



## Summary of Initiative 1634

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 1634. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

### BRIEF SUMMARY

- Prohibits a local government entity from imposing or collecting a tax, fee, or other assessment on groceries on or after January 15, 2018, subject to certain exceptions.

### BACKGROUND

#### Initiative 1634

Initiative 1634 was certified to the ballot on August 1, 2018. The ballot title and ballot measure summary prepared by the Attorney General and as amended by court order are as follows:

#### Ballot Title

Statement of Subject: Initiative Measure No. 1634 concerns taxation of certain items intended for human consumption.

Concise Description: This measure would prohibit new or increased local taxes, fees, or assessments on raw or processed foods or beverages (with exceptions), or ingredients thereof, unless effective by January 15, 2018, or generally applicable.

Should this measure be enacted into law? Yes [ ] No [ ]

#### Ballot Measure Summary

This measure would prohibit new or increased local taxes, fees, or assessments on raw or processed foods, beverages, or their ingredients, intended for human consumption except alcoholic beverages, marijuana products, and tobacco, unless they are generally applicable and meet specified requirements. Collection of local sales and use taxes, and of taxes, fees, and assessments on such raw or processed foods or beverages, or any ingredients thereof, that were in effect January 15, 2018, may continue.

## **Local Government Revenues**

Under the Washington State Constitution, taxing power is generally vested in the Legislature. Any tax requires authorization in state law. The state Constitution authorizes the Legislature to grant counties, cities, towns, or other municipal corporations the power to assess and collect taxes for local purposes. Under this authority, the Legislature has enacted statutes that permit local governments to impose certain taxes, such as property taxes, real estate excise taxes, and retail sales and use taxes. Because local governments' authority to tax comes from state statutes, the Legislature may prohibit local governments from taxing certain activities. For example, counties and cities are prohibited from levying a tax on net income.

In addition to collecting taxes, local governments may collect revenues in the form of fees, such as regulatory or user fees. Local governments impose fees under their constitutionally authorized police powers rather than under a legislative delegation of taxing authority. Examples of fees include utility customer fees, permit fees, and license fees.

## **Taxation of Food**

Washington's state retail sales tax generally excludes sales of food and food ingredients, but it does apply to certain categories of consumable items, including prepared food, soft drinks, bottled water, dietary supplements, alcoholic beverages, tobacco, marijuana, useable marijuana, and marijuana-infused products. Local retail sales taxes include the same exemptions for food and food ingredients.

## **SUMMARY**

### **Findings and Declaration**

The following findings and declaration are made regarding the taxation of groceries:

1. Access to food is a basic human need.
2. Keeping the price of groceries as low as possible improves access to food for all.
3. Taxing groceries is regressive and hurts Washingtonians of low and fixed income the most.
4. Working families in Washington pay a greater share of their family income in state and local taxes than their wealthier counterparts.
5. No local government entity may impose any new tax, fee, or other assessment that targets grocery items.

### **Prohibition on Local Taxation of Groceries**

A local government entity is prohibited from imposing or collecting any tax, fee, or other assessment on groceries on or after January 15, 2018, unless certain exceptions apply.

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## Exceptions

A local government entity may impose and collect a tax, fee, or other assessment on groceries if the tax, fee, or other assessment: (1) is generally applicable to a broad range of business and business activity; and (2) does not establish or rely on a classification related to or involving groceries or a subset of groceries for purposes of establishing or otherwise resulting in a higher tax rate due to such classifications.

A local government entity may continue to collect a tax, fee, or other assessment on groceries that is in effect as of January 15, 2018. However, such a tax, fee, or other assessment on groceries may not be increased in rate, scope, base, or otherwise, unless it: (1) is generally applicable to a broad range of business and business activity; and (2) does not establish or rely on a classification related to or involving groceries or a subset of groceries for purposes of establishing or otherwise resulting in a higher tax rate due to such classifications.

The prohibitions on imposition and collection of a tax, fee, or other assessment on groceries by a local government entity do not apply to a local government entity's imposition and collection of statutorily authorized local retail sales and use taxes.

## Definitions

"Groceries" means any raw or processed food or beverage, or any ingredient thereof, intended for human consumption, except alcoholic beverages, marijuana products, and tobacco.

"Local government entity" means a county, city, town, special district, municipal corporation, quasi-municipal corporation, joint municipal utility services authority, any entity created pursuant to an interlocal agreement, or public hospital.

"Tax, fee, or other assessment on groceries" includes, but is not limited to, a sales tax, gross receipts tax, business and occupation tax, business license tax, excise tax, privilege tax, or any other similar levy, charge, or exaction of any kind on groceries or the manufacture, distribution, sale, possession, ownership, transfer, transportation, container, use, or consumption thereof.

**Effective Date:** The initiative takes effect 30 days after the election at which it is approved.

**Staff Contact:** Cassie Jones (360-786-7303)