Multiple Agency Fiscal Note Summary

Bill Number: 2186 S HB	Title: Taxes

Estimated Cash Receipts

Agency Name	2017-19		2019-21		2021-23	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of State Treasurer	(2,098,845,000)	0	(2,676,958,000)	0	(2,999,356,000)	0
Department of Revenue	2,092,162,000	2,837,129,000	2,649,767,000	4,325,981,000	2,970,544,000	4,803,261,000
Total $	**(6,683,000)**	**2,837,129,000**	**(27,191,000)**	**4,325,981,000**	**(28,812,000)**	**4,803,261,000**

Local Gov. Courts *						
Loc School dist-SPI						
Local Gov. Other **		217,225,000		357,238,000		412,285,000
Local Gov. Total		217,225,000		357,238,000		412,285,000

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	115.3	21,920,400	21,920,400	100.7	19,955,000	19,955,000	105.0	19,623,100	19,623,100
Total	**115.3**	**$21,920,400**	**$21,920,400**	**100.7**	**$19,955,000**	**$19,955,000**	**105.0**	**$19,623,100**	**$19,623,100**

Local Gov. Courts *									
Loc School dist-SPI									
Local Gov. Other **	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

http://www.ofm.wa.gov/tax/default.asp

Prepared by: Kathy Cody, OFM	Phone: (360) 902-9822	Date Published: Final 4/18/2017

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

** See local government fiscal note

FNPID: 48798

Judicial Impact Fiscal Note

Bill Number: 2186 S HB	Title: Taxes	Agency: 055-Administrative Office of the Courts

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
Counties					
Cities					
Total $					

Estimated Expenditures from:

COUNTY	FY 2018	FY 2019	2017-19	2019-21	2021-23
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal $					
CITY	**FY 2018**	**FY 2019**	**2017-19**	**2019-21**	**2021-23**
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal $					
Local Subtotal $					
Total Estimated Expenditures $					

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

http://www.ofm.wa.gov/tax/default.asp

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

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.

Contact		Phone:	Date: 04/11/2017
Agency Preparation:	Sam Knutson	Phone: 360-704-5528	Date: 04/13/2017
Agency Approval:	Ramsey Radwan	Phone: 360-357-2406	Date: 04/13/2017
OFM Review:	Gwen Stamey	Phone: (360) 902-9810	Date: 04/14/2017

Request # 2186 SHB-1

Part II: Narrative Explanation

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

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

State	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Total $					

III. B - Expenditure By Object or Purpose (County)

County	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Total $					

III. C - Expenditure By Object or Purpose (City)

City	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Total $					

Part IV: Capital Budget Impact

Part II: Narrative Explanation

This bill would address the state's excise tax system, narrowing or eliminating tax preferences, imposing a business and occupation tax surcharge while eliminating tax liability for small businesses, enact an excise tax on capital gains, modify the real estate excise tax, and make administrative changes to existing statutes.

Note: This bill differs from 2186 HB by providing that single-family residences would include duplexes and triplexes. The bill would provide for a tax preference performance statement for both the Business & Occupations tax deductions for businesses with taxable income under $250,000 and under $500,000, and the preferential Real Estate Excise Tax for sales of real property under $250,000.

Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

Section 110(1) – Would provide that any taxpayer who knowingly attempts to evade payment of taxes imposed is guilty of a class C felony.

Section 110(2) – Would provide that any taxpayer who knowingly fails to pay tax, make returns, keep records, or supply information is guilty of a gross misdemeanor.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

There is no data available to estimate the number of cases that would be filed regarding tax payers evading taxes, failing to make returns, keep records, or supply information. It is expected that the impact would be minimal.

The law tables would need to be updated. This would be managed within existing resources.

Individual State Agency Fiscal Note

Bill Number: 2186 S HB	**Title:** Taxes	**Agency:** 090-Office of State Treasurer

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT	FY 2018	FY 2019	2017-19	2019-21	2021-23
General Fund-State 001-1	(906,862,000)	(1,191,983,000)	(2,098,845,000)	(2,676,958,000)	(2,999,356,000)
Education Legacy Trust Account-State 08A-1	906,862,000	1,191,983,000	2,098,845,000	2,676,958,000	2,999,356,000
Total $					

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

http://www.ofm.wa.gov/tax/default.asp

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: 04/11/2017
Agency Preparation: Dan Mason	Phone: 360-902-9090	Date: 04/14/2017
Agency Approval: Dan Mason	Phone: 360-902-9090	Date: 04/14/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 04/17/2017

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.

SHB 2186 addresses the state's tax system and directs transfers to the education legacy trust account.

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 section 901 transfers from the general fund to the education legacy trust account are included in this fiscal note, as provided by the department of revenue.

Projected cash flows are currently unavailable; therefore, estimated earnings from investments are indeterminable. Earnings for an account are a function of the average daily balance of the account and the earnings rate of the investment portfolio. 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 March 2017 revenue forecast, assume approximately $6,800 in FY 18, $16,800 in FY 19, $26,800 in FY 20 and $29,300 in FY 21 in net earnings would be gained or lost annually for every $1 million shift in average daily cash balances.

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. 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

NONE

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: 2186 S HB	**Title:** Taxes	**Agency:** 140-Department of Revenue

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	133,087,000	308,409,000	441,496,000	774,502,000	897,092,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	513,392,000	565,308,000	1,078,700,000	1,233,752,000	1,388,248,000
GF-STATE-State 01 - Taxes 06 - Tax Credits - B & O	45,970,000	50,970,000	96,940,000	104,420,000	107,820,000
GF-STATE-State 01 - Taxes 10 - Compensating Tax	15,108,000	19,211,000	34,319,000	47,056,000	55,909,000
GF-STATE-State 01 - Taxes 25 - Cigarette Tax	380,000	435,000	815,000	932,000	1,034,000
GF-STATE-State 01 - Taxes 26 - Other Tobacco Tax	44,000	51,000	95,000	109,000	121,000
GF-STATE-State 01 - Taxes 57 - Real Estate Excise	206,084,000	229,273,000	435,357,000	480,996,000	511,680,000
GF-STATE-State 01 - Taxes 75 - Penalties and Intrst	1,340,000	3,100,000	4,440,000	8,000,000	8,640,000
Education Legacy Trust Account-State 00 - 00 -		744,200,000	744,200,000	1,674,900,000	1,831,200,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	239,000	524,000	763,000	1,305,000	1,507,000
Performance Audits of Government Account-State 01 - Taxes 10 - Compensating Tax	1,000	3,000	4,000	9,000	10,000
Total $	915,645,000	1,921,484,000	2,837,129,000	4,325,981,000	4,803,261,000

Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	123.7	106.9	115.3	100.7	105.0
Account					
GF-STATE-State 001-1	11,853,800	10,066,600	21,920,400	19,955,000	19,623,100
Total $	11,853,800	10,066,600	21,920,400	19,955,000	19,623,100

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

http://www.ofm.wa.gov/tax/default.asp

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: 04/11/2017
Agency Preparation:	Valerie Torres	Phone: 360-534-1521	Date: 04/12/2017
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 04/12/2017
OFM Review:	Kathy Cody	Phone: (360) 902-9822	Date: 04/13/2017

Part II: Narrative Explanation

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

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

Note: This fiscal note reflects language in draft legislation SHB 2186 (H-2594.1), 2017 Legislative Session.

SUMMARY OF CHANGES IN SHB 2186:
- Adds that the capital gains tax does not apply to the sale of duplexes and triplexes.
- Adds a tax preference performance statement and expiration date (January 1, 2033) for the small business and occupation (B&O) tax deduction and the filing threshold changes.
- Adds a tax preference performance statement and expiration date (January 1, 2033) for the graduated rate for Real Estate Excise Tax (REET).

SUMMARY OF THIS LEGISATION:
- Creates a capital gains tax;
- Replaces the small business credit with a small business B&O tax deduction; adjusts the filing threshold upward to $150,000; and adds a 20 percent surcharge to certain B&O tax activities;
- Eliminates or narrows certain tax preferences for bottled water, warehousing and reselling prescription drugs, self-produced fuel, international investment management services, and nonresidents;
- Establishes a graduated rate for REET and narrows the REET exemption for foreclosures;
- Requires local governments issuing building permits to supply subcontractor information to the Department of Revenue (Department);
- Supports sales and use tax compliance through implementation of a new election under which remote sellers, referrers, and marketplace facilitators may elect to collect retail sales or use tax or comply with specified use tax notice and reporting requirements;
- Expands individual liability for an entity's unpaid tax obligations; and
- Reduces the interest rate on excise tax refunds.

PART I - CAPITAL GAINS TAX
Beginning January 1, 2018, this part imposes a tax on all individuals for the privilege of selling or exchanging long-term capital assets, or of receiving Washington capital gains. The tax equals 7.0 percent multiplied by the individual's Washington capital gains.

Deductions allowed in determining the tax are:
- $25,000; or
- $50,000 for individuals filing joint returns.

The capital gains tax does not apply to the following:
- The gain on the sale of "residential dwellings," which means property consisting solely of a single-family residence, a residential condominium unit, a residential cooperative unit, a duplex, a triplex, a floating home as defined in RCW 82.45.032, or an accessory dwelling unit.
- Capital gains received from retirement accounts.
- Capital gains from the sale or exchange of assets subject to eminent domain or sold or exchanged under imminent threat of eminent domain.
- The sale or exchange of cattle, horses, or breeding livestock held for more than 12 months by farmers if more than 50 percent of the taxpayer's gross income is from farming or ranching.
- The sale or exchange of agricultural land or timber land by an individual meeting certain requirements.
- The sale or exchange of property used in a business and that would qualify for an income tax deduction under Internal Revenue Code sections 167 or 179.
- The sale or exchange of timber, or the receipt of Washington capital gains as dividends and distributions from real estate

investment trusts derived from gains from the sale or exchange of timber.

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

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

Individuals are allowed a credit equal to the amount of tax paid to another taxing jurisdiction on capital gains derived from sources within the other taxing jurisdiction to the extent the capital gains are included in the measure of the Washington capital gains tax.

Washington capital gains tax returns and payments are due at the same time that the taxpayer's federal income tax return for the taxable year is due. Individuals receiving a federal tax filing extension also qualify for a state capital gains tax filing extension, but the tax is still due on the original filing date. Delinquent payments are subject to penalties under chapter 82.32 RCW. Taxpayers who file returns, along with a copy of the federal income tax return, late with the Department are assessed a five percent penalty for each month that the return is unfiled. However, the penalty may not exceed 25 percent of the tax due for the taxable year covered by the delinquent return, and is in addition to any penalties assessed for the late payment of any tax due on the return. The Department may waive the penalty when late payment was due to circumstances beyond the taxpayer's control, or the taxpayer has not been delinquent in filing any return during the preceding five calendar years.

This part also creates a B&O tax deduction to avoid taxing the same amounts under both the B&O and capital gains taxes.

PART II - B&O RATE CHANGE AND DEDUCTION
20 Percent Surcharge
Beginning July 1, 2017, this part imposes a 20 percent surcharge on all the following B&O taxable activities: retailing, wholesaling, manufacturing, service and other activities, gambling, real estate brokerage, extracting, extracting for hire, processing for hire, insurance agent/broker commissions, childcare, printing and publishing, royalties, international investment management, prescription drug warehousing, qualified grocery distribution cooperatives, public or nonprofit hospitals, cleanup of radioactive waste for US government, retailing of interstate transportation equipment, scientific research and development, and other activities currently taxed at the rates of 0.471 percent, 0.484 percent, 1.5 percent, or 1.63 percent.

Beginning July 1, 2024, this part imposes a 20 percent surcharge on printing and publishing of newspapers.

Small Business Deduction

This part eliminates the separate small business B&O tax credits (SBC) for service-oriented and non-service-oriented businesses and replaces the credit with a deduction. A business is eligible for either:
- a $250,000 deduction if the business' B&O taxable amount was less than or equal to $250,000 for the calendar year immediately preceding the current calendar year; or
- a $100,000 deduction if the business' B&O taxable amount was greater than $250,000 and less than $500,000, for the calendar year immediately preceding the current calendar year.

A business eligible to claim the deduction that is also entitled to claim a multiple activities tax credit (MATC) may elect to claim a deduction in the form of credit. This credit for a calendar year is equal to the lesser of the B&O tax otherwise due for that calendar year or an amount determined by:
- For a business eligible for the $250,000 deduction, multiplying $250,000 by the highest tax rate applicable to any of the activities conducted by the taxpayer for which an MATC is earned; or
- For a business eligible for the $100,000 deduction, multiplying $100,000 by the highest tax rate applicable to any of the activities conducted by the taxpayer for which an MATC is earned.

No B&O tax is due when the measure of tax for a reporting period is equal to or less than the available deduction, or in the case of the credit, the tax otherwise due for a reporting period is equal to or less than the credit. Any unused portion of the deduction or credit may be carried forward for tax reporting periods in the same calendar year but otherwise may not be carried forward or backward to tax reporting periods in other calendar years. The Department cannot refund this new deduction or credit to the taxpayer.

For businesses subject to taxes imposed under multiple B&O tax classifications, the deduction must be applied to the measure of tax in the order of business activities taxed with the highest rate to business activities taxed with the lowest rate. The new deduction must be taken after all other deductions are claimed, and the new credit must be taken after all other credits are claimed.

This part increases the filing threshold to $150,000 per year for all qualifying businesses subject to B&O tax.

The small business B&O tax deduction and the filing threshold change expire January 1, 2033.

Currently, a business must file an excise tax return with the Department if it meets any of the following conditions:
- Required to collect sales tax.
- Gross proceeds of sales, gross income, or value of products is at least $46,667 dollars per year for persons generating at least fifty percent of their taxable amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285 (service-oriented businesses), or at least $28,000 per year for all other businesses subject to B&O tax (non-service-oriented businesses).
- Gross income of the business for all public utility tax classifications is equal to or greater than $24,000 per year.
- Required to pay any other tax or fee to the Department.

Also currently, a business with B&O tax liability below a certain level is entitled to the SBC. The credit varies depending on the amount of B&O tax due (the total of all classifications) after taking all other B&O tax credits. A $70 per month maximum SBC is available for service-oriented businesses. All other businesses are eligible for a $35 per month maximum SBC.

PART III - ELIMINATING OR NARROWING TAX PREFERENCES

SUBPART A - ELIMINATING THE SALES AND USE TAX EXEMPTION FOR BOTTLED WATER
Effective July 1, 2017, this part extends sales and use taxes to bottled water. "Bottled water" means water placed in a safety sealed container or package for human consumption without additives or sweeteners. Bottled water includes water delivered to the buyer in a reusable container that is not sold with the water. Bottled water also includes water sold through a vending machine.

This part provides exemptions for bottled water sold pursuant to a prescription or to persons with an unsafe primary source of drinking water. Except for bottled water delivered to the buyer in a reusable container, the sales tax exemptions require the buyer to pay the tax to the seller and then request a refund from the Department. However, the person must have paid at least $25 in state and local sales taxes on exempt purchases of bottled water to receive a refund.

SUBPART B - REPEALING THE PREFERENTIAL BUSINESS AND OCCUPATION TAX RATE FOR WAREHOUSING AND RESELLING PRESCRIPTION DRUGS
This part repeals the preferential B&O tax rate for warehousing and reselling prescription drugs by sellers who are registered with the Federal Drug Enforcement Administration and licensed by the State Board of Pharmacies.

SUBPART C - NARROWING A USE TAX EXEMPTION FOR SELF-PRODUCED FUEL
This part narrows the use tax exemption for fuel used by the extractor or manufacturer of the fuel so that it would only apply to biomass fuel. As a result, refinery fuel gas would become subject to use tax. However, the bill provides a reduced state use tax rate of 3.852 percent for the use of refinery fuel gas, which is equivalent to the rate of the state brokered natural gas use tax.

SUBPART D - ELIMINATING THE PREFERENTIAL BUSINESS AND OCCUPATION TAX RATE FOR INTERNATIONAL INVESTMENT MANAGEMENT SERVICES
This part repeals the preferential B&O tax rate for international investment management services. As a result, these activities would become taxed at the service and other activities B&O tax rate.

SUBPART E - NONRESIDENT SALES TAX EXEMPTION REMITTANCE
This part changes the tax exemption for qualified nonresidents to a refund program under RCW 82.08.0273 for the state portion (6.5%) of the sales tax only.

This part requires qualified nonresidents (both businesses and individuals) to apply for a refund of state sales tax (not local sales tax) from the Department instead of receiving the exemption at the point of sale.

- The Department only accepts applications for request amounts of $25 or more;
- The Department accepts applications for refunds between January 1 and December 31 of each year for purchases made within the preceding calendar year. In 2018 the refund would only apply to purchases made between July 1 and December 31 of 2017;
- The Department only accepts one application per year per nonresident; and
- Nonresidents would submit sales receipts, addresses of the places of purchase, and other documentation required by the Department.

Certain penalties and repayments apply to persons making fraudulent statements or receiving fraudulent refunds.

PART IV - REAL ESTATE EXCISE TAXES

SUBPART A - GRADUATED REAL ESTATE EXCISE TAX RATES
This part creates a graduated state REET rate as follows until January 1, 2033:
- 0.75 percent if the selling price is less than $250,000;
- 1.28 percent if the selling price is at least $250,000 and less than $1,000,000;
- 2.00 percent if the selling price is at least $1,000,000 and less than $5,000,000; and
- 2.50 percent if the selling prices is greater than or equal to $5 million.

Currently, the state REET rate is 1.28 percent of the selling price for all sales not exempted and after January 1, 2033 the state REET rate returns to 1.28 percent.

Distributions to the Public Works Assistance account, Education Legacy Trust account, and City-County Assistance account occur after the calculations and deposits made to the Education Legacy Trust account in section 901(2).

SUBPART B - REAL ESTATE EXCISE TAX ON FORECLOSURES
This part requires the payment of REET if:
- A lender or creditor receives property through a foreclosure proceeding or by enforcing a judgment, or the property is transferred to a federal, state, or local government entity in a foreclosure or execution sale; or
- A private party other than the lender or creditor receives the property through a foreclosure or execution sale, if the selling price does not exceed the amount of the lien, security interest, or judgment that is the subject of the foreclosure or execution sale.

Currently, the REET does not apply to transfers made in foreclosure proceedings or through enforcement of a judgment, including foreclosures that occur through auction without court oversight. (RCW 82.45.010(3)(j)). The REET also does not apply to a deed given in lieu of foreclosure to satisfy a mortgage or deed of trust.

PART V - REQUIRING LOCAL GOVERNMENTS THAT ISSUE BUILDING PERMITS TO SUPPLY SUBCONTRACTOR INFORMATION TO THE DEPARTMENT OF REVENUE
This part increases subcontractor compliance with state tax laws by requiring:
- Prime contractors, including homeowners listed as the prime, working on residential construction projects to provide the local government issuing the building permit a list of subcontractors when requesting final project inspection;
- The local government issuing the building permit to provide the information to the Department monthly; and
- The Department to share this information upon request with the Department of Labor and Industries and the Employment Security Department.

PART VI - REMOTE SELLERS, REFERRERS, AND MARKETPLACE FACILITATORS
This part provides new guidelines for determining when certain sellers may be obligated to collect sales and use tax in Washington or otherwise comply with certain use tax notice and reporting requirements.

SUBPART A - FINDINGS AND INTENT
This subpart provides the Legislature’s intent in passing this part of the bill.

SUBPART B - SALES AND USE TAX COLLECTION
New Election
Beginning January 1, 2018, this subpart provides a new election as follows:

- Remote sellers must elect to collect sales or use tax on their retail sales into Washington or comply with certain use tax notice and reporting requirements with respect to such sales if their receipts into Washington exceed $10,000. “Remote seller” generally refers to a seller without an in-state physical presence.

- Marketplace facilitators with an in-state physical presence or receipts into Washington exceeding $10,000 must elect to either collect sales or use tax or comply with certain use tax notice and reporting requirements on sales through their marketplace by marketplace sellers (third-parties) without an in-state physical presence. The election also applies to a marketplace facilitator’s own sales if the marketplace facilitator does not have an in-state physical presence . “Marketplace facilitator” generally refers to a person that facilitates sales for third-parties through its marketplace.

- Referrers with an in-state physical presence or receipts into Washington exceeding $10,000 must elect to either collect sales or use tax or comply with certain use tax notice and reporting requirements on retail sales directly resulting from a referral of the purchaser to a marketplace seller without an in-state physical presence. This election also applies to a referrer’s own sales if the referrer does not have an in-state physical presence. “Referrer” generally means a person who makes agreements with sellers to list or advertise items for sale for a fee and transfers purchasers to these sellers to complete the sale.

Use Notice and Reporting Requirements
If a remote seller, marketplace facilitator, or referrer subject to the provisions of this bill does not collect Washington sales or use tax, the person must comply with certain use tax notice reporting requirements or be subject to penalties as follows:

Initial notice - sellers, other than referrers acting in their capacity as referrers
- Must provide notice to the public of specified sales and use tax information through the sellers’ websites, catalogs, or similar media; and
- Must provide to each consumer at the time of each sale additional specified sales and use tax information.
- The penalty for failure to comply is $20,000.

Annual report to consumers - sellers, other than referrers acting in their capacity as referrers
- Must provide an annual report to consumers with information about all sales made during the year where sales and use tax was not charged.
- The penalty for failure to comply is 8.5 percent of gross receipts for sales sourced to Washington for the calendar year.

Annual report to the Department - sellers, other than referrers acting in their capacity as referrers
- Must provide an annual report to the Department with names, addresses, and total sales made to the consumer where sales and use tax was not charged.
- The penalty for failure to comply is $25 multiplied by the number of consumers that should have been included on the report, but not less than $20,000.

Initial notice - referrers
- Must provide notice to the public of specified sales and use tax information through the referrers’ websites, catalogs, or similar media.
- The penalty for failure to comply is $20,000.

Annual notice and list - referrers
- Must provide notice to each marketplace seller, to whom the referrer transferred a potential purchasers located in Washington during the previous calendar year, with specific sales and use tax information.
- Must also provide to the Department a list of those sellers receiving the notice.

- The penalty for failure to comply is 8.5 percent of the gross income of the business received from referral services as apportioned to Washington.

Marketplace facilitators and referrers are relieved of liability for failure to collect the correct amount of tax to the extent they can demonstrate the error was due to incorrect information provided by an unaffiliated marketplace seller. In such cases, the marketplace seller is solely liable for the amount of the uncollected tax due. Marketplace facilitators and referrers are also relieved of liability up to a specified error percentage under certain conditions. Marketplace sellers are relieved of the obligation to collect sales or use tax on taxable sales through a marketplace operated by a marketplace facilitator or sales directly resulting from a referral where the marketplace facilitator or referrer is documented to be registered and collecting taxes for the marketplace seller. Nothing relieves sellers or consumers who are subject to chapter 82.08 or 82.12 RCW (sales or use tax) from any responsibilities under those chapters.

Under current law, only businesses with a physical presence in Washington are required to collect sales or use tax on sales into Washington.

SUBPART C - CONFORMING AMENDMENTS
This subpart eliminates two safe harbors (RCW 82.08.050(11) and RCW 82.12.040(5)) that might otherwise limit the effectiveness of the bill.

PART VII - EXPANDING INDIVIDUAL LIABILITY FOR AN ENTITY'S UNPAID TAX OBLIGATIONS
This part expands the personal liability for a limited liability business entity's unpaid taxes, penalties, and interest to include B&O tax, deferred retail sales tax, use tax, cigarette tax, and tobacco tax.

Currently, the law holds individuals personally liable for a limited liability business entity's unpaid trust fund taxes (e.g., collected retail sales tax and spirits tax), including penalties and interest, when:
- The Department issued a tax warrant for the collection of unpaid trust fund taxes from a limited liability business entity;
- The entity has been terminated, abandoned, or dissolved; or the entity is insolvent; and
- The responsible individual willfully failed to pay or cause to be paid the trust fund taxes to the Department by the limited liability business entity.

Personal liability also applies to chief executives and chief financial officers, regardless of fault.

PART VIII - REDUCING INTEREST ON TAX REFUNDS
Beginning January 1, 2018, this part reduces the interest rate for overpayments (refunds) of taxes reported on the Department's Combined Excise Tax Return to the average federal short-term interest rate with no addition to the rate. The interest rate for underpayments would remain as the average federal short-term interest rate plus two percentage points.

Currently, when taxpayers under- or overpay excise taxes interest applies to the deficiency or overage. The Department calculates the interest rate annually based on the average federal short-term interest rate plus two percentage points (RCW 82.32.050). The same rate applies to both under- and over payments.

PART IX - TRANSFERS TO THE EDUCATION LEGACY TRUST ACCOUNT
By December 15 and June 15, the Department must estimate the net increase in state general fund revenue from the changes made in parts II, III, and VI for the applicable six-month period of the current fiscal year and the same six-month period of Fiscal Year 2017 and notify the State Treasurer of the increase.

The State Treasurer must transfer the estimated net increases to the Education Legacy Trust Account by the last working day of the second and fourth quarters.

By September 15, December 15, April 15, and June 15, the Department must estimate the net increase in state revenues from the changes made in part IV for the applicable current fiscal year quarter and the same fiscal year quarter of Fiscal Year 2017 and notify the State Treasurer of the increase.

The State Treasurer must transfer the estimated net increases to the Education Legacy Trust Account by the last working day of each fiscal year quarter beginning September 30, 2017.

PART X - GENERAL CONFORMING AMENDMENTS
This part cleans up references related to the above changes.

PART XI - MISCELLANEOUS PROVISIONS
This bill does not affect any existing right, liability or obligation incurred under sections amended or repealed.

If any provisions of this bill are held invalid, the remainder of the bill applies to other persons or circumstances.

All changes except the following take effect July 1, 2017:
- The change to the interest rate for refunds takes effect January 1, 2018.
- The changes for nexus begin January 1, 2018.
- The capital gains tax begins January 1, 2018.

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 - CAPITAL GAINS TAX

ASSUMPTIONS
- Approximately 48,000 taxpayers pay capital gains taxes for taxes due in 2019.
- Approximately 50 percent of capital gains subject to this tax constitute business income making them taxable under the B&O tax. The capital gain income subject to B&O tax qualifies for a B&O tax deduction.
- Capital gains growth mirrors Global Insight's forecasted change in equities for 2015 to 2023.
- No estimated payments or withholding occurs during the year.
- Compliance:
  - 90 percent revenue collections in Fiscal Year 2019, and
  - 95 percent revenue collections in Fiscal Year 2020 and thereafter.
- The capital gains tax begins January 1, 2018, with the first annual returns due April 15, 2019.
- Revenues as estimated assume passage of the proposal by June 30, 2017, allowing a full 18 months to implement.

DATA SOURCES
- Capital gains data from 2014 Federal income tax returns
- Department of Revenue, excise tax data
- Economic and Revenue Forecast Council, November 2016 forecast
- Global Insight (a Division of IHS, Inc.), November 2016 forecast

REVENUE ESTIMATES
This part creates a net increase to state revenues by an estimated $715 million for impacted collections in Fiscal Year 2019, and by $784 million in Fiscal Year 2020.

PART II - B&O RATE CHANGE AND DEDUCTION

ASSUMPTIONS

- The level of income and types of activities of these businesses will be similar to income and activity in the recent past.
- B&O tax lines affected by the surcharge include 2, 3, 4, 7, 10, 11, 14, 16, 19, 21, 28, 55, 80, 83, 135, and 192.
- The repeal of preferential rates for warehousing and reselling prescription drugs affects B&O tax line 21 and businesses classified under NAICS code 424210.
- The repeal of preferential rates for international investment management services affects B&O tax line 28 and businesses classified in NAICS beginning with 522, 523, 524 or 525.
- Beginning July 1, 2024, B&O taxes on line 126 (printing and publishing of newspapers) revert to a rate of 0.00484. At this point, the 20 percent surcharge applies to B&O taxes due for the printing and publishing of newspapers.
- The deduction loss grows 2.5 percent annually.
- The surcharge revenue grows 5.1 percent annually.
- The SBC would have grown 1.6 percent annually.
- The number of taxpayers not owing B&O tax under this part is 260,000.
- The number of taxpayers with reduced B&O tax under this part includes another 33,000.
- Revenues as estimated assume passage of the proposal by March 31, 2017, allowing a full 90 days to implement.

DATA SOURCES

- Department of Revenue, excise tax data
- Federal/state information on small/new businesses

REVENUE ESTIMATES

This part creates a net increase to state revenues by an estimated $556 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $641 million in Fiscal Year 2019, the first full year of impacted collections.

PART III - ELIMINATING OR NARROWING TAX PREFERENCES

SUBPART A - ELIMINATING THE SALES AND USE TAX EXEMPTION FOR BOTTLED WATER

ASSUMPTIONS

- Because of the increase in the total price of bottled water (as a result of imposing sales tax), a small decrease in purchases occurs. The price elasticity for bottled water is 94.5 percent.
- Bottled water consumption grows at a rate of 5.5 percent.
- The retail sales price of bottled water decreases 3.5 percent each year.
- To estimate local sales tax revenues, the calculations use an average local sales tax rate of 2.5355 percent.
- Single serve water bottles make up 77.8 percent of the market share leaving bulk water at 22.2 percent of the market.
- Revenues as estimated assume passage of the proposal by May 31, 2017, allowing a full 30 days to implement.

DATA SOURCES

- 2016 Beverage Digest Fact Book
- 2016 Department of Revenue, Statewide Average Local Tax Rate

REVENUE ESTIMATES

This part increases state revenues by an estimated $27 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $30 million in Fiscal Year 2019, the first full year of impacted collections.

This part increases local revenues by an estimated $11 million in the 11 months of impacted collections in Fiscal Year

2018, and by an estimated $12 million in Fiscal Year 2019, the first full year of impacted collections.

SUBPART B - REPEALING THE PREFERENTIAL BUSINESS AND OCCUPATION TAX RATE FOR WAREHOUSING AND RESELLING PRESCRIPTION DRUGS

Part II includes the assumptions, data sources and revenue estimates for this part because taxpayers impacted by repealing the preferential rate in this part are also affected by the surcharge, elimination of the SBC, the new deduction/credit, and the change to the filing threshold.

SUBPART C - NARROWING A USE TAX EXEMPTION FOR SELF-PRODUCED FUEL

ASSUMPTIONS
- Growth mirrors the growth reflected in the November 2016 forecast for crude oil sales.
- To estimate local sales tax revenues, the calculations use an average local sales tax rate of 2.5355 percent.
- Revenues as estimated assume passage of the proposal by March 31, 2017, allowing a full 90 days to implement.

DATA SOURCES
- Department of Revenue, excise tax data
- 2016 Department of Revenue, Statewide Average Local Tax Rate
- Economic and Revenue Forecast Council, November 2016 forecast

REVENUE ESTIMATES
This part increases state revenues by an estimated $14 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $17 million in Fiscal Year 2019, the first full year of impacted collections.

This part increases local revenues by an estimated $9 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $11 million in Fiscal Year 2019, the first full year of impacted collections.

SUBPART D - ELIMINATING THE PREFERENTIAL BUSINESS AND OCCUPATION TAX RATE FOR INTERNATIONAL INVESTMENT MANAGEMENT SERVICES

Part II includes the assumptions, data sources and revenue estimates for this part because taxpayers impacted by repealing the preferential rate in this part are also affected by the surcharge, elimination of the SBC, the new deduction/credit, and the change to the filing threshold.

SUBPART E - NONRESIDENT SALES TAX EXEMPTION REMITTANCE

ASSUMPTIONS
- To calculate the percent of lost sales, this analysis divides counties into border areas (areas bordering Oregon) and non-border areas. The analysis uses different elasticities in the calculations for border and non-border areas.
- Because of the increase in total price on certain goods to non-residents (as a result of imposing sales tax), a small decrease in purchases occurs. This results in a decrease in retailing B&O taxes collected.
- To project the estimates to future fiscal years, growth mirrors rates from the Economic and Revenue Forecast Council's forecast.
- Based on data collected from the Washington State Statewide Travel Impacts & Visitor Volume study (1991-2006), 40 percent of tourists (buyers) from Oregon visit counties not adjacent to Oregon.
- The percentage of non-resident buyers from Oregon applying for a refund would equal the general population's rate of

rebate submissions. Based on data collected from PMA Educational Foundation, 21 percent of the population submits rebates.
- The percentage of non-resident buyers from other states and countries applying for a refund would be equal to British Columbia's 11 percent refund rate in the Visitor Rebate Program.
- Based on data collected from Washington State Travel Impacts study (1991-2008), 65 percent of Oregonians spend at least $25 in Washington State sales tax on qualified non-resident exemption goods. Also, based on data collected from Washington State Travel Impacts study (1991-2008), 14.5 percent of non-Oregonians spend at least $25 in Washington State sales tax on qualified non-resident exemption goods.
- This analysis excludes boats and automobiles because nonresidents taking these items out of Washington would not owe sales tax even with these changes to the exemption.
- To estimate local sales tax revenues, the calculations use an average local sales tax rate of 2.5355 percent.
- Revenues as estimated assume passage of the proposal by March 31, 2017, allowing a full 90 days to implement.

DATA SOURCES
- Department of Revenue, excise tax data
- 2016 Department of Revenue, Statewide Average Local Tax Rate
- Economic and Revenue Forecast Council, November 2016 forecast
- WA State County Travel Impacts study

REVENUE ESTIMATES
This part creates a net increase of state revenues by an estimated $23 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $26 million in Fiscal Year 2019, the first full year of impacted collections.

This part increases local revenues by an estimated $11 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $13 million in Fiscal Year 2019, the first full year of impacted collections.

PART IV - REAL ESTATE EXCISE TAXES

SUBPART A - GRADUATED REAL ESTATE EXCISE TAX RATES

ASSUMPTIONS
- Thirty-three counties provide the Department with exempt REET transactions through an electronic system. For the six non-reporting counties the portion of transactions exempt from REET mirror the reporting of exempt transactions by urban or rural counties.
- Assessed values are the same as selling price when limiting the REET foreclosure exemption.
- The Public Works Assistance Account, Education Legacy Trust Account, and City/County Assistance Account receive quarterly transfers based upon the transfers as described in section 901(2).
- Revenues as estimated assume passage of the proposal by March 31, 2017, allowing a full 90 days to implement.

DATA SOURCES
- Department of Revenue, Real Estate Excise Tax Administration System data
- Economic and Revenue Forecast Council, November 2016 forecast

REVENUE ESTIMATES
This part and the narrowing of the foreclosure exemption increases state revenues by an estimated $206 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $229 million in Fiscal Year 2019, the first full year of impacted collections.

The narrowing of the foreclosure exemption increases local revenues by an estimated $9 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $10 million in Fiscal Year 2019, the first full year of impacted collections.

SUBPART B - REAL ESTATE EXCISE TAX ON FORECLOSURES

Part IV subpart A includes the assumptions, data sources and revenue estimates for this subpart because taxpayers impacted by narrowing the exemption in this subpart are also affected by the graduated REET rates.

PART V - REQUIRING LOCAL GOVERNMENTS THAT ISSUE BUILDING PERMITS TO SUPPLY SUBCONTRACTOR INFORMATION TO THE DEPARTMENT OF REVENUE

ASSUMPTIONS

- The Department's 2016 Compliance Study shows the construction industry reports $1.2 billion in state excise taxes. The Department estimates noncompliance the construction industry as over $16 million, down $13 million from 2010. There are about 53,000 contractors registered with Labor & Industries (L&I). L&I cites approximately 1,200 unregistered contractors each fiscal year.
- On average, the Department audits over 1,200 businesses with a construction NAICS code each fiscal year. From these, the average construction audit assessment is over $22,000 in tax, interest and penalties. Excise taxes account for over $17,100 or about 78 percent of the average construction audit assessment.
- In the first fiscal year, the Department registers about 1,200 unregistered subcontractors that pay the appropriate taxes.
- Compliance:
  - 13 percent revenue collections in Fiscal Year 2018,
  - 26 percent revenue collections in Fiscal Year 2019,
  - 39 percent revenue collections in Fiscal Year 2020, and
  - 52 percent revenue collections in Fiscal Year 2021 and thereafter.
- To estimate local sales tax revenues, the calculations use an average local sales tax rate of 2.5355 percent.
- Revenues as estimated assume passage of the proposal by May 31, 2017, allowing a full 30 days to implement.

DATA SOURCES

- Department of Revenue, excise tax data
- 2016 Department of Revenue, Statewide Average Local Tax Rate
- Department of Labor and Industries, 2014 Underground Economy Benchmark Report

REVENUE ESTIMATES

This part increases state revenues by an estimated $2 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $5 million in Fiscal Year 2019, the first full year of impacted collections.

This part increases local revenues by an estimated $1 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $2 million in Fiscal Year 2019, the first full year of impacted collections.

PART VI REMOTE SELLERS, REFERRERS, AND MARKETPLACE FACILITATORS

ASSUMPTIONS

- No firms will modify their behavior or cease doing business with Washington based on new obligations to either collect sales or use tax or comply with use tax notice and reporting requirements.

- Washington's share of national gross retail activity mirrors its share of US gross domestic product (GDP).
-Most impacted remote sellers, marketplace facilitators will elect to collect sales or use tax based on industry feedback.
-The bill language is consistent with the requirements articulated in Direct Marketing Ass'n v. Brohl, Case No. 12-1175 (10th Cir., Feb. 22, 2016).

Large Retailer
- A large retailer, located in Washington, who sells its own inventory, and acts as a marketplace facilitator providing a marketplace for third-party sales, is assumed to have a 45/55 percent split between sales of its own inventory and third-party sales respectively.
- Of the portion of its total sales that are on behalf of third-party sellers (55 percent), it is assumed that sales or use taxes are already being collected on 10 percent.
- This leaves about 45 percent of total sales that represent transactions for which sales or use tax is not currently collected and will be collected under this bill.
- Compliance for these sales by this large retailer:
  - 100 percent revenue collections in Fiscal Year 2018 and thereafter.

- Estimated additional retail sales tax collections from this large online retailer:
General Fund (cash basis, $000):
FY 2018 - $ 52,900
FY 2019 - $ 138,400
FY 2020 - $ 150,200
FY 2021 - $ 163,000
FY 2022 - $ 176,900
FY 2023 - $ 191,900

Other Marketplace Facilitators
- The large retailer, as described above, is estimated to represent 35 percent of all marketplace facilitator sales, meaning that other marketplace facilitators represent 65 percent of the total sales on behalf of third-party sellers.
- Compliance for these sales by all other marketplace facilitators:
  - 26 percent revenue collections in Fiscal Year 2018,
  - 39 percent revenue collections in Fiscal Year 2019, and
  - 52 percent revenue collections in Fiscal Year 2020 and thereafter.

- Estimated retail sales tax collections from other marketplace facilitators' third-party sales:
General Fund (cash basis, $000):
FY 2018 - $ 25,600
FY 2019 - $ 100,500
FY 2020 - $ 145,400
FY 2021 - $ 157,800
FY 2022 - $ 171,200
FY 2023 - $ 185,800

Remote Sellers, Selling Own Inventory
- Remote sellers, selling their own inventory will be required to either collect and remit sale tax for Washington sales or comply with use tax notice and reporting requirements.
- Compliance for these sales by remote sellers not already registered with the Department:
  - 26 percent revenue collections in Fiscal Year 2018,

- 39 percent revenue collections in Fiscal Year 2019, and
- 52 percent revenue collections in Fiscal Year 2020 and thereafter.

- Estimated retail sales tax collections from these sales:
  General Fund (cash basis, $000):
    FY 2018 - $ 2,400
    FY 2019 - $ 9,400
    FY 2020 - $ 13,600
    FY 2021 - $ 14,800
    FY 2022 - $ 16,100
    FY 2023 - $ 17,500

- Part VI is effective January 1, 2018, resulting in 5 months of cash collections in Fiscal Year 2018, with 12 months of cash collections for all subsequent fiscal years.
- Revenues as estimated assume passage of the proposal by October 31, 2017, allowing a full 60 days to implement.

DATA SOURCES
- Industry data
- 2014 US Census Bureau E-Stats, E-Commerce Multi-Sector Data Tables
- 2014 US Bureau of Economic Analysis, State and National GDP
- 2014 Forrester Research, US Online Retail Spending Forecast
- 2015 Top 1,000 Online Retailer Data
- 2015 eMarketer, Retail E-Commerce Sales, by Country
- 2016 Washington State Department of Revenue, Statewide Average Local Tax Rate

REVENUE ESTIMATES
This part increases state revenues by an estimated $81 million in the 5 months of impacted collections in Fiscal Year 2018, and by $249 million in Fiscal Year 2019, the first full year of impacted collections.

This part also increases local revenues by an estimated $31.6 million in the 5 months of impacted collections in Fiscal Year 2018, and by $97 million in Fiscal Year 2019, the first full year of impacted collections.

PART VII - EXPANDING INDIVIDUAL LIABILITY FOR AN ENTITY'S UNPAID TAX OBLIGATIONS

ASSUMPTIONS
- Based on the percentage of payments received on trust fund assessments, the percent of funds collected averages 17 percent.
- Growth mirrors the Economic Revenue and Forecast Council's forecasted growth for B&O tax.
- To estimate local sales tax revenues, the calculations use an average local sales tax rate of 2.5355 percent.
- Revenues as estimated assume passage of the proposal by May 31, 2017, allowing a full 30 days to implement.

DATA SOURCES
- Department of Revenue, excise tax data
- 2016 Department of Revenue, Statewide Average Local Tax Rate
- Economic and Revenue Forecast Council, November 2016 forecast

REVENUE ESTIMATES

This part increases state revenues by an estimated $5 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $5 million in Fiscal Year 2019, the first full year of impacted collections.

This part increases local revenues by an estimated $220,000 in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $252,000 in Fiscal Year 2019, the first full year of impacted collections.

PART VIII - REDUCING INTEREST ON TAX REFUNDS

ASSUMPTIONS

- Based on Global Insight's forecast the following interest rates would apply with the decrease of two percent:

Calendar Year	Current Law Interest Rate	Proposed Interest Rate
2018	3 percent	1 percent
2019	4 percent	2 percent
2020	5 percent	3 percent
2021	5 percent	3 percent
2022	5 percent	3 percent
2023	5 percent	3 percent

- The annual amount of assessments and refunds involving interest stays similar over time. Typically, audits reflect the previous 4 years and the current year, therefore in future years the change in the interest rate in the early years continues to impact collections in later years.
- Revenues as estimated assume passage of the proposal by September 30, 2017, allowing a full 90 days to implement.

DATA SOURCES

- Department of Revenue, excise tax data
- Global Insight (a Division of IHS, Inc.), November 2016 forecast

REVENUE ESTIMATES

This part increases state revenues by an estimated $1 million in the 11 months of impacted collections in Fiscal Year 2018, and by an estimated $3 million in Fiscal Year 2019, the first full year of impacted collections.

PART IX - TRANSFERS TO THE EDUCATION LEGACY TRUST ACCOUNT

ASSUMPTIONS

- The Department's estimates completed by June 15 will only include revenues collected through May 30 reflecting tax activity occurring through April 30. The Department will estimate the May activity (reported and collected by June 30).
- The Department's estimates completed by December 15 will only include revenues collected through November 30 reflecting tax activity occurring through October 31. The Department will estimate the November activity (reported and collected by December 31).
- The Department's estimates for part VI completed by March 15 will only include revenues collected through February 31 reflecting tax activity occurring through January 31. The Department will estimate the February activity (reported by County Treasurers to the Department by March 30).
- The Department's estimates for part VI completed by September 15 will only include revenues collected through August 31 reflecting tax activity occurring through July 31. The Department will estimate the August activity (reported by County Treasurers to the Department by September 30).
-The State Treasurer shows the transfer to the Education Legacy Trust Account on its fiscal note.
- Estimated transfers to the Education Legacy Trust Account:

Fiscal Year 2018 - $ 906.9 million

Fiscal Year 2019 - $ 1,192.0 million
Fiscal Year 2020 - $ 1,300.5 million
Fiscal Year 2021 - $ 1,376.5 million
Fiscal Year 2022 - $ 1,457.0 million
Fiscal Year 2023 - $ 1,542.4 million

TOTAL REVENUE ESTIMATES
In total, this bill creates a net increase to state revenues by an estimated $916 million in the 11 months of impacted collections in Fiscal Year 2018, and by $1,921 million in Fiscal Year 2019, the first full year of impacted collections.

In total this bill also creates a net increase to local revenues by an estimated $72 million in the 11 months of impacted collections in Fiscal Year 2018, and by $145 million in Fiscal Year 2019, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):
FY 2018 - $ 915,645
FY 2019 - $ 1,921,484
FY 2020 - $ 2,102,804
FY 2021 - $ 2,223,177
FY 2022 - $ 2,342,461
FY 2023 - $ 2,460,800

Local Government, if applicable (cash basis, $000):
FY 2018 - $ 72,481
FY 2019 - $ 144,744
FY 2020 - $ 171,832
FY 2021 - $ 185,406
FY 2022 - $ 198,882
FY 2023 - $ 213,403

II. C - Expenditures

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

ASSUMPTIONS:
Part I - Capital Gains Tax
- 48,000 taxpayers will be affected by this legislation.
- No estimated payments will be required.

Part II - Business and Occupation Rate Change and Deduction
- 365,000 taxpayers will be affected by the B&O surcharge.
- 293,000 taxpayers will be affected by the new B&O deduction receiving either full or partial relief from tax.
- Due to the effective date of this proposal, system changes will be made to the current legacy systems and release 2 of the Automated Tax and Licensing Administration System (ATLAS).
- The Department may disclose the amount claimed by a taxpayer under this new tax preference (Section 203) 24 months after the end of the reporting period in which the taxpayer reported the preference (RCW 82.32.808).
- The Department will not close active taxpayer accounts below the new filing thresholds. These accounts will be placed on active non-reporter status.

Part III-A - Bottled Water
- 201,000 taxpayers will be affected by of this legislation.

Part III-B - Warehousing and Reselling prescription Drugs
- The Department will not incur any costs with the implementation of this part of the legislation.

Part III-C - Self-Produced Fuel
- 5 taxpayers will be affected by this legislation.

Part III-D - International Investment Management Services
- The Department will not incur any costs with the implementation of this part of the legislation.

Part III-E - Nonresident Retail Sales Tax Exemption Remittance
- 132,000 taxpayers will be affected by this legislation.

Part IV-A - Graduated Real Estate Excise Tax Rates
- Those selling real estate will be affected by this part of the legislation.

Part IV-B - Real Estate Excise Tax on Foreclosures
- Lenders and creditors who enforce their security interests in, or liens on, real estate are affected by this part of the legislation.

Part V - Requiring Local Governments to Supply Subcontractor Information
- The Department will not incur any costs with the implementation of this part of the legislation.

Part VI - Remote Sellers, Referrers, and Marketplace Facilitators
- 15,000 taxpayers are affected by this legislation.
- 7,500 taxpayers are affected by the notices and reports required by this legislation.
- The number of individuals or households receiving notices is assumed to be substantial. The initial contact rate is estimated at 20 percent, affecting telephone inquiries and office visits.
- The Department will create a team for the purpose of ensuring compliance with the obligations imposed on remote sellers, marketplace facilitators, and referrers by this bill.

Part VII - Expanding Individual Liability for an Entity's Unpaid Tax Obligations
- 100 taxpayers will be affected by this legislation.

Part VIII - Reducing Interest on Tax Refunds
- This estimate affects all taxpayers receiving a tax refund.

FIRST YEAR COSTS:
The Department will incur total costs of $11,853,800 in Fiscal Year 2018. These costs include:

Labor Costs - Time and effort equates to 123.7 FTEs.
Part I - Capital Gains Tax
- Provide technical advice, interpretation and analysis during the implementation process.
- Program, setup, test and verify computer systems to accept taxpayer returns and other required information and process reporting information for collection, audit, and refund purposes.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.

- Update and maintain hard copy and online educational and informational materials.
- Create and present taxpayer workshops and education.
- Establish new reporting accounts for capital gains taxpayers.
- Resolve error and out of balance returns, conduct desk audits, and prepare refunds and assessments.
- Collect delinquent assessments as a result of return errors.
- Hear additional administrative reviews.
- Adopt two new administrative rules.

Part II - Business and Occupation Rate Change and Deduction

- Modifications to efile and excise tax reporting, providing for split rate reporting, updates to the annual reconciliation of apportionable income.
- Create an additional page for the Combined Excise Tax Return (CETR) to allow for split rate reporting by annual filers.
- Create two new deduction types without reporting logic for use until the deduction can be incorporated into ATLAS, which will then include caps, carry over, worksheet and system identifiers to turn deductions on/off.
- Programming to setup, test, and verify the computer systems for changes in selected B&O tax rates and the B&O tax deduction.
- Create special notices to inform taxpayers of the tax rate changes and the new B&O tax deduction.
- Update the Department website and all related forms and publications that show old tax rates.
- Answer additional phone calls at the Telephone Information Center on tax questions and tax return preparation from businesses, individuals, and accountants.
- Response to additional phone calls and counter visits in field offices.
- Resolve additional error and out of balance and amended returns, respond to secure messages and correspondence, answer telephone questions, monitor reports, and assist taxpayers with reporting.
- Additional staff for reconciliation of the new B&O tax deduction prior to its inclusion in ATLAS 2.
- Perform additional desk assessments and issue a greater number of balance due notices.
- Additional collection activity as a result of an increased number of billings.
- Amend two administrative rules.

Part III-A - Bottled Water

- Answer additional phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
- Create a special notice and update publications and information on the Department's website.
- Sort and copy receipts for refunds.
- Review refund claims, issue or deny refunds and assign tax reporting numbers.
- Research businesses taking deductions in place of refunds.
- Amend one administrative rule.

Part III-C - Self-Produced Fuel

- Set up, program and test computer system changes for a new state and local use tax reporting line.

Part III-E - Nonresident Retail Sales Tax Exemption

- Set up, program and test computer systems to support the issuances of a new refund type.
- Create and update website and other written materials.
- Create special notice.
- Establish new reports and procedures.
- Create new refund application forms.
- Answer taxpayer inquiries via telephone and email.

- Establish new individual taxpayer accounts.
- Evaluate and respond to refund applications.
- Hear additional administrative reviews of refund denials.
- Amend one Excise Tax Advisory (ETA).

Part IV-A - Graduated Real Estate Excise Tax Rates
Part IV-B - Real Estate Excise Tax on Foreclosures
- Amend one administrative rule.

Part VI - Remote Sellers, Referrers and Marketplace Facilitators
- Provide technical advice, interpretation and analysis during the implementation process.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
- Answer phone calls at the Telephone Information Center from individuals receiving notices from sellers.
- Respond to taxpayer inquiries directed at the field offices.
- Create and update website and published information.
- Create special notices and additional business and individual mailings.
- Respond to ruling requests and email inquiries.
- Set up, program and test computer system changes to create an interface for sellers to upload files with their purchaser's information. Three new penalty line codes with caps will be created.
- Receive and process reports from businesses required to provide notice and reports to the Department.
- Correspond with businesses who do not file reports.
- Set up new taxpayer accounts.
- Resolve additional error and out of balance and amended returns, conduct account examinations, respond to secure messages and correspondence, answer telephone questions, monitor reports, and assist taxpayers with reporting.
- Additional staff for an increased number of field audit examinations.
- Contact taxpayers and affected sellers and resolve outstanding delinquencies.
- Hear additional administrative reviews.
- Additional staff for an enhanced tax collection effort including tax discovery, audit, collection, interpretation and analysis and administrative review.
- Amend one administrative rules.
- Create two new administrative rules.

Part VII - Expanding Individual Liability for an Entity's Unpaid Tax Obligations
- Increase in legislative inquiries on behalf of affected constituents.
- Calculate and issue additional assessments.
- Investigate and collect on delinquent accounts.
- Hear additional administrative reviews.
- Amend one administrative rule.

Part VIII - Reducing Interest on Tax Refunds
- Set up, program and test computer systems for changes in refund interest calculations.
- Amend one administrative rule.

Part IX - Transfers to the Education Legacy Trust Account
- Collection and analysis of data and preparation of a report to the State Treasurer of the estimated increase in state general fund revenue collections from the changes made in Parts II, III, IV and VI of this legislation.

Object Costs - $930,700.

Part I - Capital Gains Tax

- Purchase additional server equipment.
- Print and mail a special notice to affected taxpayers.
- Printing informational booklets regarding the capital gains tax.
- Printing and mailing returns, assessments, penalty waivers, amended returns, refunds, and correspondence.
- Tax warrant filing fees and postage.
- Legal assistance from the Office of the Attorney General.

Part II - Business and Occupation Rate Change and Deduction

- Print and mail special notices to taxpayers who do not file returns electronically.
- Print an additional page for the CETR for annual filers.
- Purchase one additional agent seat license.
- Warrant filing fees and postage for collection of additional delinquent accounts.

Part III-A - Bottled Water

- Print and mail a special notice to all affected taxpayers.

Part III-E - Nonresident Retail Sales Tax Exemption

- Print and mail a special notice to retail sellers who do not file returns electronically.
- Purchase two additional servers.
- Printing and postage for refund denial letters and incomplete forms correspondence.
- Subscription to web-based database to verify non-resident status.
- Mailing refund checks.

Part VI - Remote Sellers, Referrers, and Marketplace Facilitators

- Print and mail a special notice to affected taxpayers.
- Printing informational booklets.
- Printing and postage for initial contact and follow up correspondence with affected sellers.
- Printing and postage for notices and correspondence with taxpayers.
- Tax warrant filing fees and postage.
- Seat licenses for call center phones.
- Additional travel costs for out of state audits.

SECOND YEAR COSTS:

The Department will incur total costs of $10,066,600 in Fiscal Year 2019. These costs include:

Labor Costs - Time and effort equates to 106.9 FTEs.

Part I - Capital Gains Tax

- Provide technical advice and interpretation services.
- Program, setup, test and verify computer systems to accept taxpayer returns and other required information and process reporting information for collection, audit, and refund purposes.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
- Update and maintain hard copy and online educational and informational materials.
- Ongoing taxpayer workshops and education.

- Establish new reporting accounts for capital gains taxpayers.
- Resolve error and out of balance returns, conduct desk audits, prepare refunds and assessments.
- Collect delinquent assessments as a result of return errors.
- Hear additional administrative reviews.

Part II - Business and Occupation Rate Change and Deduction
- Answer additional phone calls at the Telephone Information Center on tax questions and tax return preparation from businesses, individuals, and accountants.
- Resolve additional error and out of balance and amended returns, respond to secure messages and correspondence, answer telephone questions, monitor reports, and assist taxpayers with reporting.
- Perform additional desk assessments and issue a greater number of balance due notices.
- Additional collection activity as a result of an increased number of billings.

Part III-A - Bottled Water
- Sort and copy receipts for refunds.
- Review refund claims, issue or deny refunds and assign tax reporting numbers.
- Research businesses taking deductions in place of refunds.

Part III-E - Nonresident Retail Sales Tax Exemption
- Continued computer support for the new refund system.
- Answer taxpayer inquiries via telephone and email.
- Establish new individual taxpayer accounts.
- Evaluate and respond to refund applications.
- Answer taxpayer inquiries via telephone and email.
- Hear additional administrative reviews of refund denials.

Part VI - Remote Sellers, Referrers, and Marketplace Facilitators
- Provide technical advice, interpretation and analysis.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
- Answer phone calls at the Telephone Information Center from individuals receiving notices from sellers.
- Respond to taxpayer inquiries directed at the field offices.
- Create and update website and published information.
- Respond to ruling requests and email inquiries.
- Receive and process reports from businesses required to provide notice and reports to the Department.
- Correspond with businesses who not file reports.
- Set up new taxpayer accounts.
- Resolve additional error and out of balance and amended returns, conduct account examinations, respond to secure messages and correspondence, answer telephone questions, monitor reports and assist taxpayers with reporting.
- Additional staff for an increased number of field audit examinations.
- Contact taxpayers and affected sellers and resolve outstanding delinquencies.
- Hear additional administrative reviews.
- Additional staff for an enhanced tax collection effort including tax discovery, audit, collection, interpretation and analysis and administrative review.

Part VII - Expanding Individual Liability for an Entity's Unpaid Tax Obligations
- Increase in legislative inquiries on behalf of affected constituents.

- Calculate and issue additional assessments.
- Investigate and collect on delinquent accounts.
- Hear additional administrative reviews.

Part IX - Transfers to the Education Legacy Trust Account
- Collection and analysis of data and preparation of a report to the State Treasurer of the estimated increase in state general fund revenue collections from the changes made in Parts II, III, IV, and VI of this legislation.

Object Costs - $1,347,100.
Part I - Capital Gains Tax
- Contract services for computer systems to handle tax reporting by individuals.
- Printing informational booklets regarding the capital gains tax.
- Printing and mailing returns, assessments, penalty waivers, amended returns, refunds, and correspondence.
- Tax warrant filing fees and postage.
- Legal assistance from the Office of the Attorney General.

Part II - Business and Occupation Rate Change and Deduction
- Warrant filing fees and postage for collection of additional delinquent accounts.

Part III-E - Nonresident Retail Sales Tax Exemption
- Printing and postage for refund denial letters and incomplete forms correspondence.
- Subscription to web-based database to verify non-resident status.
- Mailing refund checks.

Part VI - Remote Sellers, Referrers, and Marketplace Facilitators
- Printing and postage for initial contact and follow up correspondence with affected sellers.
- Printing informational booklets.
- Printing and postage for notices and correspondence with taxpayers.
- Tax warrant filing fees and postage.
- Additional travel costs for out of state audits.

ONGOING COSTS:
Ongoing costs for the 2019-21 Biennium equal $19,995,000 and include similar activities described in the second year costs. Time and effort equates to 99.5 FTEs if Fiscal Year 2020 and 101.9 FTEs in Fiscal Year 2021.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	123.7	106.9	115.3	100.7	105.0
A-Salaries and Wages	6,676,200	5,632,800	12,309,000	10,580,000	11,036,200
B-Employee Benefits	2,002,900	1,689,900	3,692,800	3,174,300	3,311,200
C-Professional Service Contracts		1,000,000	1,000,000	3,000,000	2,000,000
E-Goods and Other Services	2,156,000	1,343,600	3,499,600	2,471,400	2,558,700
G-Travel	115,300	118,300	233,600	239,200	248,600
J-Capital Outlays	903,400	282,000	1,185,400	490,100	468,400
Total $	$11,853,800	$10,066,600	$21,920,400	$19,955,000	$19,623,100

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 2018	FY 2019	2017-19	2019-21	2021-23
ADM ASST 5	49,308	0.0		0.0		
COMMUNICATIONS CNSLT 3	50,496	0.8		0.4		
COMMUNICATIONS CNSLT 4	57,144	4.0	2.3	3.2	1.0	1.0
EMS BAND 4	108,926	0.0		0.0		
EMS BAND 5	127,250	0.0		0.0		
EXCISE TAX ASST	33,504	0.4	0.4	0.4	0.4	0.4
EXCISE TAX EX 2	44,652	19.7	18.3	19.0	18.2	18.4
EXCISE TAX EX 3	53,016	11.6	14.4	13.0	19.7	19.8
EXCISE TAX EX 4	58,548	3.0	0.8	1.9	1.2	1.2
FISCAL ANALYST 2	42,492	0.1	0.1	0.1	0.1	0.1
FISCAL ANALYST 3	49,308		0.2	0.1	0.2	0.2
FISCAL ANALYST 5	57,144	0.1		0.1		
FORMS AND RECORDS	45,684	1.8		0.9		
ANALYST 3 FORMS AND RECORDS	51,756	0.1		0.1		
ANALYST SUPV HEARINGS SCHEDULER	34,284	0.1		0.1		
HUM RES CNSLT 4	60,012	2.0	2.0	2.0	2.0	2.0
INFO TECH S/A S 6	80,724	1.9	1.0	1.5	0.5	0.5
IT SPEC 3	60,012	1.0	0.5	0.8		
IT SPEC 4	66,264	2.2	1.0	1.6	0.5	0.5
IT SPEC 5	73,140	8.3	2.0	5.2	1.5	1.5
OFF ASST 3	31,224	0.5	1.5	1.0	2.5	2.5
REVENUE AGENT 2	49,308	4.6	5.6	5.1	6.4	10.7
REVENUE AGENT 3	54,384	5.0	6.0	5.5	6.0	6.0
REVENUE AGENT 4	57,144		1.0	0.5	1.0	1.0
REVENUE AUDITOR 3	58,548	5.0	5.0	5.0	5.0	5.0
SEC SR	32,688	0.3	0.4	0.4	0.3	0.3
TAX INFO SPEC 1	38,544	28.8	23.0	25.9	14.4	13.8
TAX INFO SPEC 4	57,144	6.0	3.0	4.5	1.2	1.1
TAX POLICY SP 2	64,620	0.1		0.0		
TAX POLICY SP 3	73,140	8.6	8.2	8.4	5.8	5.8
TAX POLICY SP 4	78,732	3.6	3.7	3.6	3.3	3.2
TAX SERV REP 2	35,928		2.0	1.0	4.0	4.0
WMS BAND 1	66,170		0.5	0.3	1.0	1.0
WMS BAND 2	81,440	3.1	3.0	3.1	3.5	4.0
WMS BAND 3	92,638	1.0	1.0	1.0	1.0	1.0
Total FTE's	2,075,316	123.7	106.9	115.3	100.7	105.0

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

assets.

Part II - Business and Occupation Rate Change and Deduction
The Department will use the expedited process to amend WAC 458-20-101, titled: "Tax registration and tax reporting" and WAC 458-20-104, titled: "Small business tax relief based on income of business." Persons affected by this rule making would include small businesses.

Part III-A - Bottled Water
The Department will use the expedited process to amend WAC 458-20-244, titled: "Food and food ingredients." Persons affected by this rule making would include retailers who sell bottled water.

Part III-E - Nonresident Retail Sales Tax Exemption
The Department will amend ETA 3054, titled: "Sales to residents of states or possessions of the US, and territories of provinces of Canada that do not impose a tax of at least three percent." Persons affected by this rule making would include businesses selling tangible personal property to residents of certain states, possessions and Canadian provinces, as well as individuals and business making tax-exempt purchases as non-residents.

Part IV-A - Graduated Real Estate Excise Tax Rates
Part IV-B - Real Estate Excise Tax on Foreclosures
The Department will use the expedited rule-making process to amend WAC 458-61A-208, titled: "Transfers pursuant to deeds of trust, foreclosure proceedings, executions of judgment, deeds in lieu of foreclosure, and contract forfeiture." Persons affected by this rule making would include those selling real estate and lenders and creditors who enforce their security interests in, or liens on, real estate.

Part VI - Remote Sellers, Referrers, and Marketplace Facilitators
The Department will use the complex rule-making process to adopt two new rules under chapter 458-20 WAC. The Department will use the expedited process to amend WAC 458-20-101, titled: "Tax registration and tax reporting." Persons affected by this rule making would include sellers of tangible personal property through the internet, sellers not required to collect sales/use tax and consumers that were not charged sales tax.

Part VII - Expanding Individual Liability for an Entity's Unpaid Tax Obligations
The Department will use the expedited process to amend WAC 458-20-217, titled: "Lien for taxes." Persons affected by this rule making would include those held personally liable for the unpaid taxes of a business.

Part VIII - Reducing Interest on Tax Refunds
The Department will use the expedited process to amend WAC458-20-229, titled: "Refunds." Persons affected by this rule making would include taxpayers having refunds with the Department.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 2186 S HB	**Title:** Taxes

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- [X] Cities: All cities may experience positive revenue impacts
- [X] Counties: All counties may experience postive revenue impacts
- [X] Special Districts: All special districts may experience positive revenue impacts
- [ ] Specific jurisdictions only:
- [ ] Variance occurs due to:

Part II: Estimates

- [ ] No fiscal impacts.
- [X] Expenditures represent one-time costs: To update policies and train legal staff regarding new felony and misdemeanor violations, and minor one-time expenditures to update the electronic systems that support REET reporting
- [ ] Legislation provides local option:
- [X] Key variables cannot be estimated with certainty at this time: Number of violations of this standard and the equivalent expenditure impact on local governments;

Estimated revenue impacts to:

Jurisdiction	FY 2018	FY 2019	2017-19	2019-21	2021-23
City	23,730,279	47,389,186	71,119,465	116,959,721	134,982,109
County	24,665,284	49,256,383	73,921,667	121,568,092	140,300,586
Special District	24,085,437	48,098,431	72,183,868	118,710,187	137,002,305
TOTAL $	72,481,000	144,744,000	217,225,000	357,238,000	412,285,000
GRAND TOTAL $					986,748,000

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Buck Lucas	Phone: 360/725-5040	Date: 04/18/2017
Leg. Committee Contact:	Phone:	Date: 04/11/2017
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 04/18/2017
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 04/18/2017

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

DIFFERENCES BETWEEN THIS BILL AND THE PREVIOUS VERSION:
-- Expands the description of exempt dwellings (i.e., the sale of duplexes and triplexes) from the capital gains tax.
-- Adds a tax preference performance statement regarding the business and occupation (B&O) tax. Adds an expiration date for the B&O tax deduction for January 1, 2033.
-- Adds a tax preference performance statement for the graduated real estate excise tax (REET) rates. Adds an expiration date for the REET rates for January 1, 2033. The current state REET rate is 1.28 percent of the parcel's selling price, and would return to this rate after this REET rate expires on January 1, 2033.

SUMMARY OF THIS BILL:
This legislation would modify tax preferences, revise the business and occupation tax, and institute a capital gains tax.

Part I -- Capital Gains Tax

Section 102 -- Beginning January 1, 2018 a 7 percent capital gains tax would apply to the sale or exchange of long-term capital assets owned by the taxpayer. The tax would equal 7 percent multiplied by the taxpayer's capital gains. For single filing taxpayers the first $25,000 in capital gains is untaxed, and for joint filing taxpayers the first $50,000 in capital gains is untaxed.

Section 103 -- Outlines exemptions from the capital gains tax.

Section 110 -- Provides that any taxpayer who knowingly evades payment of the tax is guilty of a class C felony. Any taxpayer that fails to pay the tax, make returns, keep records, or supply information is guilty of a gross misdemeanor.

Section 111 -- Revenues from the tax, including any revenues from penalties assessed, would be deposited into the Education Legacy Trust Account.

Part II -- Business and Occupation (B&O) Tax

Section 203 -- Modifies the computation of credits and deductions under the B&O tax, replacing small business credits with a B&O tax deduction. A taxpayer is eligible for a $250,000 deduction if the taxable income was less than $250,000 in the preceding calendar year, and a taxpayer is eligible for a $100,000 deduction if the taxpayer's taxable amount was between $250,000 and $500,000 in the preceding calendar year.

Multiple activities tax credits against the B&O tax may either equal the lesser of the tax otherwise due, or for businesses eligible for the $250,00 deduction, the credit may be found by multiplying $250,000 by the highest tax rate applicable for the taxpayer. For businesses eligible for the $100,000 deduction, the credit may be found by multiplying $100,000 by the highest tax rate applicable.

No B&O tax is due when the tax in a reporting period is equal to or less than the available deduction, or in the case of the credit, the tax otherwise due for a reporting period is equal to or less than the credit. Any unused portion of the deduction or credit may be carried forward for tax reporting periods in the same calendar year but otherwise may not be carried forward or backward to tax reporting periods in other calendar years. DOR cannot refund this new deduction or credit to the taxpayer. This section would expire January 1, 2033.

Section 204 -- Increases the B&O tax beginning July 1, 2017 to 20 percent for the following B&O taxable business activities, including: retailing, wholesaling, manufacturing, service and other activities, gambling, real estate brokerage, extracting, extracting for hire, processing for hire, insurance agent/broker commissions, childcare, printing and publishing, royalties, international investment management, prescription drug warehousing, qualified grocery distribution cooperatives, public or nonprofit hospitals, cleanup of radioactive waste for US government, retailing of interstate transportation equipment, scientific research and development, and other activities currently taxed at the rates of 0.471 percent, 0.484 percent, 1.5 percent, or 1.63 percent.

Beginning July 1, 2024 the printing and publishing of newspapers would require a 20 percent B&O surcharge.

Section 204 -- Amends 82.32.045 RCW to relieve taxpayers from the requirements of filing a return and paying B&O and public utility taxes if a taxpayer's taxable sales are less than $150,000 per year.

Part III -- Eliminating or Narrowing Tax Preferences

Section 301 -- Amends 82.08.0293 RCW to add a definition for bottled water.

Sections 302 to 306 -- Eliminates the sales and use tax exemption for bottled water. A sales and use tax exemption for bottled water is provided, given the bottled water is provided to medical patients, or used by persons whose primary source of water is unsafe. Buyers of bottled water must pay the sales and use taxes, but may also request a refund from the Department of Revenue (DOR) if the purchase amount is greater than $25.

Sections 307 & 308 -- Eliminates the preferential state B&O tax rate for the warehousing and reselling of prescription drugs.

Sections 309 to 311 -- Adds a use tax rate of 3.852 percent to the value of refinery fuel gas, as published by the Federal Energy Information Administration. Provides that biomass fuels used by the extractor or manufacturer directly in the operation of the extractive or manufacturing plant are exempt from use taxes.

Sections 312 313 -- Increases the preferential tax rate for aerospace product development to 0.9 percent and expires beginning July 1, 2040. Eliminates the preferential state B&O tax for international investment management services.

Section 314 – Modifies the circumstances whereby a nonresident may be eligible for a paid sales tax remittance. Beginning January 1, 2018 through December 31, 2018 a person may apply for a state sales tax remittance for taxes paid between July 1, 2017 and December 31, 2017. Beginning January 1, 2019 a person may apply for a state sales tax remittance for CY 2018. The remittance request must be at least $25.

An individual that makes a fraudulent statement of remittance is guilty of perjury, following Chapter 9A.72 RCW and ineligible to receive further remittances from DOR.

An individual that makes a statement of remittance with an identification not their own, counterfeit identification, or counterfeit sales receipts with the intent to violation this standard is guilty of a misdemeanor. Guilty persons are liable for the tax and would be subject to penalty of $100 or the amount of the remittance obtained.

Part IV -- Real Estate Excise Taxes (REET)

Section 401 -- Provides graduated excise tax rates for the sale of real property:
-- 0.75 percent if the selling price is less than $250,000
-- 1.28 percent if the selling price is equal to or between $250,000 and $1 million
-- 2 percent if the selling price is equal to or between $1 million and $5 million
-- 2.5 percent if the selling price is equal to or greater than $5 million

The current state REET rate is 1.28 percent of the parcel's selling price, and would return to this rate after this REET rate expires on January 1, 2033.

Sections 402 & 403 -- Eliminate the real estate excise tax exemption for real estate transfers that occur in foreclosures, except where the tax would be applied to the owner of the property. The definition of sale is modified to exclude mortgages, deeds of trust, and transfers of tax title properties between local government, except under select conditions.

Part V -- Requiring Local Governments to Supply Subcontractor Information to DOR

Section 501 -- Cities, towns, and counties may not issue a construction building permit without verification of the contractor's unified business identifier number (UBIN). This requirement does not apply to subcontractors. Upon final inspection of the property, the city, town, or county that issued the permit must request the name, UBIN, and contractor registration number for any subcontractors that performed work covered by the building permit. The verification and reporting requirements contained within this standard only apply to the construction of single-family dwellings and multifamily residential buildings.

Impacted local governments may require general contractors to pay a fee to offset the costs to collect and report this information. This Section does not create or form the basis for any local government liability, except for a failure to comply with this section to verify and report contractor and subcontractor information may result in a penalty up to $10,000. Building permits obtained through false information are forfeit.

Part VI -- Remote Sale and Use Tax Collection: Remote Sellers, Referrers, and Marketplace Facilitators (nexus)

Section 601 -- Remote sellers meeting a specified threshold of gross receipts from retail sales into this state would have the option to either collect retail sales or use tax on taxable retail sales into this state or comply with certain sales and use tax notice and reporting provisions. This option is also available for marketplace facilitators, or third-party remote vendors. The sales and use tax notice and reporting provisions in this act are similar to the multistate tax commission's draft model sales and use tax notice and reporting statute and Colorado's sales and use tax notice and reporting law.

Section 602 -- Beginning January 1, 2018 remote sellers, referrers, and marketplace facilitators with physical presence in this state and those remote sellers or marketplace facilitators that that gross at least $10,000 in receipts for the current or preceding calendar year and which are sourced to this state, and for referrers with gross income of at least $10,000 sourced to this state must either: (1) collect and remit sales or use taxes on all taxable retail sales in the state or (2) comply with Section 605, below.

Section 603 -- Provides criteria for a marketplace facilitator or referrer that is relieved of liability to collect sales and use tax. Outlines liability relief for qualifying marketplace facilitators and referrers.

Section 604 -- Provides definitions, including: marketplace facilitator, remote seller, and referrer.

Section 605 -- Marketplace facilitators and referrers that qualify under the nexus criteria under this standard and which do not collect and remit sales and use taxes on taxable retail sales must submit to applicable notice and reporting requirements.

A seller, other than a referrer acting in the capacity as referrer, must:
-- Post a conspicuous notice on its marketplace, platform, web site, catalog, or any other similar medium that informs Washington State purchasers that sales or use tax is due on certain purchases, Washington requires the purchaser to file a use tax return, and the notice is required by this standard.
-- Provide a notice to each consumer at the time of each retail sale, which includes: a statement that neither sales nor use tax is being collected or remitted upon the sale; a statement that the consumer may be required to remit sales or use taxes directly to DOR; and instructions for obtaining additional information from DOR regarding whether and how to remit the sales or use tax to DOR. This notice must be prominently displayed on all invoices and order forms.

A referrer subject to the notice and reporting requirements must:
-- Post a conspicuous notice on its marketplace, platform, web site, catalog, or any other similar medium that informs Washington State purchasers that sales or use tax is due on certain purchases, the seller may or may not collect and remit retail sales tax on a purchase, Washington requires the purchaser to file a use tax return, and the notice is required by this standard. In addition, instructions for obtaining additional information from DOR on how to remit the sales or use taxes, and if the seller does not collect retail sales tax, the seller may be required to provide information to the purchaser and DOR regarding the purchaser's potential sales or use tax liability; and
-- This notice must be prominently displayed on the platform and may include pop-up boxes or notification by other means that appear when the referrer transfers a purchaser to a marketplace seller to complete the sale.

A seller, other than a referrer acting as a referrer, subject to notice and reporting requirements, must by January 31 each year, provide a report to each consumer for whom the seller was required to provide a notice. Sellers must also provide a report to DOR. Sellers registered with DOR to collect and remit sales and use tax, and which make a reasonable effort to comply, are not required to provide notice or file reports.

A referrer subject to notice and reporting requirements, must by January 31 each year, provide a notice to each marketplace seller to whom the referrer transferred a potential purchaser located in Washington during the previous calendar year.

Section 606 -- Outlines penalties for sellers and referrers that fail to comply with this standard.

Section 613 -- If DOR determine the standard impacting streamlined sales and use tax is in conflict with federal law, conflicting provisions of Sections 602 and 603 would have no further force or effect as of the date the federal law becomes effective.

Section 1002 -- Select taxpayers, including those mentioned in Section 203, which sell products in this state are allowed a credit against those taxes paid for any manufacturing taxes or extracting taxes paid. Taxable manufacturers, including those mentioned in Section 203, which manufacture products in this state are allowed a credit against those taxes paid for any extracting taxes paid with respect to extracting the ingredients of the products manufactured in this state.

Section 1106 -- This legislation would take effect July 1, 2017; except Section 801 and Part VI, which take effect January 1, 2018.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

This legislation would have an indeterminate impact on local government expenditures regarding violations of the reporting requirements of the capital gains tax, and in regard to sales tax reimbursements for nonresidents. Costs would vary based on the number of violations committed. The number of potential offenses cannot be clearly estimated.

Changes to the business and occupation (B&O) and preferential taxes within this standard would not require additional local government expenditures.

Changes to the real estate excise tax (REET) would require county treasurers to update electronic systems. Per a memorandum of understanding (MOU) with the Department of Revenue (DOR), Kittitas County is obligated to "maintain, repair or upgrade existing internal systems used for the electronic processing and reporting of REET." This MOU reflects the responsibilities of county treasurers, following Title 82.45.180 RCW, in which a portion of the additional $5 fee collected by treasurers would support the maintenance and operation of an electronic processing and reporting system for REET affidavits. County treasurers would experience additional, but minor expenditures to update systems according to this standard and the proposed tiered REET tax structure.

COURT & LAW ENFORCEMENT COSTS:
This legislation creates a new felony and misdemeanor for taxpayers who knowingly attempt to evade payment of imposed taxes, and nonresidents who falsely request a sales tax remittance may be guilty of perjury. These criminal offenses may result in a minimal but indeterminate increase (less than $50,000) to local law enforcement expenditures to update policies, train staff, and where necessary, to process violations of the proposed law. There could be additional court costs, as well, but those are beyond the scope of this fiscal note and may be addressed by the fiscal note from the Administrative Office of the Courts (AOC).

Local law enforcement agencies may experience expenditures for processing violations of this standard. Prior to law enforcement intervention, DOR would handle most violations for tax evasion administratively, through such vehicles such as a notice of a tax lien.

Those who evade the excise tax are guilty of a class C felony. Local government costs to process such an offense are approximately $3,230 for law enforcement and prosecution. For those who fail to pay the tax or to maintain relevant records, they are guilty of a misdemeanor. Local government costs to process such an offense are approximately $1,163 for law enforcement and prosecution. The average daily jail cost for an individual in violation of this standard is $103 per day. The Caseload Forecast Council (CFC) provides that 95 percent of nonviolent felony sentencing cases result in a plea rather than a full court case, so the prosecution costs for a felony violation of this standard may be lower than estimated.

Court impacts, including judicial costs, clerk costs, and court fees, are described in fiscal notes prepared by AOC. Local government fiscal notes include city and county expenditures for law enforcement investigations and arrests, indigent defenders, county prosecutors and jail costs. Please see the AOC fiscal note for a discussion of impacts to city and county courts.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

Modifications to the business and occupation (B&O) tax, real estate excise tax (REET), and to various preferential tax rates would result in significant local government revenue increases. In the 11 months of impacted collections in FY 2018, local governments would experience an additional $72 million in revenues, and in the first full year of impacted collections for FY 2019, a $145 million revenue increase.

TOTAL REVENUE IMPACTS:
Local governments may anticipate a total revenue increase of approximately $989 million through FY 2023. The revenue distributions, by jurisdiction type, are indicated below. Note: not all of the affected tax areas are equally represented between county, city, and special district units of government. This results in an overestimate of impact for special districts and an underestimate of revenue impacts for cities, towns, and counties. For example, the proposed changes to a graduated REET system would not produce revenue impacts to special districts as this tax produces revenue for cities, towns, and counties only. Please review the "Methodology'"section below for information on how revenue impacts were tabulated.

	County	City	Special District
FY 2018	$24,665,284	$23,730,279	$24,085,436

FY 2019	$49,256,383	$47,389,186	$48,098,431
FY 2020	$58,474,430	$56,257,797	$57,099,774
FY 2021	$63,093,662	$60,701,924	$61,610,414
FY 2022	$67,679,545	$65,113,967	$66,088,489
FY 2023	$72,621,041	$69,868,142	$70,913,817

LOCAL REVENUE IMPACTS BY TAX TYPE:
The following represents the two-year local government revenue impacts as reported by DOR. This analysis complements the aggregate analysis above in specific regard to the affected tax area, but only does so within that limited two-year timeframe. In addition, not all local government revenue impacts are characterized below. For greater insight into local government revenue impacts, please consult the DOR fiscal note.

Elimination of the sales and use tax exemption for bottled water
DOR estimates that the elimination of bottled water sales and use taxes would increase local revenues by $11 million in the 11 months of impacted collections during FY 2018, and an estimated $12 million increase in FY 2019. The local government revenue impact is as follows:

	County	City	Special District
FY 2018	$3,705,867	$3,565,386	$3,618,747
FY 2019	$4,042,764	$3,889,512	$3,947,724

Narrowing a use tax exemption for self-produced fuel
DOR estimates that narrowing the use tax exemption for self-produced fuel would result in a $9 million increase to local government revenues in the first 11 months of impacted collections during FY 2018, and an $11 million increase in FY 2019. The local government revenue impact is as follows:

	County	City	Special District
FY 2018	$3,032,073	$2,917,134	$2,960,793
FY 2019	$3,705,867	$3,565,386	$3,618,747

Nonresident sales tax exemption remittance
DOR estimates that nonresident sales tax exemption remittance would result in an $11 million increase to local government revenues in the first 11 months of impacted collections during FY 2018, and a $13 million increase in FY 2019. The local government revenue impact is as follows:

	County	City	Special District
FY 2018	$3,705,867	$3,565,386	$3,618,747
FY 2019	$4,379,661	$4,213,638	$4,276,701

Graduated REET rates
DOR estimates that the graduated REET rates would result in a $9 million increase to local government revenues in the first 11 months of impacted collections during FY 2018, and a $10 million increase in FY 2019. According to data in the Local Government Financial Reporting System (LGFRS) and based on the last three years of REET transactions, counties received an average of 27.54 percent of all local REET revenues collected and city/towns received the remaining 72.446 percent. The local government revenue impact is as follows:

	County	City
FY 2018	$2,453,814	$6,456,186
FY 2019	$2,999,106	$7,890,894

Nexus and sales tax collections for remote sellers, referrers, and marketplace facilitators
DOR estimates that nonresident sales tax exemption remittance would result in an $31.6 million increase to local government revenues in the first 11 months of impacted collections during FY 2018, and a $97 million increase in FY 2019. The local government revenue impact is as follows:

County	City	Special District

FY 2018	$10,645,945	$10,242,382	$10,395,673
FY 2019	$32,679,009	$31,440,222	$31,910,769

METHODOLOGY:

The total revenue impacts at the top of this note for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2015. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. For the purposes of this fiscal note, the distribution of taxes authorized by this standard reflects the proportionate distribution of sales taxes, as follows: 34.03 percent to counties, 32.74 percent to cities, and 33.23 percent to special districts. In addition, the 1 percent DOR administrative sales and use tax fee has not been deducted from the aggregate revenue totals to reflect the variety of taxes aggregated in the analysis. However, in the individual computation of sales and use tax impacts on local governments, the one percent DOR administrative fee is deducted, where appropriate. Also, to compute the impacts from the graduated REET system, data from the Local Government Financial Reporting System (LGFRS) provided that counties received an average of 27.54 percent of all local REET revenues collected and city/towns received the remaining 72.46 percent.

SOURCES:

Department of Revenue fiscal note
Department of Revenue Local Tax Distributions
Caseload Forecast Council
State Auditor's Office
Administrative Office of the Courts
Island County
Kittitas County
Local Government Fiscal Note Program, prosecution cost unit analysis