

**SSB 5974 - S AMD 1190**

By Senator Fortunato

**NOT ADOPTED 02/15/2022**

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

3 **"Sec. 1.** RCW 82.08.020 and 2014 c 140 s 12 are each amended to  
4 read as follows:

5 (1) There is levied and collected a tax equal to six and five-  
6 tenths percent of the selling price on each retail sale in this state  
7 of:

8 (a) Tangible personal property, unless the sale is specifically  
9 excluded from the RCW 82.04.050 definition of retail sale;

10 (b) Digital goods, digital codes, and digital automated services,  
11 if the sale is included within the RCW 82.04.050 definition of retail  
12 sale;

13 (c) Services, other than digital automated services, included  
14 within the RCW 82.04.050 definition of retail sale;

15 (d) Extended warranties to consumers; and

16 (e) Anything else, the sale of which is included within the RCW  
17 82.04.050 definition of retail sale.

18 (2) There is levied and collected an additional tax on each  
19 retail car rental, regardless of whether the vehicle is licensed in  
20 this state, equal to five and nine-tenths percent of the selling  
21 price. The revenue collected under this subsection must be deposited  
22 in the multimodal transportation account created in RCW 47.66.070.

23 (3) (a) Beginning July 1, 2003, there is levied and collected an  
24 additional tax of three-tenths of one percent of the selling price on  
25 each retail sale of a motor vehicle in this state, other than retail  
26 car rentals taxed under subsection (2) of this section. The revenue  
27 collected under this subsection must be deposited in the multimodal  
28 transportation account created in RCW 47.66.070.

29 (b) For purposes of this subsection (3), "motor vehicle" has the  
30 meaning provided in RCW 46.04.320, but does not include:

1 (i) Farm tractors or farm vehicles as defined in RCW 46.04.180  
2 and 46.04.181, unless the farm tractor or farm vehicle is for use in  
3 the production of marijuana;

4 (ii) Off-road vehicles as defined in RCW 46.04.365;

5 (iii) Nonhighway vehicles as defined in RCW 46.09.310; and

6 (iv) Snowmobiles as defined in RCW 46.04.546.

7 ~~(4) ((For purposes of subsection (3) of this section, "motor~~  
8 ~~vehicle" has the meaning provided in RCW 46.04.320, but does not~~  
9 ~~include:~~

10 ~~(a) Farm tractors or farm vehicles as defined in RCW 46.04.180~~  
11 ~~and 46.04.181, unless the farm tractor or farm vehicle is for use in~~  
12 ~~the production of marijuana;~~

13 ~~(b) Off-road vehicles as defined in RCW 46.04.365;~~

14 ~~(c) Nonhighway vehicles as defined in RCW 46.09.310; and~~

15 ~~(d) Snowmobiles as defined in RCW 46.04.546.)~~ (a) Beginning July

16 1, 2022, all revenue collected under subsection (1) of this section  
17 on each new and used retail sale of a vehicle in this state,  
18 including private-party sales, but excluding retail car rentals taxed  
19 under subsection (2) of this section, must be deposited in the motor  
20 vehicle fund. All revenue collected under this subsection may only be  
21 used for highway purposes as defined in RCW 46.68.130. For the  
22 purposes of this subsection "highway purposes" also includes  
23 preservation.

24 (b) For purposes of this subsection (4), "vehicle" has the  
25 meaning provided in RCW 46.04.670 including, but not limited to,  
26 passenger vehicles, light trucks, commercial vehicles, travel  
27 trailers, recreational vehicles, intermittent use trailers,  
28 motorcycles, and campers, but "vehicle" does not include:

29 (i) Farm tractors or farm vehicles as defined in RCW 46.04.180  
30 and 46.04.181, unless the farm tractor or farm vehicle is for use in  
31 the production of marijuana;

32 (ii) Off-road vehicles as defined in RCW 46.04.365;

33 (iii) Nonhighway vehicles as defined in RCW 46.09.310;

34 (iv) Bicycles as defined in RCW 46.04.071; and

35 (v) Snowmobiles as defined in RCW 46.04.546.

36 (5) Beginning on December 8, 2005, 0.16 percent of the taxes  
37 collected under subsection (1) of this section must be dedicated to  
38 funding comprehensive performance audits required under RCW  
39 43.09.470. The revenue identified in this subsection must be

1 deposited in the performance audits of government account created in  
2 RCW 43.09.475.

3 (6) The taxes imposed under this chapter apply to successive  
4 retail sales of the same property.

5 (7) The rates provided in this section apply to taxes imposed  
6 under chapter 82.12 RCW as provided in RCW 82.12.020.

7 **Sec. 2.** RCW 82.12.020 and 2017 c 323 s 520 are each amended to  
8 read as follows:

9 (1) There is levied and collected from every person in this state  
10 a tax or excise for the privilege of using within this state as a  
11 consumer any:

12 (a) Article of tangible personal property acquired by the user in  
13 any manner, including tangible personal property acquired at a casual  
14 or isolated sale, and including by-products used by the manufacturer  
15 thereof, except as otherwise provided in this chapter, irrespective  
16 of whether the article or similar articles are manufactured or are  
17 available for purchase within this state;

18 (b) Prewritten computer software, regardless of the method of  
19 delivery, but excluding prewritten computer software that is either  
20 provided free of charge or is provided for temporary use in viewing  
21 information, or both;

22 (c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or  
23 (g) or (6)(c), excluding services defined as a retail sale in RCW  
24 82.04.050(6)(c) that are provided free of charge;

25 (d) Extended warranty; or

26 (e)(i) Digital good, digital code, or digital automated service,  
27 including the use of any services provided by a seller exclusively in  
28 connection with digital goods, digital codes, or digital automated  
29 services, whether or not a separate charge is made for such services.

30 (ii) With respect to the use of digital goods, digital automated  
31 services, and digital codes acquired by purchase, the tax imposed in  
32 this subsection (1)(e) applies in respect to:

33 (A) Sales in which the seller has granted the purchaser the right  
34 of permanent use;

35 (B) Sales in which the seller has granted the purchaser a right  
36 of use that is less than permanent;

37 (C) Sales in which the purchaser is not obligated to make  
38 continued payment as a condition of the sale; and

1 (D) Sales in which the purchaser is obligated to make continued  
2 payment as a condition of the sale.

3 (iii) With respect to digital goods, digital automated services,  
4 and digital codes acquired other than by purchase, the tax imposed in  
5 this subsection (1)(e) applies regardless of whether or not the  
6 consumer has a right of permanent use or is obligated to make  
7 continued payment as a condition of use.

8 (2) The provisions of this chapter do not apply in respect to the  
9 use of any article of tangible personal property, extended warranty,  
10 digital good, digital code, digital automated service, or service  
11 taxable under RCW 82.04.050 (2) (a) or (g) or (6)(c), if the sale to,  
12 or the use by, the present user or the present user's bailor or donor  
13 has already been subjected to the tax under chapter 82.08 RCW or this  
14 chapter and the tax has been paid by the present user or by the  
15 present user's bailor or donor.

16 (3)(a) Except as provided in this section, payment of the tax  
17 imposed by this chapter or chapter 82.08 RCW by one purchaser or user  
18 of tangible personal property, extended warranty, digital good,  
19 digital code, digital automated service, or other service does not  
20 have the effect of exempting any other purchaser or user of the same  
21 property, extended warranty, digital good, digital code, digital  
22 automated service, or other service from the taxes imposed by such  
23 chapters.

24 (b) The tax imposed by this chapter does not apply:

25 (i) If the sale to, or the use by, the present user or his or her  
26 bailor or donor has already been subjected to the tax under chapter  
27 82.08 RCW or this chapter and the tax has been paid by the present  
28 user or by his or her bailor or donor;

29 (ii) In respect to the use of any article of tangible personal  
30 property acquired by bailment and the tax has once been paid based on  
31 reasonable rental as determined by RCW 82.12.060 measured by the  
32 value of the article at time of first use multiplied by the tax rate  
33 imposed by chapter 82.08 RCW or this chapter as of the time of first  
34 use;

35 (iii) In respect to the use of any article of tangible personal  
36 property acquired by bailment, if the property was acquired by a  
37 previous bailee from the same bailor for use in the same general  
38 activity and the original bailment was prior to June 9, 1961; or

39 (iv) To the use of digital goods or digital automated services,  
40 which were obtained through the use of a digital code, if the sale of

1 the digital code to, or the use of the digital code by, the present  
2 user or the present user's bailor or donor has already been subjected  
3 to the tax under chapter 82.08 RCW or this chapter and the tax has  
4 been paid by the present user or by the present user's bailor or  
5 donor.

6 (4) (a) Except as provided in (b) of this subsection (4), the tax  
7 is levied and must be collected in an amount equal to the value of  
8 the article used, value of the digital good or digital code used,  
9 value of the extended warranty used, or value of the service used by  
10 the taxpayer, multiplied by the applicable rates in effect for the  
11 retail sales tax under RCW 82.08.020.

12 (b) In the case of a seller required to collect use tax from the  
13 purchaser, the tax must be collected in an amount equal to the  
14 purchase price multiplied by the applicable rate in effect for the  
15 retail sales tax under RCW 82.08.020.

16 (5) For purposes of the tax imposed in this section, "person"  
17 includes anyone within the definition of "buyer," "purchaser," and  
18 "consumer" in RCW 82.08.010.

19 (6) (a) Beginning July 1, 2022, all use tax revenue collected  
20 under subsection (1) of this section on the use of each new and used  
21 vehicle in this state, but excluding retail car rentals taxed under  
22 RCW 82.08.020, must be deposited in the motor vehicle fund. All  
23 revenue collected under this subsection may only be used for highway  
24 purposes as defined in RCW 46.68.130.

25 (b) For purposes of this subsection (6):

26 (i) "Highway purposes" also includes preservation; and

27 (ii) "Vehicle" has the meaning provided in RCW 46.04.670  
28 including, but not limited to, passenger vehicles, light trucks,  
29 commercial vehicles, travel trailers, recreational vehicles,  
30 intermittent use trailers, motorcycles, and campers, but "vehicle"  
31 does not include:

32 (A) Farm tractors or farm vehicles as defined in RCW 46.04.180  
33 and 46.04.181, unless the farm tractor or farm vehicle is for use in  
34 the production of marijuana;

35 (B) Off-road vehicles as defined in RCW 46.04.365;

36 (C) Nonhighway vehicles as defined in RCW 46.09.310;

37 (D) Bicycles as defined in RCW 46.04.071; and

38 (E) Snowmobiles as defined in RCW 46.04.546.

1       **Sec. 3.** RCW 46.68.090 and 2015 3rd sp.s. c 44 s 105 are each  
2 amended to read as follows:

3       (1) All moneys that have accrued or may accrue to the motor  
4 vehicle fund from the fuel tax and/or the tax imposed under RCW  
5 82.08.020(4) and 82.12.020(6) must be first expended for purposes  
6 enumerated in (a) and (b) of this subsection. The remaining net tax  
7 amount must be distributed monthly by the state treasurer in  
8 accordance with subsections (2) through (8) of this section.

9       (a) For payment of refunds of fuel tax that has been paid and is  
10 refundable as provided by law;

11       (b) For payment of amounts to be expended pursuant to  
12 appropriations for the administrative expenses of the offices of  
13 state treasurer, state auditor, and the department of licensing of  
14 the state of Washington in the administration of the fuel tax, which  
15 sums must be distributed monthly.

16       (2) All of the remaining net tax amount collected under RCW  
17 82.38.030(1) must be distributed as set forth in (a) through (j) of  
18 this subsection.

19       (a) For distribution to the motor vehicle fund an amount equal to  
20 44.387 percent to be expended for highway purposes of the state as  
21 defined in RCW 46.68.130;

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

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

30       (A) Accident experience;

31       (B) Fatal accident experience;

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

34       (D) Continuity of development of the highway transportation  
35 network.

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

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

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

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

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

10 (g) For distribution to the cities and towns from the motor  
11 vehicle fund an amount equal to 10.6961 percent in accordance with  
12 RCW 46.68.110;

13 (h) For distribution to the counties from the motor vehicle fund  
14 an amount equal to 19.2287 percent: (i) Out of which there must be  
15 distributed from time to time, as directed by the department of  
16 transportation, those sums as may be necessary to carry out the  
17 provisions of RCW 47.56.725; and (ii) less any amounts appropriated  
18 to the county road administration board to implement the provisions  
19 of RCW 47.56.725(4), with the balance of such county share to be  
20 distributed monthly as the same accrues for distribution in  
21 accordance with RCW 46.68.120;

22 (i) For distribution to the county arterial preservation account,  
23 hereby created in the motor vehicle fund an amount equal to 1.9565  
24 percent. These funds must be distributed by the county road  
25 administration board to counties in proportions corresponding to the  
26 number of paved arterial lane miles in the unincorporated area of  
27 each county and must be used for improvements to sustain the  
28 structural, safety, and operational integrity of county arterials.  
29 The county road administration board must adopt reasonable rules and  
30 develop policies to implement this program and to assure that a  
31 pavement management system is used;

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

35 (3) The remaining net tax amount collected under RCW 82.38.030(2)  
36 must be distributed to the transportation 2003 account (nickel  
37 account).

38 (4) The remaining net tax amount collected under RCW 82.38.030(3)  
39 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  
4 in 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 (5) The remaining net tax amount collected under RCW 82.38.030(4)  
8 must be distributed as follows:

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

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

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

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

18 (7) The remaining net tax amount collected under RCW 82.38.030  
19 (7) and (8) must be distributed to the connecting Washington account  
20 created in RCW 46.68.395.

21 (8) Nothing in this section or in RCW 46.68.130 may be construed  
22 so as to violate any terms or conditions contained in any highway  
23 construction bond issues now or hereafter authorized by statute and  
24 whose payment is by such statute pledged to be paid from any excise  
25 taxes on fuel.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.32  
27 RCW to read as follows:

28 (1) By the last workday of the first and third calendar quarters,  
29 the state treasurer must transfer the amount specified in subsection  
30 (2) of this section from the general fund to the motor vehicle fund  
31 created in RCW 46.68.070. The first two transfers under this  
32 subsection must occur by September 30, 2022, and April 30, 2023.

33 (2)(a) The department must estimate the state general fund  
34 revenues derived from expenditures by the state department of  
35 transportation. The department must perform the estimate for tax  
36 collections in the immediately preceding third and fourth calendar  
37 quarters for the April transfer under subsection (1) of this section  
38 and tax collections in the immediately preceding first and second  
39 calendar quarters for the September transfer under subsection (1) of



1 this section. The department must notify the state treasurer of this  
2 amount at least 20 days before the April or September transfer under  
3 subsection (1) of this section.

4 (b) For the purposes of this section, the following definitions  
5 apply:

6 (i) "Digital products" has the meaning provided in RCW 82.04.192.

7 (ii) "Expenditures by the state department of transportation"  
8 means amounts paid by the state department of transportation with  
9 respect to the purchase of any tangible personal property, digital  
10 products, or labor, which is subject to state sales or use tax.

11 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of  
13 the state government and its existing public institutions, and takes  
14 effect immediately."

**SSB 5974 - S AMD 1190**  
By Senator Fortunato

**NOT ADOPTED 02/15/2022**

15 On page 1, line 1 of the title, after "resources;" strike the  
16 remainder of the title and insert "amending RCW 82.08.020, 82.12.020,  
17 and 46.68.090; adding a new section to chapter 82.32 RCW; and  
18 declaring an emergency."

EFFECT: (1) Removes all provisions in the underlying Move Ahead  
WA resources bill.

(2) Requires the transfer of the state 6.5 percent state sales  
and use tax on vehicles from the state general fund to the Motor  
Vehicle Fund.

(3) Directs the State Treasurer to transfer the estimated state  
sales and use tax associated Washington State Department of  
Transportation expenditures from the state general fund to the Motor  
Vehicle Fund.

FISCAL IMPACT: (1) Decreases Move Ahead WA Account and Move Ahead  
WA Account revenue of approximately \$5 billion over 16 years.

(2) Increases Motor Vehicle Fund revenues by approximately \$25.3  
billion over 16 years.

(3) Decreases state general fund revenue by approximately \$25.3 billion over 16 years.

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