

Multiple Agency Fiscal Note Summary

Bill Number: 6136 SB	Title: Rental property B&O tax
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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	20,000	0	0	60,000	0	0	60,000
Department of Revenue	0	0	200,000	0	0	17,200,000	0	0	102,100,000
Total \$	0	0	220,000	0	0	17,260,000	0	0	102,160,000

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	No fiscal impact					
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	.3	46,000	46,000	66,000	.5	46,000	46,000	106,000	.3	0	0	60,000
Department of Commerce	Fiscal note not available											
Department of Revenue	2.5	1,322,400	1,322,400	1,322,400	6.6	1,277,000	1,277,000	1,277,000	10.5	1,964,600	1,964,600	1,964,600
Total \$	2.8	1,368,400	1,368,400	1,388,400	7.1	1,323,000	1,323,000	1,383,000	10.8	1,964,600	1,964,600	2,024,600

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	No fiscal impact								
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	Fiscal note not available								
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	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Breakout

This preliminary package is incomplete. Other impacted agency fiscal notes will be distributed as soon as possible.

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Date Published:
Preliminary 1/17/2024

Individual State Agency Fiscal Note

Bill Number: 6136 SB	Title: Rental property B&O tax	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		20,000	20,000	60,000	60,000
Total \$		20,000	20,000	60,000	60,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.6	0.3	0.5	0.3
Account					
General Fund-State 001-1	0	46,000	46,000	46,000	0
Legal Services Revolving Account-State 405-1	0	20,000	20,000	60,000	60,000
Total \$	0	66,000	66,000	106,000	60,000

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: Samantha Doyle	Phone: 360-786-7335	Date: 01/10/2024
Agency Preparation: Dan Jensen	Phone: 360-664-9429	Date: 01/16/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/16/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/16/2024

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 1 – New section. Findings and intent.

Section 2 – New section. Creates a business and occupation (B&O) tax rate on persons engaged in the business of renting or leasing residential real property (beginning on January 1, 2025) and commercial real property (beginning on January 1, 2027). Clarifies the license to use real property is not included in this tax. Requires all receipts from the tax to be deposited into the home security fund account in RCW 43.185C.060. Provides definitions for “rent” and “renting or leasing.”

Section 3 – New section. Creates B&O tax deductions for persons leasing or renting real property who obtain certifications from the Department of Commerce (Commerce) under Section 4 of the act. Details how to claim the deduction with the Department of Revenue (DOR).

Section 4 – New section. Requires Commerce to develop and administer a residential rent stabilization program and adopt rules to establish a process to certify landlords who comply with the rent increase restrictions under this section. Sets forth rent increase restrictions to qualify for certification.

Section 5 – New section. Requires Commerce, DOR, and the Attorney General’s Office (AGO) to develop recommendations for a rent stabilization program for commercial rental property, which must be comparable to the rent restriction provisions of Section 4 of the act. Commerce must report its recommendations to the appropriate committee of the Legislature by December 1, 2025.

Section 6 – New section. Creates a tax preference performance statement for the B&O tax deduction in Section 3.

Section 7 – New section. Requires that Sections 2 and 3 of this act take effect on 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.

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 Revenue (DOR) and the Department of Commerce (Commerce). 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:

DOR will be billed for non-King County rates:

FY 2026 through FY 2029: \$30,000 for 0.1 Assistant Attorney General FTE (AAG) and 0.1 Paralegal 1 FTE (PL1), which includes direct litigation costs of \$500

Commerce will be billed for non-King County rates:

FY 2025: \$20,000 for 0.1 AAG and 0.1 PL1

II. C - Expenditures

Rental property B&O tax
Form FN (Rev 1/00) 190,301.00
FNS063 Individual State Agency Fiscal Note

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.

Attorney General's Office (AGO) Agency Assumptions:

Legal services associated with the enactment of this bill will begin on January 1, 2025 (FY 2025).

Location of staffing is assumed to be in a King County or non-King County 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. The Management Analyst 5 FTE (MA), is used as a representative classification. An example ratio is for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 Paralegal 1 FTE (PL1) and 0.4 MA.

1. Assumptions for the AGO Revenue and Finance Division (REV) Legal Services for the Department of Revenue (DOR):

The AGO will bill DOR for legal services based on the enactment of this bill. REV assumes this bill will result in one or two tax refund lawsuits, starting in FY 2026 through FY 2028. DOR estimates this will result in 14 administrative appeals before the DOR's Administrative Review and Hearings Division (ARHD) in FY 2025 and FY 2026. DOR estimates an increase in administrative appeals to 19 in FY 2027 and 21 in FY 2028 and FY 2029. DOR assumes approximately 10 percent of the additional administrative appeals before ARHD will be appealed to the Board of Tax Appeals (BTA) and will require representation by the AGO. Consequently, up to three BTA and superior court actions are assumed in FY 2026 and four are assumed in the next three fiscal years. REV assumes that once the initial actions are heard by the BTA and Superior Court, the number of new actions filed in subsequent years will drop beginning in FY 2030. There will be some review of DOR rules prior to FY 2026. REV assumes new legal services for 0.1 AAG will be necessary for FY 2026 through FY 2029.

REV: Total non-King County workload impact:

FY 2026 through FY 2029: \$30,000 for 0.1 AAG and 0.1 PL1, which includes direct litigation costs of \$500

2. Assumptions for the AGO Administrative Division (ADM) Legal Services:

The Senior Policy Analyst FTE (PA) will be responsible for the coordination, research, and consultation with Department of Commerce (Commerce) on recommendations for a rent stabilization program for commercial rental property in Section 5. AGO ADM activities are funded with General Fund-State dollars. There is no appropriate client agency to bill for legal services.

ADM: Total King County workload impact:

FY2025 and FY2026: \$46,000 for 0.3 PA

3. Assumptions for the AGO Agriculture and Heath Division (AHD) Legal Services for Commerce:

The AGO will bill Commerce for legal services based on the enactment of this bill. Commerce will require legal advice during rulemaking required under Section 4. Commerce will require legal advice in program implementation for the Residential Rent Stabilization program and the landlord certifications required under Section 4.

AHD: Total non-King County workload impact:

FY 2025: \$20,000 for 0.1 AAG and 0.1 PL1

Total workload impact:

FY 2025: \$66,000 for 0.1 AAG, 0.3 PA, and 0.1 PL1

FY 2026: \$76,000 for 0.1 AAG, 0.3 PA, and 0.1 PL1, which includes direct litigation costs of \$500

FY 2027 through FY 2029: \$30,000 for 0.1 AAG 0.1 PL1, which includes direct litigation costs of \$500

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	46,000	46,000	46,000	0
405-1	Legal Services Revolving Account	State	0	20,000	20,000	60,000	60,000
Total \$			0	66,000	66,000	106,000	60,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.6	0.3	0.5	0.3
A-Salaries and Wages		46,000	46,000	72,000	40,000
B-Employee Benefits		14,000	14,000	22,000	12,000
E-Goods and Other Services		6,000	6,000	12,000	8,000
Total \$	0	66,000	66,000	106,000	60,000

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	129,100		0.1	0.1	0.1	0.1
Management Analyst 5	95,184		0.1	0.1	0.1	0.1
Paralegal 1	69,072		0.1	0.1	0.1	0.1
Policy Analyst - ADM	110,000		0.3	0.2	0.2	
Total FTEs			0.6	0.3	0.5	0.3

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Agriculture & Health Division (AHD)		20,000	20,000		
Headquarters Administration (GFS) (POL)		46,000	46,000	46,000	
Revenue & Finance Division (REV)				60,000	60,000
Total \$		66,000	66,000	106,000	60,000

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.

Department of Revenue Fiscal Note

Bill Number: 6136 SB	Title: Rental property B&O tax	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
Home Security Fund Account-State 01 - Taxes 05 - Bus and Occup Tax		200,000	200,000	17,200,000	102,100,000
Total \$		200,000	200,000	17,200,000	102,100,000

Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		5.0	2.5	6.6	10.5
GF-STATE-State 001-1		1,322,400	1,322,400	1,277,000	1,964,600
Total \$		1,322,400	1,322,400	1,277,000	1,964,600

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: Samantha Doyle	Phone: 60-786-7335	Date: 01/10/2024
Agency Preparation: Beth Leech	Phone: 60-534-1513	Date: 01/16/2024
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 01/16/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/16/2024

Request # 6136-1-1

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.

CURRENT LAW:

Income from the long-term rental or leasing of real estate is not subject to the business and occupation (B&O) tax. Long-term means a continuous period of one month or more.

PROPOSAL:

NEW B&O TAX ON BUSINESSES RENTING OR LEASING REAL PROPERTY (Section 2):

Beginning January 1, 2025, any person renting or leasing residential real property within Washington is subject to B&O tax.

Beginning January 1, 2027, any person renting or leasing commercial real property within Washington is subject to B&O tax.

The amount of tax is equal to the gross proceeds from all rent multiplied by the rate of 1.75% if the gross proceeds from the previous calendar year were greater than or equal to \$1 million, or 1.50% if the gross proceeds from the previous calendar year were less than \$1 million.

All taxes collected from the renting or leasing of real property must be deposited into the Home Security Fund Account for support of the eviction prevention rental assistance program.

Rent means a recurring and periodic payment for the use and occupancy of real property, including charges for utilities and nonrefundable fees retained by a landlord. Rent, as defined in the bill, does not include refundable fees or charges such as security, damage, or pet deposits.

Renting or leasing real property means the granting of a right to use residential or commercial real property for a continuous period of one month or more.

NEW B&O TAX DEDUCTION FOR BUSINESSES LEASING OR RENTING RESIDENTIAL REAL PROPERTY (Section 3):

Beginning January 1, 2025, and until January 1, 2035, this legislation provides a deduction from the tax above for the rent derived from the renting or leasing of real property if the landlord has obtained a certification from the Department of Commerce (Commerce) under the residential rent stabilization program. This deduction, subject to the same certification from Commerce, is available for the rent derived from commercial properties beginning January 1, 2027, and until January 1, 2037.

To claim this deduction, a person must electronically file with the Department of Revenue (department) all returns, forms, and any other information required by the department.

This deduction may not reduce the amount of tax due to less than zero. Those claiming the deduction must adhere to the terms of the certification from Commerce for the full calendar year for which the deduction is claimed. If the department finds that a taxpayer has not complied with the terms of the certification, the deduction must be disallowed for all periods within that calendar year.

The department must publish guidance to assist landlords in determining the amount of tax due.

Request # 6136-1-1

This deduction expires January 1, 2037.

DEPARTMENT OF COMMERCE SECTIONS (Sections 4 and 5):

Commerce must develop and administer a residential rent stabilization program that establishes a process to review and certify landlords choosing to comply with the following rent restrictions:

- To not increase the amount charged for rent during the first 12 months after tenancy begins.
- During any 12-month period, to not increase the amount charged for rent in an amount greater than 5%.

The bill creates an exception to the restrictions above for the first 12 months after the qualified sale of a manufactured/mobile home community to a qualified tenant organization or resident nonprofit cooperative.

The residential rent stabilization program expires January 1, 2037.

Commerce must also consult with the Office of the Attorney General, relevant stakeholder groups, and the department to develop recommendations for a rent stabilization program for commercial rental property. Commerce must submit a report with the recommendations to the appropriate legislative committees by December 1, 2025. This section expires December 1, 2026.

EFFECTIVE DATE:

The new B&O tax and the new deduction from B&O tax (Sections 2 and 3) take effect on January 1, 2025. The rest of this bill takes effect 90 days after the 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:

- The B&O tax deduction from January 1, 2025, to January 1, 2035, applies only to residential property, not all real property as written [Section 3(1)(a)]. If this confirmed drafting error is not changed in a substitute version, the department will need to revise the fiscal note to reflect the bill as written.
- Only 25% of the income from lessors of residential real estate (as reported by the Economic Census) would be subject to this tax, as most would be excluded due to the small amount of revenue received or because the rentals were short-term and already subject to the tax.
- B&O tax for the service and other classification gets divided between the General Fund and the Workforce Education Investment Account; however, this bill directs all taxes collected from the renting or leasing of real property to the Home Security Fund Account.
- Market indicators show that lease and rental increases will likely be about 5% for the next several years. Therefore, most lessors of residential real estate will apply for the deduction from B&O tax.
- The growth rate for revenue generated from repealing the exemption of rental income from B&O tax mirrors the S&P Global Market Intelligence U.S. Economic Outlook November 2023 forecast for housing prices.
- In 1959, the Legislature extended the B&O tax to income derived from the rental of real estate. However, in 1960 the Washington Supreme Court held that the B&O tax on rental income was unconstitutional on the grounds it constituted a non-uniform property tax rather than an excise tax. Apartment Operators Association of Seattle, Inc. v. Schumacher; 56 Wash.2d 46 (1960). Later cases suggest courts might overrule Schumacher if presented with the issue today. There is significant litigation risk associated with this bill. It will be difficult to identify many of the taxpayers owing this tax. For these reasons, the estimated collections use the following compliance factors:
 - 13% revenue collections in fiscal year 2025,
 - 26% revenue collections in fiscal year 2026,

- 39% revenue collections in fiscal year 2027, and
- 52% revenue collections in fiscal year 2028 and thereafter.
- The B&O tax on and deduction for those in the business of renting or leasing residential real property takes effect January 1, 2025, and impacts five months of collections in fiscal year 2025.
- The B&O tax on and deduction for those in the business of renting or leasing commercial real property takes effect January 1, 2027, however, this estimate assumes no commercial leases will qualify for this deduction for the period covered by this fiscal note.

DATA SOURCES

- 2017 Economic Census, Real Estate and Rental and Leasing: Geographic Area Series
- S&P Economic Outlook November 2023 forecast
- Bureau of Labor Statistics, consumer price index for all items, west region
- U.S. News and World Report (2023, April 11), Housing Market Predictions for the Next 5 Years Promise Lots of Surprises
- JP Morgan (2023, December 8), 2024 commercial real estate outlook

REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$200,000 in the five months of impacted collections in fiscal year 2025, by \$1.1 million in fiscal year 2026, by \$16.1 million in 2027, and by \$50.1 million in fiscal year 2028, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$ 0
FY 2025 -	\$ 200
FY 2026 -	\$ 1,100
FY 2027 -	\$ 16,100
FY 2028 -	\$ 50,100
FY 2029 -	\$ 52,000

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 legislation affects 10,000 residential and 15,000 commercial property owners.

FIRST YEAR COSTS:

The department will not incur any costs in fiscal year 2024.

SECOND YEAR COSTS:

The department will incur total costs of \$1,322,400 in fiscal year 2025. These costs include:

- Labor Costs - Time and effort equate to 4.95 FTEs.
 - Set up, program, and test computer system changes for four new B&O reporting line codes, deductions, and dedicated funding account.
 - Create new account flags for taxpayers certified by commerce for the B&O deduction.

- Create a new reporting addendum for taxpayers who do not file returns electronically.
- Answer phone calls at the telephone information center on tax questions and tax return preparation from businesses, individuals, and accountants.
- Create special notices explaining residential rental income and deductions and update other associated notices.
- Update the department's website concerning residential rentals and license to use real property.
- Respond to tax ruling requests and email inquiries.
- Activate taxpayer accounts in non-reporter status or establish new accounts that the department will require to report.
- Correspond with taxpayers impacted by their account change.
- Process returns, and all associated work items, including issuing assessments for return errors and underpayments.
- Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Routine audits will require additional time due to the reporting changes.
- Hear additional administrative reviews that provide taxpayers with an informal, non-adversarial dispute resolution process for the review of a disputed action by the department, such as an assessment of taxes, notice of taxes due, denial of a refund request, or tax ruling.
- Participate in and provide data analysis as needed by the work group organized by Commerce.
- Amend two administrative rules.

Object Costs - \$788,600.

- Contract computer system programming.
- Contract media outreach including research and objective planning, creation and placement of print and media deliverables, and monitoring of results.
- Print and mail documents, correspondence and returns to taxpayers who do not file returns electronically.
- Print and mail reporting addendums to taxpayers who do not file returns electronically.
- Acquire two additional seat licenses at the telephone information center.

THIRD YEAR COSTS:

The Department will incur total costs of \$432,100 in fiscal year 2026. These costs include:

Labor Costs - Time and effort equate to 4.6 FTEs.

- Answer phone calls at the telephone information center on tax questions and tax return preparation from businesses, individuals, and accountants.
- Activate taxpayer accounts in non-reporter status or establish new accounts that the department will require to report.
- Correspond with taxpayers impacted by their account change.
- Process returns, payments, and all associated work items, including issuing assessments for return errors and underpayments.
- Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Routine audits will require additional time due to the reporting changes.
- Contact taxpayers and resolve outstanding delinquencies.
- Hear additional administrative reviews of disputed actions by the department.
- Participate in and provide data analysis as needed by the work group organized by Commerce.

Object Costs - \$2,300.

- Print and mail documents, correspondence and returns to taxpayers who do not file returns electronically.

- Print and mail reporting addendums to taxpayers who do not file returns electronically.
- Warrant filing fees and postage for collection of additional delinquent accounts.

FOURTH YEAR COSTS:

The Department will incur total costs of \$844,900 in fiscal year 2027. These costs include:

Labor Costs – Time and effort equate to 8.53 FTEs.

- Set up, program, and test computer system changes to include the reporting of commercial property rental B&O line codes, deductions, and dedicated funding account.
- Answer phone calls at the telephone information center on tax questions and tax return preparation from businesses, individuals, and accountants.
- Create special notices explaining commercial rental income and deductions and update other associated notices.
- Update the department’s website concerning commercial rentals and license to use real property.
- Activate taxpayer accounts in non-reporter status or establish new accounts that the department will require to report.
- Correspond with taxpayers impacted by their account change.
 - Process returns, payments, and all associated work items, including issuing assessments for return errors and underpayments.
- Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Routine audits will require additional time due to the reporting changes.
- Contact taxpayers and resolve outstanding delinquencies.
- Increased tax discovery presence to optimize voluntary compliance.
- Hear additional administrative reviews of disputed actions by the department.
- Amend two excise tax advisories.
- Amend five administrative rules.

Object Costs - \$3,900.

- Print and mail documents, correspondence and returns to taxpayers who do not file returns electronically.
- Print and mail reporting addendums to taxpayers who do not file returns electronically.
- Warrant filing fees and postage for collection of additional delinquent accounts.

Ongoing costs for the 2027-29 biennium equal \$1,964,600 and include similar activities described in the fourth-year costs. Time and effort equate to 10.5 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		5.0	2.5	6.6	10.5
A-Salaries and Wages		315,100	315,100	771,700	1,213,600
B-Employee Benefits		104,000	104,000	254,500	400,500
C-Professional Service Contracts		385,300	385,300		
E-Goods and Other Services		481,000	481,000	172,900	249,900
G-Travel		1,800	1,800	12,800	22,900
J-Capital Outlays		35,200	35,200	65,100	77,700
Total \$		\$1,322,400	\$1,322,400	\$1,277,000	\$1,964,600

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
CUSTOMER SERV SP2	42,444		0.1	0.1	0.2	0.3
EMS BAND 4	131,684		0.0	0.0	0.0	
EMS BAND 5	153,836		0.0	0.0	0.0	
EXCISE TAX EX 1	46,596		0.2	0.1	0.5	1.3
EXCISE TAX EX 2	58,104		0.1	0.1	0.6	1.1
EXCISE TAX EX 3	64,092		0.2	0.1	0.3	0.6
IT B A-JOURNEY	91,968		0.2	0.1	0.1	
IT SYS ADM-JOURNEY	96,552		0.6	0.3		
MGMT ANALYST4	76,188		0.0	0.0	0.0	
REVENUE AGENT 2	59,616				0.8	1.8
REVENUE AGENT 3	65,748				0.5	1.0
REVENUE AUDITOR 2	64,092		0.5	0.3	1.3	2.2
TAX INFO SPEC 1	46,596		2.0	1.0	1.3	1.0
TAX INFO SPEC 2	50,088		0.2	0.1	0.8	1.0
TAX INFO SPEC 3	61,056		0.1	0.1		
TAX POLICY SP 2	78,120		0.1	0.1	0.1	
TAX POLICY SP 3	88,416		0.3	0.2	0.3	0.3
TAX POLICY SP 4	95,184		0.0	0.0	0.0	
WMS BAND 2	98,456		0.1	0.1	0.0	
WMS BAND 3	111,992		0.1	0.1	0.1	
Total FTEs			5.0	2.5	6.6	10.5

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 amend WAC 458-20-118, titled: "Sale or rental of real estate, license to use real estate." The department will use the expedited process to amend WAC 458-20-135, titled: "Extracting natural products," WAC 458-20-166, titled: "Hotels, motels, boarding houses, rooming houses, etc.," WAC 458-20-168, titled: "Hospitals, nursing homes, assisted living facilities, etc.," and WAC 458-20-200, titled: "Leased departments."

Persons affected by this rulemaking would include taxpayers who derive income from the long-term rental of residential and commercial real estate.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 6136 SB

Title: Rental property B&O tax

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

Legislation Impacts:

- Cities:
 Counties:
 Special Districts:
 Specific jurisdictions only:
 Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
 Expenditures represent one-time costs:
 Legislation provides local option:
 Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Angie Hong	Phone: 360-725-5041	Date: 01/17/2024
Leg. Committee Contact: Samantha Doyle	Phone: 360-786-7335	Date: 01/10/2024
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/17/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/17/2024

Part IV: Analysis

A. SUMMARY OF BILL

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

Section 1 describes acknowledgements and findings.

Section 2 adds a new section to RCW 82.04 [B&O tax] to create a new B&O tax beginning January 1, 2025 for any person engaging in the business of renting or leasing of residential real property And beginning January 1, 2027, any person engaging within this state in the business of renting or leasing of commercial real property is taxable.

All newly collected tax must be deposited into the home security fund account to be used for support of the eviction prevention rental assistance program.

Section 3 adds a new section to RCW 82.04 [B&O tax) to create a new state B&O tax deduction for businesses leasing real property. The Dept. of Commerce and the Dept. of Revenue will manage the deduction program, which will expire January 1, 2037.

Section 4 creates a new rent stabilization program at the Dept. of Commerce.

Section 5 creates a new section to require state agencies to develop recommendations in a report.

Section 6 creates a tax preference performance statement for the new tax.

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 will not impact local government expenditures.

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 bill creates a new state B&O tax for persons engaged in certain business. Tax revenues will go toward a specific state program. This bill will not impact local government revenues.

SOURCES

Dept. of Revenue Fiscal Note Draft



Multiple Agency Ten-Year Analysis Summary

Bill Number 6136 SB	Title Rental property B&O tax
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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 Revenue	0	200,000	1,100,000	16,100,000	50,100,000	52,000,000	53,900,000	55,600,000	57,500,000	59,400,000	345,900,000
Total	0	200,000	1,100,000	16,100,000	50,100,000	52,000,000	53,900,000	55,600,000	57,500,000	59,400,000	345,900,000



Ten-Year Analysis

Bill Number 6136 SB	Title Rental property B&O tax	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: Dan Jensen	Phone: 360-664-9429	Date: 1/16/2024 11:14:23 an
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 1/16/2024 11:14:23 an
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 6136 SB	Title Rental property B&O tax	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

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
Business and occupation tax	10B		200,000	1,100,000	16,100,000	50,100,000	52,000,000	53,900,000	55,600,000	57,500,000	59,400,000	345,900,000
Total			200,000	1,100,000	16,100,000	50,100,000	52,000,000	53,900,000	55,600,000	57,500,000	59,400,000	345,900,000
Biennial Totals			200,000	17,200,000	102,100,000	109,500,000	116,900,000	345,900,000				

Narrative Explanation (Required for Indeterminate Cash Receipts)

CURRENT LAW:

Income from the long-term rental or leasing of real estate is not subject to the business and occupation (B&O) tax. Long-term means a continuous period of one month or more.

PROPOSAL:

NEW B&O TAX ON BUSINESSES RENTING OR LEASING REAL PROPERTY (Section 2):
 Beginning January 1, 2025, any person renting or leasing residential real property within Washington is subject to B&O tax.

Beginning January 1, 2027, any person renting or leasing commercial real property within Washington is subject to B&O tax.

The amount of tax is equal to the gross proceeds from all rent multiplied by the rate of 1.75% if the gross proceeds from the previous calendar year were greater than or equal to \$1 million, or 1.50% if the gross proceeds from the previous calendar year were less than \$1 million.

All taxes collected from the renting or leasing of real property must be deposited into the Home Security Fund Account for support of the eviction prevention rental



Ten-Year Analysis

Bill Number 6136 SB	Title Rental property B&O tax	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>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

assistance program.

Rent means a recurring and periodic payment for the use and occupancy of real property, including charges for utilities and nonrefundable fees retained by a landlord. Rent as defined in the bill, does not include refundable fees or charges such as security, damage, or pet deposits.

Renting or leasing real property means the granting of a right to use residential or commercial real property for a continuous period of one month or more.

NEW B&O TAX DEDUCTION FOR BUSINESSES LEASING OR RENTING RESIDENTIAL REAL PROPERTY (Section 3):

Beginning January 1, 2025, and until January 1, 2035, this legislation provides a deduction from the tax above for the rent derived from the renting or leasing of real property if the landlord has obtained a certification from the Department of Commerce (Commerce) under the residential rent stabilization program. This deduction, subject to the same certification from Commerce, is available for the rent derived from commercial properties beginning January 1, 2027, and until January 1, 2037.

To claim this deduction, a person must electronically file with the Department of Revenue (department) all returns, forms, and any other information required by the department.

This deduction may not reduce the amount of tax due to less than zero. Those claiming the deduction must adhere to the terms of the certification from Commerce for the full calendar year for which the deduction is claimed. If the department finds that a taxpayer has not complied with the terms of the certification, the deduction must be disallowed for all periods within that calendar year.

The department must publish guidance to assist landlords in determining the amount of tax due.

This deduction expires January 1, 2037.

DEPARTMENT OF COMMERCE SECTIONS (Sections 4 and 5):

Commerce must develop and administer a residential rent stabilization program that establishes a process to review and certify landlords choosing to comply with the following rent restrictions:

- To not increase the amount charged for rent during the first 12 months after tenancy begins.
- During any 12-month period, to not increase the amount charged for rent in an amount greater than 5%.

The bill creates an exception to the restrictions above for the first 12 months after the qualified sale of a manufactured/mobile home community to a qualified tenant



Ten-Year Analysis

Bill Number	Title	Agency
6136 SB	Rental property B&O tax	140 Department of Revenue

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

Narrative Explanation (Required for Indeterminate Cash Receipts)

organization or resident nonprofit cooperative.

The residential rent stabilization program expires January 1, 2037.

Commerce must also consult with the Office of the Attorney General, relevant stakeholder groups, and the department to develop recommendations for a rent stabilization program for commercial rental property. Commerce must submit a report with the recommendations to the appropriate legislative committees by December 1, 2025. This section expires December 1, 2026.

EFFECTIVE DATE:

The new B&O tax and the new deduction from B&O tax (Sections 2 and 3) take effect on January 1, 2025.

The rest of this bill takes effect 90 days after the final adjournment of the session.

ASSUMPTIONS:

- The B&O tax deduction from January 1, 2025, to January 1, 2035, applies only to residential property, not all real property as written [Section 3(1)(a)]. If this confirmed drafting error is not changed in a substitute version, the department will need to revise the fiscal note to reflect the bill as written.
- Only 25% of the income from lessors of residential real estate (as reported by the Economic Census) would be subject to this tax, as most would be excluded due to the small amount of revenue received or because the rentals were short-term and already subject to the tax.
- B&O tax for the service and other classification gets divided between the General Fund and the Workforce Education Investment Account; however, this bill directs all tax collected from the renting or leasing of real property to the Home Security Fund Account.
- Market indicators show that lease and rental increases will likely be about 5% for the next several years. Therefore, most lessors of residential real estate will apply for the deduction from B&O tax.
- The growth rate for revenue generated from repealing the exemption of rental income from B&O tax mirrors the S&P Global Market Intelligence U.S. Economic Outlook November 2023 forecast for housing prices.
- In 1959, the Legislature extended the B&O tax to income derived from the rental of real estate. However, in 1960 the Washington Supreme Court held that the B&O tax on rental income was unconstitutional on the grounds it constituted a non-uniform property tax rather than an excise tax. *Apartment Operators Association of Seattle, Inc. v. Schumacher*; 56 Wash.2d 46 (1960). Later cases suggest courts might overrule *Schumacher* if presented with the issue today. There is significant litigation risk associated with this bill. It will be difficult to identify many of the taxpayers owing this tax. For these reasons, the estimated collections use the following compliance factors:
 - 13% revenue collections in fiscal year 2025,
 - 26% revenue collections in fiscal year 2026,



Ten-Year Analysis

Bill Number	Title	Agency
6136 SB	Rental property B&O tax	140 Department of Revenue

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

Narrative Explanation (Required for Indeterminate Cash Receipts)

- 39% revenue collections in fiscal year 2027, and
- 52% revenue collections in fiscal year 2028 and thereafter.
- The B&O tax on and deduction for those in the business of renting or leasing residential real property takes effect January 1, 2025, and impacts five months of collection in fiscal year 2025.
- The B&O tax on and deduction for those in the business of renting or leasing commercial real property takes effect January 1, 2027, however, this estimate assumes no commercial leases will qualify for this deduction for the period covered by this fiscal note.

DATA SOURCES:

- 2017 Economic Census, Real Estate and Rental and Leasing: Geographic Area Series
- S&P Economic Outlook November 2023 forecast
- Bureau of Labor Statistics, consumer price index for all items, west region
- U.S. News and World Report (2023, April 11), Housing Market Predictions for the Next 5 Years Promise Lots of Surprises
- JP Morgan (2023, December 8), 2024 commercial real estate outlook

REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$200,000 in the five months of impacted collections in fiscal year 2025, by \$1.1 million in fiscal year 2026, by \$16.1 million in 2027, and by \$50.1 million in fiscal year 2028, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$	0
FY 2025 -	\$	200
FY 2026 -	\$	1,100
FY 2027 -	\$	16,100
FY 2028 -	\$	50,100
FY 2029 -	\$	52,000

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



Ten-Year Analysis

Bill Number 6136 SB	Title Rental property B&O tax	Agency 140 Department of Revenue
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Agency Preparation: Beth Leech	Phone: 360-534-1513	Date: 1/16/2024 7:17:01 pm
Agency Approval: Valerie Torres	Phone: 360-534-1521	Date: 1/16/2024 7:17:01 pm
OFM Review:	Phone:	Date: