Department of Revenue Fiscal Note

Bill Number: 1406 S HB	Title: Wealth tax	Agency: 140-Department of Revenue

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2022	FY 2023	2021-23	2023-25	2025-27
NEW-State 00 - 00 -		2,268,000,000	2,268,000,000	5,084,000,000	4,830,000,000
Total $		2,268,000,000	2,268,000,000	5.084.000.000	4,830,000,000

Estimated Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	15.1	19.5	17.3	19.7	20.4
Account					
GF-STATE-State 001-1	2,566,100	3,855,800	6,421,900	7,967,000	6,182,100
Total $	2,566,100	3,855,800	6,421,900	7,967,000	6,182,100

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:

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

Legislative Contact:	Rachelle Harris	Phone: 360-786-7137	Date: 04/01/2021
Agency Preparation:	Melissa Howes	Phone: 360-534-1518	Date: 04/15/2021
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 04/15/2021
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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 SHB 1406 (H-1416.2), 2021 Legislative Session.

CURRENT LAW:
Washington has an estate tax, which applies to tangible and intangible wealth at death. Washington also has a property tax, but intangible property is exempt from the tax. No recurring tax similar to the wealth tax proposed in HB 1406 exists in Washington State.

COMPARISON OF HB 1406 WITH SHB 1406:
SHB 1406 makes the following changes:
- Changes the wealth tax return due date from October 15 to April 15.
- Addresses the application of the wealth tax to individuals who die during a tax year.
- Allows a spouse or state-registered domestic partner to request permission to file a separate return for good cause.
- Provides relief for an innocent spouse or state-registered domestic partner from joint and several liability of underpaid taxes if they can provide clear, cogent, and convincing evidence that they are entitled to such relief.
- Adds a penalty for substantial wealth tax valuation understatement.
- Requires that the Department of Revenue (Department) audit a certain percentage of taxpayers subject to the wealth tax every calendar year beginning in 2024.
- Establishes the Washington Tax Justice and Equity Fund and directs all revenues from wealth taxes, including penalties and interest, be deposited into the fund.

PROPOSED LAW:
Beginning January 1, 2022, for taxes due in 2023, a wealth tax of 1 percent is imposed on the taxable worldwide wealth of individuals who reside in Washington. Up to $1 billion of an individual's financial intangible assets are exempt from the wealth tax.

Taxable worldwide wealth means the fair market value of all of an individual's financial intangible assets as of December 31 of the tax year.

Financial intangible assets include:
- Cash and cash equivalents,
- Financial investments such as:
  - Annuities,
  - Bonds,
  - Treasury bills,
  - Mutual funds or index funds,
  - Stocks,
  - Publicly traded options,
  - Futures contracts,
  - Commodities contracts,
  - Put and call options,
  - Pension funds,
  - Mortgage and liabilities secured by real property, and
  - Certificates of interest in gold and other precious metals or gems and other similar investments;
- Units of ownership in a subchapter K entity; and

- Similar intangible assets.

Taxable worldwide wealth does not include:
- Obligations or evidences of debt of the United States and United States government agencies and corporations exempt from state taxation;
- Obligations or evidences of debt of the state of Washington, its political subdivisions, agencies, and instrumentalities, including municipal bonds;
- Stock of the Federal Reserve Bank, the Government National Mortgage Association, the Federal National Mortgage Association, and other corporations and associations established by acts of the Congress of the United States; and
- Any property subject to Washington State property taxes.

Should an individual die during a tax year and the individual is not a spouse or state-registered domestic partner the taxable worldwide wealth is measured as of the day of the individual's death. The amount of tax due is prorated for the number of days the individual was alive during the tax year.

A credit is provided for any similar wealth tax paid to another state on the same financial intangible assets. However, the credit may not exceed the tax due or be carried forward, and is not refundable. For purposes of this credit, a similar wealth tax does not include an estate tax, inheritance tax, net income tax, gross receipts tax, or other business activity tax.

Wealth tax returns must be filed and any tax due paid by April 15 each year.

Spouses and domestic partners must file joint returns. A spouse or state-registered domestic partner may petition the Department for permission to file a separate return for good cause. "Good cause" means the petitioner reasonably believes that the nonpetitioning spouse or state-registered domestic partner will not cooperate in the filing of a complete and accurate joint return, or any other circumstance that the Department renders the filing of a joint return unreasonable.

Should the Department authorize the filing of separate returns for a tax year, each spouse or state-registered domestic partner is entitle to claim one half of the $1 billion exemption of financial intangible assets.

Taxpayers who do not file tax returns by the due date are subject to a penalty of 5 percent of the tax due for each month of delinquency, not to exceed 25 percent of the tax due. This penalty is in addition to any applicable penalties and interest imposed under current law (Chapter 82.32 RCW) for delinquent tax payments.

Tax avoidance provisions of RCW 82.32.655 are amended to allow the Department to disregard arrangements by which a taxpayer attempts to avoid the wealth tax by intentional deception, such as by :
- Concealing assets.
- Transferring assets prior to December 31, but effectively retaining control of the assets.
- Converting taxable assets into nontaxable assets and engaging in a substantially offsetting transaction.
- Concealing evidence of the taxpayer's domicile.

A penalty will be imposed on an individual if any portion of the tax due is a result of substantial wealth tax valuation understatement and that portion exceeds $5,000. The amount of the penalty is equal to :
- In the case of a substantial wealth valuation understatement that is a gross wealth valuation misstatement, 50 percent of the portion of the underpayment of the valuation understatement; or

- In all other cases, 30 percent of the portion of the underpayment due to the valuation understatement.

"Substantial wealth tax valuation understatement" means the fair market value of any financial intangible assets reported is 65 percent or less of the amounts determined to be the correct amount.

"Gross wealth tax valuation misstatement" means the fair market value of any financial intangible assets reported on a return is 40 percent or less of the amount determined to be the correct amount.

An individual who is required to jointly file a return may petition the Department for relief from joint and several liability for an assessment of taxes, penalties, and interest due to the extent the individual establishes by clear, cogent, and convincing evidence that he or she is entitled to such innocent spouse relief.

The Washington Tax Justice and Equity Fund is established in the state treasury and moneys in the account may only be used to :
- Offset reductions in revenue and administrative costs resulting from the antidisplacement property tax exemption program, and
- Offset reductions in revenue due to the implementation of the other policies such as the working families' tax exemptions, expansion of the small business tax credit, a replacement to the business and occupation tax, and other tax fairness policies such as those that may be suggested by the tax structure work group.

Beginning in Calendar Year 2024, the Department must initiate audits of at least 10 percent of individuals who are registered with the Department to pay the wealth tax. This amount will increase to 15 percent in Calendar Year 2025 and 20 percent in Calendar Year 2026 and thereafter.

The administrative provisions of Chapter 82.32 RCW apply to the administration of the wealth tax, and the Department may adopt administrative rules as necessary to administer the tax.

The property tax provisions in Title 84 RCW do not apply to the wealth tax.

The tax preference provisions of RCW 82.32.805 and 82.32.808 do not apply to this bill.

EFFECTIVE DATE:
The bill takes effect 90 days after final adjournment of the session in which it is enacted.

II. B - Cash receipts Impact

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

ASSUMPTIONS:
- This legislation takes effect by July 23, 2021.
- This proposal will affect fewer than 100 taxpayers. The number of taxpayers impacted may vary significantly from year to year.
- All spouses and domestic partners file joint returns.
- No taxpayers subject to the wealth tax die during the tax year.
- There is some litigation risk that the courts would invalidate the wealth tax on the grounds that it is a property tax that conflicts with the uniformity provisions of Article VII, Section 1 of the Washington Constitution. However, for purposes of this fiscal note, the estimates assume that collection of the tax would not be delayed during the course of any legal challenges and that the tax would ultimately survive any legal challenges.
- The distribution of wealth among taxpayers subject to the wealth tax is heavily skewed toward the top. Revenues would be significantly impacted if one or more of these taxpayers were to move out-of-state or take other actions to reduce their wealth tax liability.

- This revenue estimate assumes that no taxpayers move out of state or take other actions to reduce their liability under the tax.
- The growth rate for the number of filers is based on projections for Washington's number of returns in the Internal Revenue Service / Statistics of Income - Publication 6149 (2018 December).
- Wealth taxes paid are subtracted from taxpayers' wealth in subsequent years.
- All tax, penalty, and interest revenues generated from the wealth tax are deposited to the Washington Tax Justice and Equity Fund.
- There are currently no similar wealth taxes in other states.
- First tax payments are due on April 15, 2023, for Tax Year 2022.
- Compliance is assumed to be as follows:
  - 90 percent revenue collections in Fiscal Year 2023, and
  - 95 percent revenue collections in Fiscal Year 2024 and thereafter.
- To conform to IRS disclosure rules, asset components are estimated using linear regression models and aggregation.
- NEW Fund: Washington Tax Justice and Equity Fund.
- NEW Source: Wealth Tax.

DATA SOURCES:
- Internal Revenue Service - Personal income tax returns data, Federal Tax Year 2017, source for adjusted gross income and out-of-state taxes paid.
- Economic & Revenue Forecast Council's November 2020 forecast for growth rates used to grow wages and other income components.
- Internal Revenue Service / Statistics of Income - Publication 6149 (2018 December).
- US Federal Reserve - Survey of Consumer Finances 2019.

REVENUE ESTIMATES:
This bill increases state revenues by an estimated $2.27 billion in the 2021-23 Biennium.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):

FY 2022 -	$ 0
FY 2023 -	$ 2,268,000
FY 2024 -	$ 2,559,000
FY 2025 -	$ 2,525,000
FY 2026 -	$ 2,451,000
FY 2027 -	$ 2,379,000

LOCAL GOVERNMENT IMPACT:
There is no local impact.

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

ASSUMPTIONS:
- This legislation will affect up to 100 taxpayers filing joint returns.
- Taxpayers will not be required to make estimated payments.

NOTE: These expenditures are based on the number of taxpayers, determined primarily by the exemption threshold. Should the number of affected taxpayers increase, the Department would not be able to administer the legislation without significant additional cost. Areas where the Department is able to absorb small cost increases due to the low taxpayer count, such as taxpayer registration, compliance collections, information technology and human resources support ,would need to be include in an expenditure estimate if the taxpayer count increased. Costs for taxpayer information and education, return processing, review and auditing would see a proportionate increase.

FIRST YEAR COSTS:
The Department will incur total costs of $2,566,100 in Fiscal Year 2022. These costs include :

Labor Costs - Time and effort equates to 15.14 FTEs.
- Provide technical advice, interpretation and analysis for internal use during the implementation process.
- Implementation of the new tax including creating a new account type and return.
- Develop work processes for review of all elements of the tax base, exemptions and deductions, including a new audit program and technical training.
- Test and verify computer systems to accept taxpayer returns and other required information and to process reporting information for collection, audit, and refund purposes.
- Create hard copy and online educational and informational materials.
- Respond to tax ruling requests and email inquiries.
- Hear additional administrative reviews that provide taxpayers with an informal, non-adversarial dispute resolution process for the review of a disputed action by the Department, such as an assessment of taxes, notice of taxes due, denial of a refund request, or tax ruling.
- Adopt two new administrative rules.

Object Costs - $640,000.
- Contract computer system programming.
- Acquire additional server equipment and licenses.
- Contract audit and valuation consultant.

SECOND YEAR COSTS:
The Department will incur total costs of $3,855,800 in Fiscal Year 2023. These costs include :

Labor Costs - Time and effort equates to 19.5 FTEs.
- Ongoing technical advice and interpretation of new laws for internal use.
- Ongoing implementation and program development.
- Ongoing programming and testing of computer systems.
- Create returns and design and develop new templates and forms.
- Create hard copy and online educational and informational materials.
- Respond to letter ruling requests and email inquiries.
- Process returns, payments and all associated work items, including issuing assessments for return errors and underpayments.
- Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
- Hear additional administrative reviews of disputed actions by the Department.

Object Costs - $1,607,800.

- Contract computer system programming.
- Acquire additional server equipment and licenses.
- Background checks for employees working with Internal Revenue Service data.
- Contract technical training.
- Utilize locate and research services to verify reporting and tax discovery.
- Contract audit and valuation consultant.
- Department representation by the Attorney General's Office.

THIRD YEAR COSTS:
The Department will incur total costs of $4,363,100 in Fiscal Year 2024. These costs include :

Labor Costs - Time and effort equates to 18.7 FTEs.
- Ongoing technical advice and interpretation of new laws for internal use.
- Ongoing programming and testing of computer systems.
- Process returns, payments and all associated work items, including issuing assessments for return errors and underpayments.
- Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
- Audit taxpayers for verification of reporting and valuation of wealth.
- Hear additional administrative reviews of disputed actions by the Department.

Object Costs - $2,272,500.
- Contract computer system programming.
- Acquire additional server equipment and licenses.
- Background checks for employees working with Internal Revenue Service data.
- Contract technical training.
- Utilize locate and research services to verify reporting and tax discovery.
- Contract audit and valuation consultant.
- Department representation by the Attorney General's Office.

ONGOING COSTS:
Ongoing costs for Fiscal Year 2025 equal $3,603,900 and include similar activities described in the third year costs. Time and effort equates to 20.7 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	15.1	19.5	17.3	19.7	20.4
A-Salaries and Wages	1,191,600	1,432,000	2,623,600	2,800,600	2,869,100
B-Employee Benefits	428,900	515,400	944,300	1,008,100	1,032,900
C-Professional Service Contracts	500,000	1,500,000	2,000,000	3,000,000	1,000,000
E-Goods and Other Services	292,800	326,300	619,100	1,008,900	1,147,500
G-Travel	5,400	13,500	18,900	54,500	64,500
J-Capital Outlays	147,400	68,600	216,000	94,900	68,100
Total $	$2,566,100	$3,855,800	$6,421,900	$7,967,000	$6,182,100

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 2022	FY 2023	2021-23	2023-25	2025-27
ADM ASST 3	43,392		0.1	0.1	0.1	0.1
EMS BAND 4	119,061	0.0		0.0		
EMS BAND 5	139,090	0.0		0.0		
EXCISE TAX EX 1	43,392		1.0	0.5	1.0	1.0
EXCISE TAX EX 2	54,108		1.0	0.5	1.0	1.0
EXCISE TAX EX 3	59,688	1.0	3.0	2.0	3.0	3.0
EXCISE TAX EX 4	65,928	1.0	1.0	1.0	1.0	1.0
FISCAL ANALYST 3	55,524		0.1	0.1	0.1	0.1
IT APP DEV-JOURNEY	85,644	1.0	1.0	1.0	0.5	0.5
IT B A-JOURNEY	85,644	0.5	0.5	0.5	0.3	0.3
IT PROJ MGT-JOURNEY	89,916	1.0	1.0	1.0	0.5	0.5
IT QA-JOURNEY	85,644	1.5	1.5	1.5	0.8	0.8
MGMT ANALYST4	70,956	3.1	2.1	2.6	1.1	1.1
MGMT ANALYST5	78,408	1.3	0.5	0.9	0.3	0.3
PROPERTY AND ACQUISITION SI	70,956	0.5	1.0	0.8	1.5	2.0
RECORDS MGMT SUPV	67,560		0.2	0.1		
REVENUE AUDITOR 3	65,928				3.5	4.5
REVENUE AUDITOR 4	82,344		1.0	0.5	1.0	1.0
REVENUE AUDITOR SUPV	88,644	1.0	1.0	1.0	1.0	1.0
TAX INFO SPEC 4	64,332	0.2	0.5	0.4		
TAX POLICY SP 2	72,756	0.0		0.0		
TAX POLICY SP 3	82,344	1.5	1.5	1.5	1.6	1.0
TAX POLICY SP 4	88,644	0.4	0.4	0.4	0.4	0.2
WMS BAND 2	89,018	1.0	1.1	1.1	1.0	1.0
WMS BAND 3	101,257	0.0		0.0		
Total FTEs		15.1	19.5	17.3	19.7	20.4

III. C - 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 dexcribe potential financing methods

NONE

None.

Part V: New Rule Making Required

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

Should this legislation become law, the Department will adopt two new rules under 458-20 WAC, one using the complex process and one using the standard process. Persons affected by this rule making would include state tax practitioners and individuals meeting the threshold for reporting and/or paying the new wealth tax.

Ten-Year Analysis

Bill Number	Title	Agency
1406 S HB	Wealth tax	140 Department of Revenue

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

Estimates

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

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2022	Fiscal Year 2023	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	2022-31 TOTAL
Wealth Tax	new		2,268,000,000	2,559,000,000	2,525,000,000	2,451,000,000	2,379,000,000	2,316,000,000	2,257,000,000	2,200,000,000	2,144,000,000	21,099,000,000
Total			**2,268,000,000**	**2,559,000,000**	**2,525,000,000**	**2,451,000,000**	**2,379,000,000**	**2,316,000,000**	**2,257,000,000**	**2,200,000,000**	**2,144,000,000**	**21,099,000,000**

	2022-23	2024-25	2026-27	2028-29	2030-31	2022-31
Biennial Totals	**2,268,000,000**	**5,084,000,000**	**4,830,000,000**	**4,573,000,000**	**4,344,000,000**	**21,099,000,000**

Narrative Explanation (Required for Indeterminate Cash Receipts)

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Narrative Explanation (Required for Indeterminate Cash Receipts)

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Narrative Explanation (Required for Indeterminate Cash Receipts)

- Any property subject to Washington State property taxes.

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Ten-Year Analysis

Bill Number	Title	Agency
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Narrative Explanation (Required for Indeterminate Cash Receipts)

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Narrative Explanation (Required for Indeterminate Cash Receipts)

ASSUMPTIONS:
- This legislation takes effect by July 23, 2021.
- This proposal will affect fewer than 100 taxpayers. The number of taxpayers impacted may vary significantly from year to year.
- All spouses and domestic partners file joint returns.
- No taxpayers subject to the wealth tax die during the tax year.
- There is some litigation risk that the courts would invalidate the wealth tax on the grounds that it is a property tax that conflicts with the uniformity provisions of Article VII, Section 1 of the Washington Constitution. However, for purposes of this fiscal note, the estimates assume that collection of the tax would not be delayed during the course of any legal challenges and that the tax would ultimately survive any legal challenges.
- The distribution of wealth among taxpayers subject to the wealth tax is heavily skewed toward the top. Revenues would be significantly impacted if one or more of these taxpayers were to move out-of-state or take other actions to reduce their wealth tax liability.
- This revenue estimate assumes that no taxpayers move out of state or take other actions to reduce their liability under the tax.
- The growth rate for the number of filers is based on projections for Washington's number of returns in the Internal Revenue Service / Statistics of Income - Publication 614 (2018 December).
- Wealth taxes paid are subtracted from taxpayers' wealth in subsequent years.
- All tax, penalty, and interest revenues generated from the wealth tax are deposited to the Washington Tax Justice and Equity Fund.
- There are currently no similar wealth taxes in other states.
- First tax payments are due on April 15, 2023, for Tax Year 2022.
- Compliance is assumed to be as follows:
  - 90 percent revenue collections in Fiscal Year 2023, and
  - 95 percent revenue collections in Fiscal Year 2024 and thereafter.
- To conform to IRS disclosure rules, asset components are estimated using linear regression models and aggregation.
- NEW Fund: Washington Tax Justice and Equity Fund.
- NEW Source: Wealth Tax.

DATA SOURCES:
- Internal Revenue Service - Personal income tax returns data, Federal Tax Year 2017, source for adjusted gross income and out -of-state taxes paid.
- Economic & Revenue Forecast Council's November 2020 forecast for growth rates used to grow wages and other income components.
- Internal Revenue Service / Statistics of Income - Publication 6149 (2018 December).
- US Federal Reserve - Survey of Consumer Finances 2019.

Ten-Year Analysis

Bill Number	Title	Agency
1406 S HB	Wealth tax	140 Department of Revenue

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

Narrative Explanation **(Required for Indeterminate Cash Receipts)**

REVENUE ESTIMATES:
This bill increases state revenues by an estimated $2.27 billion in the 2021 -23 Biennium.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):

FY 2022 -	$ 0
FY 2023 -	$ 2,268,000
FY 2024 -	$ 2,559,000
FY 2025 -	$ 2,525,000
FY 2026 -	$ 2,451,000
FY 2027 -	$ 2,379,000

LOCAL GOVERNMENT IMPACT:
There is no local impact.

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