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**ENGROSSED SUBSTITUTE SENATE BILL 5990**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators King, Fain, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, Hewitt, Becker, Brown, and Bailey)

AN ACT Relating to transferring certain state sales and use taxes collected on transportation projects to the connecting Washington account; adding a new section to chapter 82.32 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; providing an effective date; providing a contingent expiration date; and declaring an emergency.

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

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

(1) The state sales and use taxes paid with funds appropriated in an omnibus transportation appropriations act for transportation projects that are not exempt under sections 2 and 3 of this act must be transferred from the general fund to the connecting Washington account created in chapter ... (Substitute Senate Bill No. 5987), Laws of 2015.

(2) The transfer required under this section applies to:

(a) Between the effective date of this section and June 30, 2019, transportation projects funded from the connecting Washington account and any other projects identified by the legislature as connecting Washington projects; and

(b) Beginning July 1, 2019, all transportation projects.

(3) Quarterly, beginning in the calendar quarter immediately following the calendar quarter that this section is enacted into law, the department of transportation must submit a report to the department detailing the amount of state sales and use tax paid during the previous calendar quarter for which this section is applicable. The quarterly reports must contain such other information as required by the department to administer this section; are due by the tenth day of March, June, September, and December; and must be provided in a form and manner acceptable to the department. The department must notify the state treasurer of the amount of the transfer by the last working day of each calendar quarter.

(4) For purposes of this section, "state sales and use tax" means the taxes imposed under RCW 82.08.020 and 82.12.020, not reduced by any sales or use taxes imposed under the authority of chapter 82.14 RCW that are deducted from or credited against the taxes imposed under RCW 82.08.020 and 82.12.020.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to highway improvement or preservation projects that are administered by the state department of transportation, with respect to the sale of or charges made for:

(a) Labor and services described in RCW 82.04.050(2)(b) and rendered in respect to such highway improvement or preservation projects; and

(b) Tangible personal property that becomes an ingredient or component of such highway improvement or preservation projects.

(2) The exemption under this section applies to:

(a) Between the effective date of this section and June 30, 2019, highway improvement or preservation projects as described in subsection (1) of this section that are identified by the legislature as connecting Washington projects; and

(b) Beginning July 1, 2019, all highway improvement or preservation projects as described in subsection (1) of this section.

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

(4) For purposes of this section, "highway improvement or preservation project" means the building, repairing, or improving of a publicly owned highway, street, place, road, easement, right-of-way, parking facility, bridge, tunnel, or trestle.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax levied by RCW 82.12.020 does not apply to the use of tangible personal property that becomes an ingredient or component of a highway improvement or preservation project administered by the state department of transportation.

(2) The exemption under this section applies to:

(a) Between the effective date of this section and June 30, 2019, the use of tangible personal property that becomes an ingredient or component of a highway improvement or preservation project that is identified by the legislature as a connecting Washington project; and

(b) Beginning July 1, 2019, the use of all tangible personal property that becomes an ingredient or component of a highway improvement or preservation project.

(3) For purposes of this section, "highway improvement or preservation project" has the same meaning as defined in section 2(4) of this act.

NEW SECTION. **Sec.**  The provisions of this act do not constitute a tax preference as defined in RCW 82.32.805 and are not subject to the provisions of RCW 82.32.805 or 82.32.808.

NEW SECTION. **Sec.**  (1) If a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal, preventing the state from collecting sales and use taxes from federal contractors based on a claim of discrimination against federal contractors in violation of the Supremacy Clause, sections 2 and 3 of this act expire as of the date that such judgment becomes nonappealable.

(2) For purposes of this section:

(a) "Federal contractor" means any person that is defined as a consumer under RCW 82.04.190 (3), (6), or (8), as a result of performing work for the United States.

(b) "Sales and use taxes" means the taxes imposed in RCW 82.08.020 and 82.12.020.

NEW SECTION. **Sec.**  The department of revenue must provide notice of the expiration date of sections 2 and 3 of this act to taxpayers, the legislature, the office of the code reviser, and others as deemed appropriate by the department.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

**--- END ---**