

Multiple Agency Fiscal Note Summary

Bill Number: 5144 SB	Title: Batteries/environment
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	28,000	0	0	6,000	0	0	28,000
Department of Revenue	0	0	0	(56,000)	(56,000)	(56,000)	(573,000)	(646,000)	(646,000)
Department of Revenue	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Department of Ecology	0	0	0	0	0	673,094	0	0	1,232,100
Total \$	0	0	28,000	(56,000)	(56,000)	623,094	(573,000)	(646,000)	614,100

Agency Name	2023-25		2025-27		2027-29	
	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	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.1	0	0	28,000	.0	0	0	6,000	.1	0	0	28,000
Department of Commerce	.0	0	0	0	.2	0	0	45,682	.2	0	0	45,682
Department of Revenue	.3	61,100	61,100	61,100	.0	0	0	0	.0	0	0	0
Department of Ecology	3.3	0	0	904,401	2.5	0	0	1,052,386	4.4	0	0	1,232,100
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.6	142,882	142,882	142,882
Total \$	3.7	61,100	61,100	993,501	2.7	0	0	1,104,068	5.3	142,882	142,882	1,448,664

Agency Name	2023-25			2025-27			2027-29		
	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	2023-25			2025-27			2027-29		
	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
Department of Revenue	.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	2023-25			2025-27			2027-29		
	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 Breakout

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Prepared by: Lisa Borkowski, OFM	Phone: (360) 742-2239	Date Published: Final
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Individual State Agency Fiscal Note

Bill Number: 5144 SB	Title: Batteries/environment	Agency: 100-Office of Attorney General
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1	14,000	14,000	28,000	6,000	28,000
Total \$	14,000	14,000	28,000	6,000	28,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.0	0.1
Account					
Legal Services Revolving Account-State 405-1	14,000	14,000	28,000	6,000	28,000
Total \$	14,000	14,000	28,000	6,000	28,000

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: Greg Vogel	Phone: 360-786-7413	Date: 01/05/2023
Agency Preparation: Allyson Bazan	Phone: 360-586-3589	Date: 01/12/2023
Agency Approval: Merdan Bazarov	Phone: 360-586-9346	Date: 01/12/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/12/2023

Part II: Narrative Explanation

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

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

This bill is related to providing for responsible environmental management of batteries.

Section 1: Intent.

Section 2: Definitions.

Section 3: Requirement that producers implement a stewardship plan: Requires each battery producer selling in or into the State of Washington to participate in an approved Washington State battery stewardship plan beginning January 1, 2027.

Section 4: Retailer obligations: Ban the sale of a covered battery or battery-containing product unless the producer of the covered battery or battery containing product participates in an approved stewardship plan. A retailer would be required to provide consumers with information about the program. No point-of-sale fees to fund the program. Require producers to certify to retailers that batteries contained in battery containing products meet the marking requirements of the bill.

Section 5: Stewardship plan components: Battery Stewardship Organizations (SO) to submit a plan for approval by the Department of Ecology (Ecology). Deadlines for submissions and revisions. Rulemaking by Ecology. Would require increased public awareness of the program in vulnerable populations and overburdened communities as identified in Chapter 70A.02 RCW.

Section 6: Stewardship program components — performance goals.

Section 7: Stewardship program components — funding. Producers to adequately fund the full implementation of the stewardship plan(s), including battery collection and processing, education and outreach, program evaluation, and administrative fees to Ecology. It would encourage a SO to use eco-modulated fees when charging participating battery producers, to reduce the environmental impacts of covered batteries. A stewardship organization would be required to reimburse local governments for reasonable and demonstrable costs incurred as a result of battery collection activities, including labor costs.

Section 8: Stewardship program components — collection and management requirements. Sites would have to collect all covered batteries regardless of brand or chemistry on a free, continuous, convenient, visible, and accessible basis. SOs have to provide collection sites with collection containers. Sets a convenience standard that 95 percent of Washington residents would have a permanent collection site within a 15 mile radius. One additional collection site for every 30,000 residents of an urbanized area and urban cluster of at least 30,000 residents would have to be provided, and service to island and geographically isolated communities. Requires a minimum of 25 collection sites be established for medium format batteries with a collection location in each county with a population of at least 200,000. Sites collecting medium format batteries would be restricted to household hazardous waste collection locations or other sites that are staffed by persons certified to handle and ship hazardous materials under federal regulations. Collection sites accessible to overburdened communities identified by the department under Chapter 70A.02 RCW would be established proportionally to the number and population of those communities.

Section 9: Stewardship program components — education and outreach requirements: SOs must carry out educational and promotional activities. Reporting every five from each SO on how it carried out a public awareness survey and results. SOs required to implement outreach and educational resources targeted to overburdened communities and vulnerable populations identified by the department under Chapter 70A.02 RCW.

Section 10: Reporting requirements: SOs must submit an annual report to Ecology. Gives authority for the SO to request to

Ecology that records be made available only for the confidential use of the department, as authorized in RCW 43.21A.160. SOs must demonstrate environmentally sound and social just management in annual reports.

Section 11: Fee and Ecology's role: Require Ecology to adopt rules as necessary for the purpose of implementing, administering and enforcing the chapter, including establishing fees to be paid annually by a SO to cover the department's full costs of implementing, administering and enforcing the chapter. Ecology's responsibilities would include, but are not limited to: reviewing and approving stewardship plans and amendments, reviewing annual reports, maintaining a website, providing outreach and assistance to producers and retailers related to their obligations under this chapter, and issuing orders or imposing civil penalties when necessary.

Section 12: Penalties and civil action provisions: Authorizes Ecology to issue warning letters, an order requiring compliance, and impose a civil penalty of up to \$1,000 per violation per day or up to \$10,000 per violation per day for repeated violations or failure to comply with an issued order. Provides a private right of action for an SO to take civil action against producers who fail to participate in a stewardship plan or against another underperforming SO.

Section 13: Responsible battery management account.

Section 14: Marking requirements for batteries: Requires producers to use markings to identify producer, chemistry, and disposal; deadlines; rulemaking authority to Ecology to amend marking requirements by rule to maintain consistency with federal law or laws of other states.

Section 15: Requirement to use battery collection programs: Bans the disposal of covered batteries in waste containers or mixed non-battery recycling containers at the point of generation; deadlines; exception be provided for commercial, industrial, or government facilities and programs, which may use other responsible battery management programs.

Section 16: The Department of Commerce's (COM) assessment of large format batteries: Ecology must complete an assessment of end-of-life management for large format batteries, batteries contained in medical devices, and embedded batteries, in consultation with COM and submit a report with the findings of the assessment to the appropriate committees of the legislature by October 1, 2027. Ecology would be required to consult with vulnerable populations and overburdened communities identified under Chapter 70A.02 RCW as part of the assessment. The assessment would make recommendations regarding which parts of law should apply to large format batteries and should be addressed in rule.

Section 17: The Ecology's rule-making to require the establishment of stewardship program participation requirements for large format batteries: Authorizes Ecology to adopt rules requiring producers of large format batteries, battery-containing products, batteries in medical devices, and products with embedded batteries to participate in a stewardship program that achieves environmentally positive outcomes as the program created for portable and medium format batteries. As part of rulemaking, Ecology would need to evaluate any existing battery management systems to see if those programs achieve a 95 percent collection rate, to determine whether certain batteries can be excluded from the rule. Large format batteries would be required to participate in a stewardship program by July 1, 2031.

Section 18: Antitrust immunity.

Section 19: Amends RCW 43.21B.110 to add appeals of enforcement authorized by this Act to the jurisdiction of the Pollutions Control Hearings Board (PCHB).

Section 20: Amends RCW 43.21B.300 to include this Act in the appeals process before the PCHB.

Section 21: Codification.

Section 22: Severability.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished 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 (Ecology). 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.

AGO AGENCY ASSUMPTIONS:

The Ecology will be billed for non-Seattle rates:

- FY 2024: \$14,000 for 0.05 FTE Assistant Attorney General (AAG) and 0.03 FTE Legal Assistant 3 (LA).
- FY 2025: \$14,000 for 0.05 FTE AAG and 0.03 FTE LA.
- FY 2026: \$3,000 for 0.01 FTE AAG and 0.01 FTE LA.
- FY 2027: \$3,000 for 0.01 FTE AAG and 0.01 FTE LA.
- FY 2028: \$14,000 for 0.05 FTE AAG and 0.03 FTE LA.
- FY 2029: \$14,000 for 0.05 FTE AAG and 0.03 FTE LA.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

This bill is assumed effective 90 days after the end of the 2023 legislative session.

Location of staffing housed is assumed to be in a non-Seattle office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables, for every 1.0 FTE Assistant Attorney General (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of a Management Analyst 5 (MA). The MA is used as a representative classification.

1. The AGO Ecology (ECY) Division has reviewed this bill and determined the following impact related to the enactment of this bill:

Legal services will include advice on rulemaking required by Sections 5 and 11 in FY 2024 and FY 2025. (0.05 FTE AAG in FY 2024 and FY 2025.)

Legal services will include advice on a second rulemaking authorized by Section 17 in FY 2028 and FY 2029 to add stewardship program requirements for large format batteries, battery containing products, batteries in medical devices, and products with embedded batteries. (0.05 FTE AAG in FY 2028 and FY 2029).

The ECY division assumes that advice on rulemaking, general implementation, and enforcement in FYs that do not include the most legal advice-intensive years of rulemaking (FY 2026, FY 2027) would be 0.01 FTE AAG.

ECY total FTE workload impact for non-Seattle rate:

FY 2024: \$14,000 for 0.05 FTE AAG and 0.03 FTE LA.
FY 2025: \$14,000 for 0.05 FTE AAG and 0.03 FTE LA.
FY 2026: \$3,000 for 0.01 FTE AAG and 0.01 FTE LA.
FY 2027: \$3,000 for 0.01 FTE AAG and 0.01 FTE LA.
FY 2028: \$14,000 for 0.05 FTE AAG and 0.03 FTE LA.
FY 2029: \$14,000 for 0.05 FTE AAG and 0.03 FTE LA.

2. The AGO Antitrust (ANT) Division has reviewed this bill and determined it will not significantly increase or decrease the division’s workload. Section 18 of this bill exempts producers and battery stewardship organizations from antitrust liability. Consequently, the enactment of this bill should not lead to new investigations or litigation by the ANT. New legal services are nominal and costs are not included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	14,000	14,000	28,000	6,000	28,000
Total \$			14,000	14,000	28,000	6,000	28,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.0	0.1
A-Salaries and Wages	9,000	9,000	18,000	4,000	18,000
B-Employee Benefits	3,000	3,000	6,000	2,000	6,000
E-Goods and Other Services	2,000	2,000	4,000		4,000
Total \$	14,000	14,000	28,000	6,000	28,000

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 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General	118,700	0.1	0.1	0.1	0.0	0.1
Legal Assistant 3	55,872	0.0	0.0	0.0	0.0	0.0
Management Analyst 5	91,524	0.0	0.0	0.0		0.0
Total FTEs		0.1	0.1	0.1	0.0	0.1

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Ecology Division (ECY)	14,000	14,000	28,000	6,000	28,000
Total \$	14,000	14,000	28,000	6,000	28,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5144 SB	Title: Batteries/environment	Agency: 103-Department of Commerce
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Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.2	0.2
Account					
responsible battery management account-State New-1	0	0	0	45,682	45,682
Total \$	0	0	0	45,682	45,682

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: Greg Vogel	Phone: 360-786-7413	Date: 01/05/2023
Agency Preparation: Marla Page	Phone: 360-725-3129	Date: 01/18/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 01/18/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 01/18/2023

Part II: Narrative Explanation

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

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

The bill relates to providing responsible environmental management of batteries.

This bill creates a battery stewardship program, overseen by the Department of Ecology (Ecology) that will address collection and recycling of batteries. The program must achieve a recycling efficiency rate of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries.

Section 16 is new and requires Ecology to consult with the Department of Commerce (department) and interested stakeholders in completing the assessment of non-covered batteries. Among other requirements, the assessment must identify any needed adjustments to the stewardship program requirements that are necessary to maximize public health, safety, and environmental benefits, such as battery reuse.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

General Assumptions:

The bill requires Ecology to consult with the department on the assessment of end-of-life management for large format batteries. This would include getting up to date on options for collecting, managing, transporting, and disposing of large format batteries, as well as engaging with stakeholders during the assessment.

The department assumes that work required for the assessment would start beginning July 1,2026 and would be completed by December 31, 2027, with the final report due October 1, 2027.

To accomplish this work the department estimates:

0.20 FTE EMS2 Senior Energy Policy Specialist (416 hours) in FY27-FY28 to consult with Ecology on the assessment of end-of-life management for large format batteries as well as engaging with stakeholders during the assessment.

Salaries and Benefits:
FY27-FY28: \$32,915 per year

Goods and Services:
FY27-FY28: \$1,938 per year

Intra-Agency Reimbursements:
FY27-FY28: \$10,829 per year

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney

General costs, central services charges and agency administration. Agency administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

Total Costs:

FY27-FY28: \$45,682 per year

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
New-1	responsible battery management account	State	0	0	0	45,682	45,682
Total \$			0	0	0	45,682	45,682

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				0.2	0.2
A-Salaries and Wages				25,305	25,305
B-Employee Benefits				7,610	7,610
C-Professional Service Contracts					
E-Goods and Other Services				1,938	1,938
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements				10,829	10,829
9-					
Total \$	0	0	0	45,682	45,682

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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Services - Indirect	111,168				0.1	0.1
EMS Band 2	122,841				0.1	0.1
Total FTEs					0.2	0.2

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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Department of Revenue Fiscal Note

Bill Number: 5144 SB	Title: Batteries/environment	Agency: 140-Department of Revenue
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax				(56,000)	(573,000)
Workforce Education Investment Account-State 01 - Taxes 05 - Bus and Occup Tax					(73,000)
Total \$				(56,000)	(646,000)

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

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.5		0.3		
Account					
GF-STATE-State 001-1	61,100		61,100		
Total \$	61,100		61,100		

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:

- ☒ 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: Greg Vogel	Phone: 603-60-786-7413	Date: 01/05/2023
Agency Preparation: Sara del Moral	Phone: 603-60-534-1525	Date: 01/20/2023
Agency Approval: Marianne McIntosh	Phone: 603-60-534-1505	Date: 01/20/2023
OFM Review: Cheri Keller	Phone: 603-60-584-2207	Date: 01/20/2023

Request # 5144-1-1

Part II: Narrative Explanation

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

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

This fiscal note addresses section 21 of the bill, which impacts the Department of Revenue (department).

CURRENT LAW:

PRODUCT STEWARDSHIP PROGRAMS

Washington has established several product stewardship programs, which regulate end-of-life management of certain products, such as pharmaceuticals and paint. The Electronic Products Stewardship Program provides for the collection and management of certain batteries and other components contained in certain electronic products.

Stewardship organizations collect, transport, and provide end-of-life management for products covered under each stewardship program. In most cases, producers must participate in a stewardship organization and pay fees to support its activities.

BUSINESS AND OCCUPATION (B&O) TAX

The B&O tax is a gross receipts tax. It is measured on the value of products, gross proceeds of sale, or gross income of each business. The tax rate varies by classification. For services and other activities, it is:

- 1.50% for taxpayers with less than \$1 million in service/other taxable during the prior calendar year, and
- 1.75% for taxpayers a greater amount of service/other taxable during the prior calendar year.

Several exemptions are available. However, state law does not allow an exemption for the activities of a battery stewardship organization.

PROPOSAL:

DEFINITIONS

“Battery producer” means an organization that manufactures, sells, distributes, or imports batteries or battery-containing products in or into Washington.

“Covered battery” means a battery subject to the requirements of this proposal. The following are excluded:

- batteries contained within medical devices
- batteries that contain electrolyte as a free liquid
- vehicle batteries
- batteries not intended or designed to be easily removed from a product.

"Medium format battery" means the following primary or rechargeable batteries:

- For rechargeable batteries, a battery weighing more than 11 pounds or having a rating of more than 300 watt-hours, or both, and no more than 25 pounds and having a rating of no more than 2,000 watt-hours;
- For primary batteries, a battery weighing more than 4.4 pounds but not more than 25 pounds.

"Large format battery" means a rechargeable battery that weighs more than 25 pounds or has a rating of more than 2,000 watt-hours and a primary battery that weighs more than 25 pounds.

BATTERY STEWARDSHIP PROGRAM

The Department of Ecology (Ecology) must create a battery stewardship program.

No later than July 1, 2027, each battery stewardship organization must begin collecting covered batteries and battery-containing products.

No later than July 1, 2029, each stewardship organization must begin collecting medium format batteries.

No later than July 1, 2031, if the Ecology adopts rules requiring it, each stewardship organization must begin collecting large format batteries.

Ecology must establish fees, to be paid annually by each stewardship organization, that are adequate to cover its full costs of

implementing, administering, and enforcing the battery stewardship program. Beginning July 1, 2027, or the first date on which a stewardship organization begins implementing an approved plan, each battery producer that sells covered batteries or products containing them must help fund a stewardship organization that implements a stewardship plan approved by Ecology.

An exemption from the B&O tax is provided for each stewardship organization, in the amount of fees received from producers.

EFFECTIVE DATE:
This bill takes effect 90 days after final adjournment of the session.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

- ASSUMPTIONS:
- Stewardship organizations must pay a fee to Ecology to cover program costs, beginning with fiscal year 2027 expenditures.
 - Two battery stewardship organizations will use the B&O exemption. The larger stewardship organization receives 80% of steward fees; the smaller organization receives 20%.
 - Projected stewardship fees inflated from 2021 to 2027 values using the Seattle CPI Urban. Battery collections will follow the Vermont stewardship fee growth for 2028 and beyond.
 - The proposal does not impact the amount of the Small Business Credit.
 - The impact from mandating recycling of medium format batteries starting July 1, 2029, and large format batteries starting July 1, 2031, is indeterminate. No data is available to estimate the additional volumes of batteries collected in response to these mandates.
 - Currently, tribes with compacts receive a share of certain B&O taxes (RCW 43.06.523). Under this proposal the amount of revenue shared with tribes may decline.

- DATA SOURCES:
- Economic and Revenue Forecast Council, November 2022 forecast
 - US Bureau of Economic Analysis, Personal Consumption Expenditures, 2021
 - Call2Recycle, Data
 - Department of Ecology, Data

REVENUE ESTIMATES
This bill reduces state revenues by an estimated \$56,000 in the 10 months of impacted collections in Fiscal Year 2027, and by \$292,000 in Fiscal Year 2028, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$ 0
FY 2025 -	\$ 0
FY 2026 -	\$ 0
FY 2027 -	(\$ 56)
FY 2028 -	(\$ 292)
FY 2029 -	(\$ 354)

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

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

This bill affects 2 taxpayers.

FIRST YEAR COSTS:

The department will incur total costs of \$61,100 in fiscal year 2024. These costs include:

Labor Costs – Time and effort equate to 0.5 FTEs.

- Process tax return work items, assist taxpayers with reporting questions and respond to inquiries via email and web message and paper correspondence.
- Examine accounts and make corrections as necessary.
- Gathering requirements, implementation meetings, and documentation of system changes.
- Create a Special Notice and identify website publications and information the department may need to create or update.
- Respond to tax ruling requests, email inquiries, and more difficult call backs from the telephone information center.
- Test and verify computer system for new deduction.

Object Costs - \$4,400.

- Computer system changes, including contract programming.

SECOND YEAR COSTS:

The department will not incur costs in fiscal year 2025.

ONGOING COSTS:

There are no ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.5		0.3		
A-Salaries and Wages	34,100		34,100		
B-Employee Benefits	11,300		11,300		
C-Professional Service Contracts	4,400		4,400		
E-Goods and Other Services	7,800		7,800		
J-Capital Outlays	3,500		3,500		
Total \$	\$61,100		\$61,100		

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EXCISE TAX EX 3	61,632	0.1		0.1		
MGMT ANALYST4	73,260	0.2		0.1		
TAX INFO SPEC 4	66,420	0.2		0.1		
Total FTEs		0.5		0.3		

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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5144 SB	Title: Batteries/environment	Agency: 461-Department of Ecology
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Responsible Battery Management Account-Non-Appropriated NEW-6				673,094	1,232,100
Total \$				673,094	1,232,100

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.6	4.0	3.3	2.5	4.4
Account					
Model Toxics Control Operating Account-State 23P-1	351,278	553,123	904,401	379,292	0
Responsible Battery Management Account-Non-Appropriated NEW-6	0	0	0	673,094	1,232,100
Total \$	351,278	553,123	904,401	1,052,386	1,232,100

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:

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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: Greg Vogel	Phone: 360-786-7413	Date: 01/05/2023
Agency Preparation: Lori Peterson	Phone: 360-280-4075	Date: 01/16/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 01/16/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/18/2023

Part II: Narrative Explanation

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

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

Under current law, the Department of Ecology (Ecology) implements four extended producer responsibility (EPR) programs for electronics, paint, photovoltaic modules, and mercury containing lights. This bill would create a new producer responsibility program for Ecology, and one of the first all-battery programs in the country.

Recycling of used household batteries is not required under state law or regulation. Recycling of used batteries is encouraged but is not mandated by the state. Currently, Washington D.C. implements a legislated producer-funded battery take-back program, and California passed legislation in 2022, but no states have battery stewardship programs for all batteries.

This bill would establish a battery stewardship program, funded by producers, for portable used batteries beginning January 1, 2027, and would phase in medium format batteries January 1, 2029, and large format batteries July 1, 2031.

Section 3 would require each producer of covered batteries or battery-containing products selling in or into the state of Washington to participate in an approved Washington state battery stewardship plan beginning January 1, 2027.

Section 4 would ban the sale of a covered battery or battery-containing product beginning July 1, 2027, for portable batteries, and July 1, 2029, for medium format batteries, unless the producer of the covered battery or battery containing product participates in an approved stewardship plan. A retailer would be required to provide consumers with information about the program but would not be allowed to collect a fee at the point-of-sale to fund the program. This bill would also ban stewardship organizations from charging a specific point-of-sale fee to consumers. This section would require producers to certify to retailers that batteries contained in battery containing products meet the marking requirements of section 14.

Section 5 would require each battery stewardship organization (SO) to submit a plan for approval within six months of the rules adopted by Ecology (under section 11) before implementation of the program. Ecology assumes first stewardship plans would be due to Ecology on July 1, 2026. Ecology would be authorized to request a SO to submit a revised plan no less than every five years after the initial approval of a plan and adopt rules to identify the types of significant changes that require a new plan to be submitted to Ecology for approval. It would require the plan to include goals for increasing public awareness of the program in vulnerable populations and overburdened communities as identified in chapter 70A.02 RCW. This section would clarify how a SO can demonstrate environmentally sound and social just management in the stewardship plan components.

Section 6 would provide more detail on the performance goals that would need to be included in the SO plan (s).

Section 7 would require producers to adequately fund the full implementation of the stewardship plan(s), including battery collection and processing, education and outreach, program evaluation, and administrative fees to Ecology. It would encourage a SO to use eco-modulated fees when charging participating battery producers, to reduce the environmental impacts of covered batteries. A SO would be required to reimburse local governments for reasonable and demonstrable costs incurred resulting from battery collection activities, including labor costs.

Section 8 would establish collection site requirements and standards. All collection sites would have to collect all covered batteries regardless of brand or chemistry on a free, continuous, convenient, visible, and accessible basis. The SO would have to provide collection sites with collection containers. This section would set a convenience standard that ninety-five percent of Washington residents would have a permanent collection site within a fifteen-mile radius. One additional collection site for every thirty thousand residents of an urbanized area and urban cluster of at least thirty thousand residents would have to be provided, and service to island and geographically isolated communities. It would require a minimum of 25

collection sites be established for medium format batteries with a collection location in each county with a population of at least 200,000. Sites collecting medium format batteries would be restricted to household hazardous waste collection locations; for damaged or defective batteries, collection sites would be staffed by persons certified to handle and ship hazardous materials under federal regulations. Collection sites accessible to overburdened communities identified by Ecology under chapter 70A.02 RCW would be established proportionally to the number and population of those communities.

Section 9 would require each SO to carry out educational and promotional activities including maintenance of a website, press releases, advertisements, and other promotional materials. During the first year and every five years, each SO would have to carry out a public awareness survey and share the results with Ecology. The SO would be required to implement outreach and educational resources targeted to overburdened communities and vulnerable populations identified by Ecology under chapter 70A.02 RCW.

Section 10 would require each SO to submit an annual report as outlined in the bill to Ecology by June 1, 2028, and annually thereafter. This section would also allow the SO to request records be made available only for the confidential use of Ecology, as authorized in RCW 43.21A.160. This section would clarify how a battery stewardship organization can demonstrate environmentally sound and social just management in annual reports to Ecology.

Section 11 would require Ecology to adopt rules as necessary for the purpose of implementing, administering, and enforcing the chapter, including establishing fees to be paid annually by a SO to cover Ecology's full costs of implementing, administering, and enforcing the chapter. Ecology's responsibilities would include but not be limited to the following: reviewing and approving stewardship plans and amendments, reviewing annual reports, maintaining a website, providing outreach and assistance to producers and retailers related to their obligations under this chapter, and issuing orders or imposing civil penalties when necessary.

Section 12 would authorize a SO to take civil action against producers who fail to participate in a stewardship plan. It would authorize a SO to take civil action against another underperforming SO. It would also authorize Ecology to issue warning letters, an order requiring compliance, and impose a civil penalty of up to \$1,000 per violation per day or up to \$10,000 per violation per day for repeated violations or failure to comply with an issued order.

Section 13 would create the Responsible Battery Management Account to be used solely by Ecology for implementing, administering, and enforcing the chapter. The account would be subject to allotment procedures, but not appropriation.

Section 14 would require producers to use markings to identify the battery producer beginning January 1, 2028. By January 1, 2030, the markings must identify the battery chemistry and indicate that the battery should not be disposed of as household waste. Ecology would be authorized to amend marking requirements by rule to maintain consistency with federal law or laws of other states.

Section 15 would ban the disposal of covered batteries in waste containers or mixed non-battery recycling containers at the point of generation beginning July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented, whichever comes first. Exceptions would be provided for commercial, industrial, or government facilities and programs, which may use other responsible battery management programs.

Section 16 would require Ecology to complete an assessment of end-of-life management for large format batteries, batteries contained in medical devices, and embedded batteries in consultation with Department of Commerce (Commerce) by July 1, 2027. Ecology would submit a report with the findings of the assessment to the appropriate committees of the legislature by October 1, 2027. Ecology would be required to consult with vulnerable populations and overburdened communities identified under chapter 70A.02 RCW as part of the assessment. The assessment would make recommendations regarding which parts of law should apply to large format batteries and should be addressed in rule.

Section 17 would authorize Ecology to adopt rules by January 1, 2030, requiring producers of large format batteries, battery-containing products, batteries in medical devices, and products with embedded batteries to participate in a stewardship program that achieves environmentally positive outcomes as the program created for portable and medium format batteries. As part of rulemaking, Ecology would need to evaluate any existing battery management systems to see if those programs achieve a 95% collection rate, to determine whether certain batteries can be excluded from the rule. Large format batteries would be required to participate in a stewardship program by no earlier than July 1, 2031.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

The cash receipts impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2027 and ongoing for fee revenue collected into the new Responsible Battery Management Account. No cash receipts are estimated for penalties.

Section 11 would require Ecology to establish an annual fee in rule for the purposes of covering Ecology's full costs associated with the implementation, administration, and enforcement of the battery stewardship program as outlined in the bill.

Section 13 would require that the fee be deposited into the new Responsible Battery Management Account. The bill would provide that costs of the ongoing program would be paid for by this new account. Upon consultation with the AGO, Ecology assumes fee collections would begin in FY 2027 after rulemaking is complete to establish the program and fee.

Ecology assumes the fee would be collected from two product stewardship organizations and fee collections would start in FY 2027. Ecology estimates that billing and fee collection would reflect Ecology's estimate of costs as outlined in this fiscal note in each fiscal year. Variances from each year's estimate and actual costs would be adjusted in the next billing cycle. For purposes of this fiscal note, revenue from fee collections is shown in the same year as estimated costs and is assumed to be equal to estimated costs.

Section 12 would provide authority for Ecology to impose penalties of up to \$1,000 per violation per day, and up to \$10,000 per violation per day for repeated violations or failure to comply with an issued order. Ecology assumes that if a retail establishment or any person violates this chapter, Ecology would send a written warning letter to them to bring them into compliance. Failure to come into compliance after a warning letter is issued would result in Ecology issuing an order requiring compliance. Enforcement actions and penalties are assumed to be limited, but unknown, and therefore are not estimated in this fiscal note.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished 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) 2024 and ongoing to implement the requirements of sections 5, 8, 9, 10, 11, 12, 14, 16, and 17.

Ecology assumes expenditures in the Responsible Battery Management Account would begin in FY 2027, after rulemaking to establish the program and fee is complete, and once revenue collections into the account begin. Expenditures in FY 2024 through FY 2026 are estimated in MTCA - Operating. MTCA supports the state's responsibility for solid waste management, regulation, enforcement, technical assistance, and public education under chapter 70A.205 RCW.

RULEMAKING (Section 11)

Rulemaking authority is provided in sections 5, 11, 14, and 17, to implement various components of the bill. Ecology assumes

section 11 would provide the authority necessary to implement the requirements of the entire bill.

Section 11 would require Ecology to adopt rules as necessary for the purpose of implementing, administering, and enforcing the chapter, including establishing fees, to be paid annually by a SO to cover Ecology's full costs of implementing, administering, and enforcing the chapter.

Ecology's responsibilities include reviewing and approving stewardship plans and amendments, posting plans for public review and comments, reviewing annual reports, maintaining a website, posting, and maintaining a list of producers and brands provided by a SO, providing outreach and assistance to producers and retailers related to their obligations under this chapter, and issuing orders or imposing civil penalties when necessary.

Based on previous experiences implementing other product stewardship programs and consultations with the agency rules unit and the Attorney General Office (AGO), Ecology assumes a two-year highly technical rule-making process would be required. Ecology assumes three public meetings when developing draft rule language with a webinar option, and three public hearings for the proposed rule language. Ecology assumes rulemaking would begin October 1, 2023 (FY 2024) and be completed with rule adoption on October 1, 2025 (FY 2026).

The following staff needs are identified for this initial rulemaking:

A rule coordinator would oversee the rulemaking process to comply with the Administrative Procedures Act; prepare rule development and communication plan; prepare and file CR-101; coordinate and conduct three meetings, public outreach; file CR-102 and hold three public hearings with webinars access; work with economist on economic analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This is estimated to require 0.09 FTE Regulatory Analyst 3 (RA3) in FY 2024, 0.11 FTE RA3 in FY 2025, and 0.04 FTE in FY 2026.

A rulemaking lead would provide technical support to the rule coordinator; identify interested and impacted parties; coordinate meetings and public outreach; draft rule language; write rule-related documents such as responsiveness summaries and rule development documents, develop enforcement guidance documents, prepare information for the economic analysis, and respond to questions. This is estimated to require 0.56 FTE Environmental Planner 4 (EP-4) in FY 2024, 0.75 FTE EP-4 in FY 2025, and 0.19 FTE EP-4 in FY 2026.

A subject matter expert would advise on the technical aspects of battery collection and recycling such as battery chemistries and types; various recycling technologies; constituents and products from battery recycling; and U.S.D.O.T. regulations regarding the transport of batteries. This is estimated to require 0.38 FTE Environmental Specialist 5 (ES-5) in FY 2024, 0.50 FTE ES-5 in FY 2025, and 0.13 FTE ES-5 in FY 2026.

Technical support staff would advise on the universal waste rules for the management of batteries and any other battery management requirements under the state's dangerous waste regulation WAC 173-303. This is estimated to require 0.19 FTE Regulatory Analyst 3 (RA-3) in FY 2024, 0.25 FTE RA-3 in FY 2025, and 0.06 FTE RA-3 in FY 2026.

Technical support staff would assist with HEAL Act requirements. This is estimated to require 0.19 FTE EP-3 in FY 2024, 0.25 FTE EP-3 in FY 2025, and 0.06 FTE EP-3 in FY 2026.

An outreach coordinator would organize public meetings, prepare informational materials, and respond to questions throughout the rulemaking process. This would require a Community Outreach & Environmental Education Specialist 3 (COEES-3) 0.38 FTE in FY 2024, 0.5 FTE in FY 2025, and 0.13 FTE ES-4 in FY 2026.

Economic research staff would complete economic and regulatory analysis in support of the rule as required by law. This is estimated to require 0.25 FTE of an Economic Analyst 3, and 0.10 FTE of a Regulatory Analyst 2 in FY 2025.

One public meeting would be held in FY 2024, two public meetings and three public hearings would be held in FY 2025.

Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$1,000 in FY 2024 and \$5,000 in FY 2025 in Object E.

Upon consultation with the Attorney General Office (AGO), Ecology assumes 0.05 FTE Assistant Attorney General (AAG) and 0.03 FTE Legal Assistant 3 (LA) for a total cost of \$14,000 each year in FYs 2024 and 2025, and 0.01 FTE AAG and 0.01 FTE LA each year in FY 2026 and FY 2027, for estimated costs of \$3,000 in each year for advice on general implementation and enforcement.

REVIEW AND APPROVE PLANS AND ANNUAL REPORTS (Sections 5 and 10)

Plan Review and Approval

Section 5 would require each battery SO to submit a plan for approval within six months of the rules being adopted. For purposes of this fiscal note, Ecology assumes rulemaking would begin as soon as possible, and rules would be adopted by October 1, 2025. However, for purposes of alignment with the other dates established in sections 5 and 15 and allowing time for coordination with SOs to ensure received plans are complete, Ecology assumes completed plans would be submitted by July 1, 2026. Ecology would be required to review and approve the plan to see if it adequately addresses the required components as outlined in this section. Ecology assumes two new plans would be submitted for review by July 1, 2026, and they would be approved by January 1, 2027 (FY 2027). Ecology assumes two plan amendments to incorporate medium format batteries in FY 2028. Ecology assumes plan updates would occur every five years after the initial approval.

Ecology assumes the program would start on July 1, 2027, after the rule is adopted and six months after the plan is approved by Ecology. Based on our experience implementing the Paint Stewardship program, Ecology assumes two plans would have to be reviewed starting in FY 2027. Ecology estimates 0.32 FTE EP-4 in FY 2027 to review the plans and facilitate the process for confidentiality requests.

All plans received would need to be posted for public review and comment, and those comments would need review and appropriate follow-up. Ecology estimates 0.05 FTE EP-4 and 0.05 FTE CC-3 in FY 2027 and every five years.

Ecology further assumes that once every five years after the initial approval of a plan, a complete plan revision submittal would be necessary to ensure compliance. We assume future revisions would require the same level of effort as the initial plan reviews. The first five-year plan renewal review would occur in FY 2032.

When the rulemaking for large format and other battery categories is complete in FY 2029, Ecology assumes a new SO would submit a plan to cover these new battery categories. Ecology assumes one plan for large format batteries to be submitted July 1, 2029, and the plan would require the same level of effort to review as initial plan submittals, beginning in FY 2030 and every five fiscal years thereafter.

Annual Reports

Section 10 would require each SO to submit an annual report as outlined in the bill to Ecology by June 1, 2028, and annually thereafter. Ecology assumes two annual reports would be submitted by two stewardship organizations by June 1, 2028. Ecology assumes the reporting requirements would be quite extensive and intensive to review. Ecology further assumes the SO would request confidentiality for parts of their annual reports. Ecology estimates 0.32 FTE EP-4 beginning in FY 2029 and annually thereafter would be required to review of these reports and facilitate the process for confidentiality requests. Ecology assumes it would review the performance goals submitted by the SOs beginning with the second annual report submittal in FY 2030. Ecology estimates 0.02 FTE EP-4 beginning in FY 2030 and ongoing.

TECHNICAL ASSISTANCE, PROGRAM IMPLEMENTATION, COMPLIANCE (Sections 5, 8, 9, 12, 14, and 16)

This section addresses the components of the stewardship program that would have impact to Ecology, which we assume would be informed by rulemaking. The program would also incorporate environmental justice considerations, as described in sections 5, 8, and 9 in the bill. Workload assumptions and estimates for identifying vulnerable populations and overburdened communities are provided in sections below discussing technical assistance, program implementation, and compliance.

Collection & Management Requirement

Section 8 outlines the collection site requirements, referred to as convenience standards. Ecology would be required to verify that the convenience standards have been met as part of plan approval (sections 5 and 11). Ecology assumes two plans would be submitted and that the proposed collection networks would need to be analyzed separately. Based on our experience implementing the Paint Stewardship program, Ecology estimates 0.04 FTE of an IT APP Development-SR/Specialist to conduct this analysis in FY 2027 and every five years thereafter for initial plans and renewals, and FY 2031 and every five years thereafter for large format battery-related plans and renewals.

The SOs would be required to manage the batteries they collect according to the waste management hierarchy. Section 8 would allow SOs to manage batteries with lower [on the hierarchy] methods only when they document to Ecology that higher priority methods are not technologically feasible or economically practical. Ecology assumes the SOs would provide the needed documentation in the initial plan submittal. Ecology assumes that with each annual report, the SO would also provide documentation and justification to support how batteries were managed according to the waste hierarchy; especially as it relates to performance goals established in the plan. Ecology assumes review of this documentation would involve considerable research and analysis. Ecology estimates 0.08 FTE EP-4 in FY 2027 and 0.02 FTE in FY 2028 and ongoing to conduct this work.

Education and Outreach

Section 9 would require the SOs to provide Ecology with the results of consumer awareness survey for review in the first year of program implementation and every five years afterwards. Ecology assumes it would review the survey results to ensure the SOs meet the education and outreach requirements of the plan. The survey results would be an important performance indicator for the program, especially in meeting outreach and awareness goals related to vulnerable populations and overburdened communities. If SOs aren't meeting awareness goals established in the plan, Ecology may require further actions to improve awareness. Ecology estimates 0.02 FTE EP-4 in FY 2028, and every five years thereafter.

Technical Assistance

Based on our experience implementing other extended producer responsibility programs, Ecology assumes technical assistance would be required to field questions from the stewardship organizations, to provide them with feedback on draft plans, and to provide support and guidance on notifying interested and impacted parties prior to the plan due date. Ecology assumes technical assistance for the SO would occur immediately after the bill passage and the level of effort would increase during the two years prior to the plan submittal. Ecology estimates that this work would require 0.25 FTE EP-4 in FY 2024 and increase to 0.50 FTE EP-4 each year in FY 2025, and FY 2026.

In addition to review of the plans, Ecology assumes monthly meetings with the SO through the first year of plan implementation. There would be ongoing routine technical assistance to interested parties including stewardship organizations, retailers, battery producers, recyclers, and members of the public. Information about the program would be constantly evolving as medium format batteries are added in 2029 and large format batteries are added in 2031. The need for technical assistance would be ongoing. Ecology estimates 0.50 FTE EP-4 would be required in FY 2027 and ongoing for these purposes.

Additionally, Ecology assumes it would provide the SO with information on vulnerable populations and overburdened

communities to support overall program development (section 5), and specifically the establishment of a collection network (section 8), and the development of outreach and education materials (section 9). Ecology assumes this information would also be used as part of the assessment for large format batteries (section 16). Ecology estimates 0.05 FTE of an Environmental Planner 3 (EP-3) in FY 2024, 0.20 FTE EP-3 in FY 2025 as stewardship plans are being developed; and 0.10 FTE EP-3 in FY 2026, and every five fiscal years thereafter with new plan submittals.

Program Implementation

Ecology would be required to create and maintain a website related to this program, and post and maintain a list of producers and brands participating in this program. Ecology estimates 0.10 FTE Communications Consultant 3 (CC-3) in FY 2024 to initially create the website, dropping to 0.05 FTE in FY 2025 and ongoing to maintain and keep the website current

Based on experience implementing the paint stewardship program, additional assistance from the Hazardous Waste Toxics Reduction program would be needed to help develop guidance for businesses regulated under the state's dangerous waste regulations, WAC 173-303. Stewardship organizations and their transporters and processors would also need technical assistance related to WAC 173-303. Ecology estimates 0.25 FTE RA3 beginning in FY 2026, and 0.75 FTE in FY 2027, and 0.25 FTE in FY 2028 and ongoing.

Work to ensure compliance by producers, SOs, and retailers would start once the program begins in FY 2028. Based on our experience implementing other stewardship programs, Ecology assumes site visits to collection sites or processors would be necessary to ensure compliance. Ecology estimates 0.25 FTE EP-4 beginning in FY 2028 and ongoing thereafter.

Enforcement

Section 12 would authorize Ecology to issue an order requiring compliance and impose a civil penalty of up to \$1,000 per violation per day, or up to \$10,000 per violation per day, for repeated violations or failure to comply with an issued order. Ecology assumes the purpose of the penalty is to ensure compliance and that Ecology would issue warning letters and provide technical assistance to gain compliance. We assume minimal enforcement actions - two warning letters per year. Ecology assumes enforcement guidance would be necessary. Ecology estimates 0.10 FTE EP-4 in FY 2027 to develop an enforcement guidance document.

Section 14 would require producers to use markings to identify the producer of the battery beginning January 1, 2028. Beginning January 1, 2030, batteries would need to be marked to identify the chemistry of the battery, including an indication that the battery should not be disposed of as household waste. Ecology assumes no federal laws regarding battery marking would occur within the timeframe of this fiscal note, so rulemaking to maintain consistency would not be required. Ecology would monitor actions by other states and the federal government regarding battery marking requirements. Ecology estimates 0.03 FTE EP-4 beginning in FY 2024 and ongoing each fiscal year thereafter to monitor and track battery policies in other jurisdictions.

LARGE FORMAT AND OTHER BATTERY CATEGORIES (Sections 16 and 17)

Assessment of Large Format Batteries and Other Non-Covered Battery Categories

Section 16 would require Ecology to conduct an assessment on end-of-life management for other battery categories, including: large format batteries, batteries contained in medical devices, and batteries embedded in products (not intended or designed to be easily removed) by July 1, 2027. Ecology would be required to consult with Commerce and other interested parties. For the battery categories listed, the assessment must consider the current economic value and reuse or recycling potential, the current management methods, challenges posed by their management, and which criteria of the chapter should apply to them. The assessment would also inform rulemaking prescribed in Section 17. Ecology would issue a request for proposal to hire a consultant and oversee the work, including reviewing the assessment and sharing it with interested

parties. Ecology assumes a consultant would be hired by January 1, 2026, to conduct the assessment.

Work to prepare a contract, oversee the contractor, and complete the assessment would require 0.30 FTE of an EP-4 each year in FY 2026 and FY 2027. Additionally, Ecology estimates 0.10 FTE of an ES-4 each year in FY 2026 and FY 2027 to assist with the assessment by providing data to the consultant and coordinating review of documents.

Based on previous experience with solid waste management assessments, Ecology estimates \$70,000 in FY 2026, and \$280,000 in FY 2027 for a professional services contract to prepare and summarize research and recommendations for the assessment, shown in Object C.

Section 16 would require Ecology to submit a report to the legislature by October 1, 2027, summarizing the findings of the assessment. Ecology estimates 0.10 FTE EP-4, 0.05 FTE EP-5, and 0.05 FTE of a CC-2 in FY 2028 to coordinate review of the report, prepare edits, and submit the report to the legislature.

Section 17 would authorize Ecology to adopt rules to require the establishment of stewardship program participation requirements for large format and other non-covered battery categories. Ecology assumes the assessment required under section 16 would recommend large format and other battery categories be incorporated into the program. Ecology would need to amend the existing rules to make that happen. Ecology assumes a two-year rulemaking of moderate complexity and controversy would be required for this second rule. Ecology assumes two public meetings when developing draft rule language with a webinar option, and two public hearings for the proposed rule language. Ecology assumes rulemaking would begin July 1, 2027 (FY 2027) and be completed by June 30, 2029 (FY 2029). Once rulemaking is complete, Ecology assumes a new plan submittal by a SO to cover large format and potentially other batteries.

As part of rulemaking, Ecology would need to evaluate any existing battery management systems for large format and other battery categories to see if those programs achieve a 95% collection rate and to determine whether certain batteries can be excluded from the rule. Upon completion of rulemaking, Ecology assumes a plan submittal to cover large format batteries. Large format batteries would be required to participate in a program by January 1, 2031 (FY 2031).

The following staff needs are identified for this initial rulemaking:

A rule coordinator would oversee the rulemaking process to comply with the Administrative Procedures Act; prepare rule development and communication plan; prepare and file CR-101; coordinate and conduct three meetings and public outreach; file CR-102 and hold three public hearings with webinars access; work with economist on economic analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This is estimated to require 0.11 FTE Regulatory Analyst 3 (RA3) in FY 2028 and 0.11 FTE in FY 2029.

A rulemaking lead would provide technical support to rule coordinator; identify interested and impacted parties; coordinate meetings and public outreach; draft rule language; write rule related documents such as responsiveness summaries and rule development documents, develop enforcement guidance documents, prepare information for the economic analysis, and respond to public questions. This is estimated to require 0.75 FTE EP-4 in FY 2028 and 0.75 FTE in FY 2029.

A subject matter expert would advise on the technical aspects of battery collection and recycling such as battery chemistries and types; various recycling technologies; constituents and products from battery recycling; and U.S.D.O.T. regulations regarding the transport of batteries. This is estimated to require 0.50 FTE Environmental Specialist 5 (ES-5) in FY 2028 and 0.50 FTE FY 2029.

Technical support staff would advise on the universal waste rules for the management of batteries and any other battery management requirements under the state's dangerous waste regulation WAC 173-303. This is estimated to require 0.25 FTE Regulatory Analyst 3 (RA-3) in FY 2028 and 0.25 FTE in FY 2029.

Technical support staff would assist with HEAL Act requirements. This is estimated to require 0.25 FTE EP-3 in FY 2028

and 0.25 FTE in FY 2029.

An outreach coordinator would organize public meetings, prepare informational materials, and respond to questions throughout the rulemaking process. This would require a Community Outreach & Environmental Education Specialist 3 (COEES-3) 0.50 FTE in FY 2028 and 0.50 FTE in FY 2029.

Economic research staff would complete economic and regulatory analysis in support of the rule as required by law. This is estimated to require 0.20 FTE of an Economic Analyst 3, and 0.05 FTE of a Regulatory Analyst 2 in FY 2029.

Two public meetings would be held in FY 2028, and two public hearings would be held in FY 2029. Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$2,000 in FY 2028 and \$2,000 in FY 2029 in Object E.

Upon consultation with the Attorney General Office (AGO), Ecology assumes 0.05 FTE Assistant Attorney General (AAG) and 0.03 FTE Legal Assistant 3 (LA) for a total cost of \$14,000 each year in FYs 2028 and 2029.

Ecology assumes an ongoing incremental increase in workload for plan review and approval, stewardship program implementation, and technical assistance once large format batteries are added to the program. Other than the adjustment to stewardship plan review timing described above, the workload changes are indeterminate at this time. Adjustments to budget authority would be needed for these changes, for which Ecology would plan to submit budget requests in the future as appropriate.

SUMMARY: The expenditure impact to Ecology under this bill is summarized below and in the attached Expenditure Overview Table.

RULEMAKING (Section 11) is estimated to require:

FY 2024: \$285,421 and 2.06 FTEs

FY 2025: \$429,994 and 3.12 FTEs

FY 2026: \$95,227 and 0.7 FTEs

FY 2027: \$3,000 and 0 FTEs

REVIEW AND APPROVE PLANS AND ANNUAL REPORTS (Sections 5 and 10) is estimated to require:

FY 2027: \$66,948 and 0.48 FTEs

FY 2029: \$52,533 and 0.37 FTEs

TECHNICAL ASSISTANCE, PROGRAM IMPLEMENTATION, COMPLIANCE (Sections 5, 8, 9, 12, 14, and 16) is estimated to require:

FY 2024: \$65,857 and 0.49 FTEs

FY 2025: \$123,129 and 0.9 FTEs

FY 2026: \$151,206 and 1.07 FTEs

FY 2027: \$260,287 and 1.78 FTEs

FY 2028: \$183,859 and 1.29 FTEs

FY 2029: \$180,576 and 1.27 FTEs

LARGE FORMAT AND OTHER BATTERY CATEGORIES (Sections 16 and 17) is estimated to require:

FY 2026: \$132,859 and 0.46 FTEs

FY 2027: \$342,859 and 0.46 FTEs

FY 2028: \$403,622 and 2.94 FTEs

FY 2029: \$411,510 and 3 FTEs

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

FY 2024: \$351,278 and 2.55 FTEs

FY 2025: \$553,123 and 4.01 FTEs

FY 2026: \$379,292 and 2.23 FTEs

FY 2027: \$673,094 and 2.73 FTEs

FY 2028: \$587,481 and 4.23 FTEs

FY 2029: \$644,619 and 4.63 FTEs

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 36% of salaries.

Professional Services Contracts includes estimated costs for a contract to prepare an assessment for large format batteries, estimated to be \$70,000 in FY 2026 and \$280,000 in FY 2027.

Goods and Services are the agency average of \$5,224 per direct program FTE and includes facility costs for rulemaking meetings, estimated to be \$1,000 in FY 2024, \$5,000 in FY 2025, \$2,000 each year in FY 2028 and FY 2029. Also included are AGO estimated costs of \$14,000 each year in FY 2024, FY 2025, FY 2028, and FY 2029, and \$3,000 each year in FY 2026 and FY 2027.

Travel is the agency average of \$1,563 per direct program FTE.

Equipment is the agency average of \$1,031 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 28.75% 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 2024	FY 2025	2023-25	2025-27	2027-29
23P-1	Model Toxics Control Operating Account	State	351,278	553,123	904,401	379,292	0
NEW-6	Responsible Battery Management Account	Non-Appropriated	0	0	0	673,094	1,232,100
Total \$			351,278	553,123	904,401	1,052,386	1,232,100

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.6	4.0	3.3	2.5	4.4
A-Salaries and Wages	182,137	289,454	471,591	378,467	650,951
B-Employee Benefits	65,568	104,204	169,772	136,248	234,344
C-Professional Service Contracts				350,000	
E-Goods and Other Services	26,597	37,232	63,829	28,513	72,276
G-Travel	3,470	5,457	8,927	6,737	12,054
J-Capital Outlays	2,290	3,600	5,890	4,445	7,956
9-Agency Administrative Overhead	71,216	113,176	184,392	147,976	254,519
Total \$	351,278	553,123	904,401	1,052,386	1,232,100

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 2024	FY 2025	2023-25	2025-27	2027-29
COM OUTREACH & ENV ED SP 3	63,216	0.4	0.5	0.4	0.1	0.5
COMM CONSULTANT 2	60,156					0.0
COMM CONSULTANT 3	66,420	0.1	0.1	0.1	0.1	0.1
ECONOMIC ANALYST 3	85,020		0.3	0.1		0.1
ENVIRONMENTAL PLANNER 3	80,952	0.2	0.5	0.4	0.1	0.3
ENVIRONMENTAL PLANNER 4	89,292	0.8	1.3	1.1	1.2	1.8
ENVIRONMENTAL PLANNER 5	98,592					0.0
ENVIRONMENTAL SPEC 4	73,260				0.1	
ENVIRONMENTAL SPEC 5	80,952	0.4	0.5	0.4	0.1	0.5
FISCAL ANALYST 2		0.2	0.4	0.3	0.2	0.4
IT APP DEV-JOURNEY		0.1	0.2	0.1	0.1	0.2
IT APP DEV-SR/SPECIALIST	115,824				0.0	
REGULATORY ANALYST 2	82,896		0.1	0.1		0.0
REGULATORY ANALYST 3	93,840	0.3	0.4	0.3	0.6	0.6
Total FTEs		2.6	4.0	3.3	2.5	4.5

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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Rulemaking authority is provided in sections 5, 8, 11, 14, and 17, to implement various components of the bill. Ecology assumes section 11 would provide the authority necessary to implement the requirements of the entire bill.

Section 11 would authorize Ecology to adopt rules for the purpose of implementing, administering, and enforcing this chapter. Ecology assumes rules would be required for enforcement.

SB 5144 Battery Management - Department of Ecology Fiscal Note Expenditure Overview

By Section

OPERATING BUDGET	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
RULEMAKING (Section 11)	285,421	429,994	95,227	3,000	0	0
Total FTEs	2.1	3.1	0.7	0.0	0.0	0.0
Staff costs	270,421	410,994	92,227	0	0	0
Rulemaking, Meeting Facilities	1,000	5,000	0	0	0	0
Rulemaking, AGO Costs	14,000	14,000	3,000	3,000	0	0
 REVIEW AND APPROVE PLANS AND ANNUAL REPORTS (Sections 5 and 10)	 0	 0	 0	 66,948	 0	 52,533
Total FTEs	0.0	0.0	0.0	0.5	0.0	0.4
Staff costs	0	0	0	66,948	0	52,533
 TECHNICAL ASSISTANCE, PROGRAM IMPLEMENTATION, COMPLIANCE (Sections 5, 8, 9, 12, 14, and 16)	 65,857	 123,129	 151,206	 260,287	 183,859	 180,576
Total FTEs	0.5	0.9	1.1	1.8	1.3	1.3
Staff costs	65,857	123,129	151,206	260,287	183,859	180,576
 LARGE FORMAT AND OTHER BATTERY CATEGORIES (Sections 16 and 17)	 0	 0	 132,859	 342,859	 403,622	 411,510
Total FTEs	0.0	0.0	0.5	0.5	2.9	3.0
Staff costs	0	0	62,859	62,859	387,622	395,510
Contract for Large Batteries Assessment	0	0	70,000	280,000	0	0
Rulemaking, Meeting Facilities	0	0	0	0	2,000	2,000
Rulemaking, AGO Costs	0	0	0	0	14,000	14,000
 ECOLOGY TOTAL OPERATING FTEs	 2.6	 4.0	 2.2	 2.7	 4.2	 4.6
ECOLOGY TOTAL OPERATING EXPENDITURES	351,278	553,123	379,292	673,094	587,481	644,619

Individual State Agency Fiscal Note

Revised

Bill Number: 5144 SB	Title: Batteries/environment	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:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.0	0.6
Account					
General Fund-State 001-1	0	0	0	0	142,882
Total \$	0	0	0	0	142,882

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: Greg Vogel	Phone: 360-786-7413	Date: 01/05/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/17/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/17/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/18/2023

Part II: Narrative Explanation

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

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

Section 3 – By January 1, 2027, requires producers of certain batteries to implement a state approved stewardship plan or pay into a battery stewardship organization that provides for battery collection and final disposal, education and communication, and financing methods.

Section 4 – By July 1, 2027 or July 1, 2029, depending on which type of batteries, prohibits retailers from selling covered batteries from producers who do not participate in the stewardship organization or plan.

Sections 5 – Describes stewardship plan components

Sections 6, 7, 8, 9 – Describes stewardship program components: funding, performance goals, collection and management, education and outreach.

Section 10 – By June 1, 2028, and annually thereafter, requires battery stewardship organizations to submit an annual report.

Section 11 – Authorizes Ecology to implement, administer, and enforce the statute.

Section 12 - Allows Ecology to issue civil penalties and compliance orders and refers appeals of those to the Pollution Control Hearings Board (PCHB).

Section 14 – By January 1, 2028, and January 1, 2030, requires producers and retailers to only sell batteries that can be removed from product and labeled with chemistry components.

Section 15 – By July 1, 2027, all must dispose of covered batteries in collection locations.

Section 19 – amends PCHB statute to authorize PCHB to hear and decide appeals under section 12 of the statute.

Section 20 – amends PCHB statute to require civil penalties imposed under section 12 of the statute to be made in writing and describe violation with reasonable particularity.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

NONE

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

FISCAL IMPACT to the Pollution Control Hearings Board: YES

ELUHO estimates 5 average/medium complexity appeals resulting from this bill.

ELUHO assumes ELUHO's work on these appeals begins in January 2028 (FY 28) following the enforcement process by

the Department of Ecology.

ELUHO estimates each appeal resulting from this bill will require approximately 230 hours of Administrative Appeals Judge (AAJ) work to complete (110 pre-hearing hours + 120 hearing and post-hearing hours) x 5 appeals. This estimate is based on a current analysis of AAJ work.

230 hours/appeal x 5 appeals = 1,150 AAJ hours per FY, ongoing.

Assume New AAJ FTE: The PCHB will need approximately 0.5 FTE for an AAJ with knowledge of environmental law to assist with these new cases, based on the estimated number of AAJ hours per year. RCW 43.21B.005(2) authorizes the ELUHO director to appoint such AAJs to assist the PCHB. The AAJ 0.5 FTE will not serve as a member of the Boards, but will conduct legal research and writing, mediate cases, draft Board memos and materials, and perform other legal duties to assist the Board.

An AAJ makes \$100,000 per year, plus related benefits estimated at \$32,021 per year, at current benefits rates. The agency needs a 0.5 FTE AAJ, so the salary would be \$100,000 x 0.5 FTE = \$50,000, per FY, ongoing. Related benefits would total \$16,011, per FY, ongoing.

Assume additional Legal Assistant (LA3) FTE: Legal Assistants provide support for all three Boards, including managing all Board cases and court filings, providing support for Board members, AAJs, and Board meetings, and providing administrative support for ELUHO office functions. We assume 0.5 LA3 FTE for every 1.0 AAJ FTE. The bill will require approximately 0.25 FTE LA3 to manage the additional cases and support the AAJ FTE.

An LA3 makes \$55,872 (assumed Step L) per year, with related benefits estimated at \$24,059 per year. The agency needs a 0.25 LA3 FTE so salary would be \$55,872 x 0.25 FTE = \$13,968 per FY, ongoing. Related benefits would total \$6,015 per FY, ongoing.

Goods and services for the total 0.75 FTE are estimated at \$4,184 per year, ongoing, and include communications, payroll processing, training, and other staff costs. Estimates include some travel at the low cost per diem rates totaling \$1,048 per year, ongoing. Also included is one time equipment costs for furniture and computers totaling \$5,557 in FY 28.

Assume no capital budget impact: Currently, ELUHO leases space on the top floor of the State Parks building, Parsons Plaza. We assume we can repurpose space to include the FTEs if they have workstations at the ELUHO office. We assume the 0.5 AAJ FTE would be offered the option of working remotely and the LA3 would be in the office but would not require an office with a door.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	0	0	0	142,882
Total \$			0	0	0	0	142,882

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					0.6
A-Salaries and Wages					95,958
B-Employee Benefits					33,039
C-Professional Service Contracts					
E-Goods and Other Services					6,756
G-Travel					1,572
J-Capital Outlays					5,557
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	0	0	0	142,882

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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Appeals Judge	100,000					0.4
Legal Assistant 3	55,872					0.2
Total FTEs						0.6

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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5144 SB	Title: Batteries/environment
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☒ Counties: Indeterminate increase in expenditures and revenues for county solid waste collection programs
- ☒ Special Districts: Indeterminate increase in expenditures and revenues for public utility districts, solid waste disposal districts, and metropolitan municipal districts that operate solid waste collection programs.
- ☐ 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: County work that would be required by the battery stewardship organization plan

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: Chelsea Mickel	Phone: 518-727-3478	Date: 01/10/2023
Leg. Committee Contact: Greg Vogel	Phone: 360-786-7413	Date: 01/05/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/10/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/15/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

This bill would establish a battery stewardship program, funded by producers, for portable used batteries beginning January 1, 2027, and would phase in medium format batteries in January 1, 2029. Local governments would be involved in this program in a few different ways.

Section 5: Stewardship Plan Components would require each battery stewardship organization (BSO) to submit a plan for approval within six months of the rules adopted by Ecology. This plan would include performance goals, program funding, battery collection and management, and education and outreach. Each BSO must submit a plan for portable batteries to Ecology for approval. Within two years of the rules adopted by Ecology, BSOs must submit a plan for covered medium format batteries.

Section 7 would require producers to adequately fund the full implementation of the stewardship plan (s), including battery collection and processing, education and outreach, program evaluation, and administrative fees to Ecology. A stewardship organization would be required to reimburse local governments for reasonable and demonstrable costs incurred as a result of battery collection activities, including labor costs.

Section 8 would require a BSO to have a collection site or annual collection event in each county of the state.

Section 15 would ban the disposal of covered batteries in waste containers or mixed non-battery recycling containers at the point of generation beginning January 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented, whichever comes first, and beginning July 1, 2031, for large format batteries. Exception would be provided for commercial, industrial, or government facilities and programs, which may use other responsible battery management programs.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

This bill would result in an indeterminate increase in local government expenditures. These costs will be associated with new facilities, staff, training, education, insurance and liability costs. In addition, waste collection protocols may need to be changed. These costs are detailed below.

This legislation would require any increase in local government expenditures to be reimbursed by Battery Stewardship Organizations' (BSO) revenue, further explained in the revenue section of this fiscal note.

According to the Washington State Association of Counties, solid waste collection programs (which are managed by the counties) would incur additional costs and work, dependent on the plan submitted by the battery stewardship organization (BSO). Since the BSO does not have to submit its plan until six months after Ecology adopts rules for battery management, the details of the plan cannot be determined at this time, so the impacts to counties cannot be determined within this fiscal note. However, impacts to counties could include the following:

- If battery collection sites are located at solid waste facilities, such as transfer stations or household hazardous waste collection sites, these facilities and their staff would need to spend extra space, time, and train new staff on the collection of these batteries.
- If the batteries needed to be stored somewhere, the county may need to purchase additional storage facilities. These properties may need certain specifications to safely store these batteries.
- The county may need to hire additional staff to assist in the administration of battery collection and the collaboration with the BSO.
- In addition, there could be additional insurance and liability costs, given the potentially hazardous nature of the batteries

collected.

In addition, section 15 would ban the disposal of covered batteries in waste containers or mixed non-battery recycling containers at the point of generation beginning July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented, whichever comes first, and beginning July 1, 2031, for large format batteries. Local solid waste disposal programs may need to change waste collection protocol, and potentially do work to notify and educate the public on this ban. However, this work may be covered by the work of the BSO.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

This legislation would require any increase in local government expenditures to be reimbursed by Battery Stewardship Organizations (BSO). The amount of revenues cannot be determined in advance and will depend upon the range and extent of local efforts to comply with requirements from the BSOs. As a result, there would be an indeterminate increase in local government revenues.

Section 7 would require BSOs to reimburse local governments for reasonable and demonstrable costs incurred as a result of battery collection activities, including labor costs. WSAC assumes this cost reimbursement would be equivalent to county expenditures, but this amount cannot be determined at this time.

SOURCES

Association of Washington Cities

Department of Commerce

Department of Ecology

House Bill Report, HB 1896, Environment & Energy Appropriations Committee

Local Government Fiscal Note, HB 1896, (2022)

Washington State Association of Counties



Multiple Agency Ten-Year Analysis Summary

Bill Number	Title
5144 SB	Batteries/environment

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

Estimated Cash Receipts

	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Office of Attorney General	0	0	0	0	0	0	0	0	0	0	0
Department of Commerce	0	0	0	0	0	0	0	0	0	0	0
Department of Revenue	0	0	0	0	0	0	0	0	0	0	0
Department of Ecology	0	0	0	673,094	587,472	644,619	236,392	318,295	303,340	236,392	2,999,604
Environmental and Land Use Hearings Office	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	673,094	587,472	644,619	236,392	318,295	303,340	236,392	2,999,604



Ten-Year Analysis

Bill Number 5144 SB	Title Batteries/environment	Agency 100 Office of Attorney General
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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**

Name of Tax or Fee	Acct Code											
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Agency Preparation: Allyson Bazan	Phone: 360-586-3589	Date: 1/12/2023 11:53:50 an
Agency Approval: Merdan Bazarov	Phone: 360-586-9346	Date: 1/12/2023 11:53:50 an
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5144 SB	Title Batteries/environment	Agency 103 Department of Commerce
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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**

Name of Tax or Fee	Acct Code											
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Agency Preparation: Marla Page	Phone: 360-725-3129	Date: 1/18/2023 1:19:11 pm
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 1/18/2023 1:19:11 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5144 SB	Title Batteries/environment	Agency 140 Department of Revenue
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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**

Name of Tax or Fee	Acct Code											
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Agency Preparation: Sara del Moral	Phone: 360-534-1525	Date: 1/20/2023 5:23:41 pm
Agency Approval: Marianne McIntosh	Phone: 360-534-1505	Date: 1/20/2023 5:23:41 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number	Title	Agency
5144 SB	Batteries/environment	461 Department of Ecology

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

Estimates

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

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Battery Stewardship Program Fee	NEW				673,094	587,472	644,619	236,392	318,295	303,340	236,392	2,999,604
Total					673,094	587,472	644,619	236,392	318,295	303,340	236,392	2,999,604
Biennial Totals					673,094	1,232,091	554,687	539,732	2,999,604			

Narrative Explanation (Required for Indeterminate Cash Receipts)

Section 11 would require Ecology to establish an annual fee in rule for the purposes of covering Ecology's full costs associated with the implementation, administration, and enforcement of the battery stewardship program as outlined in the bill.

Section 13 would require that the fee be deposited into the new Responsible Battery Management Account. The bill would provide that costs of the ongoing program would be paid for by this new account. Ecology assumes fee collections would begin in FY 2027 after rulemaking is complete to establish the program and fee.

Ecology assumes that the fee would be collected from two product stewardship organizations and that fee collections would start in FY 2027. Ecology estimates that billings and fee collection would reflect Ecology's estimate of costs in the Responsible Battery Management Account, currently estimated as follows:

FY 2027: \$673,094
FY 2028: \$587,481
FY 2029: \$644,619
FY 2030: \$236,392
FY 2031: \$318,295
FY 2032: \$303,340
FY 2033: \$236,392



Ten-Year Analysis

Bill Number 5144 SB	Title Batteries/environment	Agency 461 Department of Ecology
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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)

Agency Preparation: Lori Peterson	Phone: 360-280-4075	Date: 1/16/2023 12:30:20 pm
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 1/16/2023 12:30:20 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5144 SB	Title Batteries/environment	Agency 468 Environmental and Land Use Hearings Office
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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**

Name of Tax or Fee	Acct Code											
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Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 1/17/2023 11:37:47 an
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 1/17/2023 11:37:47 an
OFM Review:	Phone:	Date: