penalty has been paid, as evidenced by the real estate excise tax
15 stamp affixed thereto by the treasurer. The seller, transferor, or new
16 owner may appeal the new assessed valuation calculated under subsection
17 (4) of this section to the county board of equalization in accordance
18 with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred
19 on the county board of equalization to hear these appeals;

20 (d) Determination by the assessor, after giving the owner written
21 notice and an opportunity to be heard, that all or a portion of the
22 land no longer meets the criteria for classification under this
23 chapter. The criteria for classification pursuant to this chapter
24 continue to apply after classification has been granted.

25 The granting authority, upon request of an assessor, (~~shall~~) must
26 provide reasonable assistance to the assessor in making a determination
27 whether the land continues to meet the qualifications of RCW 84.34.020
28 (1) or (3). The assistance (~~shall~~) must be provided within thirty
29 days of receipt of the request.

30 (2) Land may not be removed from classification because of:

31 (a) The creation, sale, or transfer of forestry riparian easements
32 under RCW 76.13.120; or

33 (b) The creation, sale, or transfer of a fee interest or a
34 conservation easement for the riparian open space program under RCW
35 76.09.040.

36 (3) Within thirty days after the removal of all or a portion of the
37 land from current use classification under subsection (1) of this
38 section, the assessor (~~shall~~) must notify the owner in writing,

1 setting forth the reasons for the removal. The seller, transferor, or
2 owner may appeal the removal to the county board of equalization in
3 accordance with the provisions of RCW 84.40.038. The removal notice
4 must explain the steps needed to appeal the removal decision, including
5 when a notice of appeal must be filed, where the forms may be obtained,
6 and how to contact the county board of equalization.

7 (4) Unless the removal is reversed on appeal, the assessor
8 (~~shall~~) must revalue the affected land with reference to its true and
9 fair value on January 1st of the year of removal from classification.
10 Both the assessed valuation before and after the removal of
11 classification (~~shall~~) must be listed and taxes (~~shall~~) must be
12 allocated according to that part of the year to which each assessed
13 valuation applies. Except as provided in subsection (6) of this
14 section, an additional tax, applicable interest, and penalty (~~shall~~)
15 must be imposed, which (~~shall be~~) are due and payable to the
16 treasurer thirty days after the owner is notified of the amount of the
17 additional tax, applicable interest, and penalty. As soon as possible,
18 the assessor (~~shall~~) must compute the amount of additional tax,
19 applicable interest, and penalty and the treasurer (~~shall~~) must mail
20 notice to the owner of the amount thereof and the date on which payment
21 is due. The amount of the additional tax, applicable interest, and
22 penalty shall be determined as follows:

23 (a) The amount of additional tax shall be equal to the difference
24 between the property tax paid as "open space land," "farm and
25 agricultural land," or "timber land" and the amount of property tax
26 otherwise due and payable for the seven years last past had the land
27 not been so classified;

28 (b) The amount of applicable interest (~~shall~~) must be equal to
29 the interest upon the amounts of the additional tax paid at the same
30 statutory rate charged on delinquent property taxes from the dates on
31 which the additional tax could have been paid without penalty if the
32 land had been assessed at a value without regard to this chapter;

33 (c) The amount of the penalty (~~shall~~) must be as provided in RCW
34 84.34.080. The penalty shall not be imposed if the removal satisfies
35 the conditions of RCW 84.34.070.

36 (5) Additional tax, applicable interest, and penalty(~~, shall~~)
37 become a lien on the land which (~~shall attach~~) attaches at the time
38 the land is removed from classification under this chapter and

1 (~~shall~~) have priority to and (~~shall~~) must be fully paid and
2 satisfied before any recognizance, mortgage, judgment, debt,
3 obligation, or responsibility to or with which the land may become
4 charged or liable. This lien may be foreclosed upon expiration of the
5 same period after delinquency and in the same manner provided by law
6 for foreclosure of liens for delinquent real property taxes as provided
7 in RCW 84.64.050. Any additional tax unpaid on (~~its~~) the due date
8 (~~shall thereupon become~~) are delinquent as of the due date. From the
9 date of delinquency until paid, interest (~~shall~~) must be charged at
10 the same rate applied by law to delinquent ad valorem property taxes.

11 (6) The additional tax, applicable interest, and penalty specified
12 in subsection (4) of this section (~~shall~~) may not be imposed if the
13 removal of classification pursuant to subsection (1) of this section
14 resulted solely from:

15 (a) Transfer to a government entity in exchange for other land
16 located within the state of Washington;

17 (b)(i) A taking through the exercise of the power of eminent
18 domain, or (ii) sale or transfer to an entity having the power of
19 eminent domain in anticipation of the exercise of such power, said
20 entity having manifested its intent in writing or by other official
21 action;

22 (c) A natural disaster such as a flood, windstorm, earthquake, or
23 other such calamity rather than by virtue of the act of the landowner
24 changing the use of the property;

25 (d) Official action by an agency of the state of Washington or by
26 the county or city within which the land is located which disallows the
27 present use of the land;

28 (e) Transfer of land to a church when the land would qualify for
29 exemption pursuant to RCW 84.36.020;

30 (f) Acquisition of property interests by state agencies or agencies
31 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
32 purposes enumerated in those sections. At such time as these property
33 interests are not used for the purposes enumerated in RCW 84.34.210 and
34 64.04.130 the additional tax specified in subsection (4) of this
35 section (~~shall~~) must be imposed;

36 (g) Removal of land classified as farm and agricultural land under
37 RCW 84.34.020(2)(f);

1 (h) Removal of land from classification after enactment of a
2 statutory exemption that qualifies the land for exemption and receipt
3 of notice from the owner to remove the land from classification;

4 (i) The creation, sale, or transfer of forestry riparian easements
5 under RCW 76.13.120;

6 (j) The creation, sale, or transfer of a conservation easement of
7 private forest lands within unconfined channel migration zones or
8 containing critical habitat for threatened or endangered species under
9 RCW 76.09.040;

10 (k) The sale or transfer of land within two years after the death
11 of the owner of at least a fifty percent interest in the land if the
12 land has been assessed and valued as classified forest land, designated
13 as forest land under chapter 84.33 RCW, or classified under this
14 chapter continuously since 1993. The date of death shown on a death
15 certificate is the date used for the purposes of this subsection
16 (6)(k); or

17 (l)(i) The discovery that the land was classified under this
18 chapter in error through no fault of the owner. For purposes of this
19 subsection (6)(l), "fault" means a knowingly false or misleading
20 statement, or other act or omission not in good faith, that contributed
21 to the approval of classification under this chapter or the failure of
22 the assessor to remove the land from classification under this chapter.

23 (ii) For purposes of this subsection (6), the discovery that land
24 was classified under this chapter in error through no fault of the
25 owner is not the sole reason for removal of classification pursuant to
26 subsection (1) of this section if an independent basis for removal
27 exists. Examples of an independent basis for removal include the owner
28 changing the use of the land or failing to meet any applicable income
29 criteria required for classification under this chapter.

30 **Sec. 312.** RCW 84.34.300 and 1992 c 52 s 14 are each amended to
31 read as follows:

32 (1) The legislature finds that farming, timber production, and the
33 related agricultural and forest industries have historically been and
34 currently are central factors in the economic and social lifeblood of
35 the state; that it is a fundamental policy of the state to protect
36 agricultural and timber lands as a major natural resource in order to
37 maintain a source to supply a wide range of agricultural and forest

1 products; and that the public interest in the protection and
2 stimulation of farming, timber production, and the agricultural and
3 forest industries is a basic element of enhancing the economic
4 viability of this state. The legislature further finds that farmland
5 and timber land in urbanizing areas are often subjected to high levels
6 of property taxation and benefit assessment, and that such levels of
7 taxation and assessment encourage and even force the removal of such
8 lands from agricultural and forest uses. The legislature further finds
9 that because of this level of taxation and assessment, such farmland
10 and timber land in urbanizing areas are either converted to
11 nonagricultural and nonforest uses when significant amounts of nearby
12 nonagricultural and nonforest area could be suitably used for such
13 nonagricultural and nonforest uses, or, much of this farmland and
14 timber land is left in an unused state. The legislature further finds
15 that with the approval by the voters of the Fifty-third Amendment to
16 the state Constitution, and with the enactment of chapter 84.34 RCW,
17 the owners of farmlands and timber lands were provided with an
18 opportunity to have such land valued on the basis of its current use
19 and not its "highest and best use" and that such current use valuation
20 is one mechanism to protect agricultural and timber lands. The
21 legislature further finds that despite this potential property tax
22 reduction, farmlands and timber lands in urbanized areas are still
23 subject to high levels of benefit assessments and continue to be
24 removed from farm and forest uses.

25 (2) It is therefore the purpose of the legislature to establish,
26 with the enactment of RCW 84.34.300 through 84.34.380, another
27 mechanism to protect agricultural and timber land which creates an
28 analogous system of relief from certain benefit assessments for farm
29 and agricultural land and timber land. It is the intent of the
30 legislature that special benefit assessments not be imposed for the
31 availability of sanitary and/or storm sewerage service, or domestic
32 water service, or for road construction and/or improvement purposes on
33 farm and agricultural lands and timber lands which have been designated
34 for current use classification as farm and agricultural lands or timber
35 lands until such lands are withdrawn or removed from such
36 classification or unless such lands benefit from or cause the need for
37 the local improvement district.

1 (3) The legislature finds, and it is the intent of RCW 84.34.300
2 through 84.34.380 and 84.34.922, that special benefit assessments for
3 the improvement or construction of sanitary and/or storm sewerage
4 service, or domestic water service, or certain road construction do not
5 generally benefit land which has been classified as (~~open space~~) farm
6 and agricultural land or timber land under the open space act, chapter
7 84.34 RCW, until such land is withdrawn or removed from such
8 classification (~~or such land is used for a more intense and~~
9 ~~nonagricultural use, or the land is no longer used as timber land~~).
10 The purpose of RCW 84.34.300 through 84.34.380 and 84.34.922 is to
11 provide an exemption from certain special benefit assessments which do
12 not benefit timber land or open space farm and agricultural land, and
13 to provide the means for local governmental entities to recover such
14 assessments in current dollar value in the event such land is no longer
15 devoted to farming or timber production under chapter 84.34 RCW. Where
16 the owner of such land chooses to make limited use of improvements
17 related to special benefit assessments, RCW 84.34.300 through 84.34.380
18 provides the means for the partial assessment on open space timber and
19 farmland to the extent the land is directly benefited by the
20 improvement.

21 **Sec. 313.** RCW 84.34.320 and 1992 c 69 s 17 and 1992 c 52 s 16 are
22 each reenacted and amended to read as follows:

23 (1) Any land classified as farm and agricultural land or timber
24 land pursuant to chapter 84.34 RCW at the earlier of the times the
25 legislative authority of a local government adopts a resolution,
26 ordinance, or legislative act (~~(+1)~~) to: (a) Create a local
27 improvement district, in which such land is included or would have been
28 included but for such classification(~~(-)~~); or (~~(+2) to~~) (b) approve or
29 confirm a final special benefit assessment roll relating to a sanitary
30 and/or storm sewerage system, domestic water supply and/or distribution
31 system, or road construction and/or improvement, which roll would have
32 included such land but for such classification, (~~shall be~~) is exempt
33 from special benefit assessments or charges in lieu of assessment for
34 such purposes as long as that land remains in such classification,
35 except as otherwise provided in RCW 84.34.360.

36 (2) Whenever a local government creates a local improvement
37 district, the levying, collection and enforcement of assessments shall

1 be in the manner and subject to the same procedures and limitations as
2 are provided pursuant to the law concerning the initiation and
3 formation of local improvement districts for the particular local
4 government. Notice of the creation of a local improvement district
5 that includes farm and agricultural land or timber land (~~((shall))~~) must
6 be filed with the county assessor and the legislative authority of the
7 county in which such land is located. The assessor, upon receiving
8 notice of the creation of such a local improvement district, (~~((shall))~~)
9 must send a notice to the owner of the farm and agricultural land or
10 timber land listed on the tax rolls of the applicable county treasurer
11 of: (~~((1))~~) (a) The creation of the local improvement district;
12 (~~((2))~~) (b) the exemption of that land from special benefit
13 assessments; (~~((3))~~) (c) the fact that the farm and agricultural land
14 or timber land may become subject to the special benefit assessments if
15 the owner waives the exemption by filing a notarized document with the
16 governing body of the local government creating the local improvement
17 district before the confirmation of the final special benefit
18 assessment roll; and (~~((4))~~) (d) the potential liability, pursuant to
19 RCW 84.34.330, if the exemption is not waived and the land is
20 subsequently removed or withdrawn from the farm and agricultural land
21 or timber land (~~((status))~~) classification. When a local government
22 approves and confirms a special benefit assessment roll, from which
23 farm and agricultural land or timber land has been exempted pursuant to
24 this section, it shall file a notice of such action with the assessor
25 and the legislative authority of the county in which such land is
26 located and with the treasurer of that local government, which notice
27 (~~((shall))~~) must describe the action taken, the type of improvement
28 involved, the land exempted, and the amount of the special benefit
29 assessment which would have been levied against the land if it had not
30 been exempted. The filing of such notice with the assessor and the
31 treasurer of that local government (~~((shall))~~) constitutes constructive
32 notice to a purchaser or encumbrancer of the affected land, and every
33 person whose conveyance or encumbrance is subsequently executed or
34 subsequently recorded, that such exempt land is subject to the charges
35 provided in RCW 84.34.330 and 84.34.340 if such land is withdrawn or
36 removed from its current use classification as farm and agricultural
37 land or timber land.

1 (3) The owner of the land exempted from special benefit assessments
2 pursuant to this section may waive that exemption by filing a notarized
3 document to that effect with the legislative authority of the local
4 government upon receiving notice from said local government concerning
5 the assessment roll hearing and before the local government confirms
6 the final special benefit assessment roll. A copy of that waiver
7 (~~shall~~) must be filed by the local government with the assessor, but
8 the failure of such filing (~~shall~~) does not affect the waiver.

9 (4) Except to the extent provided in RCW 84.34.360, the local
10 government (~~shall have~~) has no duty to furnish service from the
11 improvement financed by the special benefit assessment to such exempted
12 land.

13 **Sec. 314.** RCW 84.34.330 and 1992 c 52 s 17 are each amended to
14 read as follows:

15 Whenever farm and agricultural land or timber land has once been
16 exempted from special benefit assessments pursuant to RCW 84.34.320,
17 any withdrawal or removal from classification (~~or change in use from~~)
18 as farm and agricultural land or timber land under chapter 84.34 RCW
19 (~~shall~~) results in the following:

20 (1) If the bonds used to fund the improvement in the local
21 improvement district have not been completely retired, such land shall
22 immediately become liable for: (a) The amount of the special benefit
23 assessment listed in the notice provided for in RCW 84.34.320; plus (b)
24 interest on the amount determined in (1)(a) of this section, compounded
25 annually at a rate equal to the average rate of inflation from the time
26 the initial notice is filed by the governmental entity which created
27 the local improvement district as provided in RCW 84.34.320 to the time
28 the (~~owner withdraws such~~) land is withdrawn or removed from the
29 exemption category provided by this chapter; or

30 (2) If the bonds used to fund the improvement in the local
31 improvement district have been completely retired, such land shall
32 immediately become liable for: (a) The amount of the special benefit
33 assessment listed in the notice provided for in RCW 84.34.320; plus (b)
34 interest on the amount determined in (2)(a) of this section compounded
35 annually at a rate equal to the average rate of inflation from the time
36 the initial notice is filed by the governmental entity which created
37 the local improvement district as provided in RCW 84.34.320, to the

1 time the bonds used to fund the improvement have been retired; plus (c)
2 interest on the total amount determined in (2)(a) and (b) of this
3 section at a simple per annum rate equal to the average rate of
4 inflation from the time the bonds used to fund the improvement have
5 been retired to the time the (~~owner withdraws such lands~~) land is
6 withdrawn or removed from the exemption category provided by this
7 chapter.

8 (3) The amount payable pursuant to this section shall become due on
9 the date such land is withdrawn or removed from its (~~current use~~)
10 farm and agricultural land or timber land classification and (~~shall~~)
11 must be a lien on the land prior and superior to any other lien
12 whatsoever except for the lien for general taxes, and shall be
13 enforceable in the same manner as the collection of special benefit
14 assessments are enforced by that local government.

15 **Sec. 315.** RCW 84.34.370 and 1992 c 52 s 20 are each amended to
16 read as follows:

17 Whenever a portion of a parcel of land which was classified as farm
18 and agricultural or timber land pursuant to this chapter is withdrawn
19 or removed from classification (~~or there is a change in use~~), and
20 such land has been exempted from any benefit assessments pursuant to
21 RCW 84.34.320, the previously exempt benefit assessments (~~shall~~)
22 become due on only that portion of the land which is withdrawn or
23 (~~changed~~) removed.

24 **Sec. 316.** RCW 84.55.005 and 2007 sp.s. c 1 s 1 are each amended to
25 read as follows:

26 (~~As used in this chapter:~~) The definitions in this section apply
27 throughout this chapter unless the context clearly requires otherwise.

28 (1) "Inflation" means the percentage change in the implicit price
29 deflator for personal consumption expenditures for the United States as
30 published for the most recent twelve-month period by the bureau of
31 economic analysis of the federal department of commerce (~~in~~) by
32 September 25th of the year before the taxes are payable;

33 (2) "Limit factor" means:

34 (a) For taxing districts with a population of less than ten
35 thousand in the calendar year prior to the assessment year, one hundred
36 one percent;

1 (b) For taxing districts for which a limit factor is authorized
2 under RCW 84.55.0101, the lesser of the limit factor authorized under
3 that section or one hundred one percent;

4 (c) For all other districts, the lesser of one hundred one percent
5 or one hundred percent plus inflation; and

6 (3) "Regular property taxes" has the meaning given it in RCW
7 84.04.140.

8 **Sec. 317.** RCW 82.08.02061 and 2008 c 325 s 3 are each amended to
9 read as follows:

10 The department must assess the implementation of the working
11 families' tax exemption in a report to the legislature to identify
12 administrative or resource issues that require legislative action. The
13 department must submit the report to the finance committee of the house
14 of representatives and the ways and means committee of the senate ((~~by~~
15 ~~December 1, 2012~~)) within eighteen months of the implementation of the
16 program.

17 **Part IV**

18 **Fixing Inadvertent Errors and Oversights in Prior Legislation**

19 **Sec. 401.** RCW 82.04.250 and 2010 1st sp.s. c 23 s 509 are each
20 amended to read as follows:

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

26 (2) Upon every person engaging within this state in the business of
27 making sales at retail that are exempt from the tax imposed under
28 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
29 82.08.0263, except persons taxable under RCW 82.04.260((~~+10~~)) (11) or
30 subsection (3) of this section, as to such persons, the amount of tax
31 with respect to such business is equal to the gross proceeds of sales
32 of the business, multiplied by the rate of 0.484 percent.

33 (3)(a) Until July 1, 2024, upon every person classified by the
34 federal aviation administration as a federal aviation regulation part
35 145 certificated repair station and that is engaging within this state

1 in the business of making sales at retail that are exempt from the tax
2 imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,
3 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with
4 respect to such business is equal to the gross proceeds of sales of the
5 business, multiplied by the rate of .2904 percent.

6 (b) A person reporting under the tax rate provided in this
7 subsection (3) must file a complete annual report with the department
8 under RCW 82.32.534.

9 **Sec. 402.** RCW 82.04.250 and 2013 3rd sp.s. c 2 s 7 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(11) 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)(a) Until July 1, 2040, upon every person classified by the
24 federal aviation administration as a federal aviation regulation part
25 145 certificated repair station and that is engaging within this state
26 in 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 (b) A person reporting under the tax rate provided in this
32 subsection (3) must file a complete annual report with the department
33 under RCW 82.32.534.

34 **Sec. 403.** RCW 82.04.290 and 2013 c 23 s 314 are each amended to
35 read as follows:

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

1 providing international investment management services, as to such
2 persons, the amount of tax with respect to such business shall be equal
3 to the gross income or gross proceeds of sales of the business
4 multiplied by a rate of 0.275 percent.

5 (2)(a) Upon every person engaging within this state in any business
6 activity other than or in addition to an activity taxed explicitly
7 under another section in this chapter or subsection (1) or (3) of this
8 section; as to such persons the amount of tax on account of such
9 activities shall be equal to the gross income of the business
10 multiplied by the rate of 1.5 percent.

11 (b) This subsection (2) includes, among others, and without
12 limiting the scope hereof (whether or not title to materials used in
13 the performance of such business passes to another by accession,
14 confusion or other than by outright sale), persons engaged in the
15 business of rendering any type of service which does not constitute a
16 "sale at retail" or a "sale at wholesale." The value of advertising,
17 demonstration, and promotional supplies and materials furnished to an
18 agent by his or her principal or supplier to be used for informational,
19 educational, and promotional purposes shall not be considered a part of
20 the agent's remuneration or commission and shall not be subject to
21 taxation under this section.

22 (3)(a) Until July 1, 2024, upon every person engaging within this
23 state in the business of performing aerospace product development for
24 others, as to such persons, the amount of tax with respect to such
25 business shall be equal to the gross income of the business multiplied
26 by a rate of 0.9 percent.

27 (b) A person reporting under the tax rate provided in this
28 subsection (3) must file a complete annual report with the department
29 under RCW 82.32.534.

30 (c) "Aerospace product development" has the meaning as provided in
31 RCW 82.04.4461.

32 **Sec. 404.** RCW 82.04.290 and 2013 3rd sp.s. c 2 s 8 are each
33 amended to read as follows:

34 (1) Upon every person engaging within this state in the business of
35 providing international investment management services, as to such
36 persons, the amount of tax with respect to such business is equal to

1 the gross income or gross proceeds of sales of the business multiplied
2 by a rate of 0.275 percent.

3 (2)(a) Upon every person engaging within this state in any business
4 activity other than or in addition to an activity taxed explicitly
5 under another section in this chapter or subsection (1) or (3) of this
6 section; as to such persons the amount of tax on account of such
7 activities is equal to the gross income of the business multiplied by
8 the rate of 1.5 percent.

9 (b) This subsection (2) includes, among others, and without
10 limiting the scope hereof (whether or not title to materials used in
11 the performance of such business passes to another by accession,
12 confusion or other than by outright sale), persons engaged in the
13 business of rendering any type of service which does not constitute a
14 "sale at retail" or a "sale at wholesale." The value of advertising,
15 demonstration, and promotional supplies and materials furnished to an
16 agent by his or her principal or supplier to be used for informational,
17 educational, and promotional purposes is not considered a part of the
18 agent's remuneration or commission and is not subject to taxation under
19 this section.

20 (3)(a) Until July 1, 2040, upon every person engaging within this
21 state in the business of performing aerospace product development for
22 others, as to such persons, the amount of tax with respect to such
23 business is equal to the gross income of the business multiplied by a
24 rate of 0.9 percent.

25 (b) A person reporting under the tax rate provided in this
26 subsection (3) must file a complete annual report with the department
27 under RCW 82.32.534.

28 (c) "Aerospace product development" has the meaning as provided in
29 RCW 82.04.4461.

30 **Sec. 405.** RCW 82.08.9651 and 2010 c 114 s 124 are each amended to
31 read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to sales of
33 gases and chemicals used by a manufacturer or processor for hire in the
34 production of semiconductor materials. This exemption is limited to
35 gases and chemicals used in the production process to grow the product,
36 deposit or grow permanent or sacrificial layers on the product, to etch
37 or remove material from the product, to anneal the product, to immerse

1 the product, to clean the product, and other such uses whereby the
2 gases and chemicals come into direct contact with the product during
3 the production process, or uses of gases and chemicals to clean the
4 chambers and other like equipment in which such processing takes place.
5 For the purposes of this section, "semiconductor materials" has the
6 meaning provided in RCW 82.04.2404 and 82.04.294(3).

7 ~~(2) ((A person claiming the exemption under this section must file~~
8 ~~a complete annual report with the department under RCW 82.32.534.)) (a)~~
9 Except as provided under (b) of this subsection (2), a person claiming
10 the exemption under this section must file a complete annual survey
11 with the department under RCW 82.32.585.

12 (b) A person claiming the exemption under this section and who is
13 required to file a complete annual report with the department under RCW
14 82.32.534 as a result of claiming the tax preference provided by RCW
15 82.04.2404 is not also required to file a complete annual survey under
16 RCW 82.32.585.

17 (3) No application is necessary for the tax exemption. The person
18 is subject to all of the requirements of chapter 82.32 RCW.

19 ~~((3))~~ (4) This section expires December 1, 2018.

20 **Sec. 406.** RCW 82.12.9651 and 2010 c 114 s 130 are each amended to
21 read as follows:

22 (1) The provisions of this chapter do not apply with respect to the
23 use of gases and chemicals used by a manufacturer or processor for hire
24 in the production of semiconductor materials. This exemption is
25 limited to gases and chemicals used in the production process to grow
26 the product, deposit or grow permanent or sacrificial layers on the
27 product, to etch or remove material from the product, to anneal the
28 product, to immerse the product, to clean the product, and other such
29 uses whereby the gases and chemicals come into direct contact with the
30 product during the production process, or uses of gases and chemicals
31 to clean the chambers and other like equipment in which such processing
32 takes place. For purposes of this section, "semiconductor materials"
33 has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

34 ~~(2) ((A person claiming the exemption under this section must file~~
35 ~~a complete annual report with the department under RCW 82.32.534.)) (a)~~
36 Except as provided under (b) of this subsection (2), a person claiming

1 the exemption under this section must file a complete annual survey
2 with the department under RCW 82.32.585.

3 (b) A person claiming the exemption under this section and who is
4 required to file a complete annual report with the department under RCW
5 82.32.534 as a result of claiming the tax preference provided by RCW
6 82.04.2404 is not also required to file a complete annual survey under
7 RCW 82.32.585.

8 (3) No application is necessary for the tax exemption. The person
9 is subject to all of the requirements of chapter 82.32 RCW.

10 ~~((+3))~~ (4) This section expires December 1, 2018.

11 **Sec. 407.** RCW 84.40.038 and 2011 c 84 s 1 are each amended to read
12 as follows:

13 (1) The owner or person responsible for payment of taxes on any
14 property may petition the county board of equalization for a change in
15 the assessed valuation placed upon such property by the county assessor
16 or for any other reason specifically authorized by statute. Such
17 petition must be made on forms prescribed or approved by the department
18 of revenue and any petition not conforming to those requirements or not
19 properly completed may not be considered by the board. The petition
20 must be filed with the board:

21 (a) On or before July 1st of the year of the assessment or
22 determination(~~(τ)~~);

23 (b) Within thirty days after the date (~~(an)~~) the assessment, value
24 change notice, or other notice (~~(has been)~~) was mailed(~~(τ)~~);

25 (c) Within thirty days after the date that the assessor
26 electronically (i) transmitted the assessment, value change notice, or
27 other notice, or (ii) notified the owner or person responsible for
28 payment of taxes that the assessment, value change notice, or other
29 notice was available to be accessed by the owner or other person; or

30 (d) Within a time limit of up to sixty days adopted by the county
31 legislative authority, whichever is later. If a county legislative
32 authority sets a time limit, the authority may not change the limit for
33 three years from the adoption of the limit.

34 (2) The board of equalization may waive the filing deadline if the
35 petition is filed within a reasonable time after the filing deadline
36 and the petitioner shows good cause for the late filing. However, the
37 board of equalization must waive the filing deadline for the

1 circumstance described under (f) of this subsection if the petition is
2 filed within a reasonable time after the filing deadline. The decision
3 of the board of equalization regarding a waiver of the filing deadline
4 is final and not appealable under RCW 84.08.130. Good cause may be
5 shown by one or more of the following events or circumstances:

6 (a) Death or serious illness of the taxpayer or his or her
7 immediate family;

8 (b) The taxpayer was absent from the address where the taxpayer
9 normally receives the assessment or value change notice, was absent for
10 more than fifteen days of the days allowed in subsection (1) of this
11 section before the filing deadline, and the filing deadline is after
12 July 1;

13 (c) Incorrect written advice regarding filing requirements received
14 from board of equalization staff, county assessor's staff, or staff of
15 the property tax advisor designated under RCW 84.48.140;

16 (d) Natural disaster such as flood or earthquake;

17 (e) Delay or loss related to the delivery of the petition by the
18 postal service, and documented by the postal service;

19 (f) The taxpayer was not sent a revaluation notice under RCW
20 84.40.045 for the current assessment year and the taxpayer can
21 demonstrate both of the following:

22 (i) The taxpayer's property value did not change from the previous
23 year; and

24 (ii) The taxpayer's property is located in an area revalued by the
25 assessor for the current assessment year; or

26 (g) Other circumstances as the department may provide by rule.

27 (3) The owner or person responsible for payment of taxes on any
28 property may request that the appeal be heard by the state board of tax
29 appeals without a hearing by the county board of equalization when the
30 assessor, the owner or person responsible for payment of taxes on the
31 property, and a majority of the county board of equalization agree that
32 a direct appeal to the state board of tax appeals is appropriate. The
33 state board of tax appeals may reject the appeal, in which case the
34 county board of equalization must consider the appeal under RCW
35 84.48.010. Notice of such a rejection, together with the reason
36 therefor, (~~shall~~) must be provided to the affected parties and the
37 county board of equalization within thirty days of receipt of the
38 direct appeal by the state board.

1 (2) "Flexible commuter ride sharing" means a car pool or van pool
2 arrangement whereby a group of at least two but not exceeding fifteen
3 persons including the driver is transported in a passenger motor
4 vehicle with a gross vehicle weight not exceeding ten thousand pounds,
5 excluding special rider equipment, between their places of abode or
6 termini near such places, and their places of employment or educational
7 or other institutions, where the driver is also on the way to or from
8 his or her place of employment or educational or other institution.

9 (3) "Persons with special transportation needs" (~~means those~~
10 ~~persons defined~~) has the same meaning as provided in RCW
11 81.66.010(~~(+4)~~).

12 (4) "Ride sharing for persons with special transportation needs"
13 means an arrangement whereby a group of persons with special
14 transportation needs, and their attendants, is transported by a public
15 social service agency or a private, nonprofit transportation provider,
16 as defined in RCW 81.66.010(~~(+3)~~), serving persons with special needs,
17 in a passenger motor vehicle as defined by the department to include
18 small buses, cutaways, and modified vans not more than twenty-eight
19 feet long: PROVIDED, That the driver need not be a person with special
20 transportation needs.

21 (5) "Ride-sharing operator" means the person, entity, or concern,
22 not necessarily the driver, responsible for the existence and
23 continuance of commuter ride sharing, flexible commuter ride sharing,
24 or ride sharing for persons with special transportation needs. The
25 term "ride-sharing operator" includes but is not limited to an
26 employer, an employer's agent, an employer-organized association, a
27 state agency, a county, a city, a public transportation benefit area,
28 or any other political subdivision that owns or leases a ride-sharing
29 vehicle.

30 (6) "Ride-sharing promotional activities" means those activities
31 involved in forming a commuter ride-sharing arrangement or a flexible
32 commuter ride-sharing arrangement, including but not limited to
33 receiving information from existing and prospective ride-sharing
34 participants, sharing that information with other existing and
35 prospective ride-sharing participants, matching those persons with
36 other existing or prospective ride-sharing participants, and making
37 assignments of persons to ride-sharing arrangements.

1 **Sec. 502.** RCW 82.44.015 and 2010 c 161 s 909 are each amended to
2 read as follows:

3 (1) Passenger motor vehicles used primarily for commuter ride
4 sharing and ride sharing for persons with special transportation needs,
5 as defined in RCW 46.74.010, are not subject to the motor vehicle
6 excise tax authorized under this chapter if the vehicles are used as
7 ride-sharing vehicles for thirty-six consecutive months beginning from
8 the date of purchase.

9 (2) To qualify for the motor vehicle excise tax exemption for
10 commuter ride-sharing vehicles, passenger motor vehicles must:

11 (a) Have a seating capacity of five or six passengers, including
12 the driver;

13 (b) Be used for commuter ride sharing;

14 (c) Be operated either within:

15 (i) The state's eight largest counties that are required to develop
16 commute trip reduction plans as directed by chapter 70.94 RCW; or

17 (ii) In other counties, or cities and towns within those counties,
18 that elect to adopt and implement a commute trip reduction plan; and

19 (d) Meet at least one of the following conditions:

20 (i) The vehicle must be operated by a public transportation agency
21 for the general public;

22 (ii) The vehicle must be used by a major employer, as defined in
23 RCW 70.94.524 as an element of its commute trip reduction program for
24 their employees; or

25 (iii) The vehicle must be owned and operated by individual
26 employees and must be registered either with the employer as part of
27 its commute trip reduction program or with a public transportation
28 agency serving the area where the employees live or work. Individual
29 employee owned and operated motor vehicles will require certification
30 that the vehicle is registered with a major employer or a public
31 transportation agency. Major employers who own and operate motor
32 vehicles for their employees must certify that the commuter ride-
33 sharing arrangement conforms to a carpool/vanpool element contained
34 within their commute trip reduction program.

35 (3) The registered owner of a passenger motor vehicle described in
36 subsection (2) of this section:

37 (a) Shall notify the department upon the termination of the primary

1 use of the vehicle in commuter ride sharing or ride sharing for persons
2 with special transportation needs; and

3 (b) Is liable for the motor vehicle excise tax imposed under this
4 chapter, prorated on the remaining months for which the vehicle is
5 registered.

6 **Sec. 503.** RCW 82.08.0287 and 2001 c 320 s 4 are each amended to
7 read as follows:

8 (1) The tax imposed by this chapter (~~shall~~) does not apply to
9 sales of passenger motor vehicles which are to be used primarily for
10 commuter ride sharing or ride sharing for persons with special
11 transportation needs, as defined in RCW 46.74.010, if the vehicles are
12 used as ride-sharing vehicles for thirty-six consecutive months
13 beginning from the date of purchase.

14 (2) To qualify for the tax exemption, those passenger motor
15 vehicles with five or six passengers, including the driver, used for
16 commuter ride-sharing, must be operated either within the state's eight
17 largest counties that are required to develop commute trip reduction
18 plans as directed by chapter 70.94 RCW or in other counties, or cities
19 and towns within those counties, that elect to adopt and implement a
20 commute trip reduction plan. Additionally at least one of the
21 following conditions must apply: (~~(1)~~) (a) The vehicle must be
22 operated by a public transportation agency for the general public; or
23 (~~(2)~~) (b) the vehicle must be used by a major employer, as defined in
24 RCW 70.94.524 as an element of its commute trip reduction program for
25 their employees; or (~~(3)~~) (c) the vehicle must be owned and operated
26 by individual employees and must be registered either with the employer
27 as part of its commute trip reduction program or with a public
28 transportation agency serving the area where the employees live or
29 work. Individual employee owned and operated motor vehicles will
30 require certification that the vehicle is registered with a major
31 employer or a public transportation agency. Major employers who own
32 and operate motor vehicles for their employees must certify that the
33 commuter ride-sharing arrangement conforms to a carpool/vanpool element
34 contained within their commute trip reduction program.

35 **Sec. 504.** RCW 82.12.0282 and 2001 c 320 s 5 are each amended to
36 read as follows:

1 **Sec. 601.** RCW 82.08.855 and 2007 c 332 s 1 are each amended to
2 read as follows:

3 (1) The tax levied by RCW 82.08.020 does not apply to the sale to
4 an eligible farmer of:

5 (a) Replacement parts for qualifying farm machinery and equipment;

6 (b) Labor and services rendered in respect to the installing of
7 replacement parts; and

8 (c) Labor and services rendered in respect to the repairing of
9 qualifying farm machinery and equipment, provided that during the
10 course of repairing no tangible personal property is installed,
11 incorporated, or placed in, or becomes an ingredient or component of,
12 the qualifying farm machinery and equipment other than replacement
13 parts.

14 (2)(a) Notwithstanding anything to the contrary in this chapter, if
15 a single transaction involves services that are not exempt under this
16 section and services that would be exempt under this section if
17 provided separately, the exemptions provided in subsection (1)(b) and
18 (c) of this section apply if: (i) The seller makes a separately
19 itemized charge for labor and services described in subsection (1)(b)
20 or (c) of this section; and (ii) the separately itemized charge does
21 not exceed the seller's usual and customary charge for such services.

22 (b) If the requirements in (a)(i) and (ii) of this subsection (2)
23 are met, the exemption provided in subsection (1)(b) or (c) of this
24 section applies to the separately itemized charge for labor and
25 services described in subsection (1)(b) or (c) of this section.

26 (3)(a) A ~~((person))~~ purchaser claiming an exemption under this
27 section must keep records necessary for the department to verify
28 eligibility under this section. ~~((An exemption is available only when
29 the buyer provides the seller with an exemption certificate issued by
30 the department containing such information as the department requires.
31 The exemption certificate shall be in a form and manner prescribed by
32 the department. The seller shall retain a copy of the certificate for
33 the seller's files.~~

34 ~~(b) The department shall provide an exemption certificate to an
35 eligible farmer or renew an exemption certificate, upon application by
36 that eligible farmer. The application must be in a form and manner
37 prescribed by the department and shall contain the following
38 information as required by the department:~~

1 ~~(i) The name and address of the applicant;~~
2 ~~(ii) The uniform business identifier or tax reporting account~~
3 ~~number of the applicant, if the applicant is required to be registered~~
4 ~~with the department;~~
5 ~~(iii) The type of farming engaged in;~~
6 ~~(iv) Either a copy of the applicant's information as provided in~~
7 ~~(b)(iv)(A) of this subsection or a declaration as provided in~~
8 ~~(b)(iv)(B) of this subsection, as elected by the applicant;~~
9 ~~(A) A copy of the applicant's Schedule F of Form 1040, Form 1120,~~
10 ~~or other applicable form filed with the internal revenue service~~
11 ~~indicating the applicant's gross sales or harvested value of~~
12 ~~agricultural products for the tax year covered by the return. If the~~
13 ~~applicant has not filed a federal income tax return for the prior tax~~
14 ~~year or is not required to file a federal income tax return, the~~
15 ~~applicant shall provide copies of other documents establishing the~~
16 ~~amount of the applicant's gross sales or harvested value of~~
17 ~~agricultural products for the tax year immediately preceding the year~~
18 ~~in which an application for exemption under this section is submitted~~
19 ~~to the department;~~
20 ~~(B) A declaration signed under penalty of perjury as provided in~~
21 ~~RCW 9A.72.085 that the applicant is an eligible farmer as defined in~~
22 ~~subsection (4)(b) of this section. Any person who knowingly makes a~~
23 ~~materially false statement on an application submitted to the~~
24 ~~department under the provisions of this section shall be guilty of~~
25 ~~perjury in the second degree under chapter 9A.72 RCW. In addition, the~~
26 ~~person is liable for payment of any taxes for which an exemption under~~
27 ~~this section was claimed, with interest at the rate provided for~~
28 ~~delinquent taxes, retroactively to the date the exemption was claimed,~~
29 ~~and penalties as provided under chapter 82.32 RCW;~~
30 ~~(v) The name of the individual authorized to sign the certificate,~~
31 ~~printed in a legible fashion;~~
32 ~~(vi) The signature of the authorized individual; and~~
33 ~~(vii) Other information the department may require to verify the~~
34 ~~applicant's eligibility for the exemption.~~
35 ~~(c)(i) Except as otherwise provided in this section, exemption~~
36 ~~certificates take effect on the date issued by the department are not~~
37 ~~transferable and are valid for the remainder of the calendar year in~~
38 ~~which the certificate is issued and the following four calendar years.~~

1 ~~The department shall attempt to notify holders of exemption~~
2 ~~certificates of the impending expiration of the certificate at least~~
3 ~~sixty days before the certificate expires and shall provide an~~
4 ~~application for renewal of the certificate.~~

5 ~~(ii) When a certificate holder merely changes identity or form of~~
6 ~~ownership of an entity and there is no change in beneficial ownership,~~
7 ~~the exemption certificate shall be transferred to the new entity upon~~
8 ~~written notice to the department by the transferor or transferee.~~

9 ~~(d)(i) A person who is an eligible farmer as defined in subsection~~
10 ~~(4)(b)(iii) of this section shall be issued a conditional exemption~~
11 ~~certificate. The exemption certificate is)) Sellers making tax-exempt~~
12 ~~sales under this section must obtain an exemption certificate from the~~
13 ~~purchaser in a form and manner prescribed by the department. In lieu~~
14 ~~of an exemption certificate, a seller may capture the relevant data~~
15 ~~elements as allowed under the streamlined sales and use tax agreement.~~
16 ~~The seller must retain a copy of the certificate or the data elements~~
17 ~~for the seller's files.~~

18 (b)(i) For a person who is an eligible farmer as defined in
19 subsection (4)(b)(iv) of this section, the exemption is conditioned
20 upon:

21 (A) The eligible farmer having gross sales or a harvested value of
22 agricultural products grown, raised, or produced by that person of at
23 least ten thousand dollars in the first full tax year in which the
24 person engages in business as a farmer; or

25 (B) The eligible farmer, during the first full tax year in which
26 that person engages in business as a farmer, growing, raising, or
27 producing agricultural products having an estimated value at any time
28 during that year of at least ten thousand dollars, if the person will
29 not sell or harvest an agricultural product during the first full tax
30 year in which the person engages in business as a farmer.

31 (ii) If a person fails to meet the condition provided in
32 ~~((d)(i)(A) or (B) of this subsection, the department shall revoke the~~
33 ~~exemption certificate. The department shall notify the person in~~
34 ~~writing of the revocation and the person's responsibility, and due~~
35 ~~date, for payment of any taxes for which an exemption under this~~
36 ~~section was claimed)) (b)(i)(A) or (B) of this subsection, the person~~
37 ~~must repay any taxes exempted under this section. Any taxes for which~~
38 ~~an exemption under this section was claimed ((shall be)) are due and~~

1 payable to the department within thirty days of the ~~((date of the~~
2 ~~notice revoking the certificate))~~ end of the first full tax year in
3 which the person engages in business as a farmer. The department
4 ~~((shall))~~ must assess interest on the taxes for which the exemption was
5 claimed~~((. Interest shall be assessed at the rate provided for~~
6 ~~delinquent excise taxes under))~~ as provided in chapter 82.32 RCW,
7 retroactively to the date the exemption was claimed, and ~~((shall))~~
8 accrues until the taxes for which the exemption was claimed are paid.
9 Penalties ~~((shall))~~ may not be imposed on any tax required to be paid
10 under this subsection (3)~~((d))~~ (b)(ii) if full payment is received by
11 the due date. ~~((Nothing in this subsection (3)(d) prohibits a person~~
12 ~~from reapplying for an exemption certificate.))~~

13 (4) The definitions in this subsection apply ~~((to))~~ throughout this
14 section unless the context clearly requires otherwise.

15 (a) "Agricultural products" has the meaning provided in RCW
16 82.04.213.

17 (b) "Eligible farmer" means:

18 (i) A farmer as defined in RCW 82.04.213 whose gross sales or
19 harvested value of agricultural products grown, raised, or produced by
20 that person ~~((is))~~ was at least ten thousand dollars for the ~~((tax~~
21 ~~year))~~ immediately preceding ~~((the year in which an application for~~
22 ~~exemption under this section is submitted to the department;~~

23 ~~((ii) The transferee of an exemption certificate under subsection~~
24 ~~(3)(c)(ii) of this section where the transferred certificate expires~~
25 ~~before the transferee engages in farming operations for a full tax~~
26 ~~year, if the combined gross sales or harvested value of agricultural~~
27 ~~products that the transferor and transferee have grown, raised, or~~
28 ~~produced meet the requirements of (b)(i) of this subsection;~~

29 ~~((iii) A farmer as defined in RCW 82.04.213, who does not meet the~~
30 ~~definition of "eligible farmer" in (b)(i) or (ii) of this subsection,~~
31 ~~and who did not engage in farming for the entire tax year immediately~~
32 ~~preceding the year in which application for exemption under this~~
33 ~~section is submitted to the department))~~ tax year;

34 (ii) A farmer as defined in RCW 82.04.213 whose agricultural
35 products had an estimated value of at least ten thousand dollars for
36 the immediately preceding tax year, if the person did not sell or
37 harvest an agricultural product during that year;

1 (iii) A farmer as defined in RCW 82.04.213 who has merely changed
2 identity or the form of ownership of an entity that was an eligible
3 farmer, where there was no change in beneficial ownership, and the
4 combined gross sales, harvested value, or estimated value of
5 agricultural products by both entities met the requirements of (b)(i)
6 or (ii) of this subsection for the immediately preceding tax year;

7 (iv) A farmer as defined in RCW 82.04.213, who does not meet the
8 definition of "eligible farmer" in (b)(i), (ii), or (iii) of this
9 subsection, and who did not engage in farming for the entire
10 immediately preceding tax year, because the farmer is either new to
11 farming or newly returned to farming; or

12 ~~((+iv))~~ (v) Anyone who otherwise meets the definition of "eligible
13 farmer" in this subsection except that they are not a "person" as
14 defined in RCW 82.04.030.

15 (c) "Farm vehicle" has the same meaning as in RCW 46.04.181.

16 (d) "Harvested value" means the number of units of the agricultural
17 product that were grown, raised, or produced, multiplied by the average
18 sales price of the agricultural product. For purposes of this
19 subsection (4)(d), "average sales price" means the average price per
20 unit of agricultural product received by farmers in this state as
21 reported by the United States department of agriculture's national
22 agricultural statistics service for the twelve-month period that
23 coincides with, or that ends closest to, the end of the relevant tax
24 year, regardless of whether the prices are subject to revision. If the
25 price per unit of an agricultural product received by farmers in this
26 state is not available from the national agricultural statistics
27 service, average sales price may be determined by using the average
28 price per unit of agricultural product received by farmers in this
29 state as reported by a recognized authority for the agricultural
30 product.

31 (e) "Qualifying farm machinery and equipment" means machinery and
32 equipment used primarily by an eligible farmer for growing, raising, or
33 producing agricultural products. "Qualifying farm machinery and
34 equipment" does not include:

35 (i) Vehicles as defined in RCW 46.04.670, other than farm tractors
36 as defined in RCW 46.04.180, farm vehicles, and other farm implements.
37 For purposes of this subsection (4)(e)(i), "farm implement" means
38 machinery or equipment manufactured, designed, or reconstructed for

1 agricultural purposes and used primarily by an eligible farmer to grow,
2 raise, or produce agricultural products, but does not include lawn
3 tractors and all-terrain vehicles;

4 (ii) Aircraft;

5 (iii) Hand tools and hand-powered tools; and

6 (iv) Property with a useful life of less than one year.

7 (f)(i) "Replacement parts" means those parts that replace an
8 existing part, or which are essential to maintain the working
9 condition, of a piece of qualifying farm machinery or equipment.

10 (ii) Paint, fuel, oil, hydraulic fluids, antifreeze, and similar
11 items are not replacement parts except when installed, incorporated, or
12 placed in qualifying farm machinery and equipment during the course of
13 installing replacement parts as defined in (f)(i) of this subsection or
14 making repairs as described in subsection (1)(c) of this section.

15 (g) "Tax year" means the period for which a person files its
16 federal income tax return, irrespective of whether the period
17 represents a calendar year, fiscal year, or some other consecutive
18 twelve-month period. If a person is not required to file a federal
19 income tax return, "tax year" means a calendar year.

20 **Sec. 602.** RCW 82.08.890 and 2010 1st sp.s. c 23 s 601 are each
21 amended to read as follows:

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

24 (a) Qualifying livestock nutrient management equipment;

25 (b) Labor and services rendered in respect to installing,
26 repairing, cleaning, altering, or improving qualifying livestock
27 nutrient management equipment; and

28 (c)(i) Labor and services rendered in respect to repairing,
29 cleaning, altering, or improving of qualifying livestock nutrient
30 management facilities, or to tangible personal property that becomes an
31 ingredient or component of qualifying livestock nutrient management
32 facilities in the course of repairing, cleaning, altering, or improving
33 of such facilities.

34 (ii) The exemption provided in this subsection (1)(c) does not
35 apply to the sale of or charge made for: (A) Labor and services
36 rendered in respect to the constructing of new, or replacing previously
37 existing, qualifying livestock nutrient management facilities; or (B)

1 tangible personal property that becomes an ingredient or component of
2 qualifying livestock nutrient management facilities during the course
3 of constructing new, or replacing previously existing, qualifying
4 livestock nutrient management facilities.

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

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

10 (3)(a) ~~((The department of revenue must provide an exemption
11 certificate to an eligible person upon application by that person.))~~
12 The department of agriculture must provide a list of eligible persons,
13 as defined in subsection (4)(c)(i) and (ii) of this section, to the
14 department of revenue upon request. Conservation districts must
15 maintain lists of eligible persons as defined in subsection (4)(c)(iii)
16 of this section to allow the department of revenue to verify
17 eligibility. ~~((The application must be in a form and manner prescribed
18 by the department and must contain information regarding the location
19 of the dairy or animal feeding operation and other information the
20 department may require.))~~

21 (b) A ~~((person))~~ purchaser claiming an exemption under this section
22 must keep records necessary for the department to verify eligibility
23 under this section. ~~((The exemption is available only when the buyer
24 provides the seller with an exemption certificate in a form and manner
25 prescribed by the department. The seller must retain a copy of the
26 certificate))~~ Sellers making tax-exempt sales under this section must
27 obtain an exemption certificate from the purchaser in a form and manner
28 prescribed by the department. In lieu of an exemption certificate, a
29 seller may capture the relevant data elements as allowed under the
30 streamlined sales and use tax agreement. The seller must retain a copy
31 of the certificate or the data elements for the seller's files.

32 (4) The definitions in this subsection apply to this section and
33 RCW 82.12.890 unless the context clearly requires otherwise:

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

37 (i) Animals, other than aquatic animals, have been, are, or will be

1 stabled or confined and fed or maintained for a total of forty-five
2 days or more in any twelve-month period; and

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

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

8 (c) "Eligible person" means a person: (i) Licensed to produce milk
9 under chapter 15.36 RCW who has a certified dairy nutrient management
10 plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding
11 operation and has a permit issued under chapter 90.48 RCW; or (iii) who
12 owns an animal feeding operation and has a nutrient management plan
13 approved by a conservation district as meeting natural resource
14 conservation service field office technical guide standards and who
15 (~~possesses an exemption certificate~~) qualifies for the exemption
16 provided under RCW 82.08.855.

17 (d) "Handling and treatment of livestock manure" means the
18 activities of collecting, storing, moving, or transporting livestock
19 manure, separating livestock manure solids from liquids, or applying
20 livestock manure to the agricultural lands of an eligible person other
21 than through the use of pivot or linear type traveling irrigation
22 systems.

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

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

37 (g) "Qualifying livestock nutrient management facilities" means the
38 following structures and facilities for exclusive use in the handling

1 and treatment of livestock manure: (i) Flush systems; (ii) lagoons;
2 (iii) liquid livestock manure storage structures, such as concrete
3 tanks or glass-lined steel tanks; and (iv) structures used solely for
4 the dry storage of manure, including roofed stacking facilities.

5 (5) The exemption under this section does not apply to sales made
6 from July 1, 2010, through June 30, 2013.

7 **Sec. 603.** RCW 82.12.855 and 2007 c 332 s 2 are each amended to
8 read as follows:

9 (1) The provisions of this chapter do not apply in respect to the
10 use by an eligible farmer of:

11 (a) Replacement parts for qualifying farm machinery and equipment;

12 (b) Labor and services rendered in respect to the installing of
13 replacement parts; and

14 (c) Labor and services rendered in respect to the repairing of
15 qualifying farm machinery and equipment, provided that during the
16 course of repairing no tangible personal property is installed,
17 incorporated, or placed in, or becomes a component of, the qualifying
18 farm machinery and equipment other than replacement parts.

19 (2)(a) Notwithstanding anything to the contrary in this chapter, if
20 a single transaction involves services that are not exempt under this
21 section and services that would be exempt under this section if
22 provided separately, the exemptions provided in subsection (1)(b) and
23 (c) of this section apply if: (i) The seller makes a separately
24 itemized charge for labor and services described in subsection (1)(b)
25 or (c) of this section; and (ii) the separately itemized charge does
26 not exceed the seller's usual and customary charge for such services.

27 (b) If the requirements in (a)(i) and (ii) of this subsection (2)
28 are met, the exemption provided in subsection (1)(b) or (c) of this
29 section applies to the separately itemized charge for labor and
30 services described in subsection (1)(b) or (c) of this section.

31 (3) The definitions and recordkeeping requirements in RCW
32 82.08.855(~~(, other than the exemption certificate requirement,)~~) apply
33 to this section.

34 (4) If a person is an eligible farmer as defined in RCW
35 82.08.855(4)(b)(~~(+iii+)~~) (iv) who cannot prove income because the
36 person is new to farming or newly returned to farming, the exemption
37 under this section will apply only if one of the conditions in RCW

1 82.08.855(3)((~~d~~)) (b)(i)(A) or (B) is met. If ((~~the~~)) neither of
2 those conditions are ((~~not~~)) met, any taxes for which an exemption
3 under this section was claimed and interest on such taxes must be paid.
4 Amounts due under this subsection shall be in accordance with RCW
5 82.08.855(3)((~~d~~)) (b)(ii)((~~, except that the due date for payment is~~
6 ~~January 31st of the year immediately following the first full tax year~~
7 ~~in which the person engaged in business as a farmer~~)).

8 (5) Except as provided in subsection (4) of this section, the
9 department ((~~shall~~)) may not assess the tax imposed under this chapter
10 against a person who no longer qualifies as an eligible farmer with
11 respect to the use of any articles or services exempt under subsection
12 (1) of this section, if the person was an eligible farmer when the
13 person first put the articles or services to use in this state.

14 **Sec. 604.** RCW 82.12.890 and 2010 1st sp.s. c 23 s 602 are each
15 amended to read as follows:

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

- 18 (a) Qualifying livestock nutrient management equipment;
- 19 (b) Labor and services rendered in respect to installing,
20 repairing, cleaning, altering, or improving qualifying livestock
21 nutrient management equipment; and

22 (c)(i) Tangible personal property that becomes an ingredient or
23 component of qualifying livestock nutrient management facilities in the
24 course of repairing, cleaning, altering, or improving of such
25 facilities.

26 (ii) The exemption provided in this subsection (1)(c) does not
27 apply to the use of tangible personal property that becomes an
28 ingredient or component of qualifying livestock nutrient management
29 facilities during the course of constructing new, or replacing
30 previously existing, qualifying livestock nutrient management
31 facilities.

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

35 (b) The exemption applies to the use of tangible personal property
36 and labor and services made after the livestock nutrient management

1 plan is: (i) Certified under chapter 90.64 RCW; (ii) approved as part
2 of the permit issued under chapter 90.48 RCW; or (iii) approved as
3 required under RCW 82.08.890(4)(c)(iii).

4 (3) (~~The exemption certificate and recordkeeping requirements of~~
5 ~~RCW 82.08.890 apply to this section.~~) The definitions and
6 recordkeeping requirements in RCW 82.08.890 apply to this section.

7 (4) The exemption under this section does not apply to the use of
8 tangible personal property and services if first use of the property or
9 services in this state occurs from July 1, 2010, through June 30, 2013.

10 NEW SECTION. Sec. 605. Sections 401 and 403 of this act expire on
11 the date that sections 402 and 404 of this act take effect.

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