
SENATE BILL 6096

State of Washington

59th Legislature

2005 Regular Session

By Senators Poulsen, Fraser and Prentice; by request of Governor Gregoire

Read first time 03/24/2005. Referred to Committee on Ways & Means.

1 AN ACT Relating to generating new tax revenues to provide education
2 funding; amending RCW 83.100.020, 83.100.040, 83.100.050, 83.100.060,
3 83.100.070, 83.100.090, 83.100.110, 83.100.130, 83.100.140, 83.100.150,
4 83.100.210, 69.50.520, 70.146.030, and 84.52.068; adding new sections
5 to chapter 83.100 RCW; adding a new section to chapter 82.24 RCW;
6 adding a new section to chapter 28A.505 RCW; creating new sections;
7 repealing RCW 83.100.030 and 83.100.045; providing an effective date;
8 and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** The legislature recognizes that on February
11 3, 2005, the Washington state supreme court decided in *Estate of*
12 *Hemphill v. Dep't of Rev.*, Docket No. 74974-4, that Washington's estate
13 tax is tied to the current federal Internal Revenue Code. The
14 legislature finds that the revenue loss resulting from the *Hemphill*
15 decision will severely affect the legislature's ability to fund
16 programs vital to the peace, health, safety, and support of the
17 citizens of this state. The legislature intends to address the adverse
18 fiscal impact of the *Hemphill* decision and provide funding for

1 Initiative No. 728 by creating a stand-alone state estate tax that is
2 not affected by changes in federal law after 2001.

3 The legislature further intends to provide additional funding for
4 Initiative No. 728 by increasing the cigarette tax by twenty cents per
5 pack through June 30, 2007, and eighty cents per pack thereafter.

6 **PART I**
7 **ESTATE TAX**

8 **Sec. 2.** RCW 83.100.020 and 2001 c 320 s 15 are each amended to
9 read as follows:

10 As used in this chapter:

11 (1) "Decedent" means a deceased individual;

12 (2) "Department" means the department of revenue, the director of
13 that department, or any employee of the department exercising authority
14 lawfully delegated to him by the director;

15 (3) "Federal credit" means ~~((a) for a transfer,~~) the maximum
16 amount of the credit for state taxes ~~((allowed by))~~ allowable under
17 section 2011 of the Internal Revenue Code ~~((; and (b) for a generation-~~
18 ~~skipping transfer, the maximum amount of the credit for state taxes~~
19 ~~allowed by section 2604 of the Internal Revenue Code));~~

20 (4) "Federal return" means any tax return required by chapter 11
21 ~~((or 13))~~ of the Internal Revenue Code;

22 (5) "Federal tax" means ~~((a) for a transfer,~~) a tax under chapter
23 11 of the Internal Revenue Code; ~~((and (b) for a generation skipping~~
24 ~~transfer, the tax under chapter 13 of the Internal Revenue Code;~~

25 ~~(6) "Generation skipping transfer" means a "generation skipping~~
26 ~~transfer" as defined and used in section 2611 of the Internal Revenue~~
27 ~~Code;~~

28 ~~(7))~~ (6) "Gross estate" means "gross estate" as defined and used
29 in section 2031 of the Internal Revenue Code;

30 ~~((8) "Nonresident" means a decedent who was domiciled outside~~
31 ~~Washington at his death;~~

32 ~~(9))~~ (7) "Person" means any individual, estate, trust, receiver,
33 cooperative association, club, corporation, company, firm, partnership,
34 joint venture, syndicate, or other entity and, to the extent permitted
35 by law, any federal, state, or other governmental unit or subdivision
36 or agency, department, or instrumentality thereof;

1 ~~((10))~~ (8) "Person required to file the federal return" means any
2 person required to file a return required by chapter 11 ~~((or 13))~~ of
3 the Internal Revenue Code, such as the personal representative of an
4 estate~~((; or a transferor, trustee, or beneficiary of a generation-~~
5 ~~skipping transfer;))~~ or a qualified heir with respect to qualified real
6 property, as defined and used in section 2032A(c) of the Internal
7 Revenue Code;

8 ~~((11))~~ (9) "Property" means ~~((a) for a transfer,)~~ property
9 included in the gross estate~~((; and (b) for a generation-skipping~~
10 ~~transfer, all real and personal property subject to the federal tax));~~

11 ~~((12))~~ (10) "Resident" means a decedent who was domiciled in
12 Washington at time of death;

13 ~~((13))~~ (11) "Taxpayer" means a person upon whom tax is imposed
14 under this chapter, including an estate or a person liable for tax
15 under RCW 83.100.120;

16 (12) "Transfer" means "transfer" as used in section 2001 of the
17 Internal Revenue Code, or a disposition or cessation of qualified use
18 as defined and used in section 2032A(c) of the Internal Revenue Code;
19 and

20 ~~((14) "Trust" means "trust" under Washington law and any~~
21 ~~arrangement described in section 2652 of the Internal Revenue Code; and~~

22 ~~(15))~~ (13) "Internal Revenue Code" means, for the purposes of this
23 chapter and RCW 83.110.010, the United States Internal Revenue Code of
24 1986, as amended or renumbered as of January 1, 2001.

25 **Sec. 3.** RCW 83.100.040 and 1988 c 64 s 4 are each amended to read
26 as follows:

27 (1) A tax in an amount computed as provided in this section is
28 imposed on every transfer of property located in Washington ~~((of every~~
29 ~~nonresident))~~.

30 (2) The tax shall be computed by multiplying the adjusted federal
31 credit by a fraction, the numerator of which is the value of the
32 property located in Washington, and the denominator of which is the
33 value of the decedent's gross estate. For the purposes of this
34 section, any intangible property owned by a resident is located in
35 Washington.

36 (3) ~~((The transfer of the property of a nonresident is exempt from~~
37 ~~the tax imposed by this section to the extent that the property of~~

1 ~~residents is exempt from taxation under the laws of the state in which~~
2 ~~the nonresident is domiciled)) For the purposes of this section, the
3 adjusted federal credit is the federal credit computed as if:~~

4 (a) The applicable exclusion amount under section 2010 of the
5 Internal Revenue Code is two million dollars; and

6 (b) No deduction is allowed for family-owned business interests
7 under section 2057 of the Internal Revenue Code.

8 (4) The tax imposed under this section is a stand-alone estate tax
9 that incorporates the Internal Revenue Code as amended or renumbered as
10 of January 1, 2001, and which is not affected by any changes in the
11 Internal Revenue Code after such date concerning the federal estate
12 tax.

13 NEW SECTION. Sec. 4. A new section is added to chapter 83.100 RCW
14 to read as follows:

15 (1) A credit shall be allowed against the amount of tax due under
16 this chapter for qualifying farm property. The credit amount shall be
17 calculated by multiplying the amount of tax otherwise due under this
18 chapter by a fraction. The numerator of the fraction is the value of
19 all property located in Washington for which a special valuation is
20 elected under section 2032A of the Internal Revenue Code, consistent
21 with section 13 of this act, plus the value of any tangible personal
22 property used primarily for farming purposes conducted on the specially
23 valued property. The denominator of the fraction is the value of all
24 property located in Washington. For the purposes of this calculation,
25 the value of real property included in the numerator is its value under
26 section 2032A of the Internal Revenue Code.

27 (2) The credit under this section applies only to property
28 qualified for special valuation under section 2032A(b)(2)(A) of the
29 Internal Revenue Code for which an election is made, and tangible
30 personal property used primarily for farming purposes conducted on the
31 specially valued property. The value of other property qualifying for
32 special valuation under section 2032A of the Internal Revenue Code
33 shall be excluded from the numerator under subsection (1) of this
34 section.

35 (3) No additional tax is due under this chapter if a qualified heir
36 disposes of an interest in property qualifying for a credit under this

1 section or ceases to use the property for a qualified use, as defined
2 and used under 2032A(c) of the Internal Revenue Code.

3 (4) For the purposes of this section, "farming purposes" has the
4 same meaning as in section 2032A(e)(5) of the Internal Revenue Code.

5 **Sec. 5.** RCW 83.100.050 and 1988 c 64 s 6 are each amended to read
6 as follows:

7 (1) The person required to file the federal return shall file with
8 the department on or before the date the federal return is required to
9 be filed, including any extension of time for filing (~~the federal~~
10 ~~return:~~

11 ~~(a))~~ under subsection (2) or (3) of this section, a Washington
12 return for the tax due under this chapter~~((; and~~
13 ~~(b) A copy of the federal return))~~.

14 ~~((No Washington return need be filed if no federal return is~~
15 ~~required.))~~ A Washington return must be filed in all cases where the
16 gross estate of the decedent exceeds two million dollars. A Washington
17 return delivered to the department by United States mail shall be
18 considered to have been received by the department on the date of the
19 United States postmark stamped on the cover in which the return is
20 mailed, if the postmark date is within the time allowed for filing the
21 Washington return, including extensions.

22 (2) In addition to the Washington return required to be filed in
23 subsection (1) of this section, the person required to file a federal
24 return shall file with the department on or before the date the federal
25 return is required to be filed a copy of the federal return along with
26 all supporting documentation. If the person required to file the
27 federal return has obtained an extension of time for filing the federal
28 return, the person shall file the Washington return within the same
29 time period and in the same manner as provided for the federal return.
30 A copy of the federal extension shall be filed with the department on
31 or before the date the Washington return is due, not including any
32 extension of time for filing, or within thirty days of issuance,
33 whichever is later.

34 (3) A person who is required to file a Washington return under
35 subsection (1) of this section, but is not required to file a federal
36 return under the Internal Revenue Code as it exists on January 1, 2002,
37 or such subsequent date as may be provided by the department by rule

1 consistent with the purposes of this section, may obtain an extension
2 of time for filing the Washington return as provided by rule of the
3 department.

4 (4) For purposes of subsection (2) of this section only, "federal
5 return" means any tax return required by chapter 11 of the Internal
6 Revenue Code of 1986, as amended or renumbered as of January 1, 2002,
7 or such subsequent date as may be provided by the department by rule
8 consistent with the purposes of this section. Nothing in this
9 subsection shall be construed to modify any other definition of
10 "federal return."

11 **Sec. 6.** RCW 83.100.060 and 1988 c 64 s 7 are each amended to read
12 as follows:

13 (1) The taxes imposed by this chapter shall be paid by the person
14 required to file the federal return on or before the date the
15 Washington return is required to be filed under RCW 83.100.050, not
16 including any extension of time for filing. Payment delivered to the
17 department by United States mail shall be considered to have been
18 received by the department on the date of the United States postmark
19 stamped on the cover in which payment is mailed, if the postmark date
20 is within the time allowed for making the payment, including any
21 extensions.

22 (2) If the person (~~required to file the federal return~~) has
23 obtained an extension of time for payment of the federal tax under the
24 Internal Revenue Code as it exists on January 1, 2002, or such
25 subsequent date as may be provided by the department by rule consistent
26 with the purposes of this section, or has elected to pay such tax in
27 installments, the person may elect to pay the tax imposed by this
28 chapter within the same time period and in the same manner as provided
29 for payment of the federal tax under the Internal Revenue Code as it
30 exists on January 1, 2002, or such subsequent date as may be provided
31 by the department by rule consistent with the purposes of this section.
32 A copy of the federal extension shall be filed on or before the date
33 the tax imposed by this chapter is due, not including any extension of
34 time for payment, or within thirty days of issuance, whichever is
35 later.

36 (3) A person who is required to file a Washington return under RCW
37 83.100.050, but is not required to file a federal return under the

1 Internal Revenue Code as it exists on January 1, 2002, or such
2 subsequent date as may be provided by the department by rule consistent
3 with the purposes of this section, may obtain an extension of time for
4 payment of the Washington tax or elect to pay such tax in installments
5 as provided by rule of the department.

6 **Sec. 7.** RCW 83.100.070 and 2000 c 105 s 1 are each amended to read
7 as follows:

8 (1) Any tax due under this chapter which is not paid by the due
9 date under RCW 83.100.060(1) shall bear interest at the rate of twelve
10 percent per annum from the date the tax is due until the date of
11 payment.

12 (2) Interest imposed under this section for periods after January
13 1, 1997, shall be computed at the rate as computed under RCW
14 82.32.050(2). The rate so computed shall be adjusted on the first day
15 of January of each year.

16 (3)(a) If the Washington return is not filed when due under RCW
17 83.100.050 and the person required to file the (~~federal~~) Washington
18 return under RCW 83.100.050 voluntarily (~~reports the filing and~~)
19 files (~~both~~) the (~~state and federal estate tax returns~~) Washington
20 return with the department before the department notifies the person in
21 writing that the department has determined that the person has not
22 filed a state estate tax return, no penalty is imposed on the person
23 required to file the (~~federal~~) Washington return.

24 (b) If the Washington return is not filed when due under RCW
25 83.100.050 and the person required to file the (~~federal~~) Washington
26 return under RCW 83.100.050 does not file a return with the department
27 before the department notifies the person in writing that the
28 department has determined that the person has not filed a state estate
29 tax return, the person required to file the (~~federal~~) Washington
30 return shall pay, in addition to interest, a penalty equal to five
31 percent of the tax due for each month after the date the return is due
32 until filed. However, in no instance may the penalty exceed the lesser
33 of twenty-five percent of the tax due or one thousand five hundred
34 dollars.

35 (c) If the department finds that a return due under this chapter
36 has not been filed by the due date, and the delinquency was the result
37 of circumstances beyond the control of the responsible person, the

1 department shall waive or cancel any penalties imposed under this
2 chapter with respect to the filing of such a tax return. The
3 department shall adopt rules for the waiver or cancellation of the
4 penalties imposed by this section.

5 **Sec. 8.** RCW 83.100.090 and 1988 c 64 s 10 are each amended to read
6 as follows:

7 (1) If the person required to file the (~~federal~~) Washington
8 return under RCW 83.100.050 files an amended federal return that
9 changes the decedent's gross estate, that person shall immediately file
10 with the department an amended Washington return with a copy of the
11 amended federal return. If the amended Washington return requires
12 payment of an additional tax under this chapter, the tax shall be paid
13 in accordance with RCW 83.100.060 and interest shall be paid in
14 accordance with RCW 83.100.070.

15 (2) Upon any adjustment in, or final determination of, the amount
16 of federal tax due resulting from a change in the decedent's gross
17 estate, the person required to file the (~~federal~~) Washington return
18 under RCW 83.100.050 shall notify the department in writing within
19 sixty days after the adjustment or final determination. If the
20 adjustment or final determination requires payment of an additional tax
21 under this chapter, the tax shall be paid in accordance with RCW
22 83.100.060 and interest shall be paid in accordance with RCW
23 83.100.070.

24 (3) For purposes of this section, the following definitions apply:

25 (a) "Federal return" means any tax return required by chapter 11 of
26 the Internal Revenue Code of 1986, as amended or renumbered as of
27 January 1, 2002, or such subsequent date as may be provided by the
28 department by rule consistent with the purposes of this section.
29 Nothing in this subsection shall be construed to modify any other
30 definition of "federal return."

31 (b) "Federal tax" means a tax under chapter 11 of the Internal
32 Revenue Code of 1986, as amended or renumbered as of January 1, 2002,
33 or such subsequent date as may be provided by the department by rule
34 consistent with the purposes of this section. Nothing in this
35 subsection shall be construed to modify any other definition of
36 "federal tax."

1 (c) "Gross estate" means "gross estate" as defined and used in
2 section 2031 of the Internal Revenue Code of 1986, as amended or
3 renumbered as of January 1, 2002, or such subsequent date as may be
4 provided by the department by rule consistent with the purposes of this
5 section. Nothing in this subsection shall be construed to modify any
6 other definition of "gross estate."

7 **Sec. 9.** RCW 83.100.110 and 1988 c 64 s 11 are each amended to read
8 as follows:

9 (1) Unless any tax due under this chapter is sooner paid in full,
10 it shall be a lien upon the property subject to the tax for a period of
11 ten years from the date of the transfer (~~or the generation-skipping~~
12 ~~transfer)), except that any part of the property which is used for the~~
13 payment of claims against the property or expenses of its
14 administration, allowed by any court having jurisdiction thereof, shall
15 be divested of the lien. Liens created under this subsection shall be
16 qualified as follows:

17 (a) Any part of the property subject to the tax which is sold to a
18 bona fide purchaser shall be divested of the lien and the lien shall be
19 transferred to the proceeds of the sale; and

20 (b) The lien shall be subordinate to any mortgage or deed of trust
21 on the property pursuant to an order of court for payment of claims
22 against the property or expenses of administration. The lien shall
23 attach to any proceeds from the sale of the property in excess of the
24 obligations secured by the mortgage or deed of trust and the expenses
25 of sale, including a reasonable charge by the trustee and by his or her
26 attorney where the property has been sold by a nonjudicial trustee's
27 sale pursuant to chapter 61.24 RCW, and including court costs and any
28 attorneys' fees awarded by the superior court of the county in which
29 the property is sold at sheriff's sale pursuant to a judicial
30 foreclosure of the mortgage or deed of trust.

31 (2) If the person required to file the (~~federal~~) Washington
32 return under RCW 83.100.050 has obtained an extension of time for
33 payment of the (~~federal~~) tax or has elected to pay such tax in
34 installments, the tax lien under this section shall be extended as
35 necessary to prevent its expiration prior to twelve months following
36 the expiration of any such extension or the installment.

1 (3) The tax lien shall be extended as necessary to prevent its
2 expiration prior to twelve months following the conclusion of
3 litigation of any question affecting the determination of the amount of
4 tax due if a lis pendens has been filed with the auditor of the county
5 in which the property is located.

6 **Sec. 10.** RCW 83.100.130 and 1997 c 157 s 6 are each amended to
7 read as follows:

8 (1) Whenever the department determines that a person required to
9 file the (~~federal~~) Washington return under RCW 83.100.050 has
10 overpaid the tax due under this chapter, the department shall refund
11 the amount of the overpayment, together with interest at the then
12 existing rate under RCW 83.100.070(1). If the application for refund,
13 with supporting documents, is filed within four months after an
14 adjustment or final determination of federal tax liability, the
15 department shall pay interest until the date the refund is mailed. If
16 the application for refund, with supporting documents, is filed after
17 four months after the adjustment or final determination, the department
18 shall pay interest only until the end of the four-month period.

19 (2) Interest refunded under this section for periods after January
20 1, 1997, through December 31, 1998, shall be computed on a daily basis
21 at the rate as computed under RCW 82.32.050(2) less one percentage
22 point. Interest allowed after December 31, 1998, shall be computed at
23 the rate as computed under RCW 82.32.050(2). Interest shall be
24 refunded from the date of overpayment until the date the refund is
25 mailed. The rate so computed shall be adjusted on the first day of
26 January of each year.

27 (3) For the purposes of this section, "federal tax liability"
28 refers to a tax under chapter 11 of the Internal Revenue Code of 1986,
29 as amended or renumbered as of January 1, 2002, or such subsequent date
30 as may be provided by the department by rule consistent with the
31 purposes of this section.

32 **Sec. 11.** RCW 83.100.140 and 1988 c 64 s 13 are each amended to
33 read as follows:

34 Any person required to file the (~~federal~~) Washington return who
35 (~~wilfully~~) willfully fails to file a Washington return when required
36 by this chapter or who (~~wilfully~~) willfully files a false return

1 commits a gross misdemeanor as defined in Title 9A RCW and shall be
2 punished as provided in Title 9A RCW for the perpetration of a gross
3 misdemeanor.

4 **Sec. 12.** RCW 83.100.150 and 1988 c 64 s 14 are each amended to
5 read as follows:

6 ((~~(1)~~)) The department may collect the estate tax imposed under RCW
7 (~~(83.100.030 and)~~) 83.100.040, including interest and penalties, and
8 shall represent this state in all matters pertaining to the same,
9 either before courts or in any other manner. At any time after the
10 Washington return is due, the department may file its findings
11 regarding the amount of the tax, the adjusted federal credit computed
12 as provided in RCW 83.100.040, the person required to file the
13 (~~federal~~) Washington return under RCW 83.100.050, and all persons
14 having an interest in property subject to the tax with the clerk of the
15 superior court in the matter of the estate of the decedent or, if no
16 probate or administration proceedings have been commenced in any court
17 of this state, of the superior court for the county in which the
18 decedent was a resident, if the resident was a domiciliary, or, if the
19 decedent was a nondomiciliary, of any superior court which has
20 jurisdiction over the property. Such a court first acquiring
21 jurisdiction shall retain jurisdiction to the exclusion of every other
22 court.

23 (~~(2) The department may collect the generation skipping transfer~~
24 ~~tax under RCW 83.100.045, including interest and penalties, and shall~~
25 ~~represent this state in all matters pertaining to the same, either~~
26 ~~before courts or in any other manner. At any time after the Washington~~
27 ~~return is due, the department may file its findings regarding the~~
28 ~~amount of the tax, the federal credit, the person required to file the~~
29 ~~federal return, and all persons having an interest in property subject~~
30 ~~to the tax with the clerk of the superior court in the matter of the~~
31 ~~trust or the estate of the decedent, if any, or, if no trust, probate~~
32 ~~or administration proceedings have been commenced in any court of this~~
33 ~~state, of any superior court which has jurisdiction over the property.~~
34 ~~Such a court first acquiring jurisdiction shall retain jurisdiction to~~
35 ~~the exclusion of every other court.))~~

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 83.100
2 RCW to read as follows:

3 (1) If the taxable estate on the federal return is determined by
4 making an election under section 2056 or 2056A of the Internal Revenue
5 Code of 1986, as amended or renumbered as of January 1, 2002, or such
6 subsequent date may be provided by the department by rule consistent
7 with the purposes of this section, or if no federal return is required
8 to be filed, the department may provide by rule for a separate election
9 on the Washington return, consistent with section 2056 or 2056A of the
10 Internal Revenue Code as defined under RCW 83.100.020, for the purpose
11 of determining the amount of tax due under this chapter. The election
12 shall be binding on the estate and the beneficiaries, consistent with
13 the Internal Revenue Code as defined under RCW 83.100.020. All other
14 elections or valuations on the Washington return shall be made in a
15 manner consistent with the federal return, if a federal return is
16 required, and such rules as the department may provide.

17 (2) Amounts deducted for federal income tax purposes under section
18 642(g) of the Internal Revenue Code of 1986, as amended or renumbered
19 as of January 1, 2002, or such subsequent date as may be provided by
20 the department by rule consistent with the purposes of this section,
21 shall not be allowed as deductions in computing the amount of tax due
22 under this chapter.

23 (3) For purposes of this section, "federal return" means any tax
24 return required by chapter 11 of the Internal Revenue Code of 1986, as
25 amended or renumbered as of January 1, 2002, or such subsequent date as
26 may be provided by the department by rule consistent with the purposes
27 of this section. Nothing in this subsection shall be construed to
28 modify any other definition of "federal return."

29 **Sec. 14.** RCW 83.100.210 and 1996 c 149 s 18 are each amended to
30 read as follows:

31 (1) The following provisions of chapter 82.32 RCW have full force
32 and application with respect to the taxes imposed under this chapter
33 unless the context clearly requires otherwise: RCW 82.32.110,
34 82.32.120, 82.32.130, 82.32.320, and 82.32.340. The definitions in
35 this chapter have full force and application with respect to the
36 application of these provisions to this chapter unless the context
37 clearly requires otherwise.

1 (2) The department may enter into closing agreements as provided in
2 RCW 82.32.350 and 82.32.360.

3 **NEW SECTION. Sec. 15.** A new section is added to chapter 83.100
4 RCW to read as follows:

5 This act shall be liberally construed to carry out the
6 legislature's intent to impose a stand-alone state estate tax to
7 provide funding for Initiative No. 728. Any ambiguities found by a
8 court shall be liberally construed in favor of application of the tax,
9 except that any exemptions, credits, deductions, exclusions, or other
10 exceptions to taxation contained in this chapter or federal statutes
11 incorporated by reference in this chapter shall be narrowly construed.

12 **NEW SECTION. Sec. 16.** A new section is added to chapter 83.100
13 RCW to read as follows:

14 Taxes, penalties, interest, and fees collected under this chapter
15 shall be deposited in the student achievement fund created in RCW
16 43.135.045.

17 **NEW SECTION. Sec. 17.** The following acts or parts of acts are
18 each repealed:

19 (1) RCW 83.100.030 (Residents--Estate tax imposed--Credit for tax
20 paid other state) and 1988 c 64 s 3 & 1981 2nd ex.s. c 7 s 83.100.030;
21 and

22 (2) RCW 83.100.045 (Generation-skipping transfers--Tax imposed--
23 Credit for tax paid to another state) and 1988 c 64 s 5.

24 **PART II**
25 **CIGARETTE TAX**

26 **NEW SECTION. Sec. 18.** A new section is added to chapter 82.24 RCW
27 to read as follows:

28 (1) There is hereby levied, and there shall be collected as
29 provided by this chapter, an additional tax upon the sale, use,
30 consumption, handling, possession, or distribution of cigarettes in an
31 amount equal to the rate of:

32 (a) Ten mills per cigarette through June 30, 2007; and

33 (b) Forty mills per cigarette after June 30, 2007.

1 (2)(a) The money collected under subsection (1)(a) of this section
2 during any month shall be deposited by the twenty-fifth day of the
3 following month as follows:

4 (i) 12.25 percent into the health services account created in RCW
5 43.72.900;

6 (ii) 1.1 percent into the water quality account created in RCW
7 70.146.030;

8 (iii) 1.4 percent into the violence reduction and drug enforcement
9 account created in RCW 69.50.520; and

10 (iv) The remainder into the student achievement fund created in RCW
11 43.135.045. If, however, the amounts deposited in the student
12 achievement fund under section 22(2)(a), (b), and (c) of this act are
13 sufficient to provide the total allocations per full-time equivalent
14 student in section 22(2) of this act, the remainder of the money
15 collected under subsection (1)(a) of this section shall be transferred
16 into the general fund. The office of the superintendent of public
17 instruction shall notify the department if the amounts deposited in the
18 student achievement fund under section 22(2)(a), (b), and (c) of this
19 act are sufficient to provide the total allocations per full-time
20 equivalent student in section 22(2) of this act.

21 (b) The money collected under subsection (1)(b) of this section
22 during any month shall be deposited by the twenty-fifth day of the
23 following month as follows:

24 (i) 26.5 percent into the health services account created in RCW
25 43.72.900;

26 (ii) 2.2 percent into the water quality account created in RCW
27 70.146.030 until June 30, 2021;

28 (iii) 2.85 percent into the violence reduction and drug enforcement
29 account created in RCW 69.50.520; and

30 (iv) The remainder into the student achievement fund created in RCW
31 43.135.045. If, however, the amounts deposited in the student
32 achievement fund under section 22(2)(a), (b), and (c) of this act are
33 sufficient to provide the total allocations per full-time equivalent
34 student in section 22(2) of this act, the remainder of the money
35 collected under subsection (1)(b) of this section shall be transferred
36 into the general fund. The office of the superintendent of public
37 instruction shall notify the department if the amounts deposited in the

1 student achievement fund under section 22(2)(a), (b), and (c) of this
2 act are sufficient to provide the total allocations per full-time
3 equivalent student in section 22(2) of this act.

4 **Sec. 19.** RCW 69.50.520 and 2004 c 276 s 912 are each amended to
5 read as follows:

6 The violence reduction and drug enforcement account is created in
7 the state treasury. All designated receipts from RCW 9.41.110(8),
8 66.24.210(4), 66.24.290(2), 69.50.505(9)(a), 82.08.150(5),
9 82.24.020(2), section 18(2) (a)(iii) and (b)(iii) of this act,
10 82.64.020, and section 420, chapter 271, Laws of 1989 shall be
11 deposited into the account. Expenditures from the account may be used
12 only for funding services and programs under chapter 271, Laws of 1989
13 and chapter 7, Laws of 1994 sp. sess., including state incarceration
14 costs. Funds from the account may also be appropriated to reimburse
15 local governments for costs associated with implementing criminal
16 justice legislation including chapter 338, Laws of 1997. During the
17 2003-2005 biennium, funds from the account may also be used for costs
18 associated with providing grants to local governments in accordance
19 with chapter 338, Laws of 1997, funding drug offender treatment
20 services in accordance with RCW 70.96A.350, maintenance and operating
21 costs of the Washington association of sheriffs and police chiefs jail
22 reporting system, maintenance and operating costs of the juvenile
23 rehabilitation administration's client activity tracking system, civil
24 indigent legal representation, multijurisdictional narcotics task
25 forces, and grants to community networks under chapter 70.190 RCW by
26 the family policy council.

27 **Sec. 20.** RCW 70.146.030 and 2004 c 277 s 909 are each amended to
28 read as follows:

29 (1) The water quality account is hereby created in the state
30 treasury. Moneys in the account may be used only in a manner
31 consistent with this chapter. Moneys deposited in the account shall be
32 administered by the department of ecology and shall be subject to
33 legislative appropriation. Moneys placed in the account shall include
34 tax receipts as provided in RCW 82.24.027, section 18(2) (a)(ii) and
35 (b)(ii) of this act, 82.26.025, and 82.32.390, principal and interest

1 from the repayment of any loans granted pursuant to this chapter, and
2 any other moneys appropriated to the account by the legislature.

3 (2) The department may use or permit the use of any moneys in the
4 account to make grants or loans to public bodies, including grants to
5 public bodies as cost-sharing moneys in any case where federal, local,
6 or other funds are made available on a cost-sharing basis, for water
7 pollution control facilities and activities, or for purposes of
8 assisting a public body to obtain an ownership interest in water
9 pollution control facilities and/or to defray a part of the payments
10 made by a public body to a service provider under a service agreement
11 entered into pursuant to RCW 70.150.060, within the purposes of this
12 chapter and for related administrative expenses. For the period July
13 1, 2003, to June 30, 2005, moneys in the account may be used to process
14 applications received by the department that seek to make changes to or
15 transfer existing water rights, for water conveyance projects, and for
16 grants and technical assistance to public bodies for watershed planning
17 under chapter 90.82 RCW. No more than three percent of the moneys
18 deposited in the account may be used by the department to pay for the
19 administration of the grant and loan program authorized by this
20 chapter.

21 (3) Beginning with the biennium ending June 30, 1997, the
22 department shall present a biennial progress report on the use of
23 moneys from the account to the chairs of the senate committee on ways
24 and means and the house of representatives committee on appropriations.
25 The first report is due June 30, 1996, and the report for each
26 succeeding biennium is due December 31 of the odd-numbered year. The
27 report shall consist of a list of each recipient, project description,
28 and amount of the grant, loan, or both.

29 **PART III**

30 **SCHOOL DISTRICT DISTRIBUTIONS**

31 **Sec. 21.** RCW 84.52.068 and 2003 1st sp.s. c 19 s 1 are each
32 amended to read as follows:

33 (1) A portion of the proceeds of the state property tax levy shall
34 be distributed to school districts in the amounts and in the manner
35 provided in this section.

1 (2) The amount of the distribution to each school district shall be
2 based upon the average number of full-time equivalent students in the
3 school district during the previous school year, and shall be
4 calculated as follows:

5 (a) Out of taxes collected in calendar years 2001 through and
6 including 2003, an annual amount equal to one hundred forty dollars per
7 each full-time equivalent student in all school districts shall be
8 deposited in the student achievement fund to be distributed to each
9 school district based on one hundred forty dollars per full-time
10 equivalent student in the school district for each year beginning with
11 the school year 2001-2002 and through the end of the 2003-2004 school
12 year.

13 (b) For the 2004-2005 school year and each subsequent school year,
14 an annual amount equal to two hundred fifty-four dollars per full-time
15 equivalent student in all school districts shall be deposited in the
16 student achievement fund to be distributed to each school district
17 based on two hundred fifty-four dollars per full-time equivalent
18 student.

19 ~~((c) For the 2005-2006 school year, an amount equal to three~~
20 ~~hundred dollars per full-time equivalent student in all school~~
21 ~~districts shall be deposited in the student achievement fund to be~~
22 ~~distributed to each school district based on three hundred dollars per~~
23 ~~full-time equivalent student.~~

24 ~~(d) For the 2006-2007 school year, an amount equal to three hundred~~
25 ~~seventy five dollars per full-time equivalent student in all school~~
26 ~~districts shall be deposited in the student achievement fund to be~~
27 ~~distributed to each school district based on three hundred seventy five~~
28 ~~dollars per full-time equivalent student.~~

29 ~~(e) For the 2007-2008 school year, an amount equal to four hundred~~
30 ~~fifty dollars per full-time equivalent student in all school districts~~
31 ~~shall be deposited in the student achievement fund to be distributed to~~
32 ~~each school district based on four hundred fifty dollars per full-time~~
33 ~~equivalent student.~~

34 ~~(f) Each subsequent year following the 2007-2008 school year, the~~
35 ~~amount deposited and distributed shall be adjusted for inflation as~~
36 ~~defined in RCW 43.135.025(8).~~

37 ~~(3) For the 2001-2002 through 2003-2004 school years, the office of~~
38 ~~the superintendent of public instruction shall verify the average~~

1 ~~number of full-time equivalent students in each school district from~~
2 ~~the previous school year to the state treasurer by August 1st of each~~
3 ~~year.~~

4 ~~(4) Beginning with the 2004-2005 school year:))~~

5 (3)(a) The annual distributions to each school district shall be
6 based on the average number of full-time equivalent students in the
7 school district from the previous school year as reported to the office
8 of the superintendent of public instruction by August 31st of the
9 previous school year; and

10 (b) The school district annual amounts as defined in subsection (2)
11 of this section shall be distributed on the monthly apportionment
12 schedule as defined in RCW 28A.510.250. The office of the
13 superintendent of public instruction shall notify the department of the
14 monthly amounts to be deposited into the student achievement fund to
15 meet the apportionment schedule distributions.

16 NEW SECTION. **Sec. 22.** A new section is added to chapter 28A.505
17 RCW to read as follows:

18 (1) Total distributions from the student achievement fund to each
19 school district shall be based upon the average number of full-time
20 equivalent students in the school district during the previous school
21 year as reported to the office of the superintendent of public
22 instruction by August 31st of the previous school year.

23 (2) The allocation rate per full-time equivalent student shall be
24 three hundred dollars in the 2005-06 school year, three hundred
25 seventy-five dollars in the 2006-07 school year, and four hundred fifty
26 dollars in the 2007-08 school year. For each subsequent school year,
27 the amount allocated per full-time equivalent student shall be adjusted
28 for inflation as defined in RCW 43.135.025(8). These allocations per
29 full-time equivalent student from the student achievement fund shall be
30 supported from the following sources:

31 (a) Distributions from state property tax proceeds deposited into
32 the student achievement fund pursuant to RCW 84.52.068;

33 (b) Distributions from the additional cigarette tax imposed in
34 section 18 of this act and deposited into the student achievement fund
35 pursuant to section 18(2) of this act;

36 (c) Distributions from the estate tax imposed in chapter 83.100 RCW

1 and deposited in the student achievement fund pursuant to section 16 of
2 this act; and

3 (d) If the amounts deposited in the student achievement fund under
4 (a), (b), and (c) of this subsection are insufficient to provide the
5 total allocations per full-time equivalent student in this subsection
6 (2), the office of the superintendent of public instruction shall
7 notify the office of financial management, the fiscal committees of the
8 legislature, and the office of the state treasurer. By August 15th of
9 such school year, the treasurer shall transfer sufficient moneys from
10 the general state revenues into the student achievement fund to provide
11 the school year allocation rate per full-time equivalent student as
12 provided in this subsection (2).

13 (3) Any funds deposited in the student achievement fund pursuant to
14 RCW 43.135.045 shall be allocated to school districts on a one-time
15 basis using a rate per full-time equivalent student. These funds are
16 provided in addition to any amounts allocated in subsection (2) of this
17 section.

18 (4) The school district annual amounts as defined in subsection (2)
19 of this section shall be distributed on the monthly apportionment
20 schedule as defined in RCW 28A.510.250.

21 **PART IV**
22 **MISCELLANEOUS**

23 NEW SECTION. **Sec. 23.** This act applies prospectively only and not
24 retroactively. Sections 2 through 17 of this act apply only to persons
25 required to file a Washington return under chapter 83.100 RCW for
26 estates of decedents dying on or after the effective date of this
27 section.

28 NEW SECTION. **Sec. 24.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 25.** Part headings used in this act are not any
33 part of the law.

1 NEW SECTION. **Sec. 26.** Sections 1 through 17 and 21 through 25 of
2 this act are necessary for the immediate preservation of the public
3 peace, health, or safety, or support of the state government and its
4 existing public institutions, and take effect immediately.

5 NEW SECTION. **Sec. 27.** Sections 18 through 20 of this act are
6 necessary for the immediate preservation of the public peace, health,
7 or safety, or support of the state government and its existing public
8 institutions, and take effect July 1, 2005.

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