

ESSB 6440 - H COMM AMD
By Committee on Finance

NOT ADOPTED 03/12/2014

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 Tax Performance Statement

5 NEW SECTION. **Sec. 101.** (1) The legislature finds that current law
6 taxes natural gas as a traditional home heating or electric generation
7 fuel while not taking into account the benefits of natural gas use as
8 a transportation fuel. The legislature further finds that the
9 construction and operation of a natural gas liquefaction plant and
10 compressed natural gas refueling stations as well as the ongoing use of
11 compressed and liquefied natural gas will lead to positive job
12 creation, economic development, environmental benefits, lower fuel
13 costs, and increased tax revenues to the state. The legislature
14 further finds that it is sound tax policy to provide uniform tax
15 treatment of natural gas used as a transportation fuel, regardless of
16 whether the taxpayer providing the natural gas is a gas distribution
17 business or not, so as to prevent any particular entity from receiving
18 a competitive advantage solely through a structural inefficiency in the
19 tax code.

20 (2)(a) This subsection is the tax performance statement for this
21 act. The performance statement is only intended to be used for
22 subsequent evaluation of the tax changes made in this act. It is not
23 intended to create a private right of action by any party or be used to
24 determine eligibility for preferential tax treatment.

25 (b) The legislature categorizes the tax changes in this act as
26 changes intended to accomplish the general purposes indicated in RCW
27 82.32.808(2) (c) and (d).

28 (c) It is the legislature's specific public policy objectives to
29 promote job creation and positive economic development; lower carbon

1 dioxide, sulfur dioxide, nitrogen dioxide, and particulate emissions;
2 and secure optimal liquefied natural gas pricing for the state of
3 Washington and other public entities.

4 (d) To measure the effectiveness of the exemption provided in this
5 act in achieving the specific public policy objective described in (c)
6 of this subsection, the joint legislative audit and review committee
7 must evaluate the following:

8 (i) The number of employment positions and wages at a natural gas
9 liquefaction facility located in Washington and operated by a gas
10 distribution business where some or all of the liquefied natural gas is
11 sold for use as a transportation fuel. If the average number of
12 employment positions at the liquefaction facility once it is
13 operationally complete equals or exceeds eighteen and average annual
14 wages for employment positions at the facility exceed thirty-five
15 thousand dollars, it is presumed that the public policy objective of
16 job creation has been achieved.

17 (ii) The estimated total cost of construction of a liquefaction
18 plant by a gas distribution company, including costs for machinery and
19 equipment. If the total cost equals or exceeds two hundred fifty
20 million dollars, it is presumed that the public policy objective of
21 positive economic development has been achieved.

22 (iii) The estimated fuel savings by the Washington state ferry
23 system and other public entities through the use of liquefied natural
24 gas purchased from a gas distribution business.

25 (iv) The estimated reduction in carbon dioxide, sulfur dioxide,
26 nitrogen dioxide, and particulate emissions, resulting from the use of
27 liquefied natural gas and compressed natural gas as a transportation
28 fuel where the natural gas is sold by a gas distribution business. The
29 emissions of liquefied and compressed natural gas must be specifically
30 compared with an equivalent amount of diesel fuel. If the estimated
31 annual reduction in emissions exceeds the following benchmarks, it is
32 presumed that the public policy objective of reducing emissions has
33 been achieved:

- 34 (A) Three hundred million pounds of carbon dioxide;
35 (B) Two hundred thousand pounds of particulates;
36 (C) Four hundred thousand pounds of sulfur dioxide; and
37 (D) Four hundred fifty thousand pounds of nitrogen dioxide.

1 (e)(i) The following data sources are intended to provide the
2 informational basis for the evaluation under (d) of this subsection:

3 (A) Employment data provided by the state employment security
4 department;

5 (B) Ferry fuel purchasing data provided by the state department of
6 transportation;

7 (C) Diesel and other energy pricing data found on the United States
8 energy information administration's web site; and

9 (D) Information provided by a gas distribution business on the
10 annual report required under RCW 82.32.534.

11 (ii) In addition to the data source described under (e)(i) of this
12 subsection, the joint legislative audit and review committee may use
13 any other data it deems necessary in performing the evaluation under
14 (d) of this subsection.

15 (3) A gas distribution business claiming the exemption under RCW
16 82.08.02565 or 82.12.02565 must file the annual report under RCW
17 82.32.534 or any successor document. In addition to the information
18 contained in the report, the report must also include the amount of
19 liquefied natural gas and compressed natural gas sold by the gas
20 distribution business as a transportation fuel.

21 (4) The joint legislative audit and review committee must perform
22 the review required in this section in a manner consistent with its tax
23 preference review process under chapter 43.136 RCW. The committee must
24 perform the review in calendar year 2020.

25 PART II

26 Fuel Taxes and Sales Taxes

27 **Sec. 201.** RCW 82.38.020 and 2013 c 225 s 102 are each amended to
28 read as follows:

29 The definitions in this section apply throughout this chapter
30 unless the context clearly requires otherwise.

31 (1) "Blended fuel" means a mixture of fuel and another liquid,
32 other than a de minimis amount of the liquid.

33 (2) "Blender" means a person who produces blended fuel outside the
34 bulk transfer-terminal system.

35 (3) "Bond" means a bond duly executed with a corporate surety

1 qualified under chapter 48.28 RCW payable to the state of Washington
2 conditioned upon faithful performance of all requirements of this
3 chapter.

4 (4) "Bulk transfer-terminal system" means the fuel distribution
5 system consisting of refineries, pipelines, vessels, and terminals.
6 Fuel in a refinery, pipeline, vessel, or terminal is in the bulk
7 transfer-terminal system.

8 (5) "Bulk transfer" means a transfer of fuel by pipeline or vessel.

9 (6) "Bulk storage" means the placing of fuel into a receptacle
10 other than the fuel supply tank of a motor vehicle.

11 (7) "Department" means the department of licensing.

12 (8) "Diesel gallon equivalent" means the amount of special fuel,
13 for special fuel that is liquefied natural gas or compressed natural
14 gas, that is equivalent in terms of energy content to one gallon of
15 diesel fuel, as provided in this subsection. The equivalent amount is
16 the amount of fuel that by volume possesses an energy content of one
17 hundred twenty-nine thousand five hundred British thermal units.

18 (9) "Distributor" means a person who acquires fuel outside the bulk
19 transfer-terminal system for importation into Washington, from a
20 terminal or refinery rack located within Washington for distribution
21 within Washington, or for immediate export outside the state of
22 Washington.

23 ((+9)) (10) "Dyed special fuel user" means a person authorized by
24 the internal revenue code to operate a motor vehicle on the highway
25 using dyed special fuel, in which the use is not exempt from the fuel
26 tax.

27 ((+10)) (11) "Evasion" or "evade" means to diminish or avoid the
28 computation, assessment, or payment of authorized taxes or fees
29 through:

30 (a) A knowing: False statement; omission; misrepresentation of
31 fact; or other act of deception;

32 (b) An intentional: Failure to file a return or report; or other
33 act of deception; or

34 (c) The unlawful use of dyed special fuel.

35 ((+11)) (12) "Exempt sale" means the sale of fuel to a person
36 whose use of fuel is exempt from the fuel tax.

37 ((+12)) (13) "Export" means to obtain fuel in this state for sales

1 or distribution outside the state. Fuel distributed to a federally
2 recognized Indian tribal reservation located within the state of
3 Washington is not considered exported outside this state.

4 ~~((+13+))~~ (14) "Exporter" means a person who purchases fuel
5 physically located in this state at the time of purchase and directly
6 exports the fuel by a means other than the bulk transfer-terminal
7 system to a destination outside of the state. If the exporter of
8 record is acting as an agent, the person for whom the agent is acting
9 is the exporter. If there is no exporter of record, the owner of the
10 fuel at the time of exportation is the exporter.

11 ~~((+14+))~~ (15) "Fuel" means motor vehicle fuel or special fuel.

12 ~~((+15+))~~ (16) "Fuel user" means a person engaged in uses of fuel
13 that are not specifically exempted from the fuel tax imposed under this
14 chapter.

15 ~~((+16+))~~ (17) "Gallon of fuel" means one gallon of fuel, except
16 that it does not include fuel that is liquefied natural gas or
17 compressed natural gas.

18 (18) "Highway" means every way or place open to the use of the
19 public, as a matter of right, for the purpose of vehicular travel.

20 ~~((+17+))~~ (19) "Import" means to bring fuel into this state by a
21 means of conveyance other than the fuel supply tank of a motor vehicle.

22 ~~((+18+))~~ (20) "Importer" means a person who imports fuel into the
23 state by a means other than the bulk transfer-terminal system. If the
24 importer of record is acting as an agent, the person for whom the agent
25 is acting is the importer. If there is no importer of record, the
26 owner of the fuel at the time of importation is the importer.

27 ~~((+19+))~~ (21) "International fuel tax agreement licensee" means a
28 fuel user operating qualified motor vehicles in interstate commerce and
29 licensed by the department under the international fuel tax agreement.

30 ~~((+20+))~~ (22) "Licensee" means a person holding a license issued
31 under this chapter.

32 ~~((+21+))~~ (23) "Motor vehicle" means a self-propelled vehicle
33 utilizing fuel as a means of propulsion.

34 ~~((+22+))~~ (24) "Motor vehicle fuel" means gasoline and any other
35 inflammable gas or liquid, by whatsoever name the gasoline, gas, or
36 liquid may be known or sold the chief use of which is as a fuel for the
37 propulsion of motor vehicles or vessels.

1 ~~((+23+))~~ (25) "Natural gas" means naturally occurring mixtures of
2 hydrocarbon gases and vapors consisting principally of methane, whether
3 in gaseous or liquid form. "Natural gas" includes liquefied natural
4 gas and compressed natural gas.

5 ~~((+24+))~~ (26) "Person" means any individual, partnership,
6 association, public or private corporation, limited liability company,
7 or any other type of legal or commercial entity, including their
8 members, managers, partners, directors, or officers.

9 ~~((+25+))~~ (27) "Position holder" means a person who holds the
10 inventory position in fuel, as reflected by the records of the terminal
11 operator. A person holds the inventory position if the person has a
12 contractual agreement with the terminal for the use of storage
13 facilities and terminating services. "Position holder" includes a
14 terminal operator that owns fuel in their terminal.

15 ~~((+26+))~~ (28) "Rack" means a mechanism for delivering fuel from a
16 refinery or terminal into a truck, trailer, railcar, or other means of
17 nonbulk transfer.

18 ~~((+27+))~~ (29) "Refiner" means a person who owns, operates, or
19 otherwise controls a refinery.

20 ~~((+28+))~~ (30) "Removal" means a physical transfer of fuel other
21 than by evaporation, loss, or destruction.

22 ~~((+29+))~~ (31) "Special fuel" means diesel fuel, propane, natural
23 gas, kerosene, biodiesel, and any other combustible liquid or gas by
24 whatever name the liquid or gas may be known or sold for the generation
25 of power to propel a motor vehicle on the highways, except it does not
26 include motor vehicle fuel.

27 ~~((+30+))~~ (32) "Supplier" means a person who holds a federal
28 certificate of registry issued under the internal revenue code and
29 authorizes the person to engage in tax-free transactions of fuel in the
30 bulk transfer-terminal system.

31 ~~((+31+))~~ (33) "Terminal" means a fuel storage and distribution
32 facility that has been assigned a terminal control number by the
33 internal revenue service.

34 ~~((+32+))~~ (34) "Terminal operator" means a person who owns,
35 operates, or otherwise controls a terminal.

36 ~~((+33+))~~ (35) "Two-party exchange" or "buy-sell agreement" means a
37 transaction in which taxable fuel is transferred from one licensed
38 supplier to another licensed supplier whereby the supplier that is the

1 position holder agrees to deliver taxable fuel to the other supplier or
2 the other supplier's customer at the terminal at which the delivering
3 supplier is the position holder.

4 **Sec. 202.** RCW 82.38.030 and 2013 c 225 s 103 are each amended to
5 read as follows:

6 (1) There is levied and imposed upon fuel licensees a tax at the
7 rate of twenty-three cents per each gallon of fuel(~~(, or each one~~
8 ~~hundred cubic feet of compressed natural gas, measured at standard~~
9 ~~pressure and temperature)) or per diesel gallon equivalent.~~

10 (2) Beginning July 1, 2003, an additional and cumulative tax rate
11 of five cents per each gallon of fuel(~~(, or each one hundred cubic feet~~
12 ~~of compressed natural gas, measured at standard pressure and~~
13 ~~temperature)) or per diesel gallon equivalent is imposed on fuel
14 licensees. This subsection (2) expires when the bonds issued for
15 transportation 2003 projects are retired.~~

16 (3) Beginning July 1, 2005, an additional and cumulative tax rate
17 of three cents per each gallon of fuel(~~(, or each one hundred cubic~~
18 ~~feet of compressed natural gas, measured at standard pressure and~~
19 ~~temperature)) or per diesel gallon equivalent is imposed on fuel
20 licensees.~~

21 (4) Beginning July 1, 2006, an additional and cumulative tax rate
22 of three cents per each gallon of fuel(~~(, or each one hundred cubic~~
23 ~~feet of compressed natural gas, measured at standard pressure and~~
24 ~~temperature)) or per diesel gallon equivalent is imposed on fuel
25 licensees.~~

26 (5) Beginning July 1, 2007, an additional and cumulative tax rate
27 of two cents per each gallon of fuel(~~(, or each one hundred cubic feet~~
28 ~~of compressed natural gas, measured at standard pressure and~~
29 ~~temperature)) or per diesel gallon equivalent is imposed on fuel
30 licensees.~~

31 (6) Beginning July 1, 2008, an additional and cumulative tax rate
32 of one and one-half cents per each gallon of fuel(~~(, or each one~~
33 ~~hundred cubic feet of compressed natural gas, measured at standard~~
34 ~~pressure and temperature)) or per diesel gallon equivalent is imposed
35 on fuel licensees.~~

36 (7) Taxes are imposed when:

1 (a) Fuel is removed in this state from a terminal if the fuel is
2 removed at the rack unless the removal is by a licensed supplier or
3 distributor for direct delivery to a destination outside of the state,
4 or the removal is by a fuel supplier for direct delivery to an
5 international fuel tax agreement licensee under RCW 82.38.320;

6 (b) Fuel is removed in this state from a refinery if either of the
7 following applies:

8 (i) The removal is by bulk transfer and the refiner or the owner of
9 the fuel immediately before the removal is not a licensed supplier; or

10 (ii) The removal is at the refinery rack unless the removal is to
11 a licensed supplier or distributor for direct delivery to a destination
12 outside of the state, or the removal is to a licensed supplier for
13 direct delivery to an international fuel tax agreement licensee under
14 RCW 82.38.320;

15 (c) Fuel enters into this state for sale, consumption, use, or
16 storage, unless the fuel enters this state for direct delivery to an
17 international fuel tax agreement licensee under RCW 82.38.320, if
18 either of the following applies:

19 (i) The entry is by bulk transfer and the importer is not a
20 licensed supplier; or

21 (ii) The entry is not by bulk transfer;

22 (d) Fuel enters this state by means outside the bulk transfer-
23 terminal system and is delivered directly to a licensed terminal unless
24 the owner is a licensed distributor or supplier;

25 (e) Fuel is sold or removed in this state to an unlicensed entity
26 unless there was a prior taxable removal, entry, or sale of the fuel;

27 (f) Blended fuel is removed or sold in this state by the blender of
28 the fuel. The number of gallons of blended fuel subject to tax is the
29 difference between the total number of gallons of blended fuel removed
30 or sold and the number of gallons of previously taxed fuel used to
31 produce the blended fuel;

32 (g) Dyed special fuel is used on a highway, as authorized by the
33 internal revenue code, unless the use is exempt from the fuel tax;

34 (h) Dyed special fuel is held for sale, sold, used, or is intended
35 to be used in violation of this chapter;

36 (i) Special fuel purchased by an international fuel tax agreement
37 licensee under RCW 82.38.320 is used on a highway; (~~and~~))

1 (j) Fuel is sold by a licensed fuel supplier to a fuel distributor
2 or fuel blender and the fuel is not removed from the bulk transfer-
3 terminal system; and

4 (k) Special fuel that is liquefied natural gas or compressed
5 natural gas is exported from the state as provided in RCW
6 82.38.180(1)(g).

7 (8) The department must establish diesel gallon equivalents by
8 rule.

9 NEW SECTION. Sec. 203. A new section is added to chapter 82.38
10 RCW to read as follows:

11 (1) The provisions of this chapter requiring the payment of taxes
12 do not apply to special fuel imported into the state in interstate or
13 foreign commerce and intended to be sold while in interstate or foreign
14 commerce, nor to special fuel that is exported from this state to a
15 destination outside the United States to the extent allowed under RCW
16 82.38.180(1)(g), nor to any special fuel sold by a licensee to the
17 armed forces of the United States or to the national guard for use
18 exclusively in ships or for export from this state.

19 (2) The exemption under this section applies only to special fuel
20 that is liquefied natural gas or compressed natural gas.

21 (3) This section expires July 1, 2022.

22 **Sec. 204.** RCW 46.68.090 and 2013 c 225 s 645 are each amended to
23 read as follows:

24 (1) All moneys that have accrued or may accrue to the motor vehicle
25 fund from the motor vehicle fuel tax and special fuel tax must be first
26 expended for purposes enumerated in (a) and (b) of this subsection.
27 Except for moneys received from special fuel tax on exported fuel that
28 is liquefied natural gas or compressed natural gas, the remaining net
29 tax amount must be distributed monthly by the state treasurer in
30 accordance with subsections (2) through ((+7)) (6) and (8) of this
31 section.

32 (a) For payment of refunds of motor vehicle fuel tax and special
33 fuel tax that has been paid and is refundable as provided by law;

34 (b) For payment of amounts to be expended pursuant to
35 appropriations for the administrative expenses of the offices of state

1 treasurer, state auditor, and the department of licensing of the state
2 of Washington in the administration of the motor vehicle fuel tax and
3 the special fuel tax, which sums must be distributed monthly.

4 (2) All of the remaining net tax amount collected under RCW
5 82.38.030(1) must be distributed as set forth in (a) through (j) of
6 this section.

7 (a) For distribution to the motor vehicle fund an amount equal to
8 44.387 percent to be expended for highway purposes of the state as
9 defined in RCW 46.68.130;

10 (b)(i) For distribution to the special category C account, hereby
11 created in the motor vehicle fund, an amount equal to 3.2609 percent to
12 be expended for special category C projects. Special category C
13 projects are category C projects that, due to high cost only, will
14 require bond financing to complete construction.

15 (ii) The following criteria, listed in order of priority, must be
16 used in determining which special category C projects have the highest
17 priority:

18 (A) Accident experience;

19 (B) Fatal accident experience;

20 (C) Capacity to move people and goods safely and at reasonable
21 speeds without undue congestion; and

22 (D) Continuity of development of the highway transportation
23 network.

24 (iii) Moneys deposited in the special category C account in the
25 motor vehicle fund may be used for payment of debt service on bonds the
26 proceeds of which are used to finance special category C projects under
27 this subsection (2)(b);

28 (c) For distribution to the Puget Sound ferry operations account in
29 the motor vehicle fund an amount equal to 2.3283 percent;

30 (d) For distribution to the Puget Sound capital construction
31 account in the motor vehicle fund an amount equal to 2.3726 percent;

32 (e) For distribution to the transportation improvement account in
33 the motor vehicle fund an amount equal to 7.5597 percent;

34 (f) For distribution to the transportation improvement account in
35 the motor vehicle fund an amount equal to 5.6739 percent and expended
36 in accordance with RCW 47.26.086;

37 (g) For distribution to the cities and towns from the motor vehicle

1 fund an amount equal to 10.6961 percent in accordance with RCW
2 46.68.110;

3 (h) For distribution to the counties from the motor vehicle fund an
4 amount equal to 19.2287 percent: (i) Out of which there must be
5 distributed from time to time, as directed by the department of
6 transportation, those sums as may be necessary to carry out the
7 provisions of RCW 47.56.725; and (ii) less any amounts appropriated to
8 the county road administration board to implement the provisions of RCW
9 47.56.725(4), with the balance of such county share to be distributed
10 monthly as the same accrues for distribution in accordance with RCW
11 46.68.120;

12 (i) For distribution to the county arterial preservation account,
13 hereby created in the motor vehicle fund an amount equal to 1.9565
14 percent. These funds must be distributed by the county road
15 administration board to counties in proportions corresponding to the
16 number of paved arterial lane miles in the unincorporated area of each
17 county and must be used for improvements to sustain the structural,
18 safety, and operational integrity of county arterials. The county road
19 administration board must adopt reasonable rules and develop policies
20 to implement this program and to assure that a pavement management
21 system is used;

22 (j) For distribution to the rural arterial trust account in the
23 motor vehicle fund an amount equal to 2.5363 percent and expended in
24 accordance with RCW 36.79.020.

25 (3) The remaining net tax amount collected under RCW 82.38.030(2)
26 must be distributed to the transportation 2003 account (nickel
27 account).

28 (4) The remaining net tax amount collected under RCW 82.38.030(3)
29 must be distributed as follows:

30 (a) 8.3333 percent must be distributed to the incorporated cities
31 and towns of the state in accordance with RCW 46.68.110;

32 (b) 8.3333 percent must be distributed to counties of the state in
33 accordance with RCW 46.68.120; and

34 (c) The remainder must be distributed to the transportation
35 partnership account created in RCW 46.68.290.

36 (5) The remaining net tax amount collected under RCW 82.38.030(4)
37 must be distributed as follows:

1 (a) 8.3333 percent must be distributed to the incorporated cities
2 and towns of the state in accordance with RCW 46.68.110;

3 (b) 8.3333 percent must be distributed to counties of the state in
4 accordance with RCW 46.68.120; and

5 (c) The remainder must be distributed to the transportation
6 partnership account created in RCW 46.68.290.

7 (6) The remaining net tax amount collected under RCW 82.38.030 (5)
8 and (6) must be distributed to the transportation partnership account
9 created in RCW 46.68.290.

10 (7) The remaining net tax amount that is attributable to moneys
11 received from special fuel tax on exported fuel that is liquefied
12 natural gas or compressed natural gas must be distributed to the
13 finished fuel account created in section 205 of this act.

14 (8) Nothing in this section or in RCW 46.68.130 may be construed so
15 as to violate any terms or conditions contained in any highway
16 construction bond issues now or hereafter authorized by statute and
17 whose payment is by such statute pledged to be paid from any excise
18 taxes on motor vehicle fuel and special fuels.

19 NEW SECTION. **Sec. 205.** A new section is added to chapter 46.68
20 RCW to read as follows:

21 (1) The finished fuel account is created in the state treasury.
22 Special fuel tax receipts received under RCW 46.68.090(7) and sales
23 taxes under section 405 of this act must be deposited into the account.
24 Money in the account may be spent only after appropriation. Funds may
25 be used only to construct, improve, repair, or rehabilitate Washington
26 state ferry boat vessels, or to convert such vessels to operate using
27 special fuels other than diesel fuel or other alternative energy
28 sources.

29 (2) This section expires July 1, 2022.

30 **Sec. 206.** RCW 82.38.075 and 2013 c 225 s 110 are each amended to
31 read as follows:

32 (1) To encourage the use of nonpolluting fuels, an annual license
33 fee in lieu of the tax imposed by RCW 82.38.030 is imposed upon the use
34 of ((natural gas or)) propane used in any motor vehicle. The annual
35 license fee must be based upon the following schedule and formula:

| | VEHICLE TONNAGE (GVW) | FEE |
|---|-----------------------|-------|
| 1 | | |
| 2 | 0 - 6,000 | \$45 |
| 3 | 6,001 - 10,000 | \$45 |
| 4 | 10,001 - 18,000 | \$80 |
| 5 | 18,001 - 28,000 | \$110 |
| 6 | 28,001 - 36,000 | \$150 |
| 7 | 36,001 and above | \$250 |

8 (2) To determine the annual license fee for a registration year,
9 the appropriate dollar amount in the schedule is multiplied by the fuel
10 tax rate per gallon effective on July 1st of the preceding calendar
11 year and the product is divided by 12 cents.

12 (3) The department, in addition to the resulting fee, must charge
13 an additional fee of five dollars as a handling charge for each license
14 issued.

15 (4) The vehicle tonnage fee must be prorated so the annual license
16 will correspond with the staggered vehicle licensing system.

17 (5) A decal or other identifying device issued upon payment of the
18 annual fee must be displayed as prescribed by the department as
19 authority to purchase this fuel.

20 (6) Persons selling or dispensing (~~natural gas or~~) propane may
21 not sell or dispense this fuel for their own use or the use of others
22 into tanks of vehicles powered by this fuel which do not display a
23 valid decal or other identifying device.

24 (7) Commercial motor vehicles registered in a foreign jurisdiction
25 under the provisions of the international registration plan are subject
26 to the annual fee.

27 (8) Motor vehicles registered in a foreign jurisdiction, except
28 those registered under the international registration plan under
29 chapter 46.87 RCW, are exempt from this section.

30 (9) Vehicles registered in jurisdictions outside the state of
31 Washington are exempt from this section.

32 ~~((+8))~~ (10) Any person selling or dispensing (~~natural gas or~~)
33 propane into the tank of a motor vehicle powered by this fuel, except
34 as prescribed in this chapter, is subject to the penalty provisions of
35 this chapter.

1 **Sec. 207.** RCW 82.80.010 and 2013 c 225 s 641 are each amended to
2 read as follows:

3 (1) ~~((For purposes of this section:))~~ The definitions in this
4 subsection apply throughout this section unless the context clearly
5 requires otherwise.

6 (a) "Distributor" means every person who imports, refines,
7 manufactures, produces, or compounds motor vehicle fuel and special
8 fuel as defined in RCW 82.38.020(~~(, respectively,)~~) and sells or
9 distributes the fuel into a county(~~(+)~~).

10 (b) "Person" has the same meaning as in RCW 82.04.030.

11 (2) Subject to the conditions of this section, any county may levy,
12 by approval of its legislative body and a majority of the registered
13 voters of the county voting on the proposition at a general or special
14 election, additional excise taxes equal to ten percent of the statewide
15 ~~((motor vehicle fuel tax rate under RCW 82.38.030 on each gallon of~~
16 ~~motor vehicle fuel as defined in RCW 82.38.020 and on each gallon of~~
17 ~~special fuel))~~ fuel tax rates under RCW 82.38.030 on motor vehicle fuel
18 and special fuel as defined in RCW 82.38.020 sold within the boundaries
19 of the county. Vehicles paying an annual license fee under RCW
20 82.38.075 are exempt from the county fuel excise tax. An election held
21 under this section must be held not more than twelve months before the
22 date on which the proposed tax is to be levied. The ballot setting
23 forth the proposition must state the tax rate that is proposed. The
24 county's authority to levy additional excise taxes under this section
25 includes the incorporated and unincorporated areas of the county. The
26 additional excise taxes are subject to the same exceptions and rights
27 of refund as applicable to other motor vehicle fuel and special fuel
28 excise taxes levied under chapter 82.38 RCW. The proposed tax may not
29 be levied less than one month from the date the election results are
30 certified by the county election officer. The commencement date for
31 the levy of any tax under this section must be the first day of
32 January, April, July, or October.

33 (3) The local option motor vehicle fuel tax on ~~((each gallon of))~~
34 motor vehicle fuel and on ~~((each gallon of))~~ special fuel is imposed
35 upon the distributor of the fuel.

36 (4) A taxable event for the purposes of this section occurs upon
37 the first distribution of the fuel within the boundaries of a county to
38 a retail outlet, bulk fuel user, or ultimate user of the fuel.

1 (5) All administrative provisions in chapters 82.01, 82.03, and
2 82.32 RCW, insofar as they are applicable, apply to local option fuel
3 taxes imposed under this section.

4 (6) Before the effective date of the imposition of the fuel taxes
5 under this section, a county must contract with the department of
6 revenue for the administration and collection of the taxes. The
7 contract must provide that a percentage amount, not to exceed one
8 percent of the taxes imposed under this section, will be deposited into
9 the local tax administration account created in the custody of the
10 state treasurer. The department of revenue may spend money from this
11 account, upon appropriation, for the administration of the local taxes
12 imposed under this section.

13 (7) The state treasurer must distribute monthly to the levying
14 county and cities contained therein the proceeds of the additional
15 excise taxes collected under this section, after the deductions for
16 payments and expenditures as provided in RCW 46.68.090(1) (a) and (b)
17 and under the conditions and limitations provided in RCW 82.80.080.

18 (8) The proceeds of the additional excise taxes levied under this
19 section must be used strictly for transportation purposes in accordance
20 with RCW 82.80.070.

21 (9) A county may not levy the tax under this section if they are
22 levying the tax in RCW 82.80.110 or if they are a member of a regional
23 transportation investment district levying the tax in RCW 82.80.120.

24 **Sec. 208.** RCW 82.80.110 and 2013 c 225 s 642 are each amended to
25 read as follows:

26 (1) (~~For purposes of this section:~~) The definitions in this
27 subsection apply throughout this section unless the context clearly
28 requires otherwise.

29 (a) "Distributor" means every person who imports, refines,
30 manufactures, produces, or compounds motor vehicle fuel and special
31 fuel as defined in RCW 82.38.020(~~, respectively,~~) and sells or
32 distributes the fuel into a county(~~(+)~~).

33 (b) "Person" has the same meaning as in RCW 82.04.030.

34 (2) For purposes of dedication to a regional transportation
35 investment district plan under chapter 36.120 RCW, subject to the
36 conditions of this section, a county may levy additional excise taxes
37 equal to ten percent of the statewide (~~motor vehicle fuel tax rate~~

1 ~~under RCW 82.38.030 on each gallon of motor vehicle fuel as defined in~~
2 ~~RCW 82.38.020 and on each gallon of special fuel))~~ fuel tax rates under
3 RCW 82.38.030 on motor vehicle fuel and special fuel as defined in RCW
4 ~~((82.32.020 [82.38.020])~~) 82.38.020 sold within the boundaries of the
5 county. The additional excise tax is subject to the approval of the
6 county's legislative body and a majority of the registered voters of
7 the county voting on the proposition at a general or special election.
8 An election held under this section must be held not more than twelve
9 months before the date on which the proposed tax is to be levied. The
10 ballot setting forth the proposition must state that the revenues from
11 the tax will be used for a regional transportation investment district
12 plan. The county's authority to levy additional excise taxes under
13 this section includes the incorporated and unincorporated areas of the
14 county. Vehicles paying an annual license fee under RCW 82.38.075 are
15 exempt from the county fuel excise tax. The additional excise taxes
16 are subject to the same exceptions and rights of refund as applicable
17 to other motor vehicle fuel and special fuel excise taxes levied under
18 chapter 82.38 RCW. The proposed tax may not be levied less than one
19 month from the date the election results are certified by the county
20 election officer. The commencement date for the levy of any tax under
21 this section will be the first day of January, April, July, or October.

22 (3) The local option motor vehicle fuel tax on ~~((each gallon of))~~
23 motor vehicle fuel and on ~~((each gallon of))~~ special fuel is imposed
24 upon the distributor of the fuel.

25 (4) A taxable event for the purposes of this section occurs upon
26 the first distribution of the fuel within the boundaries of a county to
27 a retail outlet, bulk fuel user, or ultimate user of the fuel.

28 (5) All administrative provisions in chapters 82.01, 82.03, and
29 82.32 RCW, insofar as they are applicable, apply to local option fuel
30 taxes imposed under this section.

31 (6) Before the effective date of the imposition of the fuel taxes
32 under this section, a county must contract with the department of
33 revenue for the administration and collection of the taxes. The
34 contract must provide that a percentage amount, not to exceed one
35 percent of the taxes imposed under this section, will be deposited into
36 the local tax administration account created in the custody of the
37 state treasurer. The department of revenue may spend money from this

1 account, upon appropriation, for the administration of the local taxes
2 imposed under this section.

3 (7) The state treasurer must distribute monthly to the county
4 levying the tax as part of a regional transportation investment plan,
5 after the deductions for payments and expenditures as provided in RCW
6 46.68.090(1) (a) and (b).

7 (8) The proceeds of the additional taxes levied by a county in this
8 section, to be used as a part of a regional transportation investment
9 plan, must be used in accordance with chapter 36.120 RCW, but only for
10 those areas that are considered "highway purposes" as that term is
11 construed in Article II, section 40 of the state Constitution.

12 (9) A county may not levy the tax under this section if they are a
13 member of a regional transportation investment district that is levying
14 the tax in RCW 82.80.120 or the county is levying the tax in RCW
15 82.80.010.

16 **Sec. 209.** RCW 82.80.120 and 2013 c 225 s 643 are each amended to
17 read as follows:

18 (1) ~~((For purposes of this section*))~~ The definitions in this
19 subsection apply throughout this section unless the context clearly
20 requires otherwise.

21 (a) "Distributor" means every person who imports, refines,
22 manufactures, produces, or compounds motor vehicle fuel and special
23 fuel as defined in RCW 82.38.020(~~(, respectively,)~~) and sells or
24 distributes the fuel into a county(~~(+)~~).

25 (b) "Person" has the same meaning as in RCW 82.04.030;

26 (c) "District" means a regional transportation investment district
27 under chapter 36.120 RCW.

28 (2) A regional transportation investment district under chapter
29 36.120 RCW, subject to the conditions of this section, may levy
30 additional excise taxes equal to ten percent of the statewide motor
31 vehicle fuel tax rate under RCW 82.38.030 on each gallon of motor
32 vehicle fuel as defined in RCW 82.38.020 and on each gallon of special
33 fuel as defined in RCW 82.38.020 sold within the boundaries of the
34 district. The additional excise tax is subject to the approval of a
35 majority of the voters within the district boundaries. Vehicles paying
36 an annual license fee under RCW 82.38.075 are exempt from the
37 district's fuel excise tax. The additional excise taxes are subject to

1 the same exceptions and rights of refund as applicable to other motor
2 vehicle fuel and special fuel excise taxes levied under chapter 82.38
3 RCW. The proposed tax may not be levied less than one month from the
4 date the election results are certified. The commencement date for the
5 levy of any tax under this section will be the first day of January,
6 April, July, or October.

7 (3) The local option motor vehicle fuel tax on (~~each gallon of~~)
8 motor vehicle fuel and on (~~each gallon of~~) special fuel is imposed
9 upon the distributor of the fuel.

10 (4) A taxable event for the purposes of this section occurs upon
11 the first distribution of the fuel within the boundaries of the
12 district to a retail outlet, bulk fuel user, or ultimate user of the
13 fuel.

14 (5) All administrative provisions in chapters 82.01, 82.03, and
15 82.32 RCW, insofar as they are applicable, apply to local option fuel
16 taxes imposed under this section.

17 (6) Before the effective date of the imposition of the fuel taxes
18 under this section, a district must contract with the department of
19 revenue for the administration and collection of the taxes. The
20 contract must provide that a percentage amount, not to exceed one
21 percent of the taxes imposed under this section, will be deposited into
22 the local tax administration account created in the custody of the
23 state treasurer. The department of revenue may spend money from this
24 account, upon appropriation, for the administration of the local taxes
25 imposed under this section.

26 (7) The state treasurer must distribute monthly to the district
27 levying the tax as part of the regional transportation investment
28 district plan, after the deductions for payments and expenditures as
29 provided in RCW 46.68.090(1) (a) and (b).

30 (8) The proceeds of the additional taxes levied by a district in
31 this section, to be used as a part of a regional transportation
32 investment district plan, must be used in accordance with chapter
33 36.120 RCW, but only for those areas that are considered "highway
34 purposes" as that term is construed in Article II, section 40 of the
35 state Constitution.

36 (9) A district may only levy the tax under this section if the
37 district is comprised of boundaries identical to the boundaries of a

1 county or counties. A district may not levy the tax in this section if
2 a member county is levying the tax in RCW 82.80.010 or 82.80.110.

3 **Sec. 210.** RCW 82.47.010 and 1998 c 176 s 85 are each amended to
4 read as follows:

5 ~~((The definitions set forth in this section shall apply throughout
6 this chapter unless the context clearly requires otherwise.~~

7 ~~(1) "Motor vehicle fuel" has the meaning given in RCW 82.36.010.~~

8 ~~(2) "Special fuel" has the meaning given in RCW 82.38.020.~~

9 ~~(3) "Motor vehicle" has the meaning given in RCW 82.36.010.))~~

10 For purposes of this chapter, unless the context clearly requires
11 otherwise, "fuel," "motor vehicle fuel," "special fuel," and "motor
12 vehicle" have the meaning given in RCW 82.38.020.

13 **Sec. 211.** RCW 46.16A.060 and 2011 c 114 s 6 are each amended to
14 read as follows:

15 (1) The department, county auditor or other agent, or subagent
16 appointed by the director may not issue or renew a motor vehicle
17 registration or change the registered owner of a registered vehicle for
18 any motor vehicle required to be inspected under chapter 70.120 RCW,
19 unless the application for issuance or renewal is: (a) Accompanied by
20 a valid certificate of compliance or a valid certificate of acceptance
21 issued as required under chapter 70.120 RCW; or (b) exempt, as
22 described in subsection (2) of this section. The certificates must
23 have a date of validation that is within twelve months of the assigned
24 registration renewal date. Certificates for fleet or owner tested
25 diesel vehicles may have a date of validation that is within twelve
26 months of the assigned registration renewal date.

27 (2) The following motor vehicles are exempt from emission test
28 requirements:

29 (a) Motor vehicles that are less than five years old or more than
30 twenty-five years old;

31 (b) Motor vehicles that are a 2009 model year or newer;

32 (c) Motor vehicles powered exclusively by electricity, propane,
33 compressed natural gas, liquefied natural gas, or liquid petroleum gas;

34 (d) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles
35 as defined in RCW 46.04.332;

36 (e) Farm vehicles as defined in RCW 46.04.181;

1 (f) Street rod vehicles as defined in RCW 46.04.572 and custom
2 vehicles as defined in RCW 46.04.161;

3 (g) Used vehicles that are offered for sale by a motor vehicle
4 dealer licensed under chapter 46.70 RCW;

5 (h) Classes of motor vehicles exempted by the director of the
6 department of ecology; and

7 (i) Hybrid motor vehicles that obtain a rating by the environmental
8 protection agency of at least fifty miles per gallon of gas during city
9 driving. For purposes of this section, a hybrid motor vehicle is one
10 that uses propulsion units powered by both electricity and gas.

11 (3) The department of ecology (~~shall~~) must provide information to
12 motor vehicle owners:

13 (a) Regarding the boundaries of emission contributing areas and
14 restrictions established under this section that apply to vehicles
15 registered in such areas; and

16 (b) On the relationship between motor vehicles and air pollution
17 and steps motor vehicle owners should take to reduce motor vehicle
18 related air pollution.

19 (4) The department of licensing (~~shall~~) must:

20 (a) Notify all registered motor vehicle owners affected by the
21 emission testing program that they must have an emission test to renew
22 their registration;

23 (b) Adopt rules implementing and enforcing this section, except for
24 subsection (2)(e) of this section, as specified in chapter 34.05 RCW.

25 (5) A motor vehicle may not be registered, leased, rented, or sold
26 for use in the state, starting with the model year as provided in RCW
27 70.120A.010, unless the vehicle:

28 (a) Has seven thousand five hundred miles or more; or

29 (b)(i) Is consistent with the vehicle emission standards and carbon
30 dioxide equivalent emission standards adopted by the department of
31 ecology; and

32 (ii) Has a California certification label for all emission
33 standards, and carbon dioxide equivalent emission standards necessary
34 to meet fleet average requirements.

35 (6) The department of licensing, in consultation with the
36 department of ecology, may adopt rules necessary to implement this
37 section and may provide for reasonable exemptions to these
38 requirements. The department of ecology may exempt public safety

1 vehicles from meeting the standards where the department finds that
2 vehicles necessary to meet the needs of public safety agencies are not
3 otherwise reasonably available.

4 **Sec. 212.** RCW 46.37.467 and 1995 c 369 s 23 are each amended to
5 read as follows:

6 (1) Every automobile, truck, motorcycle, motor home, or off-road
7 vehicle that is fueled by an alternative fuel source (~~shall~~) must
8 bear a reflective placard issued by the national fire protection
9 association indicating that the vehicle is so fueled. Violation of
10 this subsection is a traffic infraction.

11 (2) As used in this section "alternative fuel source" includes
12 propane, compressed natural gas, liquefied natural gas, liquid
13 petroleum gas, or any chemically similar gas but does not include
14 gasoline or diesel fuel.

15 (3) If a placard for a specific alternative fuel source has not
16 been issued by the national fire protection association, a placard
17 issued by the chief of the Washington state patrol, through the
18 director of fire protection, (~~shall be~~) is required. The chief of
19 the Washington state patrol, through the director of fire protection,
20 (~~shall~~) must develop rules for the design, size, and placement of the
21 placard which (~~shall~~) remains effective until a specific placard is
22 issued by the national fire protection association.

23 **PART III**

24 **State and Local Business Taxes**

25 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.16
26 RCW to read as follows:

27 (1) The provisions of this chapter do not apply to sales by a gas
28 distribution business of:

29 (a) Compressed natural gas or liquefied natural gas, where the
30 compressed natural gas or liquefied natural gas is to be sold or used
31 as transportation fuel; or

32 (b) Natural gas from which the buyer manufactures compressed
33 natural gas or liquefied natural gas, where the compressed natural gas
34 or liquefied natural gas is to be sold or used as transportation fuel.

1 (2) The exemption is available only when the buyer provides the
2 seller with an exemption certificate in a form and manner prescribed by
3 the department. The seller must retain a copy of the certificate for
4 the seller's files.

5 (3) For the purposes of this section, "transportation fuel" means
6 fuel for the generation of power to propel a motor vehicle as defined
7 in RCW 46.04.320, a vessel as defined in RCW 88.02.310, or a locomotive
8 or railroad car.

9 (4) This section expires July 1, 2022.

10 **Sec. 302.** RCW 82.04.310 and 2007 c 58 s 1 are each amended to read
11 as follows:

12 (1) This chapter (~~shall~~) does not apply to any person in respect
13 to a business activity with respect to which tax liability is
14 specifically imposed under the provisions of chapter 82.16 RCW
15 including amounts derived from activities for which a deduction is
16 allowed under RCW 82.16.050. The exemption in this subsection does not
17 apply to sales of natural gas, including compressed natural gas and
18 liquefied natural gas, by a gas distribution business, if such sales
19 are exempt from the tax imposed under chapter 82.16 RCW as provided in
20 section 301 of this act.

21 (2) This chapter does not apply to amounts received by any person
22 for the sale of electrical energy for resale within or outside the
23 state.

24 (3)(a) This chapter does not apply to amounts received by any
25 person for the sale of natural or manufactured gas in a calendar year
26 if that person sells within the United States a total amount of natural
27 or manufactured gas in that calendar year that is no more than twenty
28 percent of the amount of natural or manufactured gas that it consumes
29 within the United States in the same calendar year.

30 (b) For purposes of determining whether a person has sold within
31 the United States a total amount of natural or manufactured gas in a
32 calendar year that is no more than twenty percent of the amount of
33 natural or manufactured gas that it consumes within the United States
34 in the same calendar year, the following transfers of gas are not
35 considered to be the sale of natural or manufactured gas:

36 (i) The transfer of any natural or manufactured gas as a result of
37 the acquisition of another business, through merger or otherwise; or

1 (ii) The transfer of any natural or manufactured gas accomplished
2 solely to comply with federal regulatory requirements imposed on the
3 pipeline transportation of such gas when it is shipped by a third-party
4 manager of a person's pipeline transportation.

5 **Sec. 303.** RCW 82.04.120 and 2011 c 23 s 3 are each amended to read
6 as follows:

7 (1) "To manufacture" embraces all activities of a commercial or
8 industrial nature wherein labor or skill is applied, by hand or
9 machinery, to materials so that as a result thereof a new, different or
10 useful substance or article of tangible personal property is produced
11 for sale or commercial or industrial use, and includes:

12 (a) The production or fabrication of special made or custom made
13 articles;

14 (b) The production or fabrication of dental appliances, devices,
15 restorations, substitutes, or other dental laboratory products by a
16 dental laboratory or dental technician;

17 (c) Cutting, delimiting, and measuring of felled, cut, or taken
18 trees; (~~and~~)

19 (d) Crushing and/or blending of rock, sand, stone, gravel, or ore;
20 and

21 (e) The production of compressed natural gas or liquefied natural
22 gas for use as a transportation fuel as defined in section 301 of this
23 act.

24 (2) "To manufacture" does not include:

25 (a) Conditioning of seed for use in planting; cubing hay or
26 alfalfa;

27 (b) Activities which consist of cutting, grading, or ice glazing
28 seafood which has been cooked, frozen, or canned outside this state;

29 (c) The growing, harvesting, or producing of agricultural products;

30 (d) Packing of agricultural products, including sorting, washing,
31 rinsing, grading, waxing, treating with fungicide, packaging, chilling,
32 or placing in controlled atmospheric storage;

33 (e) The production of digital goods;

34 (f) The production of computer software if the computer software is
35 delivered from the seller to the purchaser by means other than tangible
36 storage media, including the delivery by use of a tangible storage

1 media where the tangible storage media is not physically transferred to
2 the purchaser; and

3 (g) Except as provided in subsection (1)(e) of this section, any
4 activity that is integral to any public service business as defined in
5 RCW 82.16.010 and with respect to which the gross income associated
6 with such activity: (i) Is subject to tax under chapter 82.16 RCW; or
7 (ii) would be subject to tax under chapter 82.16 RCW if such activity
8 were conducted in this state or if not for an exemption or deduction.

9 (3) With respect to wastewater treatment facilities:

10 (a) "To manufacture" does not include the treatment of wastewater,
11 the production of reclaimed water, and the production of class B
12 biosolids; and

13 (b) "To manufacture" does include the production of class A or
14 exceptional quality biosolids, but only with respect to the processing
15 activities that occur after the biosolids have reached class B
16 standards.

17 **Sec. 304.** RCW 82.12.022 and 2011 c 174 s 304 are each amended to
18 read as follows:

19 (1) A use tax is levied on every person in this state for the
20 privilege of using natural gas or manufactured gas, including
21 compressed natural gas and liquefied natural gas, within this state as
22 a consumer.

23 (2) The tax must be levied and collected in an amount equal to the
24 value of the article used by the taxpayer multiplied by the rate in
25 effect for the public utility tax on gas distribution businesses under
26 RCW 82.16.020. The "value of the article used" does not include any
27 amounts that are paid for the hire or use of a gas distribution
28 business as defined in RCW 82.16.010(2) in transporting the gas subject
29 to tax under this subsection if those amounts are subject to tax under
30 that chapter.

31 (3) The tax levied in this section does not apply to the use of
32 natural or manufactured gas delivered to the consumer by other means
33 than through a pipeline.

34 (4) The tax levied in this section does not apply to the use of
35 natural or manufactured gas if the person who sold the gas to the
36 consumer has paid a tax under RCW 82.16.020 with respect to the gas for
37 which exemption is sought under this subsection.

1 (5)(a) The tax levied in this section does not apply to the use of
2 natural or manufactured gas by an aluminum smelter as that term is
3 defined in RCW 82.04.217 before January 1, 2017.

4 (b) A person claiming the exemption provided in this subsection (5)
5 must file a complete annual report with the department under RCW
6 82.32.534.

7 (6) The tax imposed by this section does not apply to the use of
8 natural gas, compressed natural gas, or liquefied natural gas, if the
9 consumer uses the gas for transportation fuel as defined in section 301
10 of this act.

11 (7) There is a credit against the tax levied under this section in
12 an amount equal to any tax paid by:

13 (a) The person who sold the gas to the consumer when that tax is a
14 gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by
15 another state with respect to the gas for which a credit is sought
16 under this subsection; or

17 (b) The person consuming the gas upon which a use tax similar to
18 the tax imposed by this section was paid to another state with respect
19 to the gas for which a credit is sought under this subsection.

20 ~~((+7))~~ (8) The use tax imposed in this section must be paid by the
21 consumer to the department.

22 ~~((+8))~~ (9) There is imposed a reporting requirement on the person
23 who delivered the gas to the consumer to make a quarterly report to the
24 department. Such report must contain the volume of gas delivered, name
25 of the consumer to whom delivered, and such other information as the
26 department may require by rule.

27 ~~((+9))~~ (10) The department may adopt rules under chapter 34.05 RCW
28 for the administration and enforcement of sections 1 through 6, chapter
29 384, Laws of 1989.

30 **Sec. 305.** RCW 82.14.230 and 2010 c 127 s 5 are each amended to
31 read as follows:

32 (1) The governing body of any city, while not required by
33 legislative mandate to do so, may, by resolution or ordinance for the
34 purposes authorized by this chapter, fix and impose on every person a
35 use tax for the privilege of using natural gas or manufactured gas in
36 the city as a consumer.

1 (2) The tax is imposed in an amount equal to the value of the
2 article used by the taxpayer multiplied by the rate in effect for the
3 tax on natural gas businesses under RCW 35.21.870 in the city in which
4 the article is used. The "value of the article used," does not include
5 any amounts that are paid for the hire or use of a natural gas business
6 in transporting the gas subject to tax under this subsection if those
7 amounts are subject to tax under RCW 35.21.870.

8 (3) The tax imposed under this section does not apply to the use of
9 natural or manufactured gas if the person who sold the gas to the
10 consumer has paid a tax under RCW 35.21.870 with respect to the gas for
11 which exemption is sought under this subsection.

12 (4) There is a credit against the tax levied under this section in
13 an amount equal to any tax paid by:

14 (a) The person who sold the gas to the consumer when that tax is a
15 gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by
16 another municipality or other unit of local government with respect to
17 the gas for which a credit is sought under this subsection; or

18 (b) The person consuming the gas upon which a use tax similar to
19 the tax imposed by this section was paid to another municipality or
20 other unit of local government with respect to the gas for which a
21 credit is sought under this subsection.

22 (5) The use tax imposed must be paid by the consumer. The
23 administration and collection of the tax imposed is pursuant to RCW
24 82.14.050.

25 (6) The tax authorized by this section does not apply to the use of
26 natural gas, compressed natural gas, or liquefied natural gas, if the
27 consumer uses the gas for transportation fuel as defined in section 301
28 of this act.

29 **Sec. 306.** RCW 35.21.870 and 1984 c 225 s 6 are each amended to
30 read as follows:

31 (1) No city or town may impose a tax on the privilege of conducting
32 an electrical energy, natural gas, steam energy, or telephone business
33 at a rate which exceeds six percent unless the rate is first approved
34 by a majority of the voters of the city or town voting on such a
35 proposition.

36 (2)(a) If a city or town is imposing a rate of tax under subsection
37 (1) of this section in excess of six percent on April 20, 1982, the

1 city or town (~~shall~~) must decrease the rate to a rate of six percent
2 or less by reducing the rate each year on or before November 1st by
3 ordinances to be effective on January 1st of the succeeding year, by an
4 amount equal to one-tenth the difference between the tax rate on April
5 20, 1982, and six percent.

6 (b) Nothing in this subsection prohibits a city or town from
7 reducing its rates by amounts greater than the amounts required in this
8 subsection.

9 (3) Voter approved rate increases under subsection (1) of this
10 section (~~shall~~) may not be included in the computations under this
11 subsection.

12 (4) No city or town may impose a tax on the privilege of conducting
13 a natural gas business with respect to sales that are exempt from the
14 tax imposed under chapter 82.16 RCW as provided in section 301 of this
15 act at a rate higher than its business and occupation tax rate on the
16 sale of tangible personal property or, if the city or town does not
17 impose a business and occupation tax on the sale of tangible personal
18 property, at a rate greater than .002.

19 **Sec. 307.** RCW 82.14.030 and 2008 c 86 s 101 are each amended to
20 read as follows:

21 (1) The governing body of any county or city, while not required by
22 legislative mandate to do so, may, by resolution or ordinance for the
23 purposes authorized by this chapter, impose a sales and use tax in
24 accordance with the terms of this chapter. Such tax (~~shall~~) must be
25 collected from those persons who are taxable by the state under
26 chapters 82.08 and 82.12 RCW, upon the occurrence of any taxable event
27 within the county or city as the case may be. (~~Except as provided in~~
28 ~~RCW 82.14.230,~~) This sales and use tax (~~shall~~) does not apply to
29 natural or manufactured gas, except for natural gas that is used as a
30 transportation fuel as defined in section 301 of this act and is
31 taxable by the state under chapters 82.08 and 82.12 RCW. The rate of
32 such tax imposed by a county (~~shall be~~) is five-tenths of one percent
33 of the selling price (in the case of a sales tax) or value of the
34 article used (in the case of a use tax). The rate of such tax imposed
35 by a city (~~shall~~) may not exceed five-tenths of one percent of the
36 selling price (in the case of a sales tax) or value of the article used
37 (in the case of a use tax). However, in the event a county imposes a

1 sales and use tax under this subsection, the rate of such tax imposed
2 under this subsection by any city therein (~~shall~~) may not exceed four
3 hundred and twenty-five one-thousandths of one percent.

4 (2) In addition to the tax authorized in subsection (1) of this
5 section, the governing body of any county or city may by resolution or
6 ordinance impose an additional sales and use tax in accordance with the
7 terms of this chapter. Such additional tax (~~shall~~) must be collected
8 upon the same taxable events upon which the tax imposed under
9 subsection (1) of this section is imposed. The rate of such additional
10 tax imposed by a county (~~shall be~~) is up to five-tenths of one
11 percent of the selling price (in the case of a sales tax) or value of
12 the article used (in the case of a use tax). The rate of such
13 additional tax imposed by a city (~~shall be~~) is up to five-tenths of
14 one percent of the selling price (in the case of a sales tax) or value
15 of the article used (in the case of a use tax). However, in the event
16 a county imposes a sales and use tax under the authority of this
17 subsection at a rate equal to or greater than the rate imposed under
18 the authority of this subsection by a city within the county, the
19 county (~~shall~~) must receive fifteen percent of the city tax. In the
20 event that the county imposes a sales and use tax under the authority
21 of this subsection at a rate which is less than the rate imposed under
22 this subsection by a city within the county, the county (~~shall~~) must
23 receive that amount of revenues from the city tax equal to fifteen
24 percent of the rate of tax imposed by the county under the authority of
25 this subsection. The authority to impose a tax under this subsection
26 is intended in part to compensate local government for any losses from
27 the phase-out of the property tax on business inventories.

28 **PART IV**

29 **Export Exemptions and Machinery and Equipment Sales and Use Tax**

30 **Exemptions**

31 **Sec. 401.** RCW 82.38.180 and 2013 c 225 s 119 are each amended to
32 read as follows:

33 (1) Any person who has purchased fuel on which tax has been paid
34 may file a claim with the department for a refund of the tax for:

35 (a) Fuel used for purposes other than for the propulsion of motor

1 vehicles upon the public highways in this state. However, a refund may
2 not be made for motor vehicle fuel consumed by a motor vehicle required
3 to be registered under chapter 46.16A RCW.

4 (b) Except as provided in (g) of this subsection (1), fuel exported
5 for use outside of this state. Fuel carried from this state in the
6 fuel tank of a motor vehicle is deemed to be exported from this state.
7 Fuel distributed to a federally recognized Indian tribal reservation
8 located within the state of Washington is not considered exported
9 outside this state.

10 (c) Tax, penalty, or interest erroneously or illegally collected or
11 paid.

12 (d) Fuel which is lost or destroyed, while the licensee is the
13 owner thereof, through fire, lightning, flood, wind storm, or
14 explosion.

15 (e) Fuel of five hundred gallons or more which is lost or destroyed
16 while the licensee is the owner thereof, through leakage or other
17 casualty except evaporation, shrinkage, or unknown causes.

18 (f) Fuel used in power pumping units or other power take-off
19 equipment of any motor vehicle which is accurately measured by metering
20 devices that have been specifically approved by the department or by a
21 formula determined by the department.

22 (g) Seventy percent of liquefied and compressed natural gas
23 exported for use outside of this state.

24 (2) Any person who has purchased special fuel on which tax has been
25 paid may file a claim with the department for a refund of tax for:

26 (a) Special fuel used for the operation of a motor vehicle as a
27 part of or incidental to logging operations upon a highway under
28 federal jurisdiction within the boundaries of a federal area if the
29 federal government requires a fee for the privilege of operating the
30 motor vehicle upon the highway, the proceeds of which are reserved for
31 constructing or maintaining roads in the federal area, or requires
32 maintenance or construction work to be performed on the highway for the
33 privilege of operating the motor vehicle on the highway;

34 (b) Special fuel used by special mobile equipment as defined in RCW
35 46.04.552;

36 (c) Special fuel used in a motor vehicle for movement between two
37 pieces of private property wherein the movement is incidental to the
38 primary use of the vehicle; and

1 (d) Special fuel inadvertently mixed with dyed special fuel.

2 (3) Any person who has purchased motor vehicle fuel on which tax
3 has been paid may file a claim with the department for a refund of tax
4 for:

5 (a) Motor vehicle fuel used by a private, nonprofit transportation
6 provider regulated under chapter 81.66 RCW to provide transportation
7 services for persons with special transportation needs; and

8 (b) Motor vehicle fuel used by an urban passenger transportation
9 system. For purposes of this subsection "urban passenger
10 transportation system" means every transportation system, publicly or
11 privately owned, having as its principal source of revenue the income
12 from transporting persons for compensation by means of motor vehicles
13 or trackless trolleys, each having a seating capacity of over fifteen
14 persons, over prescribed routes in such a manner that the routes of
15 such motor vehicles or trackless trolleys, either alone or in
16 conjunction with routes of other such motor vehicles or trackless
17 trolleys subject to the routing by the same transportation system, do
18 not extend for a distance exceeding fifteen road miles beyond the
19 corporate limits of the city in which the original starting points of
20 such motor vehicles or trackless trolleys are located. No refunds are
21 authorized for fuel used on any trip where any portion of the trip is
22 more than fifteen road miles beyond the corporate limits of the city in
23 which the trip originated.

24 (4) Recovery for such loss or destruction under subsections (1)(d)
25 or (e) or (2)(d) of this section must be susceptible to positive proof
26 thereby enabling the department to conduct such investigation and
27 require such information as it may deem necessary. In the event that
28 the department is not satisfied that the fuel was lost, destroyed, or
29 contaminated as claimed because information or proof as required
30 hereunder is not sufficient to substantiate the accuracy of the claim,
31 it may deem such as sufficient cause to deny all right relating to the
32 refund or credit for the excise tax paid on fuel alleged to be lost or
33 destroyed.

34 (5) No refund or claim for credit may be approved by the department
35 unless the gallons of fuel claimed as nontaxable satisfy the conditions
36 specifically set forth in this section and the nontaxable event or use
37 occurred during the period covered by the refund claim. Refunds or

1 claims for credit are not (~~be~~ ~~are not~~) allowed for anticipated
2 nontaxable use or events.

3 **Sec. 402.** RCW 82.08.02565 and 2011 c 23 s 2 are each amended to
4 read as follows:

5 (1)(a) The tax levied by RCW 82.08.020 does not apply to sales to
6 a manufacturer or processor for hire of machinery and equipment used
7 directly in a manufacturing operation or research and development
8 operation, to sales to a person engaged in testing for a manufacturer
9 or processor for hire of machinery and equipment used directly in a
10 testing operation, or to sales of or charges made for labor and
11 services rendered in respect to installing, repairing, cleaning,
12 altering, or improving the machinery and equipment.

13 (b) Except as provided in (c) of this subsection, sellers making
14 tax-exempt sales under this section must obtain from the purchaser an
15 exemption certificate in a form and manner prescribed by the department
16 by rule. The seller must retain a copy of the certificate for the
17 seller's files.

18 (c)(i) The exemption under this section is in the form of a
19 remittance for a gas distribution business, as defined in RCW
20 82.16.010, claiming the exemption for machinery and equipment used for
21 the production of compressed natural gas or liquefied natural gas for
22 use as a transportation fuel.

23 (ii) A gas distribution business claiming an exemption from state
24 and local tax in the form of a remittance under this section must pay
25 the tax under RCW 82.08.020 and all applicable local sales taxes.
26 Beginning July 1, 2017, the gas distribution business may then apply to
27 the department for remittance of state and local sales and use taxes.
28 A gas distribution business may not apply for a remittance more
29 frequently than once a quarter. The gas distribution business must
30 specify the amount of exempted tax claimed and the qualifying purchases
31 for which the exemption is claimed. The gas distribution business must
32 retain, in adequate detail, records to enable the department to
33 determine whether the business is entitled to an exemption under this
34 section, including: Invoices; proof of tax paid; and documents
35 describing the machinery and equipment.

36 (iii) The department must determine eligibility under this section
37 based on the information provided by the gas distribution business,

1 which is subject to audit verification by the department. The
2 department must on a quarterly basis remit exempted amounts to
3 qualifying businesses who submitted applications during the previous
4 quarter.

5 (2) For purposes of this section and RCW 82.12.02565:

6 (a) "Machinery and equipment" means industrial fixtures, devices,
7 and support facilities, and tangible personal property that becomes an
8 ingredient or component thereof, including repair parts and replacement
9 parts. "Machinery and equipment" includes pollution control equipment
10 installed and used in a manufacturing operation, testing operation, or
11 research and development operation to prevent air pollution, water
12 pollution, or contamination that might otherwise result from the
13 manufacturing operation, testing operation, or research and development
14 operation. "Machinery and equipment" also includes digital goods.

15 (b) "Machinery and equipment" does not include:

- 16 (i) Hand-powered tools;
- 17 (ii) Property with a useful life of less than one year;
- 18 (iii) Buildings, other than machinery and equipment that is
19 permanently affixed to or becomes a physical part of a building; and
- 20 (iv) Building fixtures that are not integral to the manufacturing
21 operation, testing operation, or research and development operation
22 that are permanently affixed to and become a physical part of a
23 building, such as utility systems for heating, ventilation, air
24 conditioning, communications, plumbing, or electrical.

25 (c) Machinery and equipment is "used directly" in a manufacturing
26 operation, testing operation, or research and development operation if
27 the machinery and equipment:

- 28 (i) Acts upon or interacts with an item of tangible personal
29 property;
- 30 (ii) Conveys, transports, handles, or temporarily stores an item of
31 tangible personal property at the manufacturing site or testing site;
- 32 (iii) Controls, guides, measures, verifies, aligns, regulates, or
33 tests tangible personal property at the site or away from the site;
- 34 (iv) Provides physical support for or access to tangible personal
35 property;
- 36 (v) Produces power for, or lubricates machinery and equipment;
- 37 (vi) Produces another item of tangible personal property for use in

1 the manufacturing operation, testing operation, or research and
2 development operation;

3 (vii) Places tangible personal property in the container, package,
4 or wrapping in which the tangible personal property is normally sold or
5 transported; or

6 (viii) Is integral to research and development as defined in RCW
7 82.63.010.

8 (d) "Manufacturer" means a person that qualifies as a manufacturer
9 under RCW 82.04.110. "Manufacturer" also includes a person that prints
10 newspapers or other materials.

11 (e) "Manufacturing" means only those activities that come within
12 the definition of "to manufacture" in RCW 82.04.120 and are taxed as
13 manufacturing or processing for hire under chapter 82.04 RCW, or would
14 be taxed as such if such activity were conducted in this state or if
15 not for an exemption or deduction. "Manufacturing" also includes
16 printing newspapers or other materials. An activity is not taxed as
17 manufacturing or processing for hire under chapter 82.04 RCW if the
18 activity is within the purview of chapter 82.16 RCW.

19 (f) "Manufacturing operation" means the manufacturing of articles,
20 substances, or commodities for sale as tangible personal property. A
21 manufacturing operation begins at the point where the raw materials
22 enter the manufacturing site and ends at the point where the processed
23 material leaves the manufacturing site. With respect to the production
24 of class A or exceptional quality biosolids by a wastewater treatment
25 facility, the manufacturing operation begins at the point where class
26 B biosolids undergo additional processing to achieve class A or
27 exceptional quality standards. Notwithstanding anything to the
28 contrary in this section, the term also includes that portion of a
29 cogeneration project that is used to generate power for consumption
30 within the manufacturing site of which the cogeneration project is an
31 integral part. The term does not include the preparation of food
32 products on the premises of a person selling food products at retail.

33 (g) "Cogeneration" means the simultaneous generation of electrical
34 energy and low-grade heat from the same fuel.

35 (h) "Research and development operation" means engaging in research
36 and development as defined in RCW 82.63.010 by a manufacturer or
37 processor for hire.

1 (i) "Testing" means activities performed to establish or determine
2 the properties, qualities, and limitations of tangible personal
3 property.

4 (j) "Testing operation" means the testing of tangible personal
5 property for a manufacturer or processor for hire. A testing operation
6 begins at the point where the tangible personal property enters the
7 testing site and ends at the point where the tangible personal property
8 leaves the testing site. The term also includes the testing of
9 tangible personal property for use in that portion of a cogeneration
10 project that is used to generate power for consumption within the
11 manufacturing site of which the cogeneration project is an integral
12 part. The term does not include the testing of tangible personal
13 property for use in the production of electricity by a light and power
14 business as defined in RCW 82.16.010 or the preparation of food
15 products on the premises of a person selling food products at retail.

16 **Sec. 403.** RCW 82.12.02565 and 2003 c 5 s 5 are each amended to
17 read as follows:

18 (1) The provisions of this chapter (~~shall~~) do not apply in
19 respect to the use by a manufacturer or processor for hire of machinery
20 and equipment used directly in a manufacturing operation or research
21 and development operation, to the use by a person engaged in testing
22 for a manufacturer or processor for hire of machinery and equipment
23 used directly in a testing operation, or to the use of labor and
24 services rendered in respect to installing, repairing, cleaning,
25 altering, or improving the machinery and equipment.

26 (2) The definitions, conditions, and requirements in RCW
27 82.08.02565 apply to this section.

28 **Sec. 404.** RCW 82.08.0255 and 2013 c 225 s 640 are each amended to
29 read as follows:

30 (1) The tax levied by RCW 82.08.020 does not apply to sales of
31 motor vehicle and special fuel if:

32 (a) The fuel is purchased for the purpose of public transportation
33 and the purchaser is entitled to a refund or an exemption under RCW
34 82.38.080(1) (f) and (g) or 82.38.180(3)(b); or

35 (b) The fuel is purchased by a private, nonprofit transportation

1 provider certified under chapter 81.66 RCW and the purchaser is
2 entitled to a refund or an exemption under RCW 82.38.080(1)(d) or
3 82.38.180(3)(a); or

4 (c) The fuel is purchased by a public transportation benefit area
5 created under chapter 36.57A RCW or a county-owned ferry or county
6 ferry district created under chapter 36.54 RCW for use in passenger-
7 only ferry vessels; or

8 (d) The fuel is purchased by the Washington state ferry system for
9 use in a state-owned ferry after June 30, 2013; or

10 (e) The fuel is purchased by a county-owned ferry for use in ferry
11 vessels after June 30, 2013; or

12 (f) The fuel is taxable under chapter 82.38 RCW.

13 (2)(a) Except as provided in (b) of this subsection, any person who
14 has paid the tax imposed by RCW 82.08.020 on the sale of special fuel
15 delivered in this state is entitled to a credit or refund of such tax
16 with respect to fuel subsequently established to have been actually
17 transported and used outside this state by persons engaged in
18 interstate commerce. The tax must be claimed as a credit or refunded
19 through the tax reports required under RCW 82.38.150.

20 (b) Any person who has paid the tax imposed by RCW 82.08.020 on the
21 purchase of liquefied natural gas where the liquefied natural gas is
22 used as a transportation fuel is entitled to a credit or refund of
23 seventy percent of the tax with respect to fuel subsequently
24 established to have been actually transported and used outside this
25 state by persons engaged in interstate commerce. The department must
26 specify the form and manner in which the credit or refund is claimed.

27 NEW SECTION. Sec. 405. A new section is added to chapter 82.32
28 RCW to read as follows:

29 (1) By the last workday of the second and fourth calendar quarters,
30 the state treasurer must transfer the amount specified in subsection
31 (2) of this section from the general fund to the finished fuel account
32 created in section 205 of this act. The first transfer under this
33 subsection must occur by December 31, 2017.

34 (2) By December 15th and by June 15th of each year, the department
35 must estimate the increase in state general fund revenues from the
36 changes made under RCW 82.08.0255 for the current and prior calendar
37 quarters and notify the state treasurer of the increase.

1 (3) This section expires July 1, 2022.

2 NEW SECTION. Sec. 406. A new section is added to chapter 43.135
3 RCW to read as follows:

4 (1) RCW 43.135.034(4) does not apply to the transfers under section
5 405 of this act.

6 (2) This section expires July 1, 2022.

7 NEW SECTION. Sec. 407. A new section is added to chapter 39.42
8 RCW to read as follows:

9 (1) The purpose of eliminating a portion of the sales credit for
10 exported liquefied natural gas under RCW 82.08.0255 is to fund
11 improvements to Washington state ferries. For this reason, general
12 state revenues transferred under section 405 of this act to the
13 finished fuel account are excluded from the calculation of general
14 state revenues for purposes of Article VIII, section 1 of the state
15 Constitution and RCW 39.42.130 and 39.42.140.

16 (2) This section expires July 1, 2022.

17 **PART V**

18 **Utility Law Change**

19 **Sec. 501.** RCW 80.28.280 and 1991 c 199 s 216 are each amended to
20 read as follows:

21 (1) The legislature finds that compressed natural gas and liquefied
22 natural gas offers significant potential to reduce vehicle and vessel
23 emissions and to significantly decrease dependence on petroleum-based
24 fuels. The legislature also finds that well-developed and convenient
25 refueling systems are imperative if compressed natural gas ((is)) and
26 liquefied natural gas are to be widely used by the public. The
27 legislature declares that the development of compressed natural gas
28 ((refueling stations are in the public interest.)) and liquefied
29 natural gas motor vehicle refueling stations and vessel refueling
30 facilities are in the public interest. Except as provided in
31 subsection (2) of this section, nothing in this section and RCW
32 80.28.290 is intended to alter the regulatory practices of the
33 commission or allow the subsidization of one ratepayer class by
34 another.

(11) Expires the bill on July 1, 2022.

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