Multiple Agency Fiscal Note Summary

Bill Number: 1371 E S HB AMS BFGT S2673.1	Title: Freight railroad infra.

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
Department of Revenue	(6,590,000)	(6,590,000)	(6,595,000)	(19,250,000)	(19,250,000)	(19,256,000)	(19,400,000)	(19,400,000)	(19,406,000)
Total $	**(6,590,000)**	**(6,590,000)**	**(6,595,000)**	**(19,250,000)**	**(19,250,000)**	**(19,256,000)**	**(19,400,000)**	**(19,400,000)**	**(19,406,000)**

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		(1,333,530)		(1,554,300)		(1,664,190)
Local Gov. Total		(1,333,530)		(1,554,300)		(1,664,190)

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
Joint Legislative Audit and Review Committee	.1	0	0	26,700	.0	0	0	13,400	.0	0	0	13,400
Department of Revenue	2.8	1,216,800	1,216,800	1,216,800	1.1	209,200	209,200	209,200	.9	179,000	179,000	179,000
Total $	**2.9**	**1,216,800**	**1,216,800**	**1,243,500**	**1.1**	**209,200**	**209,200**	**222,600**	**0.9**	**179,000**	**179,000**	**192,400**

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
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.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

Prepared by: Cheri Keller, OFM	**Phone:** (360) 584-2207	**Date Published:** Final 4/13/2023

Individual State Agency Fiscal Note

Bill Number: 1371 E S HB AMS BFGT S2673.1	Title: Freight railroad infra.	Agency: 014-Joint Legislative Audit and Review Committee

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	0.1	0.0	0.1	0.0	0.0
Account					
Performance Audits of Government Account-State 553-1	20,000	6,700	26,700	13,400	13,400
Total $	20,000	6,700	26,700	13,400	13,400

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:	Alia Kennedy	Phone: 360-786-7405	Date: 04/05/2023
Agency Preparation:	Zack Freeman	Phone: 360-786-5179	Date: 04/10/2023
Agency Approval:	Eric Thomas	Phone: 360 786-5182	Date: 04/10/2023
OFM Review:	Gaius Horton	Phone: (360) 819-3112	Date: 04/13/2023

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 creates several new tax preferences to incentivize investments in Washington's regional and short line freight rail infrastructure.

Eligibility
The bill defines eligible taxpayers as follows:
• Any Class II and Class III railroads, as classified by the Surface Transportation Board (STB), as in effect January 1, 2023.
• Any railroad owned by a port, city, or county in Washington.
• Any owner or lessee of rail siding, industrial spur, or industry track located on or adjacent to a class II or class III railroad in Washington.

STB railroad classifications are based on the carrier's annual operating revenues. STB's latest classifications from 2021 are as follows:
• Class I > $943.9M
• $943.9M > Class II > $42.4M
• Class III < $42.4M

Eligible taxpayers, therefore, must have annual operating revenues of less than $943.9 million.

Section 2 creates a new non-refundable B&O tax credit equal to:
a) 50% of the qualified short line railroad maintenance expenditures. The credit may not exceed $5,000 multiplied by the number of miles of railroad track owned or leased in the state by the eligible taxpayer at the close of the calendar year.
b) 50% of the new rail development expenditures. Credit for new rail expenditures may not exceed $1 million for each new rail development project. Credits are available on a first-in-time basis. The total amount of credits claimed during any calendar year may not exceed $15 million.
c) 50% of the qualified railroad modernization and rehabilitation expenditures.

Expenditures not used to earn a credit on one fiscal year may be carried forward for no more than five years.
New credits may not be issued after January 1, 2035.

Section 3 provides a B&O tax credit to any owner or operator of a Class I railroad that transfers materials removed from use on the main railroad line to be installed on tracks used by an eligible taxpayer (i.e., Class II or Class III railroads). A company that recycles railroad materials and transfers them to an eligible taxpayer may also claim this credit. Eligible materials include but are not limited to railroad rail, ties, tie plates, joint bars, fasters, switches, and ballast. The credit is equal to 50% of the fair market value of the donated materials used for track maintenance, expansion, or modernization.

Sections 4 & 5 create sales and use tax exemptions on materials required for railroad track maintenance sold to eligible taxpayers.

Sections 6 and 7 extend the same credits and criteria provided in Sections 2 and 3 to eligible railroads subject to the public utility tax (PUT).

Section 8 is the tax preference performance statement.
• The Legislature categorizes the tax preferences as one intended to accomplish a general purpose.
• The Legislature's specific public policy objective is to promote economic development and reduce impacts of freight transportation on roads and the environment

• When conducting its review JLARC should consider the following measures:
a) Total miles capable of transporting 286,000-pound railcars.
b) The number of miles of track rehabilitated to 90-pound rail or greater.
c) The number of ties replaced.
d) The amount of ballast replaced.
e) The number of bridges returned from out of service or able to operate heavier loaded equipment.
f) The number of switches installed.
g) Any related safety benefits of addressing at-grade crossings.
h) The number of rail cars from increased economic activity.
i) Any improvement in federal railroad administration track classification designation up to and including class II track and the ability to operate at greater speeds.
j) The amount of steel or ties made obsolete by a class I railroad, pursuant to section 2 of this act, that are reused by a class II or class III railroad, as defined in section 5 of this act, within Washington.
k) The number of prevailing wage jobs associated with new rail development, modernization, and rehabilitation projects
l) The number of additional rail cars utilizing the class I railroads as a result of new development, modernization, and rehabilitation projects
Sec. 9. Sections 4, 5, and 8 of this act take effect August 1, 2023.
Sec. 10. Sections 3 and 7 of this act take effect July 1, 2024.
Sec. 11. Sections 2 and 6 of this act take effect January 1, 2025.

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.

JLARC staff would work with the Department of Revenue and the Washington State Department of Transportation immediately after passage of the bill to ensure project contacts are established and data necessary for JLARC staff's future evaluation needs are identified and collected.

JLARC staff would likely review this preference in 2032, beginning work in 2031, outside of the range of this fiscal note. Costs associated with the review are therefore not included in this fiscal note, which reflects only the costs associated with establishing data collection and other work to prepare for the future review of the preference.

This tax preference review may require additional resources. The audit will be conducted and presented to JLARC consistent with the processes used for other tax preference reviews. Based on all tax preference legislation that is passed, JLARC may subsequently determine that it can absorb the costs for this proposed bill in its base budget, if the workload of other enacted tax preference legislation does not exceed current staffing. JLARC will assess all of the tax preference reviews mandated in the 2023 legislative session.

This audit will require an estimated 2 audit months.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst's time for a month, together with related administrative, support, and goods/services costs. JLARC's anticipated 2023-25 costs are calculated at approximately $22,100 per audit month.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
553-1	Performance Audits of Government Account	State	20,000	6,700	26,700	13,400	13,400
		Total $	20,000	6,700	26,700	13,400	13,400

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	12,900	4,300	17,200	8,600	8,600
B-Employee Benefits	4,100	1,400	5,500	2,800	2,800
C-Professional Service Contracts					
E-Goods and Other Services	2,700	900	3,600	1,800	1,800
G-Travel	300	100	400	200	200
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	20,000	6,700	26,700	13,400	13,400

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
Research Analyst	126,694	0.1		0.1		
Support staff	89,671					
Total FTEs		0.1		0.1		0.0

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: 1371 E S HB AMS BFGT S2673.1	**Title:** Freight railroad infra.	**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 01 - Retail Sales Tax	(1,330,000)	(1,660,000)	(2,990,000)	(2,050,000)	(2,200,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		(1,800,000)	(1,800,000)	(8,600,000)	(8,600,000)
GF-STATE-State 01 - Taxes 35 - Public Utilities Tax		(1,800,000)	(1,800,000)	(8,600,000)	(8,600,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	(2,000)	(3,000)	(5,000)	(6,000)	(6,000)
Total $	(1,332,000)	(5,263,000)	(6,595,000)	(19,256,000)	(19,406,000)

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.5	2.1	2.8	1.1	0.9
Account					
GF-STATE-State 001-1	974,100	242,700	1,216,800	209,200	179,000
Total $	974,100	242,700	1,216,800	209,200	179,000

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:	Alia Kennedy	Phone: 360-786-7405	Date: 04/05/2023
Agency Preparation:	Beth Leech	Phone: 360-534-1513	Date: 04/05/2023
Agency Approval:	Marianne McIntosh	Phone: 360-534-1505	Date: 04/05/2023
OFM Review:	Cheri Keller	Phone: (360) 584-2207	Date: 04/05/2023

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.

Note: This fiscal note reflects language in striking amendment 1371-S.E AMS BFGT S2673.1 to ESHB 1371, 2023 Legislative Session.

COMPARISION OF THE STRIKING AMENDMENT TO THE ENGROSSED SUBSTITUTE BILL:
This striking amendment reduces the tax credit amounts for qualified expenditures for new rail development and rail modernization and rehabilitation projects for the business and occupation (B&O) tax and public utility (PU) tax credits for short line rail roads from 100% of qualifying expenditures to 50%. It also reduces the cap per taxpayer for new rail development from $2 million to $1 million per calendar year for each tax credit. Expenditures for rail modernization and rehabilitation projects are now included in that $1 million per calendar year cap.

The total amount of credits for new rail development and rail modernization and rehabilitation projects is capped at $15 million per calendar year for the B&O and PU tax credits in the aggregate.

Qualifying expenditures do not include expenditures used to generate a federal tax credit or expenditures funded by a state or federal grant.

This striking amendment reduces the B&O and PU tax credit amounts for railroad equipment or materials donated by an owner or operator of a class I railroad or the owner of a company who recycles railroad materials from 100% of the fair market value of railroad equipment or materials to 50% of that fair market value. It also requires the Department of Revenue (department) to provide, in rule, a standard for determining the fair market value of donated materials.

CURRENT LAW:
Railroads pay PU tax as public service businesses that engage in transportation in lieu of the B&O tax. Railroads also pay retail sales and use tax to purchase materials required for track maintenance.

PROPOSAL:

BUSINESS AND OCCUPATION TAX CREDIT FOR SHORT LINE RAILROADS (section 2):
This section provides a B&O tax credit to qualified short line railroads for qualified expenditures made by an eligible taxpayer. Credit earned in one calendar year and not claimed in that calendar year may be carried forward for five additional calendar years.

Qualified expenditures may be used to generate a credit for the following amounts:
- Short line railroad maintenance expenditures equivalent to 50% of the expenditures up to $5,000 multiplied by the number of miles of railroad track owned or leased in Washington at the close of the taxable year.
- New rail development equivalent to 50% of the expenditures.
- Modernization and rehabilitation to upgrade rail, switches, tracks, and bridges, equivalent to 50% of the expenditures.

The credits for new rail development expenditures and modernization and rehabilitation expenditures may not exceed $1 million for each taxpayer per year combined. The department must disallow any credits, or portions thereof, that would cause the total amount of credits claimed under this section and section 6 of this bill to exceed, in the aggregate, $15 million in any calendar year.

The B&O tax credits may be transferred to any person subject to B&O tax. No credit transfer applications may be submitted after January 1, 2035. No new credits may be earned after January 1, 2035.

An eligible taxpayer is any railroad subject to B&O tax and classified by the United States Surface Transportation Board as a class II or class III railroad, any railroad owned by a port, city, or county in the state, or any owner or lessee of rail siding, industrial spur, or industry track located on or adjacent to a class II or class III railroad in the state.

Qualified expenditures do not include those used to generate a federal tax credit or expenditures funded by a state or federal grant.

This credit does not apply to class I railroads or short line railroads owned by a class I railroad or any of its subsidiaries.

This section expires January 1, 2040.

BUSINESS AND OCCUPATION TAX CREDIT FOR RAILROAD OWNERS OR OPERATORS/RAILROAD MATERIAL RECYCLERS (section 3):
This section provides a B&O tax credit for an owner or operator of a class I railroad or the owner of a company who recycles railroad materials. The credit is equal to 50% of the fair market value of railroad equipment or materials:
- That are part of the rail infrastructure the class I railroad owner or operator removed from use on the main railroad line to be installed on tracks used by class II or III railroads, or
- That the recycler transfers to an eligible taxpayer to install on tracks used by the class II or III railroads.

Materials must be given to a qualifying recipient without consideration. The department must provide in a rule a standard for determining the fair market value of donated materials.

Credit earned in one calendar year and not claimed in that calendar year may be carried forward for five additional calendar years.

The B&O tax credit may be transferred to any person subject to B&O tax. No credit transfer applications may be submitted after January 1, 2035. No new credits may be earned after January 1, 2035.

This credit may not be earned for materials donated to short line railroads owned by a class I railroad or any of its subsidiaries.

This section expires January 1, 2040.

RETAIL SALES AND USE TAX EXEMPTION (sections 4 and 5):
These sections exempt from sales and use tax materials required for track maintenance by owners and operators of class II or class III railroads, any railroad or freight rail facility owned by a port, city, or county in the state, or any owner or lessee of rail siding, industrial spur, or industry track located on or adjacent to the railroad.

Materials required for track maintenance are defined as rails, ties, fasteners, switches, ballast, subgrade, roadbed, bridges, industrial leads, sidings, signs, safety barriers, crossing signals and gates, and track.

These sections expire January 1, 2035.

PUBLIC UTILITY TAX CREDIT FOR SHORT LINE RAILROADS (section 6):
This section provides a PU tax credit to qualified short line railroads for qualified expenditures made by an eligible taxpayer. Credit earned in one calendar year and not claimed in that calendar year may be carried forward for five additional calendar years.

Qualified expenditures may be used to generate a credit for the following amounts:
- Short line railroad maintenance expenditures equivalent to 50% of the expenditures up to $5,000 multiplied by the number of miles of railroad track owned or leased in Washington at the close of the taxable year.
- New rail development equivalent to 50% of the expenditures.
- Modernization and rehabilitation to upgrade rail, switches, tracks, and bridges, equivalent to 50% of the expenditures.

The credits for new rail development expenditures and modernization and rehabilitation may not exceed $1 million for each taxpayer per year combined. The department must disallow any credits, or portions thereof, that would cause the total amount of credits claimed under this section and section 2 of this bill to exceed, in the aggregate, $15 million in any calendar year.

The PU tax credits may be transferred to any person subject to PU tax. No credit transfer applications may be submitted after January 1, 2035. No new credits may be earned after January 1, 2035.

An eligible taxpayer is any railroad subject to PU tax and classified by the United States Surface Transportation Board as a class II or class III railroad, any railroad owned by a port, city, or county in the state, or any owner or lessee of rail siding, industrial spur, or industry track located on or adjacent to a class II or class III railroad in the state.

Qualified expenditures do not include those used to generate a federal tax credit or expenditures funded by a state or federal grant.

These credits do not apply to class I railroads or short line railroads owned by a class I railroad or any of its subsidiaries.

This section expires January 1, 2040.

PUBLIC UTILITY TAX CREDIT FOR RAILROAD OWNERS OR OPERATORS/RAILROAD MATERIAL RECYCLERS (section 7):
This section provides a PU tax credit for an owner or operator of a class I railroad or the owner of a company who recycles railroad materials. The credit is equal to 50% of the fair market value of railroad equipment or materials:
- That are part of the rail infrastructure the class I railroad owner or operator removed from use on the main railroad line to be installed on tracks used by class II or III railroads, or
- That the recycler transfers to an eligible taxpayer to be installed on tracks used by the class II or III railroads.

Materials must be given to a qualifying recipient without consideration. The department must provide in a rule a standard for determining the fair market value of donated materials.

Credit earned in one calendar year and not claimed in that calendar year may be carried forward for five additional calendar years.

The PU tax credit may be transferred to any person subject to PU tax. No credit transfer applications may be submitted after January 1, 2035. No new credits may be earned after January 1, 2035.

This credit may not be earned for materials donated to short line railroads owned by a class I railroad or any of its subsidiaries.

This section expires January 1, 2040.

EFFECTIVE DATE:
The retail sales and use tax exemptions take effect August 1, 2023. The B&O and PU tax credits for class I railroad owners or operators/railroad material recyclers take effect July 1, 2024. The B&O and PU tax credits for short line railroads take effect January 1, 2025.

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:
- There are 25 short line railroads that may qualify for the credits and exemptions in this proposal.
- Washington State Department of Transportation provides legislative grant and loan funding for freight rail investments through a biennial call for projects. Current information on those programs assumes $7 million in grants and $5 million in loans will be provided during the 2023-25 Biennium. The loans require a minimum 20% match. It is assumed similar funding will be made available in future biennia.
- Short line railroad expenditures in future biennia are similar to planned expenditures in the 2023-2025 biennium; however, there is one large project during this biennium that is considered an anomaly. Future years do not assume such a large project will be planned.
- Short line railroads have over 1,400 miles of track in Washington.
- For this estimate, it is assumed that materials represent 50% of the total cost of track maintenance.
- For this estimate, it is assumed that track maintenance occurs annually.
- Track maintenance costs, on average, are significantly higher than $5,000 per mile of track; therefore, this estimate assumes the B&O and PU tax credits for qualified short line railroad maintenance expenditures will be limited to $5,000 per mile of track.
- Since no specific B&O tax exemption exists for sales of transferable B&O or PU tax credits, it is assumed that such sales will qualify as taxable events under the B&O tax and will be taxed at the service and other activities tax rate. Given that there is no data available to estimate the transferring or selling of these credits in Washington, the revenue impact to the state general fund from any B&O taxes collected as a result of these sales is unknown.
- The impacts from the B&O and PU tax credits for owners or operators of class I railroads or railroad material recyclers are confidential, as those credits impact fewer than three taxpayers. These tax credits do result in additional negative revenue impacts not shown in this fiscal note.
- The impacts from the sales and use tax exemptions apply to all sales to and use by short line railroads of rail, ties, tie plates, joint bars, fasteners, switches, ballast, subgrade, roadbed, bridges, industrial leads, sidings, safety barriers, crossing signals and gates, and track, regardless of whether these materials are used for track maintenance, track modernization and rehabilitation, or new rail development. This is because the bill's definition of the term "materials required for track maintenance" merely lists specific types of materials but does not contain any language limiting the use of the specified materials to track maintenance.
- Sales tax growth mirrors the growth rate in the ERFC November 2022 forecast.
- The average local sales tax rate is 2.92%.
- The sales and use tax exemptions are effective August 1, 2023, and impact 10 months of collections in fiscal year 2024.
- The B&O and PU tax credits for owners or operators of class I railroads and railroad material recyclers are effective

July 1, 2024, and impact 11 months of collections in fiscal year 2025.
- The B&O and PU tax credits for short line railroads are effective January 1, 2025, and impact five months of collections in fiscal year 2025.

DATA SOURCES:
- U.S. Surface Transportation Board
- TrainWeb.com
- American Society of Civil Engineers, Infrastructure Report Card
- U.S. Department of Transportation, Federal Railroad Administration
- Department of Transportation, Washington State Rail Plan 2019-2040
- Department of Transportation, Washington 2023-2025 Freight Rail Assistance Program/Freight Rail Investment Bank project lists
- Assessment of State Support for Short Line Rail Infrastructure, Report to the Washington State Joint Transportation Committee, December 2021
- Economic and Revenue Forecast Council, November 2022 forecast
- Department of Revenue, excise tax returns

REVENUE ESTIMATES:
This bill decreases state revenues by an estimated $6.6 million in the 2023-25 Biennium and by $19.3 million in the 2025-27 Biennium.

This bill also decreases local revenues by an estimated $1.3 million in the 2023-25 Biennium and by $1.6 million in the 2025-27 Biennium.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):
FY 2024 - ($ 1,332)
FY 2025 - ($ 5,263)
FY 2026 - ($ 9,613)
FY 2027 - ($ 9,643)
FY 2028 - ($ 9,683)
FY 2029 - ($ 9,723)

Local Government, if applicable (cash basis, $000):
FY 2024 - ($ 600)
FY 2025 - ($ 747)
FY 2026 - ($ 772)
FY 2027 - ($ 798)
FY 2028 - ($ 826)
FY 2029 - ($ 855)

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 approximately 25 taxpayers.
- The annual tax performance report is not required. The tax preference performance statement (section 8) of this bill lists the purpose as a general purpose (82.32.808(2)(f)).

FIRST YEAR COSTS:
The department will incur total costs of $974,100 in fiscal year 2024. These costs include:

Labor Costs – Time and effort equate to 3.5 FTEs.
- Set up, program and test computer systems for multiple new credits. This includes a new credit ID and associated return processing and system indicator codes, a new e-file worksheet, and modifications to reports and data files.
- Gathering requirements, implementation meetings, documentation, and testing of system changes due to new credit.
- Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
- Create a Special Notice and identify publications and information the department may need to create or update on the department's website.

Object Costs - $550,000.
- Computer system changes, including contract programming.

SECOND YEAR COSTS:
The department will incur total costs of $242,700 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 2.13 FTEs.
- Adopt one new administrative rule.
- Continued computer system testing, monitoring, and maintenance.
- Process returns, verify credits taken, and process all associated work items, including issuing assessments for return errors and underpayments.

ONGOING COSTS:
Ongoing costs for the 2025-27 Biennium equal $209,200 and include similar activities described in the second-year costs. Time and effort equate to 1.05 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.5	2.1	2.8	1.1	0.9
A-Salaries and Wages	259,700	158,000	417,700	135,200	115,600
B-Employee Benefits	85,800	52,000	137,800	44,700	38,200
C-Professional Service Contracts	550,000		550,000		
E-Goods and Other Services	53,500	24,600	78,100	22,800	19,600
G-Travel	400		400		
J-Capital Outlays	24,700	8,100	32,800	6,500	5,600
Total $	$974,100	$242,700	$1,216,800	$209,200	$179,000

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
EMS BAND 4	126,619		0.0	0.0		
EMS BAND 5	147,919		0.0	0.0		
EXCISE TAX EX 3	61,632	0.8	0.9	0.9	0.8	0.7
IT SYS ADM-JOURNEY	92,844	0.5	0.6	0.6		
MGMT ANALYST4	73,260	1.6	0.4	1.0	0.3	0.2
MGMT ANALYST5	80,952	0.3	0.1	0.2		
TAX POLICY SP 2	75,120	0.3	0.0	0.2		
TAX POLICY SP 3	85,020		0.1	0.0		
TAX POLICY SP 4	91,524		0.0	0.0		
WMS BAND 3	107,685		0.0	0.0		
Total FTEs		3.5	2.1	2.9	1.1	0.9

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

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

Should this legislation become law, the department will use the standard process to adopt WAC 458-20-XXX, a new rule on railroad tax exemptions and credits. Persons affected by this rulemaking would include certain railroads.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1371 E S HB AM: BFGT S2673.1	**Title:** Freight railroad infra.

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

Legislation Impacts:

- [X] Cities: Decreased sales tax, and use tax, and public utility tax revenue. Decreased expenditures for sales and use tax exempt cities, and utility tax credit - eligible cities.
- [X] Counties: Decreased sales tax, and use tax, and public utility tax revenue. Decreased expenditures for sales and use tax exempt counties, and utility tax credit - eligible counties.
- [X] Special Districts: Decreased sales tax, and use tax, and public utility tax revenue. Decreased expenditures for sales and use tax exem ports, and utility tax credit - eligible ports.
- [X] Specific jurisdictions only: Decreased expenditures for cities, ports, and counties that own railroads
- [ ] Variance occurs due to:

Part II: Estimates

- [ ] No fiscal impacts.
- [ ] Expenditures represent one-time costs:
- [ ] Legislation provides local option:
- [X] Key variables cannot be estimated with certainty at this time: Current and expected expenditure amounts (of local governments) tha will be eligible for tax credits and tax exemptions.

Estimated revenue impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	(176,912)	(220,255)	(397,167)	(462,919)	(495,648)
County	(217,470)	(270,751)	(488,221)	(569,047)	(609,280)
Special District	(199,618)	(248,524)	(448,142)	(522,334)	(559,262)
TOTAL $	(594,000)	(739,530)	(1,333,530)	(1,554,300)	(1,664,190)
GRAND TOTAL $					(4,552,020)

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: Tammi Alexander	Phone: 360-725-5038	Date: 04/05/2023
Leg. Committee Contact: Alia Kennedy	Phone: 360-786-7405	Date: 04/05/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 04/05/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/05/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This fiscal note reflects language in striking amendment 1371-S.E AMS BFGT S2673.1 to ESHB 1371, 2023 Legislative Session.

CHANGES FROM PREVIOUS BILL VERSION

This engrossed substitute bill:
- Reduces the business and occupation and public utility tax credit amounts from 100 percent to 50 percent of qualifying expenditures for new rail development and rail modernization and rehabilitation projects
- Limits credits for new rail development and rail modernization and rehabilitation projects to $1,000,000 for each taxpayer each calendar year, and not to exceed a total credit amount of $15,000,000 each calendar year
- Provides that qualifying expenditures do not include expenditures used to generate a federal tax credit or expenditures funded by a state or federal grant
- Reduces the business and occupation and public utility tax credit amounts for rail materials donated from a class I railroad, or railroad material recycling company, to a class II or III railroad from 100 percent to 50 percent of the fair market value of such materials
- Requires the department of revenue to provide in rule a standard for determining the fair market value of donated materials
- Revises the tax preference performance statement, including adding review metrics to include the amount of prevailing wage jobs and additional rail cars used by class I railroads resulting from new rail development, modernization, and rehabilitation projects

SUMMARY OF CURRENT BILL VERSION

Section 2 creates a B&O tax credit to qualified short line railroads for qualified expenditures made by an eligible taxpayer. Credit earned in one calendar year and not claimed in that calendar year may be carried forward for five additional calendar years.

Section 3 creates a B&O tax credit for an owner or operator of a class I railroad or the owner of a company who recycles railroad materials. The credit is equal to 50% of the fair market value of railroad equipment or materials.

Section 4 and 5 creates a sales and use tax exemption for materials required for track maintenance by owners and operators of class II or class III railroads, any railroad or freight rail facility owned by a port, city, or county in the state, or any owner or lessee of rail siding, industrial spur, or industry track located on or adjacent to the railroad. This expires January 1, 2035.

Section 6 creates a public utility tax credit to qualified short line railroads for qualified expenditures made by an eligible taxpayer. This section expires January 1, 2040.

Section 7 creates a public utility tax credit for an owner or operator of a class I railroad or the owner of a company who recycles railroad materials. This section expires January 1, 2040.

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.

CHANGES FROM PREVIOUS BILL VERSION
This substitute bill does not alter the previous analysis of expenditure impacts. The impact is still indeterminate.

SUMMARY OF CURRENT EXPENDITURE IMPACTS
This bill will decrease track maintenance expenditures for certain eligible ports, cities, and counties that own or lease railroads. Information on the current or expected expenses that would be eligible for a retail sales and use tax exemption was not available and cannot be determined.

Information on the current or expected expenses that would be eligible for a utility tax credit was not available and cannot be determined.

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.

CHANGES FROM PREVIOUS BILL VERSION
This amended engrossed substitute bill creates and modifies tax exemptions and credits. This bill further increases the tax revenue loss to local governments compared to the previous bill version.

SUMMARY OF CURRENT REVENUE IMPACTS
According to the Dept. of Revenue (DOR) this bill decreases local revenues by an estimated $600,000,000 in fiscal year 2024, and by $747,000 in fiscal year 2025. Please the DOR fiscal note for their assumptions and data sources.

LOCAL GOVERNMENT LOSS BREAKDOWN

Counties:

FY 2024	-$217,470
FY 2025	-$270,751
FY 2026	-$279,812
FY 2027	-$289,235
FY 2028	-$299,385
FY 2029	-$309,895

Cities:

FY 2024	-$176,912
FY 2025	-$220,255
FY 2026	-$227,626
FY 2027	-$235,293
FY 2028	-$243,548
FY 2029	-$252,100

Special Districts:

FY 2024	-$199,618
FY 2025	-$248,524
FY 2026	-$256,842
FY 2027	-$265,492
FY 2028	-$274,807
FY 2029	-$284,455

METHODOLOGY:
The distributions in this note for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2021. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. The result is a distribution of 36.61 percent to counties, 29.78 percent to cities, and 33.61 percent to special districts. The one percent DOR administrative fee has also been deducted.

SOURCES:

Association of Washington Cities
Department of Revenue fiscal note, ESHB AMS BFGT 1371 (2023)
Department of Revenue Local Tax Distributions (2021)
Local Government Fiscal Note program, Local Sales Tax model 2023
Local Government Fiscal Note program, Sales and Use Tax Distribution model 2023
Washington State Association of Counties