Multiple Agency Fiscal Note Summary

Bill Number: 3204 HB	Title: State excise tax laws

Estimated Cash Receipts

Agency Name	2009-11		2011-13		2013-15	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of State Treasurer	0	0	(36,000,000)	0	(36,000,000)	0
Department of Revenue	966,097,000	1,045,050,000	2,043,554,000	2,197,301,000	2,202,977,000	2,530,907,000
Department of Licensing	Non-zero but indeterminate cost. Please see discussion."					
Department of Transportation	0	124,000	0	246,000	0	246,000
Total $	**966,097,000**	**1,045,174,000**	**2,007,554,000**	**2,197,547,000**	**2,166,977,000**	**2,531,153,000**

Local Gov. Courts *						
Local Gov. Other **	Fiscal note not available					
Local Gov. Total						

Estimated Expenditures

Agency Name	2009-11			2011-13			2013-15		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	20.1	4,292,000	4,292,000	20.6	3,432,800	3,432,800	17.3	2,785,000	2,785,000
Department of Licensing	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Transportation	.0	0	861,000	.0	0	1,786,000	.0	0	1,867,500
Department of Ecology	4.7	0	1,284,465	16.7	0	3,664,398	25.0	0	5,173,885
Puget Sound Partnership	.0	0	0	.0	0	0	.0	0	0
Total	**24.8**	**$4,292,000**	**$6,437,465**	**37.3**	**$3,432,800**	**$8,883,198**	**42.3**	**$2,785,000**	**$9,826,385**

Local Gov. Courts *									
Local Gov. Other **	Fiscal note not available								
Local Gov. Total									

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 27095

Estimated Capital Budget Impact

Agency Name	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Department of Ecology						
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	46,000,000	45,000,000	46,000,000	105,000,000	106,000,000
Total $	**$0**	**$46,000,000**	**$45,000,000**	**$46,000,000**	**$105,000,000**	**$106,000,000**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projeciton showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

Prepared by: Ryan Black, OFM	Phone: 360-902-0417	Date Published: Pending Distribution

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 27095

Individual State Agency Fiscal Note

Bill Number: 3204 HB	Title: State excise tax laws	Agency: 090-Office of State Treasurer

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT	FY 2010	FY 2011	2009-11	2011-13	2013-15
General Fund-State 001-1				(36,000,000)	(36,000,000)
Tobacco Prevention and Control Account-State 828-1				36,000,000	36,000,000
Total $					

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
Account					
Total $					

Estimated Capital Budget Impact:

Total $						

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:

- [X] 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:		Phone:	Date: 03/02/2010
Agency Preparation:	Dan Mason	Phone: 360-902-9090	Date: 03/11/2010
Agency Approval:	Dan Mason	Phone: 360-902-9090	Date: 03/11/2010
OFM Review:	Mike Steenhout	Phone: 360-902-0554	Date: 03/11/2010

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.

HB 3204 directs the state treasurer to transfer, by July 1, 2011 and by July 1st of each year thereafter, eighteen million dollars from the general fund into the tobacco prevention and control account.

This bill also creates the clean water legacy fund, the storm water account, and the water quality action account. Earnings from investments will be credited to the general fund.

Earnings from investments:
Estimated earnings from investments are indeterminable. Without projected cash flows, OST is unable to estimate the earnings from investments. The amount of earnings by an account is a function of the average daily balance of the account and the earnings rate of the investment portfolio. The average daily balance is a function of the beginning balance in the account and the timing & amount of receipts, disbursements, & transfers during the time period in question. Accordingly, even with a beginning balance of zero, two accounts with the same overall level of receipts, disbursements, and transfers can have different average daily balances, and hence different earnings.

Based on the February 2010 Revenue Forecast, the net rate for estimating earnings for FY 11 is 0.82%, FY 12 is 2.01%, and FY 13 is 3.14%. Approximately $8,200 in FY 11, $20,100 in FY 12, and 31,400 in FY 13 in net earnings and $5,000 in OST management fees would be gained or lost annually for every $1 million increase or decrease in average daily balance.

Debt Limit:
There may be an impact on the debt service limitation calculation. Any change to the earnings credited to the general fund will change, by an equal amount, general state revenues.

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.

HB 3204 directs the state treasurer to transfer, by July 1, 2011 and by July 1st of each year thereafter, eighteen million dollars from the general fund into the tobacco prevention and control account.

This bill also creates the clean water legacy fund, the storm water account, and the water quality action account. Earnings from investments will be credited to the general fund.

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

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years					
Total:					

Part IV: Capital Budget Impact

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: 3204 HB	Title: State excise tax laws	Agency: 140-Department of Revenue

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2010	FY 2011	2009-11	2011-13	2013-15
GF-State-State 00 - 00 -	17,550,000	104,396,000	121,946,000	207,232,000	205,277,000
GF-State-State 01 - Taxes 01 - Retail Sales Tax	32,534,000	239,781,000	272,315,000	554,976,000	669,847,000
GF-State-State 01 - Taxes 05 - Bus and Occup Tax	43,146,000	250,895,000	294,041,000	720,129,000	919,466,000
GF-State-State 01 - Taxes 12 - Hazardous Substnc Tx	10,668,000	157,133,000	167,801,000	324,701,000	168,674,000
GF-State-State 01 - Taxes 25 - Cigarette Tax		81,054,000	81,054,000	172,853,000	171,970,000
GF-State-State 01 - Taxes 26 - Other Tobacco Tax		12,115,000	12,115,000	27,879,000	28,504,000
GF-State-State 01 - Taxes 36 - PUD Privilege Tax	848,000	5,248,000	6,096,000	13,451,000	14,270,000
GF-State-State 01 - Taxes 57 - Real Estate Excise	767,000	9,962,000	10,729,000	22,333,000	24,969,000
Publ Works Assist-State 01 - Taxes 57 - Real Estate Excise	51,000	659,000	710,000	1,477,000	1,653,000
Educ Legacy Trust-State 01 - Taxes 25 - Cigarette Tax		64,000	64,000	548,000	726,000
City County Asst-State 01 - Taxes 57 - Real Estate Excise	13,000	185,000	198,000	418,000	466,000
Motor Veh Acct-State 01 - Taxes 12 - Hazardous Substnc Tx	779,000	11,478,000	12,257,000	23,735,000	49,176,000
Puget Sound Recovery Account-State 01 - Taxes 12 - Hazardous Substnc Tx	319,000	4,706,000	5,025,000	11,393,000	22,129,000
Oil Spill Prevention-State 01 - Taxes 12 - Hazardous Substnc Tx	382,000	5,624,000	6,006,000	8,545,000	8,851,000
Performance Audit-State 01 - Taxes 01 - Retail Sales Tax	81,000	558,000	639,000	1,297,000	1,507,000
NEW-State 01 - Taxes 12 - Hazardous Substnc Tx	3,117,000	45,912,000	49,029,000	94,941,000	221,293,000
NEW2-State 01 - Taxes 12 - Hazardous Substnc Tx	319,000	4,706,000	5,025,000	11,393,000	22,129,000
Total $	110,574,000	934,476,000	1,045,050,000	2,197,301,000	2,530,907,000

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	10.1	30.2	20.1	20.6	17.3
Account					
GF-STATE-State 001-1	1,640,900	2,651,100	4,292,000	3,432,800	2,785,000
Total $	1,640,900	2,651,100	4,292,000	3,432,800	2,785,000

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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.

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[ ] Capital budget impact, complete Part IV.

[X] Requires new rule making, complete Part V.

Legislative Contact:		Phone:	Date: 03/02/2010
Agency Preparation:	Diana Tibbetts	Phone: 360-570-6085	Date: 03/10/2010
Agency Approval:	Don Gutmann	Phone: 360-570-6073	Date: 03/10/2010
OFM Review:	Ryan Black	Phone: 360-902-0417	Date: 03/10/2010

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.

This fiscal note reflects the language in HB 3204 - Modifying Washington state excise tax laws.

Part I - Minimum Nexus Standards

Part I of this bill would establish, for B&O tax purposes, nexus standards in statute and a single sales factor apportionment method for many service businesses and businesses receiving royalty income from the use of intangible property in this state.

BACKGROUND:

A tax on businesses engaging in interstate commerce is valid under the Commerce Clause of the United States Constitution as long as it:

(1) Is applied to an activity with a substantial nexus with the taxing state;
(2) Is fairly apportioned;
(3) Does not discriminate against interstate commerce; and
(4) Is fairly related to the services provided by the state.

This part relates to the nexus and apportionment requirements.

With respect to nexus, Washington does not at present impose B&O tax on businesses that conduct business in this state unless they have a physical presence in the state, such as tangible personal property or real property, or have either employees or non-employee representatives enter the state for business reasons. However, a number of states have successfully asserted that nexus is established by intentionally entering the state's marketplace to engage in business without physically entering the state. This is sometimes referred to as "economic nexus."

At least thirty states currently apply some form of economic nexus, and case law trends have shown a strong move toward judicial approval of economic nexus standards for the imposition of taxes on business income. It is important to note that the constitutionality of economic nexus is not definitively settled. Some tax practitioners argue that physical presence is required by the U.S. Constitution for all state taxes, but the vast majority of state case law upholds economic nexus for business activity taxes. The federal courts have not ruled directly on the issue, but the U.S. Supreme Court has refused on at least six occasions to review state court rulings sustaining economic nexus.

With respect to apportionment, most service businesses that engage in business both within and without Washington are eligible to use a cost apportionment method. The cost apportionment method assigns a portion of worldwide service income to Washington based on a ratio of the cost of doing business in Washington as compared to the total cost of doing business worldwide. Financial institutions use a three-factor apportionment formula, which is the average of three ratios: (1) property in Washington compared to property everywhere, (2) payroll in Washington compared to payroll everywhere, and (3) receipts sourced to Washington compared to worldwide receipts. Royalty income is not apportioned in this state. Rather, royalties are allocated to the domicile of the taxpayer. Businesses that are domiciled outside of Washington, but authorize the use of their intangible property in Washington, do not pay any B&O taxes in Washington on royalties received from the use of their intangible property in this state. This has led some Washington-domiciled taxpayers to transfer their intangible assets to wholly-owned subsidiaries whose sole place of business is outside of Washington. Sometimes these subsidiaries are domiciled in states, such as Nevada, that do not tax income from the use of intangibles.

Many states have been moving to a sales-only formula for apportioning income. In general, a sales-only apportionment formula would reduce taxes for in-state businesses that sell mostly to out-of-state customers.

SUMMARY OF PART I:

This proposal establishes nexus standards in statute for the B&O tax. Under the bill, a person has nexus if:
- The person is an individual who is a resident or domiciliary of this state,
- The person is a business entity that is organized or commercially domiciled in this state, or
- The person is a nonresident individual or a business entity that is organized or commercially domiciled outside of this state and in any tax year the business has:
    - More than $50,000 dollars of property in this state,
    - More than $50,000 of payroll in this state,
    - More than $500,000 of receipts from this state, or
    - At least 25 percent of the business's total property, total payroll, or total receipts are in this state.

The dollar thresholds above will be adjusted by the consumer price index (CPI) whenever the cumulative change in the CPI reaches five percent. A person who has nexus with this state in any tax year will be deemed to have nexus with this state for the following four tax years.

Even though a business may have nexus by having more than $500,000 of receipts from this state or at least 25 percent of its total receipts from this state, the business will not be required to pay B&O taxes on certain activities unless it has a physical presence. Those activities for which a physical presence is required for B&O tax purposes include: retail sales, wholesale sales, manufacturing, processing for hire, extracting, extracting for hire, printing, public road construction and other construction activities that are not considered retail or wholesale sales, certain warehousing activities, radio and television broadcasting, day care providers, and chemical dependency services.

This part also establishes a single factor apportionment method based on receipts. Under this apportionment method, a business determines the portion of its income taxable in this state by multiplying its taxable income by a fraction. The numerator of the fraction is gross income assigned to Washington, and the denominator is the business's total gross income. In general, gross income is assigned to Washington if the benefit of the service or, in the case of royalties, the intangible property is located in this state. If a business is unable to assign gross income using this method, the bill provides other methods for determining the location of gross income. The bill also provides very detailed provisions governing how financial institutions determine the location of their gross income.

The apportionment method provided in this bill is available primarily for businesses that report under the "service and other activities" B&O tax classification or the "royalties" B&O tax classification. It also applies to several other tax classifications including real estate brokers, insurance agents, travel agents and tour operators, and the printing and publishing classification-but only to the extent of income that would otherwise be apportionable if the printing and publishing classification did not exist (advertising income, for example).

This part also amends RCW 82.04.2907, the statute imposing B&O tax on royalties. The amendments: (1) make technical changes, and (2) extend royalty tax treatment to compensation received for the licensing of digital goods, digital codes, or digital automated services (digital products) to a person who is not the end user of the digital product.

If a court holds the nexus provisions unconstitutional or otherwise invalid, Part I is null and void in its entirety. Part I takes effect July 1, 2010, and applies to gross income generated on and after July 1, 2010. However, for purposes of determining nexus under the property, payroll, and receipts factors for the 2010 tax year, property, payroll, and receipts are based on the entire 2010 tax year.

Part II - Abusive Tax Transactions

Part II addresses provisions or ambiguities in current law, which taxpayers use to avoid paying B&O tax, sales and use taxes, and real estate excise taxes (REET).

Sections 201 through 203 of this bill provide the Department of Revenue (Department) with tools to invalidate tax avoidance transactions and assess a 35 percent penalty when the taxpayer engages in a tax avoidance transaction. A tax avoidance transaction means the avoidance of any tax collected by the Department under chapter 82.32 RCW by means of a transaction, plan, or arrangement that disguises income received, property purchased, or services received from or to a person not affiliated with the taxpayer.

Affiliated means under common control. Control means the possession of more than 50 percent of the power to direct or cause the direction of the management of a person.

As resources allow, the Department must adopt rules to assist in determining when to disregard the form of a transaction or series of transactions. In adopting rules, the Department may consider several judicial doctrines.

The bill also requires the Department to conduct a review of the state's tax policy with respect to the taxation of transactions between affiliated entities.

Section 205 of the bill imposes use tax on the use of tangible personal property acquired by the user in any manner, including through a step transaction. Under current law, use tax on tangible personal property applies only when tangible personal property is acquired through a purchase at retail, lease, gift, repossession, bailment, or is extracted or manufactured by the user, or is furnished to a person engaged in any business taxable under RCW 82.04.280(2) or (7) (certain public road and government construction activities). Use tax does not apply to the use of tangible personal property acquired in a step transaction. An example of a step transaction involves a business creating a subsidiary entity, transferring tangible assets to the subsidiary, transferring ownership of the subsidiary to another business (the acquiring business), followed by a merger of the acquired subsidiary into the acquiring business.

Part II of the bill also closes loopholes and clarifies ambiguities related to REET. Currently, payment of the REET may be avoided on the transfer of a controlling interest (at least a 50 percent interest) in an entity that owns real property where it takes longer than 12 months to transfer the controlling interest. This can be done by transferring a less than 50 percent ownership interest plus an option to acquire the remaining interest in the entity more than 12 months after the option was granted. Another way to avoid REET is to create a wholly-owned subsidiary, transfer real property to that subsidiary, and the subsidiary transfers real property followed by the dissolution of the subsidiary before the REET is paid. If the buyer has provided written notice of the sale within 30 days of the sale, the buyer is not liable for the tax. And the Department cannot pursue the seller for the tax, because the seller does not exist anymore.

In the case of the transfer or acquisition of publicly traded corporations, it could be argued that the "seller" liable for REET is the individual shareholders of the corporation in which a controlling interest was transferred.

The bill provides that, for the sole purpose of determining whether, pursuant to the exercise of an option, a controlling interest was transferred or acquired within a 12-month period, the date that the option agreement was executed is the date on which the transfer or acquisition of the controlling interest is deemed to occur. However, REET is due on the transfer or acquisition of a controlling interest pursuant to the exercise of an option on the date the option is exercised.

When there is a taxable sale resulting from the transfer or acquisition of a controlling interest in an entity, this bill allows the Department to enforce the obligation of the seller for payment of REET as follows:

- When the transfer or acquisition is of a corporation, the Department may collect the tax from either the corporation in which the controlling interest was transferred, the person or persons who acquired the controlling interest, or, except when the corporation is a publicly traded corporation, the person or persons who transferred the controlling interest.
- When the seller is a partnership, association, trust, or other entity, the Department may collect the tax from either the entity in which the controlling interest is transferred or acquired or the person or persons who transferred or acquired the controlling interest in the entity.

Part II of the bill establishes that the seller liable for REET is the parent of a wholly owned subsidiary when the subsidiary is the transferor to a third party transferee and the subsidiary dissolves before REET is paid on the transfer.

In addition, Part II clarifies that when there is a sale by reason of the transfer or acquisition of a controlling interest in an entity owning real property in this state, the REET is a lien on the real property in this state owned by the entity in which a controlling interest has been transferred or acquired from the date of sale until the tax is paid.

This part of the bill will take effect April 1, 2010. Section 201 of this bill applies to tax periods beginning January 1, 2006.

Part III - Placing a Cap On the First Mortgage Deduction

Currently, financial businesses are allowed to deduct from their B&O tax amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties (RCW 82.04.4292). This part of the bill specifically defines what is deductable and what is not deductable. Part III also limits the amount that may be deducted by any business to $35 million per calendar year.

Part IV - Modifying the Nonresident Sales Tax Exemption

This part repeals the nonresident sales tax exemption in RCW 82.08.0273. This exemption currently applies to sales of tangible personal property and digital products for use outside the state to qualified nonresidents. The nonresident must be a resident of a state or possession or Province of Canada that does not impose a sales or use tax of three percent or more or, if imposing a sales or use tax of three percent or more, exempts Washington residents from its tax.

Part V - Direct Seller Business and Occupation Tax Exemption

Current law (RCW 82.04.423) provides exemption from the B&O tax for sales by certain out-of-state-persons to or through seller's representatives. The Department' position had been that the "direct seller" exemption was limited to those businesses who sell their products exclusively through "door to door" type sellers, and not in permanent retail establishments (stores). A recent Washington Supreme Court decision expands the exemption to businesses whose products are sold in stores.

This bill proposes to:
1) Eliminate the exemption in its entirety effective July 1, 2010; and
2) Revise the definition of "direct seller's representative" to conform to the Department's interpretation of the exemption as noted above. This change applies retroactively to tax periods before April 1, 2010.

Part VI - Business and Occupation Tax Preferences for Manufacturers of Products Derived from Certain Agricultural Products

Part VI of the bill changes the application of the B&O tax to manufacturers and wholesalers of certain meat products, meat byproducts, or fruit and vegetable products by clarifying and narrowing the definitions of activities that are subject to the preferential tax treatment.

Currently, processors of perishable meat products receive a reduced B&O tax rate of 0.138 percent. A 2005 decision by the Washington Supreme Court held that this reduced B&O tax rate applied to the processing of perishable meat into a nonperishable finished product.

Current law also provides a B&O tax exemption for canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables. Beginning July 1, 2012, this exemption is replaced with a reduced B&O tax rate for these activities.

This legislation modifies the activities eligible for the reduced B&O tax rate for processing perishable meat products by requiring that the end product be: a perishable meat product; a nonperishable meat product that is comprised primarily of animal carcass by weight or volume, other than a canned meat product; or a meat by-product manufactured in a rendering plant.

This legislation also modifies the B&O tax preferences for canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables by requiring the end product to be:
- Comprised exclusively of fruits, vegetables, or both fruits and vegetables, or
- Comprised of fruits, vegetables, or both fruits and vegetables, where the amount of all ingredients contained in the product, other than fruits, vegetables, and water, does not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

Part VII- Suspending the Sales and Use Tax Exemptions for Livestock Nutrients Equipment and Facilities

Current law provides a retail sales and use tax exemption for the purchase and use of certain equipment and services related to the management of livestock nutrients. Eligible operations include licensed dairies with a certified dairy nutrient plan, animal feeding operations that have a waste disposal permit issued under RCW 90.48, and animal feeding operations that have a nutrient management plan approved by a conservation district meeting certain requirements. This part of the bill temporarily repeals this exemption between July 1, 2010 and June 30, 2015. A July 1, 2020 expiration date is added to the sales and use tax exemptions statutes.

Part VIII- Ending the Preferential Business and Occupational Tax Treatment Received by Directors of Corporations

Beginning April 1, 2010, compensation received by members of corporate boards of directors is taxed under the service and other activities B&O tax classification at a rate of 1.5 percent. An exemption is provided retroactively for director compensation received before July 1, 2010.

Part IX - Airplane Excise Tax

This part of the bill replaces the existing aircraft excise tax, which is a flat amount depending on the type of aircraft, with an excise tax of 0.5 percent of the value of the non-commercial aircraft.

Part X - Public Utility Tax on Interstate Hauls

The transportation of persons or property is generally subject to the state public utility tax (PUT). However, the Department of Revenue and its predecessor, the Tax Commission, have always treated the transportation of persons or property across the state's borders as exempt from tax. This tax treatment originally reflected the United States Supreme Court's interpretation of Commerce Clause of the United States Constitution, at the time the PUT was established, as barring a direct tax on gross receipts from interstate transportation. However, the Supreme Court's current Commerce Clause jurisprudence does allow the taxation of interstate business activity as long as the tax is applied to an activity with a substantial nexus with the taxing state, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to services provided by the state.

Part X of this bill establishes a policy of taxing interstate transportation on an apportioned basis effective July 1, 2010. The bill also prevents the retroactive assessment of PUT on interstate transportation on an apportioned basis for periods prior to July 1, 2010, by providing a statutory deduction for income received from interstate transportation for periods before July 1, 2010.

Persons taxable both within and without the state in the business of transporting persons or property for hire by vehicle must apportion gross income based on the ratio that revenue miles instate bear to the revenue miles of the person everywhere during the tax period.

For persons that transport gas, oil, petroleum products, or other products by pipeline, gross income must be apportioned based on the ratio that the total number of traffic units in state during the tax period bear to the total number of traffic units everywhere during the tax period.

Sec. 1004 of the bill restricts the use tax exemption in RCW 82.12.0254 for motor vehicles or trailers and parts used in interstate commerce. This section requires that motor vehicles and trailers be "primarily" used (more than 50%) in interstate commerce to qualify for the exemption. The exemption currently requires that the motor vehicle or trailer be used in "substantial part" for transportation of persons or property for hire across the boundaries of this state, which the Department interprets as at least 25 percent of the time for interstate transportation.

Part XI - Foreclosure Exemption

Under current law, a judicial or nonjudicial foreclosure of a deed of trust is not considered a "sale" for REET purposes.

This "foreclosure exemption" also applies to a transfer or conveyance of real estate pursuant to a deed in lieu of foreclosure or an order of sale by a court in any lien foreclosure proceeding or upon execution of a judgment.

Part XI of this bill would limit the foreclosure exemption to the following transfers or conveyances: (1) to the beneficiary of a deed of trust in a nonjudicial foreclosure; (2) to the mortgagee, beneficiary of a deed of trust, or lienholder pursuant to an order of sale by the court in the judicial foreclosure of any mortgage, deed of trust, or lien; (3) to the mortgagee by the mortgagor or to the beneficiary of a deed of trust by the grantor pursuant to a deed in lieu of foreclosure; or (4) to the judgment creditor pursuant to a writ of execution.

Thus, for example, the transfer of real property under a foreclosure sale to a third party, such as an investor who will resell the property or a person who will reside in the property, would become taxable under this proposal.

Part XII - Tax Debts

Currently, business owners can be held personally liable for collected but unremitted sales tax when a corporation or limited liability company goes out of business. This part of the bill would extend the same personal liability to B&O tax, use tax, and any other state or local excise collected by the Department. In addition, personal liability would apply to the chief executive and chief financial officer regardless of fault or whether those individuals were aware of the unpaid tax liability.

Part XIII - Repealing the Business and Occupation Tax Credit for New Employment for International Service Activities

This part repeals the $3,000 B&O tax credit provided for hiring new employees performing international service activities in eligible areas.

Part XIV - Repealing the Sales and Use Tax Exemptions for Candy and Bakery Items

This part repeals the sales and use exemptions on the purchases of candy and bakery items.
Candy is defined as a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bares, drops, or pieces. Candy does not include any preparation containing flour and does not require refrigeration.
Under this proposal, bakery items would be considered "prepared foods" and subject to retail sales tax in RCW 82.08.0293.

Part XV - Imposing Sales and Use Tax on the Sale of Custom Software

This bill imposes sales and use tax on custom software. The sales tax is collected in lieu of the services B&O tax.

Custom software includes the customization of prewritten computer software. The sale includes the charge for the software and the customization of the prewritten software regardless of the method of delivery to the customer. It also includes any charges for the right to access and use the software where possession of the software is maintained by the seller or a third party.

Part XVI - Increasing Tobacco Taxes

This part of the bill amends RCW 82.24.020 by replacing all the cigarette taxes levied in that statute with a single tax of

12.125 cents per cigarette. In addition, it provides that by July 1, 2011, and by July 1 of each year thereafter, the state treasurer must transfer $18 million from the general fund into the tobacco prevention and control account under RCW 43.79.480. These amendments are effective July 1, 2010.

RCW 82.24.026 modifies the current tax of 60 cents per pack of cigarettes.   The share of the revenue collected that goes into the state general fund is reduced from 28.5 percent to 14 percent. By doing this, the share that goes into the education legacy trust account is increased from 71.5 percent to 86 percent. These changes are assumed effective July 1, 2010.

The total cigarette tax rate will be$3.025 per pack of 20 cigarettes.

RCW 82.26.010 is amended to updated definitions of terms related to tobacco products. The term "tobacco products" includes any other product, regardless of form, that contains tobacco and is intended for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means, but does not include cigarettes as defined in RCW 82.24.010. New terms (and their definition) added to this statute are: "Moist snuff" is tobacco that is finely cut, ground, or powdered; is not for smoking; and is intended to be placed in the oral, but not the nasal, cavity. "Little cigar" means a cigar that has an integrated filter.

Currently, the tax on tobacco products is 75 percent of the taxable sales price of cigars, not to exceed 50 cents per cigar or 75 percent of the taxable sales price of all tobacco products that are not cigars. The other tobacco products taxes under this bill are:

1. For cigars except little cigars: 95 percent of the taxable sales price of cigars, not to exceed one dollar per cigar.

2. For all tobacco products except those covered elsewhere in this section, 95 percent of the taxable sales price.

3. For moist snuff (computed on the net weight listed by the manufacturer):
    (a) On each single unit consumer-sized can or package whose net weight is 1.2 ounces or less, a rate per single unit that is equal to the cigarette tax under chapter 82.24 RCW multiplied by 20 ($3.025 per can or package.); or
    (b) On each single unit consumer-sized can or package whose net weight is more than 1.2 ounces, a proportionate tax at the rate established in 3(a) above on each ounce or fractional part of an ounce.
The amendments affecting moist snuff are effective October 1, 2010.

4. For little cigars, an amount per cigar equal to the cigarette tax under chapter 82.24 RCW.
The amendments affecting cigars, little cigars and other tobacco products are effective July 1, 2010.

The following cigarette statutes are repealed: RCW 82.24.027 and RCW 82.24.028.

Part XVII - Imposing an Additional Hazardous Substance Tax

This bill imposes an additional tax on the privilege of possession of hazardous substances in this state of 1.3 percent multiplied by the wholesale value of the substance. As the current tax rate on hazardous substances is 0.7 percent, the new combined rate will be 2 percent.

Receipts from the 1.3 percent hazardous substance tax are to be distributed according to the following schedule:

	July 1, 2010 through June 30, 2011	July 1, 2011 through June 30, 2013	July 1, 2013 through June 30, 2015	After June 30 2015
New storm water account:	20.00 percent	20.00 percent	45.00 percent	69.20 percent
State oil spill prevention account:	2.45 percent	1.80 percent	1.80 percent	1.80 percent
Puget Sound recovery account:	2.05 percent	2.40 percent	4.50 percent	9.50 percent
New water quality action acct:	2.05 percent	2.40 percent	4.40 percent	9.50 percent
The motor vehicle account:	5.00 percent	5.00 percent	10.00 percent	10.00 percent
The state general fund:	68.45 percent	68.40 percent	34.30 percent	0.00 percent

The part of the bill is effective May 1, 2010. The additional tax also takes effect on May 1, 2010.

Part XVIII - Modifying the Sales Tax Exemption for Certain Fertilizers, Sprays and Washes

This bill expands the current retail sales tax base by taxing certain fertilizers, spray materials, and chemical washes.

Currently, sales of fertilizers and spray materials (pesticides) are excluded from the definition of a retail sale and are considered a wholesale sale (resulting in a de facto sales tax exemption) if they are used in the commercial production of agricultural products. Sales of chemical sprays and washes for the post harvest treatment of fruit to prevent scald, fungus, mold, or decay are also considered wholesale sales. So too are sales of fertilizers and spray materials to landowners who participate in specified federal conservation and habitat protection programs or a cooperative habitat agreement with the Washington State Department of Fish and Wildlife.

This legislation provides that the current wholesale tax treatment would be limited to those fertilizers, spray materials, and washes identified on the Washington State Department of Agriculture's (WSDA) brand name material list as approved for organic agricultural production and processing. Purchases of fertilizers, spray materials, and washes that do not appear on the list would be subject to retail sales or use tax. Use of WSDA's brand name material list depends on passage of that agency's request legislation, HB 2460 and SB 6228. If WSDA's request legislation does not pass during the 2010 legislative session, the wholesale tax treatment would apply to products listed by the Organic Materials Review Institute.

Part XIX - Repealing the Sales and Use Tax Exemptions for Coal Used at Coal-Fired Thermal Electric Generation Facility

This bill repeals the sales and use tax exemption for coal used to generate electric power at qualified coal fired thermal electric generation facility (RCW 82.08.811 and 82.12.811). A qualified generation facility is one which was placed in operation after December 3, 1969, and before July 1, 1975, and has complied with requirements related to air pollution control.

Part XX - Imposing a One-cent per Ounce Tax on Carbonated Beverages

This bill creates an new carbonated beverage tax of $0.4167 cents per ounce on each sale at wholesale and at retail if not previously taxed. Carbonated beverage is defined in this bill as any carbonated non-alcoholic beverage intended for human consumption. This definition includes all forms of sparking water and sparkling juice, not just soda pop.

Part XXI - Eliminating Tax Preferences for Bullion

Under current law, sales of precious metal bullion and monetized bullion are exempt from B&O tax and retail sales/use tax. The bill removes the B&O tax exemption. The sales and use tax exemption remains
Part XXII - Miscellaneous provisions

This section contains miscellaneous provisions such as effective dates.

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.

Part I: Minimum Nexus Standards

Data Sources:
Data is from Department of Revenue excise tax data and the state Department of Financial Institutions; the U.S. Census Bureau; the Bureau of Economic Analysis; The Federal Reserve Board; the Securities and Exchange Commission; Price, Waterhouse, Coopers; the Nielson Company; the Washington Implan Model, the Washington Input-Output Model, and other sources.

Assumptions:
A compliance rate of about 100 percent is assumed in the first year for businesses currently registered with the Department. For businesses not registered with the Department, it's assumed that compliance rates for large, nationwide franchise businesses will be 90 percent. Compliance rates for credit card issuers are assumed to be 50 percent the first year, 75 percent the second, 90 percent the third, and about 100 percent in the fourth year. Compliance rates for other financial institutions are assumed to be 25 percent the first year, 50 percent the second, 75 percent the third, and about 100 percent in the fourth year. Compliance rates for small, out of state businesses are assumed to be 13 percent the first year, 26 percent the second, 39 percent the third, and 52 percent in the fourth year and thereafter. It is assumed that 90 percent of the non-franchise, royalty receipts from the out of state affiliates of Washington domiciled businesses will be apportioned outside of Washington.

Revenue Impact:
General fund revenues are estimated to rise by $73 million in Fiscal Year 2011 and $163 million in Fiscal Year 2012. There is no local impact.

Part II - Abusive Tax Transactions

Data Sources:
Department of Revenue excise tax data were used for this estimate. Other data sources include the Employment Security Department and Statistics of Income for corporations.

Assumptions:

For abusive tax avoidance transactions, the types of transactions that are provided as examples are not easily estimated with available data because many transactions involve businesses that aren't registered with the Employment Security Department or the Secretary of State's Office and an affiliate relationship with a registered business is not known. Businesses that appear to be underreporting revenue based on wages paid in the state and those not reporting any revenue to the Department were selected.

For the abusive tax avoidance transaction provisions, this estimate uses a compliance adjustment of 13 percent for 2011, 26 percent for 2012, 39 percent for 2013, and 52 percent for 2014.

The abusive tax avoidance transaction provisions impact about 600 firms in Fiscal Year 2011.

For the provision extending use tax to tangible personal property acquired through a step transaction, multiple successorship information from the Employment Security Department was used to determine the level of assets transferred from businesses with no assets in their final year of liquidation. This estimate also uses a compliance adjustment of 13 percent for 2011, 26 percent for 2012, 39 percent for 2013, and 52 percent for 2014.

This estimate assumes three taxpayers avoided REET in Fiscal Year 2009 through the means noted above in the bill description, increasing to between 5 to 12 taxpayers by Fiscal Year 2015.

This estimate assumes taxpayers avoiding REET by transferring an ownership interest of less than 50 percent, but including a binding option to purchase an additional ownership interest that would result in a transfer of more than a 50 percent interest, to be exercised more than 12 months after the option was granted, would be avoiding the average amount of REET paid on controlling interest transfers from Fiscal Years 2005, 2006, 2008, and 2009.

This estimate assumes taxpayers avoiding REET through the use of a subsidiary in the manner described above in the bill description would owe REET of over $1 million.

This estimate assumes that each year, the amount of REET avoided through the use of a subsidiary must increase by about four percent in order for it to be worth the taxpayer's time and effort to transfer the property in the manner described.

Revenue Impact:
This proposal will result in a state revenue increase of an estimated $12.3 million for Fiscal Year 2011, the first full fiscal year of impact. Local governments will see an estimated $1.5 million in Fiscal Year 2011.

Part III - Placing a Cap On the First Mortgage Deduction

Data Sources and assumptions:
Estimates are based on the Department's tax reporting information, information from financial institutions as reported in their Report of Condition and Income (Call Report) to federal agencies, and forecasts of mortgage activity derived from data provided by the Economic and Revenue Forecast Council for the November 2009 forecast.

The proposal would be effective on April 1, 2010.

Revenue Impact:

This part will result in a state revenue increase of an estimated $67.6 million for Fiscal Year 2011, the first full fiscal year of impact.

Part IV - Repealing the Nonresident Sales Tax Exemption

Data Sources:
Estimates are based on Department of Revenue deduction data for qualified nonresident sales and the 1990 Border Study. Growth rates were estimated using Washington State Economic and Revenue Forecast Council data.

Assumptions:
This fiscal note assumes that there will be fewer retail sales made in this state to nonresidents after the nonresident sales tax exemption is repealed. The percent of lost sales to nonresidents was calculated by dividing counties into border counties (along Canada, Oregon and Idaho borders) and non-border counties. Boats and automobiles were excluded since this proposal does not eliminate the specific sales tax exemptions available to nonresidents for these items.

Revenue Impact:
In Fiscal Year 2011, state government will gain over $36.1 million and local governments will gain approximately $13.3 million.

Part V - Direct Seller Business and Occupation Tax Exemption

Data Sources:
Department of Revenue data were used for this estimate.

Assumptions:
The Washington Supreme Court decision regarding sales by certain out-of-state-persons to or through seller's representatives is final and the state general fund revenue forecast has been adjusted downward for the effect of this court decision. For periods after April 1, 2010, the exemption is eliminated. The revenue gain from the elimination of this exemption is included in the amounts shown on the front page of this fiscal note.

Revenue Impact:
State government would gain $114.4 million in Fiscal Year 2011.

Part VI - Business and Occupation Tax Preferences for Manufacturers of Products Derived from Certain Agricultural Products

Assumptions:
The changes to the tax preferences for processors of fresh fruits or vegetables would cause about ten percent of the amount currently exempted to become taxable.

Revenue Impact:
State revenues will increase by over $4 million per fiscal year due to this legislation. Approximately $4.1 million will be realized during Fiscal Year 2011, the first full fiscal year of impact.

Part VII - Suspending the Sales and Use Tax Exemptions for Livestock Nutrient Equipment and Facilities

Revenue Impact:
The temporary repeal of these exemptions will generate $1.4 million per fiscal year for state government through Fiscal Year 2015. Local governments will gain approximately $431,000 per fiscal year through Fiscal Year 2015.

Part VIII - Ending the Preferential Business and Occupational Tax Treatment Received by Directors of Corporations

Data Sources:
Data used for the estimates are from the Washington Secretary of State's Office and Department of Revenue data from Fiscal Year 2008 combined excise tax returns.

Assumptions:
The tax will be on directors' fees of corporations based or headquartered in Washington. The majority of these firms are publicly traded. There are approximately 200 Washington-based firms that are publicly traded.

It is assumed that the 100 highest grossing firms that are not publicly traded have boards of directors that are also compensated. Based on a sampling of the top 30 of these firms, it is assumed that half of them (50 firms) have directors in Washington.

The average annual compensation for a director is estimated to be $61,000 per year. It is assumed that all the director activities will be in Washington, therefore, no apportionment will apply. The average number of directors is 10 members per firm.

The amount of directors' fees paid is assumed to be constant through Fiscal Year 2015. A large portion of director compensation is based upon stock options and cannot be estimated due to market volatility.

Revenue Impact:
State government will gain approximately $2.1 million in Fiscal Year 2011.

Part IX - Airplane Excise Tax

The current tax is administered by the Department of Transportation and this bill changes the administration to the Department of Licensing. The impact of this proposal is not shown in the Department's fiscal note.

Part X - Public Utility Tax on Interstate Hauls

Data Sources:
Department of Licensing data were used for this part.

Revenue Impact:
In Fiscal Year 2011, this part would generate approximately $12.9 million for state government and $2.4 million for local governments.

Part XI - Foreclosure Exemption

Data Sources:
The REET affidavits in which the foreclosure exemption was claimed were used to prepare these estimates

Assumptions:
It is assumed that real estate excise tax collections on the sale of foreclosed properties to third parties relative to total collections will remain constant thought the forecast period (Economic and Revenue Forecast Council November Forecast).

Base for estimate comes from exemption application data for RCW 458-61A-208(4). The set includes data for King, Franklin, and Mason counties, which compose approximately 41percent of state real estate excise tax dollars.

Local collections of real estate excise tax are roughly equal to 37percent of state collections.

Revenue Impact:
In Fiscal Year 2011, state government will gain approximately $6.3 million and local governments will gain $2.3 million.

Part XII Tax Debts (Corporation Liability)

Data Sources:
Department of Revenue data were used.

Assumptions:
It is estimated the Department will collect 22 percent of outstanding non-sales tax debt of defunct corporations and other artificial entities. This is based on the Department's experience in collecting the sales tax debts of defunct corporations and limited liability companies from responsible individuals under the authority of RCW 82.32.145. A 20 percent compliance factor is included in the estimates.

Revenue Impact:
State government will gain an estimated $5.3 million in Fiscal Year 2011.

Part XIII - Repealing the Business and Occupation Tax Credit for New Employment for International Service Activities

Data Sources:
Department of Revenue data were used.

Revenue Impact:
Fewer than three firms have actually claimed this credit. Due to confidentiality requirements, the impact of this part cannot be shown on this fiscal note.

Part XIV - Repealing the Sales and Use Tax Exemption for Candy and Bakery Items

Data Sources:
The National Confectioners Association

The Office of Financial Management
U.S. Department of Commerce
Washington State Department of Revenue data

Assumptions:
It is assumed that per capita consumption of candy and bakery goods is relatively consistent over time so that candy and bakery consumption growth follows population growth. It is assumed that the retail price elasticity of demand for candy and gum is 0.9.

Revenue Impact:
State government will gain an estimated $49.9 million in Fiscal Year 2011, the first full fiscal year of impact due to the April 1, 2010 effective date. Local governments will gain over $18.7 million in Fiscal Year 2011.

Part XV - Imposing Sales and Use Tax on the Sale of Custom Software

Data Sources:
The estimate for custom software is based on data collected from Department of Revenue's tax returns and the Washington Implan Model because approximately one-third of the businesses customizing computer software are not in the specific business classification of custom computer programming services.

Assumptions:
There is a loss in revenue to the B&O tax as a result of sales tax being collected in lieu of the service B&O tax.

Revenue Impact:
State government will gain an estimated $76.5 million in Fiscal Year 2011, the first full fiscal year of impact due to the April 1, 2010 effective date. Local governments will gain over $35 million in Fiscal Year 2011.

Part XVI - Increasing Tobacco Taxes

Data Sources:
Economic and Revenue Forecast Council
Department of Revenue

Assumptions:
The cigarette tax impact of this bill was estimated using the Washington Economic and Revenue Forecast Council's data on cigarette consumption. Under this bill, taxable consumption is expected to decline by about 17 percent.

It is assumed that the sale of taxed moist snuff will decline by more than 40 percent and the sale of taxed little cigars by more than 35 percent as a result of this bill. The number of cigars taxed under the new one dollar cap of will about the same as the number taxed under the fifty cent cap. It is also assumed that the remainder of the other tobacco products market represents about 6 percent of the taxable value under the current law rate of 75 percent.

Revenue Impact:
State government will gain an estimated $91.5 million in Fiscal Year 2011, the first full fiscal year of impact.

Part XVII - Imposing an Additional Hazardous Substance Tax

Data Source:
Department of Transportation.

Assumptions:
These estimates reflect the February 2010 forecast.

It is assumed that under current law $123.6 million in state hazardous substance tax revenues will be collected in Fiscal Year 2011with 52.9 percent dedicated to local governments for hazardous waste programs. This is based on the further assumption that wholesale gasoline prices in Fiscal Year 2011 will average $2.41.

The buyer elasticity effects are assumed to be so small in relation the to normal price fluctuations in the petroleum market that no reductions in demands are modeled.

Revenue Impact:
It is estimated that hazardous substance tax collections will rise $229.6 million in Fiscal Year 2011, the first full fiscal year.

Part XVIII - Modifying the Sales Tax Exemption for Certain Fertilizers, Sprays, and Washes

Data Source:
Washington State Department of Agriculture data.

Assumptions:
The federal Organic Foods Production Act of 1990 was enacted to establish uniform national standards for the production and handling of foods labeled as "organic". The National Organic Program (NOP) was formed within the United States Department of Agriculture (USDA) to oversee the program. The Organic Foods Production Act also requires the United States Secretary of Agriculture to establish a National List of Allowed and Prohibited Substances in organic farming. The list identifies substances that may and may not be used in organic production, processing and handling operations. Producers who meet the standards set by the NOP may label their products as "USDA Certified Organic." WSDA's Organic Food Program works in conjunction with the NOP.

It is assumed that WSDA's request legislation will be enacted during the 2010 legislative session.

It is assumed that brand name substances designated "organic" and accepted by the WSDA Organic Food Program will qualify for the exemption no matter if the farmer is organically certified or not.

According to the latest United States Census of Agriculture taken in 2007, Washington farmers purchased approximately $698 million in fertilizer, chemicals, and sprays for crop application. Approximately 2 percent of all cropland in Washington is certified organic, and 2 percent of fertilizer and spray purchases are organic. The potential crop application of organic substances is unknown but it is estimated to increase due do the continued tax exemption for organic fertilizers, sprays, and washes. For the purpose of this fiscal note, it is assumed that purchases of organic fertilizers, sprays, and washes will increase from the estimated 2 percent of all such purchases but total less than 20 percent of all fertilizers, sprays, and washes purchased. The impact of narrowing this retail sales tax exemption could vary significantly depending on the number of farmers who choose to purchase organic substances rather than pay retail sales tax on traditional fertilizers, sprays, and washes.

Revenue Impact:
State government will gain an estimated $40 million in Fiscal Year 2012, the first full fiscal year of impact due to the July 1, 2010 effective date. Local governments will gain over $12.9 million in Fiscal Year 2012.

Part XIX - Repealing the Sales Tax Exemption for Coal used at Coal-Fired Thermal Electric Generation Facility

Data Source:
Department of Energy, Energy Information Administration

Assumptions:
In 2008, 5.7 million tons of Powder River Basin coal was used at one generating plant. Using an assumed price of $30.00 / ton for coal and the same amount of coal as 2008, this results in a taxable amount of $170 million and a gain in general fund revenue of $10.9 million in Fiscal Year 2011.

Revenue Impact:
State government will gain approximately $11.0 million in Fiscal Year 2011 and local governments will gain approximately $3.6 million in Fiscal Year 2011.

Part XX - Imposing a One-cent per Ounce Tax on Carbonated Beverages

Data Sources:
2008 Beverage Digest
Bottled Water Reporter - 2008 Market Report Findings

Assumptions:
It is assumed that consumption of carbonated beverages in the state approximately equals the base of the tax since most carbonated beverages are bottled in the same area that they are consumed and retailers must pay tax on any drink on which the wholesaler or manufacturer did not previously pay.

It is assumed that sparkling water makes up 2.69 percent of what is typically considered to be bottled water.

The bill provides that no unit of syrup or carbonated beverage would be taxed if it, or the syrup it contains, was taxed previously. Bottlers do not pay syrup tax on the syrup that they purchase, nor would they pay this carbonated beverages tax. The carbonated beverages tax would fall on those to whom they sell their product: retailers and wholesalers of soda. Fountain drinks would not be taxed under this bill since syrup tax applies to them.

The effective date of the bill would be April 1, 2010 so that there would be 2 months of collections in Fiscal Year 2010 and 12 months of collections in every year thereafter.

Revenue Impact:

State government will gain an estimated $104.4 million in Fiscal Year 2011, the first full fiscal year.

Part XXI - Eliminating Tax Preferences for Bullion

Data Sources:
Department of Revenue data
Economic and Revenue Forecast Council's November 2009 forecast.

Assumptions:
Fiscal Year 2008 represents a typical growth rate, which was used for Fiscal Years 2012 through 2019 due to current economic conditions for the B&O tax estimate.

Revenue Impact:
State government will gain an estimated $214,000 in Fiscal Year 2011, the first full fiscal year.

REVENUE ESTIMATES

Overall, state government would gain an estimated $934.5 million in the first full fiscal year, Fiscal Year 2011. Local governments would gain $88.2 million in Fiscal Year 2011.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):

FY 2010 -	$ 110,574
FY 2011 -	$ 934,476
FY 2012 -	$ 1,052,258
FY 2013 -	$ 1,145,043
FY 2014 -	$ 1,237,275
FY 2015 -	$ 1,293,632

Local Government, if applicable (cash basis, $000):

FY 2010 -	$ 11,222
FY 2011 -	$ 88,178
FY 2012 -	$ 97,176
FY 2013 -	$ 107,243
FY 2014 -	$ 118,236
FY 2015 -	$ 128,471

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

The expenditure estimate assumes that the Department will not incur any cost in the implementation of airplane excise tax (Part IX), corporate officer liability (Part XII), repealing the business and occupation tax credit for new employment for international service activities (Part XIII), and repealing the sales tax exemption for coal used at coal-fired thermal electric generation facilities (Part XIX).

To implement this legislation the Department will incur costs of $1,640,900 in Fiscal Year 2010. Time and effort equates to

10.1 FTEs.

The Department will incur costs of $2,651,100 in Fiscal Year 2011. Time and effort equates to 30.1 FTEs.

The Department will incur ongoing costs of $3,432,800 in the 2011-2013 Biennium and $2,785,000 in the 2013-2015 Biennium. Time and effort equates to 20.5 FTEs in Fiscal Year 2012, 20.7 FTEs in Fiscal Year 2013, 17.3 FTEs in Fiscal Year 2014, and 17.2 FTEs in Fiscal Year 2015
Individual parts are grouped where similar activities occur. Parts with larger costs are described separately. Costs and FTEs shown for these are included in the yearly or biennial totals above.

Minimum nexus standards (Part I)

To implement this part of the legislation, the Department will incur costs of $507,900 in Fiscal Year 2010. The Department will identify impacted businesses, including those located out of state, to provide them with information on the change in how the state determines nexus for out-of-state based businesses conducting operations in Washington. This will include creating and mailing a special notice to impacted businesses and tax practitioners, both within Washington and out of state, and updating online and printed information. Additional staff will be needed to handle an expected increase in telephone inquiries. The cost of printing and mailing special notices to taxpayers and practitioners is $321,000. Time and effort equates to 2.3 FTEs.

The Department will incur costs of $1,834,200 in Fiscal Year 2011. The Department will create and conduct workshops to assist taxpayers with reporting questions in several places around the state. Additional calls from taxpayers to the Telephone Information Center are also expected, as well as additional email questions and requests for letter rulings. Adopting a new nexus standard for service income will increase the number of taxpayers filing returns, creating additional error and out of balance returns, amended returns, requests for penalty waivers, and telephone questions. Additional staff time will be needed to perform these tasks and to assist taxpayers.

Additional new taxpayers will require an increase in the staff to locate, explain, examine, assess taxes due, and verify compliance. A change in the nexus standard is also expected to increase the number of appeals. The Department will amend two administrative rules and create one new administrative rule.

Time and effort in Fiscal Year 2011 equates to 20.3 FTEs. The non-labor cost of informational workshops is $12,000, printing and mailing additional tax returns is $29,000, and the non-labor cost of setting up new taxpayers with electronic payment is $12,000.

The Department will incur ongoing costs of $2,971,000 in the 2011-2013 Biennium, and $2,343,200 in the 2013-2015 Biennium. Time and effort equates to 17.6 FTEs in Fiscal Year 2012, 17.4 FTEs in Fiscal Year 2013, and 14.4 FTEs in the 2013-2015 Biennium. The cost of printing and mailing additional tax returns is $29,000 each fiscal year.

Abusive tax transactions (Part II), modifying and placing a cap on the first mortgage deduction (Part III), and imposing additional hazardous substance tax (Part XVII)

To implement these parts of the legislation, in Fiscal Year 2010 the Department will make modifications to the excise tax and e-file systems to accommodate the new penalty found in Part II, the deduction cap found in Part III, and the change in reporting tax rate and funding allocation in Part XVI. This includes a new deduction code to track the cap on first mortgage deductions, new system logic and balance due reason codes, and programming to setup, test, and verify the computer systems. A special notice will be prepared and mailed to impacted taxpayers for each part. The non-labor cost of the notices is $15,100.

In Fiscal Year 2011the Department will amend three administrative rules and adopt one new rule related to abusive tax transactions, amend one administrative rule related to modifying and placing a cap on the first mortgage deduction, and amend one administrative rule related to imposing additional hazardous substance tax.

Repealing the nonresident sales tax exemption (Part IV), direct seller business and occupation tax exemption (Part V), suspending the sales and use tax exemption for livestock nutrient equipment and facilities (Part VII), ending the differential business and occupations tax treatment received by directors of corporations (Part VIII), modifying the sales tax exemption for certain fertilizers, sprays, and washes (Part XVIII), and eliminating tax preferences for bullion (Part XXI)

To implement these parts of the legislation, in Fiscal Year 2010 the Department will prepare and mail a special notice to taxpayers impacted by each part. The non-labor cost of the notices is $177,200. Taxpayers who are now using the exemption for livestock nutrient equipment and facilities will be mailed letters informing them of the suspension. The non-labor cost of this correspondence is $600.

In Fiscal Year 2011the Department will amend six administrative rules to administer these parts of the legislation, including two rules related to repealing the nonresident sales tax exemption. Modifying the sales tax exemption for certain fertilizers, sprays, and washes and suspending the sales and use tax exemption for livestock nutrient equipment and facilities are addressed in the same administrative rule. The Department also expects that there will be an increase in telephone calls and error and out of balance return related to ending the differential business and occupations tax treatment received by directors of corporations.

Ongoing costs are for handling telephone calls and error and out of balance returns related to ending the differential business and occupations tax treatment received by directors of corporations. These costs continue from Fiscal Year 2012 through 2015, reduced after Fiscal Year 2012. Taxpayers known to have used the exemption for livestock nutrient equipment and facilities will be mail letters in Fiscal Year 2015 informing them of the end of the suspension. The non-labor cost of this correspondence is $600.

Business and occupations tax preferences for manufacturers of products derived from certain agricultural products (Part VI), foreclosure exemption (Part XI)

To implement these parts of the legislation, the Department will amend two administrative rules in Fiscal Year 2011.

Public utility tax on interstate hauls (Part X)

To implement this part of the legislation, the Department will incur costs of $23,500 in Fiscal Year 2010. The Department will create and mail a special notice to businesses identified as engaging in transportation of persons or property, informing them of the reporting changes. Online web information, printed guides, and other information for taxpayers will be updated. Additional staff will be needed to handle an expected increase in inquiries concerning the apportionment of revenue. This change is also expected to increase the number of error and out of balance returns, resulting in additional amended returns, credits, tax assessments, refunds, and telephone calls concerning returns filed. Taxpayers not reporting electronically will be mailed a new reporting addendum. The non-labor cost of printing the addendum is $300. The non-labor cost of printing and mailing the special notice is $5,600. Time and effort equates to 0.2 FTE.

The Department will incur costs of $53,500 in Fiscal Year 2011. These costs are for handling phone, email, and written inquiries, as well as working with taxpayers on error and out of balance returns as described for Fiscal Year 2010. The Department will amend three administrative rules and adopt one new administrative rule to implement this part of the legislation. Taxpayers not filing electronically will continue to receive a reporting addendum. The non-labor cost of printing the addendum is $1,000. Time and effort equates to 0.6 FTE.

The Department will incur ongoing costs of $16,400 in the 2011-2013 Biennium, and $2,000 in the 2013-2015 Biennium. Cost for the 2011-2013 Biennium include working at a reduced level with taxpayers on error and out of balance returns as described for Fiscal Year 2010. Taxpayers will continue to receive a reporting addendum, for which the non-labor cost of printing is $1,000 each fiscal year. Time and effort equates to 0.1 FTE in Fiscal Years 2012 and 2013.

Repealing the sale and use tax exemptions for candy and bakery items (Part XIV) and imposing sales and use tax on the sale of custom software (Part XV)

To implement Parts XIV and XV of the legislation, the Department will incur costs of $100,100 and $87,200 respectively in Fiscal Year 2010. The Department will create and mail a special notice to businesses identified as selling these types of products, informing them of the reporting changes. Online web information, printed guides, and other information for taxpayers will be updated. Additional staff will be needed to handle an expected increase in inquiries concerning the change in application of sales tax. This change is also expected to increase the number of error and out of balance returns, resulting in additional amended returns, credits, tax assessments, refunds, and telephone calls concerning returns filed. Time and effort equates to 0.9 FTE for Part XIV and 1.0 FTE for Part XV

The Department will incur costs of $84,000 for Part XIV and 112,400 for Part XV in Fiscal Year 2011. These costs are for handling phone, email, and written inquiries, as well as working with taxpayers on error and out of balance returns as described for Fiscal Year 2010. The Department will amend one administrative rule related to repealing the sale and use tax exemptions for candy and bakery items and two administrative rules related to imposing sales and use tax on the sale of custom software. Time and effort equates to 1.1 FTEs for Part XIV and 1.4 FTEs for Part XV

The Department will incur ongoing costs of $20,300 for Part XIV and $6,900 for Part XV in the 2011-2013 Biennium, and $6,900 for Part XIV in the 2013-2015 Biennium. Costs for the 2011-2013 Biennium, and Fiscal Year 2014 include working at a reduced level with taxpayers on error and out of balance returns as described for Fiscal Year 2010. Time and effort for Part XIV equates to 0.2 FTE in Fiscal Year 2012 and 0.1 FTE in Fiscal Years 2013 and 2014. Time and effort for Part XV equates to 0.1 FTE in Fiscal Year 2012

Increasing tobacco taxes (Part XVI)

To implement this part of the legislation the Department will incur costs of $249,100 in Fiscal Year 2010. These costs are for modifications to the combined excise tax return and the E-file system for six new classifications for reporting of Other Tobacco Products (OTP) tax. This includes six new reporting line codes, new error and out of balance logic and issuance codes, and programming to set up, test, and verify the computer systems. A new tax calculating worksheet will be created in E-file to automatically determine tax rates, and a second new worksheet will be created to capture tobacco product codes and product description information. Similar addendums will be created for paper filing of OTP tax and product information. Additional new reports will be created from the product information collected from worksheets and addendums. A special notice will be created and mailed to affected taxpayers prior to the effective date for the rate changes. The Department will administer a one-time floor stock return for the cigarette tax rate increase. The non-labor cost to print and mail the special notice and floor stock return is $28,000. Time and effort equates to 2.3 FTEs.

The Department will incur costs of $246,500 in Fiscal Year 2011. These are costs for continued development and testing of system logic, new codes, forms, and reports. Modifications will be made within the computer systems for reporting of Federal information. The Department will find an increase in error and out of balance returns, resulting in additional amended returns, assessments, credit issuances, and telephone calls. Additional time will also be required to process reporting and product information addendums. The Department will need to amend one administrative rule. The cost of printing addendums is $400. Time and effort equates to 2.7 FTEs.

The Department will incur ongoing costs of $278,600 during the 2011-2013 Biennium and $352,600 during the 2013-2015 Biennium. The Department will continue to experience additional error and out of balance returns as described for Fiscal Year 2011, but at a reduced level. Beginning in Fiscal Year 2013 additional time will be needed for audit review of taxpayers reporting OTP tax. The cost of printing addendums is $400 each fiscal year. Time and effort equates to 1.3 FTEs in Fiscal Year 2012 and 2.3 FTEs in Fiscal Years 2013 through 2015.

Imposing a per ounce tax on carbonated beverages (Part XX)

To implement this part of the legislation, the Department will incur costs of $268,800 in Fiscal Year 2010. These costs are for changes in the excise tax and e-file systems for the new tax. This would include the creation of a new reporting line and associated line codes, error and out of balance and issuance codes, electronic reports, and programming to setup, test, and verify the computer systems. The Department will create and mail a special notice to businesses identified as selling carbonated beverages, informing them of the reporting changes. Online web information, printed guides, and other information for taxpayers will be updated. Additional staff will be needed to handle an expected increase in inquiries concerning the change in application of sales tax. This change is also expected to increase the number of error and out of balance returns, resulting in additional amended returns, credits, tax assessments, refunds, and telephone calls concerning returns filed. Time and effort equates to 1.4 FTEs.

The Department will incur costs of $201,300 in Fiscal Year 2011 These costs are for handling phone, email, and written inquiries, as well as working with taxpayers on error and out of balance returns as described for Fiscal Year 2010. The Department will amend one administrative rule. Time and effort equates to 2.7 FTEs.

The Department will incur ongoing costs of $120,600 in the 2011-2013 biennium and $67,200 in the 2013-2015 Biennium. Costs are for working at a reduced level with taxpayers on error and out of balance returns as described for Fiscal Year 2010. Time and effort equates to 1.0 FTE in Fiscal Year 2012, 0.8 FTE in Fiscal Year 2013, and 0.5 FTE in Fiscal Years 2013 and 2014.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	10.1	30.2	20.1	20.6	17.3
A-Salaries and Wages	535,900	1,542,100	2,078,000	2,171,200	1,733,500
B-Employee Benefits	134,000	385,600	519,600	542,900	433,300
E-Goods and Services	897,600	494,300	1,391,900	603,600	515,300
G-Travel	5,300	34,200	39,500	68,400	68,400
J-Capital Outlays	68,100	194,900	263,000	46,700	34,500
Total $	$1,640,900	$2,651,100	$4,292,000	$3,432,800	$2,785,000

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 2010	FY 2011	2009-11	2011-13	2013-15
COMMUNICATIONS CNSLT 3	47,014	0.1		0.1		
COMMUNICATIONS CNSLT 4	53,146	0.1		0.1		
EXCISE TAX EX 2	42,583	1.9	7.6	4.7	6.1	5.4
EXCISE TAX EX 3	50,563	0.5	1.3	0.9	1.1	1.1
EXCISE TAX EX 4	55,839	0.9	0.1	0.5		
HEARINGS SCHEDULER	32,688		0.1	0.1		
INFO TECH S/A S 6	76,990		0.3	0.1		
IT SPEC 4	63,195	2.1	0.4	1.2		
IT SPEC 5	69,756	1.0	0.5	0.7	0.1	0.1
OFF ASST 3	29,780		2.6	1.3	0.4	0.4
REVENUE AGENT 2	47,014		1.8	0.9	1.8	1.8
REVENUE AGENT 3	51,861	0.1		0.1		
REVENUE AUDITOR 3	54,505		6.0	3.0	6.5	7.0
TAX INFO SPEC 1	36,757	1.3	1.6	1.5		
TAX INFO SPEC 4	54,505	2.1	2.5	2.3	0.6	0.5
TAX POLICY SP 2	61,628		0.1	0.1		
TAX POLICY SP 3	69,756		5.3	2.6	4.0	1.0
WMS BAND 3	88,546		0.1	0.1		
Total FTE's	986,126	10.1	30.2	20.2	20.6	17.3

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 take the following rule actions:

(Part I)
The Department will use the standard process to amend WAC 458-20-14601, titled: "Financial institutions - Income apportionment", and WAC 458-20-194, titled: "Doing business inside and outside the state". The standard process will also be used to adopt one new rule under chapter 458-20 WAC. Persons affected by this rule-making would include financial and other service businesses and businesses earning royalty income.

(Part II)
The Department will use the significant legislative process to adopt one new administrative rule under 458-20 WAC. The

expedited process will be used to amend WAC 458-20-228, titled: "Returns, payments, penalties, extensions, interest, stay of collection". Persons affected by this rule-making would include businesses engaged in what are deemed abusive tax avoidance transactions.

The Department will use the standard process to amend WAC 458-20-106, titled: "Casual or isolated sales - Business reorganizations". Persons affected by this rule-making would include businesses selling capital assets using step transactions to avoid retail sales and use taxes.

The Department will use the standard process to amend WAC 458-61A-101, titled: "Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state". Persons affected by this rule-making would include those making transfers of real estate.

(Part III)
The Department will use the expedited process to amend WAC 458-20-146, titled: "National and state banks, mutual savings banks, savings and loan associations and other financial institutions". Persons affected by this rule-making include those businesses who receive interest from investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(Part IV)
The Department will use the expedited process to amend WAC 458-20-193, titled: "Inbound and outbound interstate sales of tangible personal property". The expedited process will also be used to amend WAC 458-20-178, titled: "Use tax". The Department will not incur an additional cost because it is currently amending this rule and will incorporate this legislation as necessary. Persons affected by this rule-making include businesses making sales to nonresidents.

(Part V)
The Department will use the expedited process to amend WAC 458-20-246, titled: "Sales to or through a direct seller's representative". Persons affected by this rule-making would include businesses making sales to or through direct seller's representatives.

(Part VI)
The Department will use the expedited process to amend WAC 458-20-136, titled: "Manufacturing, processing for hire, fabricating". Persons affected by this rule-making include those businesses that use meat, vegetables, or fruit in manufactured products.

(Part VII and XVIII)
The Department will use the expedited process to amend WAC 458-20-210, titled: "Sales of tangible personal property for farming - Sales of agricultural products by farmers". Persons affected by this rule-making would include those farmers and other exempt users of fertilizers, sprays, and washes, and those operating livestock nutrient management facilities.

(Part VIII)
The Department will use the expedited process to amend WAC 458-20-105, titled: "Employees distinguished from persons engaging in business". Persons affected by this rule-making would include those individuals who are receiving compensation as a corporate director.

(Part X)
The Department will use the standard process to amend WAC 458-20-175, titled: "Persons engaged in the business of

operating as a private or common carrier by air, rail or water in interstate or foreign commerce" and WAC 458-20-193D, titled: "Transportation, communication, public utility activities, or other services in interstate or foreign commerce". The standard process will also be used to adopt one new rule under chapter 458-20 WAC. The Department will use the expedited process to amend WAC 458-20-17401, titled: "Use tax liability for motor vehicles, trailers, and parts used by motor carriers operating in interstate or foreign commerce". Persons affected by this rule-making would include those business transporting persons or property for hire within and without the state.

(Part XI)
The Department will use the expedited process to amend WAC 458-61A-208, titled: "Foreclosure - Deeds in lieu of foreclosure - Sales pursuant to court order". Persons affected by this rule-making would include those who sell real property, acquired through foreclosure, to 3rd parties.

(Part XIV)
The Department will use the standard process to amend WAC 458-20-244, titled: "Food and food ingredients". Persons affected by this rule-making would include businesses that sell candy or bakery goods, and those making retail purchases.

(Part XV)
The Department will use the standard process to amend WAC 458-20-155, titled: "Information and computer services", and WAC 458-20-15501, titled: "Computer hardware, computer software, information service, and computer services". Persons affected by this rule-making would include those who purchase and those who sell custom software.

(Part XVI)
The Department will use the standard process to amend WAC 458-20-185, titled: "Tax on tobacco products." Persons affected by this rule-making would include those who purchase or sell cigarettes or other tobacco products.

(Part XVII)
The Department will use the expedited process to amend WAC 458-20-252, titled: "Hazardous substance tax and petroleum product tax". Persons affected by this rule-making would include those persons possessing hazardous substances or products in this state.

(Part XX)
The Department will use the standard process to amend WAC 458-20 255, titled: "Carbonated beverage syrup tax". Persons affected by this rule-making would include businesses that are first possessors of carbonated beverages in the State of Washington.

(Part XXI)
The Department will use the standard process to amend WAC 458-20-248, titled: "Sales of precious metal bullion and monetized bullion". Persons affected by this rule-making include those who sell bullion, coin, and other precious metals.
Should this legislation become law, the Department will take the following rule actions:

(Part I)
The Department will use the standard process to amend WAC 458-20-14601, titled: "Financial institutions - Income apportionment", and WAC 458-20-194, titled: "Doing business inside and outside the state". The standard process will also be used to adopt one new rule under chapter 458-20 WAC. Persons affected by this rule-making would include financial and other service businesses and businesses earning royalty income.

(Part II)
The Department will use the significant legislative process to adopt one new administrative rule under 458-20 WAC. The expedited process will be used to amend WAC 458-20-228, titled: "Returns, payments, penalties, extensions, interest, stay of collection". Persons affected by this rule-making would include businesses engaged in what are deemed abusive tax avoidance transactions.

The Department will use the standard process to amend WAC 458-20-106, titled: "Casual or isolated sales - Business reorganizations". Persons affected by this rule-making would include businesses selling capital assets using step transactions to avoid retail sales and use taxes.

The Department will use the standard process to amend WAC 458-61A-101, titled: "Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state". Persons affected by this rule-making would include those making transfers of real estate.

(Part III)
The Department will use the expedited process to amend WAC 458-20-146, titled: "National and state banks, mutual savings banks, savings and loan associations and other financial institutions". Persons affected by this rule-making include those businesses who receive interest from investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(Part IV)
The Department will use the expedited process to amend WAC 458-20-193, titled: "Inbound and outbound interstate sales of tangible personal property". The expedited process will also be used to amend WAC 458-20-178, titled: "Use tax". The Department will not incur an additional cost because it is currently amending this rule and will incorporate this legislation as necessary. Persons affected by this rule-making include businesses making sales to nonresidents.

(Part V)
The Department will use the expedited process to amend WAC 458-20-246, titled: "Sales to or through a direct seller's representative". Persons affected by this rule-making would include businesses making sales to or through direct seller's representatives.

(Part VI)
The Department will use the expedited process to amend WAC 458-20-136, titled: "Manufacturing, processing for hire, fabricating". Persons affected by this rule-making include those businesses that use meat, vegetables, or fruit in manufactured products.

(Part VII and XVIII)
The Department will use the expedited process to amend WAC 458-20-210, titled: "Sales of tangible personal property for farming - Sales of agricultural products by farmers". Persons affected by this rule-making would include those farmers and other exempt users of fertilizers, sprays, and washes, and those operating livestock nutrient management facilities.

(Part VIII)
The Department will use the expedited process to amend WAC 458-20-105, titled: "Employees distinguished from persons engaging in business". Persons affected by this rule-making would include those individuals who are receiving compensation as a corporate director.

(Part X)

The Department will use the standard process to amend WAC 458-20-175, titled: "Persons engaged in the business of operating as a private or common carrier by air, rail or water in interstate or foreign commerce" and WAC 458-20-193D, titled: "Transportation, communication, public utility activities, or other services in interstate or foreign commerce". The standard process will also be used to adopt one new rule under chapter 458-20 WAC. The Department will use the expedited process to amend WAC 458-20-17401, titled: "Use tax liability for motor vehicles, trailers, and parts used by motor carriers operating in interstate or foreign commerce". Persons affected by this rule-making would include those business transporting persons or property for hire within and without the state.

(Part XI)

The Department will use the expedited process to amend WAC 458-61A-208, titled: "Foreclosure - Deeds in lieu of foreclosure - Sales pursuant to court order". Persons affected by this rule-making would include those who sell real property, acquired through foreclosure, to 3rd parties.

(Part XIV)

The Department will use the standard process to amend WAC 458-20-244, titled: "Food and food ingredients". Persons affected by this rule-making would include businesses that sell candy or bakery goods, and those making retail purchases.

(Part XV)

The Department will use the standard process to amend WAC 458-20-155, titled: "Information and computer services", and WAC 458-20-15501, titled: "Computer hardware, computer software, information service, and computer services". Persons affected by this rule-making would include those who purchase and those who sell custom software.

(Part XVI)

The Department will use the standard process to amend WAC 458-20-185, titled: "Tax on tobacco products." Persons affected by this rule-making would include those who purchase or sell cigarettes or other tobacco products.

(Part XVII)

The Department will use the expedited process to amend WAC 458-20-252, titled: "Hazardous substance tax and petroleum product tax". Persons affected by this rule-making would include those persons possessing hazardous substances or products in this state.

(Part XX)

The Department will use the standard process to amend WAC 458-20 255, titled: "Carbonated beverage syrup tax". Persons affected by this rule-making would include businesses that are first possessors of carbonated beverages in the State of Washington.

(Part XXI)

The Department will use the standard process to amend WAC 458-20-248, titled: "Sales of precious metal bullion and monetized bullion". Persons affected by this rule-making include those who sell bullion, coin, and other precious metals.

Individual State Agency Fiscal Note

Bill Number: 3204 HB	Title: State excise tax laws	Agency: 240-Department of Licensing

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

Total $						

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:		Phone:	Date: 03/02/2010
Agency Preparation:	Sally McVaugh	Phone: (360) 902-3642	Date: 03/08/2010
Agency Approval:	Sam Knutson	Phone: (360) 902-3644	Date: 03/08/2010
OFM Review:	Alyson Cummings	Phone: 360-902-0576	Date: 03/08/2010

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.

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

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.

Part II: Explanation

This bill revises RCW 84.48 and directs the Department of Licensing (DOL) to collect an excise tax in the amount of five-tenths of one percent of the taxable value of the aircraft used in the state. It revises RCW 82.12.020 to make vehicle and vessel transactions obtained by lease, gift, repossession, and homemade vehicles/vessels subject to use tax. RCW 43.07.390 is revised to require legal entities regulated by the Secretary of State to disclose information regarding their holdings and transfers of real property located in Washington State.

II. A – Brief Description of What the Measure Does that Has Fiscal Impact

Section 205 revises RCW 82.12.020 and would make vehicle and vessel transactions obtained by lease, gift, repossession, and homemade vehicles and vessels subject to use tax.

Section 212 revises RCW 43.07.390 and requires entities to disclose any transfer of controlling interest in the entity and the granting of any option to acquire an interest in the entity if the exercise of the option would result in a sale as defined in RCW 82.45.010. The disclosure requirement applies to entities owning an interest in real property located in this state.

Section 901 amends RCW 82.48.010 by defining “department” as the Department of Licensing for purposes of excise tax assessment and collection required later in the bill and removes the Department of Transportation from this function.

Section 902 establishes a five-tenths of one percent aircraft excise tax on the taxable value of the aircraft and permits DOL to establish by rule a staggered collection system.

Section 903 creates a new section in chapter 82.48 RCW which requires the Department of Revenue to create a depreciation schedule for aircraft excise tax which will be considered the taxable value of an aircraft.

Section 904 amends RCW 82.48.030 by removing the flat-rate aircraft excise tax currently imposed.

Section 905 requires DOL to give a receipt to each person paying the aircraft excise tax.

Section 906 requires DOL to regularly pay aircraft excise taxes to the state treasurer and to deposit them in the general fund.

Section 907 exempts aircraft from personal property taxes if an aircraft excise tax has been assessed and requires assessment of personal property tax if the aircraft excise tax has not been assessed.

Section 2214 makes April 1, 2010, the effective date for Sections 205, 212, and 901-907.

II. B – Cash Receipt Impact

The cash receipt impact is indeterminate. The excise tax imposed in Section 902 is different from the existing excise tax which is a fixed dollar amount by type of aircraft. The proposed excise tax will be based on the fair market value of each aircraft. There is no information on the fair market value of aircraft currently registered in Washington as the Washington State Department of Transportation registration data does not contain fair market value of aircraft.

Section 903 stipulates that the Department of Revenue (DOR) must develop a depreciation schedule for use in determining fair market value. DOR will develop a depreciation schedule if this legislation passes.

Thus, until the fair market value of each aircraft is established and a depreciation schedule is established by DOR to estimate future values, the Department of Licensing cannot determine how much excise tax to impose.

II. C – Expenditures

The expenditures for sections 901-907 are indeterminate. The department cannot implement this bill as it is currently written. Currently this bill has an effective date of April 1, 2010. The agency is not able to complete necessary information systems programming to collect the aircraft excise tax by that date.

The tax in Section 205 is reported by the Department of Revenue. The Department of Licensing would have to make modifications to the Vehicle Field System to correctly collect the tax and to submit correct information to the Department of Revenue. The costs for this are minimal.

Some of the information required by the Secretary of State to implement Section 212 is provided by the Department of Licensing's Master License Service (MLS). MLS currently maintains two questions on the corporation and limited liability renewals processed on behalf of the Secretary of State regarding the legal entity's real estate holdings and transfers. It is assumed that Section 212 will require removing one of those questions and therefore the renewal forms will need to be reprinted. The online renewal process will need to be changed to capture the question changes and also to collect the information from both the paper and internet renewal transactions. The costs for reprinting renewal forms will be minimal. The programming changes will require a temporary employee during fiscal year 2010 for three months at $9,284 per month for a total cost of $27,852. This employee will do the analysis, coding, testing, and implementation needed for the changes to the internet renewal process.

Part V: New Rule Making Required

Section 902 requires DOL to establish by rule a staggered aircraft excise tax collection schedule.

Individual State Agency Fiscal Note

Bill Number: 3204 HB	Title: State excise tax laws	Agency: 303-Department of Health

Part I: Estimates

[X] **No Fiscal Impact**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:		Phone:	Date: 03/02/2010
Agency Preparation:	Jodine Sorrell	Phone: 360-236-4532	Date: 03/05/2010
Agency Approval:	Jodine Sorrell	Phone: 360-236-4532	Date: 03/05/2010
OFM Review:	Nick Lutes	Phone: 360-902-0570	Date: 03/06/2010

Request # 10-129-2

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.

Section 1608: Directs the Department of Health (DOH) to study youth access to and consumption of moist snuff with the assistance of the Department of Revenue (DOH) and the Office of Financial Management (OFM). The study must address historic, current, and future trends and data, preferably dating back to 2000, as well as which products are consumed by which age group. DOH must report to the legislature by December 1, 2010.

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.

Section 1608: DOH currently has data on youth prevalence rates of moist snuff for grades sixth, eighth, tenth, twelfth grade male and females. This indicates the total number of users of moist snuff in those age groups at any given time. There is no known information available on types of products used by what age group and how these different age groups acquired the product.

Due to the data currently available and the timeline to submit a report by December 1, 2010, DOH will only be able to provide information on the total number of users of moist snuff for the mentioned grades. There is no fiscal impact to the department as this information is already collected and the development of the report would be minimal.

In order to collect, analyze, and report on the data requested in this bill, DOH would need to establish a contract, which will provide research analysis and evaluation support for the agency. The contractor would seek the data required by the report and complete the study. In addition, the contractor would provide the data analysis plan, completed analysis, and prepare the report for review by DOH, DOR, and OFM prior to providing the report to the legislature. Based on previous contracting for data collection, review, analysis, and report development, DOH would require $50,000 and until December 1, 2011, to complete this work, aligning with the agency's fiscal estimates for 2382 PSHB H-4196.1, Concerning the taxation of moist snuff, from earlier this session.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

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.

Individual State Agency Fiscal Note

Revised

Bill Number: 3204 HB	Title: State excise tax laws	Agency: 405-Department of Transportation

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT		FY 2010	FY 2011	2009-11	2011-13	2013-15
Aeronautics Account-State	039-1		(26,000)	(26,000)	(54,000)	(54,000)
Transportation Equipment Account-Non-Appropriated	410-6		150,000	150,000	300,000	300,000
Total $			124,000	124,000	246,000	246,000

Estimated Expenditures from:

Account		FY 2010	FY 2011	2009-11	2011-13	2013-15
Motor Vehicle Account-State	108-1	0	160,000	160,000	320,000	320,000
Puget Sound Ferry Operations Account-State	109-1	0	551,000	551,000	1,166,000	1,247,500
Transportation Equipment Account-Non-Appropriated	410-6	0	150,000	150,000	300,000	300,000
Total $		0	861,000	861,000	1,786,000	1,867,500

Estimated Capital Budget Impact:

Total $						

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:

- [X] 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:		Phone:	Date: 03/02/2010
Agency Preparation:	Joe Patterson	Phone: 360-705-7545	Date: 03/05/2010
Agency Approval:	Doug Vaughn	Phone: 306-705-7500	Date: 03/05/2010
OFM Review:	Clint McCarthy	Phone: 360-902-0419	Date: 03/11/2010

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.

Section 902 amends RCW 82.48.020 imposing an annual excise tax for the privilege of using any aircraft in the state and transfers the responsibility of collecting the excise tax to the Department of Licensing (DOL). The amount of the tax is five-tenths of one percent of the taxable value of the aircraft.

Section 906 amends RCW 82.48.080 and removes the provision that ten percent of the tax collections be deposited into the aeronautics account for administrative expense.

Section 1703 amends RCW 82.21.030 and, effective May 1, 2010, imposes an additional tax on hazardous substances at the rate 1.3 percent multiplied by the wholesale value of the substance. This increases the existing tax rate on hazardous substances from 0.7 percent of the wholesale value to two percent. The hazardous substance tax applies to petroleum products, pesticides, and certain chemicals.

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.

The cash receipts reflect the reduction to the aeronautics account directed in section 906. Instead, all aircraft excise tax collections will be deposited into the general fund. Those amounts will be reflected in the DOL fiscal note.

Due to the increased tax on hazardous substances in sections 1701 through 1707, the Transportation Equipment Account, fund 410-6, non-appropriated account, would collect $150,000 more per fiscal year from the department's programs for motor vehicle and equipment.

As a result of the bill, higher fuel prices may impact fuel consumption which could lead to decreased future gas tax revenues to the motor vehicle account.

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.

It is assumed the full fee increase from 0.7 percent to two percent of the wholesale value of hazardous substances would be passed on to the department (final consumer) by its suppliers and contractors. The attached table provides estimated increased costs for the various products subject to the hazardous substance tax.

Additional background:
In addition, section 1705 indicates that the additional revenues to the motor vehicle account will be dedicated to certain activities or projects that address contamination of storm water through implementation of the department's national pollutant discharge elimination system programs. Of the additional tax imposed through June 30, 2013, five percent would be deposited into the motor vehicle account and increased to ten percent beyond July 1, 2013. There are no

assumed expenditures of these funds, because the timing of such expenditures and projects will be subject to appropriation. The following estimates of tax deposits are provided to give an indication of funds available for future storm water permit activities, based on Department of Revenue draft estimates:

FY2010	FY2011	FY2012	FY2013	FY2014	FY2015
$779,000	$11,478,000	$11,728,000	$12,007,000	$24,407,000	$24,769,000

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Personal Service Contracts					
E-Goods and Services		711,000	711,000	1,486,000	1,567,500
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements		150,000	150,000	300,000	300,000
9-					
Total:	$0	$861,000	$861,000	$1,786,000	$1,867,500

Part IV: Capital Budget Impact

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.

Individual State Agency Fiscal Note

Bill Number: 3204 HB	Title: State excise tax laws	Agency: 461-Department of Ecology

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT					
Total $					

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.9	8.5	4.7	16.7	25.0
Account					
Storm Water Account-State NEW-1	108,883	1,175,582	1,284,465	3,664,398	5,173,885
Total $	108,883	1,175,582	1,284,465	3,664,398	5,173,885

Estimated Capital Budget Impact:

	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	46,000,000	45,000,000	46,000,000	105,000,000	106,000,000
Total $	**$0**	**$46,000,000**	**$45,000,000**	**$46,000,000**	**$105,000,000**	**$106,000,000**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:

[X] 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).

[X] Capital budget impact, complete Part IV.

[X] Requires new rule making, complete Part V.

Legislative Contact:		Phone:	Date: 03/02/2010
Agency Preparation:	Mike Herold	Phone: 360-407-6434	Date: 03/03/2010
Agency Approval:	Patricia McLain	Phone: 360-407-7005	Date: 03/03/2010
OFM Review:	Linda Steinmann	Phone: 360-902-0573	Date: 03/03/2010

Request # 10-139-1

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.

Sections 1701 through 1707 and Section 2215 of this bill are identical in content to SHB 3181, the Clean Water Act of 2010. There is no change in Ecology's estimation of fiscal impact from the fiscal note on SHB 3181.

Section 1704 of this bill would require the Department of Ecology to institute and administer a program for disbursement of municipal stormwater grants. Section 1703 establishes conditions for the administration of the grants described in section 1704.

Cash receipts timing: An increased tax on hazardous substances would be imposed effective May 1, 2010. The Department of Revenue assumes that collection of the increased tax would begin in June, 2010, and cash receipts would be available after that.

Grant program: Section 1704 would establish a new Storm Water Account and a grant program for “activities or projects that mitigate or prevent storm water pollution.” Based on our understanding of the intent of the bill, this fiscal note details the estimated grant levels plus the grant program administrative costs that would be required, within the 4% grant administration ceiling that the bill would impose. The bill would require that grant applications under subsection 1704(4) commence in July, 2010. Fund availability is based on information from the Department of Revenue. Grants in FY11 would be awarded in accordance with Subsection 1703(2)(b)(i) solely for the purposes of funding government projects or activities as described in subsection 1704(2)(a). Since it is unlikely that rules to guide a competitive grant process could be in place by July1, 2010, Ecology is proposing to award grants as directed in subsection 1704(2)(a) equitably, based on status as a primary municipal stormwater permit holder. Details on the proposed distribution are in section II.C - Expenditures. Grant administration preparation would need to start immediately, in April, 2010, to prepare for the July, 2010, start of the grant application process. Rulemaking would commence in July, 2010, with estimated completion by June, 2011.

Other Ecology efforts to mitigate or prevent storm water pollution: Ecology’s understanding of the intent of this bill is to fund additional measures to cleanup and prevent water pollution in future years. Sections 1704 and 1707 would mandate the future activities Ecology would be expected to conduct through the Oil Spill Prevention Account for oil spill prevention and the Water Quality Action Account for water pollution cleanup and prevention. Consistent with lead agency assumptions and OFM advice, Ecology assumes that where these other efforts are not individually specified and required in the bill, the intent would be that OFM and the legislature decide the year-by-year allocation of funds to these efforts through the normal budget development and adoption process. These activities are discussed in more detail under the Expenditures section.

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.

Section 1703 of the bill would impose an additional tax on the possession of hazardous substances. The rate of the additional tax would be 1.3% of the wholesale value of the hazardous substance.

Under current law the Department of Revenue collects the Hazardous Substance Tax. The Department of Revenue would continue to collect this tax for this bill. Please refer to the DOR fiscal note for cash receipt projections.

Subsection 1704(1) of the bill would create a Storm Water Account in the state treasury to be used on projects and activities that mitigate and prevent storm water pollution.

Based on information from the Department of Revenue, the Hazardous Substances Tax (HST) collections by DOR under this bill would begin in June, 2010, on taxes effective in May, 2010, and funds in the Storm Water Account in FY 2010 would be sufficient for Ecology's estimated FY 2010 start-up expenditures.

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.

This bill would require the development of a grant program. Local governments would submit grant proposals to mitigate or prevent contamination of storm water. The grants awarded in FY 2011, based on an application process beginning by July 1, 2010, would be allocated consistent with the formula described in subsection 1704(2)(a): 'Of the allocation in this subsection, $75,000 must be provided to each jurisdiction that is subject to the national pollutant discharge elimination system phase 1 or phase 2 requirements.' As of February 16, 2010, there are six primary phase 1 permittees, 109 primary phase 2 permittees and 45 secondary permittees. The $75,000 each would be allocated to each of 160 jurisdictions subject to the national pollutant discharge elimination system phase 1 or phase 2 requirements. Pending the completion of rule-making, the remaining estimated $34,000,000 in FY 2011 would be allocated in a simple and equitable distribution among the phase 1 and phase 2 primary permittees developed in consultation with those permittees. The estimated additional average allocation for FY 2011 would be $295,000 per primary permittee.

Subsection 1704(2) of the bill would require that after deducting administrative costs of the grant program, the funds in the new Storm Water Account would be distributed to local governments to address stormwater capital projects and activities.

The bill would require Ecology to develop criteria for administering the program and ranking projects for funding based on water quality benefits. Subsection 1704(3) would require the department to distribute the moneys within each region of the state in proportion to the severity of impacts from storm water pollution. The development of criteria in accordance with subsection 1704(3) would require rule-making.

Section 1704(2) would require that the administration of the grant program would have to be paid for out of the fees collected, and no more than four percent of the moneys from the funds collected could be used to administer the grant program.

Ecology is basing workload estimates on relevant workload information from existing Water Quality program grants and loans. Most of the local government recipients would be similar, so it is reasonable for this budget estimation purpose to assume that grant administration requirements would be similar. The assumption regarding the number of grants administered is changed for this fiscal note. The department now assumes 60 new grants each year. This assumption causes an estimated reduction in staff to administer the grants from earlier versions of fiscal notes that assumed 100 new grants each year.

Two types of agency administrative expenditures are shown: start-up costs, primarily for rule-making, and grant management costs. Grants from the new Storm Water Account are shown as capital expenditures. Since grants are expected to average about three years in duration, about one-third of the program's grants would be initiated each year. Grant management staffing requirements would build over the first three grant-making years, until a plateau was achieved, where one-third would be completed each year, and another third added each year. The additional grant management staffing needed in the second and third grant-making years is estimated separately, for clarity. All grant management, technical assistance, and rule making expenditures would be funded from the agency operating budget drawn from the Storm Water Account.

RULEMAKING: Subsection 1704(3) of the bill would require Ecology to develop criteria for administering the program and ranking projects for funding in accordance with the provisions of the bill. The development of criteria would require rule-making.

One-time development of a rule in conformance to subsection 1704(3) establishing eligibility and application criteria, ranking criteria, grant distribution criteria, and other provisions of the bill would require the following expenditures from July, 2010, to July, 2011:
-- To provide storm water impact analysis and evaluate options to implement this program, 0.5 FTE of an Environmental Engineer 5 (EE5, Range 73, Step L) is estimated to be required.
-- To draft the rule and interact with an advisory group in developing the draft rule, prepare for public meetings, hearings, and workshops in conjunction with rule development and other information sharing opportunities with the Puget Sound Partnership, clients and stakeholders, to assist in the rulemaking process, and provide technical assistance to clients, and education and outreach, 0.6 FTE of an Environmental Specialist 5 (ES5, Range 59, Step G) is estimated to be required.
-- To conduct the economic analysis necessary for determining the potential mitigation for any disproportionate impact on small business as a result of the rule, 0.1 FTE of an Economic Analyst 2 (EO2, Range 55 Step G) would be required.
-- To allocate funds and criteria development for diesel emission reduction projects would require 0.10 FTE of an Environmental Planner 5 (EP5, Range 63, Step K).

GRANT MANAGEMENT AND TECHNICAL ASSISTANCE: All the following costs are assumed to be on an on-going basis.

Subsection 1704(2) would require that the administration of the grant program would deduct no more than four percent of the moneys from the storm water account to administer the grant program. Relying on experience with existing grant programs, administrative costs are based on the projected number of grants managed and the need to maintain accounting practices that protect state revenue.

Per RCW 70.146.090, based on the 2001 Joint Legislative and Review Committee Report, Ecology's administration of the grant and loan programs include financial and technical monitoring and oversight to ensure projects are planned, designed and constructed according to state and federal rules, and to assure they achieve a demonstrable environmental benefit. In order to ensure environmental outcomes from the public funds given as grants, Ecology is expected to provide technical assistance and oversight. (Many municipalities lack the staff or resources to independently plan, design and implement the NPDES required program components.) The form of this technical assistance comes in Ecology-designed workshops, one-on-one permittee training, multi-permittee coordination assistance and external resource coordination. Technical assistance staff are assigned to projects based on the needs of the recipient, so staffing levels are more dependent on the number of grants requiring oversight than on the grant dollars administered. The staffing levels contained here are based on the estimated number of grants administered and within that number, the need for technical assistance in stormwater pollution control. (Please note: If the grant applications received were primarily for smaller projects resulting in more grants, additional grant staff would be needed or existing grant management standards would have to be met in other ways. A supplemental budget request could be required if the number and size of grants proposed and funded were to vary substantially from these estimates.)

INITIAL GRANTS beginning FY 2011: Subsection 1703(2)(b)(i) would require that of the taxes collected through June 30, 2011, 20% be used solely for the purposes of funding the items set forth in section 1704(2) (a) of the bill [...local government projects or activities that mitigate or prevent contamination of storm water or the recontamination of receiving waters previously remediated under federal or state-approved activities.]. In conjunction with the July 1, 2010, application date, it is assumed that it is intended that the initial moneys be distributed prior to the completion of rulemaking.

Grant administration preparation would begin immediately to prepare for and consider the initial grant applications that would arrive beginning July, 2010. Preparation for the grant applications and solicitation would begin on April 1, 2010. The following staffing would be required:

-- To prepare application guidance and provide technical assistance to clients, and education and outreach, a full time Environmental Planner 5 (EP5, Range 63, Step L) would be required immediately. (0.25 FTE FY10, 1.0 FTE FY11 and thereafter)
-- To assist in preparing application guidance, provide technical assistance, education and outreach, a full time Environmental Specialist 5 (ES5, Range 59, Step L) would be required immediately. (0.25 FTE FY 10, 1.0 FTE FY11 and thereafter)
-- To provide hazardous substance and storm water impact analysis and engineering review, and to prepare related guidance to implement this program, a full time Environmental Engineer 5 (EE5, Range 73, Step L) would be required immediately. (0.25 FTE FY10, 1.0 FTE FY11 and thereafter)

ON-GOING GRANT PROGRAM START-UP STAFFING: In addition to the initial grants awarded in FY2011, an estimated 60 new stormwater grants per year with a life span of three years each, in a program administering approximately $ 105,000,000 of new money per year, would result in a steady-state of 180 grant projects balancing $315,000,000 each year, by FY2014. The annual amount available for grants would increase again in FY16 and the number of grants or average value of each grant (or both) would increase. These grants are assumed to be capital expenditures.

-- To assist in preparing application guidance and provide technical assistance to clients, and education and outreach, a full time Environmental Specialist 4 (ES4, Range 55, Step L) would be required beginning July, 2010. (1.0 FTE FY11

and thereafter)
-- To prepare application guidance, prepare the offer list and award grants, a full time Environmental Planner 4 (EP4, Range 59, Step L) would be required beginning July, 2010. (1.0 FTE FY11 and thereafter)
-- To provide administrative support to the grant administration staff, 0.2 FTE of an Office Assistant 3 (OA3, Range 31, Step G) would be required beginning in January, 2011. (0.1 FTE FY12 and thereafter)

-- To provide supervision to the stormwater grant staff, a full time Washington Management Service 1 (WMS1) would be required beginning July, 2010. (1.0 FTE FY11 and thereafter)

FIRST GROUP OF 60 GRANTS, beginning FY 2012: In addition to the grant administration staff outlined above, the following additional staff are estimated to be required beginning in July, 2011, as the first round of grants under the new rule are managed, assuming a 60-grant workload (FY12 on):

-- To provide engineering review of design and specifications for stormwater control and treatment structures, and evaluate design of low-impact technologies, 1.0 FTE of an Environmental Engineer 3 (EE3, Range 67, Step G) would be required.
-- To provide engineering and technical assistance in the field to grant recipients, 1.0 FTE of an Environmental Engineer 2 (EE2, Range 61, Step G) would be required.
-- To review and approve quality assurance project plans for monitoring projects that assess the effectiveness of stormwater treatment projects, manage grants and provide technical assistance to ensure projects are implemented to achieve compliance with water quality standards, 1.0 FTE of an Environmental Specialist 4 or Environmental Planner 3 (ES4/EP3, Range 49, Step G) would be required.
-- To negotiate grant agreements, determine compliance with treatment provisions of the stormwater management manual, process payment requests and manage financial portions of grants, 1.0 FTE of an Environmental Specialist 3 (ES3, Range 49, Step G) would be required.
-- To disburse moneys to grant recipients 0.5 FTE of a Fiscal Analyst 3 (FA3, Range 50, Step G) would be required.
-- To provide administrative support to the grant administration staff, 0.9 FTE of an Office Assistant 3 (OA3, Range 31, Step G) would be required.
-- To prepare new capital stormwater decision package requests and capital allotments for the grant expenditures. Review and approval of new stormwater grant agreements, tracking re-appropriations of grants in future biennia, 0.3 FTE of a WMS 1 Capital Budget Analyst would be required (0.3 FTE, WMS 1)
-- To track the applications, scoring, grant conditions, outcome monitoring and other information associated with stormwater grant administration, a database would be developed and maintained by an ITAS4 in the Tech Services Program, 1FTE (ITAS4, Range 62 Step G).

SECOND GROUP OF 60 GRANTS, beginning FY 2013: In addition to the grant administration staff outlined above, as the number of grants managed would increase by 60 beginning in July 2012, a similar number of additional staff would be required, to handle the second sixty of the 120 total grants in the second year. The first report to the legislature, researched and prepared by the ongoing EP5, would be required by December 1, 2013 as described in bill subsection 1704(5). This additional workload and staffing is estimated for FY 13 on:

-- To manage grants and provide technical assistance to ensure projects are implemented to achieve compliance with

water quality standards, plan, negotiate and develop grant project scope of work elements, budgets, performance requirements, and schedules. 1.0 FTE at the Environmental Specialist 4 or Environmental Planner 3 level (ES4/EP3, Range 55, Step G) would be required.
-- To assist in grant administration, inspect project sites, and process payment requests, coordinate development and delivery of stormwater pollution prevention training workshops, and approve processing of payment requests, 1.0 FTE Environmental Specialist 2 (ES2, Range 43, Step G) would be required.
-- To disburse moneys to grant recipients an additional 0.5 FTE of a Fiscal Analyst 3 (FA3, Range 50, Step G) would be required.
-- To provide management of the stormwater grant staff, 0.5 FTE of a Washington Management Service 2 (WMS2) would be required.

THIRD GROUP OF 60 GRANTS, beginning FY 2014: For the third grant-making year, as the number of grants managed would again increase by 60, to plateau at the assumed maximum average workload of 180 3-year stormwater grants underway, the following additional staff would be required beginning in July, 2013, in addition to the grant administration staff outlined above. The first of the biennial reports to the legislature required in subsection 1704(5) would also be due on December 1, 2013: (FY 14 on)

-- To provide engineering review and approval, and advise on changes of design and specifications for stormwater control and treatment structures, and evaluate design of low-impact technologies, 0.5 FTE of an Environmental Engineer 5 (EE5, Range 73, Step L) would be required.
-- To assist in grant administration, evaluate applications, inspect project sites, evaluates compliance with grant project agreements, and process payment requests, 1.0 FTE of an Environmental Specialist 2 (ES2, Range 43, Step G) would be required.

-- To provide administrative support to the grant administration staff, 0.5 FTE of an Office Assistant 3 (OA3, Range 31, Step G) would be required.

-- To provide supervision to the municipal stormwater grant staff, 0.7 FTE of a Washington Management Service 1 (WMS1) would be required.
-- To provide supervision to the municipal stormwater grant staff, 0.5 FTE of a Washington Management Service 2 (WMS2) would be required.

ADDITIONAL STAFFING FY15 on:

-- To prepare application guidance, advise grantees on program requirements and ranking criteria, process grants, and prepare the offer list and award grants, a full time Environmental Planner 4 (EP4, Range 59, Step L) would be required beginning July, 2014. (1.0 FTE FY15 and thereafter)
-- To provide engineering and technical assistance in the field to grant recipients, 0.5 FTE of an Environmental Engineer 2 (EE2, Range 61, Step G) would be required

-- To provide technical and engineering assistance to municipalities during the development and implementation of stormwater pollution management programs, evaluate design of low-impact technologies, and evaluate projects to be funded, 1.0 FTE of an Environmental Engineer 3 (EE3, Range 67, Step G) would be required.
-- To negotiate grant agreements, to assist in grant administration and provide technical assistance to clients, track project outcomes, provide customer assistance and education and outreach, and manage financial portions of grants, 1.0 FTE of an Environmental Specialist 3 (ES3, Range 49, Step G) would be required.
-- To review quarterly reports, produce supplemental guidance as needed, track progress in achieving program goals, and report on outcomes, 1.0 FTE of an Environmental Specialist 5 (ES5, Range 59, Step G) would be required.

FUTURE FUNDING CONSIDERATIONS: Sections 1703 and 1707 would provide for spill prevention efforts and other water pollution prevention efforts. These expenditure impacts are not estimated or included in this fiscal note, since it is assumed that they would be included in the normal budget development and review process.

Section 1703 of the bill would provide funds that could be used in the Oil Spill Prevention Account to carry out state responsibilities in oil spill prevention. Section 1703 (2)(b) would provide increased revenue for Ecology to restore resources to conduct spill prevention inspections on ships and oil barges, and on large oil handling facilities and reinstate the state's program to coordinate and evaluate oil spill contingency plan drills. It would also provide revenue to:

-- Add needed capacity to ensure responses to major and catastrophic spills are rapid, aggressive well-coordinated, and can be sustained for 24-hour operational cycles for the first 5 days.
-- Increase inspections, local government response equipment grants and educational visits to ports, marinas and boat yards.
-- Improve ship safety and spill response in waters shared with British Columbia.
-- Establish volunteer management and commercial fishing vessel of opportunity programs for response to major oil spills.
-- Reduce the amount of oil intentionally dumped into state waters by large ships through the development of oil reception facilities.
-- Perform spill prevention inspections on facilities that do not transfer oil over water.

Section 1707 of the bill would allow Ecology to use moneys in the state clean water account to carry out state responsibilities in preventing pollution of state waters.

Subsection 1707(2)(a) specifies that moneys from the state clean water account must be used for creation and maintenance of a storm water technology center. This would require Ecology to create a technical resource center for stormwater management. Ecology assumes the resource center would be maintained in partnership with a public or private entity. The resource center would provide training programs, tools and information for stormwater management. The technical assistance program of this subsection would be supported by an informational database that incorporates data related to stormwater pollution control practices that have been implemented in the state

Subsection 1707(2)(b) specifies that moneys from the state clean water account must be used for improved storm water research, data management, and monitoring. Monitoring and research would include monitoring rivers and streams for the effects from surface runoff and the effectiveness of measures to reduce that runoff, coordination of stormwater monitoring with regional workgroups and local governments, developing and adopting criteria to assess biological impacts of surface runoff, directed studies focusing on priority management issues and GIS analysis for toxics for source tracing.

Ecology would review and report on performance of the technical assistance program required in subsections 1707(2)(a) and (b).

Subsection 1707(2)(c) specifies that moneys from the state clean water account must be used for development of clean water guidance and best management practices for non-permitted surface runoff activities. Guidance to mitigate the effects and to prevent nonpoint water pollution would be compiled and published. Compliance assistance would be delivered to promote achievement of water quality standards.

Subsection 1707(2)(d) specifies that moneys from the state clean water account must be used for improved source control actions. Action would be taken to prevent contamination of storm water, increase hazardous waste compliance and enforcement, and support compliance data management and reporting. Documentation of source control actions would be conducted so that successful solutions may be promoted.

NOTES ON COSTS BY OBJECT:

Salary estimates are based on current actual rates in effect for each job classification, and are calculated at the step corresponding to the experience level required.

Employee Benefits are calculated at the agency average of 28.3% of salaries.

Goods and Services standard costs are calculated at the agency average rate of $4,377 per direct program FTE. $200,000 for database development are included for each fiscal year (FY11-15).

Travel expenditures are calculated at the agency average rate of $1,110 per direct program FTE.

Start-up Equipment costs for the first year are calculated at the agency average rate of $7,624 per direct program FTE based on current costs for 1/5 motor pool vehicle, basic computer equipment, and an office chair.

Agency Administrative Overhead is calculated at the federal indirect rate of 36.8% of program salaries and benefits, and is identified in Expenditures by Object as 9-Agency Administrative Overhead. Administration program FTEs are included at 0.15 FTE per direct program FTE, and are identified in the Part III-B FTE Detail table as Fiscal Analyst 2.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.9	8.5	4.7	16.7	25.0
A-Salaries and Wages	56,433	503,821	560,254	1,730,269	2,550,500
B-Employee Benefits	15,971	142,581	158,552	489,667	721,792
C-Personal Service Contracts					
E-Goods and Services	3,283	232,390	235,673	527,371	590,400
G-Travel	833	8,214	9,047	32,301	48,285
J-Capital Outlays	5,718	50,700	56,418	67,854	58,705
N-Grants, Benefits and Client Services					
P-Debt Service					
S-Interagency Reimbursements					
9-Agency Administrative Overhead	26,645	237,876	264,521	816,936	1,204,203
Total:	$108,883	$1,175,582	$1,284,465	$3,664,398	$5,173,885

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 2010	FY 2011	2009-11	2011-13	2013-15
Economic Analyst 2	53,148		0.1	0.1		
Env Engineer 2	61,632				1.3	1.8
Env Engineer 3	71,496				1.0	1.5
Env Engineer 5	93,816	0.3	1.5	0.9	1.0	1.5
Env Planner 4	66,420		1.0	0.5	1.0	1.5
Env Planner 5	73,260	0.3	1.1	0.7	1.0	1.0
Env Spec 4/Env Planner 3	53,148		1.0	0.5	2.5	3.0
Env Specialist 2	39,516				0.5	2.0
Env Specialist 3	45,828				1.0	1.5
Env Specialist 5	58,656	0.3	1.6	0.9	1.0	1.5
Fiscal Analyst 2		0.1	1.1	0.6	2.2	3.3
Fiscal Analyst 3	47,016				0.8	1.0
ITAS 4	63,192				1.0	1.0
Office Assistant 3	29,784		0.1	0.1	1.0	1.5
WMS 1	60,800		1.0	0.5	1.0	1.7
WMS 1 BA	60,800				0.3	0.3
WMS 2	74,850				0.3	1.0
Total FTE's	953,362	0.9	8.5	4.7	16.7	25.0

Part IV: Capital Budget Impact

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

Construction Estimate	FY 2010	FY 2011	2009-11	2011-13	2013-15
Acquisition					
Construction					
Other		46,000,000	46,000,000	91,000,000	211,000,000
Total $		46,000,000	46,000,000	91,000,000	211,000,000

Section 1704(2) would require that funds from the Storm Water Account be distributed through a grant process to local governments for projects that mitigate or prevent contamination of storm water. The Storm Water Account would hold a portion of the revenues collected from a new Hazardous Substance Tax.

Available grant funds are estimated as funds available less administrative costs and maintaining a balance to cover potential refunds from the HST. Estimates are based on an assumption that the appropriation would include the full amount in the storm water account.

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.

The bill would require Ecology to develop criteria for administering the program and ranking projects for funding based on water quality benefits. Subsection 1704(3) would require the department to distribute the moneys within each region of the state in proportion to the severity of impacts from storm water pollution. The development of criteria in accordance with subsection 1704(3) would require rule-making.

The Office of the Attorney General has determined that given the similarity of this grant program to established grant programs in the agency, any workload associated with rulemaking support could be performed within their current level of consultation to the agency. Therefore no new AAG costs are included for rulemaking.

Individual State Agency Fiscal Note

Bill Number: 3204 HB	Title: State excise tax laws	Agency: 478-Puget Sound Partnership

Part I: Estimates

☒ **No Fiscal Impact**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:		Phone:	Date: 03/02/2010
Agency Preparation:	Michael Klos	Phone: 360-725-5447	Date: 03/05/2010
Agency Approval:	Jim Cahill	Phone: (360) 664-5440	Date: 03/05/2010
OFM Review:	Matthew Bridges	Phone: (360) 902-0575	Date: 03/05/2010

Request # HB 3204-1

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.

Section 1703 increases the hazardous substances tax and makes provision for this revenue to be used for programs that reduce the impact of stormwater and protect and restore Puget Sound.

Section 1704 creates the storm water account and requires the Department of Ecology to provide grants for phase I and II local governments to mitigate or prevent stormwater contamination and to complete stormwater retrofits. DOE is to consult with stakeholders, including the Puget Sound Partnership, in developing criteria for administering the program and ranking projects. DOE is also to consult with the Partnership to ensure that grants are for projects and activities that are consistent with the prioritization of the 2020 Action Agenda. The grant application process must be initiated by July 1, 2010.

Section 1706 calls for PSP to use any revenue deposited into the Puget Sound recovery account to fund activities or capital projects consistent with the prioritization of the 2020 Action Agenda.

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.

PSP has no cash receipt impact. All revenue would be collected by the Department of Revenue.

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.

Section 1704 requires DOE to consult with stakeholders, including the Puget Sound Partnership, in developing criteria for administering the program and ranking projects funded through the storm water account. DOE is also required to consult with the Partnership to ensure that grants are for projects and activities that are consistent with the prioritization of the 2020 Action Agenda. The Partnership already consults with DOE on existing grant and loan programs so there would be no additional costs for this section.

Section 1706 calls for PSP to use any revenue deposited into the Puget Sound Recovery Account to fund activities or capital projects consistent with the prioritization of the 2020 Action Agenda. Because there is no specific direction or timeframe to expend funds from this account no expenditures are shown.

If revenue deposited into the Puget Sound recovery account is ultimately appropriated, the Partnership would allocate funding to the following broad categories of projects and activities consistent with the prioritization of the 2020 Action Agenda:

1. Grants to local governments and tribes for the acquisition of priority areas identified through watershed assessments to preserve watersheds with an existing high level of ecological functioning;

2. Additional technical assistance, training and technical guidance to local governments to add low impact development requirements to their codes, standards and regulations;
3. Development of high-level criteria to determine the highest priority areas and project types for stormwater retrofit in Puget Sound;
4. Expanded public outreach efforts targeted to the public and businesses through the STORM campaign to reduce toxic stormwater entering Puget Sound;
5. Integration of stormwater monitoring and research with overall Puget Sound ecosystem monitoring;
6. Grants to implement critical water quality improvements in high priority areas such as Hood Canal, South Sound and the Whidbey Basin.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

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.

Multiple Agency Ten-Year Analysis Summary

Bill Number	Title
3204 HB	State excise tax laws

This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimated Cash Receipts (Dollars in Thousands)

Agency Name	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018	Fiscal Year 2019	2010-19 TOTAL
Office of State Treasurer	0	0	0	0	0	0	0	0	0	0	0
Department of Revenue	110,574,000	934,476,000	1,052,258,000	1,145,043,000	1,237,275,000	1,293,632,000	1,354,810,000	1,423,080,000	1,496,344,000	1,578,406,000	11,625,898,000
Department of Licensing	Non-zero but indeterminate impact										
Department of Health	0	0	0	0	0	0	0	0	0	0	0
Department of Transportation	0	0	0	0	0	0	0	0	0	0	0
Department of Ecology	0	0	0	0	0	0	0	0	0	0	0
Puget Sound Partnership	0	0	0	0	0	0	0	0	0	0	0
Total	**110,574,000**	**934,476,000**	**1,052,258,000**	**1,145,043,000**	**1,237,275,000**	**1,293,632,000**	**1,354,810,000**	**1,423,080,000**	**1,496,344,000**	**1,578,406,000**	**11,625,898,000**

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	090 Office of State Treasurer

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

X **No Cash Receipts**

☐ **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code											

Agency Preparation:	Dan Mason	Phone:	360-902-9090	Date:	3/11/2010 2:22:50 pm
Agency Approval:	Dan Mason	Phone:	360-902-9090	Date:	3/11/2010 2:22:50 pm
OFM Review:	Ryan Black	Phone:	360-902-0417	Date:	3/11/2010 12:22:24 pm

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	140 Department of Revenue

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

☐ **No Cash Receipts** ☐ **Indeterminate Cash Receipts**

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018	Fiscal Year 2019	2010-19 TOTAL
B&O tax	001	43,146,000	250,895,000	330,161,000	389,968,000	447,511,000	471,955,000	497,431,000	524,087,000	551,916,000	580,942,000	4,088,012,000
Bottled water tax	001	17,550,000	104,396,000	103,865,000	103,367,000	102,878,000	102,399,000	101,929,000	101,468,000	101,017,000	100,577,000	939,446,000
Cigarette tax	001		81,054,000	86,868,000	85,985,000	85,985,000	85,985,000	85,985,000	85,985,000	85,985,000	85,985,000	769,817,000
Cigarette tax	08a		64,000	185,000	363,000	363,000	363,000	363,000	363,000	363,000	363,000	2,790,000
Total Cigarette tax			**81,118,000**	**87,053,000**	**86,348,000**	**86,348,000**	**86,348,000**	**86,348,000**	**86,348,000**	**86,348,000**	**86,348,000**	**772,607,000**
Haz substance tax	new	319,000	4,706,000	5,629,000	5,764,000	10,983,000	11,146,000	23,896,000	24,273,000	24,687,000	25,129,000	136,532,000
Hazardous substance tax	001	10,668,000	157,133,000	160,441,000	164,260,000	83,715,000	84,959,000					661,176,000
Hazardous substance tax	108	779,000	11,478,000	11,728,000	12,007,000	24,407,000	24,769,000	25,153,000	25,551,000	25,986,000	26,451,000	188,309,000
Hazardous substance tax	14c	319,000	4,706,000	5,629,000	5,764,000	10,983,000	11,146,000	23,896,000	24,273,000	24,687,000	25,129,000	136,532,000
Hazardous substance tax	217	382,000	5,624,000	4,222,000	4,323,000	4,393,000	4,458,000	4,528,000	4,599,000	4,678,000	4,761,000	41,968,000
Hazardous substance tax	new	3,117,000	45,912,000	46,912,000	48,029,000	109,831,000	111,462,000	174,062,000	176,811,000	179,826,000	183,042,000	1,079,004,000
Total Hazardous substance tax		**15,265,000**	**224,853,000**	**228,932,000**	**234,383,000**	**233,329,000**	**236,794,000**	**227,639,000**	**231,234,000**	**235,177,000**	**239,383,000**	**2,106,989,000**
Other tobacco products tax	001		12,115,000	13,807,000	14,072,000	14,230,000	14,274,000	15,797,000	17,517,000	19,319,000	21,311,000	142,442,000
Public utility tax	001	848,000	5,248,000	6,626,000	6,825,000	7,030,000	7,240,000	7,457,000	7,681,000	7,911,000	8,148,000	65,014,000
Real estate excise tax	001	767,000	9,962,000	10,890,000	11,443,000	12,159,000	12,810,000	13,492,000	14,201,000	14,943,000	15,720,000	116,387,000
Real estate excise tax	058	51,000	659,000	721,000	756,000	805,000	848,000	892,000	940,000	989,000	1,040,000	7,701,000
Real estate excise tax	09p	13,000	185,000	203,000	215,000	227,000	239,000	252,000	265,000	278,000	292,000	2,169,000
Total Real estate excise tax		**831,000**	**10,806,000**	**11,814,000**	**12,414,000**	**13,191,000**	**13,897,000**	**14,636,000**	**15,406,000**	**16,210,000**	**17,052,000**	**126,257,000**

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	140 Department of Revenue

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

☐ **No Cash Receipts** ☐ **Indeterminate Cash Receipts**

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018	Fiscal Year 2019	2010-19 TOTAL
Retail sales tax	001	32,534,000	239,781,000	263,750,000	291,226,000	321,043,000	348,804,000	378,887,000	414,208,000	452,829,000	498,502,000	3,241,564,000
Retail sales tax	553	81,000	558,000	621,000	676,000	732,000	775,000	790,000	858,000	930,000	1,014,000	7,035,000
Total Retail sales tax		**32,615,000**	**240,339,000**	**264,371,000**	**291,902,000**	**321,775,000**	**349,579,000**	**379,677,000**	**415,066,000**	**453,759,000**	**499,516,000**	**3,248,599,000**
Total		**110,574,000**	**934,476,000**	**1,052,258,000**	**1,145,043,000**	**1,237,275,000**	**1,293,632,000**	**1,354,810,000**	**1,423,080,000**	**1,496,344,000**	**1,578,406,000**	**11,625,898,000**
Biennial Totals			**1,045,050,000**		**2,197,301,000**		**2,530,907,000**		**2,777,890,000**		**3,074,750,000**	**11,625,898,000**

Agency Preparation: Diana Tibbetts	Phone: 360-570-6085	Date: 3/10/2010 9:59:51 am
Agency Approval: Don Gutmann	Phone: 360-570-6073	Date: 3/10/2010 9:59:51 am
OFM Review: Ryan Black	Phone: 360-902-0417	Date: 3/11/2010 12:22:24 pm

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	240 Department of Licensing

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

☐ **No Cash Receipts**

☒ **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code										

Narrative Explanation (Required for Indeterminate Cash Receipts)

Fiscal impact regarding HB 3204 as written is INDETERMINATE. The following is DOL's revenue analysis:

- RCW 47.68.250 is not amended by this bill, registration of aircraft would remain with the Washington Department of Transportation (WADOT). Thus, WADOT should have revenue estimates for aircraft registrations.

- The excise tax imposed (Section 902) is different from the existing excise tax, which is a fixed dollar amount by type of aircraft. The proposed excise tax will be based on fair market value of each aircraft. There is no information on the fair market value of aircraft currently registered in Washington (WADOT registration data does not contain fair market value of aircraft).

- Section 903 stipulates that the Department of Revenue (DOR) must develop a depreciation schedule for use in determining fair market value. DOR will develop a depreciation schedule IF the legislation passes.

- Thus, until the fair market value of each aircraft is established AND a depreciation schedule is established by DOR to estimate future values, the Department of Licensing cannot determine how much excise tax to impose.

Agency Preparation:	Sally McVaugh	Phone:	(360) 902-3642	Date:	3/8/2010 1:51:42 pm
Agency Approval:	Sam Knutson	Phone:	(360) 902-3644	Date:	3/8/2010 1:51:42 pm
OFM Review:	Ryan Black	Phone:	360-902-0417	Date:	3/11/2010 12:22:24 pm

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	303 Department of Health

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

[X] **No Cash Receipts** [ ] **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code										

Narrative Explanation (Required for Indeterminate Cash Receipts)

Of the excise taxes addressed in this bill, HB 3204, the Department of Health does not collect any. Therefore, the department has no cashe receipts impact.

Agency Preparation:	Jodine Sorrell	Phone: 360-236-4532	Date: 3/5/2010 2:28:51 pm
Agency Approval:	Jodine Sorrell	Phone: 360-236-4532	Date: 3/5/2010 2:28:51 pm
OFM Review:	Ryan Black	Phone: 360-902-0417	Date: 3/11/2010 12:22:24 pm

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	405 Department of Transportation

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

- [X] **No Cash Receipts**
- [ ] **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code										

Agency Preparation:	Joe Patterson	Phone:	360-705-7545	Date:	3/5/2010 3:06:12 pm
Agency Approval:	Doug Vaughn	Phone:	306-705-7500	Date:	3/5/2010 3:06:12 pm
OFM Review:	Ryan Black	Phone:	360-902-0417	Date:	3/11/2010 12:22:24 pm

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	461 Department of Ecology

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

X **No Cash Receipts** ☐ **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code										

Agency Preparation:	Mike Herold	Phone:	360-407-6434	Date:	3/3/2010 1:57:23 pm
Agency Approval:	Patricia McLain	Phone:	360-407-7005	Date:	3/3/2010 1:57:23 pm
OFM Review:	Ryan Black	Phone:	360-902-0417	Date:	3/11/2010 12:22:24 pm

Ten-Year Analysis

Bill Number	Title	Agency
3204 HB	State excise tax laws	478 Puget Sound Partnership

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at http://www.ofm.wa.gov/tax/default.asp .

Estimates

[X] **No Cash Receipts** [ ] **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code										

Agency Preparation:	Michael Klos	Phone:	360-725-5447	Date:	3/5/2010 10:44:58 am
Agency Approval:	Jim Cahill	Phone:	(360) 664-5440	Date:	3/5/2010 10:44:58 am
OFM Review:	Ryan Black	Phone:	360-902-0417	Date:	3/11/2010 12:22:24 pm