
SUBSTITUTE SENATE BILL 6438

State of Washington

64th Legislature

2016 Regular Session

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

READ FIRST TIME 02/05/16.

1 AN ACT Relating to improvements to tax and licensing laws
2 administered by the department of revenue; amending RCW 82.45.197,
3 82.04.040, 82.04.190, 82.70.040, 82.08.809, 82.12.809, 82.04.220,
4 82.32.670, 82.32.534, 82.32.585, 82.04.261, 82.04.334, 82.04.43391,
5 82.32.030, 82.16.010, 83.100.050, 19.02.115, 82.01.060, and
6 84.33.089; amending 2015 3rd sp.s. c 6 ss 2303, 801 and 2301
7 (uncodified); amending 2015 3rd sp.s. c 30 s 1 (uncodified);
8 reenacting and amending RCW 84.34.108 and 82.32.790; reenacting RCW
9 82.04.280; creating new sections; repealing RCW 82.04.4483; repealing
10 2010 c 106 s 206 (uncodified); repealing 2009 c 461 s 3 (uncodified);
11 repealing 2006 c 300 s 7 (uncodified); repealing 2003 c 149 s 4
12 (uncodified); providing a contingent effective date; and providing
13 expiration dates.

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

15 **Part I**
16 **Real estate excise tax exemption for inheritance transfers**

17 **Sec. 101.** RCW 82.45.197 and 2014 c 58 s 25 are each amended to
18 read as follows:

19 In order to receive an exemption under RCW 82.45.010(3) (a) or
20 (b) from the tax in this chapter on real property transferred as a

1 result of (~~inheritance under RCW 82.45.010(3)(a)~~) devise or
2 inheritance or a transfer on death deed, the following documentation
3 must be provided:

4 (1) If the property is being transferred under the terms of a
5 community property agreement, a copy of the recorded agreement and a
6 certified copy of the death certificate;

7 (2) If the property is being transferred under the terms of a
8 trust instrument, a certified copy of the death certificate and a
9 copy of the trust instrument showing the authority of the grantor;

10 (3) If the property is being transferred under the terms of a
11 probated will, a certified copy of the letters testamentary or in the
12 case of intestate administration, a certified copy of the letters of
13 administration showing that the grantor is the court-appointed
14 executor, executrix, or administrator, and a certified copy of the
15 death certificate;

16 (4) In the case of joint tenants with right of survivorship and
17 remainder interests, a certified copy of the death certificate that
18 is recorded to perfect title;

19 (5) If the property is being transferred pursuant to a court
20 order, a certified copy of the court order requiring the transfer,
21 and confirming that the grantor is required to do so under the terms
22 of the order;

23 (6) If the community property interest of the decedent is being
24 transferred to a surviving spouse or surviving domestic partner
25 absent the documentation set forth in subsections (1) through (5) of
26 this section, a certified copy of the death certificate and a signed
27 affidavit from the surviving spouse or surviving domestic partner
28 affirming that he or she is the sole and rightful heir to the
29 property; or

30 (7)(a) If the real property is transferred to one or more heirs,
31 as defined in RCW 11.02.005, by operation of law but absent the
32 documentation set forth in subsections (1) through (6) of this
33 section, a certified copy of the death certificate and a signed
34 affidavit affirming that the transferee or transferees are the
35 rightful heirs to the property.

36 (b)(i) When real property is transferred as described in (a) of
37 this subsection (7) and the decedent-transferor had also inherited
38 the property from his or her spouse or domestic partner but never
39 transferred title to the property into the decedent-transferor's
40 name, the transferee or transferees must provide: (A) A certified

1 copy of the death certificates for the decedent-transferor and the
2 spouse or domestic partner from whom the decedent-transferor
3 inherited the real property; and (B) an affidavit affirming that the
4 transferee or transferees are the rightful heirs to the property.

5 (ii) If the documentation described in (b)(i) of this subsection
6 (7) is provided, the exemption under RCW 82.45.010(3)(a) will apply
7 to the inheritance transfers to the decedent-transferor and to the
8 transferee or transferees; or

9 (8) If the property is being transferred pursuant to a transfer
10 on death deed, a certified copy of the death certificate is recorded
11 to perfect title.

12 NEW SECTION. Sec. 102. Section 101 of this act does not apply
13 to transfers for which a real estate excise tax affidavit form was
14 filed with the county treasurer before the effective date of section
15 101 of this act.

16 **Part II**
17 **Pet adoption fees**

18 **Sec. 201.** RCW 82.04.040 and 2004 c 153 s 402 are each amended to
19 read as follows:

20 (1) Except as otherwise provided in this subsection, "sale" means
21 any transfer of the ownership of, title to, or possession of property
22 for a valuable consideration and includes any activity classified as
23 a "sale at retail" or "retail sale" under RCW 82.04.050. It includes
24 lease or rental, conditional sale contracts, and any contract under
25 which possession of the property is given to the purchaser but title
26 is retained by the vendor as security for the payment of the purchase
27 price. It also includes the furnishing of food, drink, or meals for
28 compensation whether consumed upon the premises or not. The term
29 "sale" does not include the transfer of the ownership of, title to,
30 or possession of an animal by an animal rescue organization in
31 exchange for the payment of an adoption fee.

32 (2) "Casual or isolated sale" means a sale made by a person who
33 is not engaged in the business of selling the type of property
34 involved.

35 (3)(a) "Lease or rental" means any transfer of possession or
36 control of tangible personal property for a fixed or indeterminate
37 term for consideration. A lease or rental may include future options

1 to purchase or extend. "Lease or rental" includes agreements covering
2 motor vehicles and trailers where the amount of consideration may be
3 increased or decreased by reference to the amount realized upon sale
4 or disposition of the property as defined in 26 U.S.C. Sec.
5 7701(h)(1), as amended or renumbered as of January 1, 2003. The
6 definition in this subsection (3) (~~shall~~) must be used for sales
7 and use tax purposes regardless if a transaction is characterized as
8 a lease or rental under generally accepted accounting principles, the
9 United States internal revenue code, Washington state's commercial
10 code, or other provisions of federal, state, or local law.

11 (b) "Lease or rental" does not include:

12 (i) A transfer of possession or control of property under a
13 security agreement or deferred payment plan that requires the
14 transfer of title upon completion of the required payments;

15 (ii) A transfer of possession or control of property under an
16 agreement that requires the transfer of title upon completion of
17 required payments, and payment of an option price does not exceed the
18 greater of one hundred dollars or one percent of the total required
19 payments; or

20 (iii) Providing tangible personal property along with an operator
21 for a fixed or indeterminate period of time. A condition of this
22 exclusion is that the operator is necessary for the tangible personal
23 property to perform as designed. For the purpose of this subsection
24 (3)(b)(iii), an operator must do more than maintain, inspect, or set
25 up the tangible personal property.

26 (4)(a) "Adoption fee" means an amount charged by an animal rescue
27 organization to adopt an animal, except that "adoption fee" does not
28 include any separately itemized charge for any incidental inanimate
29 items provided to persons adopting an animal, including food,
30 identification tags, collars, and leashes.

31 (b) "Animal care and control agency" means the same as in RCW
32 16.52.011 and also includes any similar entity operating outside of
33 this state.

34 (c) "Animal rescue group" means a nonprofit organization exempt
35 from federal income taxation under 26 U.S.C. Sec. 501(c) of the
36 federal internal revenue code as it exists on the effective date of
37 this section, whose primary purpose is the placement of dogs, cats,
38 or other animals that have been removed from an animal care and
39 control agency or that have been surrendered, relinquished, or
40 otherwise transferred to the animal rescue group.

1 (d) "Animal rescue organization" means an animal care and control
2 agency or an animal rescue group.

3 **Sec. 202.** RCW 82.04.190 and 2015 c 169 s 3 are each amended to
4 read as follows:

5 "Consumer" means the following:

6 (1) Except as provided otherwise in this section, any person who
7 purchases, acquires, owns, holds, or uses any article of tangible
8 personal property irrespective of the nature of the person's business
9 and including, among others, without limiting the scope hereof,
10 persons who install, repair, clean, alter, improve, construct, or
11 decorate real or personal property of or for consumers other than for
12 the purpose of:

13 (a) Resale as tangible personal property in the regular course of
14 business;

15 (b) Incorporating such property as an ingredient or component of
16 real or personal property when installing, repairing, cleaning,
17 altering, imprinting, improving, constructing, or decorating such
18 real or personal property of or for consumers;

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

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

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

34 (2)(a) Any person engaged in any business activity taxable under
35 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires,
36 or uses any competitive telephone service, ancillary services, or
37 telecommunications service as those terms are defined in RCW
38 82.04.065, other than for resale in the regular course of business;
39 (c) any person who purchases, acquires, or uses any service defined

1 in RCW 82.04.050(2) (a) or (g), other than for resale in the regular
2 course of business or for the purpose of satisfying the person's
3 obligations under an extended warranty as defined in RCW
4 82.04.050(7); (d) any person who makes a purchase meeting the
5 definition of "sale at retail" and "retail sale" under RCW
6 82.04.050(15), other than for resale in the regular course of
7 business; (e) any person who purchases or acquires an extended
8 warranty as defined in RCW 82.04.050(7) other than for resale in the
9 regular course of business; and (f) any person who is an end user of
10 software. For purposes of this subsection (2)(f) and RCW
11 82.04.050(6), a person who purchases or otherwise acquires prewritten
12 computer software, who provides services described in RCW
13 82.04.050(6)((~~b~~)) (c) and who will charge consumers for the right
14 to access and use the prewritten computer software, is not an end
15 user of the prewritten computer software;

16 (3) Any person engaged in the business of contracting for the
17 building, repairing or improving of any street, place, road, highway,
18 easement, right-of-way, mass public transportation terminal or
19 parking facility, bridge, tunnel, or trestle which is owned by a
20 municipal corporation or political subdivision of the state of
21 Washington or by the United States and which is used or to be used
22 primarily for foot or vehicular traffic including mass transportation
23 vehicles of any kind as defined in RCW 82.04.280, in respect to
24 tangible personal property when such person incorporates such
25 property as an ingredient or component of such publicly owned street,
26 place, road, highway, easement, right-of-way, mass public
27 transportation terminal or parking facility, bridge, tunnel, or
28 trestle by installing, placing or spreading the property in or upon
29 the right-of-way of such street, place, road, highway, easement,
30 bridge, tunnel, or trestle or in or upon the site of such mass public
31 transportation terminal or parking facility;

32 (4) Any person who is an owner, lessee or has the right of
33 possession to or an easement in real property which is being
34 constructed, repaired, decorated, improved, or otherwise altered by a
35 person engaged in business, excluding only (a) municipal corporations
36 or political subdivisions of the state in respect to labor and
37 services rendered to their real property which is used or held for
38 public road purposes, and (b) the United States, instrumentalities
39 thereof, and county and city housing authorities created pursuant to
40 chapter 35.82 RCW in respect to labor and services rendered to their

1 real property. Nothing contained in this or any other subsection of
2 this definition may be construed to modify any other definition of
3 "consumer";

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

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

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

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

1 (9) Any person who is an owner, lessee, or has the right of
2 possession of tangible personal property that, under the terms of an
3 extended warranty as defined in RCW 82.04.050(7), has been repaired
4 or is replacement property, but only with respect to the sale of or
5 charge made for the repairing of the tangible personal property or
6 the replacement property;

7 (10) Any person who purchases, acquires, or uses services
8 described in RCW 82.04.050(6)((~~b~~)) (c) other than:

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

10 (b) For purposes of consuming the service described in RCW
11 82.04.050(6)((~~b~~)) (c) in producing for sale a new product, but only
12 if such service becomes a component of the new product. For purposes
13 of this subsection (10), "product" means a digital product, an
14 article of tangible personal property, or the service described in
15 RCW 82.04.050(6)((~~b~~)) (c);

16 (11)(a) Any end user of a digital product or digital code.
17 "Consumer" does not include any person who is not an end user of a
18 digital product or a digital code and purchases, acquires, owns,
19 holds, or uses any digital product or digital code for purposes of
20 consuming the digital product or digital code in producing for sale a
21 new product, but only if the digital product or digital code becomes
22 a component of the new product. A digital code becomes a component of
23 a new product if the digital good or digital automated service
24 acquired through the use of the digital code becomes incorporated
25 into a new product. For purposes of this subsection, "product" has
26 the same meaning as in subsection (10) of this section.

27 (b)(i) For purposes of this subsection, "end user" means any
28 taxpayer as defined in RCW 82.12.010 other than a taxpayer who
29 receives by contract a digital product for further commercial
30 broadcast, rebroadcast, transmission, retransmission, licensing,
31 relicensing, distribution, redistribution or exhibition of the
32 product, in whole or in part, to others. A person that purchases
33 digital products or digital codes for the purpose of giving away such
34 products or codes will not be considered to have engaged in the
35 distribution or redistribution of such products or codes and will be
36 treated as an end user;

37 (ii) If a purchaser of a digital code does not receive the
38 contractual right to further redistribute, after the digital code is
39 redeemed, the underlying digital product to which the digital code
40 relates, then the purchaser of the digital code is an end user. If

1 the purchaser of the digital code receives the contractual right to
2 further redistribute, after the digital code is redeemed, the
3 underlying digital product to which the digital code relates, then
4 the purchaser of the digital code is not an end user. A purchaser of
5 a digital code who has the contractual right to further redistribute
6 the digital code is an end user if that purchaser does not have the
7 right to further redistribute, after the digital code is redeemed,
8 the underlying digital product to which the digital code relates;

9 (12) Any person who provides services described in RCW
10 82.04.050(9). Any such person is a consumer with respect to the
11 purchase, acquisition, or use of the tangible personal property that
12 the person provides along with an operator in rendering services
13 defined as a retail sale in RCW 82.04.050(9). Any such person may
14 also be a consumer under other provisions of this section;

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

21 (a) Are used in relation to the person's participation in the
22 federal conservation reserve program, the environmental quality
23 incentives program, the wetlands reserve program, the wildlife
24 habitat incentives program, or their successors administered by the
25 United States department of agriculture;

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

28 (c) Are for use by a farmer to produce or improve wildlife
29 habitat on land the farmer owns or leases while acting under
30 cooperative habitat development or access contracts with an
31 organization exempt from federal income tax under 26 U.S.C. Sec.
32 501(c)(3) of the federal internal revenue code or the Washington
33 state department of fish and wildlife; (~~and~~)

34 (14) A regional transit authority is not a consumer with respect
35 to labor, services, or tangible personal property purchased pursuant
36 to agreements providing maintenance services for bus, rail, or rail
37 fixed guideway equipment when a transit agency, as defined in RCW
38 81.104.015, performs the labor or services; and

39 (15) The term "consumer" does not include:

1 (a) An animal rescue organization with respect to animals under
2 its care and control; and

3 (b) Any person with respect to an animal adopted by that person
4 from an animal rescue organization.

5 NEW SECTION. Sec. 203. Sections 201 and 202 of this act apply
6 both prospectively and retroactively to July 1, 2015.

7 **Part III**

8 **Technical corrections to 2015 legislation**

9 **Sec. 301.** 2015 3rd sp.s. c 6 s 2303 (uncodified) is amended to
10 read as follows:

11 ~~((Part VIII of this act expires July 1, 2019.))~~ (1) Sections 802
12 and 804, chapter 6, Laws of 2015 3rd sp. sess. expire July 1, 2026;

13 (2) Section 803, chapter 6, Laws of 2015 3rd sp. sess. expires
14 January 1, 2026; and

15 (3) Section 805, chapter 6, Laws of 2015 3rd sp. sess. expires
16 January 1, 2031.

17 **Sec. 302.** 2015 3rd sp.s. c 6 s 801 (uncodified) is amended to
18 read as follows:

19 (1)(a) The legislature finds that a robust maritime industry is
20 crucial for the state's economic vitality. The legislature further
21 finds that:

22 (i) The joint task force for economic resilience of maritime and
23 manufacturing established policy goals to continue efforts towards
24 developing a robust maritime industry in the state;

25 (ii) The maritime industry has a direct and indirect impact on
26 jobs in the state;

27 (iii) Many of the cities and towns impacted by the maritime
28 industry are often small with limited resources to encourage economic
29 growth, heavily relying on the maritime industry for local jobs and
30 revenues in the community;

31 (iv) Keeping Washington competitive with other cruising
32 destinations is essential to continue to build a robust maritime
33 economy in the state; and

34 (v) Tax incentives are an imperative component to improve the
35 state's overall competitiveness in this sector.

36 (b) Therefore, the legislature intends to:

1 (i) Bolster the maritime industry in the state by incentivizing
2 larger vessel owners to use Washington waters for recreational
3 boating to increase economic activity and jobs in coastal communities
4 and inland water regions of the state;

5 (ii) Achieve this objective in a fiscally responsible manner and
6 require analysis of specific metrics to ensure valuable state
7 resources are being used to accomplish the intended goal; and

8 (iii) Provide limited, short-term tax relief to entity-owned
9 nonresident vessel owners that currently are not afforded the same
10 benefits as other nonresident vessel owners.

11 (2)(a) This subsection is the tax preference performance
12 statement for the entity-owned nonresident vessel tax preference
13 established in section 803 of this act. The performance statement is
14 only intended to be used for subsequent evaluation of the tax
15 preference. It is not intended to create a private right of action by
16 any party or be used to determine eligibility for preferential tax
17 treatment.

18 (b) The legislature categorizes this tax preference as one
19 intended to accomplish the purposes indicated in RCW 82.32.808(2)(c)
20 and one intended to improve the state's competitiveness with other
21 nearby cruising destinations.

22 (c) It is the legislature's specific public policy objective to
23 increase economic activity and jobs related to the maritime industry
24 by providing a tax preference for large entity-owned nonresident
25 vessels to increase the length of time these vessels cruise
26 Washington waters in turn strengthening the maritime economy in the
27 state.

28 (d) To measure the effectiveness of the tax preference provided
29 in part (~~(XII-VIII)~~) VIII of chapter 6, Laws of 2015 3rd sp. sess.
30 of this act in achieving the public policy objective in (c) of this
31 subsection, the joint legislative audit and review committee must
32 provide the following in a published evaluation of this tax
33 preference by December 31, 2024:

34 (i) A comparison of the gross and taxable revenue generated by
35 businesses that sell or provide maintenance or repair of vessels,
36 prior to and after the enactment of this tax preference;

37 (ii) Analysis of retail sales taxes collected from the restaurant
38 and service industries in coastal and inlet coastal jurisdictions,
39 for both counties and cities, for periods prior to and after the
40 enactment of this tax preference;

1 (iii) Employment and wage trends for businesses described in
2 (d)(i) and (ii) of this subsection, for periods prior to and after
3 the enactment of this tax preference;

4 (iv) Descriptive statistics for the number of permits sold each
5 year in addition to the following information:

6 (A) The cost for each permit by strata of vessel length;

7 (B) The jurisdiction of ownership for the nonresident vessel; and

8 (C) The amount of use tax that would have been due based on the
9 estimated value of the vessel;

10 (v) A comparison of the number of registered entity-owned and
11 individually owned vessels registered in Washington prior to and
12 after the enactment of this tax preference; and

13 (vi) Data and analysis for Washington's main cruising destination
14 competitors, specifically looking at tax preferences provided in
15 those jurisdictions, vessel industry income data, and any additional
16 relevant information to compare Washington's maritime climate with
17 its competitors.

18 (e) The provision of RCW 82.32.808(5) does not apply to this tax
19 preference.

20 **Sec. 303.** RCW 82.70.040 and 2015 3rd sp.s. c 44 s 414 are each
21 amended to read as follows:

22 (1)(a)((~~i~~)) The department must keep a running total of all
23 credits allowed under RCW 82.70.020 during each fiscal year. The
24 department may not allow any credits that would cause the total
25 amount allowed to exceed two million seven hundred fifty thousand
26 dollars in any fiscal year.

27 (~~((ii) The department shall not allow any credits that would
28 cause the total amount allowed to exceed one million five hundred
29 thousand dollars in any fiscal year.))~~)

30 (b) If the total amount of credit applied for by all applicants
31 in any year exceeds the limit in this subsection, the department must
32 ratably reduce the amount of credit allowed for all applicants so
33 that the limit in this subsection is not exceeded. If a credit is
34 reduced under this subsection, the amount of the reduction may not be
35 carried forward and claimed in subsequent fiscal years.

36 (2)(a) Tax credits under RCW 82.70.020 may not be claimed in
37 excess of the amount of tax otherwise due under chapter 82.04 or
38 82.16 RCW.

1 (b) (~~Through June 30, 2005, a person with taxes equal to or in~~
2 ~~excess of the credit under RCW 82.70.020, and therefore not subject~~
3 ~~to the limitation in (a) of this subsection, may elect to defer tax~~
4 ~~credits for a period of not more than three years after the year in~~
5 ~~which the credits accrue.)) For credits approved by the department
6 through June 30, 2015, the approved credit may be carried forward and
7 used for tax reporting periods through December 31, 2016. Credits
8 approved after June 30, 2015, must be used for tax reporting periods
9 within the calendar year for which they are approved by the
10 department and may not be carried forward to subsequent tax reporting
11 periods. Credits carried forward as authorized by this subsection are
12 subject to the limitation in subsection (1)(a) of this section for
13 the fiscal year for which the credits were originally approved.~~

14 (3) No person may be approved for tax credits under RCW 82.70.020
15 in excess of one hundred thousand dollars in any fiscal year. This
16 limitation does not apply to credits carried forward from prior years
17 under subsection (2)(b) of this section.

18 (4) No person may claim tax credits after June 30, 2024.

19 (5) No person is eligible for tax credits under RCW 82.70.020 if
20 the additional revenues for the multimodal transportation account
21 created by chapter 361, Laws of 2003 are terminated.

22 **Sec. 304.** RCW 82.08.809 and 2015 3rd sp.s. c 44 s 408 are each
23 amended to read as follows:

24 (1) Except as provided in subsection (4) of this section, the tax
25 levied by RCW 82.08.020 does not apply to sales of new passenger
26 cars, light duty trucks, and medium duty passenger vehicles, which
27 (a) are exclusively powered by a clean alternative fuel or (b) use at
28 least one method of propulsion that is capable of being reenergized
29 by an external source of electricity and are capable of traveling at
30 least thirty miles using only battery power.

31 (2) The seller must keep records necessary for the department to
32 verify eligibility under this section.

33 (3) As used in this section, "clean alternative fuel" means
34 natural gas, propane, hydrogen, or electricity, when used as a fuel
35 in a motor vehicle that meets the California motor vehicle emission
36 standards in Title 13 of the California code of regulations,
37 effective January 1, 2005, and the rules of the Washington state
38 department of ecology.

1 (4)(a) A sale, other than a lease, is not exempt from sales tax
2 as described under subsection (1) of this section if the selling
3 price of the vehicle plus trade-in property of like kind exceeds
4 thirty-five thousand dollars.

5 (b) For leased vehicles for which the lease agreement is signed
6 on or after July 15, 2015, lease payments are not exempt from sales
7 tax as described under subsection (1) of this section if the fair
8 market value of the vehicle being leased exceeds thirty-five thousand
9 dollars at the inception of the lease. For the purposes of this
10 subsection (4)(b), "fair market value" has the same meaning as "value
11 of the article used" in RCW 82.12.010 except that the term "fair
12 market value" also includes the value of trade-in property of like
13 kind.

14 (c) For leased vehicles for which the lease agreement was signed
15 before July 1, 2015, lease payments due on or after July 15, 2015,
16 (~~lease payments~~) are exempt from sales tax as described under
17 subsection (1) of this section regardless of the vehicle's fair
18 market value at the inception of the lease.

19 (5) On the last day of January, April, July, and October of each
20 year, the state treasurer, based upon information provided by the
21 department, must transfer from the multimodal transportation account
22 to the general fund a sum equal to the dollar amount that would
23 otherwise have been deposited into the general fund during the prior
24 calendar quarter but for the exemption provided in this section.
25 Information provided by the department to the state treasurer must be
26 based on the best available data, except that the department may
27 provide estimates of taxes exempted under this section until such
28 time as retailers are able to report such exempted amounts on their
29 tax returns. For purposes of this section, the first transfer for the
30 calendar quarter after July 15, 2015, must be calculated assuming
31 only those revenues that should have been deposited into the general
32 fund beginning July 1, 2015.

33 (6) Lease payments due on or after July 1, 2019, are subject to
34 the taxes imposed under this chapter.

35 (7) This section expires July 1, 2019.

36 **Sec. 305.** RCW 82.12.809 and 2015 3rd sp.s. c 44 s 409 are each
37 amended to read as follows:

38 (1) Except as provided in subsection (4) of this section, until
39 July 1, 2019, the provisions of this chapter do not apply in respect

1 to the use of new passenger cars, light duty trucks, and medium duty
2 passenger vehicles, which (a) are exclusively powered by a clean
3 alternative fuel or (b) use at least one method of propulsion that is
4 capable of being reenergized by an external source of electricity and
5 are capable of traveling at least thirty miles using only battery
6 power.

7 (2) The definitions in RCW 82.08.809 apply to this section.

8 (3) A taxpayer is not liable for the tax imposed in RCW 82.12.020
9 on the use, on or after July 1, 2019, of a passenger car, light duty
10 truck, or medium duty passenger vehicle that is exclusively powered
11 by a clean alternative fuel or uses at least one method of propulsion
12 that is capable of being reenergized by an external source of
13 electricity and is capable of traveling at least thirty miles using
14 only battery power, if the taxpayer used such vehicle in this state
15 before July 1, 2019, and the use was exempt under this section from
16 the tax imposed in RCW 82.12.020.

17 (4)(a) For vehicles purchased on or after July 15, 2015, or for
18 leased vehicles for which the lease agreement was signed on or after
19 July 15, 2015, a vehicle is not exempt from use tax as described
20 under subsection (1) of this section if the fair market value of the
21 vehicle exceeds thirty-five thousand dollars at the time the tax is
22 imposed for purchased vehicles, or at the inception of the lease for
23 leased vehicles.

24 (b) For leased vehicles for which the lease agreement was signed
25 before July 15, 2015, lease payments due on or after July 15, 2015,
26 are exempt from use tax as described under subsection (1) of this
27 section regardless of the vehicle's fair market value at the
28 inception of the lease.

29 (5) On the last day of January, April, July, and October of each
30 year, the state treasurer, based upon information provided by the
31 department, must transfer from the multimodal transportation account
32 to the general fund a sum equal to the dollar amount that would
33 otherwise have been deposited into the general fund during the prior
34 calendar quarter but for the exemption provided in this section.
35 Information provided by the department to the state treasurer must be
36 based on the best available data. For purposes of this section, the
37 first transfer for the calendar quarter after July 15, 2015, must be
38 calculated assuming only those revenues that should have been
39 deposited into the general fund beginning July 1, 2015.

1 (6) Lease payments due on or after July 1, 2019, are subject to
2 the taxes imposed under this chapter.

3 **Sec. 306.** 2015 3rd sp.s. c 6 s 2301 (uncodified) is amended to
4 read as follows:

5 (1) Except as provided otherwise in this section, this act is
6 necessary for the immediate preservation of the public peace, health,
7 or safety, or support of the state government and its existing public
8 institutions, and takes effect July 1, 2015.

9 (2) Parts IV, (~~(VI,)~~) VIII, and XIX of this act are necessary for
10 the immediate preservation of the public peace, health, or safety, or
11 support of the state government and its existing public institutions,
12 and take effect September 1, 2015.

13 (3) Part X of this act takes effect October 1, 2016.

14 (4) Section 1105 of this act takes effect January 1, 2016.

15 (5) Except for section 2004 of this act, Part XX of this act
16 takes effect January 1, 2019.

17 (6) Section 2004 of this act takes effect January 1, 2022.

18 **Sec. 307.** RCW 82.04.220 and 2011 1st sp.s. c 20 s 101 are each
19 amended to read as follows:

20 (1) There is levied and collected from every person that has a
21 substantial nexus with this state a tax for the act or privilege of
22 engaging in business activities. The tax is measured by the
23 application of rates against value of products, gross proceeds of
24 sales, or gross income of the business, as the case may be.

25 (2) A person who has a substantial nexus with this state in any
26 tax year under the provisions of RCW 82.04.067 will be deemed to have
27 a substantial nexus with this state for the remainder of that year
28 and the following tax year.

29 **Sec. 308.** 2015 3rd sp.s. c 30 s 1 (uncodified) is amended to
30 read as follows:

31 This section is the tax preference performance statement for the
32 tax preference contained in section 2 (~~(of this act)~~), chapter 30,
33 Laws of 2015 3rd sp. sess. This performance statement is only
34 intended to be used for subsequent evaluation of the tax preference.
35 It is not intended to create a private right of action by any party
36 or be used to determine eligibility for preferential tax treatment.

1 (1) The legislature categorizes this tax preference as one
2 intended to provide tax relief for certain businesses or individuals,
3 as indicated in RCW 82.32.808(2)(e).

4 (2) It is the legislature's specific public policy objective to
5 provide tax relief to senior citizens, disabled persons, and
6 veterans. The legislature recognizes that property taxes impose a
7 substantial financial burden on those with fixed incomes and that
8 property tax relief programs have considerable value in addressing
9 this burden. It is the legislature's intent to increase the current
10 statutory static income thresholds which were last modified in 2004.

11 (3) (~~The expansion of the items allowed to be deducted~~) This
12 tax preference is meant to be permanent and, therefore, not subject
13 to the ten-year expiration provision in RCW 82.32.805(1)(a).

14 NEW SECTION. Sec. 309. (1) Sections 303 and 306 of this act
15 apply both prospectively and retroactively to July 1, 2015.

16 (2) Sections 304 and 305 of this act apply both prospectively and
17 retroactively to July 15, 2015.

18 (3) Section 307 of this act applies both prospectively and
19 retroactively to September 1, 2015.

20 **Part IV**

21 **Automated sales suppression devices and phantom-ware**

22 **Sec. 401.** RCW 82.32.670 and 2013 c 309 s 3 are each amended to
23 read as follows:

24 (1)(a) Automated sales suppression devices, phantom-ware,
25 electronic cash registers or point of sale systems used with
26 automated sales suppression devices or phantom-ware, and any property
27 constituting proceeds traceable to any violation of RCW 82.32.290(4)
28 are considered contraband and are subject to seizure and forfeiture.

29 (b) Property subject to forfeiture under (a) of this subsection
30 (1) may be seized by any agent of the department authorized to assess
31 or collect taxes, or law enforcement officer of this state, upon
32 process issued by any superior court or district court having
33 jurisdiction over the property. Seizure without process may be made
34 if:

35 (i) The seizure is incident to an arrest or a search under a
36 search warrant; or

1 (ii) The department or the law enforcement officer has probable
2 cause to believe that the property was used or is intended to be used
3 in violation of RCW 82.32.290(4) and exigent circumstances exist
4 making procurement of a search warrant impracticable.

5 (2) Forfeiture authorized by this section is deemed to have
6 commenced by the seizure. Notice of seizure must be given to the
7 department if the seizure is made by a law enforcement officer
8 without the presence of any agent of the department. The department
9 must cause notice of the seizure and intended forfeiture to be served
10 on the owner of the property seized, if known, and on any other
11 person known by the department to have a right or interest in the
12 seized property. Such service must be made within fifteen days
13 following the seizure or the department's receipt of notification of
14 the seizure. The notice may be served by any method authorized by law
15 or court rule, by certified mail with return receipt requested, or
16 electronically in accordance with RCW 82.32.135. Service by certified
17 mail or electronic means is deemed complete upon mailing the notice,
18 electronically sending the notice, or electronically notifying the
19 person or persons entitled to the notice that the notice is available
20 to be accessed by the person or persons, within the fifteen-day
21 period following the seizure or the department's receipt of
22 notification of the seizure.

23 (3) If no person notifies the department in writing of the
24 person's claim of lawful ownership or right to lawful possession of
25 the item or items seized within thirty days of the date of service of
26 the notice of seizure and intended forfeiture, the item or items
27 seized are deemed forfeited.

28 (4)(a) If any person notifies the department, in writing, of the
29 person's claim of lawful ownership or lawful right to possession of
30 the item or items seized within thirty days of the date of service of
31 the notice of seizure and intended forfeiture, the person or persons
32 must be afforded a reasonable opportunity to be heard as to the
33 claim. The hearing must be before the director or the director's
34 designee. A hearing and any administrative or judicial review is
35 governed by chapter 34.05 RCW. The burden of proof by a preponderance
36 of the evidence is upon the person claiming to be the lawful owner or
37 the person claiming to have the lawful right to possession of the
38 item or items seized.

39 (b) The department must return the item or items to the claimant
40 as soon as possible upon a determination that the claimant is the

1 present lawful owner or is lawfully entitled to possession of the
2 item or items seized.

3 (5) When property is sought to be forfeited on the ground that it
4 constitutes proceeds traceable to a violation of RCW 82.32.290(4),
5 the department must prove by a preponderance of the evidence that the
6 property constitutes proceeds traceable to a violation of RCW
7 82.32.290(4).

8 (6)(a) When automated sales suppression devices or phantom-ware
9 voluntarily surrendered to an agent of the department, or property
10 forfeited under this section, other than proceeds traceable to a
11 violation of RCW 82.32.290(4), is no longer required for evidentiary
12 purposes, the department may:

13 (i) Destroy or have the property destroyed;

14 (ii) Retain the property for training or other official purposes;
15 or

16 (iii) Loan or give the property to any law enforcement or tax
17 administration agency of any state, political subdivision or
18 municipal corporation of a state, or the United States for training
19 or other official purposes. For purposes of this subsection
20 (6)(a)(iii), "state" has the same meaning as in RCW 82.04.462.

21 (b) When proceeds traceable to a violation of RCW 82.32.290(4)
22 forfeited under this section are no longer required for evidentiary
23 purposes, they must be deposited into the general fund.

24 (7) The definitions in this subsection apply to this section:

25 (a) "Automated sales suppression device" means a software program
26 that falsifies the electronic records of electronic cash registers or
27 other point of sale systems, including transaction data and
28 transaction reports. The term includes the software program, any
29 device that carries the software program, or an internet link to the
30 software program.

31 (b) "Electronic cash register" means a device that keeps a
32 register or supporting documents through the means of an electronic
33 device or computer system designed to record transaction data for the
34 purpose of computing, compiling, or processing sales transaction data
35 in whatever manner.

36 (c) "Phantom-ware" means a programming option that is hidden,
37 preinstalled, or installed-at-a-later-time in the operating system of
38 an electronic cash register or other point of sale device, or
39 hardwired into the electronic cash register or other point of sale
40 device, and that can be used to create a virtual second till or may

1 eliminate or manipulate transaction reports that may or may not be
2 preserved in digital formats to represent the true or manipulated
3 record of transactions in the electronic cash register or other point
4 of sale device.

5 (d) "Transaction data" means information about sales
6 transactions, including items purchased by a customer, the price for
7 each item, a taxability determination for each item, a segregated tax
8 amount for each of the taxed items, the amount of cash or credit
9 tendered, the net amount returned to the customer in change, the date
10 and time of the purchase, the name, address, and identification
11 number of the vendor, and the receipt or invoice number of the
12 transaction.

13 (e) "Transaction reports" means a report that includes
14 information associated with sales transactions, taxes collected,
15 media totals, and discount voids at an electronic cash register that
16 can be printed on cash register tape at the end of a day or shift, or
17 a report documenting every action at an electronic cash register or
18 other point of sale device and that is stored electronically.

19 **Part V**

20 **Annual surveys and reports for tax preferences**

21 **Sec. 501.** RCW 82.32.534 and 2014 c 97 s 102 are each amended to
22 read as follows:

23 (1)(a) Every person claiming a tax preference that requires a
24 report under this section, except persons exempt from the provisions
25 of this section, must file a complete annual report with the
26 department. This section does not apply to persons who are not
27 required to have an active tax registration with the department under
28 the provisions of RCW 82.32.030, except when an annual report is
29 required for a property tax preference that requires persons seeking
30 the preference to apply to the department.

31 (b) Except as otherwise provided in this subsection, the report
32 is due by April 30th of the year following any calendar year in which
33 a person becomes eligible to claim the tax preference that requires a
34 report under this section.

35 (c)(i) A tax preference of the type that is ordinarily reported
36 on a tax return and that a person qualified for, but did not report
37 on a previously filed tax return, may be claimed on an amended return
38 filed after the due date for filing the report as provided in (b) of

1 this subsection (1) and within the nonclaim period in RCW 82.32.060,
2 if the person:

3 (A) Is current on its tax return filing obligations for reporting
4 any taxes due under chapters 82.04, 82.08, or 82.16 RCW;

5 (B) Had an active tax registration with the department during the
6 reporting period or periods covered by the amended return or returns;

7 (C) Has not previously claimed the same tax preference on an
8 original or amended return; and

9 (D) Files a complete annual report or reports in compliance with
10 this section with the amended return or returns.

11 (ii) For purposes of this subsection (1)(c), if multiple returns
12 are filed for reporting periods within the same calendar year or two
13 or more calendar years, only one report is required to be filed for
14 each calendar year.

15 (iii) Except as otherwise provided in this subsection
16 (1)(c)(iii), the provisions of this subsection (1)(c) apply beginning
17 January 1, 2019, for amended returns filed for reporting periods in
18 2018 or later. However, if the department determines that it can
19 sooner effectively and efficiently implement this subsection (1)(c),
20 the department may accept amended returns before January 1, 2019, for
21 reporting periods beginning no earlier than January 1st of the year
22 immediately preceding the year during which the department begins
23 accepting amended returns in accordance with this subsection (1)(c).

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

26 ~~((b))~~ (e) The report must include information detailing
27 employment, wages, and employer-provided health and retirement
28 benefits for employment positions in Washington for the year that the
29 tax preference was claimed. However, persons engaged in manufacturing
30 commercial airplanes or components of such airplanes may report
31 employment, wage, and benefit information per job at the
32 manufacturing site for the year that the tax preference was claimed.
33 The report must not include names of employees. The report must also
34 detail employment by the total number of full-time, part-time, and
35 temporary positions for the year that the tax preference was claimed.

36 ~~((c) Persons receiving the benefit of the tax preference~~
37 ~~provided by RCW 82.16.0421 or claiming any of the tax preferences~~
38 ~~provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or~~
39 ~~82.12.022(5) must indicate on the annual report the quantity of~~

1 ~~product produced in this state during the time period covered by the~~
2 ~~report.~~

3 ~~(d))~~ (f) If a person filing a report under this section did not
4 file a report with the department in the previous calendar year, the
5 report filed under this section must also include employment, wage,
6 and benefit information for the calendar year immediately preceding
7 the calendar year for which a tax preference was claimed.

8 (2) As part of the annual report, the department may request
9 additional information necessary to measure the results of, or
10 determine eligibility for, the tax preference. The department must
11 annually seek input on changes to the annual report from the joint
12 legislative audit and review committee.

13 (3) Other than information requested under subsection (2) of this
14 section, the information contained in an annual report filed under
15 this section is not subject to the confidentiality provisions of RCW
16 82.32.330 and may be disclosed to the public upon request.

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

30 (b) If the tax preference is a property tax preference, the
31 person is not required to repay the amount of the tax preference
32 claimed for failing to timely submit an annual report under this
33 section. However, the person is ineligible to claim the tax
34 preference for taxes levied for collection in the calendar year
35 immediately following the calendar year in which the report was due.
36 The department must provide notice to the appropriate county assessor
37 when a person is ineligible to claim a property tax preference
38 pursuant to this subsection.

39 (5) The department must use the information from this section to
40 prepare summary descriptive statistics by category. No fewer than

1 three taxpayers may be included in any category. The department must
2 report these statistics to the legislature each year by December 1st.
3 The department need not revise summary descriptive statistics for
4 previous calendar years as a result of tax preferences claimed on
5 amended returns.

6 (6) For the purposes of determining the identity of persons
7 required to file an annual report as a result of claiming a property
8 tax preference, beginning January 1, 2017, the assessor of the county
9 in which the property receiving the benefit of the tax preference is
10 located must provide written notice to the department that the tax
11 preference has been claimed. Such notice must include the claimant's
12 name, contact information if available, and the address, tax parcel
13 number, or description of the property receiving the benefit of the
14 tax preference. The assessor need not provide the notice required
15 under this subsection (6), if the person is required to file an
16 application with the department to claim the tax preference.

17 (7) For the purposes of this section:

18 (a) "Person" has the meaning provided in RCW 82.04.030 and also
19 includes the state ~~((and))~~, its departments and institutions, and any
20 other entity that is subject to this section as a result of claiming
21 or receiving the benefit of a tax preference.

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

25 **Sec. 502.** RCW 82.32.585 and 2014 c 97 s 103 are each amended to
26 read as follows:

27 (1)(a) Every person claiming a tax preference that requires a
28 survey under this section, except persons exempt from the provisions
29 of this section, must file a complete annual survey with the
30 department. This section does not apply to persons who are not
31 required to have an active tax registration with the department under
32 the provisions of RCW 82.32.030, except when an annual survey is
33 required for a property tax preference that requires persons seeking
34 the preference to apply to the department.

35 ~~((+i))~~ (b)(i) Except as otherwise provided in ~~((a)(ii) of))~~
36 this subsection, the survey is due by April 30th of the year
37 following any calendar year in which a person becomes eligible to
38 claim the tax preference that requires a survey under this section.

1 (ii) If the tax preference is a deferral of tax, the first survey
2 must be filed by April 30th of the calendar year following the
3 calendar year in which the investment project is certified by the
4 department as operationally complete, and a survey must be filed by
5 April 30th of each of the seven succeeding calendar years.

6 ~~((b))~~ (c)(i) A tax preference of the type that is ordinarily
7 reported on a tax return and that a person qualified for, but did not
8 report on a previously filed tax return, may be claimed on an amended
9 return filed after the due date for filing the survey as provided in
10 (b)(i) of this subsection (1) and within the nonclaim period in RCW
11 82.32.060, if the person:

12 (A) Is current on its tax return filing obligations for reporting
13 any taxes due under chapters 82.04, 82.08, or 82.16 RCW;

14 (B) Had an active tax registration with the department during the
15 reporting period or periods covered by the amended return or returns;

16 (C) Has not previously claimed the same tax preference on an
17 original or amended return; and

18 (D) Files a complete annual survey or surveys in compliance with
19 this section with the amended return or returns.

20 (ii) For purposes of this subsection (1)(c), if multiple returns
21 are filed for reporting periods within the same calendar year or two
22 or more calendar years, only one survey is required to be filed for
23 each calendar year.

24 (iii) Except as otherwise provided in this subsection
25 (1)(c)(iii), the provisions of this subsection (1)(c) apply beginning
26 January 1, 2019, for amended returns filed for reporting periods in
27 2018 or later. However, if the department determines that it can
28 sooner effectively and efficiently implement this subsection (1)(c),
29 the department may accept amended returns before January 1, 2019, for
30 reporting periods beginning no earlier than January 1st of the year
31 immediately preceding the year during which the department begins
32 accepting amended returns in accordance with this subsection (1)(c).

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

35 (2)(a) ~~((The survey))~~ Surveys, other than surveys for property
36 tax preferences, must include the amount of the tax preference
37 claimed for the calendar year covered by the survey. For a person
38 that claimed an exemption provided in RCW 82.08.025651 or
39 82.12.025651, the survey must include the amount of tax exempted
40 under those sections in the prior calendar year for each general area

1 or category of research and development for which exempt machinery
2 and equipment and labor and services were acquired in the prior
3 calendar year. For property tax preferences requiring a survey under
4 this section, the survey must include an estimate of the amount of
5 property tax savings provided by the tax preference. Such estimates
6 must be based on existing property tax information maintained by the
7 county assessor and treasurer, such as levy rates and assessed
8 values.

9 (b) ~~((The survey))~~ All surveys under this section must also
10 include the following information for employment positions in
11 Washington, not to include names of employees, for the year that the
12 tax preference was claimed:

13 (i) The number of total employment positions;

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

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

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

24 (c) ~~((For persons claiming the tax preference provided under~~
25 ~~chapter 82.60 or 82.63 RCW, the survey must also include the number~~
26 ~~of new products or research projects by general classification, and~~
27 ~~the number of trademarks, patents, and copyrights associated with~~
28 ~~activities at the investment project.~~

29 (d) ~~For persons claiming the credit provided under RCW~~
30 ~~82.04.4452, the survey must also include the qualified research and~~
31 ~~development expenditures during the calendar year for which the~~
32 ~~credit was claimed, the taxable amount during the calendar year for~~
33 ~~which the credit was claimed, the number of new products or research~~
34 ~~projects by general classification, the number of trademarks,~~
35 ~~patents, and copyrights associated with the research and development~~
36 ~~activities for which the credit was claimed, and whether the tax~~
37 ~~preference has been assigned, and who assigned the credit. The~~
38 ~~definitions in RCW 82.04.4452 apply to this subsection (2)(d).~~

39 (e) ~~For persons claiming the tax exemption in RCW 82.08.025651 or~~
40 ~~82.12.025651, the survey must also include the general areas or~~

1 ~~categories of research and development for which machinery and~~
2 ~~equipment and labor and services were acquired, exempt from tax under~~
3 ~~RCW 82.08.025651 or 82.12.025651, in the prior calendar year.~~

4 (f)) If the person filing a survey under this section did not
5 file a survey with the department in the previous calendar year, the
6 survey filed under this section must also include the employment,
7 wage, and benefit information required under (b)(i) through (iv) of
8 this subsection for the calendar year immediately preceding the
9 calendar year for which a tax preference was claimed.

10 (3) As part of the annual survey, the department may request
11 additional information necessary to measure the results of, or
12 determine eligibility for, the tax preference. The department must
13 annually seek input on changes to the annual survey from the joint
14 legislative audit and review committee.

15 (4) All information collected under this section, except the
16 information required in subsection (2)(a) of this section, is deemed
17 taxpayer information under RCW 82.32.330. Information required in
18 subsection (2)(a) of this section is not subject to the
19 confidentiality provisions of RCW 82.32.330 and may be disclosed to
20 the public upon request, except as provided in subsection (5) of this
21 section. If the amount of the tax preference claimed as reported on
22 the survey is different than the amount actually claimed or otherwise
23 allowed by the department based on the taxpayer's excise tax returns
24 or other information known to the department, the amount actually
25 claimed or allowed may be disclosed.

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

30 (6)(a) Except as otherwise provided by law, if a person claims a
31 tax preference that requires an annual survey under this section but
32 fails to submit a complete annual survey by the due date of the
33 survey or any extension under RCW 82.32.590, the department must
34 declare the amount of the tax preference claimed for the previous
35 calendar year to be immediately due. If the tax preference is a
36 deferral of tax, twelve and one-half percent of the deferred tax is
37 immediately due. If the economic benefits of the deferral are passed
38 to a lessee, the lessee is responsible for payment to the extent the
39 lessee has received the economic benefit.

1 (b) The department must assess interest, but not penalties, on
2 the amounts due under this subsection. The interest must be assessed
3 at the rate provided for delinquent taxes under this chapter,
4 retroactively to the date the tax preference was claimed, and accrues
5 until the taxes for which the tax preference was claimed are repaid.
6 Amounts due under this subsection are not subject to the
7 confidentiality provisions of RCW 82.32.330 and may be disclosed to
8 the public upon request.

9 (c) If the tax preference is a property tax preference, the
10 person is not required to repay the amount of the tax preference
11 claimed for failing to timely submit an annual survey under this
12 section. However, the person is ineligible to claim the tax
13 preference for taxes levied for collection in the calendar year
14 immediately following the calendar year in which the report was due.
15 The department must provide notice to the appropriate county assessor
16 when a person is ineligible to claim a property tax preference
17 pursuant to this subsection.

18 (7) The department must use the information from this section to
19 prepare summary descriptive statistics by category. No fewer than
20 three taxpayers may be included in any category. The department must
21 report these statistics to the legislature each year by December 1st.
22 The department need not revise summary descriptive statistics for
23 previous calendar years as a result of tax preferences claimed on
24 amended returns.

25 (8) For the purposes of determining the identity of persons
26 required to file an annual survey as a result of claiming a property
27 tax preference, beginning January 1, 2017, the assessor of the county
28 in which the property receiving the benefit of the tax preference is
29 located must provide written notice to the department that the tax
30 preference has been claimed. Such notice must include the claimant's
31 name, contact information if available, and the address, tax parcel
32 number, or description of the property receiving the benefit of the
33 tax preference. The assessor need not provide the notice required
34 under this subsection (8), if the person is required to file an
35 application with the department to claim the tax preference.

36 (9) For the purposes of this section:

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

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

4 **Part VI**

5 **Miscellaneous technical corrections**

6 **Sec. 601.** RCW 82.04.261 and 2010 1st sp.s. c 23 s 510 are each
7 amended to read as follows:

8 (1) In addition to the taxes imposed under RCW 82.04.260(~~((11))~~)
9 (12), a surcharge is imposed on those persons who are subject to any
10 of the taxes imposed under RCW 82.04.260(~~((11))~~) (12). Except as
11 otherwise provided in this section, the surcharge is equal to 0.052
12 percent. The surcharge is added to the rates provided in RCW
13 82.04.260(~~((11))~~) (12) (a), (b), (c), and (d). The surcharge and this
14 section expire July 1, 2024.

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

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

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

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

27 (b)(i) The suspension of the surcharge under (a)(i) of this
28 subsection (3) takes effect on the first day of the calendar month
29 that is at least thirty days after the end of the month during which
30 the department determines that receipts from the surcharge total at
31 least eight million dollars during the fiscal biennium. The surcharge
32 is imposed again at the beginning of the following fiscal biennium.

33 (ii) The suspension of the surcharge under (a)(ii) of this
34 subsection (3) takes effect on the later of the first day of October
35 of any federal fiscal year for which the federal government
36 appropriates at least two million dollars for participation in forest
37 and fish report-related activities by federally recognized Indian
38 tribes located within the geographical boundaries of the state of

1 Washington, or the first day of a calendar month that is at least
2 thirty days following the date that the office of financial
3 management makes a certification to the department under subsection
4 (5) of this section. The surcharge is imposed again on the first day
5 of the following July.

6 (4)(a) If, by October 1st of any federal fiscal year, the office
7 of financial management certifies to the department that the federal
8 government has appropriated funds for participation in forest and
9 fish report-related activities by federally recognized Indian tribes
10 located within the geographical boundaries of the state of Washington
11 but the amount of the appropriation is less than two million dollars,
12 the department must adjust the surcharge in accordance with this
13 subsection.

14 (b) The department must adjust the surcharge by an amount that
15 the department estimates will cause the amount of funds deposited
16 into the forest and fish support account for the state fiscal year
17 that begins July 1st and that includes the beginning of the federal
18 fiscal year for which the federal appropriation is made, to be
19 reduced by twice the amount of the federal appropriation for
20 participation in forest and fish report-related activities by
21 federally recognized Indian tribes located within the geographical
22 boundaries of the state of Washington.

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

27 (d) The surcharge is imposed again at the rate provided in
28 subsection (1) of this section on the first day of the following
29 state fiscal year unless the surcharge is suspended under subsection
30 (3) of this section or adjusted for that fiscal year under this
31 subsection.

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

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

38 (5) The office of financial management must make the
39 certification to the department as to the status of federal

1 appropriations for tribal participation in forest and fish report-
2 related activities.

3 **Sec. 602.** RCW 82.04.334 and 2010 1st sp.s. c 23 s 512 are each
4 amended to read as follows:

5 This chapter does not apply to any sale of standing timber
6 excluded from the definition of "sale" in RCW 82.45.010(3). The
7 definitions in RCW 82.04.260(~~((11))~~) (12) apply to this section.

8 **Sec. 603.** RCW 82.04.43391 and 2010 1st sp.s. c 23 s 112 are each
9 amended to read as follows:

10 (1) In computing tax there may be deducted from the measure of
11 tax interest and fees on loans secured by commercial aircraft
12 primarily used to provide routine air service and owned by:

13 (a) An air carrier, as defined in RCW (~~(82.42.030)~~) 82.42.010,
14 which is primarily engaged in the business of providing passenger air
15 service;

16 (b) An affiliate of such air carrier; or

17 (c) A parent entity for which such air carrier is an affiliate.

18 (2) The deduction authorized under this section is not available
19 to any person who is physically present in this state as determined
20 under RCW 82.04.067(6).

21 (3) For purposes of this section, the following definitions
22 apply:

23 (a) "Affiliate" means a person is "affiliated," as defined in RCW
24 82.04.645, with another person; and

25 (b) "Commercial aircraft" means a commercial airplane as defined
26 in RCW 82.32.550.

27 NEW SECTION. **Sec. 604.** RCW 82.04.4483 (Credit—Programming or
28 manufacturing software in rural counties) and 2010 c 114 s 119 & 2004
29 c 25 s 1 are each repealed.

30 **Sec. 605.** RCW 82.32.030 and 2011 c 298 s 38 are each amended to
31 read as follows:

32 (1) Except as provided in subsections (2) and (3) of this
33 section, if any person engages in any business or performs any act
34 upon which a tax is imposed by the preceding chapters, he or she
35 must, under such rules as the department prescribes, apply for and
36 obtain from the department a registration certificate. Such

1 registration certificate is personal and nontransferable and is valid
2 as long as the taxpayer continues in business and pays the tax
3 accrued to the state. In case business is transacted at two or more
4 separate places by one taxpayer, a separate registration certificate
5 for each place at which business is transacted with the public is
6 required. Each certificate must be numbered and must show the name,
7 residence, and place and character of business of the taxpayer and
8 such other information as the department of revenue deems necessary
9 and must be posted in a conspicuous place at the place of business
10 for which it is issued. Where a place of business of the taxpayer is
11 changed, the taxpayer must return to the department the existing
12 certificate, and a new certificate will be issued for the new place
13 of business. No person required to be registered under this section
14 may engage in any business taxable hereunder without first being so
15 registered. The department, by rule, may provide for the issuance of
16 certificates of registration to temporary places of business.

17 (2) Unless the person is a dealer as defined in RCW 9.41.010,
18 registration under this section is not required if the following
19 conditions are met:

20 (a) A person's value of products, gross proceeds of sales, or
21 gross income of the business, from all business activities taxable
22 under chapter 82.04 RCW, is less than twelve thousand dollars per
23 year;

24 (b) The person's gross income of the business from all activities
25 taxable under chapter 82.16 RCW is less than twelve thousand dollars
26 per year;

27 (c) The person is not required to collect or pay to the
28 department of revenue any other tax or fee (~~which~~) that the
29 department is authorized to collect; and

30 (d) The person is not otherwise required to obtain a license
31 subject to the (~~master~~) business license application procedure
32 provided in chapter 19.02 RCW.

33 (3) All persons who agree to collect and remit sales and use tax
34 to the department under the agreement must register through the
35 central registration system authorized under the agreement. Persons
36 required to register under subsection (1) of this section are not
37 relieved of that requirement because of registration under this
38 subsection (3).

39 (4) Persons registered under subsection (3) of this section who
40 are not required to register under subsection (1) of this section and

1 who are not otherwise subject to the requirements of chapter 19.02
2 RCW are not subject to the fees imposed by the department under the
3 authority of RCW 19.02.075.

4 **Sec. 606.** RCW 84.34.108 and 2014 c 97 s 311 and 2014 c 58 s 28
5 are each reenacted and amended to read as follows:

6 (1) When land has once been classified under this chapter, a
7 notation of the classification must be made each year upon the
8 assessment and tax rolls and the land must be valued pursuant to RCW
9 84.34.060 or 84.34.065 until removal of all or a portion of the
10 classification by the assessor upon occurrence of any of the
11 following:

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

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

19 (c) Sale or transfer of all or a portion of the land to a new
20 owner, unless the new owner has signed a notice of classification
21 continuance, except transfer to an owner who is an heir or devisee of
22 a deceased owner or transfer by a transfer on death deed does not, by
23 itself, result in removal of classification. The notice of
24 continuance must be on a form prepared by the department. If the
25 notice of continuance is not signed by the new owner and attached to
26 the real estate excise tax affidavit, all additional taxes,
27 applicable interest, and penalty calculated pursuant to subsection
28 (4) of this section become due and payable by the seller or
29 transferor at time of sale. The auditor may not accept an instrument
30 of conveyance regarding classified land for filing or recording
31 unless the new owner has signed the notice of continuance or the
32 additional tax, applicable interest, and penalty has been paid, as
33 evidenced by the real estate excise tax stamp affixed thereto by the
34 treasurer. The seller, transferor, or new owner may appeal the new
35 assessed valuation calculated under subsection (4) of this section to
36 the county board of equalization in accordance with the provisions of
37 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
38 of equalization to hear these appeals;

1 (d)(i) Determination by the assessor, after giving the owner
2 written notice and an opportunity to be heard, that all or a portion
3 of the land no longer meets the criteria for classification under
4 this chapter. The criteria for classification pursuant to this
5 chapter continue to apply after classification has been granted.

6 (ii) The granting authority, upon request of an assessor, must
7 provide reasonable assistance to the assessor in making a
8 determination whether the land continues to meet the qualifications
9 of RCW 84.34.020 (1) or (3). The assistance must be provided within
10 thirty days of receipt of the request.

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

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

14 (b) The creation, sale, or transfer of a fee interest or a
15 conservation easement for the riparian open space program under RCW
16 76.09.040.

17 (3) Within thirty days after the removal of all or a portion of
18 the land from current use classification under subsection (1) of this
19 section, the assessor must notify the owner in writing, setting forth
20 the reasons for the removal. The seller, transferor, or owner may
21 appeal the removal to the county board of equalization in accordance
22 with the provisions of RCW 84.40.038. The removal notice must explain
23 the steps needed to appeal the removal decision, including when a
24 notice of appeal must be filed, where the forms may be obtained, and
25 how to contact the county board of equalization.

26 (4) Unless the removal is reversed on appeal, the assessor must
27 revalue the affected land with reference to its true and fair value
28 on January 1st of the year of removal from classification. Both the
29 assessed valuation before and after the removal of classification
30 must be listed and taxes must be allocated according to that part of
31 the year to which each assessed valuation applies. Except as provided
32 in subsection (6) of this section, an additional tax, applicable
33 interest, and penalty must be imposed, which are due and payable to
34 the treasurer thirty days after the owner is notified of the amount
35 of the additional tax, applicable interest, and penalty. As soon as
36 possible, the assessor must compute the amount of additional tax,
37 applicable interest, and penalty and the treasurer must mail notice
38 to the owner of the amount thereof and the date on which payment is
39 due. The amount of the additional tax, applicable interest, and
40 penalty must be determined as follows:

1 (a) The amount of additional tax is equal to the difference
2 between the property tax paid as "open space land," "farm and
3 agricultural land," or "timberland" and the amount of property tax
4 otherwise due and payable for the seven years last past had the land
5 not been so classified;

6 (b) The amount of applicable interest is equal to the interest
7 upon the amounts of the additional tax paid at the same statutory
8 rate charged on delinquent property taxes from the dates on which the
9 additional tax could have been paid without penalty if the land had
10 been assessed at a value without regard to this chapter;

11 (c) The amount of the penalty is as provided in RCW 84.34.080.
12 The penalty may not be imposed if the removal satisfies the
13 conditions of RCW 84.34.070.

14 (5) Additional tax, applicable interest, and penalty become a
15 lien on the land (~~that~~). The lien attaches at the time the land is
16 removed from classification under this chapter and (~~have~~) has
17 priority to and must be fully paid and satisfied before any
18 recognizance, mortgage, judgment, debt, obligation, or responsibility
19 to or with which the land may become charged or liable. This lien may
20 be foreclosed upon expiration of the same period after delinquency
21 and in the same manner provided by law for foreclosure of liens for
22 delinquent real property taxes as provided in RCW 84.64.050. Any
23 additional tax unpaid on the due date (~~will thereupon become is~~)
24 is delinquent as of the due date. From the date of delinquency until
25 paid, interest must be charged at the same rate applied by law to
26 delinquent ad valorem property taxes.

27 (6) The additional tax, applicable interest, and penalty
28 specified in subsection (4) of this section may not be imposed if the
29 removal of classification pursuant to subsection (1) of this section
30 resulted solely from:

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

33 (b)(i) A taking through the exercise of the power of eminent
34 domain, or (ii) sale or transfer to an entity having the power of
35 eminent domain in anticipation of the exercise of such power, said
36 entity having manifested its intent in writing or by other official
37 action;

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

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

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

6 (f) Acquisition of property interests by state agencies or
7 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
8 for the purposes enumerated in those sections. At such time as these
9 property interests are not used for the purposes enumerated in RCW
10 84.34.210 and 64.04.130 the additional tax specified in subsection
11 (4) of this section must be imposed;

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

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

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

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

23 (k) The sale or transfer of land within two years after the death
24 of the owner of at least a fifty percent interest in the land if the
25 land has been assessed and valued as classified forest land,
26 designated as forest land under chapter 84.33 RCW, or classified
27 under this chapter continuously since 1993. The date of death shown
28 on a death certificate is the date used for the purposes of this
29 subsection (6)(k); or

30 (l)(i) The discovery that the land was classified under this
31 chapter in error through no fault of the owner. For purposes of this
32 subsection (6)(l), "fault" means a knowingly false or misleading
33 statement, or other act or omission not in good faith, that
34 contributed to the approval of classification under this chapter or
35 the failure of the assessor to remove the land from classification
36 under this chapter.

37 (ii) For purposes of this subsection (6), the discovery that land
38 was classified under this chapter in error through no fault of the
39 owner is not the sole reason for removal of classification pursuant
40 to subsection (1) of this section if an independent basis for removal

1 exists. Examples of an independent basis for removal include the
2 owner changing the use of the land or failing to meet any applicable
3 income criteria required for classification under this chapter.

4 **Sec. 607.** RCW 82.04.280 and 2010 c 106 s 205 are each reenacted
5 to read as follows:

6 (1) Upon every person engaging within this state in the business
7 of: (a) Printing materials other than newspapers, and of publishing
8 periodicals or magazines; (b) building, repairing or improving any
9 street, place, road, highway, easement, right-of-way, mass public
10 transportation terminal or parking facility, bridge, tunnel, or
11 trestle which is owned by a municipal corporation or political
12 subdivision of the state or by the United States and which is used or
13 to be used, primarily for foot or vehicular traffic including mass
14 transportation vehicles of any kind and including any readjustment,
15 reconstruction or relocation of the facilities of any public, private
16 or cooperatively owned utility or railroad in the course of such
17 building, repairing or improving, the cost of which readjustment,
18 reconstruction, or relocation, is the responsibility of the public
19 authority whose street, place, road, highway, easement, right-of-way,
20 mass public transportation terminal or parking facility, bridge,
21 tunnel, or trestle is being built, repaired or improved; (c)
22 extracting for hire or processing for hire, except persons taxable as
23 extractors for hire or processors for hire under another section of
24 this chapter; (d) operating a cold storage warehouse or storage
25 warehouse, but not including the rental of cold storage lockers; (e)
26 representing and performing services for fire or casualty insurance
27 companies as an independent resident managing general agent licensed
28 under the provisions of chapter 48.17 RCW; (f) radio and television
29 broadcasting, excluding network, national and regional advertising
30 computed as a standard deduction based on the national average
31 thereof as annually reported by the federal communications
32 commission, or in lieu thereof by itemization by the individual
33 broadcasting station, and excluding that portion of revenue
34 represented by the out-of-state audience computed as a ratio to the
35 station's total audience as measured by the 100 micro-volt signal
36 strength and delivery by wire, if any; (g) engaging in activities
37 which bring a person within the definition of consumer contained in
38 RCW 82.04.190(6); as to such persons, the amount of tax on such

1 business is equal to the gross income of the business multiplied by
2 the rate of 0.484 percent.

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

5 (a) "Cold storage warehouse" means a storage warehouse used to
6 store fresh and/or frozen perishable fruits or vegetables, meat,
7 seafood, dairy products, or fowl, or any combination thereof, at a
8 desired temperature to maintain the quality of the product for
9 orderly marketing.

10 (b) "Storage warehouse" means a building or structure, or any
11 part thereof, in which goods, wares, or merchandise are received for
12 storage for compensation, except field warehouses, fruit warehouses,
13 fruit packing plants, warehouses licensed under chapter 22.09 RCW,
14 public garages storing automobiles, railroad freight sheds, docks and
15 wharves, and "self-storage" or "mini storage" facilities whereby
16 customers have direct access to individual storage areas by separate
17 entrance. "Storage warehouse" does not include a building or
18 structure, or that part of such building or structure, in which an
19 activity taxable under RCW 82.04.272 is conducted.

20 (c) "Periodical or magazine" means a printed publication, other
21 than a newspaper, issued regularly at stated intervals at least once
22 every three months, including any supplement or special edition of
23 the publication.

24 **Sec. 608.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s
25 401 are each reenacted and amended to read as follows:

26 (1)(a) (~~Section 206~~) Section 401, chapter 106, Laws of 2010,
27 sections 104, 110, 117, 123, 125, 129, 131, (~~and~~) 150, and 201,
28 chapter 114, Laws of 2010, section (~~3~~) 9, chapter 461, Laws of
29 2009, section (~~7~~) 12, chapter 300, Laws of 2006, and sections (4)
30 1, 2, 3, 5 through 10, and 12, chapter 149, Laws of 2003 are
31 contingent upon the siting and commercial operation of a significant
32 semiconductor microchip fabrication facility in the state of
33 Washington.

34 (b) For the purposes of this section:

35 (i) "Commercial operation" means the same as "commencement of
36 commercial production" as used in RCW 82.08.965.

37 (ii) "Semiconductor microchip fabrication" means "manufacturing
38 semiconductor microchips" as defined in RCW 82.04.426.

1 (iii) "Significant" means the combined investment of new
2 buildings and new machinery and equipment in the buildings, at the
3 commencement of commercial production, will be at least one billion
4 dollars.

5 (2) (~~Chapter 149, Laws of 2003 takes~~) The sections referenced
6 in subsection (1) of this section take effect the first day of the
7 month in which a contract for the construction of a significant
8 semiconductor fabrication facility is signed, as determined by the
9 director of the department of revenue.

10 (3)(a) The department of revenue must provide notice of the
11 effective date of the sections (~~(104, 110, 117, 123, 125, 129, 131,~~
12 ~~and 150, chapter 114, Laws of 2010[,] section 3, chapter 461, Laws of~~
13 ~~2009, section 7, chapter 300, Laws of 2006, and section 4, chapter~~
14 ~~149, Laws of 2003)) referenced in subsection (1) of this section to
15 affected taxpayers, the legislature, and others as deemed appropriate
16 by the department.~~

17 (b) If, after making a determination that a contract has been
18 signed and (~~chapter 149, Laws of 2003 is~~) the sections referenced
19 in subsection (1) of this section are effective, the department
20 discovers that commencement of commercial production did not take
21 place within three years of the date the contract was signed, the
22 department must make a determination that chapter 149, Laws of 2003
23 is no longer effective, and all taxes that would have been otherwise
24 due are deemed deferred taxes and are immediately assessed and
25 payable from any person reporting tax under RCW 82.04.240(2) or
26 claiming an exemption or credit under (~~section 2 or 5 through 10,~~
27 ~~chapter 149, Laws of 2003)) RCW 82.04.426, 82.04.448, 82.08.965,
28 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not
29 authorized to make a second determination regarding the effective
30 date of (~~chapter 149, Laws of 2003~~) the sections referenced in
31 subsection (1) of this section.~~

32 NEW SECTION. Sec. 609. The following acts or parts of acts are
33 each repealed:

- 34 (1) 2010 c 106 s 206;
- 35 (2) 2009 c 461 s 3;
- 36 (3) 2006 c 300 s 7; and
- 37 (4) 2003 c 149 s 4.

1 Part VII

2 Private school bus operators

3 Sec. 701. RCW 82.16.010 and 2015 3rd sp.s. c 6 s 702 are each
4 amended to read as follows:

5 ~~((For the purposes of this chapter, unless otherwise required by~~
6 ~~the context:)) The definitions in this section apply throughout this
7 chapter unless the context clearly requires otherwise.~~

8 (1) "Express business" means the business of carrying property
9 for public hire on the line of any common carrier operated in this
10 state, when such common carrier is not owned or leased by the person
11 engaging in such business.

12 (2) "Gas distribution business" means the business of operating a
13 plant or system for the production or distribution for hire or sale
14 of gas, whether manufactured or natural.

15 (3) "Gross income" means the value proceeding or accruing from
16 the performance of the particular public service or transportation
17 business involved, including operations incidental thereto, but
18 without any deduction on account of the cost of the commodity
19 furnished or sold, the cost of materials used, labor costs, interest,
20 discount, delivery costs, taxes, or any other expense whatsoever paid
21 or accrued and without any deduction on account of losses.

22 (4) "Light and power business" means the business of operating a
23 plant or system for the generation, production or distribution of
24 electrical energy for hire or sale and/or for the wheeling of
25 electricity for others.

26 (5) "Log transportation business" means the business of
27 transporting logs by truck, except when such transportation meets the
28 definition of urban transportation business or occurs exclusively
29 upon private roads.

30 (6) "Motor transportation business" means the business (except
31 urban transportation business) of operating any motor propelled
32 vehicle by which persons or property of others are conveyed for hire,
33 and includes, but is not limited to, the operation of any motor
34 propelled vehicle as an auto transportation company (except urban
35 transportation business), common carrier, or contract carrier as
36 defined by RCW 81.68.010 and 81.80.010. However, "motor
37 transportation business" does not mean or include: (a) A log
38 transportation business; ~~((or))~~ (b) the transportation of logs or
39 other forest products exclusively upon private roads or private

1 highways; or (c) the operation of a school bus for student
2 transportation purposes.

3 (7)(a) "Public service business" means any of the businesses
4 defined in subsections (1), (2), (4), (6), (8), (9), (~~((10))~~) (11),
5 (~~((12))~~) (13), and (~~((13))~~) (14) of this section or any business
6 subject to control by the state, or having the powers of eminent
7 domain and the duties incident thereto, or any business hereafter
8 declared by the legislature to be of a public service nature, except
9 telephone business and low-level radioactive waste site operating
10 companies as redefined in RCW 81.04.010. It includes, among others,
11 without limiting the scope hereof: Airplane transportation, boom,
12 dock, ferry, pipe line, toll bridge, toll logging road, water
13 transportation and wharf businesses. "Public service business" does
14 not include the transportation of logs or other forest products
15 exclusively upon private roads or private highways or the operation
16 of a school bus for student transportation purposes.

17 (b) The definitions in this subsection (7)(b) apply throughout
18 this subsection (7).

19 (i) "Competitive telephone service" has the same meaning as in
20 RCW 82.04.065.

21 (ii) "Network telephone service" means the providing by any
22 person of access to a telephone network, telephone network switching
23 service, toll service, or coin telephone services, or the providing
24 of telephonic, video, data, or similar communication or transmission
25 for hire, via a telephone network, toll line or channel, cable,
26 microwave, or similar communication or transmission system. "Network
27 telephone service" includes the provision of transmission to and from
28 the site of an internet provider via a telephone network, toll line
29 or channel, cable, microwave, or similar communication or
30 transmission system. "Network telephone service" does not include the
31 providing of competitive telephone service, the providing of cable
32 television service, the providing of broadcast services by radio or
33 television stations, nor the provision of internet access as defined
34 in RCW 82.04.297, including the reception of dial-in connection,
35 provided at the site of the internet service provider.

36 (iii) "Telephone business" means the business of providing
37 network telephone service. It includes cooperative or farmer line
38 telephone companies or associations operating an exchange.

1 (iv) "Telephone service" means competitive telephone service or
2 network telephone service, or both, as defined in (b)(i) and (ii) of
3 this subsection.

4 (8) "Railroad business" means the business of operating any
5 railroad, by whatever power operated, for public use in the
6 conveyance of persons or property for hire. It (~~shall~~) does not,
7 however, include any business herein defined as an urban
8 transportation business.

9 (9) "Railroad car business" means the business of operating stock
10 cars, furniture cars, refrigerator cars, fruit cars, poultry cars,
11 tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or
12 any other kinds of cars used for transportation of property or
13 persons upon the line of any railroad operated in this state when
14 such railroad is not owned or leased by the person engaging in such
15 business.

16 (10) "School bus" means every vehicle with a seating capacity of
17 more than ten persons, including the driver, used primarily to
18 transport children to and from school or in connection with school
19 activities. The term does not include buses operated by a transit
20 authority as defined in RCW 9.91.025.

21 (11) "Telegraph business" means the business of affording
22 telegraphic communication for hire.

23 (~~(11)~~) (12) "Tugboat business" means the business of operating
24 tugboats, towboats, wharf boats or similar vessels in the towing or
25 pushing of vessels, barges or rafts for hire.

26 (~~(12)~~) (13) "Urban transportation business" means the business
27 of operating any vehicle for public use in the conveyance of persons
28 or property for hire, insofar as (a) operating entirely within the
29 corporate limits of any city or town, or within five miles of the
30 corporate limits thereof, or (b) operating entirely within and
31 between cities and towns whose corporate limits are not more than
32 five miles apart or within five miles of the corporate limits of
33 either thereof. Included herein, but without limiting the scope
34 hereof, is the business of operating passenger vehicles of every type
35 and also the business of operating cartage, pickup, or delivery
36 services, including in such services the collection and distribution
37 of property arriving from or destined to a point within or without
38 the state, whether or not such collection or distribution be made by
39 the person performing a local or interstate line-haul of such

1 property. However, "urban transportation business" does not include
2 the operation of a school bus for student transportation purposes.

3 ~~((13))~~ (14) "Water distribution business" means the business of
4 operating a plant or system for the distribution of water for hire or
5 sale.

6 ~~((14))~~ (15) The meaning attributed, in chapter 82.04 RCW, to
7 the term "tax year," "person," "value proceeding or accruing,"
8 "business," "engaging in business," "in this state," "within this
9 state," "cash discount" and "successor" ~~((shall apply))~~ applies
10 equally in the provisions of this chapter.

11 Part VIII

12 Estate tax return filing relief

13 **Sec. 801.** RCW 83.100.050 and 2008 c 181 s 504 are each amended
14 to read as follows:

15 (1) A Washington return must be filed if ~~((:-(a) A federal return~~
16 ~~is required to be filed; or (b) for decedents dying prior to January~~
17 ~~1, 2006, the gross estate exceeds one million five hundred thousand~~
18 ~~dollars; or (c) for decedents dying on or after January 1, 2006, the~~
19 ~~gross estate exceeds two million dollars))~~ the gross estate equals or
20 exceeds the applicable exclusion amount.

21 (2) If a Washington return is required as provided in subsection
22 (1) of this section:

23 (a) A person required to file a federal return ~~((shall))~~ must
24 file with the department on or before the date the federal return is
25 required to be filed, including any extension of time for filing
26 under subsection (4) or (6) of this section, a Washington return for
27 the tax due under this chapter.

28 (b) If no federal return is required to be filed, a taxpayer
29 ~~((shall))~~ must file with the department on or before the date a
30 federal return would have been required to be filed, including any
31 extension of time for filing under subsection (5) or (6) of this
32 section, a Washington return for the tax due under this chapter.

33 (3) A Washington return delivered to the department by United
34 States mail ~~((shall be))~~ is considered to have been received by the
35 department on the date of the United States postmark stamped on the
36 cover in which the return is mailed, if the postmark date is within
37 the time allowed for filing the Washington return, including
38 extensions.

1 (4) In addition to the Washington return required to be filed in
2 subsection (2) of this section, a person(~~(, if required to file a~~
3 ~~federal return, shall)) must file with the department on or before
4 the date the federal return is or would have been required to be
5 filed all supporting documentation for completed Washington return
6 schedules, and, if a federal return has been filed a copy of the
7 federal return (~~(along with all supporting documentation)).~~ If the
8 person required to file the federal return has obtained an extension
9 of time for filing the federal return, the person (~~(shall)) must file~~
10 the Washington return within the same time period and in the same
11 manner as provided for the federal return. A copy of the federal
12 extension (~~(shall)) must be filed with the department on or before~~
13 the date the Washington return is due, not including any extension of
14 time for filing, or within thirty days of issuance, whichever is
15 later.~~

16 (5) A person may obtain an extension of time for filing the
17 Washington return as provided by rule of the department, if the
18 person is required to file a Washington return under subsection (2)
19 of this section, but is not required to file a federal return.

20 (6) During a state of emergency declared under RCW 43.06.010(12),
21 the department, on its own motion or at the request of any taxpayer
22 affected by the emergency, may extend the time for filing a
23 Washington return under this section as the department deems proper.

24 **Part IX**
25 **Clarifying that licensing information may not be disclosed for**
26 **commercial purposes**

27 **Sec. 901.** RCW 19.02.115 and 2013 c 144 s 26 are each amended to
28 read as follows:

29 (1) (~~(For purposes of this section:))~~ The definitions in this
30 subsection apply throughout this section unless the context clearly
31 requires otherwise.

32 (a) "Disclose" means to make known to any person in any manner
33 licensing information;

34 (b) "Licensing information" means any information created or
35 obtained by the department in the administration of this chapter and
36 chapters 19.80 and 59.30 RCW, which information relates to any person
37 who: (i) Has applied for or has been issued a license or trade name;
38 or (ii) has been issued an assessment or delinquency fee. Licensing

1 information includes initial and renewal business license
2 applications, and business licenses;

3 (c) "Person" has the same meaning as in RCW 82.04.030 and also
4 includes the state and the state's departments and institutions; and

5 (d) "State agency" means every Washington state office,
6 department, division, bureau, board, commission, or other state
7 agency.

8 (2) Licensing information is confidential and privileged, and
9 except as authorized by this section, neither the department nor any
10 other person may disclose any licensing information. Nothing in this
11 chapter requires any person possessing licensing information made
12 confidential and privileged by this section to delete information
13 from such information so as to permit its disclosure.

14 (3) This section does not prohibit the department of revenue, or
15 any other person receiving licensing information from the department
16 under this subsection, from:

17 (a) Disclosing licensing information in a civil or criminal
18 judicial proceeding or an administrative proceeding:

19 (i) In which the person about whom such licensing information is
20 sought and the department, another state agency, or a local
21 government are adverse parties in the proceeding; or

22 (ii) Involving a dispute arising out of the department's
23 administration of chapter 19.80 or 59.30 RCW, or this chapter if the
24 licensing information relates to a party in the proceeding;

25 (b) Disclosing, subject to such requirements and conditions as
26 the director prescribes by rules adopted pursuant to chapter 34.05
27 RCW, such licensing information regarding a license applicant or
28 license holder to such license applicant or license holder or to such
29 person or persons as that license applicant or license holder may
30 designate in a request for, or consent to, such disclosure, or to any
31 other person, at the license applicant's or license holder's request,
32 to the extent necessary to comply with a request for information or
33 assistance made by the license applicant or license holder to such
34 other person. However, licensing information not received from the
35 license applicant or holder must not be so disclosed if the director
36 determines that such disclosure would compromise any investigation or
37 litigation by any federal, state, or local government agency in
38 connection with the civil or criminal liability of the license
39 applicant, license holder, or another person, or that such disclosure
40 would identify a confidential informant, or that such disclosure is

1 contrary to any agreement entered into by the department that
2 provides for the reciprocal exchange of information with other
3 government agencies, which agreement requires confidentiality with
4 respect to such information unless such information is required to be
5 disclosed to the license applicant or license holder by the order of
6 any court;

7 (c) Publishing statistics so classified as to prevent the
8 identification of particular licensing information;

9 (d) Disclosing licensing information for official purposes only,
10 to the governor or attorney general, or to any state agency, or to
11 any committee or subcommittee of the legislature dealing with matters
12 of taxation, revenue, trade, commerce, the control of industry or the
13 professions, or licensing;

14 (e) Permitting the department's records to be audited and
15 examined by the proper state officer, his or her agents and
16 employees;

17 (f) Disclosing any licensing information to a peace officer as
18 defined in RCW 9A.04.110 or county prosecuting attorney, for official
19 purposes. The disclosure may be made only in response to a search
20 warrant, subpoena, or other court order, unless the disclosure is for
21 the purpose of criminal tax or license enforcement. A peace officer
22 or county prosecuting attorney who receives the licensing information
23 may disclose that licensing information only for use in the
24 investigation and a related court proceeding, or in the court
25 proceeding for which the licensing information originally was sought;

26 (g) Disclosing, in a manner that is not associated with other
27 licensing information, the name of a license applicant or license
28 holder, entity type, registered trade name, business address, mailing
29 address, unified business identifier number, list of licenses issued
30 to a person through the business licensing system established in this
31 chapter and their issuance and expiration dates, and the dates of
32 opening of a business. This subsection may not be construed as giving
33 authority to the department to give, sell, or provide access to any
34 list of persons for any commercial purpose;

35 (h) Disclosing licensing information that is also maintained by
36 another Washington state or local governmental agency as a public
37 record available for inspection and copying under the provisions of
38 chapter 42.56 RCW or is a document maintained by a court of record
39 and is not otherwise prohibited from disclosure;

1 (i) Disclosing any licensing information when the disclosure is
2 specifically authorized under any other section of the Revised Code
3 of Washington;

4 (j) Disclosing licensing information to the proper officer of the
5 licensing or tax department of any city, town, or county of this
6 state, for official purposes. If the licensing information does not
7 relate to a license issued by the city, town, or county requesting
8 the licensing information, disclosure may be made only if the laws of
9 the requesting city, town, or county grants substantially similar
10 privileges to the proper officers of this state; or

11 (k) Disclosing licensing information to the federal government
12 for official purposes.

13 (4) Notwithstanding anything to the contrary in this section, a
14 state agency or local government agency may disclose licensing
15 information relating to a license issued on its behalf by the
16 department pursuant to this chapter if the disclosure is authorized
17 by another statute, local law, or administrative rule.

18 (5) The department, any other state agency, or local government
19 may refuse to disclose licensing information that is otherwise
20 disclosable under subsection (3) of this section if such disclosure
21 would violate federal law or any information sharing agreement
22 between the state or local government and federal government.

23 (6) Any person acquiring knowledge of any licensing information
24 in the course of his or her employment with the department and any
25 person acquiring knowledge of any licensing information as provided
26 under subsection (3)(d), (e), (f), (j), or (k) of this section, who
27 discloses any such licensing information to another person not
28 entitled to knowledge of such licensing information under the
29 provisions of this section, is guilty of a misdemeanor. If the person
30 guilty of such violation is an officer or employee of the state, such
31 person must forfeit such office or employment and is incapable of
32 holding any public office or employment in this state for a period of
33 two years thereafter.

34 **Part X**

35 **Background investigations**

36 **Sec. 1001.** RCW 82.01.060 and 2011 c 298 s 36 are each amended to
37 read as follows:

1 The director of revenue, hereinafter in chapter 26, Laws of 1967
2 ex. sess. referred to as the director, through the department of
3 revenue, hereinafter in chapter 26, Laws of 1967 ex. sess. referred
4 to as the department, must:

5 (1) Assess and collect all taxes and administer all programs
6 relating to taxes which are the responsibility of the tax commission
7 at the time chapter 26, Laws of 1967 ex. sess. takes effect or which
8 the legislature may hereafter make the responsibility of the director
9 or of the department;

10 (2) Make, adopt and publish such rules as he or she may deem
11 necessary or desirable to carry out the powers and duties imposed
12 upon him or her or the department by the legislature. However, the
13 director may not adopt rules after July 23, 1995, that are based
14 solely on a section of law stating a statute's intent or purpose, on
15 the enabling provisions of the statute establishing the agency, or on
16 any combination of such provisions, for statutory authority to adopt
17 any rule;

18 (3) Rules adopted by the tax commission before July 23, 1995,
19 remain in force until such time as they may be revised or rescinded
20 by the director;

21 (4) Provide by general regulations for an adequate system of
22 departmental review of the actions of the department or of its
23 officers and employees in the assessment or collection of taxes;

24 (5) Maintain a tax research section with sufficient technical,
25 clerical and other employees to conduct constant observation and
26 investigation of the effectiveness and adequacy of the revenue laws
27 of this state and of the sister states in order to assist the
28 governor, the legislature and the director in estimation of revenue,
29 analysis of tax measures, and determination of the administrative
30 feasibility of proposed tax legislation and allied problems;

31 (6) Recommend to the governor such amendments, changes in, and
32 modifications of the revenue laws as seem proper and requisite to
33 remedy injustice and irregularities in taxation, and to facilitate
34 the assessment and collection of taxes in the most economical manner;

35 (7) Provide the opportunity for any person feeling aggrieved by
36 any action taken against the person by the department in the
37 administration of chapters 19.02, 19.80, and 59.30 RCW to request a
38 review of the department's action. Such review may be conducted as a
39 brief adjudicative proceeding under RCW 34.05.485 through 34.05.494;

1 84.33.051, the department (~~shall~~) must adjust its actual estimates
2 of the number of acres of public forestland that are available for
3 timber harvesting. The department (~~shall~~) must reduce its estimates
4 for the following years by the following amounts:

5 (a) For calendar year 2005, 70 percent;

6 (b) For calendar year 2006, 62.5 percent;

7 (c) For calendar year 2007, 55 percent;

8 (d) For calendar year 2008, 47.5 percent;

9 (e) For calendar year 2009, 40 percent;

10 (f) For calendar year 2010, 32.5 percent;

11 (g) For calendar year 2011, 22.5 percent;

12 (h) For calendar year 2012, 15 percent;

13 (i) For calendar year 2013, 7.5 percent; and

14 (j) For calendar year 2014 and thereafter, the department
15 (~~shall~~) may not reduce its estimates of the number of acres of
16 public forestland that are available for timber harvesting.

17 **Part XII**

18 **Miscellaneous**

19 NEW SECTION. **Sec. 1201.** RCW 82.32.805 and 82.32.808 do not
20 apply to any provisions of this act.

21 NEW SECTION. **Sec. 1202.** (1) Sections 501 and 502 of this act
22 take effect January 1, 2018, unless, before that date, legislation is
23 enacted to repeal RCW 82.32.534 and 82.32.585 and establish a tax
24 preference accountability reporting framework to replace the
25 provisions governing annual reports and surveys in RCW 82.32.534 and
26 82.32.585.

27 (2) The department of revenue must provide written notice of the
28 effective date of sections 501 and 502 of this act to affected
29 parties, the chief clerk of the house of representatives, the
30 secretary of the senate, the office of the code reviser, and others
31 as deemed appropriate by the department.

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