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# CHAPTER TWO

## TAXATION POLICY

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### 1. Guiding Principles of Taxation<sup>1</sup>

#### Recommendations

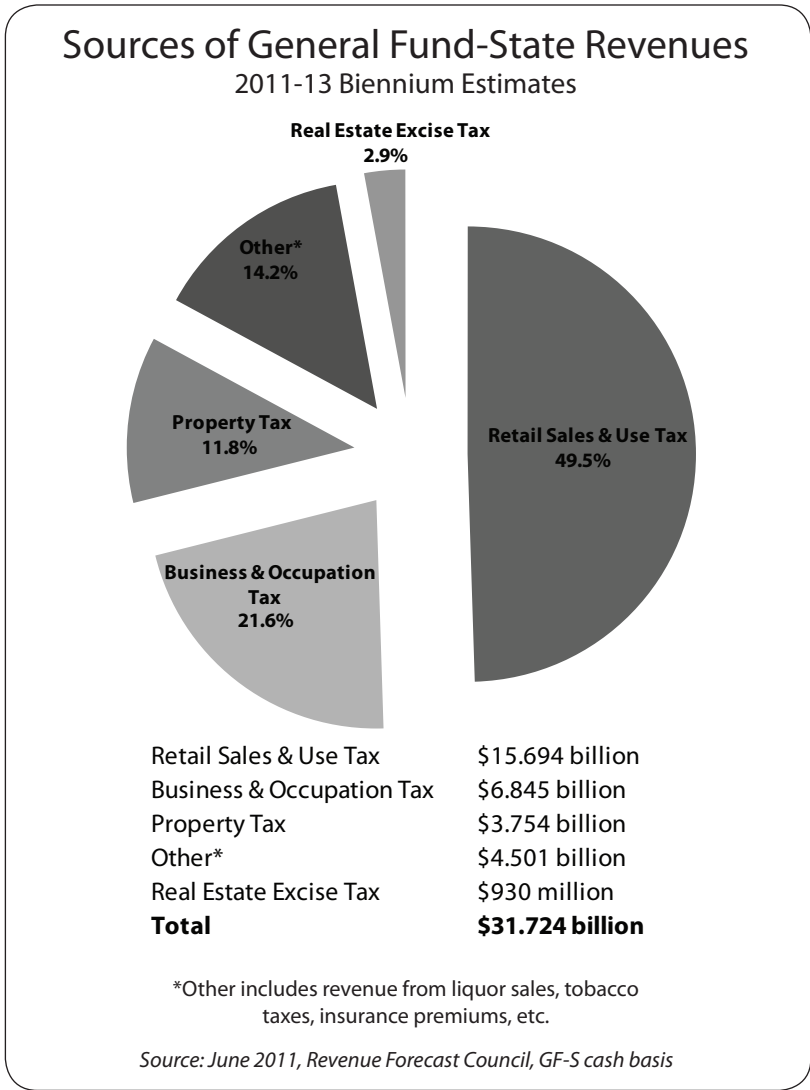
1. Adopt guiding principles based on equity and economic neutrality to change Washington's tax code, so the tax system is used to raise needed revenue for core functions of government, not to direct the behavior of citizens.
2. Policymakers should reduce the financial burden they place on citizens to promote prosperity and opportunity for everyone.

#### Background

The people of Washington pay over 50 different kinds of taxes at the state and local level.<sup>2</sup> This does not include federal taxes. The largest single revenue source for state and local government is the general sales and use tax, representing about 50% of all taxes. The next largest revenue source is the Business and Occupation (B&O) tax. The chart on the next page shows the sources of state general fund revenue.

The proper function of taxation is to raise money for core government services, not to direct the behavior of citizens. This is true regardless of whether government is big or small, and this is true for lawmakers at all levels of government. Many lawmakers think of the tax code as a way to penalize “bad” behaviors and reward “good” ones. They try incessantly to guide, micromanage and steer people's lives by manipulating tax laws.

Taxation will always impose some drag on an economy's performance, but that harm can be minimized if policymakers resist the temptation to use the tax code for social engineering, class warfare and other extraneous purposes. A simple and fair tax system is an ideal way to



advance Washington’s economic interests and promote prosperity for its residents.

### Policy Analysis

The fundamental principles presented here provide guidance for a fair and effective tax system; that is, one that raises needed revenue for core functions of government while minimizing the financial burden on citizens.

- **Simplicity.** The tax code should be easy for the average citizen to understand, and it should minimize the cost of complying with the tax laws. Tax complexity adds cost to the taxpayer, but does not increase public revenue. For governments, the tax system should be easy to administer and should help promote efficient, low-cost administration.
- **Accountability.** Tax systems should be accountable to citizens. Taxes and tax policy should be visible and not hidden from taxpayers. Changes in tax policy should be highly publicized and open to public debate.
- **Economic Neutrality.** The purpose of the tax system is to raise needed revenue for core functions of government, not to control the lives of citizens. The tax system should exert minimal impact on the spending and business decisions of individuals and businesses.
- **Equity and Fairness.** Fairness means all taxpayers are treated the same. The government should not use the tax system to pick winners and losers in society or to unfairly shift the tax burden onto one class of citizens. The tax system should not be used to punish success or “soak the rich.”
- **Complementary.** The tax code should help maintain a healthy relationship between the state and local governments. The state should always be mindful of how its tax decisions affect local governments so they are not working against each other—with the taxpayer caught in the middle.
- **Competitiveness.** A low tax burden can be a tool for Washington’s economic development by retaining and attracting productive business activity. A high-quality revenue system will be responsive to competition from other states.
- **Balance.** An effective tax system should be broad-based, without relying too heavily on a few sources of revenue. For the same reason, an ideal tax system should avoid special exemptions, with a low overall tax rate with few loopholes.

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- **Reliability.** A high-quality tax system should be stable, providing certainty in taxation and in revenue flows. It should provide certainty of financial planning for individuals and businesses.

While these guiding principles are important, there are inherent problems with any system of taxation. Basically, taxation reduces spending on private sector goods and services traded in the free market. The benefits of free exchange—to both the purchaser and seller—are reduced when trade is restrained by taxation. The way that taxes restrain private trade varies.

Income and property taxes reduce the incomes of taxpayers, lowering their demand for goods and services. Sales and excise taxes increase costs to suppliers, reducing their willingness to provide goods at any given prices. In any case, taxes reduce private trade and curtail job creation.

Since high taxes lower the economic welfare of citizens, policymakers should minimize the economic and social problems that taxation imposes. Citizens then gain the benefits of a low tax burden. These benefits are summarized below:

- **Faster economic growth.** A tax system that allows citizens to keep more of what they earn spurs increased work, saving and investment. A low tax burden will mean a competitive advantage for Washington over states with high-rate, overly progressive tax systems.
- **Greater wealth creation.** Low taxes significantly boost the value of all income-producing assets and help citizens maximize their fullest economic potential, thereby broadening the tax base.
- **End micromanagement and political favoritism.** A complex, high-rate tax system favors interests that are able to exert influence in Olympia, and that can negotiate narrow exemptions and tax benefits. “A fair field and no favors” is a good motto for a strong tax system.
- **Increased civic involvement.** A complex, high-rate tax system makes it nearly impossible for the average citizen to understand how and why the state is collecting money. Citizens become

cynical and alienated from their government. At some point, most citizens come to feel the state government no longer represents their interests. A simplified, broad-based, low-rate system encourages citizens to become re-engaged with government and to seek greater civic involvement.

The people of Washington work hard for what they earn. Money paid in taxes is, by definition, not available to meet other needs. As a matter of respect to citizens, policymakers should work to keep the overall level of taxation to the absolute minimum needed to pay for the core functions of government.

### Recommendations

- 1. Adopt guiding principles based on equity and economic neutrality to change Washington's tax code, so the tax system is used to raise needed revenue for core functions of government, not to direct the behavior of citizens.** A fair tax system means public officials should take no more money from citizens than is needed to pay for the core functions of government. This consideration goes beyond the need to balance the budget; it is a matter of fundamental respect and trust between citizens and their government.
- 2. Policymakers should reduce the financial burden they place on citizens to promote prosperity and opportunity for the benefit of everyone.** Washingtonians need and expect to receive basic government services, and taxes must be collected to pay for these services. Government revenue should be limited to real public needs, so the tax system itself does not become one of the major problems of life. A fair and efficient tax system shows respect for the citizens of our state.

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### 2. State Income Tax

#### Recommendation

Avoid enacting a state income tax.

#### Background

Washington is one of only nine states that does not tax citizens' personal incomes. Doing so would fundamentally alter the state's tax structure, changing it from one that mainly taxes consumption to one that also taxes productivity.

Each state levies a different combination of taxes on the people who live, do business or travel within its borders. These different types and levels of taxation have a profound impact on the actions of residents and businesses and can significantly impede economic growth. More than any other type of tax, an income tax can stifle a state's economic growth, create instability in public revenues and limit people's take-home income.

#### Policy Analysis

The people of Washington first considered an income tax in 1932, when it was enacted by a large majority. In 1933, the measure was struck down by the state supreme court as a violation of the constitution's uniformity clause. In the years since 1932 Washington voters have rejected a state income tax five times (most recently in 2010 with 64% of voters rejecting Initiative 1098), and the supreme court has invalidated income tax bills passed by the legislature.

As is the case with the state's existing taxes, once in place an income tax would likely be expanded, as lawmakers in Olympia have repeatedly demonstrated their willingness to increase the rate and broaden the application of a new tax in the years following its enactment. Examples include:

- The first state sales tax was two percent. Today the state tax is 6.5%

- The first state gas tax was one cent per gallon. Today the state tax is 37.5 cents per gallon
- The payroll tax for unemployment compensation started at 1.8%. Today it can be as high as five percent
- Property tax rates started at under \$1 per thousand dollars of assessed value. Today rates are closer to \$10 per thousand dollars of assessed value.

Americans experienced a similar pattern after the federal income tax was enacted. The initial federal income tax rate started at one percent and applied only to the very wealthiest people in the country, less than one percent of the population. In the years following, however, Congress progressively increased tax rates and lowered income thresholds until paying the income tax became a permanent part of monthly expenses for most working households.

Promoting Washington as one of only nine states without a general income tax is a key part of the state's economic development policy. State officials use the absence of an income tax as a major selling point in trying to attract new businesses to Washington. The state Department of Commerce lists "No income tax in Washington" as contributing to a favorable business environment. The Department's website says:

Washington's lack of income tax helped earn the state the rank of 9th in the 2010 State Business Tax Climate Index by the Tax Foundation in Washington, D.C.<sup>3</sup>

In a special advertising section recently published in a national business magazine, state officials highlight "0 income tax for individuals and business" as a leading business advantage for Washington.<sup>4</sup> They note that the number of registered businesses in the state has more than doubled in 15 years, adding:

That's because of the favorable business climate. The state has no income tax and energy costs are below the national average.<sup>5</sup>

This conclusion is supported by The Tax Foundation, which reports that the 10 states with the best business climate share one

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thing in common—they either have no sales tax or no income tax. The Foundation’s Business Climate Index report finds:

It is obvious that the absence of a major tax is a dominant factor in vaulting these ten states to the top of the rankings.<sup>6</sup>

Clearly a zero rate is the lowest possible rate and the most neutral base, since it creates the most favorable tax climate for economic growth. The states that have a zero rate on individual income, corporate income or sales gain an immense competitive advantage.<sup>7</sup>

By enacting an income tax, Washington would be giving up a significant competitive advantage in relation to other states. Washington has a high sales tax. Adding an income tax means Washington would join the states that impose all the major forms of tax on their citizens. The Tax Foundation reports:

The lesson is simple; a state that raises sufficient revenue without one of the major taxes will, all things being equal, out-compete those states that levy every tax in the state tax collector’s arsenal.<sup>8</sup>

The experience of other states also shows an income tax does not contribute to increased stability in state finances. Oregon, New Jersey, and California all have income taxes and have suffered major budget shortfalls in recent years, just as Washington has.

Economists make similar predictions about the instability an income tax would bring to Washington state finances:

The consensus [among national experts on taxation] is that the income tax—particularly the type of income tax proposed by I-1098 [high earners income tax]—might rake in more money, but it will also make state tax revenues more volatile than they are today.<sup>9</sup>

One researcher notes that, while people disagree about the merits of an income tax, “on the factual question, volatility will be greater with an income tax.”<sup>10</sup>



In fact, Standard and Poor's July 2011 credit rating for the state notes among the factors that positively impacts Washington's credit rating:

The state's reliance on retail sales and business and occupation (gross receipts) taxes for a combined 68% of general fund tax revenues typically afford more revenue stability than that of other states, many of which rely on personal income tax revenues.<sup>11</sup>

In 2010 income tax supporters placed a measure to create an income tax, Initiative 1098, on the November ballot. The proposal would have levied an income tax on only the top two percent of earners in the state. As mentioned, Washington voters soundly rejected the idea, defeating Initiative 1098 by nearly two-to-one.<sup>12</sup>

State income taxes tend to reduce personal income growth, increase the rate of government spending and lower the competitiveness of the business climate. Avoiding an income tax allows people to spend more time working for themselves and their families and less time working to pay for government.

### **Recommendation**

**Avoid enacting a state income tax.** A state income tax would have a negative effect on the Washington economy. An income tax would reduce state competitiveness, add cost and complexity to the tax code and reduce the incentive for people to work, save and invest. Policymakers should respect the views of voters when they decisively rejected a state income tax in 2010. The absence of an income tax is one of the few clear advantages Washington's business climate has over those of other states.

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### 3. Business and Occupation Tax Reform

#### Recommendation

1. Centralize and streamline the administration of the B&O tax, with strict apportionment to local governments.
2. Adopt a constitutional amendment replacing the Business & Occupation tax with a simpler, fairer Single Business tax.

#### Background

Washington's Department of Revenue defines the B&O tax as a tax on "gross receipts of all business operating in Washington, for the privilege of engaging in business. The term gross receipts means gross income, gross sales, or the value of products, whichever is applicable to a particular business."<sup>13</sup>

Today's B&O tax stems from the Business Activities Tax enacted in 1933, which was the state's first gross receipts tax on businesses. Lawmakers imposed the tax as a temporary emergency measure to raise revenue for the government during the Great Depression. After an unsuccessful court challenge, the state supreme court upheld the tax later that year.

In 1935, the legislature amended the Business Activities Tax to create the current B&O tax. At first, the tax comprised two simple rates levied annually on gross receipts: 0.5% on services, and 0.25% on all other businesses. By the mid-1990s, the legislature had enacted 13 different B&O rates levied on a wide variety of industries. In the late 1990s, the legislature partially streamlined the system, reducing the number of tax rates to ten.

As a levy on gross receipts, the B&O tax does not allow business owners to deduct the cost of doing business, such as payments for materials, rents, equipment or wages, when calculating the amount of tax they must pay. However, over the years the legislature has passed numerous special deductions, credits and exemptions as a benefit to some industries. At the same time, lawmakers have increased B&O tax rates

over time, so that total revenue going to the state treasury would not decline as some industries received favored treatment.

The B&O tax is the second largest source of tax revenue for the state, after the retail sales tax. In fiscal 2008, the state collected just over \$2.9 billion in B&O taxes from businesses, representing over 18% of all taxes collected for the state general fund. In comparison, the state collected \$8.3 billion in retail sales taxes over the same period.

### Policy Analysis

One of the problems with the B&O tax is the extra layer of taxation it applies to all products and services at each stage of production—an effect called “pyramiding.” Pyramiding means the tax is structured so that it is applied more than once to the same product or service, resulting in additional money going to the state and a heavier financial burden on business owners and their customers.

Naturally, taxing the same products and services more than once was unpopular and was viewed as unfair. However, the Department of Revenue described the early days of the B&O tax as a “temporary, emergency revenue measure during the Depression.”<sup>14</sup>

There is wide consensus in Washington that the B&O tax is unfair and badly in need of reform. There is equally wide disagreement, however, over exactly what should replace the current tax structure.

Proposed reformed tax systems are often based on the goal of securing a specific amount of money for the legislature to spend, generally stated as, “In order to raise X amount of tax dollars the legislature needs to enact this particular proposal.” However, a just and efficient tax system should be based upon fundamental principles that emphasize the protection of taxpayers and the efficiency of government services.

#### *Centralize Administration*

Replacing the B&O tax system would take time. Meanwhile, lawmakers can reduce the burden the present tax imposes on business owners. Policymakers should streamline the cost of complying with the B&O tax by centralizing its administration.

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Currently, 38 Washington cities impose their own version of a B&O tax, and unlike local sales and use taxes that are collected by the Department of Revenue, all the administrative functions of municipal B&O taxes are conducted by individual cities. Shifting administration of the tax to the Department of Revenue, as is already done with local sales taxes, would reduce the cost and complexity of city B&O taxes and would greatly help businesses. This move would particularly help small business owners, who are disproportionately hit by regulatory compliance costs.

Centralization of B&O municipal tax administration would ensure uniformity of tax compliance for firms that operate in several different jurisdictions. Business owners should not be taxed at a rate that exceeds 100% of their gross receipts liability. This problem is addressed by ensuring that municipal taxation of gross receipts occurs only where there is a business-related activity.

A requirement of significant physical presence in the jurisdiction should be a prerequisite to taxation by that city. In other words, there must be an economic connection between actual business activity and the amount of tax owed. Simply estimating the level of business activity, as some cities do, should not be the basis on which municipal officials impose a local tax on a business.

### *Single Business Tax*

In addition to the immediate improvements, elected officials could gain long-term benefits by adopting a replacement of the B&O tax based on the following principles:

- Revenue neutral.
- Treat all business owners equally by using one flat rate.
- Eliminate loopholes and special treatment.
- Simplify administration of the tax to reduce compliance costs for business.

The B&O tax should be replaced with a Single Business Tax, also called a gross receipts margins tax, based on total receipts. This approach

is similar to that taken by the Texas Franchise Tax.<sup>15</sup> The following provisions would be part of a constitutional amendment needed to create a Single Business Tax in Washington:

- A Single Business tax would be created as the only tax the state and cities (but not counties) could levy on employers.
- All existing state and city taxes on employers would be repealed, except for the new Single Business tax.
- Counties, which currently do not impose business taxes, would continue to be prohibited from doing so.
- The change would only affect the business tax. There would be no change in state and local sales taxes and property taxes currently paid by businesses.

The Single Business Tax would be computed by subtracting from an employer's total gross annual receipts the cost of either production or total compensation to determine the amount of money against which the tax rate is applied. The taxable amount could not be more than 60% of total gross receipts.

A uniform tax discount would be provided to reduce the impact of the Single Business Tax on small businesses with low profitability. Credits and exemptions that give special tax breaks to some industries would be eliminated. The exact legal meaning of production costs and of compensation cost would be defined by the legislature.

The initial Single Business Tax rate would be set by the legislature and would comply with the constitutional requirement that taxes be applied uniformly to all business owners. In other words, adoption of a Single Business Tax would assure that everyone pays the same rate. The legislature would set the tax rate at a level that would be revenue neutral; the state would continue to collect the same amount of money under a Single Business Tax as it does under the current B&O tax.

Local officials (excluding counties) could impose a separate tax on businesses located within their city borders, but the same uniformity requirement would apply. Any local business tax would have to be based on a single rate applied equally to all business owners. For simplicity, all

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business taxes, state and local, would be collected by the state, and the local portion would be distributed each year to city treasuries.

In order for the Single Business Tax to be workable, lawmakers would have to enact precise definitions for the legal meanings of the terms “cost of production,” “cost of compensation,” and to set the “uniform tax discount.”

A business owner would be given a choice of three ways to calculate his taxable margins, and would be allowed to choose the one that results in the lowest tax burden. Calculating the taxable margins could be based on either the business’s:

1. Total gross receipts minus labor costs,
2. Total gross receipts minus all production costs except labor, or
3. 60% of total gross receipts.

Then the business owner would multiply the taxable margin by the Single Business Tax rate for each taxing jurisdiction. The final amount owed for each taxing jurisdiction would be sent to the state in one payment, and portions would then be distributed by the state to local governments.

### Recommendations

- 1. Centralize and streamline the administration of the B&O tax, with strict apportionment to local governments.** The collection and administration of state and local B&O taxes should be centralized to provide businesses one point of contact to pay their taxes.
- 2. Adopt a constitutional amendment replacing the Business & Occupation tax with a simpler, fairer Single Business tax.** The B&O tax should be replaced with a revenue neutral Single Business Tax that provides a more rational basis for tax liability, while simplifying the financial burden state lawmakers place on businesses and their customers.

## 4. Property Tax Limitation

### Recommendations

1. Maintain Washington's uniformity principle when taxing property, so all classes of property owners are treated the same under the law.
2. Reduce or phase out the state portion of the property tax to reduce the financial burden government places on citizens to promote economic growth, homeownership, job creation and greater personal freedom.

### Background

Many people believe their property value alone determines how much property tax they must pay, and when the county assessor updates home values to reflect market trends, their taxes automatically go up. This is not the case.

County assessors do not levy property taxes. Elected state legislators and the local board and council members of Washington's 39 counties and more than 1,720 cities and other taxing districts decide how much property tax citizens must pay.

Once elected officials in each taxing district decide the total dollar amount they feel they need to fund public operations for the following year, the assessor apportions that amount among the district's property owners, based on each land parcel's assessed value. It is a budget-based tax system, and that is the source of most of the confusion over who is responsible for rising property taxes.

Most people are familiar with rate-based tax systems, like the state sales tax or the federal income tax. Under a rate-based system, elected officials first set a percentage rate that determines the fraction of each dollar of a given tax base that must be paid to the government. The revenue the government will receive from such a tax cannot be known in advance; it can only be estimated.

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A budget-based system, like the property tax, begins at the other end. Elected officials *first* decide how much money they feel is needed for their government budget, then divide this among the tax base to determine what rate is needed to raise that amount of revenue.

The rate is expressed as so many dollars per \$1,000 of assessed value. Under this system, the amount of revenue the government will collect is known from the beginning. It is the tax *rate* that is unknown until the assessor calculates it. The difference between the two systems can be expressed this way:

- **Rate-based system: rate x tax base = revenue**
- **Budget-based system: revenue ÷ tax base = rate**

Once the rate is determined, the county assessor applies it to the value of each owner's property. One piece of land may fall under the jurisdiction of as many as ten separate taxing districts.<sup>16</sup> The assessor adds the budget demands of the different districts together, calculates the tax rate and then mails the final bill to each property owner. Property tax payments are due twice a year.

### *Voter-approved Tax Limitation*

In recent years, Washington voters have approved three popular measures to ease the growth of the property tax burden state and local governments place on their citizens.<sup>17</sup> Each measure set progressively more stringent limitations on how much state and local elected officials could increase the basic property tax each year. The relatively easy passage of these measures indicates public support for limiting property tax increases has remained stable over time.

The latest of these measures to become law was Initiative 747, passed by voters in 2001. It provides that a taxing district may not increase the total amount it collects in regular property taxes by more than one percent from one year to the next. Initiative 747's one percent limit replaces the earlier Referendum 47 limit, which held annual property tax increases to the lower of the rate of inflation or six percent.<sup>18</sup>



### *Judges Overturn, and Legislature Re-enacts, Initiative 747*

In June 2006, King County Superior Court Judge Mary E. Roberts struck down Initiative 747, saying the underlying law it was supposed to amend was ruled unconstitutional between the time Initiative 747 was filed in January 2001 and when it went to the voters that November. As a result, she said, voters were “incorrectly led” about what they were voting on.<sup>19</sup>

Judge Roberts’ ruling was wrong on two counts. First, the voters were not misled. The ballot title clearly states what Initiative 747 would do: limit the increase in property tax collections to one percent per year.<sup>20</sup> Second, Judge Roberts said the initiative did not accurately reflect the law it sought to amend. But a separate court ruling changed the underlying law *after* Initiative 747 was filed, so initiative sponsors had no way of updating the text of the initiative before it appeared on the ballot.

Under Judge Roberts’ hyper-technical legal reasoning, it is impossible to file a valid ballot initiative in Washington state, since initiative sponsors have no way of knowing how the legislature or a judge may change the law the initiative seeks to amend in the 10 months between the filing deadline and election day.

Judge Roberts’ ruling, though flawed, was upheld by a sharply divided state supreme court in 2007. The public reaction was so strong that lawmakers quickly convened a one-day special session for the purpose of re-enacting the Initiative 747 property tax limitation. Since the courts had struck down Initiative 747 on a procedural technicality, the legislature’s re-enactment of the measure makes it immune to further legal challenge.

Under the Initiative 747 law, local officials have three options when considering whether and how much to increase yearly property tax collections: 1) they can increase the amount collected by up to one percent; 2) they can increase the amount collected by more than one percent by drawing on unused taxing authority they banked in previous years; or 3) they can ask voters to approve a higher increase. There are no statutory limits on tax increase proposals sent to the voters. Such proposals need only a simple majority to pass.

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### Policy Analysis

Some tax-relief bills introduced in the legislature seek to create a “split roll,” in which, for the first time, different classes of property owners would be treated differently under the law. For example, some bills offer tax relief to homeowners, but not to business properties. If state tax collections remain the same, the result would not be broad-based tax relief at all, but merely an unfair shift of part of the existing tax burden from one group of property owners to another.

Efforts to provide property tax relief to Washingtonians should maintain the longstanding constitutional principle of treating the same class of taxpayers equally and uniformly. Lawmakers should avoid proposals that promise tax relief, but instead just shift the tax burden from one group of citizens to another, thus using tax policy to create winners and losers in society.

The simplest way lawmakers can ease the financial burden they place on citizens is to phase out the state property tax levy. Permanently phasing out the state property tax would not reduce local taxes collected by county and local governments. It would, however, induce state-elected officials to set clear priorities in state spending.

A proposal was introduced in 2003 to phase out the state portion of property taxes over ten years. A fiscal analysis of this bill (SB 5127) notes:

The state levy is approximately 25% of the property tax bill. Taxpayers may see their bill reduced by this much over the span of the bill depending on the increases in local levies ... The state portion of property tax is distributed to the general fund, not to local governments. Therefore, local governments will not directly lose revenue on state property tax collections.<sup>21</sup>

Although this phase-out would not have impacted local property tax levies, the proposal also would have amended RCW 84.52.050 (limitation of levies) to prohibit local governments from adopting any levy expansion due to the gap left by the state levy reduction.

The state property tax generated approximately \$3.7 billion in revenues during the 2009–11 biennium or 13% of total revenues for the

state budget. To help facilitate the phase-out of the property tax without unduly burdening state finances, a phase-out could be conditioned on the state first securing a five percent budget reserve with revenues in excess used to buy down the state property tax.

This would allow state officials to secure adequate savings for budget sustainability, while also providing necessary tax relief as the economy and state finances recover.

### Recommendations

**1. Maintain Washington’s uniformity principle when taxing property, so all classes of property owners are treated the same under the law.**

Washington tax law contains a fundamental principle of fairness: All property owners are treated equally when being taxed by state and local officials. Policymakers should defend this principle and resist proposals to create a so-called “split roll,” by which separate classes of property owners would be created and then taxed at different rates.

**2. Phase out the state portion of the property tax to reduce the financial burden government places on citizens to promote economic growth, homeownership, job creation and greater personal freedom.** Initiative 747 sought to limit but not reduce the overall property tax burden. Lowering the current level of property taxation would reduce the existing financial burden on citizens, free up money for investment in economic growth and job creation, and give Washingtonians greater personal freedom. One way to do this without impacting local government financing would be to phase out the state property tax levy.

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### 5. Tax and Fee Protections

#### Recommendations

1. Adopt a constitutional amendment requiring a two-thirds legislative vote to raise state or local taxes.
2. Give tax increases an expiration date.
3. Like gas-tax revenue, toll revenue should be constitutionally protected.
4. Dedicated tax and user-fee accounts should be protected to prevent lawmakers from “sweeping” these accounts to spend the money on general programs.

#### Background

The voters have consistently voiced a desire to restrict the ability of government officials to unduly raise the tax burden. Initiative 601, passed by voters in 1993, required not only a two-thirds vote of the legislature to raise taxes, but also voter approval of any tax increase in excess of the state spending limit. The two-thirds vote requirement for tax increases was ratified by voters, for the fourth time, in 2010, when Initiative 1053 passed by 64%.

Despite numerous legislative amendments to the law, including several “suspensions,” the legislature has never fully repealed the mandate from voters that tax increases require a two-thirds vote. In fact, in 2006, legislative Democrats voted to repeal their 2005 suspension of the law with the passage of SB 6896 (though they would later again suspend the law in 2010).

Not able or willing to fully eliminate the two-thirds restriction legislatively, opponents have tried over the last 18 years to get the supreme court to throw out the requirement, including a new effort filed by the Washington Education Association and several House Democrat lawmakers in 2011. This latest judicial challenge seems unlikely to succeed because the court has had several opportunities over the years

(since passage of Initiative 601 in 1993) to overturn the two-thirds requirement and has consistently declined to do so.

The only sure way to end this debate once and for all is for voters to vote on a constitutional amendment. This would provide the public and policymakers with predictability about whether this tax protection will exist from one year to the next.

Tax restrictions help prioritize government spending and provide a legislative climate in which increases in the financial burden officials impose on citizens are difficult to pass. Under such a restriction, if lawmakers felt they really needed to collect more money from people, tax-increase proposals could be submitted directly to voters for approval.

Of the sixteen states with supermajority tax restrictions, only Washington's is not part of the state constitution.

### Policy Analysis

#### *Constitutional Taxpayer Protections*

Since the legislature has repeatedly suspended the voter-approved requirement that tax increases require a two-thirds vote for approval, constitutional protections are needed. These protections, however, should not be limited to the state-imposed tax burden, but should extend to local taxpayers as well.

To encourage government officials to build a strong public consensus on the need for any proposed tax increase, a two-tiered approach should be adopted. Government officials should utilize two different options to raise the tax burden:

1. With a two-thirds vote of the legislative body, or
2. With a simple majority vote pending ratification by the voters via a referendum.

Either option would ensure that a broad consensus is reached and the taxpayers are included on any policy decisions that would result in an increase in their tax burden.

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### *Tax Increase Sunsets*

Often, when Congress enacts a tax cut or a tax exemption, it includes a sunset clause, meaning the cut or exemption will expire on a certain date. Inevitably, a sharp political debate ensues when an expiration date nears, as lawmakers grapple with whether to vote to extend the tax reduction or to let it end. Often they allow a tax break to quietly expire without lawmakers having to vote it up or down.

Temporary tax cuts and exemptions create financial unpredictability for taxpayers from one year to the next. Ultimately, when tax cuts and exemptions are set to expire automatically, it is the same as building automatic future tax increases into the law.

In contrast, tax increases are rarely set to expire, or “sunset,” on a certain date. They tend to be permanent, thus allowing lawmakers to avoid addressing them or having to take an official position. Often taxes are created or increased for specific projects, but they do not expire automatically when the project is paid for or completed. Lawmakers then redirect the revenue into the general fund or mark it for future spending. It becomes tax revenue in search of spending.

Citizens and businesses pay more than 50 different taxes in Washington.<sup>22</sup> Lawmakers routinely increase these taxes incrementally or create new ones, even during times when the natural expansion of the economy is pouring additional money into state coffers.

### *Protect Toll Revenue*

State lawmakers are gradually adopting a system of funding transportation projects with toll revenue. Unlike gas taxes, toll revenue is not constitutionally directed to be used only for highway purposes. The toll revenue can be redirected to any purpose, including non-transportation government spending, such as entitlement programs.

To ensure that vital transportation infrastructure needs are met, and to ensure that fees paid by drivers are used on projects that benefit drivers, toll revenue should not be diverted to general spending or other non-highway purposes. Toll revenue should receive the same protection that gas-tax revenue receives under the state constitution. If toll revenue were constitutionally protected, drivers would be more willing to accept

a broad-based system of road tolls to help pay for and manage traffic congestion relief.

### *Protect Dedicated Tax and Fee Accounts*

According to the state budget's balance sheet, the governor and legislature authorized more than \$1.2 billion in fund transfers of “dedicated” accounts in the 2009–11 budget. This means those tax and fee revenues have been raided and redirected from their promised dedicated purposes.

This problem is not limited only to transfers from dedicated accounts to the main budget account (Near General Fund State) but also between dedicated accounts.

These transfers take funds from a dedicated account and spend it on purposes other than those to which the public was promised the revenue would be directed. Dedicated accounts should be protected to ensure fund balances are not “swept” by lawmakers, in effect creating de facto tax increases.

To facilitate more user-pay funding models for government service, dedicated tax and user-fee accounts should be protected from budget raids.

One possibility is to require a supermajority vote in order to raid a dedicated account. Dedicated tax and user-fee based accounts could also have a breaker formula to reduce the tax/fee level after a certain fund balance is reached, so account balances do not get too large and become targets of fund sweeps in the first place.

As lawmakers reset state spending for the 21st century, they should look for state services that are candidates for user fees, but they should do so in a manner that ensures the revenues generated actually go to providing the promised services.

### **Recommendations**

- 1. Adopt a constitutional amendment requiring a two-thirds legislative vote to raise state or local taxes.** Since public officials often refuse to honor voter-approved taxpayer protections, the constitution

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should be amended to require a two-thirds vote of a state or local legislative body, or voter approval through a referendum, before any state or local tax increase takes effect.

- 2. Give tax increases an expiration date.** When new taxes and tax increases are set to expire, lawmakers will have the opportunity to determine whether the tax is serving its intended purpose. If collecting revenue from the tax still serves the public interest, lawmakers can reauthorize it for a further period of time. If the project or goal for which the tax was imposed has been accomplished, the tax should expire and citizens should be permitted to keep their money.
- 3. Like gas-tax revenue, toll revenue should be constitutionally protected.** To gain public support for funding transportation projects with road tolls and to ensure that road revenues are actually spent on reducing traffic congestion, toll revenue should receive the same constitutional protection currently given to gas-tax revenue.
- 4. Dedicated tax and user-fee accounts should be protected to prevent lawmakers from “sweeping” these accounts to spend the money on general programs.** To facilitate the move to more user-pay funding models for government service, dedicated tax and user-fee accounts should be protected by a higher vote threshold in the legislature to ensure fund balances are not easily “swept” by lawmakers, in effect creating de facto tax increases.



## 6. Tax Transparency Website

### Recommendation

Create an online searchable database of all tax districts and tax rates in the state, modeled after the existing state budget website.

### Background

According to the Department of Revenue, there are some 1,840 taxing districts in the state whose officials impose various taxes on Washingtonians. Unfortunately for taxpayers, there is no single comprehensive resource available to help individuals and businesses learn which taxing districts and rates they are subject to and how much officials in each taxing district add to their total tax burden. A typical home, for example, can be located in as many as ten different taxing districts.<sup>23</sup>

### Policy Analysis

To improve the transparency of state and local taxation, lawmakers should create an online searchable database of all tax districts and tax rates in the state, modeled after the state spending website [www.fiscal.wa.gov](http://www.fiscal.wa.gov). Such an online tax database would allow citizens to find their state and local tax rates (such as property and sales taxes) by entering their zip code or street address, or by clicking on a map showing individual taxing district boundaries.

An online calculator could be provided, for educational purposes only, to allow individuals and business owners to estimate their total tax burden and which officials are responsible for which parts of it. The information on the website would not be legally binding. A citizen's legal tax obligation would still be set each year by the taxing authority in each jurisdiction.

Taxing districts should be required to report their tax rates annually to the state and to report any changes to their tax rates within 30 days of enactment of rate changes. This information would then be posted on a searchable website available to the public.

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Increasing the ease of public access to state and local tax rates would contribute to governmental accountability, public participation and the understanding of the cost of government services. Improved tax transparency would also facilitate meaningful tax competition among taxing districts, as taxpayers compare potential tax liabilities based on where they decide to live or locate their businesses.

By creating an online searchable database of all tax rates in the state for each taxing district, policymakers would make taxation more transparent and help citizens learn more about what government decisions mean to their pocketbooks—helping to remove some of the mystery surrounding taxation.

### Recommendation

**Create an online searchable database of all tax districts and tax rates in the state modeled after the state budget website.** The legislature should provide citizens with easy access to state and local tax rates in an open, transparent and publicly accessible way. Increasing public access to state and local tax rates would significantly contribute to government accountability, public participation and an understanding of the cost of government services.

## 7. Tax Advantages of Tribal Businesses

### Recommendations

1. State leaders should negotiate an agreement with tribal casino owners so that a portion of Indian gambling profits are paid into the state general fund in lieu of taxes, as is common in other states.
2. Policymakers should set up a review of the relationship between the state and tribal businesses, especially in new areas of commerce, like gas stations, in which tribes compete against non-Indian citizens.

### Background

For decades, tribal businesses (including casinos and hotels) have benefited from a system of rules that gives Indians significant business advantages over non-tribal citizens. Whether in the form of exemptions from unemployment insurance, business and occupation taxes, or workers' compensation taxes, tribal businesses are able to take advantage of a reduced regulatory environment. Nowhere is this exemplified more than in the gaming industry.

In Washington there are 29 federally recognized Indian tribes. These tribes operate 28 casinos, which together generated \$1.95 billion in gross revenue in 2011.<sup>24</sup>

The total combined membership of the 29 tribes in the state is just over 61,500 people, or 0.009% of the people in the state. Some tribes have as few as 200 members, while the largest has more than 10,000.<sup>25</sup> Tribal membership is defined as the certified number of people who are officially recognized by tribal leadership, based on their racial identity.

#### *Who is an Indian?*

There is no legal definition of who is an American Indian. Each tribe decides on and enforces its own membership rules. The National Indian Gaming Commission describes federal policy this way:

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Indian tribes have the authority to determine membership requirements. Many tribes have a blood quantum requirement (i.e., one-fourth) and may have additional requirements relating to residency, place of birth, or enrollment deadlines. The Federal Government generally requires a person to be a member of a federally recognized tribe to be eligible for federal benefits.<sup>26</sup>

For example, leaders of the Snoqualmie Tribe, in a dispute over control of the tribe's anticipated casino profits, recently expelled 60 members because they "don't have the required one-eighth tribal blood to be members."<sup>27</sup> At the same meeting of designated "preferred voters," tribal leaders banished eight members, depriving them of all tribal benefits, including the right to be on tribal land and the right to claim Indian identity.<sup>28</sup>

For purposes of the U.S. Census, the definition of who is an Indian is based on self-identification. In 2010, 2.78 million people identified themselves as American Indian or Alaska Native.<sup>29</sup> Only a small portion of people who self-identify, however, are registered members of a recognized Indian tribe.

### *Tribal Businesses' Tax Status*

In Washington, state and local governments are specifically prohibited by federal law from taxing any aspect of tribal gaming, whether it is a business and occupation tax on operations, or sales and use taxes for equipment. Also, no taxes are allowed on tribal gaming itself.

Some tribal businesses make limited impact mitigation payments to local governments to help cover the cost of community services. Unlike regular taxes paid by other citizens, however, these payments are voluntary, and the amount is negotiated between the tribal business owners and local governments.

Tribal business owners only make revenue-sharing and impact mitigation payments *after* their businesses have made a clear profit. In contrast, non-tribal business owners must pay the state Business and Occupation tax whether they make a profit or not.

### Policy Analysis

Non-tribal card rooms and mini-casinos are subject to the full array of business taxes: sales tax on food and beverages, business and occupation tax, sales tax on construction and equipment purchases, etc. Additionally, local governments can levy a tax of up to 20% on gross receipts from gambling. More than half of local jurisdictions that tax non-tribal card rooms impose a tax rate of around 10 or 11%.

Many tribes are moving beyond their traditional core business of operating casinos and game rooms and branching out into other industries. Already, more than 50 tribal gas stations are exempt from paying 75% of the state fuel tax (the tax is 37.5 cents per gallon), underselling non-tribal operators who cannot compete with tax-exempt prices. Proposals for future tribal businesses also include operating hotels and shopping malls without collecting state taxes, and opening a tax-exempt oil refinery to produce even cheaper gas for non-tribal consumers.

#### *The Indian Gaming Regulatory Act*

In 1988, Congress passed the Indian Gaming Regulatory Act prohibiting states from taxing tribal gaming revenues. However, tribes sometimes negotiate a voluntary profit-sharing agreement with states. This allows tribal leaders to mute public criticism about unequal tax treatment among businesses without giving up a valuable tax exemption.

In Washington, however, there is no profit-sharing agreement between the state and Indian tribes, as there is in most other states.

In 2005, the Washington State Gaming Commission reached a tentative agreement with the Spokane Tribe under which the tribe would pay a percentage of its gaming profits, based on a sliding scale, to the state general fund.<sup>30</sup>

This agreement never took effect. On October 27, 2005, Governor Gregoire sent a letter to the Gaming Commission canceling the proposed agreement and instructing state negotiators to start over.<sup>31</sup>

In 2007, she signed a new agreement with financial terms far more generous to the Spokane Tribe.<sup>32</sup> Under the new compact, the

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tribal members will retain between \$60 million and \$90 million over ten years, which, under the canceled agreement, would have been paid to the general fund and used to fund state programs.

The canceled 2005 Spokane Tribe agreement could have served as a model for agreements with the state's other casino-owning tribes. If the state had such profit-sharing agreements with these tribes, the state general fund in 2006 alone would have received between \$42 million and \$490 million, depending on the net profits of individual casinos.

The following table summarizes the legal and regulatory advantages of tribal-owned businesses.

<b>Comparison of Washington State Regulations and Taxes that Apply to Tribal Businesses and Non-tribal Businesses</b>		
	Tribal Businesses	Non-tribal Businesses
Must obey indoor smoking ban	No	Yes
Must obey 1964 Civil Rights Act	No	Yes
Must obey voter-approved initiatives	No	Yes
Pay gaming taxes	No	Yes
Pay Business & Occupation tax	No	Yes
Pay sales tax	No	Yes
Pay tobacco tax	No	Yes
Pay workers' compensation tax	No	Yes
Pay unemployment tax	No	Yes
Pay state gas tax	25%	100%
May offer slot machines	Yes	No
May offer Keno	Yes	No
May offer Craps	Yes	No
May offer Roulette	Yes	No
May offer Baccarat	Yes	Yes
Higher betting limit	Yes	No

### Recommendations

- 1. State leaders should negotiate an agreement with tribal casino owners so that a portion of gambling profits are paid into the state general fund in lieu of taxes, as is common in most other states.**

By not following through with the model agreement negotiated with the Spokane Tribe in 2005, state leaders are depriving the state of important additional revenue that could supplement spending on essential public services, like public education and health care.

They are also missing an opportunity to serve the public interest, because there is no policy in place to redress some of the imbalance between the favorable tax treatment enjoyed by tribal businesses and the high-tax environment in which all other business owners must operate.

- 2. Policymakers should set up a review of the relationship between the state and tribal businesses, especially in new areas of commerce, like gas stations, in which tribes compete against non-Indian citizens.** Policymakers should request a study to measure the economic and competitive impact of tax-free tribal businesses on non-tribal businesses in areas of commerce other than gambling. An objective assessment is needed to determine whether the special tax and regulatory treatment granted to tribal businesses is exceeding its intended purpose.

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### Additional Resources from Washington Policy Center, Available at [washingtonpolicy.org](http://washingtonpolicy.org)

“State Gives Away Gas Taxes to Indian Tribes,” by Mike Ennis, October 2011.

“Citizens’ Guide to Initiative 1098: To Establish a State Income Tax,” by Paul Guppy, September 2010.

“Report on 2010 Tax Increases in Washington State,” May 2010.

“Replacing the Business and Occupation Tax with a Single Business Tax,” by Jason Mercier and Carl Gipson, May 2010.

“Improving Tax Disclosure is the Next Step in the State’s Transparency Reforms,” by Jason Mercier, February 2009.

“Learning from the Past and Creating our Future” (keynote address at WPC’s 2008 Government Reform Conference), by David Walker, April 2008.

“Assessing the Impact of the 1% Property Tax Limit,” by Paul Guppy, February 2008.

“Review of Homestead Property Tax Proposals,” by Jason Mercier, February 2008.

“Citizens Guide to Initiative 960, The Taxpayer Protection Act,” by Jason Mercier, Policy Notes, 2007-16.

“New Tax Deferral Program Offers Little Hope to Hard-Pressed Homeowners,” by Paul Guppy, December 2007.

“The Taxpayer Protection Act, Take 2,” by Jason Mercier, September 2007.

“Failure to Enact Permanent 1% Limit Could Lead to \$1.5 Billion Property Tax Increase,” by Paul Guppy, March 2007.

“The Washington Policy Center Tax Cut Plan,” by Paul Guppy, January 2007.



“Getting to the Bottom of Initiative 920 (Death Tax Repeal),” by Carl Gipson, October 2006.

“Relying on Sin Taxes Reveals the Contradictions in the State Budget,” by John Barnes, June 2005.

“New Research Shows Voter-Passed Property Tax Limitation is Working,” 2005.

“Property Tax Limitation in Washington State,” by Paul Guppy, August 2003.

“The Economic Case against an Income Tax in Washington State,” by David G. Tuerck, John S. Barrett, Sorin Codreanu, May 2003.

“A Policy Guide for Budget Reform: Strategies for Improving State Government Services and Reducing the Deficit,” by Eric Montague, January 2003.

“Guiding Principles of a Fair and Effective Tax System,” by Paul Guppy, January 2002.

“State Income Taxes Increase Government Spending and Reduce Personal Income Growth,” by Eric Montague, June 2002.

### Endnotes

<sup>1</sup> The text in this section is adapted from “Principles of Sound Tax Policy,” by Dan Mitchell, Heritage Foundation, Washington, D.C., November 2001, “Guiding Principles of Taxation,” Tax Policy and Research, Montana Department of Revenue, October 2001, and “Some Underlying Principles of Tax Policy” by Richard K. Vedder and Lowell E. Galloway, Joint Economic Committee, United States Congress, Washington, D.C., September 1998.

<sup>2</sup> “Tax Reference Manual, Information on State and Local Taxes in Washington State,” Revenue Research Report, Department of Revenue, Olympia, January 2010, page 1, at [www.dor.wa.gov/docs/reports/2010/Tax\\_Reference\\_2010/TRM%202010%20-%20Entire%20Document.pdf](http://www.dor.wa.gov/docs/reports/2010/Tax_Reference_2010/TRM%202010%20-%20Entire%20Document.pdf).

<sup>3</sup> “Favorable Business Environment, Tax Climate,” Choose Washington, Washington State Department of Commerce, [www.choosewashington.com/why/favorable/Pages/default.aspx](http://www.choosewashington.com/why/favorable/Pages/default.aspx), August 26, 2010.

<sup>4</sup> “Best of the Northwest,” Special Advertising Section, *Fortune Magazine*, September 6, 2010.

<sup>5</sup> *Ibid.*

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<sup>6</sup> “2009 Business Climate Index,” by Joshua Barro, Staff Economist, Background Paper Number 58, The Tax Foundation, October 2008, page 5, at [www.taxfoundation.org/files/bp58.pdf](http://www.taxfoundation.org/files/bp58.pdf).

<sup>7</sup> Ibid., page 10.

<sup>8</sup> Ibid., page 5.

<sup>9</sup> “Income Tax Means Roller-Coaster Ride for Washington, Say Experts,” by Erik Smith, *Washington State Wire*, August 27, 2010, at [www.washingtonstatewire.com/home/4854-income\\_tax\\_means\\_roller\\_coaster\\_ride\\_for\\_washington\\_say\\_experts.htm](http://www.washingtonstatewire.com/home/4854-income_tax_means_roller_coaster_ride_for_washington_say_experts.htm).

<sup>10</sup> Ibid., quoting Don Boyd of the Nelson A. Rockefeller Institute of Government at the State University of New York at Albany.

<sup>11</sup> “Washington; Appropriations; General Obligation; Liquidity Facility,” Global Credit Portal, Standard and Poor’s, page 7, July 5, 2011, at [www.tre.wa.gov/documents/SnPBonds\\_Jul11.pdf](http://www.tre.wa.gov/documents/SnPBonds_Jul11.pdf).

<sup>12</sup> “Initiative Measure 1098, establishing a state income tax and reducing other taxes,” 2010 General Election Results, Office of the Secretary of State, November 29, 2010, at [www.vote.wa.gov/results/20101102/Initiative-Measure-1098-Concerning-establishing-a-state-income-tax-and-reducing-other-taxes.html](http://www.vote.wa.gov/results/20101102/Initiative-Measure-1098-Concerning-establishing-a-state-income-tax-and-reducing-other-taxes.html). The final election result was 35.85% voting “yes” and 64.15% voting “no”.

<sup>13</sup> “Business and Occupation Tax, Chapter 82.04 RCW,” Tax Reference Manual - 2010, Washington State Department of Revenue, page 113.

<sup>14</sup> “Business and Occupation Tax, History,” Tax Reference Manual - 2010, Washington State Department of Revenue, page 118.

<sup>15</sup> “Texas Franchise Tax,” Texas Comptroller of Public Accounts, at [www.window.state.tx.us/taxinfo/franchise/](http://www.window.state.tx.us/taxinfo/franchise/).

<sup>16</sup> Examples of taxing districts include: the state, county, city, road, school, public utility, library, port, water, fire, sewer, parks, flood zone, hospital, airport, ferry, cemetery, mosquito control, park-recreation, emergency medical, irrigation, cultural-arts, agricultural pest and urban apportionment. In all there are some 1,840 taxing districts in Washington.

<sup>17</sup> The three measures are: Referendum 47, passed November 1997 by 64% to 36%; Initiative 722, passed November 2000 by 56% to 44% (this initiative was later invalidated by the courts); and Initiative 747, passed November 2001 by 58% to 42%.

<sup>18</sup> The measure of inflation required under Referendum 47 was the Implicit Price Deflator reported by the United States Treasury every October.

<sup>19</sup> *Washington Citizens Action of Washington et. al. v. State of Washington and William Rice*, Director of the State Department of Revenue, King County Superior Court, Judge Mary E. Roberts, No. 05-2-02052-1 SEA, June 13, 2006.

<sup>20</sup> “Proposed Initiatives to the People – 2001,” text of Initiative 747, filed January 8, 2001, Index of Initiative and Referendum History and Statistics: 1914–2005, Office of the Washington Secretary of State, at [www.secstate.wa.gov/elections/initiatives/statistics.aspx](http://www.secstate.wa.gov/elections/initiatives/statistics.aspx).

<sup>21</sup> SB 5127, State property tax elimination,” Fiscal Note, Washington State Legislature, 2003 session, January 30, 2003, at [www.fortress.wa.gov/ofm/fnspublic/legsearch.asp?BillNumber=5127&SessionNumber=58](http://www.fortress.wa.gov/ofm/fnspublic/legsearch.asp?BillNumber=5127&SessionNumber=58).

<sup>22</sup> “Tax Reference Manual - 2010,” Washington State Department of Revenue, January 2010, at [www.dor.wa.gov](http://www.dor.wa.gov).

<sup>23</sup> “Number of Taxing Districts by Type – 2006 to 2010,” Table 11, Department of Revenue, [www.atdor.wa.gov/docs/reports/2010/property\\_tax\\_statistics\\_2010/table\\_11.pdf](http://www.atdor.wa.gov/docs/reports/2010/property_tax_statistics_2010/table_11.pdf).

<sup>24</sup> “Net Gambling Receipts for Gambling in Washington State in Fiscal Year 2011,” Tribal Gaming (estimated), Washington State Gambling Commission, Agency Overview, November 2011, at [www.wsgc.wa.gov/newsletters/brochure.pdf](http://www.wsgc.wa.gov/newsletters/brochure.pdf).

<sup>25</sup> “Tribal Membership List,” Bureau of Indian Affairs, Northwest Region, April 2010.

<sup>26</sup> “Who is considered a tribal member?” National Indian Gaming Commission, Frequently Asked Questions, Tribal Members, at [www.nigc.gov/AboutUs/FrequentlyAskedQuestions/tabid/57/Default.aspx#q\\_01](http://www.nigc.gov/AboutUs/FrequentlyAskedQuestions/tabid/57/Default.aspx#q_01), accessed October 25, 2011.

<sup>27</sup> “Snoqualmies banish eight, disenroll 60,” by Linda V. Mapes, *The Seattle Times*, April 28, 2008.

<sup>28</sup> Ibid.

<sup>29</sup> “Census 2010: Native American/Alaskan and Native Hawaiian Populations Show Growth,” Gregg Guedel, Native American Legal Update, May 9, 2011, at [www.nativelegalupdate.com/2011/05/articles/census-2010-native-americanalaskan-and-native-hawaiian-populations-show-growth/](http://www.nativelegalupdate.com/2011/05/articles/census-2010-native-americanalaskan-and-native-hawaiian-populations-show-growth/).

<sup>30</sup> Spokane Tribe and the State of Washington Class III Gaming Compact 2005, Appendix.

<sup>31</sup> Letter from Governor Christine Gregoire to Mr. Curt Ludwig, Chairman, Washington State Gaming Commission, October 27, 2005.

<sup>32</sup> “Governor Signs Spokane Tribal Gaming Compact, Washington State Gambling Commission, February 16, 2007, at [www.wsgc.wa.gov/docs/press\\_releases/spokane\\_compact\\_021607.pdf](http://www.wsgc.wa.gov/docs/press_releases/spokane_compact_021607.pdf).