



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE

*Research Report 2008-2*

**SUMMARY OF 2008 TAX LEGISLATION**

**Washington State Department of Revenue  
Legislation & Policy and Research Divisions  
April 2008**

This report summarizes major revenue and tax legislation in Washington that was approved during the regular session of the 2008 Legislature. The material was compiled from information developed by the Research Division and the Legislation & Policy Division to prepare fiscal notes on these bills. The summary is not intended to cover technical details or provide a legal interpretation of the bills. Instead, its primary purposes are to alert agency personnel of the changes, to assist in developing implementation programs, and to serve as a resource for historical tax research.

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STATE REVENUE IMPACT OF MAJOR 2008 TAX LEGISLATION - Sources Impacting Dept. of Revenue Only  
**State General Fund**

Bill Number	Bill Description	2007-09				2009-11
		FY 2009	Biennium	FY 2010	FY 2011	Biennium
E2SHB 1621	Manufactured/mobile home communities	(\$19,000)	(\$19,000)	(\$20,000)	(\$37,000)	(\$57,000)
3SHB 2053	Improving the availability of motor vehicle fuel	(\$125,000)	(\$125,000)	(\$125,000)	(\$125,000)	(\$250,000)
HB 2460	Leasehold tax exemption - amphitheater property	(\$12,000)	(\$12,000)	(\$48,000)	(\$48,000)	(\$96,000)
HB 2544	Tax exemptions for temporary medical housing	(\$31,000)	(\$31,000)	(\$34,000)	(\$35,000)	(\$69,000)
SHB 2585	B&O taxation of newspaper supplements	(\$867,000)	(\$867,000)	(\$1,210,000)	(\$1,547,000)	(\$2,757,000)
HB 2678	B&O tax rate for surface material products	(\$34,000)	(\$34,000)	(\$17,000)	(\$17,000)	(\$34,000)
ESHB 2847	Sales/use tax exemption for weatherization	(\$276,000)	(\$276,000)	(\$285,000)	(\$293,000)	(\$578,000)
ESHB 3096	Financing State Route 520 bridge project	(\$251,000)	(\$251,000)	(\$2,725,000)	(\$12,238,000)	(\$14,963,000)
HB 3275	Taxation of grocery distribution cooperatives	(\$1,100,000)	(\$1,100,000)	(\$1,800,000)	(\$1,800,000)	(\$3,600,000)
SHB 3283	Penalty/interest relief for military personnel	(\$53,000)	(\$53,000)	(\$58,000)	(\$58,000)	(\$116,000)
ESHB 3303	B&O tax credit for polysilicon manufacturers	\$0	\$0	(\$1,000,000)	(\$1,000,000)	(\$2,000,000)
HB 3362	B&O tax credit for energy efficient equipment	(\$106,000)	(\$106,000)	(\$106,000)	\$0	(\$106,000)
SB 6375	Sales tax exemption for trail grooming	(\$6,000)	(\$6,000)	(\$6,000)	(\$7,000)	(\$13,000)
2SSB 6468	Taxation of honey beekeepers	(\$74,000)	(\$74,000)	(\$81,000)	(\$81,000)	(\$162,000)
2SSB 6626	Sales/use tax deferral for corporate headquarters	\$0	\$0	(\$1,298,000)	(\$1,298,000)	(\$2,596,000)
SB 6799	Sourcing of sales tax by florists	\$147,000	\$147,000	\$167,000	\$174,000	\$341,000
SSB 6828	Tax incentives for the aerospace industry	(\$2,166,000)	(\$2,166,000)	(\$2,636,000)	(\$2,917,000)	(\$5,553,000)

**State Funds Other Than General Fund**

Bill Number	Bill Description	2007-09				2009-11
		FY 2009	Biennium	FY 2010	FY 2011	Biennium
E2SHB 1621	Manufactured/mobile home (Public Works Asst.)	(\$1,000)	(\$1,000)	(\$1,000)	(\$3,000)	(\$4,000)
E2SHB 1621	Manufactured/mobile home (City County Assistance)	\$0	\$0	\$0	(\$1,000)	(\$1,000)
HB 2678	Timber industry tax (Forest & Fish Support)	\$8,000	\$8,000	\$4,000	\$4,000	\$8,000
ESHB 3096	State Route 520 (Performance Audit)	\$0	\$0	(\$4,000)	(\$20,000)	(\$24,000)
HB 3275	Grocery distribution co-ops (Waste Control)	(\$70,000)	(\$70,000)	(\$120,000)	(\$120,000)	(\$240,000)
2SSB 6626	Corporate headquarters (Performance Audit)	\$0	\$0	(\$2,000)	(\$2,000)	(\$4,000)
SSB 6828	Aerospace industry tax (Performance Audit)	(\$1,000)	(\$1,000)	(\$1,000)	(\$1,000)	(\$2,000)

## HOUSE BILLS

**E2SHB 1621            Manufactured/mobile home communities; real estate excise tax exemption  
(Chapter 116, Laws of 2008)**

In 1993 the Legislature provided tenants of mobile home and manufactured housing parks with a right of first refusal in case the park property is listed for sale by the owner. The State Supreme Court ruled in 2000 that this constitutes an unconstitutional “taking” of the park owner’s property.

This bill repeals the unconstitutional statutes, chapter 59.23 RCW, and adopts several provisions to encourage the purchase of manufactured/mobile home communities by their tenants, including a real estate excise tax (REET) exemption. Sales of manufactured/mobile home communities to a qualified tenant organization, local government, local housing authority, nonprofit community or neighborhood-based organization, Indian tribe, or regional or statewide nonprofit housing assistance organization are exempt from state and local REET. The exemption is valid for sales after the effective date of the bill until December 31, 2018.

The estimated reduction in state REET collections for this exemption is \$19,000 for the remainder of this biennium and \$57,000 for the 2009-2011 Biennium.

This legislation is effective June 12, 2008.

**3SHB 2053            Improving availability of motor vehicle fuel during power outages; business and occupation tax credit  
(Chapter 223, Laws of 2008)**

Gasoline service stations are subject to the business and occupation (B&O) tax on sales of motor vehicle fuel and other items sold to consumers. The bill provides gasoline service stations that have at least four fuel pumps with a B&O tax credit for purchases of alternative power generation devices, including the wiring necessary to make the devices operational, and charges for installation labor and services. Alternative power generation devices include portable generators, standby generators, emergency generators, or other power generation devices. The purpose of the credit is to encourage gasoline service stations to purchase alternative power generation devices so that they may continue to supply gasoline during power outages. The amount of tax credit is limited to the lesser of 50 percent of the cost of such devices or \$25,000 per taxpayer.

An overall cap of \$750,000 per biennium applies to the total credits under the program. The credit expires June 30, 2011. The reduction in state revenues is estimated at \$125,000 each fiscal year.

This legislation takes effect July 1, 2008.

**HB 2460**                      **Leasehold excise tax exemption for amphitheater property**  
**(Chapter 194, Laws of 2008)**

An exemption from leasehold excise tax was enacted in 2005 for public or entertainment areas of amphitheaters. The amphitheaters must meet certain qualifications, including being located in a county with total population over 350,000 but less than 425,000. Currently the exemption applies with respect to one amphitheater, which is located in Clark County. There is concern that the population of Clark County will soon exceed 425,000, effectively nullifying the exemption.

This bill amends the exemption to specify that the county population had to be within the indicated range at the time the amphitheater first opened to the public. Assuming that the exemption would otherwise have terminated, the estimated reduction in state leasehold excise tax collections for this exemption is \$12,000 for the remainder of this biennium and \$96,000 for the 2009-2011 Biennium.

This legislation is effective June 12, 2008.

**HB 2542**                      **Cigarette tax enforcement**  
**(Chapter 226, Laws of 2008)**

In a 2007 decision, *U.S. v. Smiskin*, the U.S. Court of Appeals for the 9<sup>th</sup> Circuit ruled that the state of Washington cannot require advance notice of the transport of unstamped cigarettes by the Yakama Nation in light of the Tribe's treaty right of travel.

This Department of Revenue request legislation enhances cigarette tax enforcement provisions and addresses issues resulting from the *Smiskin* decision. This legislation explicitly affirms the state's intention to honor the right of travel in Article III of the Yakama Treaty of 1855 with the federal government, while protecting the state's ability to enforce its cigarette tax laws.

The bill clarifies that enrolled members of a tribe who purchase cigarettes from their own tribe are exempt from the state's cigarette taxes, while non-members are not exempt, except as provided in cigarette tax contracts or agreements with the state. The bill adds a requirement for advance notice of the receipt of unstamped cigarettes in addition to the existing requirement for advance notice of transport. Lastly, the bill makes several changes to strengthen RCW 82.24.110, which provides criminal penalties for violation of various cigarette tax laws.

This legislation is effective June 12, 2008.

**HB 2544**                      **Tax exemptions for temporary medical housing**  
**(Chapter 137, Laws of 2008)**

A number of nonprofit organizations provide lodging (commonly referred to as "temporary medical housing") to patients and their immediate families while the patient undergoes medical treatment at a hospital or affiliated outpatient clinic. Current law requires these organizations to collect and pay state and local retail sales taxes and applicable lodging taxes on such lodging services, even if the charge is nominal or is waived when there is an inability to pay. This

legislation, requested by the Department of Revenue, provides an exemption from those taxes for temporary medical housing provided by a health or social welfare organization.

Current law also provides a B&O tax deduction for health or social welfare organizations receiving amounts from governmental entities as payment for providing health or social welfare services. Some temporary medical housing is paid for by Medicaid. Under this bill, such payments will be eligible for the B&O tax deduction.

The estimated reduction in state tax revenues is \$31,000 for the remainder of this biennium and \$69,000 for the 2009-2011 Biennium. This legislation takes effect July 1, 2008.

**SHB 2585                      Business and occupation taxation of newspaper-labeled supplements  
(Chapter 273, Laws of 2008)**

This bill extends the B&O tax rate for publishers of printed newspapers to include the advertising income generated from the electronic version of a printed newspaper.

Persons who publish newspapers, periodicals, or magazines, and persons who both publish and print books, music, circulars, etc., currently pay a B&O tax rate of 0.484 percent on advertising income. Advertising income from printed newspaper supplements distributed separately from the newspaper but in the same geographic area is also subject to the 0.484 percent rate. Radio and television advertising income is taxable at the 0.484 percent rate. All other advertising income, including electronic media advertising income received by newspapers, is subject to B&O tax at the service rate of 1.5 percent.

This legislation amends the definition of “newspaper” for excise tax purposes to include: (1) an electronic version of a printed newspaper; and (2) printed supplements to printed newspapers. The addition of supplements in the definition of newspaper codifies the Department’s current tax treatment of printed newspaper supplements. The effect of this definitional change is to reduce the B&O tax on advertising income from electronic versions of printed newspapers from 1.5 percent to 0.484 percent. This lower rate applies for only three years because the definition of newspaper is again changed to exclude electronic versions of printed newspapers effective June 30, 2011.

The estimated revenue reduction from this legislation is \$867,000 in the current biennium and \$2,757,000 in the 2009-2011 Biennium. The legislation is effective July 1, 2008.

**HB 2650                      Cigarette tax agreement with the Yakama Nation  
(Chapter 228, Laws of 2008)**

This bill was requested by the Department of Revenue. It authorizes the Governor to enter into a cigarette tax agreement with the Yakama Nation with terms materially different than the state’s existing cigarette tax agreement with the Tribe.

Under current law the Governor is authorized to enter into cigarette tax agreements with 28 Indian tribes under which the tribes impose tribal taxes in lieu of the state cigarette tax and state and local retail sales taxes. There are over 20 such agreements in place today, including an agreement between the state and the Yakama Nation.

In early 2007 the state and the Yakama Nation entered into mediation regarding compliance with the agreement. The parties reached an agreement in principle on a new agreement with terms materially different than the existing authorizing statutes allow, thus requiring legislative action. The new terms reflect the unique factors involved with the Yakama Nation, including the number of stores owned by individual tribal members and the Yakama Nation's Treaty right of travel.

This legislation is similar to existing law governing cigarette tax agreements and has the following major features:

- The Yakama Nation would impose its own cigarette tax, initially equal to 80 percent of the state cigarette tax for the first six years, 84 percent during the seventh year, and 87.6 percent in the eighth year. The tax would increase or decrease in correspondence with the state cigarette tax.
- This tax would be in lieu of all other applicable state and local taxes. All revenue must be used for essential government services by the Yakama Nation.
- The bill has unique information sharing requirements, including information sharing by the Tribe regarding transport of cigarettes by itself and its members and reporting of sales to off-reservation customers.

There is no revenue impact. The legislation is effective March 28, 2008.

**HB 2678                      Restoring a preferential business and occupation tax rate for the  
   manufacturing of bio-composite surface material products  
   (Chapter 296, Laws of 2008)**

In 2006 the Legislature passed SSB 6874 which provided a phased-in B&O tax rate reduction benefiting certain industries in the timber and forest products sectors. Manufacturers of certain products qualify for the reduced rate, but only if the end product of the manufacturing process meets the definition of "timber product" or "wood product" and only if "timber" or a "timber product" is an ingredient or component of the end product. In 2007 the Legislature amended the definition of "timber product" for purposes of the B&O tax rate reduction. This definitional change had the effect of eliminating the B&O tax rate reduction for the manufacture of recycled paper into wood products, including bio-composite surface products.

This legislation restores the lower B&O tax rate on the manufacturing and wholesaling of bio-composite surface products as defined in the bill. The rate is 0.2904 percent plus a surcharge of 0.052 percent.

The legislation is effective June 12, 2008, but the tax treatment applies retroactively to July 1, 2007. The estimated reduction in state B&O tax collections for this exemption is \$34,000 for the remainder of this biennium and \$34,000 for the 2009-2011 Biennium.

**ESHB 2847                      Sales and use tax exemption for weatherization assistance program  
(Chapter 92, Laws of 2008)**

The United States Department of Energy operates a Weatherization Assistance Program to help low-income families improve the energy efficiency of low-income dwellings. Washington's Department of Community, Trade and Economic Development administers the program by contracting with local governmental or nonprofit agencies to deliver weatherization services to low-income clients in their areas.

This legislation provides a sales and use tax exemption for tangible personal property used in the weatherization of residences under the weatherization assistance program. The exemption only applies to tangible personal property that becomes a component of the residence.

The exemption will reduce general fund revenues by an estimated \$276,000 in the first fiscal year and \$578,000 in the 2009-2011 Biennium. The legislation is effective June 12, 2008.

**ESHB 3096                      Financing State Route 520 replacement bridge project  
(Chapter 270, Laws of 2008)**

This legislation addresses replacement of the State Route 520 floating bridge over Lake Washington. It specifies that a new bridge must include four lanes for general purpose traffic, two lanes for high-occupancy vehicles, and be designed for effective connections for transit to the light rail station at the University of Washington. The financing plan for the project will include the application of tolls prior to commencement of construction and a deferral of state and local sales and use taxes on certain construction costs. The bill also establishes a tolling implementation committee to determine the timing and manner in which tolls will be applied to the existing bridge and the replacement bridge.

The deferral of state and local retail sales and use taxes applies to the site preparation for, construction of, machinery and equipment that will become a part of, and rental of equipment for use in, the project. The deferred taxes would be repaid over a ten-year period beginning in the fifth year following the year in which the bridge project is completed and opened to traffic.

The estimated reduction in state sales and use tax collections for this deferral is \$251,000 for the remainder of this biennium and \$14,963,000 for the 2009-2011 Biennium. The legislation takes effect June 12, 2008.

**2SHB 3104****Rights and responsibilities of state-registered domestic partners  
(Chapter 6, Laws of 2008)**

In 2007 the Legislature passed SSB 5336, which allows individuals to enter into state-registered domestic partnerships. That bill also granted certain powers and rights to domestic partners, similar to those granted to spouses.

Second Substitute House Bill 3104 extends certain rights and responsibilities to state-registered domestic partners in various areas of law that are currently applicable to spouses, including dissolutions, community property, estate planning, taxes, court process, service to indigent veterans and other public assistance, conflicts of interest for public officials, and guardianships.

The tax portion of this bill (Part VII) provides for equality of treatment of spouses and state-registered domestic partners in real estate excise tax exemptions, the property tax exemption for homes for the aging, the property tax exemption for seniors and disabled persons, and the property tax deferral programs.

There is no change in real estate excise tax or property tax revenue. There is an estimated expenditure of \$21,000 to reimburse local governments for deferred property taxes in Fiscal Year 2009 and \$47,900 in the 2009-2011 Biennium.

Most of this bill takes effect June 12, 2008.

**SHB 3126****Interaction of the Streamlined Sales and Use Tax Agreement and the  
power of local governments to license and tax  
(Chapter 129, Laws of 2008)**

This bill specifies that mere registration under or compliance with the national Streamlined Sales and Use Tax Agreement (SSUTA) does not create a requirement to pay a city's B&O tax or to obtain a city's business license.

In 2007 the Legislature enacted legislation to bring the state into full compliance with the SSUTA, effective July 1, 2008. The agreement is intended to make sales taxes more uniform throughout the country, thereby improving administration for tax collection agencies and compliance for taxpayers. One of the requirements of the SSUTA is that sellers making deliveries of goods will be required to source local sales tax to the place to which delivery is made (commonly referred to as "destination sourcing"). Currently these sales are sourced in this state to the place at or from which the goods are delivered (commonly referred to as "origin sourcing").

Each city receives reports from the Department of Revenue of businesses that collect and remit sales tax for that city. In the past some cities have used this information as a basis to ask businesses to pay their city's B&O tax and to obtain a business license. With the institution of destination sourcing, cities will receive information about businesses that do not necessarily have nexus in the city but are collecting their local sales tax. An example of a business that would

collect a city's sales tax under destination sourcing but that would not have nexus with the city is a business located outside of a city that sells products to buyers in the city, and the seller exclusively uses the U.S. mail to deliver the products to the buyers.

This bill makes it clear that, after destination sourcing becomes effective July 1, 2008, businesses that report sales tax to a city but that do not have nexus with the city are not required to obtain a business license from the city and are not subject to the city's B&O tax. If a business actually has nexus with the city, then it remains subject to the city's taxing jurisdiction and licensing requirements.

There is no impact on state revenues. This legislation is effective June 12, 2008.

**HB 3151                      Lewis County public facilities district construction date delayed  
(Chapter 48, Laws of 2008)**

This bill extends the date on which construction of a new regional center must begin for certain public facilities districts to be eligible to impose a 0.033 percent sales and use tax.

In 1999 a new form of state financing for certain public facilities was established. This authorized a local public facilities district (PFD) to levy a 0.033 percent local sales and use tax within its boundaries to finance regional centers such as convention centers and facilities for sporting or other special events. The tax is credited against the state sales/use tax; therefore, purchasers do not pay an additional amount of tax. Rather, the impact is shifted to the state general fund.

In 2007 legislation authorized PFDs to impose the 0.033 percent sales and use tax if the PFD: (1) was created before September 1, 2007; (2) is in a county or counties with a population greater than 70,000 and where no other PFD existed on July 22, 2007; and (3) begins construction of a new regional center before January 1, 2009.

Under the authority of the 2007 legislation, Lewis County created a PFD for an equestrian and multipurpose event center and is imposing the 0.033 percent sales and use tax. The county was declared a disaster area as a result of major flooding in December 2007. Flooding may delay the commencement of construction of the equestrian and multipurpose event center beyond January 1, 2009.

This legislation extends the January 1, 2009, deadline by which construction of the Lewis County regional center must commence in order to qualify for the 0.033 percent local sales and use tax. The deadline is extended to January 1, 2011.

There is no change in state revenue. The legislation becomes effective July 1, 2008.

**HB 3188**                      **Exempting waste vegetable oil from excise tax**  
**(Chapter 237, Laws of 2008)**

The special fuel tax, which is administered by the Department of Licensing, applies to all combustible gases and liquids, not including gasoline, suitable for generating power to propel motor vehicles, such as diesel, natural gas, propane, and butane. The sale or use of fuel subject to the special fuel tax is exempt from sales and use taxes. However, if fuel is exempt from the special fuel tax, then retail sales and use taxes usually apply.

This legislation provides exemptions from the special fuel, sales, and use taxes for waste vegetable oil used to produce biodiesel. In the case of the sales and use tax exemptions, the biodiesel must be produced for personal use by the person claiming the exemption. Waste vegetable oil is defined as used cooking oil obtained from restaurants or commercial food processors.

The revenue impact of these exemptions is assumed to be minimal. The legislation is effective July 1, 2008.

**HB 3275**                      **Business and occupation taxation of grocery distribution cooperatives**  
**(Chapter 49, Laws of 2008)**

This legislation extends the special B&O tax treatment previously provided to a single “qualified grocery distribution cooperative” to a grocery distribution cooperative that acquired substantially all of the assets of the grocery distribution cooperative that qualified for the special tax treatment.

In 2001 the Legislature provided special B&O tax treatment to “qualified grocery distribution cooperatives.” Under this special tax treatment, the qualifying cooperative (only one business met the definition) was allowed to pay tax at the 1.5 percent service B&O tax rate on its net income (gross sales less cost of products sold) instead of on its gross income at the wholesaling B&O tax rate of 0.484 percent. In addition, qualified grocery distribution cooperatives were exempted from litter tax.

Effective October 1, 2007, substantially all of the assets of the one qualifying grocery distribution cooperative entitled to the special tax treatment were purchased by a retailer-owned wholesale grocery distribution cooperative serving independent grocery stores throughout the Western United States. The purchasing cooperative does not qualify for the special B&O tax treatment provided by the 2001 legislation. However, this bill will allow the purchasing cooperative to qualify for the same special B&O tax treatment provided to the selling cooperative.

The estimated reduction in state B&O tax collections is \$1,100,000 for the current biennium and \$3,600,000 for the 2009-2011 Biennium. In addition, litter tax receipts are reduced by \$70,000 in Fiscal Year 2009 and \$240,000 in the 2009-2011 Biennium. The legislation is effective June 12, 2008.

**SHB 3283**                    **Excise tax penalty and interest relief for active duty military personnel**  
**(Chapter 184, Laws of 2008)**

This bill requires the Department of Revenue to waive interest and penalties imposed under chapter 82.32 RCW during any period of armed conflict, and where the majority owner of the business is:

- An individual who is on active duty in the military.
- Participating in an armed conflict.
- Assigned to a duty station outside the territorial boundaries of the United States.

A taxpayer claiming the waiver or cancellation must submit a copy of the individual's deployment orders demonstrating deployment outside the territorial boundaries of the United States. Interest and penalties may not be waived or cancelled if the gross income of the business exceeded \$1,000,000 in the calendar year before the individual's initial deployment outside the United States for the armed conflict. Interest and penalties may not be waived for a taxpayer for more than 24 months. Notices for penalties or interest must indicate that qualifying taxpayers may receive a waiver of interest and penalties.

This bill is estimated to reduce state revenues by \$53,000 for the remainder of this biennium and \$116,000 for the 2009-2011 Biennium. The legislation is effective June 12, 2008.

**ESHB 3303**                    **Business and occupation tax credit for polysilicon manufacturers**  
**(Chapter 283, Laws of 2008)**

This legislation provides a B&O tax credit for qualified preproduction development expenditures incurred after January 1, 2008, by eligible polysilicon manufacturers. To be eligible for the credit, a polysilicon manufacturer must be located in a county along the boundary between Washington and Oregon with a population greater than 50,000 and less than 100,000. The credit is equal to 7.5 percent of the qualified preproduction development expenditures. Credits earned must be accrued and carried forward but may not be used until July 1, 2009, and until a polysilicon manufacturer spends \$500 million on qualified preproduction development expenditures.

The legislation takes effect June 12, 2008. However, the bill is null and void if a polysilicon manufacturer and a port in a county along the boundary line between Washington and Oregon with a population greater than 50,000 but less than 100,000 do not sign a memorandum of understanding to site a polysilicon manufacturing plant that is expected to cost at least \$500,000,000 by October 1, 2008.

The estimated revenue loss is \$2,000,000 during the 2009-2011 Biennium.

**HB 3362**

**Business and occupation tax credit for energy efficient equipment purchases  
(Chapter 284, Laws of 2008)**

This legislation provides a B&O tax credit for eligible businesses in an amount equal to 8.8 percent multiplied by the purchase price paid on certain types of energy-efficient commercial appliances. The credit is available for purchases made on or after July 1, 2008, and before July 1, 2010. To qualify for the credit, the firm's gross income for the prior calendar year must not exceed \$750,000. The statewide yearly cap on the amount of credits granted to all taxpayers is limited to \$750,000.

The estimated reduction in state B&O tax collections for this credit is \$106,000 for the remainder of this biennium and \$106,000 for the 2009-2011 Biennium. The legislation is effective July 1, 2008, and expires July 1, 2010.

## SENATE BILLS

**SSB 5256**                    **Excluding veterans' benefits from the income calculation for certain property tax relief programs (Chapter 182, Laws of 2008)**

For purposes of several property tax relief programs for which eligibility is dependent on a household's income, this bill excludes from the definition of "disposable income" veterans' benefits received in the form of "disability compensation" and "dependency and indemnity compensation" as those terms are defined in the Code of Federal Regulations.

The property tax relief programs affected by this bill are:

- The senior citizens'/disabled persons' property tax exemption.
- The senior citizens'/disabled persons' property tax deferral.
- The property tax deferral for limited-income households.
- The grant program for widows and widowers of veterans.

There is no direct impact on state property tax collections. However, it is estimated that more than \$200,000 in state property taxes will be shifted to other taxpayers in calendar year 2009, increasing in subsequent years. Local jurisdictions will experience an estimated reduction in property tax receipts of more than \$100,000 statewide in calendar year 2009, increasing in subsequent years. In addition, an estimated \$2,200,000 of local property taxes will be shifted to other taxpayers in calendar year 2009, increasing in subsequent years. The state will incur ongoing costs of approximately \$22,000 each year to reimburse local governments for deferred property taxes resulting from an increase in the number of participants in the tax deferral programs under this bill.

The bill is effective June 12, 2008, and will first impact property taxes due and payable in calendar year 2009.

**2SSB 5642**                    **Reduced cigarette ignition propensity (Chapter 239, Laws of 2008)**

This legislation requires that only reduced ignition strength cigarettes may be sold in the state of Washington beginning August 1, 2009. Ignition strength is measured in accordance with the standards developed by the American Society of Testing and Materials. The State Director of Fire Protection will administer the bill.

The Reduced Cigarette Ignition Propensity Account is created in the State Treasury. Each cigarette must be certified and recertified every three years by the State Director of Fire Protection. Manufacturers must pay a fee of \$250 for each cigarette listed in a certification. All receipts from the payment of certification fees and from the imposition of civil penalties will be deposited to the account. Cigarettes that are certified must be marked to indicate compliance with the testing and performance standard requirements.

The Department of Revenue is directed to inspect cigarettes to determine if they are marked as required by this law in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers. The Liquor Control Board, as the Department's cigarette tax enforcement agent, will be conducting inspections in its normal course of business. Unmarked cigarettes are subject to forfeiture under RCW 82.24.130.

The legislation takes effect August 1, 2009. Any revenue resulting from seizures of uncertified cigarettes would be minimal.

**E2SSB 6111                    Generating electricity from tidal and wave energy  
(Chapter 307, Laws of 2008 (Partial Veto))**

This legislation contained sales and use tax exemptions for machinery and equipment used directly to generate at least 200 kilowatts of tidal or wave energy. The exemptions also applied to installation labor and services for the machinery and equipment.

Governor Gregoire vetoed the sections containing these tax exemptions. In her veto message, the Governor stated that these tax exemptions are more appropriately considered once commercial production of tidal turbines is viable.

**SB 6196                        Local infrastructure financing tool program demonstration projects;  
revised definitions  
(Chapter 209, Laws of 2008)**

In 2006 the Legislature created the Local Infrastructure Financing Tool program. The program provides state funding to help qualified local governments make public improvements in qualified areas (referred to as revenue development areas or "RDAs"). Each year the state contribution is determined in part from growth in state and local sales, use, and property tax revenue within the RDA. If there is no increase in state sales/use tax and state property tax revenues within an RDA, no state contribution will be given to the local government for that year. Sales and use tax growth is determined by comparing each year's sales and use tax revenue to a base year. If there is no sales and use tax revenue in the base year, the growth is the entire sales and use tax revenue generated in subsequent years. Three demonstration projects are identified in statute, and the rest of the projects must be approved by the Community Economic Revitalization Board through a competitive application process. Under current law, the Bellingham demonstration project's base year is 2007, and the base year for Spokane County's demonstration project and Vancouver's demonstration project is 2008.

This legislation allows a zero base year of 2008 for demonstration projects if the sponsoring local government reasonably determines that no local sales and use tax was received from the RDA between August 1, 2008, and December 31, 2008. This change will provide the Vancouver demonstration project with an opportunity to have a zero base year.

There is no revenue impact. The legislation is effective June 12, 2008.

**SB 6216****Cigarette contract with the Shoalwater Bay Tribe  
(Chapter 241, Laws of 2008)**

In 2001 the Legislature authorized the Governor to enter into agreements with specified Indian tribes regarding the taxation of cigarettes. Statutes provide parameters for these contracts. Under the contracts, the state cigarette tax and state and local sales and use taxes will not apply to sales of cigarettes by Indian retailers in Indian country if the tribe imposes a tribal cigarette tax. The initial tribal tax must be at least 80 percent of the state cigarette and sales and use taxes, increasing to 100 percent within three years of enacting the tax. All the tax revenue is retained by the tribes, to be used for essential government services. Twenty tribes have signed contracts with the state based on this authorization.

The legislation authorizes the Governor to enter into a cigarette tax contract with the Shoalwater Bay Tribe.

There is no revenue impact. The legislation is effective June 12, 2008.

**SB 6375****Sales tax exemption for trail grooming on private and state land  
(Chapter 260, Laws of 2008)**

Under current law charges for clearing land and moving earth, including snow compacting, snow redistribution, and snow removal, are subject to state and local retail sales taxes.

This legislation exempts from retail sales tax charges to the state of Washington and to nonprofit organizations for compacting, redistributing, or removing snow on state- or privately-owned trails.

The estimated reduction in state retail sales tax collections for this exemption is \$6,000 for the current biennium and \$13,000 for the 2009-2011 Biennium. The exemption is effective June 12, 2008.

**SSB 6389****Property tax and leasehold excise tax exemptions for military housing  
(Chapter 84, Laws of 2008)**

The United States government is exempt from property and leasehold excise taxes. These exemptions do not extend to the interest that private developers hold in improvements located on land owned by the United States. In 1996 Congress enacted a public/private program, the Military Housing Privatization Initiative (MHPI), to encourage private sector developers to construct and operate housing facilities for military families.

This legislation provides that military housing and ancillary supporting facilities developed under the MHPI are exempt from property tax and leasehold excise tax. The property must be used for the housing of military personnel and their families and be located on land owned by the United States. Initial application for the property tax exemption must be made to the Department

of Revenue (Department). Any change in the use of the property must be reported to the Department.

There will be no impact on state revenues. However, there will be an estimated shift of state property taxes to other taxpayers of \$250,000 in calendar year 2009, increasing in subsequent years. The estimated loss of revenues to local governments is \$111,000 in calendar year 2009, rising to \$150,000 by calendar year 2013. There will also be an estimated shift of local property taxes to other taxpayers of \$902,000 in calendar year 2009, increasing in subsequent years. The legislation is effective June 12, 2008.

**SSB 6423                      Modifying the business and occupation tax credit for donations to the Washington Motion Picture Competitiveness Program (Chapter 85, Laws of 2008)**

This legislation makes changes to the Motion Picture Competitiveness Program (MPCP), including the B&O tax credit for contributions made to the program.

In 2006 the Legislature created the MPCP to encourage the filming of motion pictures, television shows, and commercials in this state. The MPCP is a nonprofit organization with a board of directors comprised of representatives of the film industry, labor unions, visitors and convention bureaus, the tourism industry, and the restaurant, hotel, and airline industries. The MPCP provides grants of up to 20 percent of the in-state cost of, or investment in, certain film production projects. The grants cannot exceed \$1,000,000 for a single motion picture production or episodic television project.

Funding for the grants is obtained from contributions by businesses to the MPCP. Through 2008 contributors to the MPCP are eligible for a B&O tax credit equal to 100 percent of the contribution. Beginning in 2009 the credit is reduced to 90 percent of the contribution. There is an annual cap of \$1,000,000 for each contributor. The maximum credit that can be claimed by all contributors annually is \$3,500,000. No credit may be earned for contributions occurring on or after July 1, 2011.

This legislation increases the amount of the B&O tax credit after 2008 from 90 percent to 100 percent of a business' contribution to the MPCP. The maximum credit remains at \$1,000,000 for each contributor. The maximum credit for all firms continues to be \$3,500,000. This legislation also eliminates the \$1,000,000 cap on grants to individual motion picture productions and episodic television projects and revises the terms for the board members of the MPCP.

The credit program has been reaching the \$3,500,000 cumulative cap and will presumably continue to be limited by this cap. Therefore, there is no change in revenue resulting from this bill.

The legislation is effective June 12, 2008.

**2SSB 6468****Taxation of honey beekeepers  
(Chapter 314, Laws of 2008)**

This bill provides B&O, retail sales, and use tax exemptions for beekeepers.

For B&O tax purposes, a farmer is a person who grows, raises, or produces, for sale, any agricultural product on land that the farmer owns or has a present right of possession. Wholesale sales of agricultural products by farmers are exempt from B&O tax. This exemption applies to wholesale sales of honey and other bee products produced on a beekeeper's own land or on land in which the beekeeper has a present right of possession. However, most commercial beekeepers do not qualify as farmers because they do not produce honey or other bee products on their own land or on land in which they have a present right of possession.

Farmers frequently contract with beekeepers to provide pollination services for flowering crops and tree fruit. B&O tax applies to income from pollination services and from sales of bee products produced on land that the beekeeper does not own or have a present right of possession.

This legislation provides B&O tax exemptions for income derived from wholesale sales of honey bee products and pollination services provided by beekeepers who have registered their hives with the Washington State Department of Agriculture. The bill also provides retail sales and use tax exemptions for the purchase and use of honey bees by beekeepers who qualify for the B&O tax exemptions provided in the bill.

The estimated reduction in state tax collections is \$74,000 for the current biennium and \$162,000 for the 2009-2011 Biennium. The bill takes effect July 1, 2008, and expires July 1, 2013.

**2SSB 6626****Sales and use tax deferral program for corporate headquarters  
located in community empowerment zones  
(Chapter 15, Laws of 2008)**

This bill establishes a new retail sales and use tax deferral on the construction of a corporate headquarters located within a community empowerment zone (CEZ).

Instituted in 1993, the Washington State CEZ Program is a competitive program intended to spur neighborhood revitalization and reinvestment by encouraging public and private investment in low-income areas with high rates of unemployment. Businesses within a CEZ or a county with a CEZ may qualify for existing sales tax deferrals and business and occupation tax credits for a variety of projects. If the program requirements are maintained, repayment of the deferred sales and use taxes is waived. Qualifying businesses under current law include manufacturers, computer-related businesses, research and development laboratories, and commercial testing facilities.

To qualify for the sales and use tax deferral under this bill, the investment in a building or buildings must be at least \$30,000,000. The corporate headquarters must employ at least 300 people whose wages exceed the state average annual wage. The deferred taxes need not be



Finally, the legislation requires that at least 75 percent of King County's 1 percent rental car tax be used to retire Kingdome debt.

The legislation is effective July 1, 2008. It only affects the use of local tax receipts. There is no impact on state revenues.

**ESB 6641**                      **Voter-approved property tax increases**  
**(Chapter 319, Laws of 2008)**

This Department of Revenue request legislation makes changes to the statute that authorizes property tax levy "lid lifts."

The state of Washington and local taxing districts are subject to a statutory 1 percent limit on the growth of property tax levies. This limit applies only to regular property tax levies; it does not apply to excess levies. Local taxing districts may exceed this 1 percent limit with voter approval. This is sometimes referred to as a "lid lift."

Before 2003 lid lifts were limited to one year. The statute makes single-year lid lifts permanent unless the ballot proposition makes them temporary. A permanent lid lift permanently increases the taxing district's levy base by using the amount levied under the lid lift as the base for calculating the following year's levy. In contrast, under a temporary lid lift future levies are made as if the lid lift had never occurred and the taxing district had instead levied at the maximum amount otherwise allowed by law.

In 2003 cities, towns, and counties were given the authority to seek voter approval for multi-year lid lifts for a period of up to six consecutive years. Unlike single-year lid lifts, the statute made multi-year lid lifts temporary unless the ballot proposition made them permanent.

In 2007 the Legislature enacted ESB 5498, which extended multi-year lid lift authority to all local taxing districts that levy regular property taxes. After its passage, the Department of Revenue determined that ESB 5498 made multi-year lid lifts permanent unless the ballot measure made them temporary. The Attorney General issued a formal opinion concurring in the Department's determination.

ESB 6641 makes both single-year and multi-year lid lifts temporary unless the ballot proposition approved by the voters makes them permanent. Thus, future levies are computed as if the lid lift had never occurred and the district had levied at the maximum amounts otherwise allowed by law, unless the ballot proposition makes the lid lift permanent.

The legislation is effective April 1, 2008, and applies prospectively to lid lifts approved on or after the effective date of the bill. The legislation does not affect state revenue.

**ESB 6663**                    **Improving tax administration by correcting, clarifying, eliminating, repealing, and decodifying statutes (Chapter 86, Laws of 2008)**

Over time technical errors and obsolete provisions accumulate in statutes. In addition, some statutes no longer serve the purposes for which they were enacted. This legislation “cleans up” various tax statutes:

- Local Sales and Use Taxes – clarifies existing language and eliminates obsolete language.
- Litter Tax - removes the requirement that the Department of Revenue conduct a biennial litter tax study to evaluate collections and enforcement.
- Cigarette Tax – replaces the tax rate expressed in "mills" per cigarette with "cents" per cigarette.
- Leasehold Excise Tax - clarifies existing language and eliminates obsolete language.
- Property Tax - removes inconsistencies and obsolete language.

There is no revenue impact. The legislation is effective June 12, 2008.

**2SSB 6732**                    **Implementing the recommendations of the Joint Legislative Task Force on the Underground Economy in the Construction Industry (Chapter 120, Laws of 2008 (Partial Veto))**

This bill implements recommendations of the Joint Legislative Task Force on the Underground Economy in the Construction Industry (Task Force).

In 2007 the Legislature created the Task Force and charged it with formulating a state policy to establish cohesion and transparency between state agencies to increase oversight and regulation of the underground construction economy. The Department of Revenue (DOR) participated in the Task Force through a nonvoting liaison representative. The Task Force presented recommendations to the Legislature on penalties, enforcement, data sharing and detection, and education and outreach.

Most of the bill focuses on the registration of contractors and enforcement by the Department of Labor and Industries (L&I). However, several of the provisions impact the DOR. The bill requires that contractor registration applicants must have a unified business identifier number, regardless of the size of the business. L&I must deny a registration application and suspend an active registration if it determines that the contractor falsified information on the application or the contractor does not have a valid and active certificate of registration with the DOR.

The Washington State Institute for Public Policy must organize an advisory committee, with the assistance of the Employment Security Department, L&I, and the DOR, to establish benchmarks for monitoring of activities recommended by the Task Force. The Institute must report back to the Legislature by December 31, 2008.

The bill also extends the Task Force to December 31, 2008.

The Governor vetoed two sections that do not affect the DOR. The rest of the bill takes effect June 12, 2008. There is no revenue impact.

**SB 6799                      Sourcing, for sales and use tax purposes, of sales by florists  
(Chapter 324, Laws of 2008)**

This Department of Revenue request legislation allows florists to continue to use origin sourcing for retail sales of tangible personal property. For sales where one florist takes an order and has a second florist fulfill the order, the bill also allows these sales to continue to be sourced to the location of the florist originally taking the order.

For purposes of sales tax, a sale is sourced to the jurisdiction that is entitled to the sales tax generated from a particular transaction. Until July 1, 2008, sales of tangible personal property are sourced to the jurisdiction where the retail outlet at or from which delivery is made to the consumer is located. This is commonly referred to as origin sourcing.

For many decades, the state has collected sales taxes from florists according to an agreement worked out between Florists Telegraphic Delivery (FTD) and the various states. Under that agreement, for a transaction where one florist takes an order from a customer and then communicates that order to another florist who delivers the items purchased to the place designated by the customer (“FTD sales”), the sale is sourced to the location of the florist originally taking the order.

SSB 5089, passed during the 2007 legislative session, adopts the Streamlined Sales and Use Tax Agreement's uniform general sourcing rules effective July 1, 2008. Under these sourcing rules, sales of tangible personal property delivered by the seller to the buyer are sourced to the place where the buyer receives delivery of the product. This is commonly referred to as destination sourcing.

Under SB 6799, florists will be able to continue to use origin sourcing indefinitely. In addition, Washington will be able to source FTD sales according to the FTD agreement. The bill defines florist as a person whose primary business activity is the retail sale of fresh cut flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products, used for decorative and not landscaping purposes.

Washington currently receives sales tax from the sale of flowers where the order is received by a Washington florist but the flowers are delivered outside this state by a second florist. As a result of SSB 5089, effective July 1, 2008, Washington would no longer receive sales tax on these sales. However, SB 6799 allows Washington to continue to receive sales tax on these sales. As a result, this bill has a positive impact on state and local revenues. The estimated state revenue gain is \$147,000 in the current biennium and \$341,000 during the 2009-2011 Biennium. The legislation takes effect July 1, 2008.

**SSB 6806                      Property and leasehold excise tax exemptions for anaerobic digesters  
(Chapter 268, Laws of 2008)**

Anaerobic digesters are devices that process manure into methane gas and dried solids. Sales of anaerobic digesters to be used on dairy farms were exempted from sales and use taxes in 2001. In 2006 this exemption was extended to anaerobic digesters to be used on livestock feeding operations.

This legislation exempts anaerobic digesters from leasehold excise tax and property tax for a six-year period. The deadline to file claims for the tax exemptions is December 31, 2012.

There is no state revenue loss resulting from this bill. An estimated \$3,000 in state property taxes will be shifted to other taxpayers in calendar year 2009, increasing to \$5,000 in calendar years 2010-2013. The loss in property tax revenues for local taxing districts is estimated to be \$1,000 in calendar year 2009, increasing to \$2,000 in calendar years 2010-2013. An estimated \$12,000 in local property taxes will be shifted to other taxpayers in calendar year 2009, increasing to \$20,000 by calendar year 2013. The legislation takes effect July 1, 2008.

**ESSB 6809                      Sales tax exemption for working families  
(Chapter 325, Laws of 2008)**

This legislation provides a state sales tax exemption targeted to lower-income working households in this state. However, the “working families’ tax exemption” is contingent on the Legislature approving the exemption in the state omnibus appropriations act for each fiscal period.

The working families' tax exemption is an exemption from the prior year's state retail sales tax for eligible persons based on the person's federal earned income tax credit (EITC). Persons claiming the exemption must apply to the Department of Revenue. The Department will remit exempted amounts to eligible persons who submitted applications. Remittances made in 2009 and 2010 are equal to the greater of 5 percent of the granted federal EITC or \$25. Remittances in 2011 and thereafter are equal to the greater of 10 percent of the granted federal EITC or \$50.

An eligible person is an individual, or an individual and his or her spouse if they file a federal joint income tax return, who is eligible for, and is granted, the federal EITC, and who properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington more than 180 days in the year for which the exemption is being claimed.

The Department is to begin accepting applications October 1, 2009, if the Legislature approves the exemption in the omnibus appropriations act during the 2009 legislative session.

This bill requires the Department to limit its costs for the exemption program to initial start-up costs. The Department is also required to assess the implementation of the exemption and report to the fiscal committees of the Legislature by December 1, 2012, identifying administrative or resource issues that require legislative action.

If the exemption is approved by the 2009 Legislature, the estimated revenue loss would be \$110,000,000 for the 2009-2011 Biennium. The legislation is effective June 12, 2008.

**SSB 6828                      Tax incentives for the aerospace industry  
(Chapter 81, Laws of 2008)**

This legislation broadens several existing tax incentives for the aerospace industry. It also clarifies the place of sale, for B&O tax purposes, of certain sales of aerospace parts to a commercial airplane manufacturer.

In 2003 and 2006 the Legislature enacted tax incentives for the aerospace industry. The 2003 incentives were targeted to manufacturers of commercial airplanes or their components. The 2006 incentives were targeted to non-manufacturing firms engaged in the development, design, and engineering of commercial airplanes or their components. Current law also provides a reduced B&O tax rate for firms that repair, maintain, overhaul, and refurbish commercial airplanes (Federal Aviation Regulation (FAR) Part 145 certificated repair stations). However, the reduced B&O tax rate only applies to a certain class of FAR Part 145 certificated repair stations.

This legislation repeals the 2006 incentive statutes and expands the eligibility of several of the 2003 incentives to:

- FAR Part 145 certificated repair stations.
- Manufacturers of tooling specifically designed for use in manufacturing commercial airplanes or components of commercial airplanes.
- Non-manufacturers that design and engineer aerospace products, as defined in the bill.

The repealed 2006 incentive statutes have no effect on taxpayers because the beneficiaries of those incentives are covered by the expansion of the 2003 incentives in this bill.

The tax incentives expanded in this bill are:

- A 40 percent B&O tax rate reduction.
- A B&O tax credit for property taxes and leasehold excise taxes paid in respect to qualifying property.
- A B&O tax credit for preproduction development expenditures.
- A sales and use tax exemption for certain computer hardware, software, and peripherals.

This bill also expands the reduced B&O tax rate for certain FAR Part 145 certificated repair stations to all FAR Part 145 certificated repair stations.

Lastly, this bill establishes that the place of sale, for B&O tax purposes, of specified components of commercial airplanes is the place where the final step in the Federal Aviation Administration approved or certified quality control process takes place, when that final step takes place outside the state.

These incentives result in an estimated revenue loss to the state general fund of \$2,166,000 in the current biennium and \$5,553,000 in the 2009-2011 Biennium. The legislation is effective July 1, 2008. All of the tax incentives provided by the bill expire July 1, 2024, except that the B&O tax rate reduction for FAR Part 145 certificated repair stations expires July 1, 2011.

**SSB 6851                      Documentation required to claim the real estate excise tax exemption for inherited property (Chapter 269, Laws of 2008)**

This legislation addresses the documentation required of individuals who inherit real property and claim an exemption from REET.

A transfer of real property by inheritance is excluded from the definition of “sale” for purposes of REET and therefore is exempt from the tax. The documentation required to claim the exemption is specified in rule and corresponds to the kind of legal instrument required for the transfer, such as a community property agreement, trust agreement, or court order. This is potentially a hardship for a surviving spouse or domestic partner who inherits a community property interest by law but needs to take ownership of the property before, or absent, a court order that settles the estate. It is also an administrative problem for counties and the Department of Revenue, because no REET is due, but there is no specific legal instrument that can be used as documentation.

This bill codifies in statute the documentation currently required in the Department’s rule for claiming a REET exemption on transfers of real property by inheritance. It also allows a spouse or domestic partner who inherits a community property interest in real property to receive a REET exemption, even when there is no specific legal instrument that documents the individual’s right to inherit, by furnishing a certified copy of the death certificate and a signed affidavit affirming that the surviving spouse or domestic partner is the sole and rightful heir to the property.

There is no revenue impact from this legislation. The legislation is effective June 12, 2008.

**SB 6950                      Suspension of obligations during officially declared emergencies (Chapter 181, Laws of 2008)**

The Governor has the authority to declare a state of emergency in any area of the state affected by a public disorder, disaster, energy emergency, or riot.

This legislation provides that the Governor, after declaring a state of emergency, may issue an order or orders concerning the waiver or suspension of statutory obligations. It also addresses extensions of due dates for tax payments and interest and penalty relief for taxpayers.

The Department of Revenue, on its own motion or at the request of any taxpayer affected by the emergency, may extend the due date for any excise tax assessments. The Department may also extend the time for filing excise tax returns and estate tax returns. County treasurers may grant

extensions of the due date for property taxes collected by the counties. And the Department may grant extensions of the due date for the property taxes collected by the Department on ships and vessels.

The bill also provides forest excise tax relief for small harvesters affected by the severe storms and flooding that occurred in December 2007. Within a county designated by the President as a disaster area as a result of the December 2007 storms and floods, for timber harvested between December 31, 2007, and before January 1, 2010, a small harvester may harvest up to five million board feet and still opt to file as a small harvester.

The revenue impact of this bill is indeterminate, due largely to the unpredictability of when the next state of emergency might be declared. The revenue impact of the provision allowing harvesters of timber in a county affected by the December 2007 storms and flooding to calculate the forest excise tax as a small harvester is expected to be minimal. During declared emergencies tax payments could be postponed, causing a shift of revenues between fiscal periods.

The majority of this legislation is effective June 12, 2008.