



# Initiative Measure 435

TO THE PEOPLE

NOTE: The ballot title and explanatory statement were written by the Attorney General as required by state law. The complete text of Initiative Measure 435 begins on page 15.

## Official Ballot Title:

Shall corporate franchise taxes, measured by net income, replace sales taxes on food and state corporate business and occupation taxes?

## The law as it now exists:

State law does not now impose any tax measured by net income on corporations or other businesses, and prior rulings of the state Supreme Court have invalidated earlier laws imposing such taxes. Corporations and other businesses do currently pay excise and property taxes together with license fees. The excise tax most widely imposed is the business and occupation tax which is measured by gross income

time when it is most needed. It also shifts the tax to a truer measure of a business' worth: its net profits. If there is no profit, there is no tax.

Finally, Initiative 435 seeks to restore the mandate of Washington voters when they removed the sales tax from food by initiative in 1977. The 1982 Legislature had numerous tax options before it yet chose the one tax which the voters had recently rejected overwhelmingly.

## Rebuttal of Statement against

Initiative 435 sends a clear message to Olympia: No sales tax on food now; No sales tax on food next year; No sales tax on food ever. Initiative 435 replaces the sales tax on food and the corporate business and occupation tax with a 10% tax on corporate profits. Voters must consider which is more fair: a tax on groceries, which hurts most those who can least afford it, or a tax on corporate profits.

### Voters Pamphlet Statement Prepared by:

JAMES A. McDERMOTT, State Senator; RUTHE RIDDER, State Senator; GLADYS BURNS.

and imposed at varying rates (depending on the nature of the business) which generally do not exceed 1%.

In 1982 the sales and use tax on food products was reimposed with a termination date of June 30, 1983. Food which had been previously taxed, was exempted from such taxes by an initiative approved by the voters in 1977.

## The effect of Initiative No. 435, if approved into law:

This initiative, if upheld by the courts, would terminate, effective February 1, 1983, the sales and use tax on food products, and would impose upon corporations (other than nonprofit corporations) doing business in this state a tax measured by 10% of their net income. The annual corporate license fees would be allowed as a credit against the tax. Corporations subject to the tax imposed by the initiative would no longer pay the business and occupation tax. However, certain corporations such as public utilities and insurance companies would be subject to both the new 10% tax and those excise taxes imposed upon them under present law. Businesses other than corporations, subject

to the new tax, would pay only those business taxes imposed under law.

## Statement for

Initiative 435 repeals the sales tax on food, imposes a 10% franchise tax on corporate profits, and exempts corporations from the business and occupation tax. At a time of fiscal crisis in the state, Initiative 435 is a responsible choice to replace lost revenue and accomplish some important tax reforms in a single ballot measure.

It is designed to: Eliminate two regressive and inequitable taxes — sales tax on food and the business and occupation tax; Replace lost revenue from these taxes; Broaden the state's tax base.

A sales tax on food is unfair. Lower and middle income families devote more of their income to food than do wealthier families. Taxing a basic necessity of life, especially during a recession when people are struggling to make ends meet, is simply wrong. We must remove the sales tax on food.

Still, the state needs revenue. The current sales tax on food is scheduled to expire on July 1, 1983, with no alternative tax to replace it. Few analysts are predicting that the recession in Washington State will be over by that date. Large corporations in this state will receive an estimated \$1.5 billion in federal corporate tax relief which will go untaxed unless Initiative 435 passes. Initiative 435 imposes a permanent 10% corporate income tax effective January 1, 1983, that will bring in an estimated additional \$231 million to the state treasury in the 1983-85 biennium.

Initiative 435 is designed to assist many small businesses. Currently, such businesses are assessed a state business and occupation tax on gross receipts, whether they make a profit or not. This discourages the development of new businesses, which often take several years to become profitable. Initiative 435 will provide substantial tax relief to these businesses at a

## Statement against

### 435 IS MISLEADING—THE FOOD TAX ALREADY ENDS IN JUNE, BY LAW.

We don't need 435 to end the food tax. People don't want the food tax, and a 'no' vote on 435 will tell the Legislature that the food tax must end in June, as the law requires.

### 435 IS IRRESPONSIBLE—IT WON'T PAY \$150 MILLION OF THE STATE'S BILLS.

435 costs the state \$150 million or more — equal to 10% of the whole State budget in the last few months of this biennium. That's money we need for schools, prisons, programs for the elderly, mental institutions and other vital public facilities.

### 435 HURTS JOB-SEEKERS, HURTS HOME BUYERS, FARMERS, CONSUMERS, OUR WHOLE ECONOMY.

The new taxes 435 would create will prolong the recession and keep unemployment high. 435 will dry up mortgage loans for home buyers by imposing a 10% tax on interest income. 435 adds a grave tax burden for farmers. New corporate taxes drive up consumer prices, too. 435 is a problem — not a solution.

### 435 IS A TAX TRAP—WITH NO CONSTITUTIONAL PROTECTION, NO LIMITATIONS.

At least 1.5 billion more revenue has been projected just to maintain service levels in the next biennium. 435 creates an immediate budget crisis costing \$150 million — and provides no

long range solution. 435 will invite a personal income tax without constitutional limits, without reducing other taxes. But 435 won't protect the taxpayer, won't stabilize the State's tax base, and won't limit State spending.

## Rebuttal of Statement for

Supporters continue to duck the truth: State law already repeals the food tax in June — without 435! People want to end the food tax in June, and the Governor will veto any move otherwise. 435 costs the state \$150 million, cuts funds for schools and seniors, extends recession and prolongs unemployment. 435 destroys availability of money for home financing with its 10% tax on interest income. 435 is a tax trap — with no constitutional limits.

### Voters Pamphlet Statement Prepared by:

WES UHLMAN, former Mayor, Seattle, and former State Senator; BUD PARDINI, former State Representative; GLENN PASCALL, former Director, Department of Revenue.

Advisory Committee: DR. DAVID MOBERLY, former Superintendent, Seattle Public Schools; STU BLEDSOE, former Director, Department of Agriculture; EUGENE L. ST. JOHN, Executive Director, Washington Public Employees Association.

designed to be detached in order to open such container.

- (2) In containers connected to each other by a separate holding device constructed of plastic rings which will not decompose under natural conditions within 180 days of disposal.

**NEW SECTION.** Sec. 8. Any dealer selling a beverage in a beverage container solely for consumption on the premises of the dealer may elect not to charge a deposit at the time of sale, and if so electing, shall not be required to pay a refund for accepting that empty beverage container back.

**NEW SECTION.** Sec. 9. Every operator of a vending machine which sells beverages in beverage containers shall post a conspicuous notice on each vending machine indicating that a refund value of not less than five cents is available on each beverage container purchased and where, how far away, and from whom that refund may be obtained.

**NEW SECTION.** Sec. 10. (1) The department may adopt such rules and regulations in accordance with chapter 34.04 RCW as may be necessary to carry out the provisions of this chapter.

(2) Decisions of the department under this chapter, other than rulemaking, shall be subject to review in accordance with chapter 43.21B RCW.

**NEW SECTION.** Sec. 11. Any person found guilty of willfully violating any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not less than twenty-five dollars or more than one thousand dollars and costs. Every day a violation occurs is a separate offense.

**NEW SECTION.** Sec. 12. 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. 13. The department shall adopt by July 1, 1983, such rules and regulations as may be necessary to implement sections 1 through 12 of this act. Such rules and regulations shall take effect on July 1, 1984.

**NEW SECTION.** Sec. 14. Sections 1 through 12 of this act shall take effect July 1, 1984. Section 13 of this act shall take effect 30 days after passage by the voters.

**NEW SECTION.** Sec. 15. Sections 1 through 13 of this act shall constitute a new chapter in Title 70 RCW.

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

## PURPOSE

**NEW SECTION.** Section 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 title 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 title 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 title. Any existing annual corporate privilege fee, however, is credited against the corporate privilege fee imposed by this title.

If 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 title on all profit corporations conducting any intrastate business activity in this state.

## PART A

### DEFINITIONS – CONSTRUCTION RULES

**NEW SECTION.** Sec. 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 section.

(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.



## COMPLETE TEXT OF Initiative Measure 435

AN ACT Relating to revenue and taxation; adding a new title to the Revised Code of Washington to be designated Title 82A; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; repealing section 28, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.08. . .; repealing section 29, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.12. . .; repealing section 33, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.08. . .; repealing section 34, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.12. . .; prescribing penalties; and providing effective dates.

(b) DISPOSITION OF REVENUES. All revenues derived from the taxes imposed by this title shall be deposited in the state general fund.

(3) SHORT TITLE. This title may be known and cited as the "Washington Corporate Franchise Privilege Fee and Compensating Tax Code."

**NEW SECTION.** Sec. 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" means, in addition to an incorporated entity, and 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" means the department of revenue of this state.

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

(4) "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" means an accounting period of twelve months ending on the last day of any month other than December.

(6) "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" 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 section subject to the specific deductions and other adjustments required by this title to arrive at "net income" and "taxable income."

(8) "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 section.

(9) "Net income" means taxable income prior to application of the apportionment provisions of this title.

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

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

(12) "Returns" includes declarations of estimated tax required under this title.

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

(14) "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" includes interest and penalties, unless the intention to give it a more limited meaning is disclosed by the context.

(16) "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" or "tax year" means the calendar year, or the fiscal year ending during the 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 this title, the period for which the return is made.

(18) "Taxpayer" means any corporation subject to the fee or tax imposed by this title.

## PART B IMPOSITION PROVISIONS

**NEW SECTION.** Sec. 4. FEE IMPOSED ON CORPORATIONS DOING BUSINESS IN THIS STATE. Upon and after January 1, 1983, there is 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 ten percent of the taxable income of the corporation. The fee is in addition to the corporate privilege fees imposed by RCW 23A.32.073, 23A.32.075, 23A.40.040, and 23A.40.060 (subject to the credit provisions contained in section 25(2) of this act).

**NEW SECTION.** Sec. 5. COMPENSATING TAX IMPOSED ON CORPORATIONS NOT SUBJECT TO THE PRIVILEGE FEE IMPOSED BY SECTION 4. Upon and after January 1, 1983, for the privilege of receiving, earning or otherwise acquiring income from any source whatsoever subsequent to December 31, 1982, there is levied and imposed on every corporation not subject to the corporate privilege fee imposed by section 4 of this act, an annual compensating tax equal to ten percent of the corporation's taxable income.

**NEW SECTION.** Sec. 6. INCIDENCE OF PRIVILEGE FEE. Upon and after January 1, 1983, the corporate privilege fee imposed on corporations by section 4 of this act 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 4 of this act shall commence at the time the 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. 7. INCIDENCE OF COMPENSATING TAX. Upon and after January 1, 1983, the compensating tax imposed by section 5 of this act 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 4 of this act on such activity or measured by such income.

#### PART C TAXABLE INCOME

**NEW SECTION.** Sec. 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 the taxes have been excluded or deducted from gross income in the computation of federal taxable income.

(b) Add the amount of any deduction taken under section 613A 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 these corporations under the Internal Revenue Code.

(e) Any adjustments resulting from the apportionment provisions of this title and the accounting provisions of section 26 of this act.

(2) If, for the taxable year of a corporation, there is in effect an election under section 992(b) of the Internal Revenue Code or the corporation is treated as a domestic international sales corporation as defined in section 992(a)(1) of the Internal Revenue Code, the corporation is 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 the corporation, subject to the adjustments contained in this section.

#### PART D APPORTIONMENT PROVISIONS

**NEW SECTION.** Sec. 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 (a) to a corporate privilege fee if the corporation is taxable under section 4 of this act, or (b) to a net income tax if the corporation is taxable under section 5 of this act.

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. 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. 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. 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. 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. 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. 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. 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. 17. SALES OF TANGIBLE PERSONALTY, REAL PROPERTY, RENTALS, AND SERVICES WITHIN STATE. (1) Sales of tangible personal property are in this state if:

(a) 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

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

(c) 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.

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

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

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

**NEW SECTION.** Sec. 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 sections 19 through 22 of this act.

**NEW SECTION.** Sec. 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 the 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. 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. 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. 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 the carrier attributable to Washington shall be the average of the following two percentages:

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

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

**NEW SECTION.** Sec. 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 the 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 the accounts; and

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

**NEW SECTION.** Sec. 24. EXCEPTIONS. (1) 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:

(a) The exclusion of any one or more of the factors;  
(b) The inclusion of one or more additional factors or the substitution of one or more factors; or

(c) The employment of any other method to effectuate an equitable apportionment.

(2) If the apportionment provisions of this title in combination with 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 corporation'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 of the same tax year.

#### PART E CREDITS AND EXEMPTIONS

**NEW SECTION.** Sec. 25. (1) EXEMPTIONS. A corporation organized for any purpose set forth in RCW 24.03.015 and whose property or income does 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 under RCW 23A.32.075 and 23A.40.060 is allowed as a credit against the privilege fee imposed by this title for the same taxable year.

#### PART F ACCOUNTING PROVISIONS

**NEW SECTION.** Sec. 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 may, in such manner as it may determine, 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 determines to be equitable if it determines the adjustment is necessary to prevent evasion of fees or taxes or to reflect the income earned by the 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 constitutes ownership or control for purposes of this section.

(2) If 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) are 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 the organizations, trades, or businesses if it determines that the distribution, apportionment, or allocation is necessary to prevent evasion of the corporate privilege fee or compensating tax imposed by this title.

**NEW SECTION.** Sec. 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 the corporation's method of accounting for federal income tax purposes. If no method of accounting is 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 for the subject taxpayer for computation of the corporate privilege fee and the compensating tax be ascertained and returned as provided in this title on the same accounting method or methods used by the taxpayer in computing his federal income tax liability.

**NEW SECTION.** Sec. 28. TAX RETURNS FOR PARTIAL YEAR. If 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, the taxable income for this 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) The 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, the 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 this fractional taxable year, as can be clearly determined from the permanent records of the taxpayer.

#### PART G ADMINISTRATIVE PROVISIONS

**NEW SECTION.** Sec. 29. STARTING DATE—TIME AND MANNER OF PAYMENT. (1) The corporate privilege fee and compensating tax is 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 after December 31, 1982, 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 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 these 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 4 of this act shall be paid at the time the corporation files its annual report with the secretary of state or any successor officer. No corporation may be qualified to do business in this state if it is delinquent in the payment of the corporate privilege fee imposed by section 4 of this act.

**NEW SECTION.** Sec. 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: RCW 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. 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 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) RCW 82.03.100 through 82.03.120, RCW 82.03.150 through 82.03.170 and RCW 82.03.190 shall apply with respect to hearings and decisions.

**NEW SECTION.** Sec. 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. 33. TAX COMPACT. To the extent that Article IV of chapter 82.56 RCW is in conflict with sections 9 through 24 of this act, the article is hereby superseded.

**NEW SECTION.** Sec. 34. There is added to chapter 82.04 RCW a new section to read as follows:

A corporation, as defined in section 3 of this act, which is subject to a corporate privilege fee or compensating tax under Title 82A RCW is exempt from the provisions of this chapter.

**NEW SECTION.** Sec. 35. There is added to chapter 82.08 RCW a new section to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

“Food products” include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

“Food products” include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

“Food products” include all fruit juices, vegetable juices,

and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

“Food products” do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of “food products” provided for in this subsection shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals under a state administered nutrition program for the aged as provided for in the Older American Act (P.L. 95-478 Title III) and RCW 74.38.040(6), or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a “takeout” or “to go” order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

(2) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**NEW SECTION.** Sec. 36. There is added to chapter 82.12 RCW a new section to read as follows:

The provisions of this chapter shall not apply in respect to the use of food products for human consumption.

“Food products” include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

“Food products” include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

“Food products” include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

“Food products” do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of “food products” provided for in this paragraph shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables,

chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals under a state administered nutrition program for the aged as provided for in the Older American Act (P.L. 95-478 Title III) and RCW 74.38.040(6), or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

**NEW SECTION.** Sec. 37. The following acts or parts of acts are each repealed:

(1) Section 28, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.08. . . ;

(2) Section 29, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.12. . . ;

(3) Section 33, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.08. . . ; and

(4) Section 34, chapter . . . (SB 4250), Laws of 1982 1st ex. sess. and RCW 82.12. . .

**NEW SECTION.** Sec. 38. Section headings and captions included in this act do not constitute any part of the law.

**NEW SECTION.** Sec. 39. Sections 1 through 33 of this act shall be codified as a new title in the Revised Code of Washington, to be numbered Title 82A.

**NEW SECTION.** Sec. 40. The people believe that the changes contained in this initiative constitute a single integrated plan for a balanced revision of the tax structure for state government. In the event this initiative is found violative of Article II, section 19 of the Washington state Constitution, this initiative shall be void in its entirety and shall be of no further force and effect.

**NEW SECTION.** Sec. 41. If approved by the voters at the November, 1982 general election, this act shall take effect on January 1, 1983, except sections 35 through 37 of this act shall take effect on February 1, 1983.

true and fair value by reason of specified public improvements to redevelop areas within those boundaries, and may provide that all or a portion of the ad valorem taxes levied within those boundaries against increases in the true and fair value of such real property may be used to pay for the specified public improvements or to pay public obligations incurred to fund the specified public improvements. Public obligations incurred for these public improvements and payable solely from revenues from these public improvements and such ad valorem taxes levied against the increases in real property value shall not constitute general indebtedness.

For the purposes of this section, "ad valorem taxes" means:

(1) Ad valorem taxes subject to the aggregate limitation on tax levies by the state and all taxing districts in section 2 of this Article; and

(2) Ad valorem taxes levied by port districts and public utility districts, except for ad valorem taxes levied specifically for the purpose of making required payments of principal and interest on general indebtedness.

Nothing in this section authorizes the provision of public improvements which counties, cities, and towns may not otherwise provide.

Nothing in this section authorizes a county, city, or town to exercise powers of eminent domain contrary to the provisions of Article I, section 16.

Nothing in this section authorizes a county, city, or town to pledge all or part of its full faith and credit or any other tax revenues without complying with the laws relating to the incurring of general indebtedness, including Article VIII, section 1 and Article VIII, section 6, or to aggregate tax levies in excess of the limitation on levies in section 2 of this Article: PROVIDED, That no bonds that constitute general indebtedness and which use the funding mechanism contained in this section shall be issued to fund all or a portion of such specified public improvements unless a public hearing on the issue of such bonds is held prior to the time boundaries are created pursuant to this section. The notice for such a public hearing shall include: (1) A statement that the county, city, or town must pledge its full faith and credit toward the payment of any general indebtedness which uses the funding mechanism contained in the section; (2) A statement that in the absence of sufficient revenues under this funding mechanism, the debt service must be made from then existing taxes or other revenues, which may result in an increase in taxes or reduction in existing programs; and (3) An estimate of the dollar amount of debt service on such bonds per year, and an estimate of the total principal and interest payments required for the full term of the bonds. The use of the funding mechanism contained in this section to pay principal and interest on general indebtedness, which is not required to be approved by the voters pursuant to Article VIII, section 6, shall be subject to potential referendum approval by simple majority vote of the voters of the county, city, or town.

After the initial adoption of a law by the legislature authorizing the use of ad valorem taxes levied against increases in the true and fair value of real property to finance specified public improvements, no amendment to such act which expands the nature of the areas within which ad valorem taxes levied against increases in the true and fair value of real property may be used to finance specified public



## COMPLETE TEXT OF Senate Joint Resolution 143

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VII of the state Constitution by adding a new section to read as follows:

Article VII, section . . . Notwithstanding any provision of this Constitution, the legislature may by general law authorize the legislative authority of any county, city, or town to create boundaries in urban areas, within its jurisdiction, containing only that real property which is determined will be increased in