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3 **ESSB 5967** - H COMM AMD
4 By Committee on Revenue

5
6 Strike everything after the enacting clause and insert the
7 following:

8 "PART I
9 RETAIL SALES AND USE TAXES

10 **Sec. 101.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to
11 read as follows:

12 SALE AT RETAIL--SERVICES--DEFINED. (1) "Sale at retail" or "retail
13 sale" means every sale of tangible personal property (including
14 articles produced, fabricated, or imprinted) to all persons
15 irrespective of the nature of their business and including, among
16 others, without limiting the scope hereof, persons who install, repair,
17 clean, alter, improve, construct, or decorate real or personal property
18 of or for consumers other than a sale to a person who presents a resale
19 certificate as defined in RCW 82.04.470 and who:

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

23 (b) Installs, repairs, cleans, alters, imprints, improves,
24 constructs, or decorates real or personal property of or for consumers,
25 if such tangible personal property becomes an ingredient or component
26 of such real or personal property without intervening use by such
27 person((τ))i or

28 (c) Purchases for the purpose of consuming the property purchased
29 in producing for sale a new article of tangible personal property or
30 substance, of which such property becomes an ingredient or component or
31 is a chemical used in processing, when the primary purpose of such
32 chemical is to create a chemical reaction directly through contact with
33 an ingredient of a new article being produced for sale((τ))i or

34 (d) Purchases for the purpose of consuming the property purchased
35 in producing ferrosilicon which is subsequently used in producing
36 magnesium for sale, if the primary purpose of such property is to

1 create a chemical reaction directly through contact with an ingredient
2 of ferrosilicon(~~(7)~~)i or

3 (e) Purchases for the purpose of providing the property to
4 consumers as part of competitive telephone service, as defined in RCW
5 82.04.065. The term shall include every sale of tangible personal
6 property which is used or consumed or to be used or consumed in the
7 performance of any activity classified as a "sale at retail" or "retail
8 sale" even though such property is resold or utilized as provided in
9 (a), (b), (c), (d), or (e) (~~(above)~~) of this subsection following such
10 use. The term also means every sale of tangible personal property to
11 persons engaged in any business which is taxable under RCW 82.04.280(~~(7~~
12 ~~subsections)~~) (2) and (7) and RCW 82.04.290.

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

16 (a) The installing, repairing, cleaning, altering, imprinting, or
17 improving of tangible personal property of or for consumers, including
18 charges made for the mere use of facilities in respect thereto, but
19 excluding charges made for the use of coin operated laundry facilities
20 when such facilities are situated in an apartment house, hotel, motel,
21 rooming house, trailer camp or tourist camp for the exclusive use of
22 the tenants thereof, and also excluding sales of laundry service to
23 members by nonprofit associations composed exclusively of nonprofit
24 hospitals, and excluding services rendered in respect to live animals,
25 birds and insects;

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

34 (c) The charge for labor and services rendered in respect to
35 constructing, repairing, or improving any structure upon, above, or
36 under any real property owned by an owner who conveys the property by
37 title, possession, or any other means to the person performing such
38 construction, repair, or improvement for the purpose of performing such
39 construction, repair, or improvement and the property is then

1 reconveyed by title, possession, or any other means to the original
2 owner;

3 (d) The sale of or charge made for labor and services rendered in
4 respect to the cleaning, fumigating, razing or moving of existing
5 buildings or structures, but shall not include the charge made for
6 janitorial services; and for purposes of this section the term
7 "janitorial services" shall mean those cleaning and caretaking services
8 ordinarily performed by commercial janitor service businesses
9 including, but not limited to, wall and window washing, floor cleaning
10 and waxing, and the cleaning in place of rugs, drapes and upholstery.
11 The term "janitorial services" does not include painting, papering,
12 repairing, furnace or septic tank cleaning, snow removal or
13 sandblasting;

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

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

25 (g) The sale of or charge made for tangible personal property,
26 labor and services to persons taxable under (a), (b), (c), (d), (e),
27 and (f) (~~above~~) of this subsection when such sales or charges are for
28 property, labor and services which are used or consumed in whole or in
29 part by such persons in the performance of any activity defined as a
30 "sale at retail" or "retail sale" even though such property, labor and
31 services may be resold after such use or consumption. Nothing
32 contained in this (~~paragraph~~) subsection shall be construed to modify
33 (~~the first paragraph~~) subsection (1) of this section and nothing
34 contained in (~~the first paragraph~~) subsection (1) of this section
35 shall be construed to modify this (~~paragraph~~) subsection.

36 (3) The term "sale at retail" or "retail sale" shall include the
37 sale of or charge made for personal, business, or professional services
38 including amounts designated as interest, rents, fees, admission, and
39 other service emoluments however designated, received by persons

1 engaging in the following business activities specified in this
2 subsection and subsection (4) of this section, other than a sale to a
3 person who presents a resale certificate as defined in RCW 82.04.470
4 and who purchases or licenses for the purpose of resale in the regular
5 course of business without substantial use by the person:

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

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

10 (c) (~~credit bureau businesses;~~

11 (~~d~~)) Automobile parking and storage garage (~~(businesses)~~)
12 services.

13 (4) The term "sale at retail" or "retail sale" shall include the
14 sale of or charge made for:

15 (a) Credit bureau services;

16 (b) Stenographic, secretarial, and clerical services;

17 (c) Computer services, including but not limited to computer
18 programming, software modification, software installation, software
19 maintenance, and/or repair and software update services;

20 (d) Data processing services, including but not limited to word
21 processing, data entry, data retrieval, data search, information
22 compilation, payroll processing, business accounts processing, data
23 production, and other computerized data and information storage or
24 manipulation. Data processing services also includes the use of a
25 computer or computer time for data processing whether the processing is
26 performed by the provider of the computer or by the purchaser or other
27 beneficiary of the service. Data processing services does not include
28 reservations and other computerized operations services provided to
29 persons conducting air, rail, motor, or water commerce by transporting
30 persons or property for hire, nor reservations systems for hotels,
31 motels, and similar providers of transient lodging;

32 (e) Information services, including but not limited to electronic
33 data retrieval or research that entails furnishing financial or legal
34 information, data or research, general or specialized news, or current
35 information unless such news or current information is furnished to a
36 newspaper or to a radio or television station licensed by the federal
37 communications commission. Information services does not include
38 reservations and other computerized operations services provided to
39 persons conducting air, rail, motor, or water commerce by transporting

1 persons or property for hire, nor reservations systems for hotels,
2 motels, and similar providers of transient lodging;

3 (f) Legal, arbitration, and mediation services, including but not
4 limited to paralegal services, legal research services, and court
5 reporting services, but not including charges made for: Representation
6 for which no charge for legal services is made; representation provided
7 without cost to the client by public benefit nonprofit corporations, as
8 defined in RCW 82.04.366, or other subgrantees; representation related
9 to any federal, state, or local criminal or juvenile statute;
10 representation regarding any claim or action arising under Title 26
11 RCW, chapter 74.20 RCW, or similar law; representation regarding any
12 claim or action arising out of or relating to a physical or emotional
13 injury, or the illness, disability or wrongful death of a natural
14 person; representation regarding any claim or action arising under
15 Title 51 RCW or other similar federal workplace injury laws;
16 representation regarding the recovery of federal social security
17 benefits, public assistance benefits under chapter 74.08 RCW,
18 unemployment compensation benefits under chapter 50.32 RCW, or wages
19 under chapter 49.46 RCW, chapter 49.48 RCW, or chapter 49.52 RCW;
20 representation related to the appointment or administration of a
21 guardianship; representation regarding any claim or action based on
22 discrimination or otherwise enforcing the civil rights of a natural
23 person, other than a claim or action regarding a taking of private
24 property for public use; representation regarding prohibited labor
25 practices under chapter 49.44 RCW; representation regarding consumer
26 protection under chapter 19.86 RCW;

27 (g) Accounting, auditing, actuarial, bookkeeping, tax preparation,
28 and similar services;

29 (h) Design services whether or not performed by persons licensed or
30 certified, including but not limited to the following:

31 (i) Engineering services, including civil, electrical, mechanical,
32 petroleum, marine, nuclear, and design engineering, machine tool
33 designing, and sewage disposal system designing;

34 (ii) Architectural services, including but not limited to:
35 Structural or landscape design or architecture; interior design;
36 building design; building program management; and space planning;

37 (i) Business consulting services. Business consulting services are
38 those primarily providing operating counsel, advice, or assistance to
39 the management or owner of any business, private, nonprofit, or public

1 organizations, including but not limited to those in the following
2 areas: Administrative management, business management, construction
3 management, motel, hotel, or resort management, office management,
4 human resource consulting or training, management engineering
5 consulting, management information systems consulting, manufacturing
6 management consulting, marketing consulting, operations research
7 consulting, personnel management consulting, physical distribution
8 consultants, site location consultants, government affairs consulting,
9 and lobbying; however, business consulting services shall not include
10 property management or property leasing;

11 (j) Protective services, including but not limited to detective
12 agency services and private investigating services, armored car
13 services, guard or protective services, lie detection or polygraph
14 services, and security system, burglar, or fire alarm monitoring and
15 maintenance services;

16 (k) Public relations or advertising services, including but not
17 limited to layout, art direction, graphic design, copy writing,
18 mechanical preparation, opinion research, or production supervision,
19 but excluding any amounts paid for broadcast or print advertising not
20 otherwise taxable under subsection (l)(b) of this section, production
21 charges ordinarily included within the charge made by the broadcast or
22 print business, or any commissions retained from or received as part of
23 the charge made for media or print advertising;

24 (l) The rental of equipment with an operator; and

25 (m) Land surveying, geological consulting, and real estate
26 appraising.

27 (5) The term "retail sale" does not include:

28 (a) The provision of either permanent or temporary employees;

29 (b) Business services performed for one member of a group of
30 affiliated business organizations by another member of the group,
31 except business services performed by a person who is neither a member
32 of the group nor an employee of a member, and business services
33 performed by a member of the group that is regularly engaged in the
34 business of selling the same kind of services involved to unaffiliated
35 persons, are not excluded from the definition of "retail sale."

36 "Affiliated business organizations" means: (i) An affiliated group as
37 defined in section 1504 of the Internal Revenue Code of 1986, as
38 amended, and (ii) affiliated corporations or partnerships, as those
39 terms are defined in section 7701(a)(2) and (3) of the Internal Revenue

1 Code, if the same person or persons own, directly or indirectly, at
2 least eighty percent of the capital interest, or the profits interest,
3 in the partnership, as the case may be;

4 (c) Services provided by an employee to an employer while acting in
5 the capacity of an employee;

6 (d) Services donated to a public benefit nonprofit organization, as
7 defined in RCW 82.04.366;

8 (e) Services donated to the state of Washington, its political
9 subdivisions, municipal corporations, or quasi-municipal corporations;

10 (f) Services provided by a public benefit nonprofit organization,
11 as defined in RCW 82.04.366, to the state of Washington, its political
12 subdivisions, municipal corporations, or quasi-municipal corporations;

13 (g) Nonenterprise services provided by the state of Washington, its
14 political subdivisions, municipal corporations, or quasi-municipal
15 corporations;

16 (h) Services related to the identification, investigation, or
17 cleanup arising out of the release, or threatened release of hazardous
18 substances when the services are remedial or response actions performed
19 under federal or state law, or when the services are performed to
20 determine if a release of hazardous substances has occurred or is
21 likely to occur;

22 (i) Business services provided to or performed for, on behalf of,
23 or for the benefit of a collective investment fund such as: (i) A
24 mutual fund or other regulated investment company as defined in section
25 851(a) of the Internal Revenue Code of 1986, as amended; (ii) an
26 "investment company" as that term is used in section 3(a) of the
27 Investment Company Act of 1940 as well as an entity that would be an
28 investment company under section 3(a) of the Investment Company Act of
29 1940 except for the section 3(c)(1) or (11) exemptions, or except that
30 it is a foreign investment company organized under laws of a foreign
31 country; (iii) an "employee benefit plan," which includes any plan,
32 trust, commingled employee benefit trusts, or custodial arrangement
33 that is subject to the Employee Retirement Income Security Act of 1974,
34 as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in
35 sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23)
36 of the Internal Revenue Code of 1986, as amended, or similar plan
37 maintained by state or local governments, or plans, trusts, or
38 custodial arrangements established to self-insure benefits required by
39 federal, state, or local law; (iv) a fund maintained by a tax exempt

1 organization as defined in section 501(c)(3) or 509(a) of the Internal
2 Revenue Code of 1986, as amended, for operating, quasi-endowment, or
3 endowment purposes; or (v) funds that are established for the benefit
4 of such tax exempt organization such as charitable remainder trusts,
5 charitable lead trusts, charitable annuity trusts, or other similar
6 trusts;

7 (j) Research or experimental services eligible for expense
8 treatment under section 174 of the Internal Revenue Code of 1986, as
9 amended;

10 (k) Financial services provided by a financial institution. The
11 term "financial institution" means a corporation, partnership, or other
12 business organization chartered under Title 30, 31, 32, or 33 RCW, or
13 under the National Bank Act, as amended, the Homeowners Loan Act, as
14 amended, or the Federal Credit Union Act, as amended, or a holding
15 company of any such business organization that is subject to the Bank
16 Holding Company Act, as amended, or the Homeowners Loan Act, as
17 amended, or a subsidiary or affiliate of a financial institution, as
18 well as a lender approved by the United States secretary of housing and
19 urban development for participation in any mortgage insurance program
20 under the National Housing Act, as amended. The term "financial
21 services" means those activities directly authorized by the laws cited
22 in this subsection (5)(k) and includes services such as mortgage
23 servicing, contract collection servicing, finance leasing, and services
24 provided in a fiduciary capacity to a trust or estate.

25 (6) The term shall also include the renting or leasing of tangible
26 personal property to consumers.

27 ~~((+5))~~ (7) The term shall also include the providing of telephone
28 service, as defined in RCW 82.04.065, to consumers.

29 ~~((+6))~~ (8) The term shall not include the sale of or charge made
30 for labor and services rendered in respect to the building, repairing,
31 or improving of any street, place, road, highway, easement, right of
32 way, mass public transportation terminal or parking facility, bridge,
33 tunnel, or trestle which is owned by a municipal corporation or
34 political subdivision of the state or by the United States and which is
35 used or to be used primarily for foot or vehicular traffic including
36 mass transportation vehicles of any kind. The term shall also not
37 include sales of feed, seed, seedlings, fertilizer, agents for enhanced
38 pollination including insects such as bees, and spray materials to
39 persons who participate in the federal conservation reserve program or

1 its successor administered by the United States department of
2 agriculture, or to ((persons)) farmers for the purpose of producing for
3 sale any agricultural product ((~~whatsoever, including plantation~~
4 ~~Christmas trees and milk, eggs, wool, fur, meat, honey, or other~~
5 ~~substances obtained from animals, birds, or insects but only when such~~
6 ~~production and subsequent sale are exempt from tax under RCW~~
7 ~~82.04.330~~)), nor shall it include sales of chemical sprays or washes to
8 persons for the purpose of post-harvest treatment of fruit for the
9 prevention of scald, fungus, mold, or decay.

10 ((~~(7)~~)) (9) The term shall not include the sale of or charge made
11 for labor and services rendered in respect to the constructing,
12 repairing, decorating, or improving of new or existing buildings or
13 other structures under, upon, or above real property of or for the
14 United States, any instrumentality thereof, or a county or city housing
15 authority created pursuant to chapter 35.82 RCW, including the
16 installing, or attaching of any article of tangible personal property
17 therein or thereto, whether or not such personal property becomes a
18 part of the realty by virtue of installation. Nor shall the term
19 include the sale of services or charges made for the clearing of land
20 and the moving of earth of or for the United States, any
21 instrumentality thereof, or a county or city housing authority.

22 NEW SECTION. Sec. 102. A new section is added to chapter 82.04
23 RCW to read as follows:

24 (1) "Agricultural product" means any product of plant cultivation
25 or animal husbandry including, but not limited to: A product of
26 horticulture, grain cultivation, vermiculture, viticulture, or
27 aquaculture as defined in RCW 15.85.020; plantation Christmas trees;
28 turf; or any animal including but not limited to an animal that is a
29 private sector cultured aquatic product as defined in RCW 15.85.020, or
30 a bird, or insect, or the substances obtained from such an animal.
31 "Agricultural product" does not include animals intended to be pets.

32 (2) "Farmer" means any person engaged in the business of growing or
33 producing, upon the person's own lands or upon the lands in which the
34 person has a present right of possession, any agricultural product
35 whatsoever for sale. "Farmer" does not include a person using such
36 products as ingredients in a manufacturing process, or a person growing
37 or producing such products for the person's own consumption. "Farmer"
38 does not include a person selling any animal or substance obtained

1 therefrom in connection with the person's business of operating a
2 stockyard or a slaughter or packing house. "Farmer" does not include
3 any person in respect to the business of taking, cultivating, or
4 raising timber.

5 **Sec. 103.** RCW 82.04.330 and 1988 c 253 s 2 are each amended to
6 read as follows:

7 This chapter shall not apply to any (~~person in respect to the~~
8 ~~business of growing or producing for sale upon the person's own lands~~
9 ~~or upon land in which the person has a present right of possession, any~~
10 ~~agricultural or horticultural produce or crop, or of raising upon the~~
11 ~~person's own lands or upon land in which the person has a present right~~
12 ~~of possession, any plantation Christmas tree or any animal, bird, fish,~~
13 ~~or insect, or the milk, eggs, wool, fur, meat, honey, or other~~
14 ~~substance obtained therefrom, or in respect to the sale of such~~
15 ~~products)) farmer that sells any agricultural product at wholesale ((by
16 ~~such grower, producer, or raiser thereof)). This exemption shall not~~
17 ~~apply to any person selling such products at retail ((or using such~~
18 ~~products as ingredients in a manufacturing process; nor to the sale of~~
19 ~~any animal or substance obtained therefrom by a person in connection~~
20 ~~with the person's business of operating a stockyard or a slaughter or~~
21 ~~packing house; nor to any person in respect to the business of taking,~~
22 ~~cultivating, or raising timber; nor to any association of persons~~
23 ~~whatever, whether mutual, cooperative or otherwise, engaging in any~~
24 ~~business activity with respect to which tax liability is imposed under~~
25 ~~the provisions of this chapter. As used in this section, "fish" means~~
26 ~~fish which are cultivated or raised entirely within confined rearing~~
27 ~~areas on the person's own land or on land in which the person has a~~
28 ~~present right of possession)).~~~~

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

33 **Sec. 104.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to
34 read as follows:

35 CONSUMER DEFINED. "Consumer" means the following:

36 (1) Any person who purchases, acquires, owns, holds, or uses any
37 article of tangible personal property irrespective of the nature of the

1 person's business and including, among others, without limiting the
2 scope hereof, persons who install, repair, clean, alter, improve,
3 construct, or decorate real or personal property of or for consumers
4 other than for the purpose (a) of resale as tangible personal property
5 in the regular course of business or (b) of incorporating such property
6 as an ingredient or component of real or personal property when
7 installing, repairing, cleaning, altering, imprinting, improving,
8 constructing, or decorating such real or personal property of or for
9 consumers or (c) of consuming such property in producing for sale a new
10 article of tangible personal property or a new substance, of which such
11 property becomes an ingredient or component or as a chemical used in
12 processing, when the primary purpose of such chemical is to create a
13 chemical reaction directly through contact with an ingredient of a new
14 article being produced for sale or (d) purchases for the purpose of
15 consuming the property purchased in producing ferrosilicon which is
16 subsequently used in producing magnesium for sale, if the primary
17 purpose of such property is to create a chemical reaction directly
18 through contact with an ingredient of ferrosilicon;

19 (2) Any person who purchases, acquires, uses, or receives the
20 benefit of any service defined as a retail sale, unless the person
21 presents a resale certificate as defined in RCW 82.04.470 and purchases
22 or licenses for resale in the regular course of business without
23 substantial use by the person. "Substantial use" does not include the
24 use of design services or land surveying services purchased by a person
25 engaged in selling design services, if the purchased services and the
26 services being sold relate to a single or common project, owner, or
27 improvement to real property;

28 (3) Any person engaged in any business activity taxable under RCW
29 82.04.290 and any person who purchases, acquires, or uses any telephone
30 service as defined in RCW 82.04.065, other than for resale in the
31 regular course of business;

32 (~~(3)~~) (4) Any person engaged in the business of contracting for
33 the building, repairing or improving of any street, place, road,
34 highway, easement, right of way, mass public transportation terminal or
35 parking facility, bridge, tunnel, or trestle which is owned by a
36 municipal corporation or political subdivision of the state of
37 Washington or by the United States and which is used or to be used
38 primarily for foot or vehicular traffic including mass transportation
39 vehicles of any kind as defined in RCW 82.04.280, in respect to

1 tangible personal property or services, when such person incorporates
2 such property as an ingredient or component of such publicly owned
3 street, place, road, highway, easement, right of way, mass public
4 transportation terminal or parking facility, bridge, tunnel, or trestle
5 by installing, placing or spreading the property in or upon the right
6 of way of such street, place, road, highway, easement, bridge, tunnel,
7 or trestle or in or upon the site of such mass public transportation
8 terminal or parking facility;

9 (~~(4)~~) (5) Any person who is an owner, lessee or has the right of
10 possession to or an easement in real property which is being
11 constructed, repaired, decorated, improved, or otherwise altered by a
12 person engaged in business, excluding only (a) municipal corporations
13 or political subdivisions of the state in respect to labor and services
14 rendered to their real property which is used or held for public road
15 purposes, and (b) the United States, instrumentalities thereof, and
16 county and city housing authorities created pursuant to chapter 35.82
17 RCW in respect to labor and services rendered to their real property.
18 Nothing contained in this or any other subsection of this definition
19 shall be construed to modify any other definition of "consumer";

20 (~~(5)~~) (6) Any person who is an owner, lessee, or has the right of
21 possession to personal property which is being constructed, repaired,
22 improved, cleaned, imprinted, or otherwise altered by a person engaged
23 in business;

24 (~~(6)~~) (7) Any person engaged in the business of constructing,
25 repairing, decorating, or improving new or existing buildings or other
26 structures under, upon, or above real property of or for the United
27 States, any instrumentality thereof, or a county or city housing
28 authority created pursuant to chapter 35.82 RCW, including the
29 installing or attaching of any article of tangible personal property
30 therein or thereto, whether or not such personal property becomes a
31 part of the realty by virtue of installation; also, any person engaged
32 in the business of clearing land and moving earth of or for the United
33 States, any instrumentality thereof, or a county or city housing
34 authority created pursuant to chapter 35.82 RCW. Any such person shall
35 be a consumer within the meaning of this subsection in respect to the
36 receipt of the benefit of any service or to tangible personal property
37 incorporated into, installed in, or attached to such building or other
38 structure by such person.

1 NEW SECTION. **Sec. 105.** A new section is added to chapter 82.04
2 RCW to read as follows:

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

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

9 **PRINTING AND PUBLISHING.** Upon every person engaging within this
10 state in the business of: (1) Printing, and of publishing
11 newspapers(~~(, periodicals or magazines)~~); (2) building, repairing or
12 improving any street, place, road, highway, easement, right of way,
13 mass public transportation terminal or parking facility, bridge,
14 tunnel, or trestle which is owned by a municipal corporation or
15 political subdivision of the state or by the United States and which is
16 used or to be used, primarily for foot or vehicular traffic including
17 mass transportation vehicles of any kind and including any
18 readjustment, reconstruction or relocation of the facilities of any
19 public, private or cooperatively owned utility or railroad in the
20 course of such building, repairing or improving, the cost of which
21 readjustment, reconstruction, or relocation, is the responsibility of
22 the public authority whose street, place, road, highway, easement,
23 right of way, mass public transportation terminal or parking facility,
24 bridge, tunnel, or trestle is being built, repaired or improved; (3)
25 extracting for hire or processing for hire; (4) operating a cold
26 storage warehouse or storage warehouse, but not including the rental of
27 cold storage lockers; (5) representing and performing services for fire
28 or casualty insurance companies as an independent resident managing
29 general agent licensed under the provisions of RCW 48.05.310; (6) radio
30 and television broadcasting, excluding network, national and regional
31 advertising computed as a standard deduction based on the national
32 average thereof as annually reported by the Federal Communications
33 Commission, or in lieu thereof by itemization by the individual
34 broadcasting station, and excluding that portion of revenue represented
35 by the out-of-state audience computed as a ratio to the station's total
36 audience as measured by the 100 micro-volt signal strength and delivery
37 by wire, if any; (7) engaging in activities which bring a person within
38 the definition of consumer contained in RCW 82.04.190(~~(6)~~), as now or

1 hereafter amended)) (7); as to such persons, the amount of tax on such
2 business shall be equal to the gross income of the business multiplied
3 by the rate of forty-four one hundredths of one percent.

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

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

17 **Sec. 107.** RCW 82.04.4282 and 1989 c 392 s 1 are each amended to
18 read as follows:

19 CROSS-REFERENCE. In computing tax there may be deducted from the
20 measure of tax amounts derived from (1) bona fide initiation fees, (2)
21 dues, (3) contributions, (4) donations, (5) tuition fees, (6) charges
22 made by a nonprofit trade or professional organization for attending or
23 occupying space at a trade show, convention, or educational seminar
24 sponsored by the nonprofit trade or professional organization, which
25 trade show, convention, or educational seminar is not open to the
26 general public, (7) charges made for operation of privately operated
27 kindergartens, and (8) endowment funds. This ((paragraph shall))
28 section may not be construed to exempt any person, association, or
29 society from tax liability upon selling tangible personal property or
30 services defined as a retail sale or upon providing facilities or
31 services for which a special charge is made to members or others. If
32 dues are in exchange for any significant amount of goods or services
33 rendered by the recipient thereof to members without any additional
34 charge to the member, or if the dues are graduated upon the amount of
35 goods or services rendered, the value of such goods or services shall
36 not be considered as a deduction hereunder.

1 **Sec. 108.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to
2 read as follows:

3 BUSINESS WITHIN AND WITHOUT STATE--APPORTIONMENT. (1) Any person
4 rendering services taxable under RCW 82.04.290 or services defined as
5 a retail sale under RCW 82.04.050(4) and maintaining places of business
6 both within and without this state which contribute to the rendition of
7 such services shall, for the purpose of computing tax liability under
8 RCW 82.04.290, apportion to this state that portion of his gross income
9 which is derived from services rendered within this state. Where such
10 apportionment cannot be accurately made by separate accounting methods,
11 the taxpayer shall apportion to this state that proportion of his total
12 income which the cost of doing business within the state bears to the
13 total cost of doing business both within and without the state.

14 (2) Notwithstanding the provision of subsection (1) of this
15 section, persons doing business both within and without the state who
16 receive gross income from service charges, as defined in RCW 63.14.010
17 (relating to amounts charged for granting the right or privilege to
18 make deferred or installment payments) or who receive gross income from
19 engaging in business as financial institutions within the scope of
20 chapter 82.14A RCW (relating to city taxes on financial institutions)
21 shall apportion or allocate gross income taxable under RCW 82.04.290 to
22 this state pursuant to rules promulgated by the department consistent
23 with uniform rules for apportionment or allocation developed by the
24 states.

25 (3) The department shall by rule provide a method or methods of
26 apportioning or allocating gross income derived from sales of telephone
27 services taxed under this chapter, if the gross proceeds of sales
28 subject to tax under this chapter do not fairly represent the extent of
29 the taxpayer's income attributable to this state. The rules shall be,
30 so far as feasible, consistent with the methods of apportionment
31 contained in this section and shall require the consideration of those
32 facts, circumstances, and apportionment factors as will result in an
33 equitable and constitutionally permissible division of the services.

34 **Sec. 109.** RCW 82.04.060 and 1983 2nd ex.s. c 3 s 26 are each
35 amended to read as follows:

36 SALE AT WHOLESALE DEFINED. "Sale at wholesale" or "wholesale sale"
37 means any sale of tangible personal property(~~(, or any sale of~~
38 ~~telephone service as defined in RCW 82.04.065, which))~~ that is not a

1 sale at retail and means any sale of or charge made for labor and
2 services rendered for persons who are not consumers, (~~in respect to~~
3 ~~real or personal property,~~) if such sale or charge is expressly
4 defined as a retail sale by RCW 82.04.050 when rendered to or for
5 consumers(~~(: PROVIDED, That the term "real or personal property" as~~
6 ~~used in this section shall not include any natural products named in~~
7 ~~RCW 82.04.100)~~).

8 **Sec. 110.** RCW 82.08.010 and 1985 c 38 s 3 are each amended to read
9 as follows:

10 RETAIL SALES TAX--DEFINITIONS. For the purposes of this chapter:

11 (1) "Selling price" means the consideration, whether money,
12 credits, rights, or other property except trade-in property of like
13 kind, expressed in the terms of money paid or delivered by a buyer to
14 a seller without any deduction on account of the cost of tangible
15 property sold, the cost of materials used, labor costs, interest,
16 discount, delivery costs, taxes other than taxes imposed under this
17 chapter if the seller advertises the price as including the tax or that
18 the seller is paying the tax, or any other expenses whatsoever paid or
19 accrued and without any deduction on account of losses; but shall not
20 include the amount of cash discount actually taken by a buyer; and
21 shall be subject to modification to the extent modification is provided
22 for in RCW 82.08.080.

23 When tangible personal property is rented or leased under
24 circumstances that the consideration paid does not represent a
25 reasonable rental for the use of the articles so rented or leased, the
26 "selling price" shall be determined as nearly as possible according to
27 the value of such use at the places of use of similar products of like
28 quality and character under such rules as the department of revenue may
29 prescribe;

30 (2) "Seller" means every person, including the state and its
31 departments and institutions, making sales at retail or retail sales to
32 a buyer or consumer, whether as agent, broker, or principal, except
33 "seller" does not mean the state and its departments and institutions
34 when making sales to the state and its departments and institutions;

35 (3) "Buyer" and "consumer" include, without limiting the scope
36 hereof, every individual, receiver, assignee, trustee in bankruptcy,
37 trust, estate, firm, copartnership, joint venture, club, company, joint
38 stock company, business trust, corporation, association, society, or

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

7 (4) The meaning attributed in chapter 82.04 RCW to the terms "tax
8 year," "taxable year," "person," "company," "sale," "sale at retail,"
9 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
10 in business," "cash discount," "newspaper," "successor," "consumer,"
11 "in this state" and "within this state" shall apply equally to the
12 provisions of this chapter.

13 **Sec. 111.** RCW 82.08.020 and 1992 c 194 s 9 are each amended to
14 read as follows:

15 RETAIL SALES TAX RATE. (1) There is levied and there shall be
16 collected a tax on each retail sale in this state equal to six and
17 (~~five-tenths~~) twenty-five one-hundredths percent of the selling
18 price.

19 (2) There is levied and there shall be collected an additional tax
20 on each retail car rental, regardless of whether the vehicle is
21 licensed in this state, equal to five and nine-tenths percent of the
22 selling price. Ninety-one percent of the revenue collected under this
23 subsection shall be deposited and distributed in the same manner as
24 motor vehicle excise tax revenue collected under RCW 82.44.020(1).
25 Nine percent of the revenue collected under this subsection shall be
26 deposited in the transportation fund and distributed in the same manner
27 as motor vehicle excise tax revenue collected under RCW 82.44.020(2).

28 (3) If authorized under section 135 of this act, an additional tax
29 shall be imposed on each retail sale in this state of a service defined
30 as a retail sale under RCW 82.04.050(4), equal to one percent of the
31 selling price. The revenue collected under this subsection shall be
32 deposited in the local sales tax on services account under section 135
33 of this act.

34 (4) The taxes imposed under this chapter shall apply to successive
35 retail sales of the same property.

36 (~~(4)~~) (5) The rates provided in this section apply to taxes
37 imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

1 NEW SECTION. **Sec. 112.** The legislature finds that prevention is
2 a significant element in the reduction of health care costs. The
3 legislature further finds that taxing some physician prescriptions and
4 not others is unfair to patients. It is, therefore, the intent of the
5 legislature to remove the taxes from prescriptions issued for family
6 planning purposes.

7 **Sec. 113.** RCW 82.08.0281 and 1980 c 37 s 46 are each amended to
8 read as follows:

9 The tax levied by RCW 82.08.020 shall not apply to sales of
10 prescription drugs, including sales to the state or a political
11 subdivision or municipal corporation thereof of drugs to be dispensed
12 to patients by prescription without charge. The term "prescription
13 drugs" shall include any medicine, drug, prescription lens, or other
14 substance other than food for use in the diagnosis, cure, mitigation,
15 treatment, or prevention of disease or other ailment in humans, or for
16 family planning purposes including the prevention of conception,
17 ordered by (1) the written prescription to a pharmacist by a
18 practitioner authorized by law of this state or laws of another
19 jurisdiction to issue prescriptions, or (2) upon an oral prescription
20 of such practitioner which is reduced promptly to writing and filed by
21 a duly licensed pharmacist, or (3) by refilling any such written or
22 oral prescription if such refilling is authorized by the prescriber
23 either in the original prescription or by oral order which is reduced
24 promptly to writing and filed by the pharmacist, or (4) physicians or
25 optometrists by way of written directions and specifications for the
26 preparation, grinding, and fabrication of lenses intended to aid or
27 correct visual defects or anomalies of humans.

28 **Sec. 114.** RCW 82.12.0275 and 1980 c 37 s 73 are each amended to
29 read as follows:

30 The provisions of this chapter shall not apply in respect to the
31 use of prescription drugs, including the use by the state or a
32 political subdivision or municipal corporation thereof of drugs to be
33 dispensed to patients by prescription without charge. The term
34 "prescription drugs" shall include any medicine, drug, prescription
35 lens, or other substance other than food for use in the diagnosis,
36 cure, mitigation, treatment, or prevention of disease or other ailment
37 in humans, or for family planning purposes including the prevention of

1 conception, ordered by (1) the written prescription to a pharmacist by
2 a practitioner authorized by law of this state or laws of another
3 jurisdiction to issue prescriptions, or (2) upon an oral prescription
4 of such practitioner which is reduced promptly to writing and filed by
5 a duly licensed pharmacist, or (3) by refilling any such written or
6 oral prescription if such refilling is authorized by the prescriber
7 either in the original prescription or by oral order which is reduced
8 promptly to writing and filed by the pharmacist, or (4) physicians or
9 optometrists by way of written directions and specifications for the
10 preparation, grinding, and fabrication of lenses intended to aid or
11 correct visual defects or anomalies of humans.

12 NEW SECTION. Sec. 115. A new section is added to chapter 82.08
13 RCW to read as follows:

14 RETAIL SALES TAX ON SERVICES--COLLECTION. (1) A seller shall
15 collect the retail sales tax on all sales of services defined as retail
16 sales, except sales of services defined as a retail sale under RCW
17 82.04.050(4) that are not made in this state. A sale is made in this
18 state for purposes of this chapter if the benefit of the service is
19 received in this state. The benefit of a service shall be presumed to
20 be received in this state:

21 (a) If the service relates only to real property located in this
22 state;

23 (b) If the service relates only to tangible personal property
24 located in this state at the time the service is performed;

25 (c) If the service relates only to an individual residing in this
26 state;

27 (d) If the service relates to any person doing business only in
28 this state; or

29 (e) Any combination of the criteria in (a) through (d) of this
30 subsection.

31 (2) If none of the provisions of subsection (1) of this section
32 apply, the buyer may elect to remit the sales tax due on the receipt of
33 the benefit of the service in this state after apportioning the tax in
34 the manner provided under section 118 of this act. If the buyer makes
35 this election, the buyer must provide the seller with a certificate
36 stating that the buyer has made this election and remit the tax due
37 with the buyer's next regularly scheduled return. The department shall

1 adopt rules providing the form and information required to be on the
2 certificates.

3 (3) Notwithstanding the provisions of subsection (1) or (2) of this
4 section, the department may establish by rule the criteria by which a
5 buyer may demonstrate that the benefit of a service is not received in
6 this state.

7 (4) If a transaction involves both the sale of a service taxable
8 under this chapter and the provision of a service not taxable under
9 this chapter, the charges shall be separately identified and stated
10 with respect to the taxable and nontaxable portions of the transaction.
11 Failure to separately state the charges shall create a presumption that
12 the entire transaction is subject to the retail sales tax.

13 **Sec. 116.** RCW 82.12.010 and 1985 c 222 s 1 and 1985 c 132 s 1 are
14 each reenacted and amended to read as follows:

15 USE TAX--DEFINITIONS. For the purposes of this chapter:

16 (1)(a) "Value of the article used" shall mean the consideration,
17 whether money, credit, rights, or other property except trade-in
18 property of like kind, expressed in terms of money, paid or given or
19 contracted to be paid or given by the purchaser to the seller for the
20 article of tangible personal property, the use of which is taxable
21 under this chapter. The term includes, in addition to the
22 consideration paid or given or contracted to be paid or given, the
23 amount of any tariff or duty paid with respect to the importation of
24 the article used. In case the article used is acquired by lease or by
25 gift or is extracted, produced, or manufactured by the person using the
26 same or is sold under conditions wherein the purchase price does not
27 represent the true value thereof, the value of the article used shall
28 be determined as nearly as possible according to the retail selling
29 price at place of use of similar products of like quality and character
30 under such rules ((and regulations)) as the department of revenue may
31 prescribe.

32 (b) In case the articles used are acquired by bailment, the value
33 of the use of the articles so used shall be in an amount representing
34 a reasonable rental for the use of the articles so bailed, determined
35 as nearly as possible according to the value of such use at the places
36 of use of similar products of like quality and character under such
37 rules ((and regulations)) as the department of revenue may prescribe((÷
38 PROVIDED, That)). In case any such articles of tangible personal

1 property are used in respect to the construction, repairing,
2 decorating, or improving of, and which become or are to become an
3 ingredient or component of, new or existing buildings or other
4 structures under, upon, or above real property of or for the United
5 States, any instrumentality thereof, or a county or city housing
6 authority created pursuant to chapter 35.82 RCW, including the
7 installing or attaching of any such articles therein or thereto,
8 whether or not such personal property becomes a part of the realty by
9 virtue of installation, then the value of the use of such articles so
10 used shall be determined according to the retail selling price of such
11 articles, or in the absence of such a selling price, as nearly as
12 possible according to the retail selling price at place of use of
13 similar products of like quality and character or, in the absence of
14 either of these selling price measures, such value may be determined
15 upon a cost basis, in any event under such rules (~~(and regulations)~~) as
16 the department of revenue may prescribe.

17 (c) In the case of articles owned by a user engaged in business
18 outside the state which are brought into the state for no more than
19 ninety days in any period of three hundred sixty-five consecutive days
20 and which are temporarily used for business purposes by the person in
21 this state, the value of the article used shall be an amount
22 representing a reasonable rental for the use of the articles, unless
23 the person has paid tax under this chapter or chapter 82.08 RCW upon
24 the full value of the article used, as defined in (~~(the first~~
25 ~~paragraph)~~) (a) of this subsection.

26 (d) In the case of articles manufactured or produced by the user
27 and used in the manufacture or production of products sold or to be
28 sold to the department of defense of the United States, the value of
29 the articles used shall be determined according to the value of the
30 ingredients of such articles.

31 (e) In the case of an article manufactured or produced for purposes
32 of serving as a prototype for the development of a new or improved
33 product, the value of the article used shall be determined by: (~~(+a)~~)
34 (i) The retail selling price of such new or improved product when first
35 offered for sale; or (~~(+b)~~) (ii) the value of materials incorporated
36 into the prototype in cases in which the new or improved product is not
37 offered for sale.

38 (2) "Value of the service used" shall mean the consideration,
39 whether money, credit, rights, or other property, expressed in terms of

1 money, paid or given or contracted to be paid or given by the purchaser
2 to the seller for the service, the use of which is taxable under this
3 chapter. If the service is received by gift or under conditions
4 wherein the purchase price does not represent the true value of the
5 service, the value of the service used shall be determined as nearly as
6 possible according to the selling price at the place of use of similar
7 services under rules prescribed by the department of revenue;

8 (3) "Use," "used," "using," or "put to use" shall have their
9 ordinary meaning, and shall mean:

10 (a) With respect to tangible personal property, the first act
11 within this state by which the taxpayer takes or assumes dominion or
12 control over the article of tangible personal property (as a consumer),
13 and include installation, storage, withdrawal from storage, or any
14 other act preparatory to subsequent actual use or consumption within
15 this state; and

16 (b) With respect to a service defined as a retail sale, the receipt
17 in this state by the taxpayer of any part of the benefit afforded the
18 service;

19 ~~((+3))~~ (4) "Taxpayer" and "purchaser" include all persons included
20 within the meaning of the word "buyer" and the word "consumer" as
21 defined in chapters 82.04 and 82.08 RCW;

22 ~~((+4))~~ (5) "Retailer" means every seller as defined in RCW
23 82.08.010 and every person engaged in the business of selling tangible
24 personal property at retail and every person required to collect from
25 purchasers the tax imposed under this chapter;

26 ~~((+5))~~ (6) The meaning ascribed to words and phrases in chapters
27 82.04 and 82.08 RCW, insofar as applicable, shall have full force and
28 effect with respect to taxes imposed under the provisions of this
29 chapter. "Consumer," in addition to the meaning ascribed to it in
30 chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any
31 person who distributes or displays, or causes to be distributed or
32 displayed, any article of tangible personal property, except
33 newspapers, the primary purpose of which is to promote the sale of
34 products or services.

35 **Sec. 117.** RCW 82.12.020 and 1983 c 7 s 7 are each amended to read
36 as follows:

37 USE TAX. (1) There is hereby levied and there shall be collected
38 from every person in this state a tax or excise for the privilege of

1 receiving the benefit of any service defined as a retail sale or of
2 using within this state as a consumer any article of tangible personal
3 property purchased at retail, or acquired by lease, gift, repossession,
4 or bailment, or extracted or produced or manufactured by the person so
5 using the same, or otherwise furnished to a person engaged in any
6 business taxable under RCW 82.04.280(~~(, subsections))~~) (2) or (7).
7 ~~((This tax will not apply with respect to the use of any article of~~
8 ~~tangible personal property purchased, extracted, produced or~~
9 ~~manufactured outside this state until the transportation of such~~
10 ~~article has finally ended or until such article has become commingled~~
11 ~~with the general mass of property in this state.))~~

12 (2) This tax shall apply to the receipt of any service defined as
13 a retail sale or the use of every article of tangible personal
14 property, including property acquired at a casual or isolated sale, and
15 including byproducts used by the manufacturer thereof, except as
16 hereinafter provided, irrespective of whether the article or similar
17 articles are manufactured or are available for purchase within this
18 state.

19 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
20 or user of tangible personal property or service defined as a retail
21 sale of the tax imposed by chapter 82.08 or 82.12 RCW shall not have
22 the effect of exempting any other purchaser or user of the same
23 property or service defined as a retail sale from the taxes imposed by
24 such chapters.

25 (4) The tax shall be levied and collected in an amount equal to the
26 value of the article or service used by the taxpayer multiplied by the
27 rate in effect for the retail sales tax under RCW 82.08.020(~~(, as now~~
28 ~~or hereafter amended, in the county in which the article is used))~~).

29 NEW SECTION. Sec. 118. A new section is added to chapter 82.12
30 RCW to read as follows:

31 USE TAX--WHERE BENEFIT OF SERVICE OCCURS. (1) The receipt of the
32 benefit of a service in this state occurs:

33 (a) If the service relates only to real property in this state; or

34 (b) If the service relates only to tangible personal property in
35 this state at the time of the service; or

36 (c) If the service relates only to an individual residing in this
37 state; or

1 (d) If the service relates to any person doing business only in
2 this state; or

3 (e) Any combination of the criteria in (a) through (d) of this
4 subsection.

5 (2) If the service relates to any person required to be registered
6 to do business in this state, and the value of the service required to
7 be apportioned to this state under subsection (3) of this section is
8 less than the lesser of five percent of the total value of the service
9 or twenty-five thousand dollars, the buyer shall not be required to
10 calculate and remit the tax on that service.

11 (3) If subsection (1) or (2) of this section are not applicable,
12 and the buyer of the service is doing business both inside and outside
13 of this state, the service shall be presumed to be received in this
14 state to the extent that the buyer is doing business in this state.
15 The amount of the service that is taxable in this state shall be
16 determined by multiplying the price of the service by a percentage that
17 represents the extent of the buyer's business in this state. For
18 purposes of determining the extent of the buyer's business in this
19 state, the following apportionment formula shall be used:

20 (a) The value of the service shall be apportioned by an
21 apportionment fraction composed of a sales factor representing fifty
22 percent of the fraction, a property factor representing twenty-five
23 percent of the fraction, and a payroll factor representing twenty-five
24 percent of the fraction. If the denominator for any one of the factors
25 is zero or are insignificant, the weighted percentage for the other
26 denominators shall be increased proportionately; if the denominators
27 for any two of the factors are zero or are insignificant, the weighted
28 percentage for the other denominator shall be one hundred percent;

29 (b) The property factor is a fraction the numerator of which is the
30 average value of the buyer's real and tangible personal property owned
31 or rented and used in this state during the taxable year or period and
32 the denominator of which is the average value of such property owned or
33 rented and used everywhere;

34 (i) Real and tangible personal property owned by the buyer shall be
35 valued at original cost. Real and tangible personal property rented by
36 the taxpayer shall be valued at eight times the net annual rental rate
37 paid by the taxpayer less any annual rental rate received from
38 subrentals;

1 (ii) The average value of real and tangible personal property shall
2 be determined by averaging the value at the beginning and the end of
3 the taxable year or period, unless the department determines that an
4 averaging of monthly values during the taxable year or period is
5 reasonably required to properly reflect the average value of the
6 taxpayer's real and tangible personal property;

7 (c) The payroll factor is a fraction the numerator of which is the
8 total amount paid in this state during the taxable year or period by
9 the taxpayer for compensation and the denominator of which is the total
10 compensation paid everywhere during the taxable year or period;

11 (i) As used in this subsection, the term "compensation" means
12 wages, salaries, commissions, and any other form of remuneration paid
13 to employees for personal services;

14 (ii) Compensation is paid in this state if:

15 (A) The employee's service is performed entirely within this state;
16 or

17 (B) The employee's service is performed both within and without the
18 state, but the service performed without the state is incidental to the
19 employee's service within the state; or

20 (C) Some of the employee's service is performed in the state and
21 the base of operations or the place from which the service is directed
22 or controlled is within this state, or the base of operations or the
23 place from which the service is directed or controlled is not in any
24 state in which some part of the service is performed and the employee's
25 residence is in any state;

26 (d) The sales factor is a fraction the numerator of which is the
27 total sales of the taxpayer in this state during the taxable year or
28 period and the denominator of which is the total sales of the taxpayer
29 everywhere during the taxable year or period.

30 (4) The department may, by rule, alter the components of the
31 apportionment factors in subsection (3) of this section to be
32 consistent with uniform rules for apportionment or allocation developed
33 by the states for particular industries.

34 (5) The department may establish by rule the criteria by which a
35 buyer may demonstrate that the benefit of a service is not received in
36 this state.

37 NEW SECTION. **Sec. 119.** A new section is added to chapter 82.32
38 RCW to read as follows:

1 SALES BEFORE EFFECTIVE DATE. If a service is initially taxable as
2 of the effective date of this section, and the service is received
3 prior to that date, it is not subject to tax under chapter 82.08,
4 82.12, or 82.14 RCW, notwithstanding that compensation for the service
5 is paid or payable on or after that date. If the service is received
6 on or after the effective date of this section, the service shall be
7 taxed unless it was paid in full before March 1, 1993. If the service
8 is received over a period of time beginning prior to the effective date
9 of this section and ending after that date, and full payment for the
10 service has not been made before March 1, 1993, the service shall be
11 taxed only upon that portion of the service received on or after the
12 effective date of this section. If the service is performed under a
13 contract signed prior to March 1, 1993, and such contract does not
14 allow the seller to add the retail sales taxes imposed under chapter
15 82.08, 82.12, or 82.14 RCW to the contract price, the taxes imposed
16 under those chapters on services may not be imposed on that contract.
17 If the contract is signed between March 1, 1993, and July 1, 1993, and
18 does not allow the seller to add retail sales taxes to the price or
19 increase the price for use taxes due, and the seller can show by clear,
20 cogent, and convincing evidence that the contract was not signed to
21 avoid the sales and use taxes imposed by chapter . . . , Laws of 1993
22 (this act), no such taxes shall be imposed.

23 **Sec. 120.** RCW 82.04.480 and 1975 1st ex.s. c 278 s 44 are each
24 amended to read as follows:

25 AGENT. Every consignee, bailee, factor, or auctioneer having
26 either actual or constructive possession of tangible personal property,
27 or having possession of the documents of title thereto, with power to
28 sell such tangible personal property in his or its own name and
29 actually so selling, and every agent with power to sell a service
30 defined as a retail sale in the agent's own name and actually so
31 selling, shall be deemed the seller of such tangible personal property
32 or service within the meaning of this chapter; and further, the
33 consignor, bailor, principal, or owner shall be deemed a seller of such
34 property or service to the consignee, bailee, factor, ((or))
35 auctioneer, or agent.

36 The burden shall be upon the taxpayer in every case to establish
37 the fact that he or she is not engaged in the business of selling
38 tangible personal property or service but is acting merely as broker or

1 agent in promoting sales for a principal. Such claim will be allowed
2 only when the taxpayer's accounting records are kept in such manner as
3 the department of revenue shall by general ((regulation)) rule provide.

4 **Sec. 121.** RCW 82.08.090 and 1975 1st ex.s. c 278 s 49 are each
5 amended to read as follows:

6 INSTALLMENT SALES AND LEASES. In the case of installment sales and
7 leases of personal property or services defined as retail sales, the
8 department of revenue, by ((regulation)) rule, may provide for the
9 collection of taxes upon the installments of the purchase price, or
10 amount of rental, as of the time the same fall due.

11 **Sec. 122.** RCW 82.12.0252 and 1980 c 37 s 52 are each amended to
12 read as follows:

13 EXEMPTIONS--TAX PAID. The provisions of this chapter shall not
14 apply in respect to the use of any article of tangible personal
15 property or service defined as a retail sale purchased at retail or
16 acquired by lease, gift or bailment if the sale thereof to, or the use
17 thereof by, the present user or ((his)) the user's bailor or donor has
18 already been subjected to the tax under chapter 82.08 or 82.12 RCW and
19 such tax has been paid by the present user or by his bailor or donor;
20 or in respect to the use of property acquired by bailment and such tax
21 has once been paid based on reasonable rental as determined by RCW
22 82.12.060 measured by the value of the article at time of first use
23 multiplied by the tax rate imposed by chapter 82.08 or 82.12 RCW as of
24 the time of first use; or in respect to the use of any article of
25 tangible personal property acquired by bailment, if the property was
26 acquired by a previous bailee from the same bailor for use in the same
27 general activity and such original bailment was prior to June 9, 1961.

28 **Sec. 123.** RCW 82.12.0255 and 1980 c 37 s 55 are each amended to
29 read as follows:

30 EXEMPTIONS--NONTAXABLE SERVICE. The provisions of this chapter
31 shall not apply in respect to the use of any article of tangible
32 personal property or any service defined as a retail sale which the
33 state is prohibited from taxing under the Constitution of the state or
34 under the Constitution or laws of the United States.

1 **Sec. 124.** RCW 82.12.0259 and 1980 c 37 s 59 are each amended to
2 read as follows:

3 EXEMPTIONS--ARMED FORCES--AID AND RELIEF. The provisions of this
4 chapter shall not apply in respect to the use of tangible personal
5 property or services defined as retail sales by corporations which have
6 been incorporated under any act of the congress of the United States
7 and whose principal purposes are to furnish volunteer aid to members of
8 the armed forces of the United States and also to carry on a system of
9 national and international relief and to apply the same in mitigating
10 the sufferings caused by pestilence, famine, fire, flood, and other
11 national calamities and to devise and carry on measures for preventing
12 the same.

13 **Sec. 125.** RCW 82.12.035 and 1987 c 27 s 2 are each amended to read
14 as follows:

15 USE TAX CREDIT--TAX PAID IN ANOTHER JURISDICTION. A credit shall
16 be allowed against the taxes imposed by this chapter upon the use of
17 tangible personal property or services defined as retail sales in the
18 state of Washington in the amount that the present user thereof or his
19 or her bailor or donor has paid a retail sales or use tax with respect
20 to such property or service to any other state of the United States,
21 any political subdivision thereof, the District of Columbia, and any
22 foreign country or political subdivision thereof, prior to the use of
23 such property or service in Washington.

24 **Sec. 126.** RCW 82.12.060 and 1975 1st ex.s. c 278 s 54 are each
25 amended to read as follows:

26 INSTALLMENT SALES AND LEASES. (1) In the case of installment sales
27 and leases of personal property, the department, by ~~((regulation))~~
28 rule, may provide for the collection of taxes upon the installments of
29 the purchase price, or amount of rental, as of the time the same fall
30 due.

31 (2) In the case of retail sales of services, the seller may collect
32 taxes based upon payments of the purchase price, as of the time the
33 payments are made, regardless of the accounting method used by the
34 seller or whether the sales were made under an installment agreement.

35 (3) In the case of property acquired by bailment, the department,
36 by ~~((regulation))~~ rule, may provide for payment of the tax due in

1 installments based on the reasonable rental for the property as
2 determined under RCW 82.12.010(1).

3 **Sec. 127.** RCW 82.08.100 and 1982 1st ex.s. c 35 s 37 are each
4 amended to read as follows:

5 REPORTING AND TAX RETURNS. (1) The department of revenue, by
6 general ((regulation)) rule, shall provide that a taxpayer whose
7 regular books of account are kept on a cash receipts basis may file
8 returns based upon his or her cash receipts for each reporting period
9 and pay the tax herein provided upon such basis in lieu of reporting
10 and paying the tax on all sales made during such period. A taxpayer
11 filing returns on a cash receipts basis is not required to pay such tax
12 on debts which are deductible as worthless for federal income tax
13 purposes. Absent regular books and records to substantiate the
14 accounting method chosen, returns shall be reported in the same manner
15 as reported for federal income tax purposes.

16 (2) The accounting method for taxes administered under this section
17 shall be uniform for all excise taxes unless a combined method is first
18 approved by the department.

19 (3) A taxpayer may convert its reporting method to a different
20 method that has prior approval by the department if the conversion
21 satisfies the requirement in the rules adopted by the department
22 pertaining to adjustments necessary to account for all income. The
23 department may not withhold its approval unless the taxpayer cannot,
24 for whatever reason, make the necessary adjustments to account for all
25 income. The department may permit adjustments that cause an increase
26 in the income to be amortized over a period not to exceed twelve
27 consecutive months.

28 NEW SECTION. Sec. 128. RECODIFICATION. RCW 82.08.100, as amended
29 by this act, is recodified as a new section in chapter 82.32 RCW.

30 **Sec. 129.** RCW 82.14.030 and 1989 c 384 s 6 are each amended to
31 read as follows:

32 LOCAL SALES AND USE TAX--EXEMPTIONS. (1) The governing body of any
33 county or city while not required by legislative mandate to do so, may,
34 by resolution or ordinance for the purposes authorized by this chapter,
35 fix and impose a sales and use tax in accordance with the terms of this
36 chapter. Such tax shall be collected from those persons who are

1 taxable by the state pursuant to chapters 82.08 and 82.12 RCW, upon the
2 occurrence of any taxable event within the county or city as the case
3 may be(~~(:—PROVIDED, That)~~). Except as provided in RCW 82.14.230, this
4 sales and use tax shall not apply to natural or manufactured gas. This
5 sales and use tax shall not apply to the sales of services defined as
6 retail sales under RCW 82.04.050(4). The rate of such tax imposed by
7 a county shall be five-tenths of one percent of the selling price (in
8 the case of a sales tax) or value of the article used (in the case of
9 a use tax). The rate of such tax imposed by a city shall not exceed
10 five-tenths of one percent of the selling price (in the case of a sales
11 tax) or value of the article used (in the case of a use tax)(~~(:—~~
12 ~~PROVIDED, HOWEVER, That)~~). In the event a county shall impose a sales
13 and use tax under this subsection, the rate of such tax imposed under
14 this subsection by any city therein shall not exceed four hundred and
15 twenty-five one-thousandths of one percent.

16 (2) Subject to the enactment into law of the 1982 amendment to RCW
17 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in
18 addition to the tax authorized in subsection (1) of this section, the
19 governing body of any county or city may by resolution or ordinance
20 impose an additional sales and use tax in accordance with the terms of
21 this chapter. Such additional tax shall be collected upon the same
22 taxable events upon which the tax imposed under subsection (1) of this
23 section is levied. The rate of such additional tax imposed by a county
24 shall be up to five-tenths of one percent of the selling price (in the
25 case of a sales tax) or value of the article used (in the case of a use
26 tax). The rate of such additional tax imposed by a city shall be up to
27 five-tenths of one percent of the selling price (in the case of a sales
28 tax) or value of the article used (in the case of a use tax)(~~(:—~~
29 ~~PROVIDED—HOWEVER, That)~~). In the event a county shall impose a sales
30 and use tax under this subsection at a rate equal to or greater than
31 the rate imposed under this subsection by a city within the county, the
32 county shall receive fifteen percent of the city tax(~~(:—PROVIDED~~
33 FURTHER, That)). In the event that the county shall impose a sales and
34 use tax under this subsection at a rate which is less than the rate
35 imposed under this subsection by a city within the county, the county
36 shall receive that amount of revenues from the city tax equal to
37 fifteen percent of the rate of tax imposed by the county under this
38 subsection. The authority to impose a tax under this subsection is

1 intended in part to compensate local government for any losses from the
2 phase-out of the property tax on business inventories.

3 **Sec. 130.** RCW 82.14.045 and 1991 c 363 s 158 are each amended to
4 read as follows:

5 ADDITIONAL LOCAL SALES AND USE TAX--EXEMPTIONS. (1) The
6 legislative body of any city pursuant to RCW 35.92.060, of any county
7 which has created an unincorporated transportation benefit area
8 pursuant to RCW 36.57.100 and 36.57.110, of any public transportation
9 benefit area pursuant to RCW 36.57A.080 and 36.57A.090, of any county
10 transportation authority established pursuant to chapter 36.57 RCW, and
11 of any metropolitan municipal corporation within a county with a
12 population of one million or more pursuant to chapter 35.58 RCW, may,
13 by resolution or ordinance for the sole purpose of providing funds for
14 the operation, maintenance, or capital needs of public transportation
15 systems and in lieu of the excise taxes authorized by RCW 35.95.040,
16 submit an authorizing proposition to the voters or include such
17 authorization in a proposition to perform the function of public
18 transportation and if approved by a majority of persons voting thereon,
19 fix and impose a sales and use tax in accordance with the terms of this
20 chapter(~~(: PROVIDED, That)~~). No such legislative body shall impose
21 such a sales and use tax without submitting such an authorizing
22 proposition to the voters and obtaining the approval of a majority of
23 persons voting thereon(~~(: PROVIDED FURTHER, That)~~). Where such a
24 proposition is submitted by a county on behalf of an unincorporated
25 transportation benefit area, it shall be voted upon by the voters
26 residing within the boundaries of such unincorporated transportation
27 benefit area and, if approved, the sales and use tax shall be imposed
28 only within such area. Notwithstanding any provisions of this section
29 to the contrary, any county in which a county public transportation
30 plan has been adopted pursuant to RCW 36.57.070 and the voters of such
31 county have authorized the imposition of a sales and use tax pursuant
32 to the provisions of section 10, chapter 167, Laws of 1974 ex. sess.,
33 prior to July 1, 1975, shall be authorized to fix and impose a sales
34 and use tax as provided in this section at not to exceed the rate so
35 authorized without additional approval of the voters of such county as
36 otherwise required by this section.

37 The tax authorized pursuant to this section shall be in addition to
38 the tax authorized by RCW 82.14.030 and shall be collected from those

1 persons who are taxable by the state pursuant to chapters 82.08 and
2 82.12 RCW upon the occurrence of any taxable event within such city,
3 public transportation benefit area, county, or metropolitan municipal
4 corporation as the case may be, except that no tax on services defined
5 as retail sales under RCW 82.04.050(4) may be imposed under this
6 section. The rate of such tax shall be one-tenth, two-tenths, three-
7 tenths, four-tenths, five-tenths, or six-tenths of one percent of the
8 selling price (in the case of a sales tax) or value of the article used
9 (in the case of a use tax). The rate of such tax shall not exceed the
10 rate authorized by the voters unless such increase shall be similarly
11 approved.

12 (2)(a) In the event a metropolitan municipal corporation shall
13 impose a sales and use tax pursuant to this chapter no city, county
14 which has created an unincorporated transportation benefit area, public
15 transportation benefit area authority, or county transportation
16 authority wholly within such metropolitan municipal corporation shall
17 be empowered to levy and/or collect taxes pursuant to RCW 35.58.273,
18 35.95.040, and/or 82.14.045, but nothing herein shall prevent such city
19 or county from imposing sales and use taxes pursuant to any other
20 authorization.

21 (b) In the event a county transportation authority shall impose a
22 sales and use tax pursuant to this section, no city, county which has
23 created an unincorporated transportation benefit area, public
24 transportation benefit area, or metropolitan municipal corporation,
25 located within the territory of the authority, shall be empowered to
26 levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or
27 82.14.045.

28 (c) In the event a public transportation benefit area shall impose
29 a sales and use tax pursuant to this section, no city, county which has
30 created an unincorporated transportation benefit area, or metropolitan
31 municipal corporation, located wholly or partly within the territory of
32 the public transportation benefit area, shall be empowered to levy or
33 collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

34 (3) Any local sales and use tax revenue collected pursuant to this
35 section by any city or by any county for transportation purposes
36 pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally
37 generated tax revenues for the purposes of apportionment and
38 distribution, in the manner prescribed by chapter 82.44 RCW, of the

1 proceeds of the motor vehicle excise tax authorized pursuant to RCW
2 35.58.273.

3 **Sec. 131.** RCW 82.14.048 and 1991 c 207 s 1 are each amended to
4 read as follows:

5 PUBLIC FACILITIES DISTRICT SALES AND USE TAX--EXEMPTION. The
6 governing board of a public facilities district under chapter 36.100
7 RCW may submit an authorizing proposition to the voters of the
8 district, and if the proposition is approved by a majority of persons
9 voting, fix and impose a sales and use tax in accordance with the terms
10 of this chapter.

11 The tax authorized in this section shall be in addition to any
12 other taxes authorized by law and shall be collected from those persons
13 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
14 the occurrence of any taxable event within the public facilities
15 district. This sales and use tax shall not apply to sales of services
16 defined as retail sales under RCW 82.04.050(4). The rate of tax shall
17 equal one-tenth of one percent of the selling price in the case of a
18 sales tax, or value of the article used, in the case of a use tax.

19 Moneys received from any tax imposed under this section shall be
20 used for the purpose of providing funds for the costs associated with
21 the financing, design, acquisition, construction, equipping, operating,
22 maintaining, and reequipping of sports or entertainment facilities and
23 contiguous parking.

24 **Sec. 132.** RCW 82.14.340 and 1991 c 311 s 5 & 1991 c 301 s 16 are
25 each reenacted and amended to read as follows:

26 LOCAL SALES AND USE TAX FOR CRIMINAL JUSTICE PURPOSES--EXEMPTIONS.
27 The legislative authority of any county with a population of two
28 hundred thousand or more, any county located east of the crest of the
29 Cascade mountains with a population of one hundred fifty thousand or
30 more, and any other county with a population of one hundred fifty
31 thousand or more that has had its population increase by at least
32 twenty-four percent during the preceding nine years, as certified by
33 the office of financial management for the first day of April of each
34 year, may and, if requested by resolution of the governing bodies of
35 cities in the county with an aggregate population equal to or greater
36 than fifty percent of the total population of the county, as last
37 determined by the office of financial management, shall (~~submit an~~

1 ~~authorizing proposition to the voters of the county and if approved by~~
2 ~~a majority of persons voting,~~)) fix and impose a sales and use tax in
3 accordance with the terms of this chapter.

4 The tax authorized in this section shall be in addition to any
5 other taxes authorized by law and shall be collected from those persons
6 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW
7 upon the occurrence of any taxable event within such county. This
8 sales and use tax shall not apply to the sales of services defined as
9 retail sales under RCW 82.04.050(4). The rate of tax shall equal one-
10 tenth of one percent of the selling price (in the case of a sales tax)
11 or value of the article used (in the case of a use tax).

12 When distributing moneys collected under this section, the state
13 treasurer shall distribute ten percent of the moneys to the county in
14 which the tax was collected. The remainder of the moneys collected
15 under this section shall be distributed to the county and the cities
16 within the county ratably based on population as last determined by the
17 office of financial management. In making the distribution based on
18 population, the county shall receive that proportion that the
19 unincorporated population of the county bears to the total population
20 of the county and each city shall receive that proportion that the city
21 incorporated population bears to the total county population.

22 Moneys received from any tax imposed under this section shall be
23 expended exclusively for criminal justice purposes and shall not be
24 used to replace or supplant existing funding. Criminal justice
25 purposes are defined as activities that substantially assist the
26 criminal justice system, which may include circumstances where
27 ancillary benefit to the civil justice system occurs, and which
28 includes domestic violence programs, community advocates, and legal
29 advocates, as defined in RCW 70.123.020. Existing funding for purposes
30 of this subsection is defined as calendar year 1989 actual operating
31 expenditures for criminal justice purposes. Calendar year 1989 actual
32 operating expenditures for criminal justice purposes exclude the
33 following: Expenditures for extraordinary events not likely to
34 reoccur, changes in contract provisions for criminal justice services,
35 beyond the control of the local jurisdiction receiving the services,
36 and major nonrecurring capital expenditures. ~~((Moneys received by the~~
37 ~~county and the cities within the county from any tax imposed under this~~
38 ~~section may be expended for domestic violence community advocates, as~~
39 ~~defined in RCW 70.123.020, if, prior to July 28, 1991, and prior to~~

1 approval of the voters, the legislative authority of the county, which
2 submitted an authorizing proposition to the voters of the county,
3 adopted by ordinance a financial plan that included expenditure of a
4 portion of the moneys received for domestic violence community
5 advocates.

6 This section expires January 1, 1994.)

7 **Sec. 133.** RCW 82.14.036 and 1983 c 99 s 2 are each amended to read
8 as follows:

9 Any referendum petition to repeal a county or city ordinance
10 imposing a tax or altering the rate of the tax authorized under RCW
11 82.14.030(2) or 82.14.340 shall be filed with a filing officer, as
12 identified in the ordinance, within seven days of passage of the
13 ordinance. Within ten days, the filing officer shall confer with the
14 petitioner concerning form and style of the petition, issue an
15 identification number for the petition, and write a ballot title for
16 the measure. The ballot title shall be posed as a question so that an
17 affirmative answer to the question and an affirmative vote on the
18 measure results in the tax or tax rate increase being imposed and a
19 negative answer to the question and a negative vote on the measure
20 results in the tax or tax rate increase not being imposed. The
21 petitioner shall be notified of the identification number and ballot
22 title within this ten-day period.

23 After this notification, the petitioner shall have thirty days in
24 which to secure on petition forms the signatures of not less than
25 fifteen percent of the registered voters of the county for county
26 measures, or not less than fifteen percent of the registered voters of
27 the city for city measures, and to file the signed petitions with the
28 filing officer. Each petition form shall contain the ballot title and
29 the full text of the measure to be referred. The filing officer shall
30 verify the sufficiency of the signatures on the petitions. If
31 sufficient valid signatures are properly submitted, the filing officer
32 shall submit the referendum measure to the county or city voters at a
33 general or special election held on one of the dates provided in RCW
34 29.13.010 as determined by the county legislative authority or city
35 council, which election shall not take place later than one hundred
36 twenty days after the signed petition has been filed with the filing
37 officer.

1 After April 22, 1983, the referendum procedure provided in this
2 section shall be the exclusive method for subjecting any county or city
3 ordinance imposing a tax or altering the rate under RCW 82.14.030(2) to
4 a referendum vote.

5 Any county or city tax authorized under RCW 82.14.030(2) that has
6 been imposed prior to April 22, 1983, is not subject to the referendum
7 procedure provided for in this section.

8 After the effective date of this section, the referendum procedure
9 provided in this section shall be the exclusive method for subjecting
10 any county or city ordinance imposing a tax or altering the rate under
11 RCW 82.14.340 to a referendum vote.

12 Any tax authorized under RCW 82.14.340 that has been imposed prior
13 to the effective date of this section is not subject to the referendum
14 procedure provided for in this section.

15 **Sec. 134.** RCW 81.104.170 and 1992 c 101 s 28 are each amended to
16 read as follows:

17 HIGH CAPACITY TRANSPORTATION SERVICES DEDICATED TAX--EXEMPTIONS.
18 Cities that operate transit systems, county transportation authorities,
19 metropolitan municipal corporations, public transportation benefit
20 areas, and regional transit authorities may submit an authorizing
21 proposition to the voters and if approved by a majority of persons
22 voting, fix and impose a sales and use tax in accordance with the terms
23 of this chapter, solely for the purpose of providing high capacity
24 transportation service.

25 The tax authorized pursuant to this section shall be in addition to
26 the tax authorized by RCW 82.14.030 and shall be collected from those
27 persons who are taxable by the state pursuant to chapters 82.08 and
28 82.12 RCW upon the occurrence of any taxable event within the taxing
29 district. This sales and use tax shall not apply to the sales of
30 services defined as retail sales under RCW 82.04.050(4). The maximum
31 rate of such tax shall be approved by the voters and shall not exceed
32 one percent of the selling price (in the case of a sales tax) or value
33 of the article used (in the case of a use tax). The maximum rate of
34 such tax that may be imposed shall not exceed nine-tenths of one
35 percent in any county that imposes a tax under RCW 82.14.340, or within
36 a regional transit authority if any county within the authority imposes
37 a tax under RCW 82.14.340.

1 NEW SECTION. **Sec. 135.** A new section is added to chapter 82.14
2 RCW to read as follows:

3 LOCAL SALES TAX ON SERVICES ACCOUNT. (1) The governing board of
4 any county, while not required to do so, may, by resolution or
5 ordinance, request that the state impose the additional sales tax
6 authorized by RCW 82.08.020(3) for joint state, county, city, and
7 regional purposes such as criminal justice, public health and safety,
8 transportation, and any other lawful purpose. If the governing boards
9 of at least twenty-six counties in this state, present adopted
10 resolutions to the department of revenue before June 15, 1993, the tax
11 shall be imposed effective July 1, 1993.

12 (2) There is created in the state treasury a special account to be
13 known as the "local sales tax on services account." The moneys in this
14 account shall be allocated by the state treasurer according to the
15 formulas provided in this section. The department of revenue shall
16 calculate the amount of moneys to be deposited into this account
17 quarterly. All earnings of investments of balances in the local sales
18 tax on services account shall be credited to that account and
19 distributed as part of that account.

20 (3) This account shall be disbursed in three parts: The portion
21 intended for criminal justice shall be referred to as "Part A;" the
22 portion to be used for the state share of LEOFF II retirement funds for
23 counties and cities shall be referred to as "Part B;" and the portion
24 to be distributed to the counties and cities by agreement shall be
25 referred to as "Part C." Distributions under sections 136 through 138
26 of this act shall be made only to counties that have adopted and
27 submitted resolutions under subsection (1) of this section, and to
28 cities within such counties.

29 NEW SECTION. **Sec. 136.** A new section is added to chapter 82.14
30 RCW to read as follows:

31 LOCAL DISTRIBUTION--PART A. The amount estimated by the department
32 of licensing as the amount that would have been distributed in fiscal
33 year 1994 under the criminal justice motor vehicle excise tax accounts
34 authorized by RCW 82.44.110(1) (i), (j), and (k), had the tax been in
35 effect for the entire year, shall be used for Part A of the local
36 sales tax on services account, reduced by any distributions made during
37 fiscal year 1994 under RCW 82.44.110(1) (i), (j), and (k).

1 (1) Moneys distributed under Part A of the account shall be
2 expended exclusively for criminal justice purposes. Part A will be
3 distributed in fiscal year 1994 to the counties and cities according to
4 the following formula:

5 (a)(i) A county's funding factor is the sum of:

6 (A) The population of the county, divided by one thousand, and
7 multiplied by two-tenths;

8 (B) The crime rate of the county, multiplied by three-tenths; and

9 (C) The annual number of criminal cases filed in the county
10 superior court, for each one thousand in population, multiplied by
11 five-tenths.

12 (ii) Under this section:

13 (A) The population of the county or city shall be as last
14 determined by the office of financial management;

15 (B) The crime rate of the county or city is the annual occurrence
16 of specified criminal offenses, as calculated in the most recent annual
17 report on crime in Washington state as published by the Washington
18 association of sheriffs and police chiefs, for each one thousand in
19 population;

20 (C) The annual number of criminal cases filed in the county
21 superior court shall be determined by the most recent annual report of
22 the courts of Washington, as published by the office of the
23 administrator for the courts.

24 (b) The municipal criminal justice assistance funding formula for
25 distributions based on crime rates is as follows:

26 (i) No city may receive a distribution under this section unless:

27 (A) The city has a crime rate in excess of one hundred twenty-five
28 percent of the state-wide average as calculated in the most recent
29 annual report on crime in Washington state as published by the
30 Washington association of sheriffs and police chiefs;

31 (B) The city has levied the tax authorized in RCW 82.14.030(2) at
32 the maximum rate or the tax authorized in RCW 82.46.010(3) at the
33 maximum rate; and

34 (C) The city has a per capita yield from the tax imposed under RCW
35 82.14.030(1) at the maximum rate of less than one hundred fifty percent
36 of the state-wide average per capita yield for all cities from such
37 local sales and use tax.

38 (ii) Unless reduced by this subsection, thirty percent of the
39 moneys shall be distributed ratably based on population as last

1 determined by the office of financial management to those cities
2 eligible under (b)(i) of this subsection that have a crime rate
3 determined under (b)(i)(A) of this subsection that is greater than one
4 hundred seventy-five percent of the state-wide average crime rate. No
5 city may receive more than fifty percent of any moneys distributed
6 under this subsection (b)(ii) but, if a city distribution is reduced as
7 a result of exceeding the fifty percent limitation, the amount not
8 distributed shall be distributed under (b)(iii) of this subsection.

9 (iii) The remainder of the moneys, including any moneys not
10 distributed in (b)(i) of this subsection, shall be distributed to all
11 cities eligible under (b) of this subsection ratably based on
12 population as last determined by the office of financial management.

13 (iv) No city may receive more than thirty percent of all moneys
14 distributed under (b)(iii) of this subsection.

15 (c) The municipal funding for criminal justice based on population
16 shall be distributed as follows: For fiscal year 1994 and thereafter,
17 each city with a population of under ten thousand shall receive a
18 distribution of two thousand seven hundred fifty dollars. Any
19 remaining moneys shall be distributed to all cities ratably on the
20 basis of population as last determined by the office of financial
21 management.

22 (2) In fiscal year 1995 and thereafter, the portion of the local
23 sales tax on services account to be distributed as Part A will be
24 determined according to the ratio of Part A in fiscal year 1994 to the
25 amount, as estimated by the department of revenue, that would have been
26 deposited in the local sales tax on services account if twelve months
27 worth of revenue for the tax imposed under RCW 82.14.030(1) had been
28 deposited in the account for fiscal year 1994.

29 NEW SECTION. **Sec. 137.** A new section is added to chapter 82.14
30 RCW to read as follows:

31 LOCAL DISTRIBUTION--PART B. The portion of the local sales tax on
32 services account referred to as Part B shall consist of the balance of
33 the account after the distributions required under section 136 of this
34 act, but not more than twenty percent of the balance in the account
35 before the distributions under section 136 of this act, and shall be
36 paid into the public works assistance account under RCW 43.155.050.

1 NEW SECTION. **Sec. 138.** A new section is added to chapter 82.14
2 RCW to read as follows:

3 LOCAL DISTRIBUTION--PART C. The portion of the local sales tax on
4 services account referred to as Part C shall consist of the balance of
5 the account after the distributions required under sections 136 and 137
6 of this act. Distributions according to Part C shall be calculated by
7 the department of revenue and shall be made by the state treasurer
8 monthly as follows:

9 (1) One hundred thousand dollars shall be distributed to each
10 county.

11 (2) An amount equal to the amount distributed to the counties in
12 subsection (1) of this section shall be distributed to the incorporated
13 cities and towns ratably according to population.

14 (3) A proportionate amount will be taken from the distributions
15 made to counties and cities in subsections (1) and (2) of this section
16 and shall be appropriated to the criminal justice training commission
17 to fund the manpower replacement program for small police departments.

18 (4) The balance of the account shall be distributed to each county
19 proportionately on the basis of the county's population to the state
20 total. Forty percent of this amount shall be used to fund county-wide
21 services. Sixty percent shall be used for local services as determined
22 by interlocal agreement between the cities and counties. "Interlocal
23 agreement" for purposes of this section, shall mean a written agreement
24 between the county and at least one-half of the cities and towns
25 representing at least seventy-five percent of the incorporated
26 population within the county. The interlocal agreements shall include
27 a discussion of regional services and related revenue requirements.
28 The interlocal agreements shall be filed with the county auditor.

29 **Sec. 139.** RCW 82.16.020 and 1989 c 302 s 204 are each amended to
30 read as follows:

31 (1) There is levied and there shall be collected from every person
32 a tax for the act or privilege of engaging within this state in any one
33 or more of the businesses herein mentioned. The tax shall be equal to
34 the gross income of the business, multiplied by the rate set out after
35 the business, as follows:

36 (a) Railroad, express, railroad car, sewerage collection, and
37 telegraph businesses: Three and six-tenths percent;

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

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

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

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

7 (f) Motor transportation and tugboat businesses, and all public
8 service businesses other than ones mentioned above: One and eight-
9 tenths of one percent;

10 (g) Water distribution business: Four and seven-tenths percent.

11 (2) An additional tax is imposed equal to the rate specified in RCW
12 82.02.030 multiplied by the tax payable under subsection (1) of this
13 section.

14 (3) (~~Twenty percent of the moneys collected under subsection (1)~~
15 ~~of this section on water distribution businesses and~~) Sixty percent of
16 the moneys collected under subsection (1) of this section on sewerage
17 collection businesses shall be deposited in the public works assistance
18 account created in RCW 43.155.050.

19 **Sec. 140.** RCW 82.18.040 and 1989 c 431 s 85 are each amended to
20 read as follows:

21 Taxes collected under this chapter shall be held in trust until
22 paid to the state. Except for taxes received under RCW 82.18.100,
23 forty-two percent of taxes so received by the state shall be deposited
24 in the public works assistance account created in RCW 43.155.050 and
25 the balance shall be deposited in the state general fund. Any person
26 collecting the tax who appropriates or converts the tax collected shall
27 be guilty of a gross misdemeanor if the money required to be collected
28 is not available for payment on the date payment is due. If a taxpayer
29 fails to pay the tax imposed by this chapter to the person charged with
30 collection of the tax and the person charged with collection fails to
31 pay the tax to the department, the department may, in its discretion,
32 proceed directly against the taxpayer for collection of the tax.

33 The tax shall be due from the taxpayer within twenty-five days from
34 the date the taxpayer is billed by the person collecting the tax.

35 The tax shall be due from the person collecting the tax at the end
36 of the tax period in which the tax is received from the taxpayer. If
37 the taxpayer remits only a portion of the total amount billed for
38 taxes, consideration, and related charges, the amount remitted shall be

1 applied first to payment of the solid waste collection tax and this tax
2 shall have priority over all other claims to the amount remitted.

3 **Sec. 141.** RCW 43.84.092 and 1993 c 4 s 9 are each amended to read
4 as follows:

5 EARNINGS OF INVESTMENTS. (1) All earnings of investments of
6 surplus balances in the state treasury shall be deposited to the
7 treasury income account, which account is hereby established in the
8 state treasury.

9 (2) Monthly, the state treasurer shall distribute the earnings
10 credited to the treasury income account. The state treasurer shall
11 credit the general fund with all the earnings credited to the treasury
12 income account except:

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

1 commingled trust fund accounts, the supplemental pension account, the
2 teachers' retirement system plan I account, the teachers' retirement
3 system plan II account, the University of Washington bond retirement
4 fund, the University of Washington building account, the volunteer fire
5 fighters' relief and pension principal account, the volunteer fire
6 fighters' relief and pension administrative account, the Washington
7 judicial retirement system account, the Washington law enforcement
8 officers' and fire fighters' system plan I retirement account, the
9 Washington law enforcement officers' and fire fighters' system plan II
10 retirement account, the Washington state patrol retirement account, the
11 Washington State University building account, the Washington State
12 University bond retirement fund, and the Western Washington University
13 capital projects account. Earnings derived from investing balances of
14 the agricultural permanent fund, the normal school permanent fund, the
15 permanent common school fund, the scientific permanent fund, and the
16 state university permanent fund shall be allocated to their respective
17 beneficiary accounts. All earnings to be distributed under this
18 subsection (2)(a) shall first be reduced by the allocation to the state
19 treasurer's service fund pursuant to RCW 43.08.190.

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

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

4 **PART II**

5 **SALES TAX DEFERRAL PROGRAMS**

6 NEW SECTION. **Sec. 201.** A new section is added to chapter 43.63A
7 RCW to read as follows:

8 NEIGHBORHOOD REINVESTMENT AREA--APPLICATION. (1) The department
9 shall approve applications submitted by local governments for
10 designation as a neighborhood reinvestment area under this section.
11 The application shall be in the form and manner and contain such
12 information as the department may by rule determine, provided that the
13 application for designation shall:

14 (a) Contain information sufficient for the director to determine if
15 the criteria established in section 202 of this act have been met.

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

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

33 The local government is required to provide a description of its
34 strategy for meeting the needs identified in this subsection (1)(c).
35 As part of the strategy, the local government is required to identify
36 the needs for which specific plans are currently in place and the
37 source of funds expected to be used. For the balance of the area's

1 needs, the local government must identify the source of funds expected
2 to become available during the next two-year period and actions the
3 local government will take to acquire those funds.

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

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

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

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

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

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

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

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

28 NEW SECTION. Sec. 202. A new section is added to chapter 43.63A
29 RCW to read as follows:

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

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

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

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

8 (d) A five-year neighborhood reinvestment plan for the area that
9 meets the requirements of section 201(1)(c) of this act and as further
10 defined by the director must be adopted.

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

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

19 **Sec. 203.** RCW 82.60.020 and 1988 c 42 s 16 are each amended to
20 read as follows:

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

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

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

26 (3) "Eligible area" means: (a) A county in which the average level
27 of unemployment for the three years before the year in which an
28 application is filed under this chapter exceeds the average state
29 unemployment for those years by twenty percent; ~~((or))~~ (b) a
30 metropolitan statistical area, as defined by the office of federal
31 statistical policy and standards, United States department of commerce,
32 in which the average level of unemployment for the calendar year
33 immediately preceding the year in which an application is filed under
34 this chapter exceeds the average state unemployment for such calendar
35 year by twenty percent ~~((. Applications under this subsection (3)(b)~~
36 ~~shall be filed by April 30, 1989));~~ or (c) a designated neighborhood
37 reinvestment area approved under section 201 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **Sec. 204.** RCW 82.60.050 and 1988 c 41 s 5 are each amended to read
26 as follows:

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

29 **Sec. 205.** RCW 82.61.010 and 1988 c 41 s 1 are each amended to read
30 as follows:

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

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

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

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

1 (4) "Eligible investment project" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **Sec. 206.** RCW 82.61.020 and 1987 c 497 s 2 are each amended to
22 read as follows:

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

1 **Sec. 207.** RCW 82.61.030 and 1987 c 497 s 3 are each amended to
2 read as follows:

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

19 **Sec. 208.** RCW 82.61.040 and 1988 c 41 s 2 are each amended to read
20 as follows:

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

23 **Sec. 209.** RCW 82.61.070 and 1988 c 41 s 3 are each amended to read
24 as follows:

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

33 **Sec. 210.** RCW 82.62.010 and 1988 c 42 s 17 are each amended to
34 read as follows:

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

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

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

4 (3) "Eligible area" means: (a) A county in which the average level
5 of unemployment for the three years before the year in which an
6 application is filed under this chapter exceeds the average state
7 unemployment for those years by twenty percent; ~~((or))~~ (b) a
8 metropolitan statistical area, as defined by the office of federal
9 statistical policy and standards, United States department of commerce,
10 in which the average level of unemployment for the calendar year
11 immediately preceding the year in which an application is filed under
12 this chapter exceeds the average state unemployment for such calendar
13 year by twenty percent ~~((. Applications under this subsection (3)(b)~~
14 ~~shall be filed by April 30, 1989));~~ or (c) a designated neighborhood
15 reinvestment area approved under section 201 of this act.

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

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

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

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

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

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

5 (9) "Recipient" means a person receiving tax credits under this
6 chapter.

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

13 **Sec. 211.** RCW 82.62.040 and 1988 c 41 s 4 are each amended to read
14 as follows:

15 EXPIRATION--APPLICATIONS AND ELIGIBILITY. RCW 82.62.020 ((and
16 82.62.030)) shall expire July 1, ((1994)) 1998.

17 PART III

18 BUSINESS & OCCUPATION TAXES

19 **Sec. 301.** RCW 82.04.2904 and 1985 c 32 s 5 are each amended to
20 read as follows:

21 ADDITIONAL TAX ON RETAILING--RATE CHANGED. (1) There is levied and
22 shall be collected from every person for the act or privilege of
23 engaging in business activities, as a part of the tax imposed under RCW
24 82.04.220 through 82.04.240, inclusive, RCW 82.04.250, and RCW
25 82.04.260 through 82.04.280, inclusive, an additional tax equal to ten
26 percent multiplied by the tax payable under RCW 82.04.220 through
27 82.04.240, inclusive, RCW 82.04.250, and RCW 82.04.260 through
28 82.04.280, inclusive.

29 (2) ~~((There is also levied and shall be collected from every person
30 for the act or privilege of engaging in the business activity of making
31 sales at retail which are exempt from the tax imposed under chapter
32 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as a
33 part of the tax imposed under RCW 82.04.250, an additional tax equal to
34 ten percent multiplied by the tax payable on those activities under RCW
35 82.04.250.~~

1 (3)) To facilitate collection of these additional taxes, the
2 department of revenue is authorized to adjust the basic rates of
3 persons to which this section applies in such manner as to reflect the
4 amount to the nearest one-thousandth of one percent of the additional
5 tax hereby imposed, adjusting ten-thousandths equal to or greater than
6 five ten-thousandths to the greater thousandth.

7 NEW SECTION. **Sec. 302.** ADDITIONAL TAX REPEALED. RCW 82.04.2901
8 and 1985 c 32 s 4 are each repealed.

9 **Sec. 303.** RCW 82.04.290 and 1985 c 32 s 3 are each amended to read
10 as follows:

11 TAX ON OTHER BUSINESSES OR SERVICES--NEW RATE. Upon every person
12 engaging within this state in any business activity other than or in
13 addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250,
14 82.04.255, 82.04.260, 82.04.270, and 82.04.280; as to such persons the
15 amount of tax on account of such activities shall be equal to the gross
16 income of the business multiplied by the rate of 1.50 percent on
17 persons engaging in banking, loan, security, or other financial
18 businesses, from investments or the use of moneys as such, and by the
19 rate of one and nine-tenths percent on all other businesses. This
20 section includes, among others, and without limiting the scope hereof
21 (whether or not title to materials used in the performance of such
22 business passes to another by accession, confusion or other than by
23 outright sale), persons engaged in the business of rendering any type
24 of service which does not constitute a "sale at retail" or a "sale at
25 wholesale." The value of advertising, demonstration, and promotional
26 supplies and materials furnished to an agent by his principal or
27 supplier to be used for informational, educational and promotional
28 purposes shall not be considered a part of the agent's remuneration or
29 commission and shall not be subject to taxation under this section.

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

32 CREDIT. In computing the tax imposed under this chapter, a credit
33 shall be allowed of an amount equal to the lessor of:

34 (1) The amount of tax otherwise due under this chapter; or

1 (2) Fifty-eight dollars multiplied by the number of months in the
2 reporting period, as determined under RCW 82.32.045, minus the tax
3 otherwise due under this chapter, but not less than zero.

4 **Sec. 305.** RCW 82.32.030 and 1992 c 206 s 8 are each amended to
5 read as follows:

6 REGISTRATION CERTIFICATES--THRESHOLD LEVEL. (1) Except as provided
7 in subsection (2) of this section, if any person engages in any
8 business or performs any act upon which a tax is imposed by the
9 preceding chapters, he or she shall, under such rules as the department
10 of revenue shall prescribe, apply for and obtain from the department a
11 registration certificate (~~((upon payment of fifteen dollars))~~). Such
12 registration certificate shall be personal and nontransferable and
13 shall be valid as long as the taxpayer continues in business and pays
14 the tax accrued to the state. In case business is transacted at two or
15 more separate places by one taxpayer, a separate registration
16 certificate for each place at which business is transacted with the
17 public shall be required(~~(, but, for such additional certificates no
18 additional payment shall be required)~~). Each certificate shall be
19 numbered and shall show the name, residence, and place and character of
20 business of the taxpayer and such other information as the department
21 of revenue deems necessary and shall be posted in a conspicuous place
22 at the place of business for which it is issued. Where a place of
23 business of the taxpayer is changed, the taxpayer must return to the
24 department the existing certificate, and a new certificate will be
25 issued for the new place of business (~~((free of charge))~~). No person
26 required to be registered under this section shall engage in any
27 business taxable hereunder without first being so registered. The
28 department, by rule, may provide for the issuance of certificates of
29 registration(~~(, without requiring payment,)~~) to temporary places of
30 business (~~((or to persons who are exempt from tax under RCW 82.04.300))~~).

31 (2) Registration under this section is not required if the
32 following conditions are met:

33 (a) A person's value of products, gross proceeds of sales, or gross
34 income of the business (~~((is below the tax reporting threshold provided
35 in RCW 82.04.300))~~), from all business activities, is less than twelve
36 thousand dollars per year;

1 (b) The person is not required to collect or pay to the department
2 of revenue any other tax which the department is authorized to collect;
3 and

4 (c) The person is not otherwise required to obtain a license
5 subject to the master application procedure provided in chapter 19.02
6 RCW.

7 **Sec. 306.** RCW 70.95E.020 and 1990 c 114 s 12 are each amended to
8 read as follows:

9 HAZARDOUS WASTE GENERATOR FEE EXEMPTION. A fee is imposed for the
10 privilege of generating or potentially generating hazardous waste in
11 the state. The annual amount of the fee shall be thirty-five dollars
12 upon every known generator or potential generator doing business in
13 Washington in the current calendar year or any part thereof. This fee
14 shall be collected by the department of revenue. A potential generator
15 shall be exempt from the fee imposed under this section if the
16 ~~((potential generator is entitled to the exemption in RCW 82.04.300))~~
17 value of products, gross proceeds of sales, or gross income of the
18 business, from all business activities of the potential generator, is
19 less than twelve thousand dollars in the current calendar year. The
20 department shall, subject to appropriation, use the funds collected
21 from the fees assessed in this subsection to support the activities of
22 the office of waste reduction as specified in RCW 70.95C.030. The fee
23 imposed pursuant to this section shall be first due on July 31, 1990,
24 for any generator or potential generator operating in Washington from
25 March 21, 1990, to December 31, 1990, or any part thereof.

26 NEW SECTION. **Sec. 307.** THRESHOLD. RCW 82.04.300 and 1992 c 206
27 s 7, 1983 c 3 s 213, 1979 ex.s. c 196 s 4, 1975 1st ex.s. c 278 s 41,
28 1961 c 293 s 3, & 1961 c 15 s 82.04.300 are each repealed.

29 PART IV

30 INSURANCE PREMIUMS AND PREPAYMENTS TAXES

31 NEW SECTION. **Sec. 401.** A new section is added to chapter 48.14
32 RCW to read as follows:

33 PREPAYMENT TAX AND DUE DATES. (1) As used in this section,
34 "taxpayer" means a health maintenance organization, as defined in RCW
35 48.46.020, a health care service contractor, as defined in RCW

1 48.44.010, or a certified health plan certified under section 432 of
2 chapter . . . (E2SSB 5304), Laws of 1993.

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

9 (3) Taxpayers shall prepay their tax obligations under this
10 section. The minimum amount of the prepayments shall be percentages of
11 the taxpayer's tax obligation for the preceding calendar year
12 recomputed using the rate in effect for the current year. For the
13 prepayment of taxes due during the first calendar year, the minimum
14 amount of the prepayments shall be percentages of the taxpayer's tax
15 obligation that would have been due had the tax been in effect during
16 the previous calendar year. The tax prepayments shall be paid to the
17 state treasurer through the commissioner's office by the due dates and
18 in the following amounts:

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

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

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

22 (4) For good cause demonstrated in writing, the commissioner may
23 approve an amount smaller than the preceding calendar year's tax
24 obligation as recomputed for calculating the health maintenance
25 organization's prepayment obligations for the current tax year.

26 (5) Moneys collected under this section shall be deposited in the
27 general fund.

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

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

33 (b) Amounts received by any health care service contractor, as
34 defined in RCW 48.44.010, as prepayments for health care services
35 included within the definition of practice of dentistry under RCW
36 18.32.020. This exemption does not apply to amounts received under a
37 certified health plan certified under section 432 of chapter . . .
38 (E2SSB 5304), Laws of 1993.

1 (7) A credit is allowed against the tax imposed in this section
2 equal to the amount of any tax paid under section 301 of chapter . . .
3 (E2SSB 5304), Laws of 1993 during the same calendar year.

4 NEW SECTION. Sec. 402. A new section is added to chapter 82.04
5 RCW to read as follows:

6 EXEMPTION. This chapter does not apply to any health maintenance
7 organization, health care service contractor, or certified health plan
8 in respect to premiums or prepayments that are taxable under section
9 401 of this act.

10 **PART V**

11 **RESALE CERTIFICATES ABUSE CURTAILED**

12 **Sec. 501.** RCW 82.04.470 and 1983 2nd ex.s. c 3 s 29 are each
13 amended to read as follows:

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

24 (2) If a seller does not receive a resale certificate at the time
25 of the sale, have a resale certificate on file at the time of the sale,
26 or obtain a resale certificate from the buyer within a reasonable time
27 after the sale, the seller shall remain liable for the tax as provided
28 in RCW 82.08.050, unless the seller can demonstrate according to rules
29 adopted by the department of revenue that the sale was properly made
30 without payment of sales tax.

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

33 (4) The department may provide by rule for suggested forms for
34 resale certificates and the other documents containing the information
35 that will be accepted as resale certificates. The department shall
36 provide by rule the categories of items or services that must be

1 specified on resale certificates and the business classifications that
2 may use a blanket resale certificate.

3 (5) As used in this section, "resale certificate" means a document
4 provided by a buyer to a seller at the time of sale stating that the
5 purchase is for resale in the regular course of business, or that the
6 buyer is exempt from retail sales tax, and containing the following
7 information:

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

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

11 (c) The type of business engaged in;

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

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

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

20 (g) A statement that the buyer acknowledges that the buyer is
21 solely responsible for purchasing within the categories specified on
22 the certificate and that misuse of the resale or exemption privilege
23 claimed on the certificate subjects the buyer to a penalty of fifty
24 percent of the tax due, in addition to the tax, interest, and any other
25 penalties imposed by law;

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

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

29 (j) The name of the seller.

30 NEW SECTION. Sec. 502. A new section is added to chapter 82.08
31 RCW to read as follows:

32 RESALE CERTIFICATE--PURCHASE AND RESALE. If a buyer normally is
33 engaged in both consuming and reselling certain types of articles of
34 tangible personal property and is not able to determine at the time of
35 purchase whether the particular property acquired will be consumed or
36 resold, the buyer may use a resale certificate for the entire purchase
37 if the buyer principally resells the articles according to the general
38 nature of the buyer's business. The buyer shall account for the value

1 of any articles purchased with a resale certificate that are used by
2 the buyer and remit the sales tax on the articles to the department.

3 A buyer who pays a tax on all purchases and subsequently resells an
4 article at retail, without intervening use by the buyer, shall collect
5 the tax from the purchaser as otherwise provided by law and is entitled
6 to a deduction on the buyer's tax return equal to the cost to the buyer
7 of the property resold. The deduction is allowed only if the taxpayer
8 keeps and preserves records that show the names of the persons from
9 whom the articles were purchased, the date of the purchase, the type of
10 articles, the amount of the purchase, and the tax that was paid. The
11 department shall provide by rule for the refund or credit of retail
12 sales tax paid by a buyer for purchases that are later sold at
13 wholesale without intervening use by the buyer.

14 NEW SECTION. **Sec. 503.** A new section is added to chapter 82.32
15 RCW to read as follows:

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

26 **Sec. 504.** RCW 82.08.050 and 1992 c 206 s 2 are each amended to
27 read as follows:

28 **SELLER TO COLLECT TAX.** The tax hereby imposed shall be paid by the
29 buyer to the seller, and each seller shall collect from the buyer the
30 full amount of the tax payable in respect to each taxable sale in
31 accordance with the schedule of collections adopted by the department
32 pursuant to the provisions of RCW 82.08.060. The tax required by this
33 chapter, to be collected by the seller, shall be deemed to be held in
34 trust by the seller until paid to the department, and any seller who
35 appropriates or converts the tax collected to his or her own use or to
36 any use other than the payment of the tax to the extent that the money

1 required to be collected is not available for payment on the due date
2 as prescribed in this chapter shall be guilty of a gross misdemeanor.

3 In case any seller fails to collect the tax herein imposed or
4 having collected the tax, fails to pay it to the department in the
5 manner prescribed by this chapter, whether such failure is the result
6 of his or her own acts or the result of acts or conditions beyond his
7 or her control, he or she shall, nevertheless, be personally liable to
8 the state for the amount of the tax, unless the seller has taken from
9 the buyer in good faith a properly executed resale certificate as
10 provided in RCW 82.04.470.

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

29 Where a buyer has failed to pay to the seller the tax imposed by
30 this chapter and the seller has not paid the amount of the tax to the
31 department, the department may, in its discretion, proceed directly
32 against the buyer for collection of the tax, in which case a penalty of
33 ten percent may be added to the amount of the tax for failure of the
34 buyer to pay the same to the seller, regardless of when the tax may be
35 collected by the department; and all of the provisions of chapter 82.32
36 RCW, including those relative to interest and penalties, shall apply in
37 addition; and, for the sole purpose of applying the various provisions
38 of chapter 82.32 RCW, the twenty-fifth day of the month following the

1 tax period in which the purchase was made shall be considered as the
2 due date of the tax.

3 **PART VI**

4 **BUSINESS & OCCUPATION AND PUBLIC UTILITY TAX**
5 **DEDUCTIONS FOR CAPITAL CONTRIBUTIONS REPEALED**

6 NEW SECTION. **Sec. 601.** EXEMPTION OF AMOUNTS PAID TO POLITICAL
7 SUBDIVISIONS FOR CAPITAL FACILITIES. RCW 82.04.417 and 1969 ex.s. c
8 156 s 1 are each repealed.

9 **PART VII**

10 **REPEAL OF INSURANCE PREMIUMS TAX CREDIT FOR**
11 **PAYMENTS TO GUARANTY ASSOCIATIONS**

12 **Sec. 701.** RCW 48.32.145 and 1977 ex.s. c 183 s 1 are each amended
13 to read as follows:

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

26 This section shall expire January 1, 1999.

27 **Sec. 702.** RCW 48.32A.090 and 1990 c 51 s 6 are each amended to
28 read as follows:

29 CERTIFICATES OF CONTRIBUTION. (1) The association shall issue to
30 each insurer paying an assessment under this chapter certificates of
31 contribution, in appropriate form and terms as prescribed or approved
32 by the commissioner, for the amounts so paid into the respective funds.
33 All outstanding certificates against a particular fund shall be of

1 equal dignity and priority without reference to amounts or dates of
2 issue.

3 (2) An outstanding certificate of contribution issued prior to
4 April 1, 1993, shall be shown by the insurer in its financial
5 statements as an admitted asset for such amount and period of time as
6 the commissioner may approve(~~(:—PROVIDED, That))~~). Unless a longer
7 period has been allowed by the commissioner the insurer shall in any
8 event at its option have the right to so show a certificate of
9 contribution as an admitted asset at percentages of original face
10 amount for calendar years as follows:

11 100% for the calendar year of issuance;
12 80% for the first calendar year after the year of issuance;
13 60% for the second calendar year after the year of issuance;
14 40% for the third calendar year after the year of issuance;
15 20% for the fourth calendar year after the year of issuance; and
16 0% for the fifth and subsequent calendar years after the year of
17 issuance.

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

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

25 (4) Any sums recovered by the association representing sums which
26 have theretofore been written off by contributing insurers and offset
27 against premium taxes as provided in subsection (3) of this section,
28 shall be paid by the association to the commissioner and (~~by him~~)
29 then deposited with the state treasurer for credit to the general fund
30 of the state of Washington.

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

35 **PART VIII**
36 **MISCELLANEOUS**

1 NEW SECTION. **Sec. 801.** SEVERABILITY. If any provision of this
2 act or its application to any person or circumstance is held invalid,
3 the remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 802.** EFFECTIVE DATES. This act is necessary
6 for the immediate preservation of the public peace, health, or safety,
7 or support of the state government and its existing public
8 institutions, and shall take effect as follows:

9 (1) Sections 102, 103, 133, 135, 701, and 702 of this act take
10 effect immediately.

11 (2) Sections 101, 104 through 132, 134, 136 through 141, 201
12 through 211, 301 through 305, and 501 through 601 of this act shall
13 take effect July 1, 1993.

14 (3) Sections 401 and 402 of this act shall take effect January 1,
15 1994.

16 NEW SECTION. **Sec. 803.** PART HEADINGS AND CAPTIONS. Part headings
17 and captions as used in this act constitute no part of the law."

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