

Research Report 2003-2
SUMMARY OF 2003 TAX LEGISLATION

Washington State Department of Revenue
Research Division
June, 2003

This report summarizes major revenue and tax legislation in Washington that was approved during the regular and the first and second special sessions of the 2003 Legislature. The material was compiled from information developed by the Research Division and the Legislation and Policy Division in preparing 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.

CONTENTS

<u>Bill</u>	<u>Chapter</u>	<u>Subject</u>	<u>Page</u>
<u>HOUSE BILLS</u>			
EHB 1037	120	Litter tax exemption, food consumed on-premises	1
SHB 1069	12	Waiver of property tax penalties & interest	1
HB 1073	169	Foreclosure provisions for Lake Cushman lots	1
SHB 1075	170	Technical corrections, forest land/open space	2
SHB 1127	387, PV	Direct sale of food fish (tax base change vetoed)	2
SHB 1213	126	Tax study committee abolished	2
2SHB 1240	261	Biodiesel/alcohol fuel incentives; production	3
2SHB 1241	63	Biodiesel/alcohol fuel incentives; distribution/sale	4
SHB 1278	302	Listing of personal property; electronic submission	5
ESHB 1462	69	Local B&O taxes on intellectual property/royalties	5
HB 1531	Veto	Significant legislative rules; Governor's signature	5
ESHB 1564	23	County treasurer operations	5
HB 1591	73	Calculation of interest for excise tax purposes	6
SHB 1722	76	Sellers with a limited connection to Washington	6
ESHB 1853	83	Financing of passenger-only ferry service	7
HB 1858	343	B&O reduction; chemical dependency services	8
HB 1905	121	Rental of certain exempt property	8
SHB 1930	25	Reporting by tobacco manufacturers	8

House Bills (continued)

SHB 1943	114	Enforcement of cigarette tax	9
EHB 1977	5	Use tax correction; out-of-state repair services	9
HB 2001	344	Property tax exemption; fund-raising for artists	10
SHB 2027	113	Cigarettes purchased via the Internet/mail order	10
EHB 2030	79	Municipal business tax uniformity	10
HB 2063	315	Reporting timber sales data	11
ESHB 2088	394	Forest land exempt from storm water charges	11
EHB 2146	339	Tax incentives for wood biomass fuel	12
SHB 2192	27, 1stSS	Parimutuel tax increase	13
SHB 2215	368	Vehicle dealers administrative fee	14
ESHB 2228	364	Tax credits for commute trip reduction	14
ESHB 2231	361	Transportation financing; gas tax increased and additional 0.3% sales tax on vehicles	15
EHB 2269	13, 1stSS	Increased state revenues: unclaimed property holding period; advanced monthly excise tax due date; increased excise tax penalties, etc.	16
HB 2294	1, 2ndSS	Tax incentives for aerospace	18
SHJM 4004	Filed	Memorial to reinstitute sales tax deductibility	21

SENATE BILLS

SSB 5051	167	Strong beer shifted to beer excise tax	22
ESSB 5071	2, 1stSS	B&O tax rate reduction for aircraft repair	22
2SSB 5074	313	Timber harvesting/marketing costs clarified	22
ESSB 5247	350	Local option gas tax; collection by DOR	23
ESB 5256	165	Admin. rules; notice of cost-benefit statement	23
E2SSB 5341	16, 1stSS	Nursing home fee of \$6.50 per patient day	23
ESSB 5404	25, 1stSS	Biennial budget; DOR revenue enhancement	24
SB 5512	166	Admin. rules; impact on small businesses	24
2ESSB 5659	24, 1stSS	Additional local sales/use tax of 0.3%; increased growth rate for regular levies	24
SB 5725	149	Tax incentives for the semiconductor industry	25
SSB 5737	237	Unclaimed prop.; threshold for itemizing increased	27
ESSB 5766	246	Admin. rules; notification of adopted rules	27
SB 5783	168	Streamlined sales tax; changes in items subj. to tax	28
SB 5865	376	Public facilities districts; expanded use of funds	29
SSB 5933	236	Cigarette contracting; additional tribes	29
ESSB 6026	148	New local government fee on lodging	30
ESSB 6058	19, 1st SS	Delayed transfer of state levy receipts from G.F.	30
SJM 8003	Filed	Memorial to reinstitute deductibility of sales tax	31

INITIATIVES

Initiative 776	1	Limiting motor vehicle excise taxes to \$30	32
----------------	---	---	----

STATE REVENUE IMPACT OF MAJOR 2003 TAX LEGISLATION - Fiscal Years 2004 - 2005 (\$000)				
		<u>FY 2004</u>	<u>FY 2005</u>	<u>2003-05 Biennium</u>
GENERAL FUND				
2SHB 1241	B&O deduction & sales tax exemption for biodiesel/alcohol fuel	(\$19.9)	(\$30.3)	(\$50.2)
HB 1591	Calculation of interest for state excise tax purposes	\$203.0	\$411.0	\$614.0
SHB 1722	Sellers with a limited connection to Washington	(\$10.0)	(\$10.0)	(\$20.0)
HB 1858	B&O rate reduction; treatment of chemical dependency	(\$30.7)	(\$33.9)	(\$64.6)
EHB 1977	Use tax correction; out-of-state repair services	(\$36,000.0)	(\$24,000.0)	(\$60,000.0)
SHB 2027	Internet purchases of cigarettes (cigarette & use tax)	\$46.5	\$52.2	\$98.7
ESHB 2228	B&O and PUT credits for commute trip reduction*	\$0.0	\$0.0	\$0.0
EHB 2269	Various increases in state revenue collections**	\$31,328.2	\$69,224.8	\$100,553.0
HB 2294	Tax incentives for aerospace industry	(\$12,944.2)	(\$12,357.5)	(\$25,301.7)
ESSB 5071	B&O rate reduction for aircraft repair	(\$571.6)	(\$700.0)	(\$1,271.6)
E2SSB 5341	Nursing home fee of \$6.50/patient/day	\$37,397.0	\$40,797.0	\$78,194.0
ESSB 5404	Biennial budget; DOR revenue enhancement	\$14,000.0	\$18,000.0	\$32,000.0
SB 5725	Tax incentives for the semiconductor industry***	\$0.0	\$0.0	\$0.0
SB 5783	Streamlined sales tax; changes in items subject to sales tax	\$1,604.2	\$2,614.1	\$4,218.3
ESSB 6058	Delayed transfer of funds to student achievement fund	\$0.0	\$188,315.8	\$188,315.8
NET GENERAL FUND IMPACT		\$35,002.5	\$282,283.2	\$317,285.7
OTHER FUNDS				
EHB 1037	Waste reduction acct. - litter tax exemption for on-premises food	(\$368.8)	(\$406.3)	(\$775.1)
SHB 2027	Internet purchases of cigarettes - water quality acct.	\$7.2	\$8.0	\$15.2
SHB 2027	Internet purchases of cigarettes - drug enforcement acct.	\$9.4	\$10.5	\$19.9
SHB 2027	Internet purchases of cigarettes - health services acct.	\$90.3	\$101.4	\$191.7
ESHB 2231	Multimodal transpo. acct. - additional 0.3% sales tax on vehicles	27,800.00	\$30,970.0	58,770.00
ESHB 2228	B&O and PUT credits for commute trip reduction*	(\$2,250.0)	(\$2,250.0)	(\$4,500.0)
ESSB 6058	Delayed transfer of funds to student achievement fund	\$0.0	(\$188,315.8)	(\$188,315.8)
*Tax credits estimated at \$2.25 million per fiscal year; amount to be transferred to general fund from multimodal transportation account.				
**Shortened holding period for unclaimed property; increased excise tax penalties, advanced due date for monthly excise tax returns.				
***Revenue impact begins in the 2005-07 biennium.				
<i>Department of Revenue, Research Division, June 25, 2003</i>				

HOUSE BILLS

**EHB 1037 Litter tax exemption for food/beverages consumed on-premises
(Chapter 120, Laws of 2003)**

This bill clarifies in statute that the litter tax does not apply to food and beverages sold by retailers for indoor consumption on the seller's premises. The Department previously determined that the litter tax does not apply to such sales. However, in response to an adverse ruling in 2002 by the Board of Tax Appeals, the Department was prepared to change this ruling and extend the tax to sales of food and drink for on-premises consumption to be consistent with the BTA decision.

Because the Department intended to change the application of the tax if the Legislature had not acted, there will be a revenue impact on litter tax collections. The estimated reduction in state revenue will amount to about \$775,000 for the 2003-05 biennium. The bill is effective on May 7, 2003.

**SHB 1069 Waiver of property tax interest & penalties
(Chapter 12, Laws of 2003)**

RCW 84.56.025 currently allows the county treasurer to waive any interest and delinquency penalties for property taxes on real property which is levied in the year the property is sold, if a notice of the delinquency was not properly sent to the new owner. This bill amends the statute by removing references to the conveyance of the property. It will allow the treasurer to waive the penalties and interest any time that a notice was not sent to the owner due to an error by the county. There is no impact on state revenues for this bill which takes effect on July 27, 2003.

**HB 1073 Foreclosure provisions for Lake Cushman lots
(Chapter 169, Laws of 2003)**

In 2001 RCW 84.40.410 was adopted, shifting from leasehold excise tax to property tax certain residential and recreational lots at Lake Cushman in Mason County which are subleased. Currently, foreclosure proceedings on such lots are restricted to any improvements. This bill amends the statute to allow foreclosure against the leasehold interest in the real property at developments consisting of at least 3,000 lots which are subleased for residential or recreational purposes. There is no impact on the state property tax levy and at most minimal impact on local government revenues. HB 1073 is effective on July 27, 2003.

**SHB 1075 Technical corrections, forest land and open space programs
(Chapter 170, Laws of 2003)**

In 2001, three statutes pertaining to forest land valuations and removal of land from the open space current use assessment program were each amended by two bills without reference to the other bill; one other statute was both amended and repealed. One amendment related to denial of applications for designation as forest land due to failure to meet administrative rules required by forest practices statutes in Title 76 RCW. The other concerned the date of death of owners of parcels in the programs. This technical correction bill amends RCWs 84.33.130, 84.33.140 and 84.34.108 to incorporate both amendments to each statute; Section 4 repeals RCW 84.33.120. There is no impact for this legislation which is effective on July 27, 2003.

**SHB 1127 Direct sale of food fish
(Chapter 387, Laws of 2003 - fish tax revision vetoed)**

The bill concerns licenses issued to fishers who sell their catch directly to the public or to restaurants. It adds a new definition to the statutes dealing with food fish and shellfish which denotes "retail-eligible species" as comprising salmon, crab and sturgeon which are commercially harvested.

Section 6 of the bill would have revised the tax base for the food fish tax in RCW 82.27.020 (all fish, not just those sold directly at retail). Currently, the tax is measured by the value of enhanced food fish at the point of landing, basically the sales price. The new language would have substituted "value" with "comparable sales price for similar species of fish" and also would have added a reference to retail-eligible fish which are sold with a direct retail endorsement as provided in RCW 77.65.510. However, Section 6 was vetoed by the Governor, who noted that the new tax base was not defined and the change would have created uncertainty for both fishers and the Department. He directed the Department to work with concerned parties to resolve this issue. The remainder of the bill is effective on July 27, 2003.

**SHB 1213 Tax study committee abolished
(Chapter 126, Laws of 2003)**

This bill contains a clean-up of various statutes that required special committees or advisory groups. Section 901 directs that the committee on taxation and its advisory group established in the 2001-03 biennial budget (2001) and the supplemental budget (2002) be abolished by the Department by July 1, 2003. The study, known as the Tax Structure Study, was initiated after the 2001 legislative session, and the committee and its advisory group concluded their work in November, 2002.

This bill creates new tax incentives for manufacturing of biodiesel or alcohol fuel or biodiesel feedstock (oil derived from agricultural crops used to produce biodiesel fuel). Biodiesel is a fuel used in compression-ignition engines that is derived from vegetable oil or animal fats. Alcohol fuel is made from a product other than petroleum or natural gas and is used in combination with gasoline or other petroleum products as fuel for motor vehicles or farm implements; the alcohol portion must comprise at least 85 percent of the volume of the blended fuel.

Deferral of sales/use tax. Section 3 authorizes a new deferral/exemption of state and local retail sales/use tax for investment in biodiesel or alcohol production facilities in rural areas. The deferral will cover both construction of facilities and machinery and equipment. Investments eligible for the deferral must be located in a county: (1) with an average population density of fewer than 100 persons per square mile or (2) a total population less than 225,000, as long as the county covers an area greater than 225 square miles. The deferral requires prior application to the Department per Section 2 of the bill. This deferral becomes effective on July 1, 2004 and will expire on July 1, 2009.

Section 4 of the bill provides a similar sales/use tax deferral/exemption for facilities located in a community empowerment zone (CEZ). To qualify for the CEZ deferral the firm must certify that it will hire at least one new employee for every \$750,000 of investment upon which the tax deferral is sought. These employees must reside within the boundaries of the CEZ.

Section 5 requires that recipients of the sales tax deferrals report annually to the Department starting in the year that the facility is operationally completed and for each of the succeeding seven years. If the Department determines that the investment continues to meet the requirements of the program for all seven years, then the deferred taxes need not be repaid.

Section 14 contains a proviso relating to the current rural county sales tax deferral for manufacturing investments provided by Chapter 82.60 RCW. That program is currently scheduled to expire on July 1, 2004. If, however, the termination date of that program is extended before July 1, 2004, then the sales tax deferral/exemptions provided by this bill will not become effective. In essence, if the current rural county sales tax program is not extended, then this bill will allow a similar deferral of tax for producers of these specialized fuels.

Property/leasehold tax exemptions. Section 9 establishes a new exemption from property taxes for buildings and equipment that are primarily used to produce biodiesel or alcohol fuel. The exemption applies for only the first six years after the facility becomes operational. If the facility produces other products, then the amount of exemption will be determined by the percentage of the total value of products manufactured represented by the biodiesel and alcohol fuel. The firm must apply for the exemption with the county assessor. The Department will prescribe the appropriate forms. No applications may be filed for this exemption after 2009. The exemption will be effective for property taxes due in calendar year 2004. A similar exemption from leasehold excise tax is contained in Section 10.

B&O tax rate reduction. Section 11 creates another specialized tax classification under RCW 82.04.260 for firms that produce biodiesel or alcohol fuel. The value of such products will be subject to tax at the 0.138 percent rate, rather than the usual 0.484 percent manufacturing rate. This rate reduction takes effective on July 1, 2003 and will expire on July 1, 2009.

There are currently no manufacturing facilities that produce biodiesel or alcohol fuel in the state and no applications for such a plant have been submitted under the existing rural county sales tax deferral program. One firm is considering to construct an ethanol plant near Moses Lake. However, even if this proposal comes to fruition, the earliest impact on tax revenues would be several years into the future, as a result of the financing and permitting processes involved.

The sections of the bill relating to the sales tax deferral/exemption are effective on July 1, 2004 (and only if the existing rural county program is not renewed). The property and leasehold tax exemptions and the B&O tax rate reduction take effect on July 1, 2003.

**2SHB 1241 Biodiesel/alcohol fuel tax incentives; distribution & sale
(Chapter 63, Laws of 2003)**

New B&O and retail sales/use tax exemptions are established for the distribution and retail sale of biodiesel and alcohol fuels. Biodiesel is a fuel used in compression-ignition engines that is derived from vegetable oil or animal fats. Alcohol fuel is made from a product other than petroleum or natural gas and is used in combination with gasoline or other petroleum products as fuel for motor vehicles or farm implements; the alcohol portion must comprise at least 85 percent of the volume of the blended fuel. Section 1 of the bill provides a B&O tax deduction for income derived from the retail sale or distribution of such fuel. Sections 2 and 3 contain exemptions for (1) construction of facilities or equipment necessary for the retail sale of biodiesel or alcohol fuel, and (2) delivery vehicles, including any necessary conversion of such vehicles, used to deliver biodiesel or alcohol fuel, provided that at least 75 percent of the fuel distributed by such vehicles meets the definition of biodiesel or alcohol fuel.

None of the exemptions in this bill apply to actual production of biodiesel or alcohol fuel (see 2SHB 1240).

Because of the limited volume of such fuels currently sold in Washington, the revenue impact is relatively small. However, if prices of petroleum fuel remain high, greater demand can be anticipated for biodiesel and alcohol fuel in the future, thus resulting in new or converted delivery systems for these fuels and greater utilization of these tax incentives. The estimated reduction in state B&O and retail sales tax amounts to \$50,200 for the 2003-05 biennium.

This bill is effective on July 1, 2003 and all of the incentives are scheduled to expire on July 1, 2009.

**SHB 1278 Listing of personal property; electronic submission
(Chapter 302, Laws of 2003)**

This bill pertains to listing of personal property by county assessors. It allows the assessor to transmit a list of the prior year personal property to owners electronically, in addition to via regular mail. Owners may also return the current year's listing by electronic means. To facilitate electronic transmission of the personal property listings, the bill removes a requirement that the owner sign the statement. There is no impact on property tax revenues for this bill which is effective on July 27, 2003.

**ESHB 1462 Local B&O taxes on intellectual property and royalties
(Chapter 69, Laws of 2003)**

This bill adds a new provision in Chapter 35.21 RCW dealing with municipal business taxes. It stipulates that cities may not impose a gross receipts tax on activities relating to the creation of intellectual property. However, cities may tax manufacturing activities, sales of products, or services taking place within the same city, even if intellectual property creating activities are involved in the design, creation or manufacturing of such products. Also, cities may only apply a gross receipts tax to income derived from royalties of taxpayers that are domiciled within the same city.

Municipal taxes in existence on January 1, 2002 do not need to meet the new requirements for intellectual property creation or the limitation of tax on royalties until January 1, 2004.

There is no impact on state revenues. The bill is effective on July 27, 2003.

**HB 1531 Significant legislative rules, signature by Governor
(Vetoed)**

This bill would have amended the administrative rule adoption process for state agencies. For any rule qualifying as a significant legislative rule adopted by an agency under the authority of the Governor, it would have required that the Governor actually sign the rule prior to its becoming effective. However, the bill was vetoed by the Governor, who believed that the new requirement would be counter-productive to the administration's effort to make the rule adoption process more responsive, efficient and effective.

**ESHB 1564 County treasurer operations
(Chapter 23, Laws of 2003)**

This bill contains several amendments pertaining to programs administered by county treasurers. The purpose is to clarify existing law and to enable these offices to operate more efficiently. It specifies that when personal property is sold at auction, any unpaid property taxes will become an automatic lien against the proceeds of the sale and these amounts must be remitted to the

treasurer. It requires that segregation of real property for tax purposes may not occur until all current year and any delinquent taxes are paid. When foreclosed property is sold, the treasurer must refund any proceeds in excess of the minimum bid. If the treasurer issues a refund to taxpayers for overpayment of tax which includes interest, both the overpaid tax and the interest may be charged to the appropriate funds. Costs for processing certain nontax transactions involving districts for which the county treasurer serves as the ex officio treasurer may be waived.

HB 1591 **Calculation of interest for excise tax purposes**
(Chapter 73, Laws of 2003)

According to RCW 82.32.050, the interest rate applied to state excise tax assessments and refunds is based on the federal short-term rate as published by the U.S. Treasury. The current calculation averages the federal rates from January, April, July and October of the prior year. Section 1 of this bill substitutes the October rate of the prior year with the preceding October rate, thereby allowing the Department to calculate the interest rate earlier and provide earlier notification to taxpayers. This amendment is effective on July 27, 2003.

A new subsection is added to RCW 82.32.060 relating to the calculation of interest on excise tax refunds. Presently, interest on overpayments accrues from the date of payment. Under this amendment interest begins to accrue on overpayments which were made by the due date on the last day of the month following the final month included in a credit notice or refund or on January 31 for overpayments attributable to each prior calendar year. If the taxpayer did not make the payments by the due date, then interest on the overpayment will be calculated from the last day of the month following the month in which the liability was paid in full for each calendar year included in a credit notice or refund notice. Interest on amounts included in a credit notice will accrue only until the taxpayer could reasonably be expected to use the credit or until the credit is converted to a refund. The changes in this subsection are effective on January 1, 2004.

The change in calculation of interest rates will have a net positive impact on interest received or paid by the Department. It is estimated that the state will gain approximately \$614,000 during the 2003-05 biennium.

SHB 1722 **Sellers with a limited connection to Washington**
(Chapter 76, Laws of 2003)

Under the existing federal Internet Tax Freedom Act, out-of-state firms that make sales into Washington through an Internet service provider located in Washington are relieved of the obligation to collect Washington retail sales or use tax. However, this moratorium is currently scheduled to expire on November 1, 2003.

This bill continues to provide the same relief from the obligation to collect or report Washington B&O or retail sales/use taxes for out-of-state sellers, even if the moratorium expires. The bill pertains to firms whose activities in this state are confined to advertising, taking orders, or

processing payments, as long as the activities are conducted electronically via a website on a server located in Washington. Further, such a website or server must not be owned and operated by the firm making sales into the state or by an affiliated firm.

The entire bill will expire if and when Congress grants states the authority to impose sales and use taxes on remote sellers or when a court rules that states can impose such taxes.

The potential revenue impact from this legislation is believed to be very small and will impact at most a very limited number of retailers. The fiscal note indicates a reduction in state sales tax receipts of \$20,000 for the 2003-05 biennium. The bill is effective on July 27, 2003.

**ESHB 1853 Financing of passenger ferry service
(Chapter 83, Laws of 2003)**

This bill provides a system of local financing of passenger-only ferry service across Puget Sound in the event that the state eliminates existing service. The bill authorizes a local public transportation benefit area (PTBA) to provide passenger-only ferry service. A PTBA contemplating such service must develop a plan for submission to the voters of the district. The plan may include a recommendation for the following financing sources: a motor vehicle excise tax of up to 0.4 percent, a local sales and use tax, tolls, and charges or fees for advertising, leasing of space and other revenue-generating activities.

The local retail sales/use tax is authorized by Section 207 of the bill. Only PTBAs bordering on Puget Sound may levy the tax. Further, the tax may not be levied in an area in which an existing regional transit authority has been formed (metropolitan portion of Snohomish, King and Pierce counties). The maximum tax rate of the local sales/use tax for passenger-only ferry service is 0.4 percent. Section 208 requires administration of the tax by the Department and allows retention of up to 2 percent of the receipts to cover state collection costs.

Part III of the bill creates a new type of taxing district, a ferry district, and authorizes new property tax levies to finance passenger-only ferry service. Such a district must have a boundary on Puget Sound and be located in a county with a population in excess of 1,000,000 (thereby restricting formation of a ferry district to King County). The ferry district could be countywide or include only a portion of the county. Section 303 provides a regular levy of up to \$0.75 per thousand dollars of assessed value within the boundaries of the district. Section 304 allows a ferry district to request voter approval of excess property tax levies for a one-year period for either operations or capital purposes. Section 310 stipulates that the regular levy would be first in line for prorationing purposes, if total local levies exceed statutory limits. According to Section 311, the ferry levy would be outside of the \$5.90 limit on local regular levies.

There is no impact on state revenues resulting from this legislation, other than the administrative fee provided for state collection of the local sales tax. The bill became effective on April 23, 2003.

HB 1858**B&O tax reduction; treatment of chemical dependency
(Chapter 343, Laws of 2003)**

This bill establishes a new tax rate classification for purposes of the state B&O tax. Firms that are certified by DSHS to provide intensive inpatient or recovery house residential treatment services for chemical dependencies will have their applicable B&O tax rate reduced from 1.5 to 0.484 percent. The lower tax rate applies only to income received from federal, state or local government instrumentalities. It is estimated that the tax rate reduction will result in a reduction in state revenues of about \$65,000 for the 2003-05 biennium. The bill is effective on July 27, 2003.

HB 1905**Rental of certain exempt property
(Chapter 121, Laws of 2003)**

This bill restructures the property tax exemption for certain nonprofit organizations provided in RCW 84.36.060. The bill addresses nonprofit groups that maintain and exhibit art, scientific or historical collections and associations that produce musical, dance, artistic, dramatic or literary works. Presently, these organizations may rent their property to others without nullifying the property tax exemption; however, the organization that rents the property must qualify for the exemption (if they owned the property), the property must be used for the same purpose, and the rental receipts must be devoted to maintenance and operation expenses of the property. This bill allows rental to nonqualifying organizations for up to 25 days per calendar year. Any use of the property for income generating activities is limited to 7 of those 25 days.

There is no impact on the state levy. Any potential local impact is indeterminate, but in the aggregate is likely to be minimal. The bill is effective on July 27, 2003 and will first apply to taxes paid in 2004.

SHB 1930**Reporting by tobacco manufacturers
(Chapter 25, Laws of 2003)**

In 1999 Washington reached an agreement with tobacco manufacturers which provides long-term financial benefits to the state. This bill does not modify the Tobacco Master Settlement Agreement, but it does provide additional safeguards to maintain the integrity of the agreement. SHB 1930 institutes new reporting requirements and procedural changes for manufacturers of tobacco products. It requires that manufacturers who were not participants in the agreement must certify that they are registered to do business in this state and maintain a qualified escrow account. Manufacturers selling tobacco products into Washington must provide annual certification identifying the firm's brand families and the number of units sold for each brand during the previous year. The Attorney General will be required to publish on its website a directory of such manufacturers. Sections 9 through 11 of the bill amend portions of existing cigarette tax statutes to make them consistent with the definitions and requirements of this bill.

SHB 1930 does not revise state tax law and is expected to have no impact on state tax revenues. The bill is effective on July 1, 2003.

**SHB 1943 Enforcement of cigarette tax
(Chapter 114, Laws of 2003)**

This legislation is intended to tighten the enforcement of cigarette tax with respect to counterfeit cigarettes. It makes changes with respect to reporting of cigarette tax by wholesalers. For example, the statute is amended to specify that only wholesalers, not retailers, may purchase cigarette stamps and they may not sell or give stamps to other persons. The statute directs that the Department of Revenue identify each roll of cigarette stamps and keep records of those rolls purchased by each wholesaler. A new section states that it is unlawful to possess counterfeit cigarettes; violations will constitute a Class C felony. Also, the penalty for selling or distributing cigarettes by unlicensed dealers is increased from a misdemeanor to a Class C felony.

Although the bill may eliminate some cigarette tax noncompliance, the potential additional revenue which may result is unknown. SHB 1943 is effective on July 27, 2003.

**EHB 1977 Use tax correction; out-of-state repair services
(Chapter 5, Laws of 2003)**

In 2002 legislation was adopted to extend use tax to repair services (SB 6835). The purpose was to make consistent the application of sales and use tax to all repair services regardless of where the repair activity is performed (use tax principally applies to transactions occurring outside the state to tangible personal property that is used within the state). However, the legislation inadvertently failed to provide exemptions for repair services which are specifically exempt from retail sales tax (e.g., for interstate commerce vehicles and manufacturing machinery and equipment).

This bill amends a variety of tax exemption statutes to assure that use tax will not apply to repair services rendered to items which are exempt from retail sales tax. Section 20 makes these changes retroactive to June 1, 2002, the effective date of SB 6835, and directs the Department to provide a refund of any tax paid upon these services since that date. EHB 1977 was effective on March 18, 2003.

In the absence of this bill, the Department would have had to begin collection of the use tax on all items repaired outside the state but used within the state. Therefore, there is a revenue impact associated with this legislation. The revenue impact of extending the use tax exemptions to items that are exempt from retail sales tax is estimated at \$60 million in state revenue for the 2003-05 biennium. This amount includes \$18 million in tax that is owing or was already paid for the period between June 1, 2002 and the effective date of this bill; this amount will be refunded or forgiven.

HB 2001 **Property tax exemption; fund-raising for individual artists**
(Chapter 344, Laws of 2003)

A new property tax exemption is established for nonprofit organizations which solicit funds for artists. To qualify the real or personal property must be used to obtain gifts, donations or grants for the support of individual artists who are engaged in the production or performance of musical, dance, artistic, dramatic or literary works. The organization is required to be governed by a board of directors consisting of at least eight volunteer members. The funds generated by the exempt organization must benefit individual artists, not other arts organizations.

There is no impact on the state property tax levy with minimal shifts of tax burden to other property owners. There will be a small revenue loss to local taxing districts and some shift of tax burden. The exemption applies for property taxes due in calendar year 2004, and the bill takes effect on July 27, 2003.

SHB 2027 **Cigarettes purchased via the Internet or mail order**
(Chapter 113, Laws of 2003)

With the rising price of cigarettes and expanding ease of making purchases from outside the state over the Internet or by mail order, it is believed that some cigarette tax evasion has been occurring via these means. Section 2 of this bill adds a new section to Chapter 70.155 RCW which makes out-of-state sellers subject to new reporting provisions. Specifically, sellers must verify the age and address of the recipient purchasers, assure that the purchaser is not a minor, file a monthly report with the Liquor Control Board indicating the name and address of purchasers, and collect and remit to the Department of Revenue any cigarette tax due under Chapter 82.24 RCW. Subsection 6 provides a penalty equal to five times the retail value of cigarettes which are delivered to a Washington purchaser without payment of the proper amount of cigarette tax.

Based on the known out-of-state sellers of cigarettes who deliver directly to Washington purchasers, it is estimated that the state will receive an additional \$325,500 in cigarette and use tax under the new reporting requirement during the initial biennium. SHB 2027 is effective on July 27, 2003.

EHB 2030 **Municipal business tax uniformity**
(Chapter 79, Laws of 2003)

This legislation relates to taxes levied by municipalities on businesses, commonly referred to as local B&O taxes. The stated legislative intent is to provide a more uniform system of city business and occupation taxes that eliminates multiple taxation, while allowing for some continued local control and flexibility for cities.

Cities, working through the Association of Washington Cities, are directed to formulate a model ordinance for a municipal B&O tax. Cities are required to adopt the mandatory provisions of the

ordinance and, once adopted, changes may not be made to the ordinance more frequently than every four years. The ordinance must specify a minimum small business threshold of no less than \$20,000 annually. Cities may adopt their own business tax exemptions, deductions and credits, except they must allow credits pursuant to Section 6 of this bill to eliminate the possibility of multiple taxes applying to the same income. Also, the bill contains various references to the administrative provisions of Chapter 82.32 RCW. Section 13 of the bill requires the ordinance to specify a system of allocating and apportioning income (two factor formula consisting of payroll and service income) in situations where a firm does business in more than one location; these provisions are effective on January 1, 2008.

Cities must comply with the provisions of the bill by December 31, 2004.

Section 15 requires the Department to study the net fiscal impacts of EHB 2030 and report the findings to the Governor and the legislative fiscal committees before November 30, 2005. Progress reports are also required by the Department on November 30, 2003 and November 30, 2004. The purpose of this study is to identify any adverse revenue impacts on local jurisdictions, in particular the allocation and apportionment provisions of Section 13. The Department must consult with an advisory committee comprised of an equal number of business representatives and representatives of cities that levy a gross receipts tax.

Section 16 stipulates that the Department prepare another report addressing the definitions in the model ordinance. This study shall detail the status of baseline definitions provided in Section 4(2)(g) and identify any deviations between these definitions and those for purposes of the state B&O tax in Chapter 82.04 RCW. This report must contain the estimated fiscal impacts of these tax base deviations. The report under this section must be submitted by December 31, 2004.

There is no state revenue impact for EHB 2030. Except for Section 13, the remainder of the bill is effective on July 27, 2003. Section 13, requiring allocation and apportionment of gross income for municipal business tax purposes, takes effect on January 1, 2008.

**HB 2063 Reporting timber sales data
(Chapter 315, Laws of 2003)**

Buyers of privately-owned timber are required to report data on their purchases to the Department. The information helps in the establishment of the semi-annual stumpage values upon which the timber excise tax is based. The reporting requirement in RCW 84.33.088 was scheduled to expire on July 1, 2004; this bill extends the date by three years. There is no direct impact on tax receipts. The bill is effective on July 27, 2003.

**ESHB 2088 Forest land exempt from storm water charges
(Chapter 394, Laws of 2003)**

This legislation relates to charges for storm or surface water sewer systems operated by cities or counties. It allows a reduction in rates for property that includes a permissive rainwater

harvesting system. Section 7 of the bill amends RCW 84.33.210 under the forest tax law to specifically exempt designated forest land from any rates or charges made by a county for storm or surface water systems.

**EHB 2146 Tax incentives for wood biomass fuel
(Chapter 339, Laws of 2003)**

A variety of new tax exemptions are provided for wood biomass fuel. This is defined as a liquid fuel to be used in internal combustion engines which is produced from wood products or dedicated energy crops that do not include wood but which are treated with chemical preservatives. The bill is very similar to 2SHB 1240 and 2SHB 1241 which establish similar tax incentives for biodiesel and alcohol fuel.

Deferral of sales/use tax. Sections 1-8 authorize a new deferral/exemption of state and local retail sales/use tax for investment in wood biomass fuel production facilities in rural areas. The deferral will cover both construction of facilities and machinery and equipment. Investments eligible for the deferral must be located in a county: (1) with an average population density of fewer than 100 persons per square mile or (2) a total population less than 225,000, as long as the county covers an area greater than 225 square miles. The deferral requires prior application to the Department per Section 2 of the bill. This deferral becomes effective on July 1, 2004 and will expire on July 1, 2009.

Section 4 of the bill provides a similar sales/use tax deferral/exemption for facilities located in a community empowerment zone (CEZ). To qualify for the CEZ deferral the firm must certify that it will hire at least one new employee for every \$750,000 of investment upon which the tax deferral is sought. These employees must reside within the boundaries of the CEZ.

Section 5 requires that recipients of the sales tax deferrals report annually to the Department starting in the year that the facility is operationally completed and for each of the succeeding seven years. If the Department determines that the investment continues to meet the requirements of the program for all seven years, then the deferred taxes need not be repaid.

Section 17 contains a proviso relating to the current rural county sales tax deferral for manufacturing investments provided by Chapter 82.60 RCW. That program is currently scheduled to expire on July 1, 2004. If, however, the termination date of that program is extended before July 1, 2004, then the sales tax deferral/exemptions provided by this bill will not become effective. In essence, if the current rural county sales tax program is not extended, then this bill will allow a similar deferral of tax for producers of these specialized fuels.

Property/leasehold tax exemptions. Section 9 establishes a new exemption from property taxes for buildings and equipment that are primarily used to produce wood biomass fuel. The exemption applies for only the first six years after the facility becomes operational. If the facility produces other products, then the amount of exemption will be determined by the percentage of the total value of products manufactured represented by the wood biomass fuel. The firm must apply for the exemption with the county assessor. The Department will prescribe

the appropriate forms. No applications may be filed for this exemption after 2009. The exemption will be effective for property taxes due in calendar year 2004. A similar exemption from leasehold excise tax is contained in Section 10.

B&O tax rate reduction. Section 11 creates another specialized tax classification under RCW 82.04.260 for firms that produce wood biomass or alcohol fuel. The value of such products will be subject to tax at the 0.138 percent rate, rather than the usual 0.484 percent manufacturing rate. This rate reduction takes effect on July 1, 2003 and will expire on July 1, 2009.

B&O tax deduction. Section 12 of the bill provides a B&O tax deduction for income derived from the retail sale or distribution of wood biomass fuel. This deduction is effective on July 1, 2003 and will expire on July 1, 2009.

Sales/use tax exemptions. Sections 13-14 contain exemptions for (1) construction of facilities or equipment necessary for the retail sale of wood biomass fuel, and (2) delivery vehicles, including any necessary conversion of such vehicles, used to deliver wood biomass fuel, provided that at least 75 percent of the fuel distributed by such vehicles meets the definition of a wood biomass fuel blend. These exemptions are effective on July 1, 2003 and will expire on July 1, 2009.

There are currently no known wood mass biofuel manufacturing facilities that produce the type of fuel addressed by this bill in Washington. No applications for such a plant have been submitted under the existing rural county sales tax deferral program. Further, there are no public distributors of wood biomass fuel. Wood biomass fuel technology is still in the developmental stages and the demand for petroleum products continues to outweigh the demand for alternate fuel sources. Because of the many unknowns related to this industry, it is not possible to estimate the potential impact of these tax incentives. However, it is believed that the earliest impact would occur after the 2003-05 biennium.

The sections of the bill relating to the sales tax deferral/exemption are effective on July 1, 2004 (and only if the existing rural county program is not renewed). The property and leasehold tax exemptions, the B&O tax rate reduction and the B&O and sales/use tax exemptions for distribution and sale all take effect on July 1, 2003.

**ESHB 2192 Parimutuel tax increase
(Chapter 27, Laws of 2003, 1st Special Session)**

The Horse Racing Commission administers a tax on the receipts of parimutuel betting machines at horse races. This bill amends RCW 67.16.105 to increase one of the tax rates for that tax. The existing tax rates for races other than those which are nonprofit in nature are: (1) 0.52 percent of the daily gross receipts if the total parimutuel machine receipts for the operator were less than \$50 million for the previous calendar year; and (2) 1.3 percent of the daily gross receipts if the annual total exceeded \$50 million. This bill changes only the smaller tax rate; it increases from 0.52 percent to 1.803 percent. The Commission estimates that the rate increase will produce an

additional \$361,000 for the 2003-05 biennium. The tax receipts go to the state general fund, after administrative expenses of the Commission have been paid. The change in the parimutuel tax rate takes effect on January 1, 2004.

**SHB 2215 Vehicle dealers administrative fee
(Chapter 368, Laws of 2003)**

A new fee of \$35 per vehicle is authorized for dealers of motor vehicles. Dealers may charge their customers this amount as compensation for costs incurred in registering and licensing vehicles, transferring title, and collecting vehicle taxes. The new "document service fee" must be disclosed in writing to prospective purchasers and in their advertising. The dealer must not represent that the fee is required to be imposed by the state, and the fee must be separately stated from the selling price of the vehicle.

Since the \$35 fee is not a part of the selling price of the vehicle, it is assumed that it will not be included in the price which is subject to retail sales or use tax. However, the fee receipts will constitute additional income to the dealer and will therefore be subject to state B&O tax, presumably under the service classification.

The effective date of this bill is tied to the effective date of the transportation financing bill, ESHB 2231, portions of which are effective on July 1, 2003.

**ESHB 2228 Tax credits for commute trip reduction
(Chapter 364, Laws of 2003)**

This legislation reinstates a program of allowing employers to take B&O or public utility tax credits against their business tax liability for a portion of the financial assistance they provide to their employees to encourage participation in ride-sharing and other commute trip reduction programs.

Credits against B&O and public utility taxes are provided for employers and property managers for financial incentives provided to employees who participate in programs designed to reduce the number of single-occupant vehicles driven to work. The amount of tax credit is limited to 50 percent of the amount paid to an individual employee and may not exceed \$60 per employee annually. The amount of credit cannot exceed a firm's business tax liability, and firms may not take both B&O and PUT credits for payments to the same employee. The maximum amount of credit a firm may take in any fiscal year is \$200,000. Overall, the total credits are capped at \$2.25 million per fiscal year. Unused credits may be carried forward for up to three years, subject to the other limitations in the programs, as long as the firm's tax liability exceeds the amount of credit.

The Department will be required to maintain a running total of tax credits provided and to cut-off additional credits when the \$2.25 million total is reached each fiscal year. Also, the Department must notify the State Treasurer of the credits taken on a quarterly basis, so that the Treasurer may

transfer equivalent funds from the multimodal transportation account to the general fund, thereby financing the costs of the tax credits from transportation funds rather than general state revenues.

It is assumed that the full amount of authorized credits will be taken each year. Thus, the biennial revenue impact will amount to \$4.5 million. As indicated above, this impacts the multimodal transportation account, rather than the state general fund. The tax credits are effective on July 1, 2003. The program is scheduled to expire on July 1, 2013.

**ESHB 2231 Transportation funding; gas tax increased by 5 cents
and additional 0.3 percent sales tax on vehicles
(Chapter 361, Laws of 2003)**

This legislation contains several provisions to raise additional revenue to finance transportation improvements in Washington. The state tax on motor vehicle fuel will increase from 23 cents per gallon to 28 cents, effective July 1, 2003. Also, the special fuel tax on diesel, natural gas, propane and other special fuels is increased by 5 cents or an equivalent amount. The additional fuel taxes are earmarked for bonds to be issued this year and will expire when those bonds are retired. The bill also increases license fees for trucks and provides for new optional license plates for sponsoring organizations.

Part III of the bill establishes a new state retail sales and use tax on motor vehicles, effective on July 1, 2003. The additional sales tax rate is 0.3 percent and will apply to vehicles as defined in RCW 46.04.180. Specifically excluded from the additional sales tax are farm machinery, off-road and nonhighway vehicles, and snowmobiles. The tax does not apply to retail car rentals. Receipts from the additional sales tax will be deposited into the multimodal transportation account for use in financing transportation improvements.

It is assumed that the additional sales tax will apply to new and used automobiles, light trucks, large trucks (except those used in interstate commerce), busses, motorcycles and motor homes that are licensed for use on the highways. It is further assumed that the selling price for purposes of the additional tax will be the net price paid by the purchaser, after deducting any trade-in exemption provided in RCW 82.08.010(1).

The additional sales tax rate will bring the maximum combined state and local sales tax rate for vehicles to 9.2 percent (in portions of southern Snohomish County). The 0.3 percent tax is estimated to generate approximately \$58.8 million for the multimodal account during the 2003-05 biennium. Part III of the bill is effective on July 1, 2003.

EHB 2269

Increased state revenues: unclaimed property abandonment period, advanced monthly excise tax due date, increased excise tax penalties, expansion of successorship and registration of special event vendors (Chapter 13, Laws of 2003, 1st Special Session)

This bill contains five separate elements which increase state revenues. In the aggregate the bill is expected to generate \$100.55 million in additional state revenue during the 2003-05 biennium. Each of the provisions is summarized below.

Abandonment Period for Unclaimed Property. Under current law intangible property due a Washington resident is presumed abandoned if it remains unclaimed for five years. Examples include uncashed checks, inactive savings accounts, unpaid insurance proceeds, undelivered and underlying stock certificates, and unredeemed gift certificates or customer credits. Such abandoned property must be paid by the property holder to the Department of Revenue for deposit in the general fund. The Department maintains a searchable list of all reported owners, advertises in public media, and sends a letter to any owner with \$75 or more of abandoned property. The Department reviews and pays owner claims for reported unclaimed property. Sections 1-7 of this bill amends various sections of Chapter 63.29 RCW reducing the abandonment period for property with a five year abandonment period to three years.

Although the bill does not change the amount of unclaimed property which is turned over to the state, it does produce additional interest income for the state by making the funds available two years earlier. These sections are effective on January 1, 2004. They are expected to generate \$35.3 million during the remainder of the 2003-05 biennium.

Due Date for Monthly Excise Tax Returns. Under RCW 82.32.045(1) state excise taxpayers are required to file monthly tax returns on or before the 25th day of the month following the accrual of the tax liability. Section 8 of this bill advances the due date by five days so that taxpayers will now file returns and pay state excises taxes with the Department of Revenue on or before the 20th of the month following the month in which the taxable activity occurs. Section 9 advances the due date for the oil spill tax from the 25th to the 20th of the month and Section 10 advances the due date for the enhanced food fish tax from the 25th to the 20th of the month.

The five day advance in the monthly due dates is effective on August 1, 2003. Thus, the July 2003 combined excise tax return which was previously due on August 25th will now be due on August 20th. This change is expected to produce \$6.5 million in additional interest income for the state during the 2003-05 biennium.

Successor Includes Intangible Assets. Currently, the definition of "successor" in RCW 82.04.180 includes only persons who acquire a major part of the "materials, supplies, merchandise, inventory, fixtures, or equipment of a taxpayer." It does not include intangible assets. Section 11 of the bill amends the definition of "successor" to include transfers of 50 percent of the tangible assets or 50 percent of the intangible assets of the taxpayer. Also, a surviving corporation in a statutory merger is added to the definition. Consistent with the treatment of other successors, the surviving corporation will be liable only for any unpaid excise

tax. Currently, surviving corporations are liable for unpaid excise taxes, plus any penalties and interest thereon. Section 12 amends RCW 82.32.140 to provide that if the fair market value of the assets acquired by a successor is less than \$50,000, the liability of the successor for payment of the unpaid tax is limited to the fair market value of the assets acquired from the taxpayer. The burden of establishing the fair market value of the assets acquired is on the successor. (The provisions in Section 12 reflect current policy of the Department.)

This change is effective on July 1, 2003 and is expected to generate \$600,000 in additional state revenue during the 2003-05 biennium.

Revisions in Excise Tax Penalties. Section 13 of the bill contains four separate items dealing with penalties for state excise taxes in RCW 82.32.090. The first three increase existing penalty rates and the fourth institutes a new form of penalty. All changes to the penalty rates are effective on July 1, 2003 and will attach to penalties applied on and after that date, including activity which occurred prior to that date. Together, these changes are expected to produce \$55 million in additional revenue for the state during the 2003-05 biennium.

DELINQUENCIES - Section 13(1). Currently, delinquent excise tax returns are subject to the three-tier penalty. If the tax return is not received by the due date (25th of the month following the tax liability for monthly reporters and the end of the following month for quarterly and annual reporters), a penalty of 5 percent of the tax due is applied. If the return is not received by the end of the next month following the due date, the penalty is increased to 10 percent. If the return is still outstanding by the end of the second month following the due date, the penalty is increased to 20 percent. This subsection increases the latter two penalty rates by 5 percent. The penalty rates for delinquent tax returns are summarized as follows:

Tax Return Not Received By	Previous Rate	New Rate
Due date	5%	5%
End of month following due date	10%	15%
End of 2nd month following due date	20%	25%

ASSESSMENTS - Section 13(2). Audit assessments made by the Department have been subject to a penalty of 10 percent if payment is not received by date specified in the assessment notice. This subsection substitutes the same three-tier penalty structure which will now apply for delinquent tax returns, as shown above (5 percent by due date; 15 percent by end of following month and 25 percent by end of second following month).

WARRANTS - Section 13(3). Whenever the Department issues a warrant for collection of outstanding excise taxes, a penalty of 5 percent applies. This amendment doubles the warrant penalty rate to 10 percent.

UNREGISTERED BUSINESSES - Section 13(4). There is currently no penalty for conducting business without being registered for tax purposes with the Department. This subsection applies a new penalty of 5 percent upon unregistered firms. The penalty applies to the amount of excise

tax found to be due for the period in which the business operated without a proper registration certificate.

Verification of Vendor Registration at Special Events. Section 15 of the bill requires promoters of special events to verify that vendors possess certificates of registration from the Department of Revenue. Promoters need to keep records of dates and places of special events, and the names, addresses, and registration certificate numbers of vendors permitted to make or solicit retail sales of tangible personal property or services at those events. Promoters are responsible for providing such information to the Department, within 20 days of receipt of written request, or face a penalty of \$250. In addition, a penalty of \$100 will be imposed for each vendor for whom the required information is not provided to the Department. The aggregate of penalties shall not exceed \$2,500 for a special event (if the promoter has not previously been penalized under this bill) and under no circumstances shall a promoter be liable for sales tax or business and occupation tax not remitted to the Department by a vendor. Any penalties imposed will be due within 30 days from the date of the Department notice. The bill allows the Department to assess interest on penalties paid after the due date.

A promoter is defined as someone who organizes, operates, or sponsors a special event and who contracts with vendors for participation in such special event. A special event includes, but is not limited to: auto shows, boat shows, flea markets, festivals, fairs, circuses, and the like. A special event does not include an event that is organized for the exclusive benefit of any non-profit organization as defined in RCW 82.04.3651. A vendor means someone who, at a special event, makes or solicits retail sales of tangible personal property or services.

A special event whose promoter does not charge a vendor more than \$200 to participate, is excluded from this bill. Also excluded from the bill is a special event whose promoter charges a percentage of sales instead of, or in addition to, a flat charge for a vendor to participate if the promoter, in good faith, believes that no vendor will pay more than \$200 to participate. A person who does not organize, operate, or sponsor a special event but only provides a venue, supplies, furnishings, fixtures, equipment, or services to a promoter, is also excluded from this bill.

The new program of assuring that special event vendors are registered and reporting tax takes effect on July 1, 2003 and will generate an estimate \$3.2 million during the 2003-05 biennium.

**HB 2294 Tax incentives for the aerospace industry
(Chapter 1, Laws of 2003, 2nd Special Session)**

This legislation contains a variety of tax incentives intended to encourage development and production of a "super-efficient" airplane within the state. A super-efficient airplane is defined as a twin aisle airplane that can carry 200-350 passengers, has a range of at least 7,200 nautical miles, can cruise at a speed of mach .85, and uses at least 15 percent less fuel than similar airplanes. Together, the tax incentives are expected to reduce state revenues by about \$25.3 million for the 2003-05 biennium. The estimated revenue impact rises to \$103.5 million for the following biennium and to \$254.7 million for 2007-09. The incentives are summarized below.

The bill is contingent upon signing an agreement between the state and a prospective manufacturer of a super-efficient airplane and will take effect on the first day of the month in which such an agreement is signed by both parties. The Department is required to provide notice of the date that the agreement is signed to all affected parties. If the agreement is not reached by June 30, 2005, then none of the provisions of HB 2294 will take effect.

Section 16 of the bill contains a reporting requirement for firms that utilize any of these tax incentives. The purpose is to enable the Legislature to make a determination about the effectiveness of the program. Participating firms must report annually to the Department and provide information on their employment, wages, employee benefits for each job at each location which utilizes these tax incentives. The report is due by the end of March covering the prior calendar year. Information supplied by airplane manufacturers pursuant to Section 16 is not confidential and may be released to the public. The Department is not required to analyze these tax incentives or make a formal reporting of the information to the Legislature. However, the fiscal committees of the Legislature, working with the Department, will prepare a report on the effectiveness of the program in the years 2010 and 2023 and submit it to the full Legislature.

B&O tax rate reduction. Sections 3-4 of the bill reduce the applicable B&O tax rate for firms that manufacture commercial airplanes or components of such airplanes. The lower tax rate also applies to retailing and wholesaling of commercial airplanes. Assuming the agreement between the state and the airplane manufacturer has been signed, then starting on October 1, 2005 the B&O tax rate will drop from 0.484 percent to 0.4235 percent. This rate remains in effect until either July 1, 2007 or when actual final assembly of a super-efficient airplane commences, whichever is later. The Department is responsible for determining when final assembly of the airplane commences. At that time the B&O tax rate would drop further to 0.2904 percent. The latter rate remains in effect until July 1, 2024. However, if production of the super-efficient airplane has not commenced by January 1, 2008, then the tax rate returns to 0.484 percent on that date.

B&O tax credit for research and design. Section 7 establishes a new tax credit for pre-production expenditures by firms eligible for the B&O tax rate reduction discussed above. Costs incurred by manufacturers of commercial airplanes or components thereof for research, design and engineering prior to actual production are eligible for crediting against the firm's B&O tax liability; the amount to be credited is equal to 1.5 percent of the eligible expenditures. Although the credit does not include production-related expenditures, it does include costs incurred for designing tools and the manufacturing process. The credit is allowable for expenditures made starting on the first day of the month the agreement is signed between the state and a manufacturer of a super-efficient airplane; however, the credits may not be taken until July 1, 2005. Credits incurred prior to July 1, 2005 may be carried forward until fully utilized; however credits for expenditures after that date must be used in the same calendar year as the expenditures are made. To claim this credit the firm must file an affidavit with the Department, containing relevant information pertaining to these expenditures. The tax credit is scheduled to expire on July 1, 2024.

B&O tax credit for computer equipment and software. Another B&O tax credit is provided in Section 8 for costs incurred for design and pre-production expenditures related to

computer hardware and software. The statute defines eligible purchases as "computer-aided three-dimensional interactive applications and other solid modeling computer technology that allow for electronic design and testing during product development." The credit amount is determined by multiplying the eligible expenditures by 8.44 percent. The credit is allowed only for expenditures made since July 1, 1995 and the effective date of the bill (when the agreement is signed). Unlike the other credits in the bill, this one is capped at \$10 million per calendar year, and the maximum amount that can be taken for any particular taxpayer is \$20 million over the life of the program. Application with the Department is required prior to taking the credit. Credits may be carried over to future years until the credit statute expires on July 1, 2024.

Sales/use tax exemption for computer equipment and software. Sections 9-10 establish a new sales and use tax exemptions for manufacturers of aircraft or components of aircraft. The exemption covers computer hardware, peripherals and software that are used primarily in development, design and engineering of commercial aircraft. The exemption begins when the bill becomes effective and expires on July 1, 2024. Basically, it continues the tax treatment provided by the above B&O tax credit for computer items that were acquired prior to the effective date of the bill.

Sales/use tax exemption for construction of facilities. A new sales/use tax exemption is created in Sections 11-12 for the construction of buildings to be used by a manufacturer of a super-efficient airplane. The exemption covers labor and services related to construction of structures and tangible personal property that is incorporated into such structures. Eligible structures include buildings or parts of buildings that are used exclusively for manufacturing of a super-efficient airplane, as well as facilities for storing raw materials and completed products. The exemption applies for construction done directly by the manufacturer or by a port district that builds such a facility for lease (however, the port district must have entered into an agreement with the manufacturer prior to construction taking place). Unlike other sales tax programs for construction of manufacturing facilities, this is an outright exemption, not an initial deferral of the tax. The exemption commences on the effective date of the bill and is scheduled to expire on July 1, 2024.

Leasehold and property tax exemptions. Sections 13 and 14 of the bill contain new exemptions from leasehold excise tax and property tax for facilities used to manufacture a super-efficient airplane which are located on port district property. The exemptions cover leasehold interest in publicly owned property which is subject to leasehold excise tax and property owned by a lessee who leases port district property to manufacture a super-efficient airplane. The purpose of these two exemptions is to provide equal treatment to the B&O credit for property taxes (see below) which applies to privately owned manufacturing facilities. The leasehold tax exemption becomes effective on the effective date of the bill and will expire on July 1, 2024. The property tax exemption is effective on January 1, 2005 and applies to taxes payable in calendar year 2006 and thereafter until it expires for taxes payable in calendar year 2004.

B&O tax credit for property taxes paid. Section 15 is reminiscent of the program which phased-out personal property taxes on business inventories over a ten year period starting in the mid-1970s. A credit is allowed against state B&O tax for property taxes paid during the same calendar year on: (1) new buildings used to manufacture commercial airplanes and components

and the land upon which the buildings are located, if the structure is constructed after the effective date of the bill; (2) the portion of property taxes attributable to the increase in value of existing aircraft manufacturing facilities that are renovated or expanded after the effective date of the bill; and (3) personal property taxes on machinery and equipment that is used to manufacture commercial passenger airplanes and components thereof. Credits must be used within the same calendar year or the 1st subsequent year; they may not be carried over to subsequent years. No refunds are provided if the amount eligible for credit exceeds the firms' B&O tax liability. The credit commences when the bill is effective and will expire on July 1, 2024.

**SHJM 4004 Memorial to reinstitute deductibility of sales tax
(Filed with Secretary of State)**

See Senate Joint Memorial 8003 on page 30.

SENATE BILLS

**SSB 5051 Strong beer shifted to beer excise tax
(Chapter 167, Laws of 2003)**

Among other changes relating to the licensing of breweries, beer distributors, and retailers, this bill adds "strong" beer to the beer excise tax in RCW 66.24.290 and removes it from the liquor sales tax in RCW 82.08.150(1). Strong beer is defined as a malt beverage which contains more than eight percent alcohol by weight. The Liquor Control Board is directed to report to the Legislature by December 1, 2004 on the impact of sales of strong beer. The change in the taxation of strong beer is effective on July 1, 2003.

**ESSB 5071 B&O tax rate reduction for aircraft repair
(Chapter 2, Laws of 2003, 1st Special Session)**

Certain firms engaged in the repair of airplanes will be subject to a lower B&O tax rate. Repair of interstate transportation equipment is presently subject to the B&O tax rate of 0.484 percent. (Sales and repair of such equipment is exempt from retail sales tax.) The new B&O tax rate will be 0.275 percent. To qualify the firm must be certified by the Federal Aviation Authority as a "FAR part 145" repair facility.

The bill requires that firms which utilize the lower tax rate must submit quarterly reports to the Department. The reports are due by the end of the month following each calendar quarter (i.e. April, July, October and January). They must contain information on the number of production workers, the average and total wages paid, and the total sales subject to the new tax rate. Although the bill does not require the Department to report this information to the Legislature, it is presumed that the information will be used to determine the effectiveness of the program.

It is believed that only two firms will qualify for the reduced tax rate. The reduction in state revenues is estimated at \$1.3 million for the 2003-05 biennium. The reduced tax rate becomes effective on August 1, 2003 and will expire on July 1, 2006.

**2SSB 5074 Timber excise tax; clarification of harvest & marketing costs
(Chapter 313, Laws of 2003)**

This request bill submitted by the Department of Natural Resources allows direct contract harvesting of timber on state lands by DNR. Sections 11 and 12 of the bill amend portions of the timber excise tax statute to help taxpayers and the Department distinguish between harvesting and marketing costs which are not considered in establishing taxable stumpage values and other costs which are considered in the values. There is no impact on tax revenues. The bill is effective on July 27, 2003.

**ESSB 5247 Local option tax on gasoline; DOR administration
(Chapter 350, Laws of 2003)**

Existing law (RCW 82.80.010) allows counties to levy a local option motor vehicle fuel tax equal to 10 percent of the state gas tax rate. This bill provides definitions and requirements for such a tax, in addition to transferring the administration of a local gas tax from the Department of Licensing to the Department of Revenue. The tax is imposed on the fuel distributor and applies when the fuel is first distributed to a retail outlet within a county that levies the local gas tax. The law allows up to one percent of the local tax receipts to be retained by the state in the local tax administration account to be used by the Department for administration costs (if appropriated by the Legislature).

The bill also creates two new forms of local option gas tax. Section 2 allows a county within a regional transportation investment district to levy a tax equal to 10 percent of the state gas tax rate and dedicate the receipts to regional transportation improvements. Section 3 allows the regional transportation investment district itself to impose the local gas tax equal to 10 percent of the state gas tax rate. Only one of the three types of local gas taxes may be levied in a particular county.

There is no impact on state revenues resulting from this legislation. The only state impact is for the retention of 1 percent of collections to offset administrative costs by the Department of Revenue. Since it is unknown which counties might choose to levy such a tax, the potential local tax receipts and the state retention amounts are unknown. ESSB 5247 is effective on July 27, 2003.

**ESB 5256 Administrative rules; notice of cost-benefit statement
(Chapter 165, Laws of 2003)**

This bill pertains to the adoption of administrative rules by state agencies. Existing law requires that agencies perform a cost-benefit analysis when adopting a significant legislative rule. This bill simply requires that a statement be added to the notification concerning the rule-making to inform interested parties of the availability of the preliminary cost-benefit statement. There is no revenue impact associated with this bill which becomes effective on July 27, 2003.

**E2SSB 5341 Nursing home fee of \$6.50 per patient day
(Chapter 16, Laws of 2003, 1st Special Session)**

This bill institutes a new fee to be paid by nursing homes. Entitled a quality maintenance fee, it requires that nursing homes pay a fee of \$6.50 per patient for each day that a non-Medicare patient is served by the facility. Facilities with a very low number of Medicaid patients, as determined by DSHS, may be exempt from the fee. Nursing facilities must submit an annual report to DSHS detailing the number of patient days and the gross income of the facility. The fee must be reported to the Department of Revenue on a monthly basis. The fee will be due on

the 20th of the following month (see advance in monthly excise tax due dates in EHB 2269). The fee is expected to generate approximately \$40.8 million annually. The bill takes effect on July 1, 2003.

**ESSB 5404 Biennial budget; revenue enhancement for DOR
(Chapter 25, Laws of 2003, 1st Special Session)**

Although this program does not appear in the actual statutory language of the biennial operating budget for the 2003-05 biennium, it is specified in the budget detail for the Department of Revenue. It directs that \$6.18 million of the agency's appropriation is to be devoted to additional revenue enforcement efforts. This program may include additional taxpayer education, expanded audit coverage, tax discovery efforts and expanded collections for delinquent accounts. Approximately 36 new employees will be directly related to this effort, which is expected to produce \$32 million in additional revenue during the 2003-05 biennium.

**SB 5512 Administrative rules; impact on small, nonproprietary businesses
(Chapter 166, Laws of 2003)**

This bill pertains to the adoption of administrative rules by state agencies. Existing law requires that agencies conduct an analysis of the impact of certain proposed rules upon small businesses. The statute currently addresses the impact only upon proprietary businesses. This amendment stipulates that the small business economic impact statement also address the impact upon any small businesses whose purpose is not proprietary in nature (e.g. nonprofit organizations). There is no revenue impact associated with this bill which becomes effective on July 27, 2003.

**2ESSB 5659 Additional 0.3% local sales/use tax, and increased
growth rates for regular property tax levies
(Chapter 24, Laws of 2003, 1st Special Session)**

This legislation provides additional revenue sources for local governments subject to the approval of the voters of the jurisdiction. It authorizes a new local sales and use tax for counties and changes the manner by which the statutory limit on regular property tax levies may be increase by approval of the voters. Two sections of the bill dealing with growth management were vetoed by the Governor. The bill is effective on July 1, 2003.

Local sales/use tax of 0.3%. Section 2 provides authorization for an additional local sales and use tax of up to 0.3% for counties. The tax must be approved by the voters. The use of the revenues must be stated in the ballot proposition, and the receipts may not be used to replace existing funds for such programs. The local tax does not apply to sales, use or leases (first 36 months only) of motor vehicles. The bill stipulates that one-third of the local tax receipts must be devoted to criminal justice programs. The county will retain 60 percent of the tax receipts and the remaining 40 percent will go to cities within the county on a per capita basis. Since the new local tax is added to Chapter 82.14 RCW, it is assumed that the Department will be able to retain

its usual administrative fee of 1.0 percent pursuant to RCW 82.14.050. Because of the voter approval requirement and the 75 day notification required by RCW 82.14.055, it is assumed that the earliest such a tax could be implemented is April 1, 2004.

Regular property tax levy increases. Section 4 amends RCW 84.55.050 which pertains to voter approval of levies in excess of the statutory limit on increases in regular property tax levies. Currently, regular levies may only increase by the rate of growth in inflation or one percent, whichever is less. This amendment permits a taxing district to seek voter approval of larger increases for up to six consecutive years, as long as the purpose of the increased funds is clearly stated in the ballot proposition and the funds are not used to replace existing funds devoted to the same program. An increased levy may only be proposed at a primary or general election and the district's levy remains subject to the overall maximum levy rate specified in RCW 84.52.043. The dollar rate of the increased levy must be stated for the initial year, and the proposal may specify a different growth factor, e.g., the consumer price index, for the remaining years of the increased levy.

**SB 5725 Tax incentives for the semiconductor industry
(Chapter 149, Laws of 2003)**

This bill contains several tax preferences intended to encourage the retention of existing semiconductor firms in Washington and to attract similar businesses to locate in the state. These tax incentives are summarized as follows:

Manufacturing of semiconductor microchips. The B&O manufacturing tax rate in RCW 82.04.240 is amended to add a new subsection reducing the tax rate from 0.484 percent to 0.275 percent for manufacturing semiconductor materials (silicon crystals and ingots, semiconductor wafers, integrated circuits and microchips). The lower B&O manufacturing tax rate will be in effect for 12 years following the effective date of the bill. Also, Section 2 of the bill establishes a new B&O exemption for manufacturing of semiconductor microchips (defined as embedding integrated circuits on semiconductor wafers); this exemption will expire nine years following the effective date of the bill.

Construction of semiconductor manufacturing facilities. Exemptions from retail sales/use taxes are provided for labor and services in conjunction with construction of facilities for manufacturing semiconductor materials. The exemption also applies to items of personal property that are to be incorporated into such structures, as well as the labor and services for installing such items. Thus, the exemption will apply to the cost of construction of the manufacturing plant and any machinery/equipment used therein. Firms need not apply for the sales/use tax exemption, but reports to the Department are required as noted below. To qualify for the sales/use tax exemption the firm must maintain at least 75 percent of the employees they initially indicated would constitute full employment for the plant for at least eight years. Failure to meet the 75 percent employment requirement for any year will result in the loss of one-eighth of the sales/use tax exemption. The sales/use tax exemption is effective for 12 years following the effective date of the bill.

Gases and chemicals used in production. Another exemption from retail sales/use taxes is provided for gases and chemicals used by manufacturers of semiconductor materials. To qualify for this exemption the items must come in contact with the product being manufactured or be used to clean the facility and equipment. This exemption is effective for 12 years following the effective date of the bill.

B&O tax credit for semiconductor employees. A B&O tax credit is provided for manufacturers of semiconductor materials in the amount of \$3,000 for each new employee (or employee transferred from an existing facility that is being phased out) who works in a facility, the construction of which was exempt from sales/use tax under this bill. The credit may be taken each year up to eight years if the position continues to be filled on a consecutive annual basis. If the employee works at the facility for at least six months during a calendar year, the employer qualifies for the full \$3,000 credit; if the employee works for less than six months during a calendar year then the credit is reduced to \$1,500. The tax credit will expire 12 years after the effective date of the bill, but the credit may be taken for subsequent years for facilities that commenced commercial production within 12 years of the effective date of the bill.

Property tax exemption for machinery and equipment. A new property tax exemption is provided for machinery and equipment used in a facility the construction of which was exempt from sales/use tax under this bill. The exemption does not pertain to the real property used for manufacturing of semiconductor materials. Application must be filed with the county assessor and reports to the Department are required. The property tax exemption for machinery and equipment will expire on December 31 of the 12th year following the effective date of the bill.

Reporting by manufacturers of semiconductor materials is required by Section 11 of the bill. Any firm taking advantage of the tax incentives in this bill is required to report annually to the Department of Revenue by March 31. The reports shall include the relevant information on employment, wages, and employee benefits at the manufacturing facility for the prior calendar year.

Subsection (3) of Section 11 requires that the fiscal committees of the Legislature, in consultation with the Department, report to the Legislature on the effectiveness of this legislation in terms of creation and retention of jobs, company growth, diversification of the state's economy, cluster dynamics and other factors to help determine the effectiveness of this bill. This report is due to the Legislature by November 1 of the fifth year following the effective date of the bill. The report is to be updated by November 1 of the 11th year following the effective date.

The bill contains an unusual provision concerning the effective date of the tax incentives. Section 12 specifies that the entire act is contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in this state. The term "significant" is defined as an investment in new buildings and equipment worth at least \$1 billion at the time the facility begins commercial production. The effective date of the bill will be the first day of the month in which a contract for the construction of such a fabrication facility is signed. The Department of Revenue is directed to determine when the signing of a contract takes place and to notify all affected taxpayers and the Legislature. If it is subsequently discovered that commercial production at a facility that received any tax benefits under this bill did not occur

within three years from signing the contract, all tax benefits received to date for all firms will become due and payable.

It is assumed that construction of a major fabrication facility will commence by January 1, 2006 and that the bill will become effective on January 1, 2006. Accordingly, there will be no impact on revenues during the 2003-05 biennium. The estimated impact for the 2005-07 biennium is a reduction in state general fund revenues of about \$5 million and the revenue reduction is projected to grow to about \$10 million for the 2007-09 biennium.

**SSB 5737 Unclaimed property; threshold for itemizing increased
(Chapter 237, Laws of 2003)**

All unclaimed property which is presumed to be abandoned must be reported to the Department. Current law requires that, except for travelers checks and money orders, items valued at more than \$25 must be individually listed in the report to the Department. This bill doubles the threshold for itemizing the items. Now items valued at up to \$50 may be aggregated and remitted to the Department without a detailed report that identifies the name and last known address of the owner.

The bill also changes the publication requirement concerning unclaimed property valued at more than \$75. Currently, the Department is required to advertise in a newspaper of general circulation in the county where the owner was last known to reside; the notice is required to run at least once a week for two consecutive weeks. This annual listing is to be made by September 1st. This bill removes the second week, thus requiring a single publication of the notice, and it also moves back the publication date by two months to November 1st.

These changes are not expected to impact the amount of unclaimed property received by the state. The bill is effective on July 27, 2003.

**ESSB 5766 Administrative rules; notification of adopted rules
(Chapter 246, Laws of 2003)**

This bill concerns the notification process by which certain state agencies, including the Department of Revenue, inform the public about newly adopted administrative rules. It adds a new section to Chapter 34.05 RCW which requires that within 200 days of the effective date of a new rule that imposes requirements on businesses (if the violation of these requirements would result in a penalty to the business), the agency shall inform businesses about the provisions of the rule and how to obtain assistance in complying with the requirements. The statute states that E-mail is the preferred method for such notification, and a new subsection to RCW 34.05.220 directs the departments of Employment Security, Labor & Industries, Ecology, and Revenue to jointly develop such a notification process.

There is no impact on state revenues from this bill which is effective on July 27, 2003.

SB 5783**Streamlined sales tax; changes in items subject to tax
(Chapter 168, Laws of 2003)**

This bill implements the Streamlined Sales and Use Tax Agreement (SSTP). The agreement represents a multi-state effort among most sales tax states to make their sales/use taxes more uniform and thereby simplify the collection and reporting of the tax, particularly for vendors that operate in multiple states. Adoption of this legislation enables Washington to join with sister sales tax states in developing and implementing a more uniform sales tax system. Also, it is intended to reduce the cost of compliance for vendors who make sales in more than one state.

Section 1(4) of the bill requires an annual report to the Legislature by the Department of Revenue starting on January 1, 2004. The report shall address the progress of the agreement and include any recommended changes necessary to keep this state in compliance with the SSTP.

Another study is mandated by Section 504. Part V of the bill relates to the question of sourcing of tax liability under SSTP. Currently, sales tax liability is generally determined by the location of the vendor (there are some exceptions, e.g. for delivered and installed items), while use tax liability is determined according to where the initial use of the product in Washington occurs. The sourcing provision under SSTP would be somewhat different; for sales tax purposes the SSTP would source the sales based on the destination of the item or service, rather than the location of the vendor. Because of concerns of the impact of the sourcing provisions, particular on local governments, these were not included in the bill. Instead, the Department is directed to study the fiscal impacts of sourcing provisions upon local jurisdictions. A committee representing cities and counties shall assist in the study. In addition to identifying potential adverse impacts on local jurisdictions, the study must propose options for mitigating any negative impacts for certain jurisdictions. This study must be completed by December 1, 2003.

The remainder of the bill makes changes in the application of retail sales/use tax to certain items, in order to achieve more uniformity with the requirements of the agreement. Some of these changes result in additional revenue for the state and local sales taxing jurisdictions, while others will imply revenue reductions. The major changes are summarized below:

Part I - Definition of Sales Price. The definition of selling price for retail sales tax purposes and purchase price for use tax purposes must be identical under the SSTP. The only major change this implies for Washington tax law relates to delivery charges. Currently, delivery charges are not included in the price of repair services that are subject to use tax. This is estimated to increase state revenues by \$0.2 million during the 2003-05 biennium (FY 2005 only).

Part III - Definition of Food Products. Currently, Washington taxes carbonated beverages, but not any noncarbonated beverages. Under the SSTP beverages with natural or artificial sweeteners and beverages containing less than 50 percent fruit or vegetable juice will become subject to sales tax. The gain in state revenues is estimated at \$9.6 million for the 2003-05 biennium (one-half of FY 2004 and all of FY 2005).

Another item relating to food items is the treatment of bottled water, which Washington presently taxes but which is exempt under the uniform SSTP definitions. Exempting bottled water will reduce state revenues by \$4 million in the 2003-05 biennium (one-half of FY 2004 and all of FY 2005).

Part IV - Definition of Medical Items. Washington currently taxes frames for eyeglasses (not the lens) and some orthotic items (e.g., slings), as well as repair parts for orthotic devices. The SSTP requires that these items be exempt from sales/use tax. The combined reduction in state revenues is estimated at \$1.6 million for the 2003-05 biennium (FY 2005 only).

All of the above changes are effective on July 1, 2004, except for the food provisions in Part III which are effective on January 1, 2004. The estimated net impact of the bill on state revenues for the 2003-05 biennium will be a net increase of \$4.2 million.

**SB 5865 Public facilities districts; expanded use of funds
(Chapter 376, Laws of 2003)**

This bill pertains to the use of certain funds received by public facilities districts. It amends the statute that authorizes PFDs to construct and operate certain sports, entertainment and convention facilities and regional centers. Districts formed since January 1, 2000 will now also be allowed to construct and operate recreational facilities (but not ski areas).

This could indirectly impact state revenues since PFDs levy a local sales tax to finance these facilities, and the amount of the local tax is credited against the state sales tax, thereby diverting state funds to assist in the construction and operation of these facilities. However, the potential impact is unknown, since the term "recreation facility" is not defined and there is currently no indication of which PFDs might be considering such a facility. SB 5865 is effective on July 27, 2003.

**SSB 5933 Cigarette contracting; additional tribes
(Chapter 236, Laws of 2003)**

In 2001 a new program to encourage Indian tribes to impose cigarette taxes equivalent to the state tax was adopted. The benefit to the state is that a tribal tax should reduce the incentive for non-Indian purchasers to avoid the state tax by purchasing from vendors on Indian reservations who do not collect the state tax and thereby reduce noncompliance. The benefit to the tribes is that the tribal tax should generate needed revenue for tribal programs. The program features contracts between the state and the tribal entities. Currently, state law authorizes contracts with 18 tribes. This bill adds three more tribes: the Samish Indian Nation, the Quileute Tribe and the Kalispel Tribe.

The impact on state revenues has not been estimated because vendors on these reservations do not report to the state and there is no reasonable basis for making an estimate. Further, it is unknown when a contract might actually be signed with these tribal entities. However, in the

aggregate the potential additional revenue for the state is expected to be relatively minor. SSB 5833 is effective on July 27, 2003.

**ESSB 6026 New local government fee on lodging, DOR to collect
(Chapter 148, Laws of 2003)**

A new program to finance tourism promotion activities is provided by this bill. It is directed toward counties with a population between 40,000 and 1,000,000 and the cities and towns in those counties. The legislative authority of such local jurisdictions may establish a tourism promotion area with the intention of increasing tourism and conventions (the boundaries of such areas don't necessarily have to conform to existing local jurisdiction boundaries). To finance these programs, the bill authorizes the legislative authority to impose a charge on lodging within the tourism promotion area. The charge may consist of different rates depending upon different classifications (e.g., based on the number of rooms, the amount of revenue, location within the area, etc.); a maximum of six different classifications is possible. The maximum rate for the charge is \$2.00 per night of lodging. The Department of Revenue is directed to administer the collection of the charge from providers of lodging. At least 75 days' notice from the local legislative authority is required prior to imposition of the charge. All receipts are to be deposited in the local tourism promotion account; distribution of receipts will be made by the State Treasurer on a monthly basis.

Based on current population figures (April, 2002), the local jurisdictions eligible to impose the tourism promotion charge are the following 22 counties and the cities and towns within those counties:

Benton	Grays Harbor	Spokane
Chelan	Island	Stevens
Clallam	Kitsap	Thurston
Clark	Lewis	Walla Walla
Cowlitz	Mason	Whatcom
Franklin	Pierce	Whitman
Grant	Skagit	Yakima
	Snohomish	

There is no impact on state revenues from this bill but there will be an expenditure impact for the Department. The bill takes effect on July 27, 2003.

**ESSB 6058 Delayed transfer of state levy receipts from general fund
(Chapter 19, Laws of 2003, 1st Special Session)**

Prior to the adoption of Initiative 728 in November, 2000, proceeds of the state property tax levy were deposited into the state general fund. Under the initiative a portion of the state levy receipts are specifically dedicated for education purposes and these revenues are deposited into the student achievement fund and the education construction account. Between school years 2001

and 2004 a varying percentage of the state levy was to be transferred from the general fund to these two new accounts, based on a specific amount of funding per FTE student.

Beginning with the 2004-05 school year funding for the student achievement fund was to be at the level of \$450 per student. This bill retains the current funding level of \$140 per student through school year 2003-04 and reduces that amount for school year 2004-05 from \$450 to \$250 per student. Amounts to be transferred to the student achievement fund under this bill for subsequent school years are:

2005-06	\$300 per student
2006-07	\$375 per student
2007-08	\$450 per student

Thus, this bill delays the transfer of funds from the state general fund, thereby retaining more revenues in the general fund for use in other programs. The additional amount retained in the general fund for FY 2005 and the 2003-05 biennium is estimated at \$188.3 million. The increased general fund receipts for the 2005-07 biennium will be \$244 million and the additional amount for the 2007-09 biennium will be \$60.7 million.

Transfers to the student achievement fund after the 2007-08 school year will be based on the \$450 per student level, adjusted for inflation.

ESSB 6058 becomes effective on September 9, 2003.

**SJM 8003 Memorial to reinstitute deductibility of sales tax
(Filed with Secretary of State)**

Senate Joint Memorial 8003 and Substitute House Joint Memorial 4004 contain messages to the President and to Congress from the Washington State Legislature. These petitions address the lack of deductibility for state sales taxes and the inequity this produces for residents of states that rely heavily upon these taxes. Prior to the federal Tax Reform Act of 1986 state and local retail sales taxes were fully deductible by individuals who itemize their deductions for federal income tax purposes. That act eliminated the deduction for sales taxes but retained the deductibility of state income taxes. Washington is one of only seven states that do not impose a personal income tax, and our sales tax burden is by far the highest of any of these states (or any state, for that matter). The lack of sales tax deductibility is estimated to cost Washington residents an approximate \$412 million in higher federal personal income tax in 2004 (based on income tax rates that were recently reduced in 2003). Further, it results in a very significant inequity for Washington citizens vis-à-vis residents of income tax states.

INITIATIVES

Initiative 776 Limiting motor vehicle excise taxes to \$30 per year (Chapter 1, Laws of 2003)

This initiative to the people was adopted by the voters in November, 2002. Consequently, it became Chapter 1, Laws of 2003.

The initiative basically sought to limit the total of all vehicle license tab fees to \$30. (Initiative 695 in 1999 attempted to limit tab fees to \$30 but it failed to address certain local motor vehicle excise taxes.) Specifically, I-776 amended RCW 35.58.273 to repeal a motor vehicle excise tax of 0.725 percent for mass transit facilities and RCW 81.104.160 to repeal a motor vehicle excise tax of 0.81 percent for high capacity transportation facilities.

However, the initiative was overturned in a Superior Court ruling, and the constitutionality of I-776 is now under consideration by the State Supreme Court.