
SUBSTITUTE SENATE BILL 6096

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Poulsen, Fraser and Prentice; by request of Governor Gregoire)

READ FIRST TIME 04/20/05.

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, 83.100.010, and 84.52.068; adding new sections to chapter
5 83.100 RCW; adding a new section to chapter 28A.505 RCW; creating new
6 sections; repealing RCW 83.100.030 and 83.100.045; and declaring an
7 emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature recognizes that on February
10 3, 2005, the Washington state supreme court decided in *Estate of*
11 *Hemphill v. Dep't of Rev.*, Docket No. 74974-4, that Washington's estate
12 tax is tied to the current federal Internal Revenue Code. The
13 legislature finds that the revenue loss resulting from the *Hemphill*
14 decision will severely affect the legislature's ability to fund
15 programs vital to the peace, health, safety, and support of the
16 citizens of this state. The legislature intends to address the adverse
17 fiscal impact of the *Hemphill* decision and provide funding for
18 Initiative No. 728 by creating a stand-alone state estate tax that is
19 not affected by changes in federal law after 2005.

PART I
ESTATE TAX

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

As used in this chapter:

(1) "Decedent" means a deceased individual;

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

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

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

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

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

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

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

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

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

1 ~~((11))~~ (9) "Property" means ~~((a) for a transfer,~~) property
2 included in the gross estate~~((; and (b) for a generation skipping~~
3 ~~transfer, all real and personal property subject to the federal tax));~~

4 ~~((12))~~ (10) "Resident" means a decedent who was domiciled in
5 Washington at time of death;

6 ~~((13))~~ (11) "Taxpayer" means a person upon whom tax is imposed
7 under this chapter, including an estate or a person liable for tax
8 under RCW 83.100.120;

9 (12) "Transfer" means "transfer" as used in section 2001 of the
10 Internal Revenue Code, or a disposition or cessation of qualified use
11 as defined and used in section 2032A(c) of the Internal Revenue Code.
12 However, "transfer" does not include a qualified heir disposing of an
13 interest in property qualifying for a deduction under section 4 of this
14 act or ceasing to use the property for farming purposes; and

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

17 ~~(15))~~ (13) "Internal Revenue Code" means, for the purposes of this
18 chapter and RCW 83.110.010, the United States Internal Revenue Code of
19 1986, as amended or renumbered as of January 1, ~~((2001))~~ 2005.

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

22 (1) A tax in an amount computed as provided in this section is
23 imposed on every transfer of property located in Washington ~~((of every~~
24 ~~nonresident))~~. For the purposes of this section, any intangible
25 property owned by a resident is located in Washington.

26 (2) The tax shall be computed by multiplying the adjusted federal
27 credit by a fraction, the numerator of which is the value of the
28 property located in Washington, and the denominator of which is the
29 value of the decedent's gross estate. Property qualifying for a
30 deduction under section 4 of this act shall be excluded from the
31 numerator and denominator of the fraction.

32 ~~((The transfer of the property of a nonresident is exempt from~~
33 ~~the tax imposed by this section to the extent that the property of~~
34 ~~residents is exempt from taxation under the laws of the state in which~~
35 ~~the nonresident is domiciled)) For the purposes of this section, the~~
36 adjusted federal credit is the federal credit computed:

37 (a) Without regard to the:

1 (i) Increase in the applicable exclusion amount in section 2010(c)
2 of the Internal Revenue Code in the case of estates of decedents dying
3 after December 31, 2008;

4 (ii) Phaseout and termination of the federal credit under section
5 2011(b)(2) and (f) of the Internal Revenue Code;

6 (iii) Termination of the federal estate tax under section 2210 of
7 the Internal Revenue Code or any other provision of law; and

8 (iv) Deduction for state estate, inheritance, legacy, or succession
9 taxes allowable under section 2058 of the Internal Revenue Code;

10 (b) As if the applicable exclusion amount under section 2010(c) of
11 the Internal Revenue Code is one million five hundred thousand dollars
12 for decedents dying before January 1, 2006, and two million dollars for
13 decedents dying on or after January 1, 2006;

14 (c) As if the maximum tax rate under section 2001(c)(2)(B) of the
15 Internal Revenue Code for calendar years 2007 through 2009 also applies
16 to subsequent calendar years;

17 (d) As if any provision of the Internal Revenue Code not identified
18 in (a), (b), and (c) of this subsection and specifically applicable to
19 estates of decedents dying in calendar year 2009, but not in subsequent
20 calendar years, also applies to estates of decedents dying after
21 December 31, 2009, if such provision is necessary to the computation of
22 the tax imposed under this chapter; and

23 (e) By allowing an additional deduction from the gross estate for
24 farm property that qualifies under section 4 of this act.

25 (4) The tax imposed under this section is a stand-alone estate tax
26 that incorporates only those provisions of the Internal Revenue Code as
27 amended or renumbered as of January 1, 2005, that do not conflict with
28 the provisions of this chapter.

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

31 (1) For the purposes of determining the amount of tax due under
32 this chapter, an additional deduction is allowed from the gross estate
33 for the value of qualified real property and the value of any tangible
34 personal property used primarily for farming purposes conducted on the
35 qualified real property, reduced by any amounts allowable as a
36 deduction in respect of the qualified real property and tangible
37 personal property under section 2053(a)(4) of the Internal Revenue

1 Code, if the decedent was at the time of his or her death a citizen or
2 resident of the United States. For the purposes of determining the
3 deduction amount, the value of property is its value as used to
4 determine the value of the gross estate.

5 (2) Property shall be considered to have been acquired from or to
6 have passed from the decedent if:

7 (a) The property is so considered under section 1014(b) of the
8 Internal Revenue Code;

9 (b) The property is acquired by any person from the estate; or

10 (c) The property is acquired by any person from a trust, to the
11 extent the property is includible in the gross estate of the decedent.

12 (3) If the decedent and the decedent's surviving spouse at any time
13 held qualified real property as community property, the interest of the
14 surviving spouse in the property shall be taken into account under this
15 section to the extent necessary to provide a result under this section
16 with respect to the property which is consistent with the result which
17 would have obtained under this section if the property had not been
18 community property.

19 (4) In the case of any qualified woodland, the value of trees
20 growing on the woodland may be deducted if otherwise qualified under
21 this section.

22 (5) If property is qualified real property with respect to a
23 decedent, hereinafter in this subsection referred to as the "first
24 decedent," and the property was acquired from or passed from the first
25 decedent to the surviving spouse of the first decedent, active
26 management of the farm by the surviving spouse shall be treated as
27 material participation by the surviving spouse in the operation of the
28 farm.

29 (6) Property owned indirectly by the decedent may qualify for a
30 deduction under this section if owned through an interest in a
31 corporation, partnership, or trust as the terms corporation,
32 partnership, or trust are used in section 2032A(g) of the Internal
33 Revenue Code. In order to qualify for a deduction under this
34 subsection, the interest, in addition to meeting the other tests for
35 qualification under this section, must qualify under section 6166(b)(1)
36 of the Internal Revenue Code as an interest in a closely held business
37 on the date of the decedent's death and for sufficient other time,

1 combined with periods of direct ownership, to equal at least five years
2 of the eight-year period preceding the death.

3 (7)(a) If, on the date of the decedent's death, the requirements of
4 subsection (10)(f)(i)(C)(II) of this section with respect to the
5 decedent for any property are not met, and the decedent (i) was
6 receiving old age benefits under Title II of the social security act
7 for a continuous period ending on such date, or (ii) was disabled for
8 a continuous period ending on this date, then subsection
9 (10)(f)(i)(C)(II) of this section shall be applied with respect to the
10 property by substituting "the date on which the longer of such
11 continuous periods began" for "the date of the decedent's death" in
12 subsection (10)(f)(i)(C) of this section.

13 (b) For the purposes of (a) of this subsection, an individual shall
14 be disabled if the individual has a mental or physical impairment which
15 renders that individual unable to materially participate in the
16 operation of the farm.

17 (8) Property may be deducted under this section whether or not
18 special valuation is elected under section 2032A of the Internal
19 Revenue Code on the federal return.

20 (9)(a) In the case of any qualified replacement property, any
21 period during which there was ownership, qualified use, or material
22 participation with respect to the replaced property by the decedent or
23 any member of the decedent's family shall be treated as a period during
24 which there was ownership, use, or material participation, as the case
25 may be, with respect to the qualified replacement property.

26 (b) Subsection (9)(a) of this section shall not apply to the extent
27 that the fair market value of the qualified replacement property, as of
28 the date of its acquisition, exceeds the fair market value of the
29 replaced property, as of the date of its disposition.

30 (c) For the purposes of this subsection (9), the following
31 definitions apply:

32 (i) "Qualified replacement property" means any real property:

33 (A) Which is acquired in an exchange which qualifies under section
34 1031 of the Internal Revenue Code; or

35 (B) The acquisition of which results in the nonrecognition of gain
36 under section 1033 of the Internal Revenue Code.

37 The term "qualified replacement property" only includes property

1 which is used for the same qualified use as the replaced property was
2 being used before the exchange.

3 (ii) "Replaced property" means the property was:

4 (A) Transferred in the exchange which qualifies under section 1031
5 of the Internal Revenue Code; or

6 (B) Compulsorily or involuntarily converted within the meaning of
7 section 1033 of the Internal Revenue Code.

8 (10) For the purposes of this section, the following definitions
9 apply:

10 (a) "Active management" means the making of the management
11 decisions of a farm, other than the daily operating decisions.

12 (b) "Farm" includes stock, dairy, poultry, fruit, furbearing
13 animal, and truck farms; plantations; ranches; nurseries; ranges;
14 greenhouses or other similar structures used primarily for the raising
15 of agricultural or horticultural commodities; and orchards and
16 woodlands.

17 (c) "Farming purposes" means:

18 (i) Cultivating the soil or raising or harvesting any agricultural
19 or horticultural commodity, including the raising, shearing, feeding,
20 caring for, training, and management of animals on a farm;

21 (ii) Handling, drying, packing, grading, or storing on a farm any
22 agricultural or horticultural commodity in its unmanufactured state,
23 but only if the owner, tenant, or operator of the farm regularly
24 produces more than one-half of the commodity so treated; and

25 (iii)(A) The planting, cultivating, caring for, or cutting of
26 trees; or

27 (B) The preparation, other than milling, of trees for market.

28 (d) "Member of the family" means, with respect to any individual,
29 only:

30 (i) An ancestor of the individual;

31 (ii) The spouse of the individual;

32 (iii) A lineal descendant of the individual, of the individual's
33 spouse, or of a parent of the individual; or

34 (iv) The spouse of any lineal descendant described in (d)(iii) of
35 this subsection.

36 For the purposes of this subsection (10)(d), a legally adopted
37 child of an individual shall be treated as the child of such individual
38 by blood.

1 (e) "Qualified heir" means, with respect to any property, a member
2 of the decedent's family who acquired property, or to whom property
3 passed, from the decedent.

4 (f)(i) "Qualified real property" means real property which was
5 acquired from or passed from the decedent to a qualified heir of the
6 decedent and which, on the date of the decedent's death, was being used
7 for a qualified use by the decedent or a member of the decedent's
8 family, but only if:

9 (A) Fifty percent or more of the adjusted value of the gross estate
10 consists of the adjusted value of real or personal property which:

11 (I) On the date of the decedent's death, was being used for a
12 qualified use by the decedent or a member of the decedent's family; and

13 (II) Was acquired from or passed from the decedent to a qualified
14 heir of the decedent;

15 (B) Twenty-five percent or more of the adjusted value of the gross
16 estate consists of the adjusted value of real property which meets the
17 requirements of (f)(i)(A)(II) and (f)(i)(C) of this subsection; and

18 (C) During the eight-year period ending on the date of the
19 decedent's death there have been periods aggregating five years or more
20 during which:

21 (I) The real property was owned by the decedent or a member of the
22 decedent's family and used for a qualified use by the decedent or a
23 member of the decedent's family; and

24 (II) There was material participation by the decedent or a member
25 of the decedent's family in the operation of the farm. For the
26 purposes of this subsection (f)(i)(C)(II), material participation shall
27 be determined in a manner similar to the manner used for purposes of
28 section 1402(a)(1) of the Internal Revenue Code.

29 (ii) For the purposes of this subsection, the term "adjusted value"
30 means:

31 (A) In the case of the gross estate, the value of the gross estate,
32 determined without regard to any special valuation under section 2032A
33 of the Internal Revenue Code, reduced by any amounts allowable as a
34 deduction under section 2053(a)(4) of the Internal Revenue Code; or

35 (B) In the case of any real or personal property, the value of the
36 property for purposes of chapter 11 of the Internal Revenue Code,
37 determined without regard to any special valuation under section 2032A

1 of the Internal Revenue Code, reduced by any amounts allowable as a
2 deduction in respect of such property under section 2053(a)(4) of the
3 Internal Revenue Code.

4 (g) "Qualified use" means the property is used as a farm for
5 farming purposes. In the case of real property which meets the
6 requirements of (f)(i)(C) of this subsection, residential buildings and
7 related improvements on the real property occupied on a regular basis
8 by the owner or lessee of the real property or by persons employed by
9 the owner or lessee for the purpose of operating or maintaining the
10 real property, and roads, buildings, and other structures and
11 improvements functionally related to the qualified use shall be treated
12 as real property devoted to the qualified use.

- 13 (h) "Qualified woodland" means any real property which:
- 14 (i) Is used in timber operations; and
 - 15 (ii) Is an identifiable area of land such as an acre or other area
16 for which records are normally maintained in conducting timber
17 operations.
- 18 (i) "Timber operations" means:
- 19 (i) The planting, cultivating, caring for, or cutting of trees; or
 - 20 (ii) The preparation, other than milling, of trees for market.

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

23 (1) ~~((The))~~ (a) A person required to file ~~((the))~~ a federal return
24 shall file with the department on or before the date the federal return
25 is required to be filed, including any extension of time for filing
26 ~~((the federal return:~~

27 ~~(a))~~ under subsection (3) of this section, a Washington return for
28 the tax due under this chapter~~((; and~~
29 ~~(b) A copy of the federal return.~~

30 ~~No Washington return need be filed if no federal return is~~
31 ~~required)).~~

32 (b) If no federal return is required to be filed, a taxpayer shall
33 file with the department on or before the date a federal return would
34 have been required to be filed, including any extension of time for
35 filing under subsection (4) of this section, a Washington return for
36 the tax due under this chapter.

1 (2) A Washington return delivered to the department by United
2 States mail shall be considered to have been received by the department
3 on the date of the United States postmark stamped on the cover in which
4 the return is mailed, if the postmark date is within the time allowed
5 for filing the Washington return, including extensions.

6 ~~((+2))~~ (3) In addition to the Washington return required to be
7 filed in subsection (1) of this section, a person, if required to file
8 a federal return, shall file with the department on or before the date
9 the federal return, is required to be filed a copy of the federal
10 return along with all supporting documentation. If the person required
11 to file the federal return has obtained an extension of time for filing
12 the federal return, the person shall file the Washington return within
13 the same time period and in the same manner as provided for the federal
14 return. A copy of the federal extension shall be filed with the
15 department on or before the date the Washington return is due, not
16 including any extension of time for filing, or within thirty days of
17 issuance, whichever is later.

18 (4) A person who is required to file a Washington return under
19 subsection (1) of this section, but is not required to file a federal
20 return, may obtain an extension of time for filing the Washington
21 return as provided by rule of the department.

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

24 (1) The taxes imposed by this chapter shall be paid by the person
25 required to file ~~((the federal))~~ a Washington return on or before the
26 date the Washington return is required to be filed under RCW
27 83.100.050, not including any extension of time for filing. Payment
28 delivered to the department by United States mail shall be considered
29 to have been received by the department on the date of the United
30 States postmark stamped on the cover in which payment is mailed, if the
31 postmark date is within the time allowed for making the payment,
32 including any extensions.

33 (2) If the person ~~((required to file the federal return))~~ has
34 obtained an extension of time for payment of the federal tax or has
35 elected to pay such tax in installments, the person may elect to pay
36 the tax imposed by this chapter within the same time period and in the
37 same manner as provided for payment of the federal tax. A copy of the

1 federal extension shall be filed on or before the date the tax imposed
2 by this chapter is due, not including any extension of time for
3 payment, or within thirty days of issuance, whichever is later.

4 (3) A person who is required to file a Washington return under RCW
5 83.100.050, but is not required to file a federal return, may obtain an
6 extension of time for payment of the Washington tax or elect to pay
7 such tax in installments as provided by rule of the department.

8 (4) The periods of limitation in RCW 83.100.130 and section 14 of
9 this act shall extend an additional three years beyond the due date of
10 the last scheduled installment payment authorized under this section.

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

13 (1) For periods before January 2, 1997, any tax due under this
14 chapter which is not paid by the due date under RCW 83.100.060(1) shall
15 bear interest at the rate of twelve percent per annum from the date the
16 tax is due until the date of payment.

17 (2) Interest imposed under this section for periods after January
18 1, 1997, shall be computed at the rate as computed under RCW
19 82.32.050(2). The rate so computed shall be adjusted on the first day
20 of January of each year.

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

29 (b) If the Washington return is not filed when due under RCW
30 83.100.050 and the person required to file the (~~federal~~) Washington
31 return under RCW 83.100.050 does not file a return with the department
32 before the department notifies the person in writing that the
33 department has determined that the person has not filed a (~~state~~
34 estate tax)) Washington return, the person required to file the
35 (~~federal~~) Washington return shall pay, in addition to interest, a
36 penalty equal to five percent of the tax due for each month after the

1 date the return is due until filed. However, in no instance may the
2 penalty exceed the lesser of twenty-five percent of the tax due or one
3 thousand five hundred dollars.

4 (c) If the department finds that a return due under this chapter
5 has not been filed by the due date, and the delinquency was the result
6 of circumstances beyond the control of the responsible person, the
7 department shall waive or cancel any penalties imposed under this
8 chapter with respect to the filing of such a tax return. The
9 department shall adopt rules for the waiver or cancellation of the
10 penalties imposed by this section.

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

13 Notwithstanding the periods of limitation in section 14 of this act
14 and RCW 83.100.130:

15 (1) If the person required to file the (~~federal~~) Washington
16 return under RCW 83.100.050 files an amended federal return, that
17 person shall immediately file with the department an amended Washington
18 return with a copy of the amended federal return. If the amended
19 Washington return requires payment of an additional tax under this
20 chapter, the tax shall be paid in accordance with RCW 83.100.060 and
21 interest shall be paid in accordance with RCW 83.100.070.

22 (2) Upon any adjustment in, or final determination of, the amount
23 of federal tax due, the person required to file the (~~federal~~)
24 Washington return under RCW 83.100.050 shall notify the department in
25 writing within (~~sixty~~) one hundred twenty days after the adjustment
26 or final determination. If the adjustment or final determination
27 requires payment of an additional tax under this chapter, the tax shall
28 be paid in accordance with RCW 83.100.060 and interest shall be paid in
29 accordance with RCW 83.100.070.

30 (3) If the department determines the amended Washington return,
31 adjustment, or final determination requires payment of an additional
32 tax under this chapter, the department may assess against the taxpayer
33 an additional amount found to be due within one year of receipt of the
34 amended Washington return or written notice as required by this
35 section, or at any time if no amended Washington return is filed or
36 notice is provided as required by this section. The execution of a
37 written waiver at the request of the department by the person required

1 to file the Washington return under RCW 83.100.050 may extend this
2 limitation. Interest shall be added to the amount of tax assessed by
3 the department in accordance with RCW 83.100.070. The department shall
4 notify the taxpayer by mail of the additional amount, and the
5 additional amount shall become due and shall be paid within thirty days
6 from the date of the notice, or within such further time as the
7 department may provide.

8 (4) If the department determines the amended return, adjustment, or
9 final determination requires the refund of overpaid tax, penalties, or
10 interest under this chapter, the department shall refund the amount of
11 the overpayment with interest in accordance with RCW 83.100.130. The
12 person required to file the Washington return under RCW 83.100.050
13 shall provide the department with any additional information or
14 supporting documents necessary to determine if a refund is due. The
15 execution of a written waiver to extend the period for assessment under
16 subsection (3) of this section shall extend the time for making a
17 refund, if prior to the expiration of the waiver period an application
18 for refund of the taxes is made by the person required to file the
19 Washington return under RCW 83.100.050, or the department discovers a
20 refund is due.

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

23 (1) Unless any tax due under this chapter is sooner paid in full,
24 it shall be a lien upon the property subject to the tax for a period of
25 ten years from the date of the transfer (~~or the generation skipping~~
26 ~~transfer)), except that any part of the property which is used for the~~
27 payment of claims against the property or expenses of its
28 administration, allowed by any court having jurisdiction thereof, shall
29 be divested of the lien. Liens created under this subsection shall be
30 qualified as follows:

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

34 (b) The lien shall be subordinate to any mortgage or deed of trust
35 on the property pursuant to an order of court for payment of claims
36 against the property or expenses of administration. The lien shall
37 attach to any proceeds from the sale of the property in excess of the

1 obligations secured by the mortgage or deed of trust and the expenses
2 of sale, including a reasonable charge by the trustee and by his or her
3 attorney where the property has been sold by a nonjudicial trustee's
4 sale pursuant to chapter 61.24 RCW, and including court costs and any
5 attorneys' fees awarded by the superior court of the county in which
6 the property is sold at sheriff's sale pursuant to a judicial
7 foreclosure of the mortgage or deed of trust.

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

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

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

21 (1) (~~Whenever~~) If, upon receipt of an application by a taxpayer
22 for a refund, or upon examination of the returns or records of any
23 taxpayer, the department determines that within the statutory period
24 for assessment of taxes, penalties, or interest prescribed by section
25 14 of this act a person required to file the (~~federal~~) Washington
26 return under RCW 83.100.050 has overpaid the tax due under this
27 chapter, the department shall refund the amount of the overpayment,
28 together with interest (~~at the then existing rate under RCW~~
29 83.100.070(1)) as provided in subsection (2) of this section. If the
30 application for refund, with supporting documents, is filed within
31 (~~four months~~) one hundred twenty days after an adjustment or final
32 determination of federal tax liability, the department shall pay
33 interest until the date the refund is mailed. If the application for
34 refund, with supporting documents, is filed after (~~four months~~) one
35 hundred twenty days after the adjustment or final determination, the
36 department shall pay interest only until the end of the (~~four-month~~)
37 one hundred twenty-day period.

1 (2) Interest refunded under this section for periods before January
2 2, 1997, shall be computed at the rate provided in RCW 83.100.070(1).
3 Interest refunded under this section for periods after January 1, 1997,
4 through December 31, 1998, shall be computed on a daily basis at the
5 rate as computed under RCW 82.32.050(2) less one percentage point.
6 Interest allowed for periods after December 31, 1998, shall be computed
7 at the rate as computed under RCW 82.32.050(2). Except as provided in
8 subsection (1) of this section, interest shall be refunded from the
9 date of overpayment until the date the refund is mailed. The rate so
10 computed shall be adjusted on the first day of January of each year.

11 (3) Except as otherwise provided in subsection (4) of this section
12 and RCW 83.100.090, no refund shall be made for taxes, penalties, or
13 interest paid more than four years prior to the beginning of the
14 calendar year in which the refund application is made or an examination
15 of records is complete.

16 (4) The execution of a written waiver under section 14 of this act
17 shall extend the time for making a refund if, prior to the expiration
18 of the waiver period, an application for refund is made by the taxpayer
19 or the department discovers a refund is due.

20 (5) An application for refund shall be on a form prescribed by the
21 department and shall contain any information and supporting documents
22 the department requires.

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

25 Any person required to file the (~~federal~~) Washington return who
26 (~~wilfully~~) willfully fails to file a Washington return when required
27 by this chapter or who (~~wilfully~~) willfully files a false return
28 commits a gross misdemeanor as defined in Title 9A RCW and shall be
29 punished as provided in Title 9A RCW for the perpetration of a gross
30 misdemeanor.

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

33 (~~(1)~~) The department may collect the estate tax imposed under RCW
34 (~~(83.100.030 and)~~) 83.100.040, including interest and penalties, and
35 shall represent this state in all matters pertaining to the same,
36 either before courts or in any other manner. At any time after the

1 Washington return is due, the department may file its findings
2 regarding the amount of the tax, the adjusted federal credit computed
3 as provided in RCW 83.100.040, the person required to file the
4 ~~((federal))~~ Washington return under RCW 83.100.050, and all persons
5 having an interest in property subject to the tax with the clerk of the
6 superior court in the matter of the estate of the decedent or, if no
7 probate or administration proceedings have been commenced in any court
8 of this state, of the superior court for the county in which the
9 decedent was a resident, if the resident was a domiciliary, or, if the
10 decedent was a nondomiciliary, of any superior court which has
11 jurisdiction over the property. Such a court first acquiring
12 jurisdiction shall retain jurisdiction to the exclusion of every other
13 court.

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

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

29 (1) If the taxable estate on the federal return is determined by
30 making an election under section 2056 or 2056A of the Internal Revenue
31 Code, or if no federal return is required to be filed, the department
32 may provide by rule for a separate election on the Washington return,
33 consistent with section 2056 or 2056A of the Internal Revenue Code, for
34 the purpose of determining the amount of tax due under this chapter.
35 The election shall be binding on the estate and the beneficiaries,
36 consistent with the Internal Revenue Code. All other elections or

1 valuations on the Washington return shall be made in a manner
2 consistent with the federal return, if a federal return is required,
3 and such rules as the department may provide.

4 (2) Amounts deducted for federal income tax purposes under section
5 642(g) of the Internal Revenue Code of 1986, shall not be allowed as
6 deductions in computing the amount of tax due under this chapter.

7 NEW SECTION. **Sec. 14.** A new section is added to chapter 83.100
8 RCW to read as follows:

9 (1) If upon examination of any returns or from other information
10 obtained by the department it appears that a tax or penalty has been
11 paid less than that properly due, the department shall assess against
12 the taxpayer an additional amount found to be due and shall add
13 interest as provided in RCW 83.100.070 on the tax only. The department
14 shall notify the taxpayer by mail of the additional amount, and the
15 additional amount shall become due and shall be paid within thirty days
16 from the date of the notice, or within such further time as the
17 department may provide.

18 (2) Interest shall be computed from the original due date of the
19 Washington return until the due date of the notice. If payment in full
20 is not made by the due date of the notice, additional interest shall be
21 computed until the date of payment.

22 (3) No assessment or correction of an assessment for additional
23 taxes, penalties, or interest due may be made by the department more
24 than four years after the close of the calendar year in which a
25 Washington return is due under this chapter, including any extension of
26 time for filing, except upon a showing of fraud or of misrepresentation
27 of a material fact by the taxpayer or as provided under subsection (4)
28 or (5) of this section or as otherwise provided in this chapter.

29 (4) For persons liable for tax under RCW 83.100.120, the period for
30 assessment or correction of an assessment shall extend an additional
31 three years beyond the period described in subsection (3) of this
32 section.

33 (5) A taxpayer may extend the periods of limitation under
34 subsection (3) or (4) of this section by executing a written waiver.
35 The execution of the waiver shall also extend the period for making a
36 refund as provided in RCW 83.100.130.

1 **Sec. 15.** RCW 83.100.210 and 1996 c 149 s 18 are each amended to
2 read as follows:

3 (1) The following provisions of chapter 82.32 RCW have full force
4 and application with respect to the taxes imposed under this chapter
5 unless the context clearly requires otherwise: RCW 82.32.110,
6 82.32.120, 82.32.130, 82.32.320, and 82.32.340. The definitions in
7 this chapter have full force and application with respect to the
8 application of chapter 82.32 RCW to this chapter unless the context
9 clearly requires otherwise.

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

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

14 This act shall be liberally construed to carry out the
15 legislature's intent to impose a stand-alone state estate tax to
16 provide funding for Initiative No. 728.

17 NEW SECTION. Sec. 17. A new section is added to chapter 83.100
18 RCW to read as follows:

19 Taxes, penalties, interest, and fees collected under this chapter
20 shall be deposited in the student achievement fund created in RCW
21 43.135.045.

22 NEW SECTION. Sec. 18. The following acts or parts of acts are
23 each repealed:

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

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

29 NEW SECTION. Sec. 19. The repealed sections in section 18 of this
30 act do not affect any existing right acquired or liability or
31 obligation incurred under the statutes repealed or under any rule or
32 order adopted under those statutes nor do they affect any proceeding
33 instituted under them.

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

6 ~~(e) For the 2007-2008 school year, an amount equal to four hundred~~
7 ~~fifty dollars per full-time equivalent student in all school districts~~
8 ~~shall be deposited in the student achievement fund to be distributed to~~
9 ~~each school district based on four hundred fifty dollars per full-time~~
10 ~~equivalent student.~~

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

14 ~~(3) For the 2001-2002 through 2003-2004 school years, the office of~~
15 ~~the superintendent of public instruction shall verify the average~~
16 ~~number of full-time equivalent students in each school district from~~
17 ~~the previous school year to the state treasurer by August 1st of each~~
18 ~~year.~~

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

20 ~~(a) The annual distributions to each school district shall be based~~
21 ~~on the average number of full-time equivalent students in the school~~
22 ~~district from the previous school year as reported to the office of the~~
23 ~~superintendent of public instruction by August 31st of the previous~~
24 ~~school year; and~~

25 ~~(b)) under section 22 of this act. The school district annual~~
26 ~~amounts ((as defined in subsection (2) of this section)) shall be~~
27 ~~((distributed)) deposited based on the monthly apportionment schedule~~
28 ~~as defined in RCW 28A.510.250. The office of the superintendent of~~
29 ~~public instruction shall notify the department of the monthly amounts~~
30 ~~to be deposited into the student achievement fund to meet the~~
31 ~~apportionment schedule ((distributions)).~~

32 NEW SECTION. Sec. 22. A new section is added to chapter 28A.505
33 RCW to read as follows:

34 (1) Total distributions from the student achievement fund to each
35 school district shall be based upon the average number of full-time
36 equivalent students in the school district during the previous school

1 year as reported to the office of the superintendent of public
2 instruction by August 31st of the previous school year.

3 (2) The allocation rate per full-time equivalent student shall be
4 two hundred fifty-four dollars per full-time equivalent student for the
5 2004-05 school year, three hundred dollars in the 2005-06 school year,
6 three hundred seventy-five dollars in the 2006-07 school year, and four
7 hundred fifty dollars in the 2007-08 school year. For each subsequent
8 school year, the amount allocated per full-time equivalent student
9 shall be adjusted for inflation as defined in RCW 43.135.025(8). These
10 allocations per full-time equivalent student from the student
11 achievement fund shall be supported from the following sources:

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

14 (b) Distributions from the additional cigarette tax imposed in RCW
15 82.24.--- (section 1, chapter . . . (SSB 5829), Laws of 2005) and
16 deposited into the student achievement fund pursuant to RCW 82.24.---
17 (2) (section 1(2), chapter . . . (SSB 5829), Laws of 2005);

18 (c) Distributions from the estate tax imposed in chapter 83.100 RCW
19 and deposited in the student achievement fund pursuant to section 17 of
20 this act; and

21 (d) If the amounts deposited in the student achievement fund under
22 (a), (b), and (c) of this subsection are insufficient to provide the
23 total allocations per full-time equivalent student in this subsection
24 (2), the office of the superintendent of public instruction shall
25 notify the office of financial management, the fiscal committees of the
26 legislature, and the office of the state treasurer. By August 15th of
27 such school year, the treasurer shall transfer sufficient moneys from
28 the general state revenues into the student achievement fund to provide
29 the school year allocation rate per full-time equivalent student as
30 provided in this subsection (2).

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

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

