



Initiative Measure 314

TO THE PEOPLE

Ballot Title:

Shall corporations pay a 12% excise tax measured by income so that special school levies may be reduced or eliminated?

NOTE: The ballot title and explanatory statement were written by the Attorney General as required by state law. The complete text of Initiative Measure 314 begins on Page 16.

Statement for

When the Legislature failed to reduce consumer taxes and solve the school funding crisis, more than 122,000 Washington voters signed Initiative 314.

YOU NOW PAY MORE THAN YOUR FAIR SHARE

Individual taxes are too high; corporate taxes are too low. Sales taxes have been increased four times in sixteen years. Property taxes have nearly tripled. State tax loopholes benefit the large corporations. Initiative 314 gives individual taxpayers a long overdue break.

INITIATIVE 314 CUTS PROPERTY TAXES

Initiative 314 shifts the tax load from Washington property owners, including Washington-based businesses. Property taxes will be reduced by \$195 million a year. The tax on corporate profits will be paid only by those who can afford it — mainly large, out-of-state corporations which pay minimal property taxes and employ few people in the state. The state's 100,000 unincorporated small businesses will be exempt.

INITIATIVE 314 RELIEVES THE SCHOOL FUNDING CRISIS

Initiative 314 is the only realistic alternative to special school levies for funding the basic needs of schools. With expected economies in school spending, it will replace most of special levies. Special levies can then be used for special purposes. Schools will remain under local control. Failure of 314 will only worsen the school funding problem.

INITIATIVE 314 STIMULATES BUSINESS AND CREATES JOBS

Initiative 314 keeps more than \$100 million in the state that would otherwise go to out-of-state stockholders as corporate

dividends or to the federal government as taxes. This money can be spent by consumers to stimulate business and create jobs for Washington's 150,000 unemployed workers. Corporate business continues to grow and prosper in the 45 other states which already tax corporate profits.

Rebuttal of Statement against

The big business opponents have cleverly tried to cloud this issue. Their goal is to confuse and frighten voters with statements that cannot be substantiated. Their allegations have been proven incorrect in the 45 other states with a corporate tax. Remember, when the clouds are cleared, 314 does four things: (1) Substantially reduces property taxes; (2) Shifts our tax burden by taxing corporate profits only; (3) Helps solve the school funding crisis; (4) Stimulates our economy and creates jobs.

Voters' Pamphlet Statement Prepared by:

NAT WASHINGTON, State Senator, Democrat; CHARLES MOON, State Representative, Democrat; and JOE HAUSSLER, State Representative, Democrat.

Advisory Committee: Dr. REED HANSON, Department of Economics, Washington State University; JAMES AUCUTT, President, Washington Education Association; JOE DAVIS, President, Washington State Labor Council, AFL-CIO; MAXINE KRULL, President, League of Women Voters of Washington; and TOM HALL, President, Washington State Dairy Federation.

The Law as it now exists:

The state does not now impose any tax measured by net income or profits on corporations or any other taxpayers. Corporations, and other types of businesses, however, now pay various excise and property taxes, together with license fees. The main excise tax is the business and occupation tax, which is measured by gross income (total business volume) and which is imposed at various rates of not more than 1%. There is no restriction on the purposes for which the moneys derived from the business and occupation tax may be expended.

The effect of Initiative 314, if approved into Law:

This initiative, if upheld by the courts, would impose upon corporations a 12% tax measured by net income or profits derived from their business in this state. Revenue received from the tax would be earmarked for school support. The annual license fees which are currently paid by corporations would be allowed as credits against the new tax. The business and occupation tax and other excise and property taxes, however, would not be allowed as such credits.

Statement against

MASSIVE TAX INCREASE—AND STILL NO ANSWER FOR SCHOOLS

Initiative 314 would raise only about half the money needed to replace special levies—special levies would still be necessary. Passage would considerably delay a workable solution for schools as the Initiative is certain to be challenged on its constitutionality—the Legislature will be reluctant to act until the courts decide. Passage would add additional problems of more control from Olympia and less decision making by local citizens.

DOUBLE TAXATION—A TAX ON PEOPLE

Corporate business already pays the state business and occupations tax the same as all other business. Only a fraction of the 40,000 corporations doing business in Washington are based out-of-state—all the rest are Washington citizens doing business in Washington. Washington owned and operated business would have no other alternatives than to raise prices or lay off workers—those faced with out-of-state competition may be forced out of business.

MORE STATE SPENDING—NOT LESS TAXES FOR PEOPLE

Initiative 314 adds a new tax and more money for schools without controls for prudent spending and local school accountability. It creates another costly state bureaucracy to administer and collect the tax. It does not roll-back already voted school levies for taxes in 1976. There is no provision to

require landlords to pass any tax relief on to renters. It says nothing about limiting or eliminating special levies—levies will still be necessary and will grow as in the past.

A BUSINESS INCOME TAX—DOORWAY TO UNLIMITED PERSONAL INCOME TAXES

Initiative 314 is a **net income tax** on business. If held constitutional by the courts, the door is open for an income tax on individual salaries and wages.

Rebuttal of Statement for

DON'T BE FOOLED! Substituting one tax for another does **not** create jobs for unemployed or stimulate business. Double taxation of Washington business to get at a few out-of-state firms hurts Washington citizens. With no exemptions for small businesses, 314 makes Washington's business taxes the nation's highest—you will **share** that burden in higher costs for food, clothing, utilities, and other basics. **DON'T BE MISLED!** 314 does **not** guarantee tax relief or limit special levies!

Voters' Pamphlet Statement Prepared by:

HUBERT F. DONOHUE, State Senator, Democrat; and IRVING NEWHOUSE, State Representative, Republican.

Advisory Committee: JIM MATSON, State Senator, Republican; WILLIAM S. LECKENBY, State Representative, Republican, Co-Chairman of Committee Against "314"; and DORM BRAMAN, Co-Chairman of Committee Against "314."



COMPLETE TEXT OF

Initiative Measure 314

TO THE PEOPLE

AN ACT Enacting the Washington Franchise Privilege Fee and Compensating Tax Code; providing penalties; adding a new Title to the Revised Code of Washington.

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

PURPOSE

NEW SECTION. Section 82A-1. Domestic corporations of this state and foreign corporations admitted to do an intrastate business in this state are privileged to carry on innumerable and profitable activities in this state in a corporate form. These corporations are currently subject to nominal and discriminatory annual corporate privilege fees. These fees are limited in amount, have a regressive impact on the smaller corporations and are measured by authorized capital stock which bears little or no relationship to the extent and to the profitability of the business opportunities afforded corporations by this state.

The purpose of this initiative is to give recognition to the fact that the privilege of engaging in business activities in this state as a corporation, regardless of the characterization of these activities for commerce clause purposes, is a substantial privilege for which commensurate fees or taxes should be charged. Inasmuch as the profitability of the corporation is a true indication of the nature and extent of the privileges enjoyed, it is the intention of this initiative to measure the corporate privilege fee by the net income derived by a corporation from the activities it carries on in this state. In order that corporations who do not conduct any intrastate business in this state may be subject to an equivalent tax for comparable privileges but which cannot, because of the commerce clause of the United States Constitution, be subjected to a corporate privilege fee, there is also imposed a compensating tax on corporations doing only an interstate business in this state.

To assure that all corporations pay some fee for the privilege of conducting business activity in this state, the existing corporate fees are not affected by this initiative. Any existing annual corporate privilege fee, however, is credited against the corporate privilege fee imposed by this initiative.

In the event the compensating tax imposed on corporations doing an interstate business in this state is declared invalid, it is nevertheless intended that the corporate privilege fee be imposed pursuant to this initiative on all profit corporations conducting any intrastate business activity in this state.

PART A DEFINITIONS—CONSTRUCTION RULES

NEW SECTION. Sec. 82A-2. (1) Construction—Meaning of Terms. Except as otherwise expressly provided or clearly appearing from the context, any term used in this Title shall have the same meaning as when used in a comparable context in the United States Internal Revenue Code of 1954 and amendments thereto or any successor law or laws relating to federal income taxes and other provisions of the statutes of the United States relating to federal income taxes as such Code, laws and statutes are in effect upon the effective date of this initiative.

(2) Generally. (a) Intent. It is the intention of this Title that the income which constitutes the measure of the corporate privilege fee and compensating tax be the same as taxable income as defined and applicable to the subject taxpayer for the same tax year in the Internal Revenue Code, except as otherwise expressly provided in this Title.

(b) Disposition of Revenues. All revenues derived from the taxes imposed by this Title shall be deposited in a special account hereby created in the state general fund and shall be used exclusively for the purpose of eliminating the need for imposition of special or

excess levies by or for school districts. Any moneys in excess of the amount needed for this purpose shall be used for any educational purpose.

(3) Short Title—Codification. This Title shall be known and may be cited as the "Washington Corporate Franchise Privilege Fee and Compensating Tax Code". Sections 82A-1 through 82A-35 of this initiative shall be codified as a new title in the Revised Code of Washington, to be numbered Title 82A.

NEW SECTION. Sec. 82A-3. Definitions and Rules of Interpretation. When used in this Title where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) Corporation. The term "corporation" means, in addition to an incorporated entity, an association, trust or any unincorporated organization which is defined as a corporation in the Internal Revenue Code and in substance exercises the privileges of a corporation such as limited liability and issuance of evidences of ownership.

(2) Department. The term "department" means the department of revenue of this state.

(3) Director. The term "director" means the director of the department of revenue of this state.

(4) Financial Organization. The term "financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, building and loan association, bank holding company as defined in section 1841, chapter 17, Title 12 of the laws of the United States, credit union, currency exchange, cooperative bank, small loan company, sales finance company, or investment company, and any other corporation at least ninety percent of whose assets consist of intangible property and at least ninety percent of whose gross income consists of dividends or interest or other charges resulting from the use of money or credit.

(5) Fiscal Year. The term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(6) Foreign Corporation. The term "foreign corporation" means a corporation organized under the laws of a foreign country or a corporation organized under the laws of any state or the United States which is domiciled in a foreign country.

(7) Income. The term "income" means gross income as defined in section 61 of the Internal Revenue Code and includes all items there set forth which the taxpayer is required to include in the computation of its federal income tax liability after the effective date of this initiative subject to the specific deductions and other adjustments required by this Title to arrive at "net income" and "taxable income".

(8) Internal Revenue Code. The term "Internal Revenue Code" means the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes in effect upon the effective date of this initiative.

(9) Net Income. The term "net income" means taxable income prior to application of the apportionment provisions of Part D of this Title.

(10) Net Income Tax. The term "net income tax" means a tax imposed on or measured, in whole or in part, on the net income of the taxpayer.

(11) Person. The term "person" means and includes a corporation, or any of its officers or employees when so indicated in the context in which the term "person" occurs.

(12) Returns. The term "returns" includes declarations of estimated tax required under this Title.

(13) Sales. The term "sales" means all gross receipts of the taxpayer.

(14) State. The term "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any political subdivision of any of the foregoing.

(15) "Fee" or "Tax". The term "fee" or "tax" includes interest and penalties, unless the intention to give it a more limited meaning is disclosed by the context.

(16) Federal Taxable Income. "Federal taxable income" means, unless specifically defined otherwise in this Title, income required to be reported to and subject to tax by the United States government

under section 63 of the Internal Revenue Code plus any special deductions for dividends by sections 241, 243, 244, 245, 246 and 247 of the Internal Revenue Code.

(17) Taxable Year. The term "taxable year" or "tax year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under this Title. "Taxable year" or "tax year" means, in the case of a return made for a fractional part of a year under the provisions of this Title, the period for which such return is made.

(18) Taxpayer. The term "taxpayer" means any corporation subject to the fee or tax imposed by this Title.

(19) Title. The term "Title" means Title 82A RCW.

PART B IMPOSITION PROVISIONS

NEW SECTION. Sec. 82A-4. Fee Imposed on Corporations Doing Business in This State. Upon and after January 1, 1976, there is hereby imposed and levied on every corporation, for the privilege of doing or conducting any business in this state as a corporation or exercising or having the privilege of exercising any corporate franchise or privilege in this state, an annual corporate privilege fee measured by twelve percent of the taxable income of each such corporation as defined and determined in accordance with the provisions of this Title. Such fee shall be in addition to the corporate privilege fees imposed by RCW 23A.40.040, 23A.40.060, 23A.40.130, 23A.40.140 and 23A.40.150 (subject to the credit provisions contained in section 82A-25(2) of this Title).

NEW SECTION. Sec. 82A-5. Compensating Tax Imposed on Corporations Not Subject to the Privilege Fee Imposed by Section 82A-4. Upon and after January 1, 1976, for the privilege of receiving, earning or otherwise acquiring income from any source whatsoever subsequent to December 31, 1975, there is levied and imposed on every corporation not subject to the corporate privilege fee imposed by section 82A-4 of this Title, a compensating tax equal to twelve percent of the corporation's taxable income.

NEW SECTION. Sec. 82A-6. Incidence of Privilege Fee. Upon and after January 1, 1976, the corporate privilege fee imposed on corporations by section 82A-4 of this Title shall be paid by every corporation, unless expressly exempted by this Title, which conducts any activity in this state for which this state can constitutionally impose any corporate privilege fee. Liability for the corporate privilege fee imposed by section 82A-4 shall commence at the time any such activity is conducted in this state or the date any corporation is authorized by the corporate laws of this state to do business in this state whichever is earlier and shall cease only when a corporation ceases to conduct any activity in this state for which this state can constitutionally impose any corporate privilege fee or the date a corporation ceases to be qualified to do business in this state, whichever is later.

NEW SECTION. Sec. 82A-7. Incidence of Compensating Tax. Upon and after January 1, 1976, the compensating tax imposed by section 82A-5 shall be paid by every corporation, not subject to the corporate privilege fee and not expressly exempt under this Title, which conducts any activity in this state or derives any income from sources within or attributable to this state for which this state can constitutionally impose an income tax. Liability for the compensating tax shall commence at the time and continue for the period of time any such corporation conducts any such activity in this state or derives any such income from this state and is not also subject to the corporate privilege fee imposed by section 82A-4 on such activity or measured by such income.

PART C TAXABLE INCOME

NEW SECTION. Sec. 82A-8. Taxable Income Defined. (1) "Taxable income" for the purpose of computing the corporate franchise privilege fee and the compensating tax means federal taxable income subject to the following adjustments:

(a) Add taxes on or measured by net income to the extent such taxes have been excluded or deducted from gross income in the computation of federal taxable income.

(b) Add the amount of any deduction taken pursuant to section

613(b)(1) of the Internal Revenue Code.

(c) Add an amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income or deducted in the computation of federal taxable income.

(d) Add in the case of a Western Hemisphere trade corporation, China Trade Act corporation, or possessions company described in section 931(a) of the Internal Revenue Code, an amount equal to the amount deducted or excluded from gross income in the computation of federal taxable income for the taxable year on account of the special deductions and exclusions (but in the case of a possessions company, net of the deductions allocable thereto) allowed such corporations under the Internal Revenue Code.

(e) Any adjustments resulting from the apportionment provisions of Part D of this Title and the accounting provisions of section 82A-26.

(2) If for the taxable year of a corporation, there is in effect an election under section 992(a) of the Internal Revenue Code or the corporation is treated as a domestic international sales corporation as defined in section 992(a)(3) of the Internal Revenue Code, the corporation shall be subject to the privilege fee or compensating tax imposed by this Title on its taxable income as defined and accounted for in the Internal Revenue Code for such corporation subject to the adjustments contained in this section.

PART D APPORTIONMENT PROVISIONS

NEW SECTION. Sec. 82A-9. Adjustments to Taxable Income—Apportionment Rules. (1) In General. (a) All of the net income of any corporation which is not taxable in another state shall be apportioned to this state.

(b) Any corporation which is taxable in this state and another state shall apportion its net income as provided in this Title.

(2) Taxable In Another State. For purposes of apportionment of net income under this Title, a corporation is taxable in another state if that state has jurisdiction to subject the corporation to a corporate privilege fee if the corporation is taxable under section 82A-4 of this Title, or to a net income tax if the corporation is taxable under section 82A-5.

If a corporation has not filed a net income tax return in another state for the tax year and that state imposes a net income tax, unless the corporation is expressly exempted from that state's net income tax, the corporation is deemed not to be subject to either a corporate privilege fee or net income tax in that state for that tax year.

NEW SECTION. Sec. 82A-10. Apportionment of Net Income. All net income, other than net income from transportation services and financial organizations, shall be apportioned to this state by multiplying the net income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, excluding any negligible factor and the denominator of which is three reduced by the number of negligible factors. "Negligible factor" means a factor the denominator of which is less than ten percent of one-third of the taxpayer's gross income.

NEW SECTION. Sec. 82A-11. Property Factor. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned and used or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned and used or rented and used in all states in which the taxpayer is taxable for the tax year.

NEW SECTION. Sec. 82A-12. Valuation of Property—Rented Property. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals but not less than zero.

NEW SECTION. Sec. 82A-13. Average Value of Property. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the director may require the averaging of monthly values during the tax period if reasonably required to properly reflect the average value of the taxpayer's property.

NEW SECTION. Sec. 82A-14. Payroll Factor. The payroll factor is a fraction, the numerator of which is the total amount paid in the state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid in all states in which the taxpayer is taxable for the tax year.

NEW SECTION. Sec. 82A-15. Compensation Paid Within State. Compensation is paid in this state if:

(1) The individual's service is performed entirely within the state; or

(2) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(3) Some of the service is performed in the state and

(a) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is in the state, or

(b) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

NEW SECTION. Sec. 82A-16. Sales Factor. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax year and the denominator of which is the total sales of the taxpayer in all states.

"Sales", as used in this section means all gross receipts from:

(1) sales of tangible personal property;

(2) rentals of tangible personal property;

(3) sales of real property held for sale in the ordinary course of a taxpayer's trade or business;

(4) rentals of real property; and

(5) sales of services.

NEW SECTION. Sec. 82A-17. Sales of Tangible Personal Property, Rentals and Services Within State. Sales of tangible personal property are in this state if:

(1) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(2) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and (a) the purchaser is the United States government or (b) the taxpayer is not taxable in the state of the purchaser.

(3) The sale is made from an office located in this state to a purchaser (including the United States government) in another state in which the taxpayer is not taxable and the property is shipped to the purchaser from a state in which the taxpayer is not taxable.

(4) Sales and rentals of real property are in this state if the property is located in this state.

(5) Rentals of tangible personal property are in this state to the extent that the property is used in this state.

(6) Sales of services are in this state to the extent that the service is performed in this state.

NEW SECTION. Sec. 82A-18. Interstate Transportation Services. The taxable income of a taxpayer whose activities consist of transportation services for hire rendered partly within this state and partly within another state shall be determined under the provisions of sections 82A-19 through 82A-22.

NEW SECTION. Sec. 82A-19. Interstate Transportation Other Than Oil or Gas by Pipeline or Air Carriers, Apportionment. In the case of net income from transportation services other than that derived from the transportation service of oil or gas by pipeline or air carriers, the net income attributable to Washington sources is that portion of the net income of the taxpayer derived from transportation services wherever performed that the revenue miles of the taxpayer in Washington bear to the revenue miles of the taxpayer in all the states in which the taxpayer is taxable on such services for the tax year. A revenue mile means the transportation for a consideration of one net ton in weight or one passenger the distance of one mile. The net income attributable to Washington sources in the case of a taxpayer engaged in the transportation both of property and of individuals shall be that portion of the entire net income of the taxpayer which is equal to the average of his passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross

receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively.

NEW SECTION. Sec. 82A-20. Interstate Transportation of Oil by Pipeline—Apportionment. In the case of net income derived from the transportation of oil by pipeline, net income attributable to Washington shall be that portion of the net income of the taxpayer derived from the pipeline transportation of oil in all the states in which the taxpayer is taxable for the tax year that the barrel miles transported in Washington bear to the barrel miles transported by the taxpayer in all the states in which the taxpayer is taxable for the tax year.

NEW SECTION. Sec. 82A-21. Interstate Transportation of Gas by Pipeline—Apportionment. In the case of net income derived from the transportation of gas by pipeline, net income attributable to Washington shall be that portion of the net income of the taxpayer derived from the pipeline transportation of gas in all the states in which the taxpayer is taxable for the tax year that the thousand cubic feet miles transported in Washington bear to the thousand cubic feet miles transported by the taxpayer in all the states in which the taxpayer is taxable for the tax year.

NEW SECTION. Sec. 82A-22. Air Carriers—Apportionment. In the case of net income derived by a taxpayer as a carrier by aircraft, the portion of net income of such carrier attributable to Washington shall be the average of the following two percentages:

(1) The revenue tons handled by such air carrier at airports within this state for the tax year divided by the total revenue tons handled by such carrier at airports in all states in which the taxpayer is taxable for the tax year;

(2) The air carrier's originating revenue within this state for the tax year divided by the total originating revenue of such carrier from all states in which the taxpayer is taxable for the tax year.

NEW SECTION. Sec. 82A-23. Financial Organizations—Apportionment. The net income of a financial organization attributable to Washington sources shall be taken to be:

(1) In the case of net income of a taxpayer whose activities are confined solely to this state, the entire net income of such taxpayer.

(2) In the case of net income of a taxpayer who conducts activities as a financial organization partially within and partially without this state, that portion of its net income as its gross business in this state is to its gross business in all the states in which the taxpayer is taxable for the same tax year, which portion shall be determined as the sum of:

(a) Fees, commissions or other compensation for financial services rendered within this state;

(b) Gross profits from trading in stocks, bonds or other securities managed within this state;

(c) Interest and dividends received within this state;

(d) Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and

(e) Any other gross income resulting from the operation as a financial organization within this state, divided by the aggregate amount of such items of the taxpayer in all states in which the taxpayer is taxable for the tax year.

NEW SECTION. Sec. 82A-24. Exceptions. (a) If the apportionment provisions of this Title do not fairly represent the extent of the taxpayer's activities in this state, the taxpayer may petition for or the director may require, if reasonable:

(1) the exclusion of any one or more of the factors;

(2) the inclusion of one or more additional factors or the substitution of one or more factors; or

(3) the employment of any other method to effectuate an equitable apportionment.

(b) If the apportionment provisions of this Title in combination with the allocation and apportionment provisions of other states in which a corporation is required to pay a tax on or measured by net income results in the apportionment or allocation of more than one hundred percent of the corporation's taxable income for the same year, the director may make any adjustment to the apportionment provisions of this Title he deems will fairly represent the corpora-

tion's income attributable to this state in light of the attribution rules of other states in which the taxpayer is required to pay a tax on or measured by net income for the same tax year.

PART E CREDITS AND EXEMPTIONS

NEW SECTION. Sec. 82A-25. (1) Exemptions. A corporation organized for any purpose set forth in RCW 24.03.015 and whose property or income shall not inure directly or indirectly to the private benefit or gain of any individual or shareholder shall be exempt from the corporate privilege fee and compensating tax imposed by this Title.

(2) Credits. The amount of any annual privilege fees paid by any corporation pursuant to RCW 23A.40.060, 23A.40.140 and 23A.40.150 shall be allowable as a credit against the privilege fee imposed by this Title for the same taxable year.

PART F ACCOUNTING PROVISIONS

NEW SECTION. Sec. 82A-26. Combined Reporting—Administrative Adjustments. (1) In the case of a corporation liable to report under this Title owning or controlling, either directly or indirectly, another corporation, or other corporations except foreign corporations, and in the case of a corporation liable to report under this Title and owned or controlled, either directly or indirectly, by another corporation except a foreign corporation, the department may require a combined or consolidated report showing the combined taxable income and apportionment factors of the controlled group except foreign corporations and any other information it deems necessary to ascertain the taxable income of any corporation subject to either the corporate privilege fee or the compensating tax. The department is authorized and empowered, in such manner as it may determine, to assess the tax against the corporations which are liable to report under this Title and whose taxable income is involved in the report upon the basis of the combined entire taxable income; or it may adjust the tax in such other manner as it shall determine to be equitable if it determines such adjustment to be necessary in order to prevent evasion of fees or taxes or to reflect the income earned by said corporations from business done in this state. Direct or indirect ownership or control of more than fifty percent of the voting stock of a corporation shall constitute ownership or control for purposes of this section.

(2) In the case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in or having income from sources allocable to this state, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the department may distribute, apportion or allocate income, deductions, credits or allowances between or among such organizations, trades, or businesses, if it determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of the corporate privilege fee or compensating tax imposed by this Title.

NEW SECTION. Sec. 82A-27. Method of Accounting. (1) For purposes of the computation of the corporate privilege fee and compensating tax imposed under this Title, a corporation's method of accounting shall be the same as such corporation's method of accounting for federal income tax purposes. If no method of accounting has been regularly used by a corporation, taxable income for purposes of this Title shall be computed under a method prescribed by or acceptable to the department.

(2) It is the intent of this Title that taxable income as defined in this Title for the subject taxpayer for computation of the corporate privilege fee and the compensating tax be ascertained and returned as provided herein on the same accounting method or methods used by the taxpayer in computing his federal income tax liability.

NEW SECTION. Sec. 82A-28. Tax Returns for Partial Year. In the event that the first taxable year of any corporation with respect to which a fee or tax is imposed by this Title ends prior to December 31st of the calendar year 1976 or any other calendar year in which this Title becomes effective (hereinafter referred to as a fractional taxable year), the taxable income for such fractional taxable year shall be the taxpayer's taxable income, computed in accordance

with the otherwise applicable provisions of this Title, for the entire taxable year, adjusted as follows:

(1) Such taxable income shall be multiplied by a fraction, the numerator of which is the number of days in the fractional taxable year and the denominator of which is the number of days in the entire taxable year; or

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

PART G ADMINISTRATIVE PROVISIONS

NEW SECTION. Sec. 82A-29. Starting Date—Time and Manner of Payment. (1) The corporate privilege fee and compensating tax shall be due and payable in reference to the taxable income, as defined by this Title, which is earned, received or otherwise acquired by any corporation subject to the fee or tax imposed by this Title subsequent to December 31, 1975 for federal income tax purposes.

(2) The time and manner of payment of the fee or tax imposed by this Title shall be in accordance with the provisions of the Internal Revenue Code (including the provisions relating to installment payments of estimated income tax) and the regulations promulgated thereunder providing for the time and manner of the payment of the federal income tax: PROVIDED, That the department by regulation may make such modifications and exceptions to such provisions as it deems necessary to facilitate the prompt and efficient collection of the fee or tax.

(3) Regardless of any extension of time granted for filing a final federal income tax for any tax year, the corporate privilege fee imposed by section 82A-4 shall be paid at the time the corporation files its annual report with the secretary of state or any successor officer. No corporation shall be qualified to do business in this state if it is delinquent in the payment of the corporate privilege fee imposed by section 82A-4 of this Title.

NEW SECTION. Sec. 82A-30. General Administrative Provisions. The general administrative provisions pertaining to the compliance, enforcement and administration of tax laws administered by the department contained in the following sections of chapter 82.32 RCW are applicable to this Title: 82.32.050 (except references therein to registration), 82.32.060, 82.32.070 (except the last paragraph), 82.32.080, 82.32.090, 82.32.100 (except reference therein to registration), 82.32.105, 82.32.110, 82.32.120, 82.32.130, 82.32.140, 82.32.150, 82.32.160, 82.32.170, 82.32.190, 82.32.200, first paragraph of 82.32.210, 82.32.220, 82.32.230, 82.32.235, 82.32.240, 82.32.260, 82.32.290 (except references therein to certificates of registration), 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. 82A-31. Board of Tax Appeals Jurisdiction. Jurisdiction is hereby conferred on the state board of tax appeals to review any claim for refund or deficiency assessment of either the corporate privilege fee or compensating tax imposed by this Title. In all cases in which the board has jurisdiction under this section:

(1) The taxpayer or the department may elect either a formal or informal hearing according to rules of practice and procedure promulgated by the board; and

(2) The provisions of RCW 82.03.100 through 82.03.120, RCW 82.03.150 through 82.03.170 and RCW 82.03.190 shall be applicable with respect to hearings and decisions.

NEW SECTION. Sec. 82A-32. Judicial Review on Appeal From Board. Within thirty days after the final decision of the board in a case in which it has jurisdiction and in which a formal hearing has been elected, the taxpayer or the department may appeal to the court of appeals or the state supreme court as provided by law.

NEW SECTION. Sec. 82A-33. Section headings and captions included in this Title do not constitute any part of the law.

NEW SECTION. Sec. 82A-34. Tax Compact. To the extent that Article IV of chapter 82.56 RCW is in conflict with Part D of this Title, the Article is hereby superseded.

NEW SECTION. Sec. 82A-35. Severability. If any section, subdivision of a section, paragraph, sentence, clause or word of this initia-

tive for any reason shall be adjudged invalid, this shall not invalidate the remainder of this initiative but shall be confined in its operation to the section, subdivision of a section, paragraph, sentence, clause or word of the initiative directly involved in the controversy in which such judgment shall have been rendered. If any fee or tax imposed under this initiative shall be adjudged invalid as to any person, corporation, association, institution or class of persons, corporations, institutions or associations included within the scope of the general language of this initiative such invalidity shall not affect the liability of any person, corporation, association, institution or class of persons, corporations, institutions, or associations as to which such fee or tax has not been adjudged invalid. It is hereby expressly declared that had any section, subdivision of a section, paragraph, sentence, clause, word or any person, corporation, institution, association or class of persons, corporations, institutions or associations as to which this initiative is declared invalid been eliminated from the initiative at the time the same was considered the initiative would have nevertheless been enacted with such portions eliminated.

In the event the compensating tax imposed pursuant to section 82A-5 is declared invalid, it is nevertheless the intention of the people that all other provisions of this initiative would have been enacted without such section and intend that such section is severable.



COMPLETE TEXT OF

Initiative Measure 316

TO THE PEOPLE

AN ACT Relating to crimes and punishments; adding new sections to chapter 9A.32 RCW; defining crimes; and prescribing penalties.

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

NEW SECTION. Section 1. There is added to chapter 9A.32 RCW a new section to read as follows:

AGGRAVATED MURDER IN THE FIRST DEGREE. A person is guilty of aggravated murder in the first degree when he commits murder in the first degree as defined in RCW 9A.32.030 under or accompanied by any of the following circumstances:

(1) The victim was a law enforcement officer or fire fighter and was performing his or her official duties at the time of the killing.

(2) At the time of the act resulting in the death, the defendant was serving a term of imprisonment in a state correctional institution.

(3) The defendant committed the murder pursuant to an agreement that he receive money or other thing of value for committing the murder.

(4) The defendant had solicited another to commit the murder and had paid or agreed to pay such person money or other thing of value for committing the murder.

(5) The defendant committed the murder with intent to conceal the commission of a crime, or to protect or conceal the identity of any person committing the same, or with intent to delay, hinder or obstruct the administration of justice by preventing any person from being a witness or producing evidence in any investigation or proceeding authorized by law or by influencing any person's official action as a juror.

(6) There was more than one victim and the said murders were part of a common scheme or plan, or the result of a single act of the defendant.

(7) The defendant committed the murder in the course of or in furtherance of the crime of rape or kidnapping or in immediate flight therefrom.

NEW SECTION. Sec. 2. There is added to chapter 9A.32 RCW a new section to read as follows:

AGGRAVATED MURDER IN THE FIRST DEGREE—PENALTY. A person found guilty of aggravated murder in the first degree as defined in section 1 of this act, shall be punished by the mandatory sentence of death. Once a person is found guilty of aggravated murder in the first degree, as defined in section 1 of this act, neither the court nor the jury shall have the discretion to suspend or defer the imposition or execution of the sentence of death. Such sentence

shall be automatic upon any conviction of aggravated first degree murder. The death sentence shall take place at the state penitentiary under the direction of and pursuant to arrangements made by the superintendent thereof: PROVIDED, That the time of such execution shall be set by the trial judge at the time of imposing sentence and as a part thereof.

NEW SECTION. Sec. 3. There is added to chapter 9A.32 RCW a new section to read as follows:

AGGRAVATED MURDER IN THE FIRST DEGREE—LIFE IMPRISONMENT. In the event that the governor commutes a death sentence or in the event that the death penalty is held to be unconstitutional by the United States supreme court or the supreme court of the state of Washington in any of the circumstances specified in section 1 of this act, the penalty for aggravated murder in the first degree in those circumstances shall be imprisonment in the state penitentiary for life. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer, and the board of prison terms and paroles shall never parole a prisoner or reduce the period of confinement nor release the convicted person as a result of any automatic good time calculation nor shall the department of social and health services permit the convicted person to participate in any work release or furlough program.

NEW SECTION. Sec. 4. There is added to chapter 9A.32 RCW a new section to read as follows:

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. 5. The section captions as used in this act are for organizational purposes only and shall not be construed as part of the law.



COMPLETE TEXT OF

Referendum Bill 35

Chapter 89, Laws of 1975, 1st ex. sess.

AN ACT Relating to United States senators; amending section 29.68.070, chapter 9, Laws of 1965 and RCW 29.68.070; and providing for the submission of this act to a vote of the people.

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

Section 1. Section 29.68.070, chapter 9, Laws of 1965 and RCW 29.68.070 are each amended to read as follows:

When a vacancy happens in the representation of this state in the senate of the United States the governor shall make a temporary appointment until the people fill the vacancy by election at the next ensuing general state election occurring during an even-numbered year. Such temporary appointment shall be from a list of three names submitted to the governor by the state central committee of the same political party as the senator holding office prior to the vacancy. A vacancy occurring after the first day for filing specified in RCW 29.18.030 and prior to the general state election shall be filled by election at the next ensuing general state election occurring during an even-numbered year.

NEW SECTION. Sec. 2. This amendatory act shall be submitted to the people for their adoption and ratification, or rejection, at a special election hereby ordered by the legislature, which election shall be held in conjunction with the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1975, all in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof.