Department of Revenue Fiscal Note

Bill Number: 1254 S HB	Title: Periodic adjustments/DOR	Agency: 140-Department of Revenue

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 10 - Compensating Tax	1,312,000	337,000	1,649,000	(806,000)	965,000
Total $	1,312,000	337,000	1,649,000	(806,000)	965,000

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Kristina King	Phone: 360-786-7190	Date: 03/01/2023
Agency Preparation:	Beth Leech	Phone: 360-534-1513	Date: 03/03/2023
Agency Approval:	Valerie Torres	Phone: 360-534-1521	Date: 03/03/2023
OFM Review:	Cheri Keller	Phone: (360) 584-2207	Date: 03/06/2023

Request # 1254-2-1

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.

Note: This fiscal note reflects language in SHB 1254, 2023 Legislative Session.

COMPARISION OF SUBSTITUTE BILL WITH ORIGINAL BILL:
This substitute bill changes the valuation of refinery fuel gas to the three-year average spot price of natural gas as calculated by the Department of Revenue (department). The department is required to calculate this three-year average spot price quarterly and publish the information on its website.

SECTION 1

CURRENT LAW:
The limit on the value of surplus property a port district may sell without a resolution from the port commission is $10,000, adjusted annually by the “governmental price index” (GPI) established by the department under statute. The department no longer calculates a governmental price index because the statute was repealed in 2012. Because the statute has been repealed, the department has determined that it no longer has the legal authority to update the value limit applicable to the sale of surplus port property without a resolution by the port commission.

PROPOSAL:
This section of the bill allows a port district to sell surplus port district property without a resolution by the port commission, if the property has a value of $22,000 or less.

Additionally, beginning in December 2024 and then each December thereafter, the department will adjust the maximum value annually based on the increase in the consumer price index (CPI) as available on December 1 as compared to the CPI for the previous 12-month period, and rounding the new maximum value to the nearest $10.

"Consumer price index" means the consumer price index for all urban consumers, all items less food and energy, for the Seattle area as calculated by the United States Bureau of Labor Statistics or a successor agency.

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

SECTION 2

CURRENT LAW:
Refinery fuel gas is valued for use tax purposes based on the most recent monthly United States natural gas wellhead spot price, as published by the federal Energy Information Administration (EIA). The EIA no longer publishes a natural gas wellhead spot price, and last published this information in December of 2012.

PROPOSAL:
This section of the bill changes the data source for the value of refinery fuel gas to the three-year average spot price of natural gas as calculated by the department.

The three-year average spot price of natural gas means the average of the 36 most recent monthly Henry Hub natural gas spot prices, as published by the EIA or successor federal agency.

The department must calculate and publish on its website the three-year average spot price of natural gas each quarter:
- On March 25th for taxes due in April through June of that year.
- On June 25th for taxes due in July through September of that year.
- On September 25th for taxes due in October through December of that year.
- On December 25th for taxes due in January through March of the following year.

If the EIA or successor agency no longer publishes the Henry Hub natural gas spot price, the department must notify the appropriate committees of the legislature. Until a replacement valuation standard is enacted into law, the most recently calculated three-year average will be used.

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

SECTION 3

CURRENT LAW:
The hazardous substance tax (HST) rate on non-petroleum hazardous substances is 0.7% of the wholesale value of the substance. Beginning July 1, 2019, the HST rate for petroleum products was set at $1.09 per barrel.

Beginning July 1, 2020, and every July 1st thereafter, the per-barrel tax rate of $1.09 increases by the percentage change in the implicit price deflator for nonresidential structures as published by the US Department of Commerce, Bureau of Economic Analysis for the most recent 12-month period ending December 31 of the prior year. The statute is ambiguous as to whether, after the initial annual tax-rate adjustment, subsequent annual tax-rate adjustments are based on a tax rate of $1.09 or the current tax rate. The department interprets the statute as basing those subsequent adjustments on the current tax rate rather than the initial $1.09 per barrel tax rate. Under the department's interpretation, the annual HST tax-rate adjustments are cumulative and permanent, consistent with our understanding of legislative intent.

PROPOSAL:
This section of the bill clarifies that the annual HST tax-rate adjustments are cumulative and permanent. Specifically, this section clarifies that the current per-barrel HST rate is adjusted for the following fiscal year by the percentage change in the implicit price deflator for nonresidential structures as published by the US Department of Commerce, Bureau of Economic Analysis for the most recent 12-month period ending December 31 of the prior year.

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

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.

SECTION 1

REVENUE ESTIMATES:
This section of the bill results in no revenue impact to taxes administered by the department.

SECTION 2

ASSUMPTIONS:
- This section of the bill affects five petroleum refineries located in Washington.
- Taxpayers use the current law U.S. natural gas wellhead price.
- Experience has shown that volume and price in this industry is quite volatile and difficult to forecast.
- The Henry Hub natural gas spot price was approximately 2.4% higher than the natural gas wellhead price in the last four years.
- The Henry Hub natural gas spot price mimics the declines and growth as forecasted by IHS Markit in November 2022.
- This part of this bill passes effective August 1, 2023, resulting in 10 months of impact for Fiscal Year 2024.

DATA SOURCES:
- U.S. Energy Information Administration
- Economic and Revenue Forecast Council, November 2022 revenue forecast
- IHS Markit, November 2022 forecast
- Department of Revenue excise tax return data
- Department of Revenue audit information

REVENUE ESTIMATES:
This section of the bill increases state revenues by an estimated $1.7 million in the 2023-25 Biennium and decreases state revenues by an estimated $806,000 in the 2025-27 Biennium.

State Government (cash basis, $000):

FY 2024 -	$ 1,312
FY 2025 -	$ 337
FY 2026 -	($ 554)
FY 2027 -	($ 252)
FY 2028 -	$ 472
FY 2029 -	$ 493

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

SECTION 3

REVENUE ESTIMATES:
This section of the bill results in no revenue impact to taxes administered by the department.

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 Department will have minimal costs of approximately $500 per fiscal year associated with completing calculations but will absorb these costs within current funding.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

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

NONE

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