

Multiple Agency Fiscal Note Summary

Bill Number: 1488 HB	Title: Plastic packaging materials
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Estimated Cash Receipts

Agency Name	2021-23			2023-25			2025-27		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	46,000	0	0	62,000	0	0	62,000
Department of Ecology	0	0	0	0	0	37,000,000	0	0	37,000,000
Department of Ecology	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Total \$	0	0	46,000	0	0	37,062,000	0	0	37,062,000

Agency Name	2021-23		2023-25		2025-27	
	GF- State	Total	GF- State	Total	GF- State	Total
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 Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.2	0	0	46,000	.2	0	0	62,000	.2	0	0	62,000
Department of Commerce	.0	0	0	0	.0	0	0	0	.0	0	0	0
Utilities and Transportation Commission	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Ecology	5.5	0	0	1,562,518	11.8	0	0	19,344,041	14.5	0	0	37,000,000
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	5.7	0	0	1,608,518	12.0	0	0	19,406,041	14.7	0	0	37,062,000

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
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 Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Utilities and Transportation Commission	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Total									
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								

Estimated Capital Budget Breakout

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Prepared by: Lisa Borkowski, OFM	Phone: (360) 902-0573	Date Published: Final 2/14/2021
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Individual State Agency Fiscal Note

Bill Number: 1488 HB	Title: Plastic packaging materials	Agency: 100-Office of Attorney General
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Legal Services Revolving Account-State 405-1	23,000	23,000	46,000	62,000	62,000
Total \$	23,000	23,000	46,000	62,000	62,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.2	0.2	0.2	0.2	0.2
Account					
Legal Services Revolving Account-State 405-1	23,000	23,000	46,000	62,000	62,000
Total \$	23,000	23,000	46,000	62,000	62,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jacob Lipson	Phone: 360-786-7196	Date: 02/05/2021
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 02/10/2021
Agency Approval: Diana Arens	Phone: 3605869346	Date: 02/10/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 02/10/2021

Part II: Narrative Explanation

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

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

Section 3 is a new section requiring that producers of plastic packaging meet specified minimum postconsumer recycled content on average across a producer's entire product line for the total amount of plastic packaging sold, offered for sale, or distributed in Washington effective. The Department of Ecology (ECY) may adjust the minimum postconsumer recycled content requirement, which adjustment may be appealed to the Pollution Control Hearings Board (PCHB). Fees may be imposed for failure to meet the requirement, which may be reduced by ECY.

Section 4 is a new section requiring an annual report from producers to ECY.

Section 5 is a new section establishing fees for a producer that does not meet the minimum postconsumer recycled content requirements. An appeal to the PCHB is authorized. The Department of Ecology is required to adopt rules.

Section 7 establishes a stakeholder advisory committee for implementation of this chapter.

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.

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Department of Ecology (ECY). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

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.

Attorney General's Office (AGO) Agency Assumptions:

1. This bill is assumed effective 90 days after the end of the 2021 legislative session.
2. Total workload impact in this request includes standard assumption costs for good & services, travel, and capital outlays for all FTE identified.
3. The AGO Agriculture & Health Division (AHD) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Commerce (COM). The appointment of a COM representative to the advisory group created in Section 7 is not expected to require legal

services. COM has no other role under the bill.

In addition, this bill will not impact the provision of legal services to COM local government research (COM-LOC). COM was assigned this fiscal note request for its role in estimating the impact of bills on local governments. COM itself will not be given any new authorities or responsibilities under this bill. This won't generate any legal work for AHD. New legal services are nominal and costs are not included in this request.

4. The AGO Licensing & Administrative Law Division (LAL) has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Pollution Control Hearings Board (PCHB). Section 11 gives the PCHB jurisdiction over appealable decisions by the Department of Ecology (ECY) under this bill. LAL monitors cases but does not advise PCHB on substantive decision making. Costs are not included in this request.

5. The AGO Utilities and Transportation Division (UTC Division) has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Utilities and Transportation Commission (UTC). Although this bill requires additional financial analysis on the part of the UTC, there will be no impact on legal services provided. New legal services are assumed nominal and costs are not included in this request.

Assumptions for the AGO Ecology Division's (ECY Division) Legal Services for ECY:

1. The AGO will bill ECY for legal services based on the enactment of this bill.

2. Legal services include, but are not limited to:

A. Assistant Attorney General (AAG) advice on rulemaking (regarding fee setting, and distribution of funds through grants). FY 2022: 0.05 AAG; FY 2023: 0.05 AAG.

B. AAG advice in responding to producer or trade association petitions to reduce required recycled content requirements and possible representation to defend ECY decisions that are appealed to the PCHB. FY 2024 and in each FY thereafter: 0.05 AAG.

C. AAG advice on responding to producer corrective action plans for reduction in fees, re-imposing fees for failure to follow plan. FY 2024 and in each FY thereafter: 0.03 AAG.

D. AAG advice on enforcement (letters to noncompliant manufacturers, advice on which entities to target for fees, possible representation at PCHB for fee appeals). FY 2022 and in each FY thereafter: 0.05 FTE

3. Total workload impact:

FY 2022 and FY 2023: 0.1 AAG and 0.05 Legal Assistant (LA) at a cost of \$23,000 per FY.

FY 2024 and in each FY thereafter: 0.13 AAG and 0.07 LA at a cost of \$31,000 per FY.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
405-1	Legal Services Revolving Account	State	23,000	23,000	46,000	62,000	62,000
Total \$			23,000	23,000	46,000	62,000	62,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.2	0.2	0.2	0.2	0.2
A-Salaries and Wages	15,000	15,000	30,000	42,000	42,000
B-Employee Benefits	5,000	5,000	10,000	12,000	12,000
E-Goods and Other Services	3,000	3,000	6,000	8,000	8,000
Total \$	23,000	23,000	46,000	62,000	62,000

III. C - Operating FTE 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 2022	FY 2023	2021-23	2023-25	2025-27
Assistant Attorney General	108,600	0.1	0.1	0.1	0.1	0.1
Legal Assistant 3	54,108	0.1	0.1	0.1	0.1	0.1
Total FTEs		0.2	0.2	0.2	0.2	0.2

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Ecology Division (ECY)	23,000	23,000	46,000	62,000	62,000
Total \$	23,000	23,000	46,000	62,000	62,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1488 HB	Title: Plastic packaging materials	Agency: 103-Department of Commerce
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Part I: Estimates

☒ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jacob Lipson	Phone: 360-786-7196	Date: 02/05/2021
Agency Preparation: Karen McArthur	Phone: 360-725-4027	Date: 02/10/2021
Agency Approval: Joyce Miller	Phone: 360-725-2710	Date: 02/10/2021
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 02/10/2021

Part II: Narrative Explanation

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

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

Section 7(4)(b) jointly appoints the Department of Commerce to the plastic packaging recycling committee.

II. B - Cash receipts Impact

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

II. C - Expenditures

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

The department does not anticipate a cost associated with this legislation. Most of the staffing activities stated in HB 1488 are already part of the normal operating procedures within the Industry Sector Development Program within the Office of Economic Development and Competitiveness.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1488 HB	Title: Plastic packaging materials	Agency: 215-Utilities and Transportation Commission
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Part I: Estimates

☒ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

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- ☐ 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: Jacob Lipson	Phone: 360-786-7196	Date: 02/05/2021
Agency Preparation: Amanda Hathaway	Phone: 360-664-1249	Date: 02/09/2021
Agency Approval: Amanda Hathaway	Phone: 360-664-1249	Date: 02/09/2021
OFM Review: Jenna Forty	Phone: (564) 999-1671	Date: 02/09/2021

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.

Establishes minimum post-consumer recycled content amounts for plastic packaging.

Section 7(4) establishes a stakeholder advisory committee tasked with developing numerous recommendations related to plastic packaging and recycling. UTC is identified as a member of the advisory committee.

Participation on the stakeholder advisory committee would be minimal additional work and could be absorbed within existing resources.

No fiscal impact.

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.

none.

II. C - Expenditures

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

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1488 HB	Title: Plastic packaging materials	Agency: 461-Department of Ecology
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Waste Reduction/Recycling/Litter Control-State 044-1				1,000,000	
Recycling Improvement Account-State NEW-1				36,000,000	37,000,000
Total \$				37,000,000	37,000,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	2.8	8.3	5.5	11.8	14.5
Account					
Model Toxics Control Operating Account-State 23P-1	379,704	1,182,814	1,562,518	0	0
Recycling Improvement Account-State NEW-1	0	0	0	19,344,041	37,000,000
Total \$	379,704	1,182,814	1,562,518	19,344,041	37,000,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jacob Lipson	Phone: 360-786-7196	Date: 02/05/2021
Agency Preparation: My-Hanh Mai	Phone: 360-407-6996	Date: 02/11/2021
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 02/11/2021
OFM Review: Lisa Borkowski	Phone: (360) 902-0573	Date: 02/11/2021

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.

Under current law, Ecology does not regulate plastic packaging producers or recycled content. Ecology's Solid Waste Management program currently administers four grant programs that provide grant funding to local governments or non-governmental organizations.

This bill would set minimum postconsumer recycled content requirements for plastic packaging for three groups of plastic resins. The bill would require Ecology to collect fees from producers of plastic packaging unable to meet the postconsumer recycled content requirements. Revenue from the fee would create grant funding opportunities for local governments and would be used to fund Ecology's costs of implementing the law. This bill is substantially similar to SB 5219.

Section 3 would require producers of plastic packaging sold, offered for sale, or distributed in the state of Washington to meet the following minimum post-consumer recycled content requirements:

For packaging comprised primarily of resins number 1 PETE (polyethylene terephthalate) or number 2 HDPE (high density polyethylene) as identified in RCW 70A.220.020:

- July 1, 2023, through December 31, 2026: No less than 15 percent postconsumer recycled plastic;
- January 1, 2027, through December 31, 2030: No less than 25 percent postconsumer recycled plastic;
- On and after January 1, 2031: No less than 50 percent postconsumer recycled plastic.

For rigid packaging comprised primarily of resins numbers 3 - 7 as identified in RCW 70A.220.020:

- July 1, 2023, through December 31, 2030: No less than 15 percent postconsumer recycled plastic;
- January 1, 2030, through December 31, 2035: No less than 25 percent postconsumer recycled plastic;
- On and after January 1, 2036: No less than 50 percent postconsumer recycled plastic.

For flexible packaging comprised primarily of resins numbers 3 - 7 as identified in RCW 70A.220.020:

- July 1, 2023, through December 31, 2028: No less than 10 percent postconsumer recycled plastic;
- January 1, 2029, through December 31, 2035: No less than 20 percent postconsumer recycled plastic;
- On and after January 1, 2036: No less than 30 percent postconsumer recycled plastic.

Beginning in 2024, Ecology would be required to consider adjustments to the recycled content requirements every other year, or sooner at the petition of the producers, but not more than annually. The adjusted content requirements may not exceed the given percentages for each compliance period and cannot be set below the lowest applicable material compliance level set in section 3(1). When considering adjustments to the requirements, Ecology would be required to factor in changes in market conditions, recycling rates, capacity of recycling infrastructure, progress made by manufacturers in meeting the requirements, and the carbon footprint of transporting recycled resins. Ecology would be authorized to grant a reduction in fees to a producer of plastic packaging based on the factors outlined in section 3(5).

Section 4 would require the producers to report annually to Ecology the amounts and resin types of the virgin plastic and postconsumer recycled plastic used in their plastic packaging beginning March 1, 2022. Ecology

would be required to post these reports on its website. Ecology would be authorized to conduct audits and investigations to ensure compliance, and would be required to keep confidential all business trade secrets and proprietary information obtained during investigations.

Section 5 would require producers that do not meet the minimum requirements to pay an annual fee beginning July 1, 2023. Ecology would be required to adopt rules to implement the fees which must be structured within a prescribed range. The fees would not exceed \$200 per ton and could be lowered for producers that achieve partial compliance. The implemented fee structure would be estimated to raise between \$30 million and \$40 million per biennium. The fee would be set at \$200 per ton if the estimated revenues fall below the established range.

Ecology would be required to publish an annual report that includes the estimated annual fee revenue, the amounts and quantities of plastic packaging subject to the fee, and the number of producers in compliance with the requirements, beginning January 1, 2023. Ecology would not be allowed to spend more than 10 percent of the collected fees on administration or enforcement of the program.

Section 6 would create the Recycling Improvement Account. All receipts from the fee would be deposited in the new account, except \$1 million would be deposited in the Waste Reduction, Recycling, and Litter Control Account (WRRICA) until June 30, 2024.

One hundred percent of the expenditures from the account would be distributed to cities and counties for the purpose of improving recycling infrastructure, providing collection depots, and to assist solid waste planning, management, regulation, enforcement, technical assistance, and public education, and for Ecology's administration of this chapter.

Ecology would be required to develop rules governing the distribution of funds in conjunction with an advisory committee. The advisory committee would include five members appointed by the Washington Association of County Solid Waste Managers and five members appointed by the Washington State Association of Local Public Health Officials. These rules would include a requirement that local governments annually report to Ecology on how the funds are used to improve plastics recycling infrastructure and the recyclability of plastic packaging. Ecology would be required to post the reports on its public website.

Section 7 would establish a stakeholder advisory committee (appointed by the president of the senate and the speaker of the house of representatives) to recommend possible exemptions, exceptions, or alternative compliance requirements to the provisions of the act that include, but are not limited to:

- Plastic packaging subject to federal requirements;
- Plastic packaging that exhibits environmentally superior performance when it does not contain postconsumer recycled content, as determined by life-cycle analysis;
- Plastic packaging from producers who sell or distribute less than one ton of plastic packaging in Washington per year, or associated with a single point of retail sale; or
- Plastic packaging from women or minority-owned producers.

The bill would exempt plastic packaging and food service ware provided for purpose of serving prepared food or plastic bags subject to existing postconsumer recycled content requirements under chapter 70A.530 RCW, among various other exemptions

The stakeholder advisory committee would be composed of representatives from various state agencies, cities,

counties, public and private members of the recycling industry, solid waste industry, and more.

Section 8 would prohibit and preempt any local postconsumer recycling content requirements inconsistent with this act.

Section 10 would amend RCW 70A.200.140, Waste Reduction Recycling and Litter Control Account (WRRLCA) distribution, to allocate four percent of the funds to be used to implement and enforce this act from June 30, 2021 until June 30, 2022. This would be taken from the forty percent allocated to Ecology to implement waste reduction, recycling, and compost efforts; provide technical assistance to local governments and businesses to increase recycling markets and recycling and compost programs; increase access to waste reduction, composting, and recycling programs; and to reduce food waste. Expenditures for this purpose would be restored to forty percent after June 30, 2022.

Section 12 clarifies that nothing in this act would change or limit the authority of the Washington Utilities and Transportation Commission to regulate collection of solid waste.

II. B - Cash receipts Impact

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

The cash receipts impact to Ecology under this bill is estimated to be significant beginning in FY 2024 for the new fee established in section 5.

Section 5 would provide that a plastic packaging producer in violation of this chapter would be subject to an annual fee. Ecology would be required to adopt rules to implement the fees which must be structured to meet minimum and maximum total revenue levels as prescribed in the bill. Ecology assumes rulemaking to establish the fees would take two years to complete, beginning July 1, 2021, and adopted by June 2023, with fee revenue collection beginning in FY 2024.

Cash receipts from fees is Indeterminate. The fee structure would be established as part of the rulemaking process. Based on comparisons to the Recycle BC program and other packaging programs in Canada, Ecology assumes 1,500 plastic packaging producers would be required to comply with the recycled content requirements. The number and level of violations of those who do not meet minimum post-consumer recycled content is unknown. While companies have made progress in increasing their recycled content use over the last few years, Ecology assumes that a significant number of producers will not meet the minimum postconsumer content requirements beginning in 2023. Ecology assumes similar rates of non-compliance will continue as the minimum requirements are increased.

Under the bill, the fee amount would not exceed \$200 per ton, and could be lowered for producers that achieve partial compliance. The fee would be set at \$200 per ton if the estimated revenues fall below the established range. The total amount raised would be between \$30 million and \$40 million per biennium.

Based on the average of the range of fee revenue under section 5, and assuming a fee level that would cover Ecology's estimated costs to administer the bill within the ten percent limit, Ecology estimates cash receipts of \$18.5 million per fiscal year (\$37 million per biennium) beginning in FY 2024 for purposes of this fiscal note.

All fee revenue would be deposited in the Recycling Improvement Account, with the exception of \$1 million in FY 2024 which would be deposited in the Waste Reduction, Recycling, and Litter Control Account as prescribed

under section 6.

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.

The expenditure impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2022 and ongoing to implement the requirements of sections 3 through 7.

In the 2021-23 biennium, Ecology assumes the expenditures to implement this new program and for rulemaking would be from the Model Toxics Control Operating Account (MTCA – Operating). Beginning in FY 2024, revenue would be collected from fees into the new Recycling Improvement Account, so expenditures in FY 2024 and thereafter would be from the new account. Please note, per section 5(8), the department shall not spend more than 10 percent of the collected fees on administration or enforcement of the program. Based on the cash receipts assumptions and expenditure estimates in this bill, the department's expenditure estimates would be within this 10 percent limit.

Section 10 would allocate four percent of the Waste Reduction, Recycling, and Litter Control Account to be used to implement this act in FY 2022. This would reduce Ecology's forty percent allocation from WRRLCA to thirty-six percent in FY 2022 for waste reduction, recycling, and composting efforts. Section 6 would direct \$1 million of the revenue from the new fee to be deposited into WRRLCA until June 30, 2024 for Ecology to implement and enforce this chapter. However, expenditure authority would only be authorized in FY 2022 (section 10), and revenues would not be assessed until July 1, 2023 (section 5). Due to this, Ecology assumes the additional revenue in WRRLCA collected from the new fee in FY 2024 would not be utilized for implementation and enforcement costs in FY 2022, and instead expenditures would be from the Model Toxics Control Operating Account for both FY 2022 and FY 2023 prior to expenditures in the new account.

Section 3. Beginning 2024, and every other year after, or at the petition of the plastic packaging industry but not more than annually, Ecology would be required to consider whether the postconsumer recycled content requirements should be reduced for the three classes of plastic described in section 3(1).

Based on the Recycle BC and other packaging programs in Canada, Ecology assumes 1,500 plastic packaging producers would be required to comply with the recycled content and annual report requirements.

According to the Ellen MacArthur Foundation, the 118 businesses that have made voluntary pledges to increase their use of recycled content in plastic packaging collectively reached 6.2% recycled content in 2019. Ecology assumes the businesses that have not signed on to this pledge would have comparatively lower rates of recycled content usage on average. While companies have made progress in increasing their recycled content use over the last few years, Ecology assumes that a significant number of producers will not meet the minimum postconsumer recycled content requirements beginning in 2023. Ecology assumes similar rates of non-compliance will continue as the minimum requirements are increased starting in 2027.

Ecology assumes producers would likely petition annually for reduced requirements in order to avoid paying non-compliance fees beginning in FY 2024. However, the initial contract would need to be completed in FY 2023 in order for Ecology to base the petition decisions on. Staff resources would be required to process producer and industry petitions, manage a contract, and determine whether the postconsumer recycled content requirements should be reduced beginning in FY 2023. Ecology would hire a consultant to evaluate plastic market conditions, supply and demand, recycling rates and availability of recycled plastic, capacity of recycling

and processing infrastructure, and the progress of plastic packaging manufacturers in achieving the minimum content requirements for the three recycled-content rate classes. Based on experience with recent major market disruptions resulting in sudden and unforeseen changes to the plastic recycling industry, Ecology assumes annual review of these elements would be warranted.

Ecology estimates 0.20 FTE Environmental Planner 4 (EP-4) in FY 2023 to execute the initial contract, and 0.25 FTE EP-4 in FY24 and ongoing process petitions, manage a contract, and determine whether the postconsumer recycled content requirements should be reduced. Based on a recent experience with a comprehensive study on plastic packaging for the state of Washington (Chapter 70A.520 RCW, as passed by the legislature in E2SSB 5397 in the 2019 legislative session), Ecology assumes this study would be a focused analysis based on the criteria prescribed in section 3(2) with consideration for the three classes of plastic as outlined in section 3(1). Ecology estimates the contract would cost \$120,000 in FY 2023 and \$60,000 in FY 2024 and ongoing. Ecology assumes higher costs in the initial report to establish a framework that would be used in making future determinations.

Ecology would be able to grant a reduction in fees to non-compliant producers that submit a corrective action plan detailing the reasons why the producer failed to meet the requirements and the steps they are taking to comply within the next year. In determining whether to approve or deny the fee reduction, Ecology would need to consider anomalous market conditions, supply of recycled plastics, efforts made by the producer to reduce overall packaging waste, and other factors that may have prevented the producer from meeting the requirements.

Ecology assumes most noncompliant producers would submit a corrective action plan (CAP) each year in order to reduce their fee. Ecology would need to provide technical assistance and an opportunity to update a CAP before issuing a fee. Based on the assumed non-compliance rate and comparable enforcement work in another program, Ecology assumes one thousand producers would submit a CAP and each would require four hours to review and provide written responses explaining the decision to approve or deny the plan based on criteria prescribed in the bill, and provide ongoing technical assistance. Ecology estimates 2.0 FTE Environmental Specialist 5 (ES-5) in FY 2024 and ongoing.

Our Assistant Attorney General (AAG) has estimated that the following staff time in the Office of the Attorney General (ATG) would be needed. 0.10 AAG and 0.05 Legal Assistant (LA) at a cost of \$23,000 per fiscal year in FY 2022 and FY 2023 for AAG advice on rulemaking (regarding fee setting, distribution of funds through grants) and advice and representation for enforcement. 0.13 AAG and 0.07 LA at a cost of \$31,000 per fiscal year in FY 2024 and ongoing for AAG advice in responding to producer or trade association petitions to reduce required recycled content requirements and possible representation to defend Ecology decisions that are appealed to the Pollution Control Hearings Board (PCHB), responding to producer corrective action plans for reduction in fees, re-imposing fees for failure to follow plan, and enforcement (letters to noncompliant manufacturers, advice on which entities to target for fees, possible representation at PCHB for fee appeals). Costs are included in Object E.

Section 4 would require Ecology to post aggregated producer information on its website beginning March 1, 2022. Ecology would be authorized to conduct audits and investigations to ensure compliance and adopt rules to implement, administer, and enforce the requirements of this chapter. Ecology would be required to keep confidential information gathered during the audits and investigations. Ecology assumes rulemaking would be required to implement, administer, and enforce the requirements of this chapter. (See Rulemaking).

Ecology assumes education and outreach to all plastic packaging producers would be needed to inform them of

the requirements of this bill. This work would require identifying all obligated producers and informing them of the recycled content requirements, the reporting requirements, and the fees for non-compliance. Outreach materials would include, but not be limited to, the following: an agency website, fact sheets, and culturally appropriate flyers offered in multiple languages.

Based on our experience building a database and online reporting system, Ecology estimates 0.25 FTE IT APP Developer – Journey (IT) in FY 2022 to build a database and online reporting system to collect, store and post annual reports on the website, and 0.05 FTE IT in FY 2023 and ongoing to maintain these systems.

Section 4(2) would authorize Ecology to conduct audits and investigations for the purpose of compliance. Ecology assumes conducting audits and investigations of the producer's annual report would be necessary to confirm compliance with the minimum postconsumer recycled content requirements and to make recommendations for penalty fees. Upon consultation with our AAG, Ecology assumes cooperation from producers would be obtained upon request, and that they would provide relevant supporting records necessary for Ecology to carry out this task. Ecology assumes this work would be ongoing beginning in FY 2023.

Ecology estimates 0.25 FTE EP-4 in FY 2023 and ongoing. This position would develop general audit and inspection guidance and procedures to support field staff, coordinate audits and investigations, and provide technical assistance with regional field staff.

Ecology estimates 4.0 FTE ES-5 in FY 2023 and ongoing. One position would be based in each of the four regions and would be a regional program lead, coordinate compliance monitoring, provide technical assistance to producers, and perform audits and investigations.

Ecology assumes two two-day site visits per year for each regional compliance inspector (total eight site visits per year) to review their manufacturing processes, verify material chain-of-custody, and conduct on-site inspections of manufacturing facilities located outside the state of Washington. Based on the following assumptions, Ecology estimates \$7,944 beginning FY 2023 and ongoing for travel associated costs (shown in Object G).

Per diem: \$66 per day x 2 days = \$132

Lodging: \$161 per night x 1 nights = \$161

Vehicle rental: \$350 per week = \$350 Airfare: \$350 roundtrip (average)

Total cost per site visit: \$993 (multiply by 8 for four regions = \$7,944 per year)

Based on past experience setting up the E-Cycle and Light Recycle programs, Ecology estimates 0.5 FTE Environmental Specialist 3 (ES-3) in FY 2022 and 0.25 FTE ES-3 in FY 2023 and ongoing to identify and contact plastic packaging producers. This work would require creating and maintaining an updated list of producers and providing technical assistance on annual reports, including clarification and verification of the information provided.

Ecology estimates 0.02 FTE Communications Consultant 5 (CC5) in FY 2022 to review outreach and education materials as well as the agency website, and 0.05 FTE Communications Consultant 3 (CC-3) in FY 2022 to develop an agency website and help with outreach and education materials development. Ecology would use in-house translation of the outreach and education materials for Chinese, Korean, Spanish, and Vietnamese at a cost of \$4,500 in FY 2022.

Section 5 would require Ecology to publish an annual report on expected fee revenues, amounts and quantities of plastic packaging subject to the fee, and number of producers in compliance beginning January 1, 2023. Ecology would be authorized to assess fees for violations and adopt rules to implement the fee. Ecology assumes rulemaking would be required to implement, administer, and enforce the requirements of this chapter. (See Rulemaking).

Ecology estimates 0.3 FTE ES-3 in FY23 and ongoing to prepare and publish the annual report and calculate the annual fee consistent with the three classes of plastics as outlined in section 3(1). This work would require reviewing reports submitted by the producers and using that data to calculate the fees according to the bill's fee structure.

Ecology estimates 0.3 FTE ES-3 in FY23 and ongoing to notify producers of non-compliance and to arrange for the collection of fees. This work would require reviewing individual reports submitted by producers, identifying those out of compliance, and notifying them of the fee being assessed. Some technical assistance would also be required to producers that want to arrange an alternative payment schedule or appeal the fee.

Section 6 would require moneys in the new account be used for grants to cities and counties. Ecology assumes rulemaking would establish the process and guidelines for the grant program identified in this section.

Ecology assumes beginning July 1, 2023, Ecology would need to develop and implement the grant program with monies received from the fees. Ecology assumes the grant program would fund local governments using formulas and guidelines similar to the existing Local Solid Waste and Financial Assistance (LSWFA) grant program. Ecology assumes the grant program, funding eligibility, and guidelines would be established by rule.

Ecology assumes the grant program would begin after grant guidelines are complete and fee revenues (quarterly installments) would be received. Ecology assumes that in FY 2024, Ecology would complete grant guidelines and would use the fee revenue collected that fiscal year to begin grant funding starting in July 2024 (FY25) and be ongoing with available noncompliant producer fee funding. Based on Ecology's experience implementing similar grant programs to local governments, this would require developing grant guidelines, reviewing grant applications, drafting recipient agreements, and ongoing grant management. Based on comparisons to the LSWFA grant program, Ecology assumes the grant programs created under this bill would require the management of 107 moderately-complex grants to local governments. Ecology estimates the grant programs would require 0.25 FTE ES5 in FY 2024 and 1.0 in FY 2025 and ongoing to develop guidelines and oversee the grant programs and 4.0 FTE ES4 in FY 2025 and ongoing to manage the grants.

Grants: Ecology estimates grant amounts from the new account beginning in FY 2025 and thereafter based on the fee revenue collected in the prior fiscal year (fee collection begins in FY 2024) minus up to 10 percent to cover Ecology's costs to administer the program as stipulated in the bill.

Section 7 would establish a stakeholder advisory committee to provide recommendations to Ecology. The president of the senate and the speaker of the house of representatives would convene a 20+-member stakeholder advisory committee to oversee the implementation of the bill, provide recommendations on the rulemaking, and provide ongoing review of methods for aggregating materials to determine compliance, exemptions, exceptions, or alternative compliance requirements for the provisions of this bill beginning in FY 2022.

Based on our experience creating an advisory board for the Recycling Development Center, Ecology assumes the stakeholder advisory committee would meet quarterly during rulemaking and annually thereafter. Ecology

estimates 0.2 FTE EP4 in FY 2022 and FY 2023 to establish and lead the stakeholder advisory committee and 0.1 FTE EP4 in FY 2024 and ongoing to continue coordinating the committee as necessary.

Ecology estimates 0.2 FTE Community Outreach & Environmental Education Specialist 3 (COEES 3) FY22 and FY23 and 0.1 FTE COEES 3 in FY24 and ongoing to support the work of the stakeholder group.

Rulemaking (sections 4, 5, 6, and 7)

Ecology assumes one rulemaking would be required for this bill that would cover all the rulemaking required for all sections. The rulemaking would be moderately complex. Ecology assumes two public meetings when developing proposed rule language and one public hearing for the draft rule language. Based on the requirements in this bill and prior rulemaking experience, Ecology assumes this initial rulemaking would take two years to complete, beginning July 1, 2021 (FY22) and the rule would be adopted by June 2023 (FY23).

The scope of this rulemaking includes process for reducing post-consumer recycled content requirements (section 3), producer fee process (sections 4 and 5), the grant program for local governments (section 6), enforcement of the entire bill requirements (sections 2 through 7) and methods for aggregating materials to determine compliance, exemptions, exceptions, or alternative compliance requirements (section 7). The advisory committees established in July 2021 (Sections 6 and 7) would provide input on this rulemaking.

The following positions would be needed:

A rule coordinator to oversee the rulemaking process to comply with the Administrative Procedures Act; prepare the rule development and communication plan; prepare and file the CR-101; coordinate and conduct four stakeholder meetings and two public meetings; file the CR-102 and hold one public hearing with webinar access; work with an economist on economic analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This is estimated to require 0.10 FTE Environmental Planner 5 (EP-5) in FY 2022 and 0.10 FTE in FY 2023.

A rulemaking lead to oversee rule timeline management, lead rule development, and manage stakeholder engagement, including the advisory committees, and other rule development tasks as necessary. This would require 0.75 FTE Environmental Planner 4 (EP-4) in FY 2022, and 0.75 FTE EP-4 in FY 2023.

A policy lead to provide technical support to the rulemaking lead with national or international expertise in postconsumer recycled content requirements and plastic packaging. This would require 0.15 FTE EP-4 in FY 2022 and 0.15 FTE EP4 in FY 2023.

A grants lead to provide technical support to the rulemaking lead with knowledge of Ecology grant programs and procedures. This would require 0.10 FTE ES-5 in FY22 and 0.10 FTE ES-5 in FY 2023.

An outreach coordinator to organize the advisory committees, public meetings, prepare rulemaking materials, and respond to stakeholder questions throughout the rulemaking process. This would require 0.10 FTE Community Outreach & Environmental Education Specialist 3 (COEES-3) in FY 2022 and 0.10 FTE in FY 2023.

The following positions would complete an economic and regulatory analysis of the rule and subsequent updates as required by law:

Economic Analyst 3 (0.20 FTE in FY 2023); and Regulatory Analyst 2 (0.05 FTE in FY 2023).

Two public meetings would be held in FY 2022 and one public hearings would be held in FY 2023. Cost estimates include facility rental costs, estimated at \$1,000 per meeting in Object E.

SUMMARY: The expenditure impact to Ecology under this bill is:

PROGRAM IMPLEMENTATION is estimated to require:

FY 2022 \$169,171 and 1.4 FTEs

FY 2023 \$935,726 and 6.6 FTEs

FY 2024 \$1,211,578 and 9.0 FTEs

FY 2025 \$18,132,463 and 14.5 FTEs

FY 2026 \$18,500,000 and 14.5 FTEs

FY 2027 \$18,500,000 and 14.5 FTEs

RULEMAKING is estimated to require:

FY 2022 \$210,533 and 1.4 FTEs

FY 2023 \$247,088 and 1.7 FTEs

THE TOTAL EXPENDITURE IMPACT to Ecology under this bill is estimated to be:

FY 2022 \$379,704 and 2.8 FTEs

FY 2023 \$1,182,814 and 8.3 FTEs

FY 2024 \$1,211,578 and 9.0 FTEs

FY 2025 \$18,132,463 and 14.5 FTEs

FY 2026 \$18,500,000 and 14.5 FTEs

FY 2027 \$18,500,000 and 14.5 FTEs

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L. Benefits are the agency average of 36.7% of salaries. Professional Services Contracts includes \$120,000 in FY 2023 and \$60,000 each year in FY 2024 and ongoing for package study.

Goods and Services are the agency average of \$4,144 per direct program FTE. Goods and Services also includes, 1) Estimated AGO costs of \$23,000 each year in FY 2022 and FY 2023, and \$31,000 each year in FY 2024 and ongoing for enforcement, petitions, and rulemaking advice, 2) Facilities costs for public meetings, estimated to be \$2,000 in FY 2022 and \$1,000 in FY 2023, and 3) Language translation costs of \$4,500 in FY 2022 for translation of the education and outreach documents.

Travel is the agency average of \$2,182 per direct program FTE. Also includes \$7,944 beginning FY 2023 and ongoing for travel expenses associated with field audit and investigations.

Equipment is the agency average of \$1,201 per direct program FTE.

Grants, Benefits, and Client Services includes \$16,288,422 in FY 2025, \$16,655,959 each fiscal year beginning in FY 2026 and ongoing for the grant program for local governments. Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 27.4% of direct program salaries and benefits, and is shown as object 9. Agency Administrative Overhead FTEs are included at 0.15 FTE per direct program FTE, and are identified as Fiscal Analyst 2 and IT App Development - Journey.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
23P-1	Model Toxics Control Operating Account	State	379,704	1,182,814	1,562,518	0	0
NEW-1	Recycling Improvement Account	State	0	0	0	19,344,041	37,000,000
Total \$			379,704	1,182,814	1,562,518	19,344,041	37,000,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	2.8	8.3	5.5	11.8	14.5
A-Salaries and Wages	190,628	560,807	751,435	1,552,522	1,895,152
B-Employee Benefits	69,961	205,818	275,779	569,777	695,522
C-Professional Service Contracts		120,000	120,000	120,000	120,000
E-Goods and Other Services	39,528	53,836	93,364	146,742	166,426
G-Travel	5,280	23,653	28,933	60,512	70,876
J-Capital Outlays	2,906	8,646	11,552	24,559	30,264
N-Grants, Benefits & Client Services				16,288,422	33,311,918
9-Agency Administrative Overhead	71,401	210,054	281,455	581,507	709,842
Total \$	379,704	1,182,814	1,562,518	19,344,041	37,000,000

III. C - Operating FTE 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 2022	FY 2023	2021-23	2023-25	2025-27
COM OUTREACH & ENV ED SP 3	61,224	0.3	0.3	0.3	0.1	0.1
COMM CONSULTANT 3	64,332	0.1		0.0		
COMM CONSULTANT 5	84,396	0.0		0.0		
ECONOMIC ANALYST 3	82,344		0.2	0.1		
ENVIRONMENTAL PLANNER 4	86,484	1.1	1.6	1.3	0.6	0.6
ENVIRONMENTAL PLANNER 5	95,484	0.1	0.1	0.1		
ENVIRONMENTAL SPEC 3	61,224	0.5	0.9	0.7	0.9	0.9
ENVIRONMENTAL SPEC 4	70,956				2.0	4.0
ENVIRONMENTAL SPEC 5	78,408	0.1	4.1	2.1	6.6	7.0
FISCAL ANALYST 2		0.2	0.7	0.5	1.0	1.3
IT APP DEVELOP-JOURNEY		0.1	0.4	0.2	0.5	0.6
IT APP DEV-JOURNEY (SWM)	96,888	0.3	0.1	0.2	0.1	0.1
REGULATORY ANALYST 2	80,292		0.1	0.0		
Total FTEs		2.8	8.3	5.6	11.8	14.5

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

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.

Sections 4, 5, 6, and 7 would authorize Ecology to adopt rules to implement and enforce this chapter. Ecology assumes one rulemaking would be required for this bill that would cover all the rulemaking required for all sections. Based on the requirements in this bill and prior rulemaking experience, Ecology assumes this rulemaking would take two years to complete, beginning July 1, 2021 (FY22) and the rule would be adopted by June 2023 (FY23). The scope of this rulemaking includes process for reducing post-consumer recycled content requirements (section 3), producer fee process (sections 4 and 5), the grant program for local governments (section 6), enforcement of the entire bill requirements (sections 2 through 7) and methods for aggregating materials to determine compliance, exemptions, exceptions, or alternative compliance requirements (section 7). The advisory committees established in July 2021 (Sections 6 and 7) would provide input on this rulemaking.

1488 HB Plastic Packaging - Department of Ecology Fiscal Note Expenditure Overview

OPERATING BUDGET	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Program Implementation (Sections 3-5)	114,712	257,471	524,535	524,535	524,535	524,535
Total FTEs	0.9	1.3	3.6	3.6	3.6	3.6
Staff costs	110,212	137,471	433,535	433,535	433,535	433,535
Education/Outreach	4,500					
Attorney General			31,000	31,000	31,000	31,000
Contracts		120,000	60,000	60,000	60,000	60,000
Grant program (Section 6)	0	0	36,020	16,956,905	17,324,442	17,324,442
Total FTEs	0.0	0.0	0.3	5.8	5.8	5.8
Staff costs	0	0	36,020	668,483	668,483	668,483
Grants	0	0	0	16,288,422	16,655,959	16,655,959
Advisory Committee (Section 7)	54,459	54,459	27,227	27,227	27,227	27,227
Total FTEs	0.5	0.5	0.2	0.2	0.2	0.2
Staff costs	54,459	54,459	27,227	27,227	27,227	27,227
Rulemaking	210,533	247,088	0	0	0	0
Total FTEs	1.4	1.7	0.0	0.0	0.0	0.0
Staff costs	185,533	223,088	0	0	0	0
Facilities	2,000	1,000	0	0	0	0
Attorney General	23,000	23,000				
Implementation, Audit/Investigations (Section 4)	0	623,796	623,796	623,796	623,796	623,796
Total FTEs	0.0	4.9	4.9	4.9	4.9	4.9
Staff costs	0	615,852	615,852	615,852	615,852	615,852
Travel	0	7,944	7,944	7,944	7,944	7,944
ECOLOGY TOTAL OPERATING FTEs	2.8	8.3	9.0	14.5	14.5	14.5
ECOLOGY TOTAL OPERATING EXPENDITURES	379,704	1,182,814	1,211,578	18,132,463	18,500,000	18,500,000

*Total FTEs include 0.15 FTE administrative overhead. Staff costs include salary and benefits, travel, equipment, goods and services, and administrative overhead.

Individual State Agency Fiscal Note

Bill Number: 1488 HB	Title: Plastic packaging materials	Agency: 468-Environmental and Land Use Hearings Office
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Part I: Estimates

☒ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jacob Lipson	Phone: 360-786-7196	Date: 02/05/2021
Agency Preparation: Nina Carter	Phone: 360 664-9171	Date: 02/07/2021
Agency Approval: Nina Carter	Phone: 360 664-9171	Date: 02/07/2021
OFM Review: Lisa Borkowski	Phone: (360) 902-0573	Date: 02/07/2021

Part II: Narrative Explanation

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

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

HB 1488 relates to plastic packaging and recycling or composting plastics.

Sec. 1 establishes the legislatures intent that by January 1, 2025, all plastic packaging sold in the state of Washington be either recyclable or compostable.

Sec. 2 definitions for plastics, recycling, composting, postconsumer recycled content, etc.

Sec. 3 establishes minimum requirements for producers of plastic packaging to use postconsumer recycled content. Establishes yearly schedule of how much postconsumer recycled plastics must be in plastic packaging. Starts in 2023 through 2036. A producer that does not meet the minimum postconsumer recycled content requirements established in HB1488 is subject to a fee. Fees may accrue from the point of noncompliance with the minimum postconsumer recycled content standard if the department disapproves the corrective action plan or if the producer fails to implement the plan.

Sec. 4 requires producers to report annually to Ecology the pounds and amount of virgin plastic and postconsumer recycled plastic they use. Ecology may audit and keeps confidential all business trade information.

Sec. 5 establishes a fee program beginning in 2023. A producer that does not meet the minimum postconsumer recycled content is subject to an annual fee. Ecology shall adopt rules to implement a fee that will not exceed \$200 per ton.

Sec. 6 a recycling improvement account is created in the state treasury. 100% of funds go to local governments to invest in recycling infrastructure, planning and education. Ecology adopts rules to administer the funds.

Sec. 7 establishes a stakeholder advisory committee to implement HB 1488.

Sec. 8 does not allow a city, town, county, or municipal corporation to implement local recycled content requirements for plastic packaging that are inconsistent with HB 1488.

Sec. 9 adds Ecology requirement for confidentiality of business trade secrets.

Sec. 10 amends the existing waste reduction, recycling and litter control account in the state treasury dispersing funds according to percentages.

Sec. 11 adds to the Pollution Control Hearings Board any appeals of decision made by Ecology in Sections 3 and 5 of HB 1488.

Fiscal Impact: None

Sections 3 and 5 allow appeals of Ecology's decisions to the Pollution Control Hearings Board (PCHB). HB 1488 may generate appeals to the PCHB, but at this time the PCHB assumes no fiscal impacts.

II. B - Cash receipts Impact

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

II. C - Expenditures

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

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1488 HB	Title: Plastic packaging materials
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Part I: Jurisdiction—Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

☒ Cities: Indeterminate increase in expenditures and revenues

☒ Counties: Same as above

☐ Special Districts:

☐ Specific jurisdictions only:

☐ Variance occurs due to:

Part II: Estimates

☐ No fiscal impacts.

☐ Expenditures represent one-time costs:

☐ Legislation provides local option:

☒ Key variables cannot be estimated with certainty at this time: Time and travel commitments for unknown advisory committee participants, time and workload increase from potential amendment of local ordinances, and the total fee revenue that would be distributed to local governments.

Estimated revenue impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Part III: Preparation and Approval

Fiscal Note Analyst: Rebecca Duncan	Phone: 360-725-5040	Date: 02/12/2021
Leg. Committee Contact: Jacob Lipson	Phone: 360-786-7196	Date: 02/05/2021
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/12/2021
OFM Review: Lisa Borkowski	Phone: (360) 902-0573	Date: 02/14/2021

Part IV: Analysis

A. SUMMARY OF BILL

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

Section 3 would establish minimum postconsumer recycled (PCR) content requirements for rigid and flexible plastic packaging.

Section 5 would establish assessment of fees on plastic that do not meet minimum PCR requirements, and would distribute these fee revenues to local governments. Ecology would be required to adopt rules to implement the fees which must be structured within a prescribed range. The fees would not exceed \$200 per ton and could be lowered for producers that achieve partial compliance.

Section 6 would create the Recycling Improvement Account. All receipts from the fee would be deposited in the new account, except \$1 million would be deposited in the Waste Reduction, Recycling, and Litter Control Account (WRRLCA) until June 30, 2024. One hundred percent of the expenditures from the account would be distributed to cities and counties for the purpose of improving recycling infrastructure, providing collection depots, and to assist solid waste planning, management, regulation, enforcement, technical assistance, and public education, and for Ecology's administration of this chapter.

Section 7 would establish a stakeholder advisory committee (appointed by the president of the Senate and the speaker of the House of Representatives) to recommend possible exemptions, exceptions, or alternative compliance requirements to the provisions of this act. The stakeholder advisory committee would be composed of representatives from various state agencies, cities, counties, public and private members of the recycling industry, solid waste industry, and more. Furthermore, the section would exempt plastic packaging and food service ware provided for purpose of serving prepared food or plastic bags subject to existing postconsumer recycled content requirements under chapter 70A.530 RCW, among various other exemptions.

Section 8 would prohibit a city, town, county, or a municipal corporation from implementing local recycled content requirements for plastic packaging that are inconsistent with minimum postconsumer recycled content as described in earlier portions of this bill.

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 bill would have an indeterminate impact on local government expenditures.

Section 7 would establish an advisory committee in which local government representatives would need to participate. However, the bill does not clarify the specific time commitment and possible travel requirements of these committees, and the location and position of the representatives who would be selected to participate are currently unknown. Therefore, the local government costs generated by this section are indeterminate.

Section 8 would prohibit local governments from implementing local recycled content requirements for plastic packaging that are inconsistent with the rest of the bill. This could require some jurisdictions to amend or repeal ordinances regarding local recycled content requirements. The Municipal Research and Services Center (MRSC) found at least four jurisdictions that would need to revisit, and perhaps amend, ordinances related to plastic packaging and recycling. Given the limitations of the MRSC city code search function, this may not be a complete list of all jurisdictions that would be impacted. However, the amount of work that staff of a given jurisdiction would have to do to comply with this section would vary. According to the Local Government Fiscal Note Program 2021 Unit Cost Model, the average cost for a typical local government jurisdiction to create or amend a moderately complex ordinance is \$1,859. Therefore, costs to local governments from this section could be \$7,436, with potential variance if a jurisdiction's workload is greater or lesser than this estimate.

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.

This bill would have an indeterminate, but likely significant (more than \$17 million annually) impact on local government revenue.

Section 5 would provide that a plastic packaging producer in violation of this chapter would be subject to an annual fee. Ecology would be required to adopt rules to implement the fees which must be structured to meet minimum and maximum total revenue levels as prescribed in the bill. Ecology assumes rulemaking to establish the fees would take two years to complete, beginning July 1, 2021, and adopted by June 2023, with fee revenue collection beginning in FY 2024. The fee structure would be established as part of the rulemaking process.

However, because Ecology's rulemaking is not yet complete, and the number of future violations of this chapter is unknown, receipts from fees is indeterminate.

Ecology assumes 1,500 plastic packaging producers would be required to comply with the recycled content requirements. The number and level of violations of those who do not meet minimum post-consumer recycled content is unknown. While companies have made progress in increasing their recycled content use over the last few years, Ecology assumes that a significant number of producers will not meet the minimum postconsumer content requirements beginning in 2023. Ecology assumes similar rates of non-compliance will continue as the minimum requirements are increased. Under the bill, the fee amount would not exceed \$200 per ton, and could be lowered for producers that achieve partial compliance. The fee would be set at \$200 per ton if the estimated revenues fall below the established range. Therefore, Ecology estimates the total amount raised would be between \$30 million and \$40 million per biennium. Based on the average of the range of fee revenue under section 5, and assuming a fee level that would cover Ecology's estimated costs to administer the bill within the ten percent limit, Ecology estimates cash receipts of \$18.5 million per fiscal year (\$37 million per biennium) beginning in FY 2024 for purposes of this fiscal note.

All fee revenue would be deposited in the Recycling Improvement Account, with the exception of \$1 million in FY 2024 which would be deposited in the Waste Reduction, Recycling, and Litter Control Account. Section 6 would require that 100 percent of the expenditures from the Recycling Improvement Account would be distributed to cities and counties. Therefore, we can estimate that local government revenues would increase by approximately \$17.5 million per fiscal year. However, the amount by county, city, and special district cannot be estimated at this time.

SOURCES

Department of Ecology
Municipal Research Services Center
City of Issaquah
City of Port Townsend
City of Burien
City of Gig Harbor