

SENATE BILL 6550

State of Washington

62nd Legislature

2012 Regular Session

By Senators Frockt, Keiser, Kohl-Welles, Ranker, and Kline

Read first time 01/31/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to tax reform; amending RCW 82.32.010, 82.03.130,
2 82.03.140, 2.10.180, 2.12.090, 6.15.020, 41.24.240, 41.35.100,
3 41.40.052, 41.44.240, 43.43.310, 82.08.020, 82.04.261, 82.04.285, and
4 82.04.050; reenacting and amending RCW 41.32.052 and 41.26.053; adding
5 a new title to the Revised Code of Washington to be codified as Title
6 82A RCW; creating a new section; repealing RCW 6.15.025, 82.04.230,
7 82.04.240, 82.04.2403, 82.04.2404, 82.04.250, 82.04.255, 82.04.257,
8 82.04.260, 82.04.263, 82.04.270, 82.04.272, 82.04.280, 82.04.290,
9 82.04.2905, 82.04.2906, 82.04.2907, 82.04.2908, 82.04.2909, 82.04.293,
10 82.04.294, and 82.04.298; prescribing penalties; providing contingent
11 effective dates; providing an expiration date; and providing for
12 submission of this act to a vote of the people.

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

14 **PART I**
15 **DEFINITIONS**

16 NEW SECTION. **Sec. 101.** INTRODUCTORY. Unless the context clearly
17 requires otherwise, the definitions in sections 102 through 114 of this
18 act apply throughout this title.

1 NEW SECTION. **Sec. 102.** ADJUSTED GROSS INCOME. "Adjusted gross
2 income" means adjusted gross income as determined under the internal
3 revenue code.

4 NEW SECTION. **Sec. 103.** CORPORATION. "Corporation" means a person
5 taxable as a corporation under the internal revenue code.

6 NEW SECTION. **Sec. 104.** DEPARTMENT. "Department" means the state
7 department of revenue.

8 NEW SECTION. **Sec. 105.** FEDERAL BASE INCOME. "Federal base
9 income" means:

- 10 (1) For individuals, adjusted gross income.
- 11 (2) For all other persons, except corporations and individuals,
12 taxable income as determined under the internal revenue code.
- 13 (3) For corporations, gross profits.

14 NEW SECTION. **Sec. 106.** GROSS PROFITS. "Gross profits" means
15 gross profit as determined under the internal revenue code for purposes
16 of federal tax form 1120.

17 NEW SECTION. **Sec. 107.** INDIVIDUAL. "Individual" means a natural
18 person.

19 NEW SECTION. **Sec. 108.** INTERNAL REVENUE CODE. "Internal revenue
20 code" means the United States internal revenue code of 1986 and
21 amendments thereto, as existing and in effect on January 1, 2013.

22 NEW SECTION. **Sec. 109.** PERSON. "Person" includes individuals,
23 partnerships, firms, companies, fiduciaries, estates, trusts, and
24 corporations.

25 NEW SECTION. **Sec. 110.** RESIDENT. "Resident" includes:

- 26 (1) An individual who:
 - 27 (a) Has resided in this state for the entire taxable year; or
 - 28 (b) Is domiciled in this state unless the individual:
 - 29 (i) Maintains no permanent place of abode in this state; and
 - 30 (ii) Does maintain a permanent place of abode elsewhere; and

1 (iii) Spends in the aggregate not more than thirty days in the
2 taxable year in this state; or

3 (c) Is not domiciled in this state, but maintains a permanent place
4 of abode in this state and spends in the aggregate more than one
5 hundred eighty-three days of the taxable year in this state unless the
6 individual establishes to the satisfaction of the department that the
7 individual is in the state only for temporary or transitory purposes;
8 or

9 (d) Claims the state of Washington as the individual's tax home for
10 federal income tax purposes.

11 (2) "Resident estate" means an estate of which a personal
12 representative was appointed by a Washington court or an estate
13 administered in this state.

14 (3) "Resident trust" means a trust whose situs, as determined by
15 RCW 11.96A.030, is within the state of Washington.

16 NEW SECTION. **Sec. 111.** S CORPORATION. "S corporation" means an
17 S corporation as defined in section 1361 of the internal revenue code.

18 NEW SECTION. **Sec. 112.** TAXABLE INCOME. "Taxable income" means
19 federal base income after making the additions, subtractions,
20 apportionments, and allocations provided under this title.

21 NEW SECTION. **Sec. 113.** TAXABLE YEAR. "Taxable year" means the
22 taxpayer's taxable year as defined under the internal revenue code.

23 NEW SECTION. **Sec. 114.** TAXPAYER. "Taxpayer" means a person
24 receiving income subject to tax under this title.

25 NEW SECTION. **Sec. 115.** DEFINITION OF TERMS GENERALLY. Except as
26 provided in this Part, any term used in this title has the same meaning
27 as when used in a comparable context in the internal revenue code.

28 **PART II**

29 **TAXABLE INCOME MODIFICATIONS**

30 NEW SECTION. **Sec. 201.** INTRODUCTORY. In computing taxable

1 income, modifications must be made to the taxpayer's federal base
2 income as required under this Part, unless the modification has the
3 effect of duplicating an item of income or deduction.

4 NEW SECTION. **Sec. 202.** BUSINESS TAXES PAID FOR PERIODS BEFORE
5 EFFECTIVE DATE. (1) Subtract gross income that was subject to tax
6 under chapter 82.04 RCW for periods prior to the effective date of this
7 section, to the extent the gross income was included in computing
8 federal base income.

9 (2) Add any expenses incurred in the production of amounts
10 subtracted under subsection (1) of this section, to the extent the
11 expenses have been deducted in computing federal base income.

12 NEW SECTION. **Sec. 203.** CARRYOVERS. Add amounts that have been
13 deducted in computing federal base income to the extent the amounts
14 have been carried over from taxable years ending before the effective
15 date of this section.

16 NEW SECTION. **Sec. 204.** CARRYBACKS. Add amounts that have been
17 deducted in computing federal base income to the extent the amounts
18 have been carried back from future taxable years.

19 NEW SECTION. **Sec. 205.** NONPROFIT ORGANIZATIONS. Add any amounts
20 subject to tax under subchapter F, chapter 1, subtitle A of the
21 internal revenue code. For the purposes of computations under this
22 section, if a nonprofit organization has no federal base income, or a
23 negative federal base income, federal base income must be treated as if
24 it were zero.

25 NEW SECTION. **Sec. 206.** S CORPORATIONS. Add amounts upon which an
26 S corporation is subject to tax under subchapter S, chapter 1, subtitle
27 A of the internal revenue code.

28 NEW SECTION. **Sec. 207.** STATE AND LOCAL INCOME TAXES. Add taxes
29 on or measured by net income that have been deducted under the internal
30 revenue code in computing federal base income.

1 NEW SECTION. **Sec. 301.** APPORTIONMENT AND ALLOCATION OF INCOME--
2 INDIVIDUALS, ESTATES, AND TRUSTS. (1) For resident individuals,
3 estates, and trusts, all income must be apportioned and allocated to
4 this state.

5 (2) For nonresident individuals, estates, and trusts, income
6 derived from sources within this state must be apportioned and
7 allocated to this state. For purposes of this title:

8 (a) The adjusted gross income of a nonresident derived from sources
9 within this state is the net amount of items of income, gain, loss, and
10 deduction of the nonresident's federal adjusted gross income that are
11 derived from or connected with sources in this state including any
12 distributive share of partnership income and deductions, and any share
13 of estate or trust income and deductions, including any unrelated
14 business income of an otherwise exempt trust or organization.

15 (b) Items of income, gain, loss, and deduction derived from or
16 connected with sources within this state are those items attributable
17 to the ownership or disposition of any interest in real or tangible
18 personal property in this state, and a business, trade, profession, or
19 occupation carried on within this state. The department must issue
20 rules to provide consistency of this section with the excise tax
21 provisions.

22 (c) Deduction with respect to expenses, capital losses, and net
23 operating losses must be based solely on income, gains, losses, and
24 deductions derived from or connected with sources in this state but
25 must otherwise be determined in the same manner as the corresponding
26 federal deduction except as provided in this title.

27 (d) Income from intangible personal property, including annuities,
28 dividends, interest, and gains from the disposition of intangible
29 personal property, constitutes income derived from sources within the
30 state of Washington only to the extent that such income is from
31 property employed in a business, trade, profession, or occupation
32 carried on within this state. However, distributed and undistributed
33 income of an electing S corporation for federal tax purposes derived
34 from or connected with sources within this state is income derived from
35 sources within this state for a nonresident shareholder. A net
36 operating loss of such corporation does constitute a loss or deduction
37 connected with sources within this state for a nonresident shareholder.

1 (e) Compensation paid by the United States for service in the armed
2 forces of the United States performed in this state by a nonresident
3 does not constitute income derived from sources within this state.

4 (f) If a business, trade, profession, or occupation is carried on
5 partly within and partly without this state, the determination of net
6 income derived or connected with sources within this state, as provided
7 in this section, must be made by apportionment and allocation under
8 chapter 82.56 RCW.

9 NEW SECTION. **Sec. 302.** APPORTIONMENT AND ALLOCATION OF
10 INCOME--CORPORATIONS. (1) For corporations other than financial
11 organizations, all income must be apportioned and allocated to this
12 state except income that is apportioned or allocated to another state
13 under RCW 82.56.010.

14 (2) For financial organizations, as defined in Article IV, section
15 1(d) and (f) of RCW 82.56.010, that are taxable both within this state
16 and in another state within the meaning of Article IV, section 3 of RCW
17 82.56.010, the amount of net income to be apportioned or allocated, or
18 both, to this state must be determined in accordance with rules adopted
19 by the department. The rules must, as far as the department deems
20 practical, be consistent with the provisions of Article IV of RCW
21 82.56.010. In developing the rules, the department must also give
22 appropriate consideration to any uniform regulations adopted by the
23 multistate tax commission pursuant to Article VII of RCW 82.56.010, and
24 to the rules of other states in which the financial organizations and
25 public utilities are also taxable.

26 NEW SECTION. **Sec. 303.** COMBINED REPORTING. (1) The department
27 may permit or require a corporation that is subject to taxation under
28 this title and is a part of a water's edge combined group to file a
29 combined report covering the combined operations of the group. The
30 report must contain such information as is designated in rules adopted
31 by the department.

32 (2) A corporation is a part of a water's edge combined group if it
33 is engaged in business activities that are integrated with, dependent
34 upon, or that contribute to the business activities of the group as a
35 whole. Only corporations meeting one or more of the following
36 descriptions may be included in a water's edge combined group:

1 (a) Corporations included or includable in a consolidated return
2 for federal income tax purposes;

3 (b) United States possessions corporations;

4 (c) Corporations incorporated in any United States possession or
5 territory;

6 (d) Domestic international sales corporations or foreign sales
7 corporations;

8 (e) Corporations incorporated in a country that either does not
9 impose an income tax or imposes an income tax at a rate lower than
10 ninety percent of the federal tax rate on the federally defined income
11 tax base, if:

12 (i) Fifty percent or more of either the sales or purchases or of
13 payments of income or expenses, exclusive of payments for intangible
14 property, or payments of eighty percent or more of all expenses are
15 made directly or indirectly to one or more members of a water's edge
16 combined group; or

17 (ii) The corporation conducts no significant economic activity;

18 (f) Foreign corporations having at least a threshold level of
19 business activity in the United States, as determined under rules of
20 the department;

21 (g) United States corporations that are members of a group of two
22 or more corporations with a common owner or owners, either corporate or
23 noncorporate, where more than fifty percent of the voting stock of each
24 member corporation is directly or indirectly owned by the common owner
25 or owners or by one or more of the member corporations.

26 (3) The income attributable to the Washington activities of a
27 corporation that is a part of a water's edge combined group must be
28 determined by the apportionment of the entire business gross profits of
29 the group and the allocation of nonbusiness income of the corporation,
30 using the factors and methods in section 302 of this act and the rules
31 of the department adopted under section 302 of this act. Business net
32 income may include income of corporations that do not have federal
33 taxable income because they are not subject to federal taxation.

34 NEW SECTION. **Sec. 304.** PARTNERSHIPS, LIMITED LIABILITY COMPANY,
35 AND S CORPORATIONS. (1) The taxable incomes of partners must be
36 computed by including a pro rata share of the modifications under Part
37 II and sections 301 through 303 of this act and the credits allowed

1 under section 402 of this act, if the modification or credit relates to
2 the income of the partnership or limited liability company. Each
3 partner's pro rata share of a modification or credit is the amount of
4 modification or credit multiplied by a fraction. The numerator of the
5 fraction is the partner's or member's distributive share of partnership
6 or company income. The denominator of the fraction is the total
7 partnership or limited liability company income. The fraction may
8 never be greater than one.

9 (2) The taxable incomes of shareholders of S corporations must be
10 computed by including a share of the modifications under Part II and
11 sections 301 through 303 of this act and the credits allowed under
12 section 402 of this act, if the modification or credit relates to the
13 income of the S corporation. Each shareholder's share of a
14 modification or credit is the amount of modification or credit
15 multiplied by a fraction. The numerator of the fraction is the
16 shareholder's pro rata share of S corporation income. The denominator
17 of the fraction is the total S corporation income. The fraction may
18 never be greater than one.

19 (3) As used in this section:

20 (a) "S corporation income" includes both distributed and
21 undistributed federal taxable income of the S corporation less any
22 amount subject to tax under section 402 of this act.

23 (b) "Pro rata share" means pro rata share as determined under
24 section 1366(a) of the internal revenue code.

25 NEW SECTION. **Sec. 305.** ESTATES, TRUSTS, AND BENEFICIARIES. (1)
26 The taxable incomes of estates, trusts, and beneficiaries thereof must
27 be computed by including a share of the modifications under Part II and
28 sections 301 through 303 of this act and the credits allowed under
29 section 402 of this act.

30 Each taxpayer's share of a modification or credit is the amount of
31 modification or credit multiplied by a fraction. The numerator of the
32 fraction is the taxpayer's share of the distributable net income of the
33 estate or trust. The denominator of the fraction is the total
34 distributable net income of the estate or trust. The fraction may
35 never be greater than one.

36 (2) As used in this section, "distributable net income" means
37 distributable net income as defined in the internal revenue code. If

1 an estate or trust has no federal distributable net income, the term
2 means the income of the estate or trust which is distributed or is
3 required to be distributed during the taxable year under local law or
4 the terms of the estate or trust instrument.

5 (3) Any portion of a modification that is not included in
6 calculating the taxable incomes of the beneficiaries must be included
7 in calculating the taxable income of the trust or estate.

8 **PART IV**
9 **RATES AND CREDITS**

10 NEW SECTION. **Sec. 401.** PERSONAL INCOME TAX IMPOSED. (1)
11 Beginning January 1, 2015, a tax is imposed at the rate of one percent
12 for each taxable year on the taxable income of individuals, estates,
13 and trusts as provided in this section.

14 (2) The taxes imposed in this section may never be less than zero.

15 NEW SECTION. **Sec. 402.** CREDIT FOR INCOME TAXES DUE ANOTHER
16 JURISDICTION. (1) The intent of this section is to prevent double
17 taxation of income potentially subject to tax in both Washington and
18 another jurisdiction.

19 (2) As used in this section, "another jurisdiction" means another
20 state or foreign country or a political subdivision of another state or
21 foreign country.

22 (3) A resident individual, estate, or trust is allowed a credit
23 against the tax imposed under this title equal to the lesser of:

24 (a) The amount of tax paid to another jurisdiction on net income
25 derived from sources within the other jurisdiction; or

26 (b) The amount of tax due under this title, before application of
27 credits allowable by this title, multiplied by a fraction. The
28 numerator of the fraction is the amount of the taxpayer's adjusted
29 gross income subject to tax in the other jurisdiction. The denominator
30 of the fraction is the taxpayer's total adjusted gross income as
31 modified under Part II of this title. The fraction may never be
32 greater than one.

33 (4) If the laws of another jurisdiction contain a provision
34 exempting a resident of Washington from net income taxes on income
35 derived from sources in that jurisdiction, the director of revenue is

1 authorized to enter into a reciprocal agreement with that jurisdiction
2 providing a similar tax exemption for residents of that jurisdiction
3 for income derived from sources within Washington.

4 (5) The amount of tax credits received by any taxpayer under this
5 section may not exceed the total amount of tax due, and there may be no
6 carryback or carryforward of any unused credits.

7 NEW SECTION. **Sec. 403.** DUAL RESIDENCE. If an individual is
8 regarded as a resident both of this state and another jurisdiction for
9 state personal income tax purposes, the department must reduce the tax
10 on that portion of the individual's income that is subjected to tax in
11 both jurisdictions solely by virtue of dual residence, if the other
12 taxing jurisdiction allows a similar reduction. The reduction must
13 equal the lower of the two taxes applicable to the income taxed twice,
14 multiplied by a fraction. The numerator of the fraction is the tax
15 imposed by this state on the income taxed twice. The denominator of
16 the fraction is the tax imposed by both jurisdictions on the income
17 taxed twice. The fraction may never be greater than one.

18 NEW SECTION. **Sec. 404.** CORPORATE PRIVILEGE TAXES IMPOSED.
19 Beginning January 1, 2015, a tax is imposed at the rate of one percent
20 for each taxable year on the taxable income of corporations.

21 NEW SECTION. **Sec. 405.** EXEMPTION--INSURERS. The taxes imposed in
22 this title do not apply to any person in respect to an insurance
23 business that is subject to a state tax on gross premiums.

24 NEW SECTION. **Sec. 406.** Taxes collected under sections 401 and 404
25 of this act must be used as follows:

26 (1) Seven and two-tenths percent must be deposited into the state
27 educational trust fund created in RCW 28B.92.140 and used exclusively
28 for the purposes of the state need grant program under chapter 28B.92
29 RCW.

30 (2) Seven and two-tenths percent must be deposited into the
31 education legacy trust account created in RCW 83.100.230. Revenues
32 deposited into the education legacy trust account under this subsection
33 must be used to provide universal access for students to colleges and
34 universities, which includes a waiver of: An academic year of tuition

1 and fees at community and technical colleges including tuition and fees
2 for apprentice students; two quarters of tuition and fees at regional
3 universities and The Evergreen State College; one-quarter of tuition
4 and fees at the University of Washington; and one-third of tuition and
5 fees for one year at Washington State University.

6 **PART V**

7 **WITHHOLDING AND ESTIMATED TAX**

8 NEW SECTION. **Sec. 501.** EMPLOYER WITHHOLDING--REQUIREMENTS. (1)
9 Beginning January 1, 2015, every employer making a payment of wages or
10 salaries earned in this state, regardless of the place where the
11 payment is made, and who is required by the internal revenue code to
12 withhold taxes, must deduct and withhold tax as prescribed by the
13 department by rule. The rules prescribed must reasonably reflect the
14 employee's annual tax liability under this title. Every employer
15 making such a deduction and withholding must furnish to the employee a
16 record of the amount of tax deducted and withheld from the employee on
17 forms provided by the department.

18 (2) If the employee is a resident of this state and earns income
19 from personal services entirely performed in another state that imposes
20 an income tax on the income, and the employer withholds income taxes
21 under the laws of the state in which the income is earned, the employer
22 is not required to withhold any tax imposed by this title on the income
23 if the laws of the state in which the income is earned allow a similar
24 exemption for its residents who earn income in this state.

25 NEW SECTION. **Sec. 502.** LIABILITY OF EMPLOYER FOR TAX WITHHELD.
26 Any person required to deduct and withhold the tax imposed by this
27 title is liable to the department for the payment of the amount
28 deducted and withheld, and is not liable to any other person for the
29 amount of tax deducted and withheld under this title or for the act of
30 withholding. The amount of tax so deducted and withheld must be held
31 to be a special fund in trust for this state.

32 NEW SECTION. **Sec. 503.** CREDIT FOR TAX WITHHELD--HOW CLAIMED. The
33 amount deducted and withheld as tax under section 501 of this act
34 during any taxable year must be allowed as a credit against the tax

1 imposed for the taxable year by this title. If the liability of any
2 individual for taxes, interest, penalties, or other amounts due the
3 state of Washington is less than the total amount of the credit that
4 the individual is entitled to claim under this section, the individual
5 is entitled to a refund from the department in the amount of the excess
6 of the credit over the amounts otherwise due. If any individual
7 entitled to claim a credit under this section is not otherwise required
8 by this title to file a return, a refund may be obtained in the amount
9 of the credit by filing a return, with applicable sections completed,
10 to claim the refund. No credit or refund is allowed under this section
11 unless the credit or refund is claimed on a return filed for the
12 taxable year for which the amount was deducted and withheld.

13 NEW SECTION. **Sec. 504.** WITHHOLDING--FAILURE TO PAY OR
14 COLLECT--PENALTIES. (1) The tax required by this title to be collected
15 by the employer must be deemed to be held in trust by the employer
16 until paid to the department.

17 (2) In case any employer, or a responsible person within the
18 meaning of internal revenue code section 6672, fails to collect the tax
19 imposed by this title or having collected the tax fails to pay it to
20 the department, the employer or responsible person must, nevertheless,
21 be personally liable to the state for the amount of the tax. The
22 interest and penalty provisions of chapter 82.32 RCW apply to this
23 section.

24 NEW SECTION. **Sec. 505.** ESTIMATED TAX IMPOSED--DUE DATE OF
25 ESTIMATED TAXES--AMOUNT OF ESTIMATED TAX--UNDERPAYMENT PENALTY. (1)
26 Beginning January 1, 2015, each taxpayer who is required by the
27 internal revenue code to make payment of estimated taxes must pay to
28 the department on forms prescribed by the department the estimated
29 taxes due under this title.

30 (2) The provisions of the internal revenue code relating to the
31 determination of reporting periods and due dates of payments of
32 estimated tax apply to the estimated tax payments due under this
33 section.

34 (3) The amount of the estimated tax must be the annualized tax
35 divided by the number of months in the reporting period. No estimated
36 tax is due if the annualized tax is less than five hundred dollars.

1 The provisions of RCW 82.32.050 and 82.32.090 must apply to
2 underpayments of estimated tax but may not apply to underpayments if
3 the tax remitted to the department under this Part is either ninety
4 percent of the tax shown on the return or one hundred percent of the
5 tax shown on the previous year's tax return.

6 (4) For purposes of this section, the annualized tax is the
7 taxpayer's projected tax liability for the taxable year as computed
8 under internal revenue code section 6654 and the regulations
9 thereunder.

10 **PART VI**
11 **CRIMES**

12 NEW SECTION. **Sec. 601.** CRIMES. (1) Any person who knowingly
13 attempts to evade the tax imposed under this title or payment thereof
14 is guilty of a class C felony as provided in chapter 9A.20 RCW.

15 (2) Any person required to collect tax imposed under this title who
16 knowingly fails to collect, truthfully account for, or pay over the tax
17 is guilty of a class C felony as provided in chapter 9A.20 RCW.

18 (3) Any person who knowingly fails to pay tax, pay estimated tax,
19 make returns, keep records, or supply information, as required under
20 this title, is guilty of a gross misdemeanor as provided in chapter
21 9A.20 RCW.

22 **PART VII**
23 **ADMINISTRATION AND ENFORCEMENT**

24 NEW SECTION. **Sec. 701.** METHOD OF ACCOUNTING. (1) A taxpayer's
25 method of accounting for purposes of the tax imposed under this title
26 must be the same as the taxpayer's method of accounting for federal
27 income tax purposes. If no method of accounting has been regularly
28 used by a taxpayer for federal income tax purposes or if the method
29 used does not clearly reflect income, tax due under this title must be
30 computed by a method of accounting that in the opinion of the
31 department fairly reflects income.

32 (2) If a person's method of accounting is changed for federal
33 income tax purposes, it must be similarly changed for purposes of this
34 title.

1 NEW SECTION. **Sec. 702.** PERSONS REQUIRED TO FILE RETURNS. (1) All
2 taxpayers must file with the department, on forms prescribed by the
3 department, an income tax return for each taxable year. An individual
4 owing no tax for a taxable year is not required to file a return for
5 that year. Each person required to file a return under this title
6 must, without assessment, notice, or demand, pay any tax due thereon to
7 the department on or before the date fixed for the filing of the
8 return.

9 (2) The department may by rule require that certain taxpayers file,
10 on forms prescribed by the department, informational returns for any
11 period.

12 (3) If an adjustment to a taxpayer's federal return is made by the
13 taxpayer or the internal revenue service, the taxpayer must, within
14 ninety days of the final determination of the adjustment by the
15 internal revenue service or within thirty days of the filing of a
16 federal return adjusted by the taxpayer, file with the department on
17 forms prescribed by the department, a corrected return reflecting the
18 adjustments as finally determined. The taxpayer must pay any
19 additional tax due resulting from the finally determined internal
20 revenue service adjustment or a taxpayer adjustment without notice and
21 assessment. Notwithstanding any provision of this title or any other
22 title to the contrary, the period of limitation for the collection of
23 the additional tax, interest, and penalty due as a result of an
24 adjustment by the taxpayer or a finally determined internal revenue
25 service adjustment must begin at the later of thirty days following the
26 final determination of the adjustment or the date of the filing of the
27 corrected return.

28 NEW SECTION. **Sec. 703.** DUE DATE FOR FILING A RETURN--EXTENSIONS--
29 INTEREST AND PENALTIES. The due date of a return required to be filed
30 with the department must be the due date of the federal income tax
31 return or informational return for federal income tax purposes. The
32 department has the authority to grant extensions of times by which
33 returns required to be filed by this title may be submitted. The
34 department also has the authority to grant extensions of time to pay
35 tax with regard to taxes imposed by this title. Interest at the rate
36 as specified in RCW 82.32.050 must accrue during any extension period
37 and the interest and penalty provisions of chapter 82.32 RCW must apply

1 to late payments and deficiencies. Notwithstanding the limitation of
2 RCW 82.32.090, in the case of the late filing of an informational
3 return, there must be imposed a penalty the amount of which must be
4 established by the department by rule. The penalty may not exceed
5 fifty dollars per month for a maximum of ten months. RCW 82.32.105
6 must apply to this section.

7 NEW SECTION. **Sec. 704.** JOINT RETURN. (1) If the federal income
8 tax liabilities of both spouses are determined on a joint federal
9 return for the taxable year, they must file a joint return under this
10 title.

11 (2) If neither spouse is required to file a federal income tax
12 return for the taxable year, a joint return is required to be filed
13 under this title under the same conditions under which a joint return
14 may be filed for purposes of the federal income tax.

15 (3) Except as provided in subsection (5) of this section, if the
16 federal income tax liability of either spouse is determined on a
17 separate federal return for the taxable year, they must file separate
18 returns under this title.

19 (4) In any case in which a joint return is filed under this
20 section, the liability of the husband and wife or partners is joint and
21 several, unless the spouse or partner is relieved of liability under
22 section 6013 of the internal revenue code.

23 (5) Partners in a state registered domestic partnership may file a
24 joint return under this title.

25 NEW SECTION. **Sec. 705.** RECORDS--RETURNS. (1) Every taxpayer and
26 every person required to deduct and withhold the tax imposed under this
27 title must keep records, render statements, make returns, file reports,
28 and perform other acts as the department requires by rule. Each return
29 must be made under penalty of perjury and on forms prescribed by the
30 department. The department may require other statements and reports be
31 made under penalty of perjury and on forms prescribed by the
32 department. The department may require any taxpayer and any person
33 required to deduct and withhold the tax imposed under this title to
34 furnish to the department a correct copy of any return or document that
35 the taxpayer has filed with the internal revenue service or received
36 from the internal revenue service.

1 (2) All books and records and other papers and documents required
2 to be kept under this title are subject to inspection by the department
3 at all times during business hours of the day.

4 NEW SECTION. **Sec. 706.** ESTIMATION AGREEMENTS. The department may
5 reasonably estimate the items of business or nonbusiness income of a
6 taxpayer having an office within the state and one or more other states
7 or foreign countries that may be apportioned or allocated to the state
8 and may enter into estimation agreements with such taxpayers for the
9 determination of their liability for the tax imposed by this title.

10 NEW SECTION. **Sec. 707.** PROVISIONS OF INTERNAL REVENUE CODE
11 CONTROL. (1) To the extent possible without being inconsistent with
12 this title, all of the provisions of the internal revenue code relating
13 to the following subjects apply to the taxes imposed under this title:

14 (a) Time of payment of tax deducted and withheld under section 501
15 of this act;

16 (b) Liability of transferees;

17 (c) Time and manner of making returns, extensions of time for
18 filing returns, verification of returns, and the time when a return is
19 deemed filed.

20 (2) The department by rule may provide modifications and exceptions
21 to the provisions listed in subsection (1) of this section, if
22 reasonably necessary to facilitate the prompt, efficient, and equitable
23 collection of tax under this title.

24 NEW SECTION. **Sec. 708.** REFUNDS OF OVERPAYMENTS--OTHER
25 ADMINISTRATIVE PROVISIONS. (1) The department must refund all taxes
26 improperly paid or collected.

27 (2) The following sections apply to the administration of taxes
28 imposed under this title: RCW 82.32.050, 82.32.055, 82.32.060,
29 82.32.070, 82.32.080, 82.32.090, 82.32.100, 82.32.105, 82.32.110,
30 82.32.117, 82.32.120, 82.32.130, 82.32.135, 82.32.140, 82.32.150,
31 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210,
32 82.32.212, 82.32.220, 82.32.230, 82.32.235, 82.32.237, 82.32.240,
33 82.32.245, 82.32.260, 82.32.265, 82.32.310, 82.32.320, 82.32.330,
34 82.32.340, 82.32.350, 82.32.360, 82.32.380, and 82.32.410.

1 NEW SECTION. **Sec. 709.** RULES. The department may adopt rules
2 under chapter 34.05 RCW for the administration and enforcement of this
3 title. The rules, to the extent possible without being inconsistent
4 with this title, must follow the internal revenue code and the
5 regulations and rulings of the United States treasury department with
6 respect to the federal income tax. The department may adopt as a part
7 of these rules any portions of the internal revenue code and treasury
8 department regulations and rulings, in whole or in part.

9 **Sec. 710.** RCW 82.32.010 and 2010 1st sp.s. c 19 s 13 are each
10 amended to read as follows:

11 The provisions of this chapter apply with respect to the taxes
12 imposed under chapters 82.04 through 82.14 RCW, under chapter 82.14B
13 RCW, under chapters 82.16 through 82.29A RCW of this title, under
14 chapter 84.33 RCW, under Title 82A RCW (the new title created in
15 section 1302 of this act), and under other titles, chapters, and
16 sections in such manner and to such extent as indicated in each such
17 title, chapter, or section.

18 **PART VIII**
19 **APPEALS**

20 **Sec. 801.** RCW 82.03.130 and 2005 c 253 s 7 are each amended to
21 read as follows:

22 (1) The board (~~((shall—have))~~) has jurisdiction to decide the
23 following types of appeals:

24 (a) Appeals taken pursuant to RCW 82.03.190.

25 (b) Appeals from a county board of equalization pursuant to RCW
26 84.08.130.

27 (c) Appeals by an assessor or landowner from an order of the
28 director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if
29 filed with the board of tax appeals within thirty days after the
30 mailing of the order, the right to such an appeal being hereby
31 established.

32 (d) Appeals by an assessor or owner of an intercounty public
33 utility or private car company from determinations by the director of
34 revenue of equalized assessed valuation of property and the
35 apportionment thereof to a county made pursuant to chapter 84.12 and

1 84.16 RCW, if filed with the board of tax appeals within thirty days
2 after mailing of the determination, the right to such appeal being
3 hereby established.

4 (e) Appeals by an assessor, landowner, or owner of an intercounty
5 public utility or private car company from a determination of any
6 county indicated ratio for such county compiled by the department of
7 revenue pursuant to RCW 84.48.075(~~(+PROVIDED, That)~~).

8 (i) (~~Said~~) The appeal be filed after review of the ratio under
9 RCW 84.48.075(3) and not later than fifteen days after the mailing of
10 the certification; and

11 (ii) The hearing before the board (~~shall~~) must be expeditiously
12 held in accordance with rules prescribed by the board and (~~shall~~)
13 takes precedence over all matters of the same character.

14 (f) Appeals from the decisions of sale price of second class
15 shorelands on navigable lakes by the department of natural resources
16 pursuant to RCW (~~(79.94.210)~~) 79.125.450.

17 (g) Appeals from urban redevelopment property tax apportionment
18 district proposals established by governmental ordinances pursuant to
19 RCW 39.88.060.

20 (h) Appeals from interest rates as determined by the department of
21 revenue for use in valuing farmland under current use assessment
22 pursuant to RCW 84.34.065.

23 (i) Appeals from revisions to stumpage value tables used to
24 determine value by the department of revenue pursuant to RCW 84.33.091.

25 (j) Appeals from denial of tax exemption application by the
26 department of revenue pursuant to RCW 84.36.850.

27 (k) Appeals pursuant to RCW 84.40.038(3).

28 (l) Appeals pursuant to RCW 84.39.020.

29 (m) Appeals relating to income tax deficiencies and refunds,
30 including penalties and interest, under Title 82A RCW (the new title
31 created in section 1302 of this act).

32 (2) Except as otherwise specifically provided by law hereafter, the
33 provisions of RCW 1.12.070 (~~shall apply~~) applies to all notices of
34 appeal filed with the board of tax appeals.

35 **Sec. 802.** RCW 82.03.140 and 2000 c 103 s 1 are each amended to
36 read as follows:

37 In all appeals over which the board has jurisdiction under RCW

1 82.03.130, a party taking an appeal may elect either a formal or an
2 informal hearing, such election to be made according to rules of
3 practice and procedure to be promulgated by the board(~~(:—PROVIDED,~~
4 ~~That)~~). However, nothing (~~(shall)~~) prevents the assessor or taxpayer,
5 as a party to an appeal pursuant to RCW 84.08.130, within twenty days
6 from the date of the receipt of the notice of appeal, from filing with
7 the clerk of the board notice of intention that the hearing be a formal
8 one(~~(:—PROVIDED, HOWEVER, That)~~). Moreover, nothing (~~(herein shall)~~)
9 in this section may be construed to modify the provisions of RCW
10 82.03.190(~~(:—AND PROVIDED FURTHER, That)~~) and upon an appeal under RCW
11 82.03.130(1) (e) or (m), the director of revenue may, within ten days
12 from the date of its receipt of the notice of appeal, file with the
13 clerk of the board notice of its (~~(intention that the hearing be held~~
14 ~~pursuant to chapter 34.05 RCW)~~) election of a formal hearing. In the
15 event that appeals are taken from the same decision, order, or
16 determination, as the case may be, by different parties and only one of
17 such parties elects a formal hearing, a formal hearing (~~(shall)~~) must
18 be granted.

19
20

PART IX
CONFORMING AMENDMENTS

21 **Sec. 901.** RCW 2.10.180 and 1991 c 365 s 18 are each amended to
22 read as follows:

23 (1) Except as provided in subsections (2), (3), (~~(and)~~) (4), and
24 (5) of this section, the right of a person to a retirement allowance,
25 disability allowance, or death benefit, the retirement, disability or
26 death allowance itself, any optional benefit, any other right accrued
27 or accruing to any person under the provisions of this chapter, and the
28 moneys in the fund created under this chapter, are hereby exempt from
29 any state, county, municipal, or other local tax and (~~(shall)~~) are not
30 (~~(be)~~) subject to execution, garnishment, or any other process of law
31 whatsoever.

32 (2) Subsection (1) of this section (~~(shall)~~) may not be deemed to
33 prohibit a beneficiary of a retirement allowance from authorizing
34 deductions therefrom for payment of premiums due on any group insurance
35 policy or plan issued for the benefit of a group comprised of public
36 employees of the state of Washington.

1 (3) Deductions made in the past from retirement benefits are hereby
2 expressly recognized, ratified, and affirmed. Future deductions may
3 only be made in accordance with this section.

4 (4) Subsection (1) of this section (~~shall~~) does not prohibit the
5 department of retirement systems from complying with (a) a wage
6 assignment order for child support issued pursuant to chapter 26.18
7 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
8 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
9 RCW, (d) a mandatory benefits assignment order issued pursuant to
10 chapter 41.50 RCW, (e) a court order directing the department of
11 retirement systems to pay benefits directly to an obligee under a
12 dissolution order as defined in RCW 41.50.500(3) which fully complies
13 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
14 order expressly authorized by federal law.

15 (5) Subsection (1) of this section does not exempt any pension or
16 other benefit received under this chapter from tax under Title 82A RCW
17 (the new title created in section 1302 of this act), nor does it
18 prohibit the department of retirement systems from complying with the
19 tax withholding requirements of that title.

20 **Sec. 902.** RCW 2.12.090 and 1991 c 365 s 19 are each amended to
21 read as follows:

22 (1) Except as provided in subsections (2), (3), (~~and~~) (4), and
23 (5) of this section, the right of any person to a retirement allowance
24 or optional retirement allowance under the provisions of this chapter
25 and all moneys and investments and income thereof are exempt from any
26 state, county, municipal, or other local tax and (~~shall not be~~) is
27 not subject to execution, garnishment, attachment, the operation of
28 bankruptcy or the insolvency laws, or other processes of law whatsoever
29 and (~~shall be~~) is unassignable except as herein specifically
30 provided.

31 (2) Subsection (1) of this section (~~shall~~) does not prohibit the
32 department of retirement systems from complying with (a) a wage
33 assignment order for child support issued pursuant to chapter 26.18
34 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
35 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
36 RCW, (d) a mandatory benefits assignment order issued pursuant to
37 chapter 41.50 RCW, (e) a court order directing the department of

1 retirement systems to pay benefits directly to an obligee under a
2 dissolution order as defined in RCW 41.50.500(3) which fully complies
3 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
4 order expressly authorized by federal law.

5 (3) Subsection (1) of this section (~~shall~~) may not be deemed to
6 prohibit a beneficiary of a retirement allowance from authorizing
7 deductions therefrom for payment of premiums due on any group insurance
8 policy or plan issued for the benefit of a group comprised of public
9 employees of the state of Washington.

10 (4) Deductions made in the past from retirement benefits are hereby
11 expressly recognized, ratified, and affirmed. Future deductions may
12 only be made in accordance with this section.

13 (5) Subsection (1) of this section does not exempt any pension or
14 other benefit received under this chapter from tax under Title 82A RCW
15 (the new title created in section 1302 of this act), nor does it
16 prohibit the department of retirement systems from complying with the
17 tax withholding requirements of that title.

18 **Sec. 903.** RCW 6.15.020 and 2011 c 162 s 3 are each amended to read
19 as follows:

20 (1) It is the policy of the state of Washington to ensure the well-
21 being of its citizens by protecting retirement income to which they are
22 or may become entitled. For that purpose generally and pursuant to the
23 authority granted to the state of Washington under 11 U.S.C. Sec.
24 522(b)(2), the exemptions in this section relating to retirement
25 benefits are provided.

26 (2) Unless otherwise provided by federal law, any money received by
27 any citizen of the state of Washington as a pension from the government
28 of the United States, whether the same be in the actual possession of
29 such person or be deposited or loaned, (~~shall be~~) is exempt from
30 execution, attachment, garnishment, or seizure by or under any legal
31 process whatever, and when a debtor dies, or absconds, and leaves his
32 or her family any money exempted by this subsection, the same (~~shall~~
33 ~~be~~) is exempt to the family as provided in this subsection. This
34 subsection (~~shall~~) does not apply to child support collection actions
35 issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise
36 permitted by federal law, or to collection actions for taxes imposed

1 under Title 82A RCW (the new title created in section 1302 of this
2 act).

3 (3) The right of a person to a pension, annuity, or retirement
4 allowance or disability allowance, or death benefits, or any optional
5 benefit, or any other right accrued or accruing to any citizen of the
6 state of Washington under any employee benefit plan, and any fund
7 created by such a plan or arrangement, (~~shall be~~) is exempt from
8 execution, attachment, garnishment, or seizure by or under any legal
9 process whatever. This subsection (~~shall~~) does not apply to child
10 support collection actions issued under chapter 26.18, 26.23, or 74.20A
11 RCW if otherwise permitted by federal law, or to collection actions for
12 taxes imposed under Title 82A RCW (the new title created in section
13 1302 of this act). This subsection (~~shall~~) permits benefits under
14 any such plan or arrangement to be payable to a spouse, former spouse,
15 child, or other dependent of a participant in such plan to the extent
16 expressly provided for in a qualified domestic relations order that
17 meets the requirements for such orders under the plan, or, in the case
18 of benefits payable under a plan described in 26 U.S.C. Sec. 403(b) or
19 408 of the internal revenue code of 1986, as amended, or section 409 of
20 such code as in effect before January 1, 1984, to the extent provided
21 in any order issued by a court of competent jurisdiction that provides
22 for maintenance or support. This subsection does not prohibit actions
23 against an employee benefit plan, or fund for valid obligations
24 incurred by the plan or fund for the benefit of the plan or fund.

25 (4) For the purposes of this section, the term "employee benefit
26 plan" means any plan or arrangement that is described in RCW 49.64.020,
27 including any Keogh plan, whether funded by a trust or by an annuity
28 contract, and in 26 U.S.C. Sec. 401(a) or 403(a) of the internal
29 revenue code of 1986, as amended; or that is a tax-sheltered annuity or
30 a custodial account described in section 403(b) of such code or an
31 individual retirement account or an individual retirement annuity
32 described in section 408 of such code; or a Roth individual retirement
33 account described in section 408A of such code; or a medical savings
34 account or a health savings account described in sections 220 and 223,
35 respectively, of such code; or a retirement bond described in section
36 409 of such code as in effect before January 1, 1984. The term
37 "employee benefit plan" (~~shall~~) does not include any employee benefit
38 plan that is established or maintained for its employees by the

1 government of the United States, by the state of Washington under
2 chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43
3 RCW or RCW 41.50.770, or by any agency or instrumentality of the
4 government of the United States.

5 (5) An employee benefit plan (~~shall be~~) is deemed to be a
6 spendthrift trust, regardless of the source of funds, the relationship
7 between the trustee or custodian of the plan and the beneficiary, or
8 the ability of the debtor to withdraw or borrow or otherwise become
9 entitled to benefits from the plan before retirement. This subsection
10 (~~shall~~) does not apply to child support collection actions issued
11 under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by
12 federal law, or to collection actions for taxes imposed under Title 82A
13 RCW (the new title created in section 1302 of this act). This
14 subsection (~~shall~~) permits benefits under any such plan or
15 arrangement to be payable to a spouse, former spouse, child, or other
16 dependent of a participant in such plan to the extent expressly
17 provided for in a qualified domestic relations order that meets the
18 requirements for such orders under the plan, or, in the case of
19 benefits payable under a plan described in 26 U.S.C. Sec. 403(b) or 408
20 of the internal revenue code of 1986, as amended, or section 409 of
21 such code as in effect before January 1, 1984, to the extent provided
22 in any order issued by a court of competent jurisdiction that provides
23 for maintenance or support.

24 (6) Unless prohibited by federal law, nothing contained in
25 subsection (3), (4), or (5) of this section (~~shall~~) may be construed
26 as a termination or limitation of a spouse's community property
27 interest in an employee benefit plan held in the name of or on account
28 of the other spouse, who is the participant or the account holder
29 spouse. Unless prohibited by applicable federal law, at the death of
30 the nonparticipant, nonaccount holder spouse, the nonparticipant,
31 nonaccount holder spouse may transfer or distribute the community
32 property interest of the nonparticipant, nonaccount holder spouse in
33 the participant or account holder spouse's employee benefit plan to the
34 nonparticipant, nonaccount holder spouse's estate, testamentary trust,
35 inter vivos trust, or other successor or successors pursuant to the
36 last will of the nonparticipant, nonaccount holder spouse or the law of
37 intestate succession, and that distributee may, but (~~shall~~) is not
38 (~~be~~) required to, obtain an order of a court of competent

1 jurisdiction, including a nonjudicial binding agreement or order
2 entered under chapter 11.96A RCW, to confirm the distribution. For
3 purposes of subsection (3) of this section, the distributee of the
4 nonparticipant, nonaccount holder spouse's community property interest
5 in an employee benefit plan (~~((shall-be))~~) is considered a person
6 entitled to the full protection of subsection (3) of this section. The
7 nonparticipant, nonaccount holder spouse's consent to a beneficiary
8 designation by the participant or account holder spouse with respect to
9 an employee benefit plan (~~((shall))~~) is not, absent clear and convincing
10 evidence to the contrary, be deemed a release, gift, relinquishment,
11 termination, limitation, or transfer of the nonparticipant, nonaccount
12 holder spouse's community property interest in an employee benefit
13 plan. For purposes of this subsection, the term "nonparticipant,
14 nonaccount holder spouse" means the spouse of the person who is a
15 participant in an employee benefit plan or in whose name an individual
16 retirement account is maintained. As used in this subsection, an order
17 of a court of competent jurisdiction entered under chapter 11.96A RCW
18 includes an agreement, as that term is used under RCW 11.96A.220.

19 **Sec. 904.** RCW 41.24.240 and 1995 c 11 s 13 are each amended to
20 read as follows:

21 (1) The right of any person to any future payment under the
22 provisions of this chapter (~~((shall))~~) is not (~~((be))~~) transferable or
23 assignable at law or in equity, and none of the moneys paid or payable
24 or the rights existing under this chapter, (~~((shall-be))~~) is subject to
25 execution, levy, attachment, garnishment, or other legal process, or to
26 the operation of any bankruptcy or insolvency law. This section
27 (~~((shall))~~) is not (~~((be))~~) applicable to any child support collection
28 action taken under chapter 26.18, 26.23, or 74.20A RCW. Benefits under
29 this chapter (~~((shall-be))~~) are payable to a spouse or ex-spouse to the
30 extent expressly provided for in any court decree of dissolution or
31 legal separation or in any court order or court-approved property
32 settlement agreement incident to any court decree of dissolution or
33 legal separation.

34 (2) Nothing in this chapter (~~((shall))~~) may be construed to deprive
35 any participant, eligible to receive a pension hereunder, from
36 receiving a pension under any other act to which that participant may

1 become eligible by reason of services other than or in addition to his
2 or her services under this chapter.

3 (3) Subsection (1) of this section does not exempt any pension or
4 other benefit received under this chapter from tax under Title 82A RCW
5 (the new title created in section 1302 of this act), nor does it
6 prohibit the department of retirement systems from complying with the
7 tax withholding requirements of that title.

8 **Sec. 905.** RCW 41.32.052 and 1991 c 365 s 21 and 1991 c 35 s 63 are
9 each reenacted and amended to read as follows:

10 (1) Subject to subsections (2) (~~and~~), (3), and (4) of this
11 section, the right of a person to a pension, an annuity, a retirement
12 allowance, or disability allowance, to the return of contributions, any
13 optional benefit or death benefit, any other right accrued or accruing
14 to any person under the provisions of this chapter and the moneys in
15 the various funds created by this chapter (~~shall be~~) is unassignable,
16 and are hereby exempt from any state, county, municipal or other local
17 tax, and (~~shall~~) are not (~~be~~) subject to execution, garnishment,
18 attachment, the operation of bankruptcy or insolvency laws, or other
19 process of law whatsoever.

20 (2)(a) This section (~~shall~~) may not be deemed to prohibit a
21 beneficiary of a retirement allowance who is eligible:

22 (~~(a)~~) (i) Under RCW 41.05.080 from authorizing monthly deductions
23 therefrom for payment of premiums due on any group insurance policy or
24 plan issued for the benefit of a group comprised of public employees of
25 the state of Washington or its political subdivisions;

26 (~~(b)~~) (ii) Under a group health care benefit plan approved
27 pursuant to RCW 28A.400.350 or 41.05.065 from authorizing monthly
28 deductions therefrom, of the amount or amounts of subscription
29 payments, premiums, or contributions to any person, firm, or
30 corporation furnishing or providing medical, surgical, and hospital
31 care or other health care insurance; or

32 (~~(c)~~) (iii) Under this system from authorizing monthly deductions
33 therefrom for payment of dues and other membership fees to any
34 retirement association composed of retired teachers and/or public
35 employees pursuant to a written agreement between the director and the
36 retirement association.

1 (b) Deductions under (a) (~~(and (b))~~) (i) and (ii) of this
2 subsection (~~(shall)~~) must be made in accordance with rules that may be
3 adopted by the director.

4 (3) Subsection (1) of this section (~~(shall)~~) does not prohibit the
5 department from complying with (a) a wage assignment order for child
6 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
7 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
8 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
9 benefits assignment order issued by the department, (e) a court order
10 directing the department of retirement systems to pay benefits directly
11 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
12 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
13 administrative or court order expressly authorized by federal law.

14 (4) Subsection (1) of this section does not exempt any pension or
15 other benefit received under this chapter from tax under Title 82A RCW
16 (the new title created in section 1302 of this act), nor does it
17 prohibit the department of retirement systems from complying with the
18 tax withholding requirements of that title.

19 **Sec. 906.** RCW 41.35.100 and 1998 c 341 s 11 are each amended to
20 read as follows:

21 (1) Subject to subsections (2) (~~(and)~~), (3), and (4) of this
22 section, the right of a person to a pension, an annuity, or retirement
23 allowance, any optional benefit, any other right accrued or accruing to
24 any person under the provisions of this chapter, the various funds
25 created by this chapter, and all moneys and investments and income
26 thereof, are hereby exempt from any state, county, municipal, or other
27 local tax, and (~~(shall)~~) are not (~~(be)~~) subject to execution,
28 garnishment, attachment, the operation of bankruptcy or insolvency
29 laws, or other process of law whatsoever, and (~~(shall be)~~) is
30 unassignable.

31 (2) This section does not prohibit a beneficiary of a retirement
32 allowance from authorizing deductions therefrom for payment of premiums
33 due on any group insurance policy or plan issued for the benefit of a
34 group comprised of public employees of the state of Washington or its
35 political subdivisions and which has been approved for deduction in
36 accordance with rules that may be adopted by the state health care
37 authority and/or the department. This section also does not prohibit

1 a beneficiary of a retirement allowance from authorizing deductions
2 therefrom for payment of dues and other membership fees to any
3 retirement association or organization the membership of which is
4 composed of retired public employees, if a total of three hundred or
5 more of such retired employees have authorized such deduction for
6 payment to the same retirement association or organization.

7 (3) Subsection (1) of this section does not prohibit the department
8 from complying with (a) a wage assignment order for child support
9 issued pursuant to chapter 26.18 RCW, (b) an order to withhold and
10 deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll
11 deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits
12 assignment order issued by the department, (e) a court order directing
13 the department of retirement systems to pay benefits directly to an
14 obligee under a dissolution order as defined in RCW 41.50.500(3) which
15 fully complies with RCW 41.50.670 and 41.50.700, or (f) any
16 administrative or court order expressly authorized by federal law.

17 (4) Subsection (1) of this section does not exempt any pension or
18 other benefit received under this chapter from tax under Title 82A RCW
19 (the new title created in section 1302 of this act), nor does it
20 prohibit the department of retirement systems from complying with the
21 tax withholding requirements of that title.

22 **Sec. 907.** RCW 41.40.052 and 1999 c 83 s 1 are each amended to read
23 as follows:

24 (1) Subject to subsections (2) (~~and~~), (3), and (4) of this
25 section, the right of a person to a pension, an annuity, or retirement
26 allowance, any optional benefit, any other right accrued or accruing to
27 any person under the provisions of this chapter, the various funds
28 created by this chapter, and all moneys and investments and income
29 thereof, are (~~hereby~~) exempt from any state, county, municipal, or
30 other local tax, and (~~shall~~) are not (~~be~~) subject to execution,
31 garnishment, attachment, the operation of bankruptcy or insolvency
32 laws, or other process of law whatsoever, and (~~shall-be~~) is
33 unassignable.

34 (2)(a) This section (~~shall~~) is not (~~be~~) deemed to prohibit a
35 beneficiary of a retirement allowance from authorizing deductions
36 therefrom for payment of premiums due on any group insurance policy or
37 plan issued for the benefit of a group comprised of public employees of

1 the state of Washington or its political subdivisions and which has
2 been approved for deduction in accordance with rules that may be
3 adopted by the state health care authority and/or the department, and
4 this section (~~shall~~) may not be deemed to prohibit a beneficiary of
5 a retirement allowance from authorizing deductions therefrom for
6 payment of dues and other membership fees to any retirement association
7 or organization the membership of which is composed of retired public
8 employees, if a total of three hundred or more of such retired
9 employees have authorized such deduction for payment to the same
10 retirement association or organization.

11 (b) This section does not prohibit a beneficiary of a retirement
12 allowance from authorizing deductions from that allowance for
13 charitable purposes on the same terms as employees and public officers
14 under RCW 41.04.035 and 41.04.036.

15 (3) Subsection (1) of this section (~~shall~~) does not prohibit the
16 department from complying with (a) a wage assignment order for child
17 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
18 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
19 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
20 benefits assignment order issued by the department, (e) a court order
21 directing the department of retirement systems to pay benefits directly
22 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
23 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
24 administrative or court order expressly authorized by federal law.

25 (4) Subsection (1) of this section does not exempt any pension or
26 other benefit received under this chapter from tax under Title 82A RCW
27 (the new title created in section 1302 of this act), nor does it
28 prohibit the department of retirement systems from complying with the
29 tax withholding requirements of that title.

30 **Sec. 908.** RCW 41.44.240 and 1989 c 360 s 28 are each amended to
31 read as follows:

32 (1) The right of a person to a pension, annuity or a retirement
33 allowance, to the return of contribution, the pension, annuity or
34 retirement allowance itself, any optional benefit, any other right
35 accrued or accruing to any person under the provisions of this chapter,
36 and the moneys in the fund created under this chapter (~~shall~~) are not

1 ((be)) subject to execution, garnishment, or any other process
2 whatsoever.

3 (2) This section ((shall)) does not apply to child support
4 collection actions taken under chapter 26.18, 26.23, or 74.20A RCW
5 against benefits payable under any such plan or arrangement. Benefits
6 under this chapter ((shall-be)) are payable to a spouse or ex-spouse to
7 the extent expressly provided for in any court decree of dissolution or
8 legal separation or in any court order or court-approved property
9 settlement agreement incident to any court decree of dissolution or
10 legal separation.

11 (3) Subsection (1) of this section does not exempt any pension or
12 other benefit received under this chapter from tax under Title 82A RCW
13 (the new title created in section 1302 of this act), nor does it
14 prohibit the department of retirement systems from complying with the
15 tax withholding requirements of that title.

16 **Sec. 909.** RCW 41.26.053 and 1991 c 365 s 20 and 1991 c 35 s 25 are
17 each reenacted and amended to read as follows:

18 (1) Subject to subsections (2) ((and)), (3), and (4) of this
19 section, the right of a person to a retirement allowance, disability
20 allowance, or death benefit, to the return of accumulated
21 contributions, the retirement, disability or death allowance itself,
22 any optional benefit, any other right accrued or accruing to any person
23 under the provisions of this chapter, and the moneys in the fund
24 created under this chapter, are ((hereby)) exempt from any state,
25 county, municipal, or other local tax and ((shall)) are not ((be))
26 subject to execution, garnishment, attachment, the operation of
27 bankruptcy or insolvency laws, or any other process of law whatsoever,
28 and ((shall-be)) are unassignable.

29 (2) On the written request of any person eligible to receive
30 benefits under this section, the department may deduct from such
31 payments the premiums for life, health, or other insurance. The
32 request on behalf of any child or children ((shall)) must be made by
33 the legal guardian of such child or children. The department may
34 provide for such persons one or more plans of group insurance, through
35 contracts with regularly constituted insurance carriers or health care
36 service contractors.

1 (3) Subsection (1) of this section (~~shall~~) does not prohibit the
2 department from complying with (a) a wage assignment order for child
3 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
4 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
5 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
6 benefits assignment order issued by the department, (e) a court order
7 directing the department of retirement systems to pay benefits directly
8 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
9 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
10 administrative or court order expressly authorized by federal law.

11 (4) Subsection (1) of this section does not exempt any pension or
12 other benefit received under this chapter from tax under Title 82A RCW
13 (the new title created in section 1302 of this act), nor does it
14 prohibit the department of retirement systems from complying with the
15 tax withholding requirements of that title.

16 **Sec. 910.** RCW 43.43.310 and 1991 c 365 s 23 are each amended to
17 read as follows:

18 (1) Except as provided in subsections (2) (~~and~~), (3), and (4) of
19 this section, the right of any person to a retirement allowance or
20 optional retirement allowance under the provisions hereof and all
21 moneys and investments and income thereof are exempt from any state,
22 county, municipal, or other local tax and (~~shall~~) are not (~~be~~)
23 subject to execution, garnishment, attachment, the operation of
24 bankruptcy or the insolvency laws, or other processes of law whatsoever
25 and (~~shall-be~~) are unassignable except as herein specifically
26 provided.

27 (2) Subsection (1) of this section (~~shall~~) does not prohibit the
28 department of retirement systems from complying with (a) a wage
29 assignment order for child support issued pursuant to chapter 26.18
30 RCW, (b) an order to withhold and deliver issued pursuant to chapter
31 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
32 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
33 chapter 41.50 RCW, (e) a court order directing the department of
34 retirement systems to pay benefits directly to an obligee under a
35 dissolution order as defined in RCW 41.50.500(3) which fully complies
36 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
37 order expressly authorized by federal law.

1 (3) Subsection (1) of this section (~~shall~~) may not be deemed to
2 prohibit a beneficiary of a retirement allowance from authorizing
3 deductions therefrom for payment of premiums due on any group insurance
4 policy or plan issued for the benefit of a group comprised of members
5 of the Washington state patrol or other public employees of the state
6 of Washington, or for contributions to the Washington state patrol
7 memorial foundation.

8 (4) Subsection (1) of this section does not exempt any pension or
9 other benefit received under this chapter from tax under Title 82A RCW
10 (the new title created in section 1302 of this act), nor does it
11 prohibit the department of retirement systems from complying with the
12 tax withholding requirements of that title.

13 NEW SECTION. Sec. 911. RCW 6.15.025 (Exemption of pension or
14 retirement plan benefits from execution for judgment for out-of-state
15 income tax) and 1991 c 123 s 3 are each repealed.

16 **PART X**
17 **REDUCTION OF STATE SALES TAX RATE**

18 **Sec. 1001.** RCW 82.08.020 and 2011 c 171 s 120 are each amended to
19 read as follows:

20 (1) There is levied and collected a tax equal to (~~six and five~~
21 ~~tenths~~) five percent of the selling price on each retail sale in this
22 state of:

23 (a) Tangible personal property, unless the sale is specifically
24 excluded from the RCW 82.04.050 definition of retail sale;

25 (b) Digital goods, digital codes, and digital automated services,
26 if the sale is included within the RCW 82.04.050 definition of retail
27 sale;

28 (c) Services, other than digital automated services, included
29 within the RCW 82.04.050 definition of retail sale;

30 (d) Extended warranties to consumers; and

31 (e) Anything else, the sale of which is included within the RCW
32 82.04.050 definition of retail sale.

33 (2) There is levied and collected an additional tax on each retail
34 car rental, regardless of whether the vehicle is licensed in this

1 state, equal to five and nine-tenths percent of the selling price. The
2 revenue collected under this subsection must be deposited in the
3 multimodal transportation account created in RCW 47.66.070.

4 (3) Beginning July 1, 2003, there is levied and collected an
5 additional tax of three-tenths of one percent of the selling price on
6 each retail sale of a motor vehicle in this state, other than retail
7 car rentals taxed under subsection (2) of this section. The revenue
8 collected under this subsection must be deposited in the multimodal
9 transportation account created in RCW 47.66.070.

10 (4) For purposes of subsection (3) of this section, "motor vehicle"
11 has the meaning provided in RCW 46.04.320, but does not include farm
12 tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181,
13 off-road vehicles as defined in RCW 46.04.365, nonhighway vehicles as
14 defined in RCW 46.09.310, and snowmobiles as defined in RCW 46.04.546.

15 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
16 collected under subsection (1) of this section must be dedicated to
17 funding comprehensive performance audits required under RCW 43.09.470.
18 The revenue identified in this subsection must be deposited in the
19 performance audits of government account created in RCW 43.09.475.

20 (6) The taxes imposed under this chapter apply to successive retail
21 sales of the same property.

22 (7) The rates provided in this section apply to taxes imposed under
23 chapter 82.12 RCW as provided in RCW 82.12.020.

24 PART XI

25 ELIMINATION OF STATE BUSINESS AND OCCUPATION TAX

26 NEW SECTION. **Sec. 1101.** The following acts or parts of acts are
27 each repealed:

28 (1) RCW 82.04.230 (Tax upon extractors) and 2006 c 300 s 5, 1993
29 sp.s. c 25 s 101, 1971 ex.s. c 281 s 2, 1969 ex.s. c 262 s 33, 1967
30 ex.s. c 149 s 7, & 1961 c 15 s 82.04.230;

31 (2) RCW 82.04.240 (Tax on manufacturers) and 2010 c 114 s 104, 2004
32 c 24 s 4, 2003 c 149 s 3, 1998 c 312 s 3, 1993 sp.s. c 25 s 102, 1981
33 c 172 s 1, 1979 ex.s. c 196 s 1, 1971 ex.s. c 281 s 3, 1969 ex.s. c 262
34 s 34, 1967 ex.s. c 149 s 8, 1965 ex.s. c 173 s 5, & 1961 c 15 s
35 82.04.240;

1 (3) RCW 82.04.2403 (Manufacturer tax not applicable to cleaning
2 fish) and 1994 c 167 s 1;

3 (4) RCW 82.04.2404 (Manufacturers--Processors for hire--
4 Semiconductor materials) and 2010 c 114 s 105 & 2006 c 84 s 2;

5 (5) RCW 82.04.250 (Tax on retailers) and 2010 1st sp.s. c 23 s 509,
6 (2010 1st sp.s. c 23 s 508 expired July 1, 2011), (2010 1st sp.s. c 23
7 s 507 expired July 13, 2010), 2010 1st sp.s. c 11 s 1, (2010 c 114 s
8 106 expired July 1, 2011), 2008 c 81 s 5, (2007 c 54 s 5 repealed by
9 2010 1st sp.s. c 11 s 7), 2006 c 177 s 5, 2003 2nd sp.s. c 1 s 2, &
10 (2003 1st sp.s. c 2 s 1 expired July 1, 2006);

11 (6) RCW 82.04.255 (Tax on real estate brokers) and 2011 c 322 s 2,
12 1997 c 7 s 1, 1996 c 1 s 1, 1993 sp.s. c 25 s 202, 1985 c 32 s 2, 1983
13 2nd ex.s. c 3 s 1, 1983 c 9 s 1, & 1970 ex.s. c 65 s 3;

14 (7) RCW 82.04.257 (Tax on digital products and services) and 2010
15 c 111 s 301 & 2009 c 535 s 401;

16 (8) RCW 82.04.260 (Tax on manufacturers and processors of various
17 foods and by-products--Research and development organizations--Travel
18 agents--Certain international activities--Stevedoring and associated
19 activities--Low-level waste disposers--Insurance producers, surplus
20 line brokers, and title insurance agents--Hospitals--Commercial
21 airplane activities--Timber product activities--Canned salmon
22 processors) and 2011 c 2 s 203 (Initiative Measure No. 1107), 2010 1st
23 sp.s. c 23 s 506, (2010 1st sp.s. c 23 s 505 expired June 10, 2010), &
24 2010 c 114 s 107;

25 (9) RCW 82.04.263 (Tax on cleaning up radioactive waste and other
26 by-products of weapons production and nuclear research and development)
27 and 2009 c 469 s 202 & 1996 c 112 s 3;

28 (10) RCW 82.04.270 (Tax on wholesalers) and 2004 c 24 s 5, 2003 2nd
29 sp.s. c 1 s 5, 2001 1st sp.s. c 9 s 3, & 1999 c 358 s 2;

30 (11) RCW 82.04.272 (Tax on warehousing and reselling prescription
31 drugs) and 2003 c 168 s 401 & 1998 c 343 s 1;

32 (12) RCW 82.04.280 (Tax on printers, publishers, highway
33 contractors, extracting or processing for hire, cold storage warehouse
34 or storage warehouse operation, insurance general agents, radio and
35 television broadcasting, government contractors--Cold storage warehouse
36 defined--Storage warehouse defined--Periodical or magazine defined) and
37 2010 c 106 s 206, 2010 c 106 s 205, 2009 c 461 s 3, 2009 c 461 s 2,
38 2006 c 300 s 7, 2006 c 300 s 6, 2004 c 24 s 6, 2003 c 149 s 4, 1998 c

1 343 s 3, 1994 c 112 s 1, 1993 sp.s. c 25 s 303, 1993 sp.s. c 25 s 106,
2 1986 c 226 s 2, 1983 c 132 s 1, 1975 1st ex.s. c 90 s 3, 1971 ex.s. c
3 299 s 5, 1971 ex.s. c 281 s 7, & 1970 ex.s. c 8 s 2;

4 (13) RCW 82.04.290 (Tax on international investment management
5 services or other business or service activities) and 2011 c 174 s 101,
6 2008 c 81 s 6, 2005 c 369 s 8, 2004 c 174 s 2, 2003 c 343 s 2, 2001 1st
7 sp.s. c 9 s 6, & (2001 1st sp.s. c 9 s 4 expired July 1, 2001);

8 (14) RCW 82.04.2905 (Tax on providing day care) and 1998 c 312 s 7;

9 (15) RCW 82.04.2906 (Tax on certain chemical dependency services)
10 and 2003 c 343 s 1;

11 (16) RCW 82.04.2907 (Tax on royalties) and 2010 1st sp.s. c 23 s
12 107, (2010 1st sp.s. c 23 s 106 expired July 1, 2010), 2010 c 111 s
13 302, 2009 c 535 s 407, 2001 c 320 s 3, & 1998 c 331 s 1;

14 (17) RCW 82.04.2908 (Tax on provision of room and domiciliary care
15 to boarding home residents) and 2005 c 514 s 302 & 2004 c 174 s 1;

16 (18) RCW 82.04.2909 (Tax on aluminum smelters) and 2011 c 174 s
17 301;

18 (19) RCW 82.04.293 (International investment management services--
19 Definitions) and 1997 c 7 s 3 & 1995 c 229 s 1;

20 (20) RCW 82.04.294 (Tax on manufacturers or wholesalers of solar
21 energy systems) and 2011 c 179 s 1, 2010 c 114 s 109, 2009 c 469 s 501,
22 2007 c 54 s 8, & 2005 c 301 s 2; and

23 (21) RCW 82.04.298 (Tax on qualified grocery distribution
24 cooperatives) and 2011 c 2 s 204 (Initiative Measure No. 1107), 2010
25 1st sp.s. c 23 s 511, 2008 c 49 s 1, & 2001 1st sp.s. c 9 s 1.

26 **Sec. 1102.** RCW 82.04.261 and 2010 1st sp.s. c 23 s 510 are each
27 amended to read as follows:

28 (1) ~~((In addition to the taxes imposed under RCW 82.04.260(11),))~~
29 A surcharge is imposed on those persons who ((are)) would be subject to
30 any of the taxes imposed under RCW 82.04.260((11)) (12) if not for
31 its repeal under section 1101 of this act. Except as otherwise
32 provided in this section, the surcharge is equal to 0.052 percent.
33 ~~((The surcharge is added to the rates provided in RCW 82.04.260(11)~~
34 ~~(a), (b), (c), and (d). The surcharge and this section expire July 1,~~
35 ~~2024.))~~

36 (2) All receipts from the surcharge imposed under this section must

1 be deposited into the forest and fish support account created in RCW
2 76.09.405.

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

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

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

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

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

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

35 (b) The department must adjust the surcharge by an amount that the
36 department estimates will cause the amount of funds deposited into the
37 forest and fish support account for the state fiscal year that begins
38 July 1st and that includes the beginning of the federal fiscal year for

1 which the federal appropriation is made, to be reduced by twice the
2 amount of the federal appropriation for participation in forest and
3 fish report-related activities by federally recognized Indian tribes
4 located within the geographical boundaries of the state of Washington.

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

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

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

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

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

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

22 **Sec. 1103.** RCW 82.04.285 and 2005 c 369 s 5 are each amended to
23 read as follows:

24 (1) Until July 1, 2015, upon every person engaging within this
25 state in the business of operating contests of chance; as to such
26 persons, the amount of tax with respect to the business of operating
27 contests of chance is equal to the gross income of the business derived
28 from contests of chance multiplied by the rate of 1.5 percent.

29 (2) An additional tax is imposed on those persons subject to tax in
30 subsection (1) of this section or who would otherwise be subject to the
31 tax if not for its expiration on July 1, 2015. The amount of the
32 additional tax with respect to the business of operating contests of
33 chance is equal to the gross income of the business derived from
34 contests of chance multiplied by the rate of 0.1 percent through June
35 30, 2006, and 0.13 percent thereafter. The money collected under this
36 subsection (2) (~~shall~~) must be deposited in the problem gambling
37 account created in RCW 43.20A.892. This subsection does not apply to

1 businesses operating contests of chance when the gross income from the
2 operation of contests of chance is less than fifty thousand dollars per
3 year.

4 (3) For the purpose of this section, "contests of chance" means any
5 contests, games, gaming schemes, or gaming devices, other than the
6 state lottery as defined in RCW 67.70.010, in which the outcome depends
7 in a material degree upon an element of chance, notwithstanding that
8 skill of the contestants may also be a factor in the outcome. The term
9 includes social card games, bingo, raffle, and punchboard games, and
10 pull-tabs as defined in chapter 9.46 RCW. The term does not include
11 race meets for the conduct of which a license must be secured from the
12 Washington horse racing commission, or "amusement game" as defined in
13 RCW 9.46.0201.

14 (4) "Gross income of the business" does not include the monetary
15 value or actual cost of any prizes that are awarded, amounts paid to
16 players for winning wagers, accrual of prizes for progressive jackpot
17 contests, or repayment of amounts used to seed guaranteed progressive
18 jackpot prizes.

19 PART XII

20 EXTENDING SALES TAX TO ALL SERVICES

21 **Sec. 1201.** RCW 82.04.050 and 2011 c 174 s 202 are each amended to
22 read as follows:

23 (1)(a) "Sale at retail" or "retail sale" means every sale of
24 tangible personal property (including articles produced, fabricated, or
25 imprinted) to all persons irrespective of the nature of their business
26 and including, among others, without limiting the scope hereof, persons
27 who install, repair, clean, alter, improve, construct, or decorate real
28 or personal property of or for consumers other than a sale to a person
29 who:

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

34 (ii) Installs, repairs, cleans, alters, imprints, improves,
35 constructs, or decorates real or personal property of or for consumers,

1 if such tangible personal property becomes an ingredient or component
2 of such real or personal property without intervening use by such
3 person; or

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

10 (iv) Purchases for the purpose of consuming the property purchased
11 in producing ferrosilicon which is subsequently used in producing
12 magnesium for sale, if the primary purpose of such property is to
13 create a chemical reaction directly through contact with an ingredient
14 of ferrosilicon; or

15 (v) Purchases for the purpose of providing the property to
16 consumers as part of competitive telephone service, as defined in RCW
17 82.04.065; or

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

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

28 (c) The term also means every sale of tangible personal property to
29 persons engaged in any business that is taxable under RCW
30 (~~(82.04.280(1) (a), (b), and (g),~~) 82.04.290(~~(7)~~) and 82.04.2908.

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

34 (a) The installing, repairing, cleaning, altering, imprinting, or
35 improving of tangible personal property of or for consumers, including
36 charges made for the mere use of facilities in respect thereto, but
37 excluding charges made for the use of self-service laundry facilities,

1 and also excluding sales of laundry service to nonprofit health care
2 facilities, and excluding services rendered in respect to live animals,
3 birds and insects;

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

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

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

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

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

1 presumed that the sale of and charge made for the furnishing of lodging
2 for a continuous period of one month or more to a person is a rental or
3 lease of real property and not a mere license to enjoy the same;

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

6 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of
7 this subsection when such sales or charges are for property, labor and
8 services which are used or consumed in whole or in part by such persons
9 in the performance of any activity defined as a "sale at retail" or
10 "retail sale" even though such property, labor and services may be
11 resold after such use or consumption. Nothing contained in this
12 subsection may be construed to modify subsection (1) of this section
13 and nothing contained in subsection (1) of this section may be
14 construed to modify this subsection.

15 (3) The term "sale at retail" or "retail sale" includes the sale of
16 or charge made for all other personal, business, or professional
17 services not otherwise specified under this section, including amounts
18 designated as interest, rents, fees, admission, and other service
19 emoluments however designated (~~(, received by persons engaging in the~~
20 ~~following business activities:~~

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

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

25 ~~(c) Credit bureau services;~~

26 ~~(d) Automobile parking and storage garage services;~~

27 ~~(e) Landscape maintenance and horticultural services but excluding~~
28 ~~(i) horticultural services provided to farmers and (ii) pruning,~~
29 ~~trimming, repairing, removing, and clearing of trees and brush near~~
30 ~~electric transmission or distribution lines or equipment, if performed~~
31 ~~by or at the direction of an electric utility;~~

32 ~~(f) Service charges associated with tickets to professional~~
33 ~~sporting events; and~~

34 ~~(g) The following personal services: Physical fitness services,~~
35 ~~tanning salon services, tattoo parlor services, steam bath services,~~
36 ~~turkish bath services, escort services, and dating services).~~

37 Services provided by an employee to an employer are not included within
38 the definition of retail sale under this subsection (3).

1 (4)(a) The term also includes the renting or leasing of tangible
2 personal property to consumers.

3 (b) The term does not include the renting or leasing of tangible
4 personal property where the lease or rental is for the purpose of
5 sublease or subrent.

6 (5) The term also includes the providing of "competitive telephone
7 service," "telecommunications service," or "ancillary services," as
8 those terms are defined in RCW 82.04.065, to consumers.

9 (6)(a) The term also includes the sale of prewritten computer
10 software to a consumer, regardless of the method of delivery to the end
11 user. For purposes of this subsection (6)(a), the sale of prewritten
12 computer software includes the sale of or charge made for a key or an
13 enabling or activation code, where the key or code is required to
14 activate prewritten computer software and put the software into use.
15 There is no separate sale of the key or code from the prewritten
16 computer software, regardless of how the sale may be characterized by
17 the vendor or by the purchaser.

18 The term "retail sale" does not include the sale of or charge made
19 for:

20 (i) Custom software; or

21 (ii) The customization of prewritten computer software.

22 (b)(i) The term also includes the charge made to consumers for the
23 right to access and use prewritten computer software, where possession
24 of the software is maintained by the seller or a third party,
25 regardless of whether the charge for the service is on a per use, per
26 user, per license, subscription, or some other basis.

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

30 (B) For purposes of this subsection (6)(b)(ii), "data processing"
31 means the systematic performance of operations on data to extract the
32 required information in an appropriate form or to convert the data to
33 usable information. Data processing includes check processing, image
34 processing, form processing, survey processing, payroll processing,
35 claim processing, and similar activities.

36 (7) The term also includes the sale of or charge made for an
37 extended warranty to a consumer. For purposes of this subsection,
38 "extended warranty" means an agreement for a specified duration to

1 perform the replacement or repair of tangible personal property at no
2 additional charge or a reduced charge for tangible personal property,
3 labor, or both, or to provide indemnification for the replacement or
4 repair of tangible personal property, based on the occurrence of
5 specified events. The term "extended warranty" does not include an
6 agreement, otherwise meeting the definition of extended warranty in
7 this subsection, if no separate charge is made for the agreement and
8 the value of the agreement is included in the sales price of the
9 tangible personal property covered by the agreement. For purposes of
10 this subsection, "sales price" has the same meaning as in RCW
11 82.08.010.

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

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

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

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

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

22 (b) A retail sale of digital goods, digital codes, or digital
23 automated services under this subsection (8) includes any services
24 provided by the seller exclusively in connection with the digital
25 goods, digital codes, or digital automated services, whether or not a
26 separate charge is made for such services.

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

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

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

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

24 (12) The term does not include the sale of or charge made for labor
25 and services rendered in respect to the constructing, repairing,
26 decorating, or improving of new or existing buildings or other
27 structures under, upon, or above real property of or for the United
28 States, any instrumentality thereof, or a county or city housing
29 authority created pursuant to chapter 35.82 RCW, including the
30 installing, or attaching of any article of tangible personal property
31 therein or thereto, whether or not such personal property becomes a
32 part of the realty by virtue of installation. Nor does the term
33 include the sale of services or charges made for the clearing of land
34 and the moving of earth of or for the United States, any
35 instrumentality thereof, or a county or city housing authority. Nor
36 does the term include the sale of services or charges made for cleaning
37 up for the United States, or its instrumentalities, radioactive waste

1 and other by-products of weapons production and nuclear research and
2 development.

3 (13) The term does not include the sale of or charge made for
4 labor, services, or tangible personal property pursuant to agreements
5 providing maintenance services for bus, rail, or rail fixed guideway
6 equipment when a regional transit authority is the recipient of the
7 labor, services, or tangible personal property, and a transit agency,
8 as defined in RCW 81.104.015, performs the labor or services.

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

12 **PART XIII**
13 **MISCELLANEOUS**

14 NEW SECTION. **Sec. 1301.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 1302.** Sections 101 through 709 of this act
19 constitute a new title in the Revised Code of Washington, to be
20 codified as Title 82A RCW.

21 NEW SECTION. **Sec. 1303.** (1) If this act is approved by the voters
22 as provided in section 1306 of this act, except as otherwise provided
23 in this section, this act takes effect January 1, 2015.

24 (2) If this act is approved by the voters as provided in section
25 1306 of this act, parts XI and XII of this act take effect July 1,
26 2015.

27 NEW SECTION. **Sec. 1304.** If any amendments in this act, or any
28 sections enacted or affected by chapter . . . , Laws of 2012 (this act),
29 are enacted in a 2012 legislative session that do not take cognizance
30 of chapter . . . , Laws of 2012 (this act), the code reviser must
31 prepare a bill for introduction in the 2013 or 2014 legislative session
32 that incorporates any such amendments into the reorganization adopted

1 by chapter . . . , Laws of 2012 (this act) and corrects any incorrect
2 cross-references.

3 NEW SECTION. **Sec. 1305.** This act may be known and cited as the
4 higher opportunity promise for education act.

5 NEW SECTION. **Sec. 1306.** The secretary of state shall submit this
6 act to the people for their adoption and ratification, or rejection, at
7 the next general election to be held in this state, in accordance with
8 Article II, section 1 of the state Constitution and the laws adopted to
9 facilitate its operation.

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