Initiative Measure No. 1070

FILED

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SECRETARY OF STATE
STATE OF WASHINGTON

AN ACT Relating to education, health care, and fiscal reform; amending RCW 82.04.4451; adding a new chapter to Title 82 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

PART I

GENERAL PROVISIONS

NEW SECTION. **Sec. 101.** INTENT. It is the intent of the people to create a new trust fund dedicated to improving education and health services and providing middle class tax relief by reducing the state property tax by 20% and eliminating the business and occupation tax for all small businesses, to be funded by an excise tax on joint income in excess of $400,000 ($200,000 for individuals).

PART II

ESTABLISHING A NEW TRUST FUND DEDICATED TO EDUCATION AND HEALTH SERVICES AND MIDDLE CLASS TAX RELIEF, FUNDED BY AN EXCISE TAX ON JOINT INCOMES IN EXCESS OF $400,000 ($200,000 FOR INDIVIDUALS)

NEW SECTION. **Sec. 201.** (1) A new state trust fund is hereby established dedicated to funding education and health services and middle class tax relief. The trust is known and cited as the education, health services, and middle class tax relief trust and is funded by the excise tax on joint incomes in excess of $400,000 ($200,000 for individuals) imposed under this chapter.

(2) Net revenue received by the trust must be devoted to education and health services. Seventy percent of the net revenues received by the trust must be deposited into the education legacy trust account and used exclusively for the purposes of that account. Thirty percent of the net revenues received by the trust must be used exclusively to supplement amounts available to fund the basic health plan under chapter 70.47 RCW, to provide for costs of state and local public health services, and to provide for long-term care services for seniors and people with disabilities under chapter 74.39A RCW and other health services. Net revenue shall be that revenue received by the trust in excess of that necessary to fund the middle class tax relief adopted in part III of this Act.

(3) Before computing or spending net revenue, the state treasurer must each year certify the revenue that would have been deposited in the general fund but for the middle class tax relief adopted in sections 301 through 303 of this act, and must make such deposits as are necessary to replace the revenue eliminated by such middle class tax relief.

NEW SECTION. **Sec. 202.** The office of financial management must prepare an annual report summarizing how funds deposited in the trust have been spent and estimating the number of state residents benefited. Monthly disclosure of tax collection and spending under this chapter must be posted on a web site maintained by the treasurer and the office of financial management and such disclosure must, at a minimum, include the information set forth in RCW 43.08.150.

PART III

ADOPTION OF MIDDLE CLASS TAX RELIEF BY REDUCING THE STATE PROPERTY TAX BY TWENTY PERCENT AND ELIMINATING THE BUSINESS AND OCCUPATION TAX FOR SMALL BUSINESSES

NEW SECTION. **Sec. 301.** Beginning in 2012, the state property tax levy is reduced by twenty percent (20%) of the levy amount that would otherwise be allowed under this chapter without regard to this section.

NEW SECTION. **Sec. 302.** It is the intent of the voters that beginning in 2012, the business and occupation tax imposed in chapter 82.04 RCW for small businesses must be eliminated by increasing the business and occupation tax credit to four thousand eight hundred dollars ($4,800) per year, which will exempt approximately the smallest eighty-five percent of businesses in the state from the business and occupation tax and reduce the business and occupation tax for other businesses. The elimination of the business and occupation tax for small businesses must be carried out as provided in RCW 82.04.4451.

Sec. 303. RCW 82.04.4451 and 1997 c 238 s 2 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. The maximum annual credit for a taxpayer ((~~for a reporting period~~)) is ((~~thirty five dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045~~)) forty-eight hundred dollars ($4,800). The department may by rule divide the credit into monthly or quarterly credits when monthly or quarterly returns are required.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

(4) The department may prepare a tax credit table consisting of tax ranges using increments of no more than five dollars and a corresponding tax credit to be applied to those tax ranges. The table shall be prepared in such a manner that no taxpayer will owe a greater amount of tax by using the table than would be owed by performing the calculation under subsections (1) through (3) of this section. A table prepared by the department under this subsection shall be used by all taxpayers in taking the credit provided in this section.

PART IV

DEFINITIONS

NEW SECTION. **Sec. 401.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adjusted gross income" means adjusted gross income as determined under the federal internal revenue code.

(2) "Federal base income" means:

(a) For individuals, adjusted gross income; and

(b) For estates and trusts, taxable income as determined for estates and trusts consistent with subtitle A, chapter I, subchapter J of the federal internal revenue code.

(3) "Individual" means a natural person.

(4) "Internal revenue code" means the United States internal revenue code of 1986 and amendments thereto, as existing and in effect on January 1, 2010.

(5) "Person" includes individuals, estates, and trusts.

(6) "Resident" includes an individual who:

(a) Has resided in this state for the entire tax year; or

(b) Is domiciled in this state unless the individual:

(i) Maintains no permanent place of abode in this state; and

(ii) Does not maintain a permanent place of abode elsewhere; and

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

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

(d) Claims this state as the individual's tax home for federal income tax purposes.

(7)"Resident estate" means an estate of which a personal representative was appointed by a Washington court or an estate, the administration of which is carried on in this state.

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

(9) "S corporation" means an S corporation as defined in section 1361 of the internal revenue code.

(10)"Tax" means the tax imposed in this chapter, unless the context requires a different meaning.

(11) "Taxable income" means federal base income as modified under sections 701 through 803 of this act.

(12) "Taxable year" means the taxpayer's taxable year as defined under the internal revenue code.

(13) "Taxpayer" means a person receiving income subject to tax under this chapter.

NEW SECTION. **Sec. 402.** DEFINITION OF TERMS GENERALLY. Except as provided in section 401 of this act, any term used in this chapter has the same meaning as when used in a comparable context in the internal revenue code.

PART V

DETERMINATION OF EXCISE TAX

NEW SECTION. **Sec. 501.** EXCISE TAX IMPOSED--RATES. (1) An excise tax is imposed on the receipt of all taxable income of resident individuals, estates, and trusts and on all individuals, estates, and trusts deriving income from sources within this state for each taxable year based on the type of return filed and the amount of income in accordance with this section. An excise tax is not imposed on the assets held by a person resulting from income after its receipt, but only upon the receipt itself.

(2) For every married couple filing jointly with his or her spouse and for every surviving spouse (as defined in the internal revenue code), the excise tax is determined in accordance with the following table:

If taxable income received is:	The tax is:
Not over $400,000	0
Over $400,000 but not over $1,000,000	5.0% of the excess over $400,000
Over $1,000,000	$30,000 plus 9.0% of the excess over $1,000,000

(3) For every individual, other than a surviving spouse (as defined in the internal revenue code), who is not a married individual and for every married individual who does not make a single return jointly with his or her spouse and for every estate and trust, the excise tax is determined in accordance with the following table:

If taxable income received is:	The tax is:
Not over $200,000	0
Over $200,000 but not over $500,000	5.0% of the excess over $200,000
Over $500,000 .	$15,000 plus 9.0% of the excess over $500,000

NEW SECTION. **Sec. 502.** CREDIT FOR INCOME TAXES DUE ANOTHER JURISDICTION. (1) A resident individual, estate, or trust is allowed a credit against the tax imposed under this chapter for the amount of any income tax imposed by another state or foreign country, or political subdivision of the state or foreign country, on income taxed under this chapter, subject to the following conditions, which must be imposed separately with respect to each taxing jurisdiction:

(a) The credit is allowed only for taxes imposed by the other jurisdiction on net income from sources within that jurisdiction; and

(b) The amount of the credit shall not exceed the smaller of:

(i) The amount of tax paid to the other jurisdiction on net income from sources within the other jurisdiction; or

(ii) The amount of tax due under this chapter before application of credits allowable by this chapter, multiplied by a fraction. The numerator of the fraction is the amount of the taxpayer's adjusted gross income subject to tax in the other jurisdiction. The denominator of the fraction is the taxpayer's total adjusted gross income as modified by this chapter. The fraction may never be greater than one.

(2) If, in lieu of a credit similar to the credit allowed under subsection (1) of this section, the laws of the other taxing jurisdiction contain a provision exempting a resident of this state from liability for the payment of income taxes on income earned for personal services performed in such jurisdiction, then the director is authorized to enter into a reciprocal agreement with such jurisdiction providing a similar tax exemption on income earned for personal services performed in this state.

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

NEW SECTION. **Sec. 503.** DUAL RESIDENCE. If an individual is regarded as a resident both of this state and another jurisdiction for state personal income tax purposes, the department must reduce the tax on that portion of the taxpayer's income which is subjected to tax in both jurisdictions solely by virtue of dual residence, if the other taxing jurisdiction allows a similar reduction. The reduction must equal the lower of the two taxes applicable to the income taxed twice, multiplied by a fraction. The numerator of the fraction is the tax imposed by this state on the income taxed twice. The denominator of the fraction is the tax imposed by both jurisdictions on the income taxed twice. The fraction must never be greater than one.

PART VI

TAXABLE INCOME MODIFICATIONS

NEW SECTION. **Sec. 601.** INTRODUCTORY. In computing taxable income, modifications must be made to the taxpayer's federal base income as required under this section and sections 602 through 703 of this act, unless the modification has the effect of duplicating an item of income or deduction.

NEW SECTION. **Sec. 602.** STATE AND LOCAL OBLIGATIONS. To federal base income, add income that has been excluded under section 103 of the internal revenue code in computing federal base income, except excluded interest on obligations of the state of Washington or political subdivisions of the state of Washington, or instrumentalities thereof.

NEW SECTION. **Sec. 603.** STATE AND LOCAL INCOME TAXES. To federal base income, add taxes on or measured by net income which have been deducted under the internal revenue code in computing federal base income.

NEW SECTION. **Sec. 604.** NET OPERATING LOSS. Deduct from federal base income the amount of net operating loss as allowed in section 172 of the internal revenue code. The calculation of the loss amount must reflect the modifications to federal base income as provided in this chapter and a net operating loss deduction may include a loss carried forward to the tax year but may not include a loss carried back from a future year.

NEW SECTION. **Sec. 605.** FEDERAL OBLIGATIONS. From federal base income, deduct, to the extent included in federal base income, income derived from obligations of the United States which this state is prohibited by federal law from subjecting to a net income tax. However, the amount deducted under this section must be reduced by any expense, including amortizable bond premiums, incurred in the

production of such income to the extent the expense has been deducted in calculating federal base income.

NEW SECTION. **Sec. 606.** TAX RETURNS FOR FRACTIONAL YEAR. If the first taxable year of any taxpayer with respect to which a tax is imposed by this chapter ends before December 31st of the calendar year in which this chapter becomes effective, the taxable income for the fractional taxable year is the taxpayer's taxable income for the entire taxable year, adjusted by one of the following methods, at the taxpayer's election:

(1) The taxable income must be multiplied by a fraction. The numerator of the fraction is the number of days in the fractional taxable year. The denominator of the fraction is the number of days in the entire taxable year.

(2) The taxable income must be adjusted, in accordance with rules of the department, so as to include only such income and be reduced only by such deductions as can be clearly determined from the permanent records of the taxpayer to be attributable to the fractional taxable year.

PART VII

DIVISION OF INCOME, MODIFICATIONS, AND CREDITS

NEW SECTION. **Sec. 701.** APPORTIONMENT AND ALLOCATION OF INCOME. (1) For resident individuals, estates, and trusts, all income must be apportioned and allocated to this state.

(2) For nonresident individuals, estates, and trusts, income derived from sources within this state must be apportioned and allocated to this state.

(3) For purposes of this chapter:

(a) The adjusted gross income of a nonresident derived from sources within this state is the net amount of items of income, gain, loss, and deduction of the nonresident's federal adjusted gross income

that are derived from or connected with sources in this state including any distributive share of partnership income and deductions, and any share of estate or trust income and deductions, including any unrelated business income of an otherwise exempt trust or organization.

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

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

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

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

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

NEW SECTION. **Sec. 702.** PARTNERSHIPS AND S CORPORATIONS. (1) Partnerships are not subject to tax under this chapter. Partners are subject to tax under this chapter in their separate or individual capacities.

(2) S corporations are not subject to tax under this chapter. Shareholders of S corporations are subject to tax under this chapter in their separate or individual capacities.

(3) The taxable incomes of partners shall be computed by including a pro rata share of the modifications under sections 601 through 703 of this act and the credit allowed under section 502 of this act, if the modification or credit relates to the income of the partnership. Each partner's pro rata share of a modification or credit is the amount of modification or credit multiplied by a fraction. The numerator of the fraction is the partner's distributive share of partnership income. The denominator of the fraction is the total partnership income. The fraction shall never be greater than one.

(4) The taxable incomes of shareholders of S corporations must be computed by including a share of the modifications under sections 601 through 703 of this act and the credits allowed under section 502 of this act, if the modification or credit relates to the income of the S corporation. Each shareholder's share of a modification or credit is the amount of modification or credit multiplied by a fraction. The numerator of the fraction is the shareholder's pro rata share of S corporation income. The denominator of the fraction is the total S corporation income. The fraction may never be greater than one.

(5) As used in this section:

(a) "S corporation income" includes both distributed and undistributed federal taxable income of the S corporation.

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

NEW SECTION. **Sec. 703.** ESTATES, TRUSTS, AND BENEFICIARIES. (1) The taxable incomes of estates, trusts, and beneficiaries thereof is computed by including a share of the modifications under sections 601 through 703 of this act and the credits allowed under section 502 of this act. Each taxpayer's share of a modification or credit is the amount of modification or credit multiplied by a fraction. The numerator of the fraction is the taxpayer's share of the distributable net income of the estate or trust. The denominator of the fraction is the total distributable net income of the estate or trust. The fraction may never be greater than one.

(2) As used in this section, "distributable net income" means distributable net income as defined in the internal revenue code. If an estate or trust has no federal distributable net income, the term means the income of the estate or trust which is distributed or is required to be distributed during the taxable year under local law or the terms of the estate or trust instrument.

(3) Any portion of a modification which is not included in calculating the taxable incomes of the beneficiaries shall be included in calculating the taxable income of the trust or estate.

PART VIII

WITHHOLDING--ESTIMATED TAX

NEW SECTION. **Sec. 801.** EMPLOYER WITHHOLDING--REQUIREMENTS. (1) Every employer making a payment of wages or salaries earned in this state, regardless of the place where the payment is made, and who is required by the internal revenue code to withhold taxes, shall deduct and withhold a tax as prescribed by the department by rule. The rules

prescribed must reasonably reflect the annual tax liability of the employee under this chapter. Every employer making such a deduction and withholding shall furnish to the employee a record of the amount of tax deducted and withheld from the employee on forms provided by the department.

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

NEW SECTION. **Sec. 802.** LIABILITY OF EMPLOYER FOR TAX WITHHELD. Any person required to deduct and withhold the tax imposed by this chapter is liable to the department for the payment of the amount deducted and withheld, and is not liable to any other person for the amount of tax deducted and withheld under this chapter or for the act of withholding.

NEW SECTION. **Sec. 803.** CREDIT FOR TAX WITHHELD--HOW CLAIMED. The amount deducted and withheld as tax under sections 801 through 806 of this act during any taxable year is allowed as a credit against the tax imposed for the taxable year by this chapter. If the liability of any individual for taxes, interest, penalties, or other amounts due the state of Washington is less than the total amount of the credit which the individual is entitled to claim under this section, the individual is entitled to a refund from the department in the amount of the excess of the credit over the tax otherwise due. If any individual entitled to claim a credit under this section is not otherwise required by this chapter to file a return, a refund may be obtained in the amount of the credit by filing a return, with

applicable sections completed, to claim the refund. No credit or refund is allowed under this section unless the credit or refund is claimed on a return filed for the taxable year for which the amount was deducted and withheld.

NEW SECTION. **Sec. 804.** WITHHOLDING--FAILURE TO PAY OR COLLECT--PENALTIES. (1) The tax required by this chapter to be collected by the employer is deemed to be held in trust by the employer until paid to the department.

(2) In case any employer, or a responsible person within the meaning of internal revenue code section 6672, having collected the tax herein imposed, fails to pay it to the department, the employer or responsible person must, nevertheless, be personally liable to the state for the amount of the tax. The interest and penalty provisions of chapter 82.32 RCW apply to this section. An employer or other responsible person who appropriates or converts the tax herein imposed is guilty of a gross misdemeanor as provided in chapter 9A.20 RCW.

(3) In case any employer or responsible person within the meaning of internal revenue code section 6672 fails to collect the tax herein imposed, the employer or responsible person must, nevertheless, be personally liable to the state for the amount of the tax unless it is shown that the failure was due to a reasonable cause and not willful neglect.

NEW SECTION. **Sec. 805.** ESTIMATED TAX IMPOSED--DUE DATE OF ESTIMATED TAXES--AMOUNT OF ESTIMATED TAX--UNDERPAYMENT PENALTY. (1) Each individual, estate, or trust subject to taxation by this chapter which is required by the internal revenue code to make payment of estimated taxes must pay to the department on forms prescribed by the department the estimated taxes due under this chapter.

(2) The provisions of the internal revenue code relating to the determination of reporting periods and due dates of payments of

estimated tax applies to the estimated tax payments due under this section.

(3) The amount of the estimated tax is the annualized tax divided by the number of months in the reporting period. No estimated tax is due if the annualized tax is less than five hundred dollars. The provisions of RCW 82.32.050 and 82.32.090 apply to underpayments of estimated tax but do not apply to underpayments if the tax remitted to the department is either ninety percent of the tax due as shown on the current year's tax return or one hundred percent of the tax shown on the previous year's tax return.

(4) For purposes of this section, the annualized tax is the taxpayer's projected tax liability for the tax year as computed pursuant to internal revenue code section 6654 and the regulations thereunder.

PART IX

ADMINISTRATIVE PROVISIONS

NEW SECTION. **Sec. 901.** METHOD OF ACCOUNTING. (1) A taxpayer's method of accounting for purposes of the tax imposed under this chapter is the same as the taxpayer's method of accounting for federal income tax purposes. If no method of accounting has been regularly used by a taxpayer for federal income tax purposes or if the method used does not clearly reflect income, tax due under this chapter is computed by a method of accounting which in the opinion of the department fairly reflects income.

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

NEW SECTION. **Sec. 902.** PERSONS REQUIRED TO FILE RETURNS. (1) Only taxpayers with joint income in excess of $400,000 ($200,000 for individuals) are required to file a tax return with the department.

The department must utilize such taxpayer's federal tax returns as a primary tool for obtaining taxpayers' information. The department may prescribe a simple supplement of no more than two pages for computing the excise tax owed under this chapter. Each person required to file a return under this chapter must, without assessment, notice, or demand, pay any tax due thereon to the department on or before the date fixed for the filing of the return.

(2) The department may by rule require that certain taxpayers file, on forms prescribed by the department, informational returns for any period. Each person required by rule to file an informational return must, without assessment, notice, or demand, pay any tax due thereon to the department on or before the date fixed for the filing of the informational return.

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

NEW SECTION. **Sec. 903.** DUE DATE FOR FILING A RETURN--EXTENSIONS--INTEREST AND PENALTIES. The due date of a return required to be filed with the department is the due date of the federal income tax

return or informational return for federal income tax purposes. The department must have the authority to grant extensions of times by which returns required to be filed by this chapter may be submitted. The department must also have the authority to grant extensions of time to pay tax with regard to taxes imposed by this chapter. Interest at the rate as specified in RCW 82.32.050 accrues during any extension period and the interest and penalty provisions of chapter 82.32 RCW apply to late payments and deficiencies. Notwithstanding the limitation of RCW 82.32.090, in the case of the late filing of an informational return, there is imposed a penalty the amount of which is established by the department by rule. The penalty may not exceed fifty dollars per month for a maximum of ten months. RCW 82.32.105 applies to this section.

NEW SECTION. **Sec. 904.** JOINT RETURN. (1) If the federal income tax liabilities of both spouses are determined on a joint federal return for the taxable year, they must file a joint return under this chapter unless one spouse is a resident and the other is a nonresident.

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

(3) If the federal income tax liability of either spouse is determined on a separate federal return for the taxable year, they must file separate tax returns under this chapter.

(4) If one spouse is a resident and the other is a nonresident, they must file separate returns under this chapter, unless they elect to determine their tax liabilities under this chapter on a joint return as if they were both residents, and:

(a) Their federal tax liability for the taxable year was determined on a joint federal tax return; or

(b) Neither spouse has filed a federal income tax return for the taxable year and they would be permitted to file a joint federal tax return for the taxable year.

(5) In any case in which a joint return is filed under this section, the liability of the husband and wife is joint and several, unless the spouse is relieved of liability under section 6013 of the internal revenue code.

NEW SECTION. **Sec. 905.** RECORDS--RETURNS. (1) Every taxpayer with joint income in excess of $400,000 ($200,000 for individuals) and all others required to deduct and withhold the tax imposed under this chapter must keep records, render statements, make returns, file reports, and perform other acts as the department requires by rule. Each return must be made under penalty of perjury and on forms prescribed by the department. The department may require other statements and reports be made under penalty of perjury and on forms prescribed by the department. The department may require any taxpayer and any person required to deduct and withhold the tax imposed under this chapter to furnish to the department a correct copy of any return or document which the taxpayer has filed with the internal revenue service or received from the internal revenue service.

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

NEW SECTION. **Sec. 906.** PROVISIONS OF INTERNAL REVENUE CODE CONTROL. (1) To the extent possible without being inconsistent with this chapter, all of the provisions of the internal revenue code relating to the following subjects apply to the taxes imposed under this chapter:

(a) Time of payment of tax deducted and withheld under sections 901 through 905 of this act and this section;

(b) Liability of transferees;

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

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

NEW SECTION. **Sec. 907.** REFUNDS OF OVERPAYMENTS--OTHER ADMINISTRATIVE PROVISIONS. (1) The department must refund all taxes improperly paid or collected.

(2) The following sections apply to the administration of taxes imposed under this chapter: RCW 82.32.020, 82.32.050, 82.32.060, 82.32.070, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.120, 82.32.130, 82.32.140, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210, 82.32.220, 82.32.230, 82.32.235, 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.290, 82.32.300, 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, and 82.32.380.

NEW SECTION. **Sec. 908.** RULES. The department may adopt rules under chapter 34.05 RCW for the administration and enforcement of this chapter. The rules, to the extent possible without being inconsistent with this chapter, must follow the internal revenue code and the regulations and rulings of the United States treasury department with respect to the federal income tax. The department may adopt as a part of these rules any portions of the internal revenue code and treasury department regulations and rulings, in whole or in part.

NEW SECTION. **Sec. 909.** APPEALS. The board of tax appeals shall have jurisdiction over appeals relating to tax deficiencies and refunds, including penalties and interest, pursuant to this chapter.

The taxpayer may elect a formal or informal hearing pursuant to RCW 82.03.140.

PART X

MISCELLANEOUS

NEW SECTION. **Sec. 1001.** CONTEXT. In 1932, more than seventy percent of Washington voters approved an income tax initiative and simultaneously cut property taxes in half. The following year, the state supreme court, in an opinion that ultimately relied on United States supreme court cases that have long since been overruled, treated Washington's graduated income tax, as then drafted, as a nonuniform property tax. This threw the state's tax system into confusion and led to Washington's overreliance on high sales taxes and the business and occupations tax. The sales tax is regressive and stunts business growth. The business and occupation tax, which is peculiar to Washington state, discourages investment and encourages many potential employers to take their business elsewhere. The tax established by this initiative is intentionally structured as an excise tax on the receipt of income during a taxable year rather than as a property tax on money as an asset, after it has been received. As an excise tax rather than a property tax, this tax is intended to conform to the legal framework adopted by almost all states, consistent with United States supreme court rulings as they have evolved during the past eight decades. This initiative is also aimed at replicating the voters' 1932 action to reduce property taxes while installing a much fairer tax system overall and providing more stable funding to enable the state to meet its constitutional duty to provide for the education of all children, and to enable the state to better provide for the costs of health care.

NEW SECTION. **Sec. 1002.** SEVERABILITY. The provisions of this initiative are contingent upon the validity of the excise tax

in section 501 of this act. Except as to this contingency, the voters intend the provisions of this initiative to be severable such that if any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 1003.** CODIFICATION. Sections 101 and 401 through 1002 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec. 1004.** APPLICATION. This act applies to taxes collectible in 2012 and thereafter.

NEW SECTION. **Sec. 1005.** The excise tax rates in section 501 of this act may not be increased for any income level without a majority vote of the legislature and submission of the changes to the people for approval.