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## BRIEFLY

The House and Senate Tax packages provide the starting points for final legislative negotiation on the revenue component of the supplemental budget.

# THE HOUSE AND SENATE TAX PACKAGES

As the legislature enters the last four days of this year's 60-day session, the supplemental budget remains the key "must do." New revenue will be a part of legislative leaders' solution to the enormous gap in the enacted 2009–11 budget. There remains considerable disagreement, however, between the House and the Senate over precisely how to raise the additional funds. The House revenue package is contained in Substitute House Bill 3191, which passed out of the House Finance Committee on March 2. The Senate package is in two bills, Engrossed Substitute Senate Bill 6143 and Substitute Senate Bill 6874 that the Senate passed on March 7. (Most of the Senate package is contained in the first of these two bills. The second bill hikes the cigarette tax.) It is likely that the final legislative revenue package will combine elements from these bills.

The House package would raise about \$750 million over the remainder of the 2009–11 biennium; the Senate package would raise about \$890 million.

The elements of the two packages are laid out on page 2. Twelve elements are substantially common to the two packages. These 12 elements would together raise about \$385 million. Eleven elements, which would raise \$365 million, are unique to the House package, while six elements, which would raise \$505 million, are unique to the Senate package.

## COMMON ELEMENTS

The largest common element is the prospective repeal of the direct sellers B&O tax exemption and the retroactive narrowing of the exemption to consumer goods. This is a response to the Dot Foods case (for details see WRC 2010a and WRC 2010b) and is expected to provide \$155 million. The second largest common element is a \$1 hike in the tax on a pack of cigarettes, from \$2.025 to \$3.025. The third largest element involves the treatment of multistate service and royalty transactions under the B&O tax. Nexus for such activities would be based on economic rather than physical presence in the state and revenue would be apportioned based on sales (WRC 2010a and 2010b). The fourth largest element extends the sales tax to bottled water. This is expected to yield \$30 million over the remainder of this biennium.

Both packages contain the controversial element regarding "abusive" tax avoidance transactions originally suggested by Governor Gregoire (WRC 2010a and 2010b).

Other elements include: limiting the machinery and equipment sales tax exemption for electricity-generating windmills to projects whose customers are located in the state; limiting the real estate excise tax exemption for foreclosure sales to transactions where the buyer is the mortgage holder; limiting tax incentives for meat, vegetable and fruit product manufacturing to products that are at least 50 percent meat, vegetable or fruit; holding chief execu-

## Comparison of the Senate and House Revenue Packages

Senate Bill	House Bill	Proposal	Additional 2009-11 Revenue	
			Senate	House
6143	3191	Direct Sellers exemption repeal (Dot Foods)	\$154.7	\$154.7
6874	3191	Increase cigarette tax by \$1/pack	\$85.7	\$85.7
6143	3191	Nexus and apportionment of interstate services	\$72.8	\$73.1
6143	3191	Extend sales tax to bottle water	\$30.0	\$30.0
6143	3191	Addressing tax avoidance	\$13.6	\$13.6
6143	3191	Limiting the wind M&E exemption to projects serving instate users	\$7.8	\$7.8
6143	3191	Limiting the REET exemption for foreclosure sales	\$6.6	\$6.6
6143	3191	Limiting tax incentives for meat, fruit and vegetable processing (Agrilink)	\$4.8	\$4.8
6143	3191	Corporate officer liability for tax debts	\$4.5	\$6.2
6143	3191	Corporate board of director fees subject to B&O tax	\$2.1	\$2.1
6143	3191	Suspend livestock nutrient exemption	\$1.6	\$1.6
6143	3191	PUD privilege tax applies to all charges for electricity	\$1.2	\$1.2
	3191	Eliminate sales tax exemption for custom software		\$76.5
	3191	Cap first mortgage B&O deduction at \$100 million		\$67.1
	3191	Limit B&O exemption on investment earnings for non-financial firms to first \$250,000		\$58.0
	3191	Eliminate non-resident sales tax exemption		\$41.5
	3191	Eliminate sales tax exemption for candy and gum		\$30.5
	3191	Increase taxes on other tobacco products by amounts equivalent to \$1/pack on cigarettes		\$25.9
	3191	Temporary 0.5% increase in B&O for lawyers, accountants, and certain other professional services		\$21.7
	3191	Eliminate sales tax exemption for janitorial services		\$19.0
	3191	Airplane excise tax 0.5% of market value		\$9.4
	3191	Narrow use tax exemption for vehicles used for interstate hauls		\$7.7
	3191	Extend sales tax to elective cosmetic surgery		\$7.2
6143		Temporary 0.3% sales tax increase/working families refundable tax credit	\$313.3	
6143		Temporary 0.25% increase in service B&O tax rate	\$170.8	
6143		Repealing coal exemption	\$10.0	
6143		Eliminate property management salary B&O exemption	\$8.3	
6143		Limiting bad debt deduction	\$1.5	
6143		Limiting initiation fees and dues B&O deduction to nonprofits	\$1.0	
<b>Totals</b>			<b>\$890.3</b>	<b>\$751.9</b>

Note: Revenue numbers taken from staff presentations to the House Finance and Senate Ways and Means Committees, Final revenue estimates may differ slightly from these numbers.

tive officers and chief financial officers of insolvent limited liability entities personally liable for the entities' unpaid taxes; making corporate directors' fees subject to the B&O tax at the service rate; suspending the sales and use tax exemption for equipment and facilities used to handle nutrients at live-stock feeding operations; applying the PUD privilege tax to all fees that PUDs receive from their customers related to supplying electricity.

#### **HOUSE ELEMENTS.**

Among the House's unique elements, the three projected to provide the most revenue are: eliminating the sales tax exemption for custom and customized software (\$77 million); capping the B&O deduction for interest received on loans secured by first mortgages on residential property located in Washington (\$67 million); and limiting the B&O exemption enjoyed by non-financial businesses for investment earnings to the first \$250,000 earned.

The House eliminates sales tax exemptions for sales to nonresidents, candy and gum, janitorial services, and cosmetic surgery. The House increases taxes on tobacco products other than cigarettes by amounts equivalent to the \$1/pack increase imposed on cigarettes; it increases, for three years, the B&O tax rate for lawyers, accountants and certain other professional services from 1.5 percent to 2.0 percent; and it increases the annual excise tax on aircraft to 0.5 percent of fair market value.

#### **SENATE ELEMENTS.**

The Senate element that provide the greatest amount of money is a temporary (three-year) increase in the state sales tax rate, from 6.5 percent to 6.8 percent. This temporary increase in the sales tax is paired with the permanent establishment of a "working families tax exemption." This is not a true tax exemption but rather a grant from the state to eligible low-income individuals. For 2011, the grant will be the greater of \$25 or 7/240 times the earned income tax credit (EITC) that the individual received from the federal government for 2010; for 2012 the grant will be the greater of \$25 or 5 percent of the EITC for 2011; for subsequent years the grant will be the greater of \$50 or 10 percent of the EITC. After accounting for the cost of the grant, the sales tax hike will provide \$313 million over the remainder of the 2009–11 biennium.

The second largest unique Senate element is a temporary (three-year) increase in B&O service rate from 1.5 percent to 1.75 percent. This is expected to provide \$171 million over the second year of the current biennium.

The remaining Senate elements are: elimination of the sales tax exemption on coal purchases made by the TransAlta power plant in Centralia; elimination of the B&O exemption for property management salaries; limitation of the bad debt B&O deduction to the seller of the good (rather than to an assignee); and limitation of the B&O deduction for membership dues and initiation fees to nonprofit organizations exempt from the federal income tax.

#### **REFERENCES**

- Washington Research Council (WRC). 2010a. House Bill 3176. Policy Brief, PB 10–05. February 12. <http://www.researchcouncil.org>
- . 2010b. Governor Gregoire's Tax Package. Policy Brief, PB 10–06. February 23. <http://www.researchcouncil.org>