

Multiple Agency Fiscal Note Summary

Bill Number: 5129 SB	Title: Revenue
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Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Revenue	1,436,205,000	3,494,514,000	2,617,845,000	4,996,156,000	2,787,363,000	5,412,827,000
Total \$	1,436,205,000	3,494,514,000	2,617,845,000	4,996,156,000	2,787,363,000	5,412,827,000

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Financial Management	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	18.6	5,924,500	5,924,500	23.3	7,313,700	7,313,700	25.5	5,592,300	5,592,300
Total \$	18.6	5,924,500	5,924,500	23.3	7,313,700	7,313,700	25.5	5,592,300	5,592,300

Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Financial Management	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

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Prepared by: Kathy Cody, OFM	Phone: (360) 902-9822	Date Published: Revised 2/12/2019
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 55645

Individual State Agency Fiscal Note

Bill Number: 5129 SB	Title: Revenue	Agency: 105-Office of Financial Management
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Part I: Estimates

No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Jeffrey Mitchell	Phone: 360-786-7438	Date: 01/13/2019
Agency Preparation: Jim Jenkins	Phone: 360-902-0403	Date: 01/15/2019
Agency Approval: Aaron Butcher	Phone: 360-902-0406	Date: 01/15/2019
OFM Review: Bryan Way	Phone: (360) 902-0650	Date: 01/15/2019

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

While this is a OFM request bill, all activities described in this bill are to be conducted by the Department of Revenue.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Department of Revenue Fiscal Note

Bill Number: 5129 SB	Title: Revenue	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
GF-STATE-State 00 - 00 -		950,608,000	950,608,000	2,086,705,000	2,197,568,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	239,598,000	245,999,000	485,597,000	531,140,000	589,795,000
Education Legacy Trust Account-State 01 - Taxes 05 - Bus and Occup Tax	958,393,000	1,099,916,000	2,058,309,000	2,378,311,000	2,625,464,000
Total \$	1,197,991,000	2,296,523,000	3,494,514,000	4,996,156,000	5,412,827,000

Estimated Expenditures from:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	17.4	19.8	18.6	23.3	25.5
GF-STATE-State 001-1	2,463,000	3,461,500	5,924,500	7,313,700	5,592,300
Total \$	2,463,000	3,461,500	5,924,500	7,313,700	5,592,300

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Jeffrey Mitchell	Phone: 360-786-7438	Date: 01/13/2019
Agency Preparation: Sara del Moral	Phone: 360-534-1525	Date: 02/12/2019
Agency Approval: Kim Davis	Phone: 360-534-1508	Date: 02/12/2019
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 02/12/2019

Request # 5129-3-3

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

NOTE: This fiscal note reflects a revision to the capital gains tax portion of the revenue impacts, and supersedes fiscal note number 5129-2.

PART I - CAPITAL GAINS TAX

CURRENT LAW:

There is no capital gains tax under current law.

PROPOSAL:

Beginning January 1, 2020, a tax is imposed on all individuals for the privilege of selling or exchanging long-term capital assets, or of receiving Washington capital gains. The tax equals 9.0 percent multiplied by the individual's Washington capital gains.

Deductions allowed in determining the tax are:

- \$25,000; or
- \$50,000 for individuals filing joint returns.

The capital gains tax does not apply to gains from the sale or exchange of the following:

- Any residential dwelling with three or fewer units.
- Retirement accounts.
- Assets subject to eminent domain or the imminent threat of eminent domain.
- Cattle, horses, or breeding livestock held for more than 12 months by qualifying farmers.
- Agricultural land by an individual who has regular, continuous, and substantial involvement in the agriculture under the criteria for material participation in Internal Revenue Code (IRC) section 469(h) for the 10 years prior to the date of the sale or exchange.
- Property used in a business if the property qualifies for an income tax deduction under IRC sections 167 or 179.
- Timber and timberland, including the cutting or disposal of timber qualifying for capital gains treatment under IRC section 631(a) or (b). This exemption also applies to the receipt of Washington capital gains as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber or timberland.

Rules of allocation:

- Adjusted capital gains from the sale or exchange of real property are allocated to this state if the real property or a majority of the fair market value of the real property is located in this state at the time of sale or exchange.
- Adjusted capital gains from the sale or exchange of tangible personal property are allocated to this state if either:
 1. The property was located in this state at the time of the sale or exchange; or
 2. The property was not located in this state at the time of the sale or exchange but:
 - a. The property was located in the state at any time during the taxable year in which the sale or exchange occurred or the immediately preceding taxable year;
 - b. The taxpayer was a Washington resident at the time of the sale or exchange; and
 - c. The taxpayer is not subject to the payment of an income or excise tax on the adjusted capital gains to another jurisdiction.
- Adjusted capital gains from the sale or exchange of intangible personal property are allocated to this state if the taxpayer was domiciled in this state at the time of sale or exchange.

Individuals are allowed a credit equal to the amount of tax paid to another taxing jurisdiction on capital gains derived from

sources within the other taxing jurisdiction to the extent the capital gains are included in the measure of the Washington capital gains tax.

A business and occupation (B&O) tax deduction is created to avoid taxing the same amounts under both the B&O and capital gains taxes.

Washington capital gains tax returns and payments are due at the same time that the taxpayer's federal income tax return for the taxable year is due. Individuals receiving a federal tax filing extension also qualify for a state capital gains tax filing extension, but the tax is still due on the original filing date.

A statutory deduction is provided for amounts that the state is prohibited from taxing under federal law or the constitutions of the United States or state of Washington.

EFFECTIVE DATE

January 1, 2020

PART II: B&O RATE INCREASE FOR CERTAIN SERVICE CLASSIFICATIONS

CURRENT LAW:

Persons that engage in business activities in this state are subject to the business and occupation (B&O) tax imposed on gross income of the business, gross proceeds of sales, or the value of products. Businesses that engage in more than one type of activity in Washington may fall under more than one reporting classification and may be subject to more than one B&O tax rate. There are 12 B&O tax rates that apply to 55 reporting classifications. Many small businesses pay no B&O tax as a result of the small business B&O tax credit and annual gross income filing threshold.

The service and other activities classification applies to income from:

- Many service activities, such as medical, architectural, legal, janitorial, and solid-waste collection services, and
- Activities that are not specifically taxed under another B&O tax classification, such as charging late fees to customers, granting a license to use real property, and operating a movie theater (admission charges).

PROPOSAL:

This proposal imposes a 1.0 percentage-point increase in the B&O tax rate for certain businesses. The rate increases from 1.5% to 2.5% for firms reporting under these classifications:

- Service and other activities.
- Real estate brokers.
- Gambling contests of chance with annual gross revenues under \$50,000 a year.

For gambling contests of chance operators with annual gross revenues of at least \$50,000 a year, the rate increases from 1.63% to 2.63%.

The additional rate does not apply to hospitals or to firms that perform scientific research and development services.

Revenues resulting from the additional rate are deposited as follows:

- 80 percent to the Education Legacy Trust Account.
- 20 percent to the State General Fund.

EFFECTIVE DATE

July 1, 2019

PART III: MISCELLANEOUS PROVISIONS

The tax preferences in this legislation are not subject to the transparency and 10-year expiration date provisions of RCW 82.32.805 and 82.32.808.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS:

Approximately 42,000 taxpayers pay capital gains taxes for taxes due in 2021.

- The law takes effect on January 1, 2020, and the first annual returns are due April 15, 2021.
- No estimated payments or withholdings are made during the year.
- Compliance is 90 percent in the first year and 95 percent thereafter.
- Capital gains (CG) adjustment & growth rate: We assume the base year CG is equal to the 10-year average CG.
- Growth rate in CG, 10-year average: We assume the growth rate is the lesser of the following two values:
 - 1) The average growth rate for 10-year avg. CG for the last 10 years, and
 - 2) The growth rate predicted using the growth rates for 10-year average equities.

Approximately 50% of capital gains subject to this tax are also taxable under the B&O tax, and therefore qualify for a deduction.

Five percent of pass-through gains/losses reported as capital gains to the IRS qualify for an exemption.

DATA SOURCES:

- Internal Revenue Service (IRS) - Personal income tax returns data, Federal Tax Year 2016, source for capital gains amounts.
- IRS / Statistics of Income (SOI) - Capital Gains summary statistics, 2010 to 2012, source for asset types yielding CG.
- WA Department of Revenue - Business & occupation tax summary statistics, 2017, source for industry types
- I.H.S. / Global Insights, November 2018 forecast, source for equities growth rate
- OFM population growth forecast, November 2017, source for returns growth rate

PART II: B&O RATE INCREASE FOR CERTAIN SERVICE CLASSIFICATIONS

ASSUMPTIONS:

- Approximately 175,000 taxpayers are affected.
- Growth rate will mirror the B&O tax growth rate reflected in the Economic & Revenue Forecast Council's November 2018 forecast.
- There are 11 months of cash collections for Fiscal Year 2020 due to July 1, 2019, effective date.
- Revenues as estimated assume passage of the proposal by April 30, 2019, allowing a full 60 days to implement.
- The increased rate does not apply to the taxable activities of hospitals and firms that perform scientific research and development services. This fiscal note has been updated to reflect reporting by these firms under the general service and other activities classification.

DATA SOURCES:

Economic & Revenue Forecast Council's November 2018 Forecast

REVENUE ESTIMATES

This legislation will increase state revenues by an estimated \$3.59 billion in the 2019-21 Biennium.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2020 -	\$ 1,197,991
FY 2021 -	\$ 2,296,523
FY 2022 -	\$ 2,444,773
FY 2023 -	\$ 2,551,383
FY 2024 -	\$ 2,653,291

Local Government, if applicable (cash basis, \$000): None

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS:

- The capital gains tax portion of this bill affects 42,000 taxpayers.
- Taxpayers will not be required to make estimated payments.
- The service and other activities business and occupation tax portion of this bill affects 175,000 taxpayers.

FIRST YEAR COSTS:

The Department will incur total costs of \$2,463,000 in Fiscal Year 2020. These costs include:

Labor Costs - Time and effort equates to 17.44 FTEs.

- Provide technical advice, interpretation and analysis during the implementation process.
- Program, setup, test and verify computer systems to accept taxpayer returns and other required information and process reporting information for collection, audit, and refund purposes.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
- Update and maintain hard copy and online educational and informational materials.
- Create and present taxpayer workshops and education.
- Create a special notice and update website and published information.
- Adopt two new administrative rules.

Object Costs - \$1,049,200.

- Purchase additional server equipment.
- Print and mail a special notice to affected taxpayers.
- Print informational booklets regarding the capital gains tax.
- Print and mail correspondence.
- Contract computer system programming.

SECOND YEAR COSTS:

The Department will incur total costs of \$3,461,500 in Fiscal Year 2021. These costs include:

Labor Costs - Time and effort equates to 19.8 FTEs.

- Provide technical advice and interpretation services.
- Program, setup, test and verify computer systems to accept taxpayer returns and other required information and process reporting information for collection, audit, and refund purposes.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
- Update and maintain hard copy and online educational and informational materials.
- Ongoing taxpayer workshops and education.
- Establish new reporting accounts for capital gains taxpayers.
- Resolve error and out of balance returns, conduct desk audits, prepare refunds and assessments.
- Collect delinquent assessments as a result of return errors.
- Hear additional administrative reviews.

Object Costs - \$1,863,200.

- Contract services for computer systems to handle capital gains tax reporting by individuals.

- Print informational booklets regarding the capital gains tax.
- Print and mail returns, assessments, penalty waivers, amended returns, refunds, and correspondence.
- Tax warrant filing fees and postage.
- Legal assistance from the Office of the Attorney General.

ONGOING COSTS:

Ongoing costs for the 2021-23 Biennium equal \$7,313,700 and include similar activities described in the second year costs. Time and effort equates to 23.25 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	17.4	19.8	18.6	23.3	25.5
A-Salaries and Wages	1,087,600	1,229,500	2,317,100	2,718,300	2,934,400
B-Employee Benefits	326,200	368,800	695,000	815,500	880,200
C-Professional Service Contracts	577,000	1,500,000	2,077,000	3,000,000	1,000,000
E-Goods and Other Services	318,700	280,300	599,000	629,800	636,300
G-Travel				7,100	13,000
J-Capital Outlays	153,500	82,900	236,400	143,000	128,400
Total \$	\$2,463,000	\$3,461,500	\$5,924,500	\$7,313,700	\$5,592,300

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
ADM ASST 3	39,984		0.1	0.1	0.1	0.1
COMMUNICATIONS CNSLT 4	60,636	0.5	0.3	0.4		
EMS BAND 4	115,593	0.0		0.0		
EMS BAND 5	135,039	0.0		0.0		
EXCISE TAX EX 2	51,000		6.0	3.0	8.0	8.0
EXCISE TAX EX 3	56,256		1.0	0.5	2.0	2.0
EXCISE TAX EX 4	62,148	1.0	1.0	1.0	1.0	1.0
FISCAL ANALYST 3	52,332		0.1	0.1	0.1	0.1
FORMS AND RECORDS ANALYST 3	48,480	0.5		0.3		
INFO TECH S/A S 6	85,668	1.0	1.0	1.0	0.5	0.5
IT SPEC 3	63,684	0.5		0.3		
IT SPEC 4	70,320	1.1	1.0	1.1	0.5	0.5
IT SPEC 5	77,616	1.0	1.0	1.0	0.5	0.5
MGMT ANALYST1	45,096	0.0		0.0		
MGMT ANALYST4	63,684	1.0		0.5		
OFF ASST 2	31,656		0.1	0.1	0.1	0.1
REVENUE AGENT 2	52,332				1.6	4.5
REVENUE AGENT 3	57,708				1.0	1.0
REVENUE AGENT 4	60,636				1.0	1.0
TAX INFO SPEC 1	40,908	5.0	2.0	3.5	2.0	2.0
TAX INFO SPEC 2	43,968					
TAX INFO SPEC 3	53,592					
TAX INFO SPEC 4	60,636	2.0	2.0	2.0	1.5	1.0
TAX POLICY SP 2	68,580	0.0		0.0		
TAX POLICY SP 3	77,616	2.4	2.7	2.6	2.0	1.9
TAX POLICY SP 4	83,556	0.3	0.5	0.4	0.4	0.3
WMS BAND 2	86,425	1.0	1.0	1.0	1.0	1.0
WMS BAND 3	98,308	0.0		0.0		
Total FTEs		17.4	19.8	18.6	23.3	25.5

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Should this legislation become law, the Department will adopt two new rules under 458-20 WAC, one using the complex process and one using the standard process. Persons affected by this rule making would include service professionals, including lawyers, doctors, and investment fund managers; high-income earners; and persons with significant investments in equities and other capital assets.