

Multiple Agency Fiscal Note Summary

Bill Number: 6112 SB	Title: Donated food items/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
Department of Revenue	0	0	0	(490,504,000)	(492,611,000)	(492,611,000)	(549,470,000)	(551,830,000)	(551,830,000)
Total \$	0	0	0	(490,504,000)	(492,611,000)	(492,611,000)	(549,470,000)	(551,830,000)	(551,830,000)

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	.0	0	0	9,600	.0	0	0	9,600	.0	0	0	9,600
Department of Revenue	.5	283,200	283,200	283,200	.4	92,000	92,000	92,000	.4	92,000	92,000	92,000
Total \$	0.5	283,200	283,200	292,800	0.4	92,000	92,000	101,600	0.4	92,000	92,000	101,600

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

Estimated Capital Budget Breakout

Prepared by: Amy Hatfield, OFM	Phone: (360) 280-7584	Date Published: Final 1/22/2024
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Individual State Agency Fiscal Note

Bill Number: 6112 SB	Title: Donated food items/B&O tax	Agency: 014-Joint Legislative Audit and Review Committee
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
Performance Audits of Government Account-State 553-1	2,400	7,200	9,600	9,600	9,600
Total \$	2,400	7,200	9,600	9,600	9,600

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: Jeffrey Mitchell	Phone: 360-786-7438	Date: 01/17/2024
Agency Preparation: Geoff Cunningham	Phone: 3607865171	Date: 01/22/2024
Agency Approval: Eric Thomas	Phone: 360 786-5182	Date: 01/22/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/22/2024

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.

SB 6112 establishes a tax credit under RCW 82.04 for qualified donation items provided to a qualified food bank by a qualified food retailer.

Section 2

2(2) provides that credits earned in one calendar year may be carried over into the subsequent year, but no farther. Credits must be applied to tax liability before new credits, and no refunds may be granted.

2(3) Except as noted in (b), the amount of the credit as equal to 100 percent of the qualified value of donated items. Subsection (3)(b) provides that the amount of the credit is equal to 50 percent of the fuel cost charged by a food distributor for transporting qualified items to a food bank.

2(4) Credits may not be claimed on or after July 1, 2034, and under 2(5) claimants must complete an annual tax performance report under 82.32.534. 2(7) Section 2 expires January 1, 2038.

Tax Preference Performance Statement

Section 3 of the bill is the TPPS. Under 3(2), the Legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

3(3) established the Legislature's specific public policy objective as “to encourage the donation of food items to food banks by food retailers.”

3(4) To measure the effectiveness of the tax credit provided in Section 2 of this act, JLARC must evaluate the year-to-year change in the number of taxpayers claiming the tax credit under Section 2 of this act and the year-to-year change in the amount of credit claimed by taxpayers. The Legislature intends to extend the tax credit under Section 2 of this act if the total value of qualified donation items, as defined in Section 2 of this act, has increased over the period of evaluation.

The bill takes effect July 1, 2024.

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 will work with the Department of Revenue and any other appropriate agencies immediately after passage of the bill to ensure project contacts are established and any other necessary data for JLARC staff's future evaluation needs are identified and collected. Staff would work with those same agencies and organizations when conducting its review.

Based on the expiration date, this fiscal note assumes the preference will be reviewed in 2035. The expenditure detail reflects work conducted to prepare for the future review of the preferences. Costs associated with the review are not included in this fiscal note.

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 2024 legislative session.

This audit will require an estimated 1 audit month.

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 \$23,900 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	2,400	7,200	9,600	9,600	9,600
Total \$			2,400	7,200	9,600	9,600	9,600

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages	1,600	4,700	6,300	6,200	6,200
B-Employee Benefits	500	1,500	2,000	2,000	2,000
C-Professional Service Contracts					
E-Goods and Other Services	300	900	1,200	1,200	1,200
G-Travel		100	100	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 \$	2,400	7,200	9,600	9,600	9,600

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	131,064					
Support staff	110,856					
Total FTEs						0.0

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

NONE

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: 6112 SB	Title: Donated food items/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
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax				(490,504,000)	(549,470,000)
Workforce Education Investment Account-State 01 - Taxes 05 - Bus and Occup Tax				(2,107,000)	(2,360,000)
Total \$				(492,611,000)	(551,830,000)

Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		1.0	0.5	0.4	0.4
GF-STATE-State 001-1		283,200	283,200	92,000	92,000
Total \$		283,200	283,200	92,000	92,000

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: Jeffrey Mitchell	Phone: 60-786-7438	Date: 01/17/2024
Agency Preparation: Melissa Howes	Phone: 60-534-1518	Date: 01/18/2024
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 01/18/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/18/2024

Request # 6112-1-1

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:

No business and occupation (B&O) tax credit for items donated to food banks exists.

PROPOSAL:

This bill creates a B&O tax credit for food retailers who donate to food banks. The credit equals the cost of the donated items plus 50% of the fuel costs a distributor charges to transport the items to a food bank.

Eligible businesses are those whose primary business activity is the retail sale of food items. This includes businesses that sell food items in combination with other new merchandise at retail.

Eligible donation items include food items, fresh meat, fresh fruits and vegetables, and infant formula.

Credit earned in a calendar year may be carried forward and used in the subsequent calendar year only. Credits are nonrefundable.

Businesses using this credit must file an annual tax performance report.

To evaluate the effectiveness of this credit program, the Joint Legislative Audit and Review Committee must evaluate the annual change in the number of taxpayers taking this credit and the amount of credit taken by taxpayers.

Credits can be earned until July 1, 2034.

This credit program expires July 1, 2038.

EFFECTIVE DATE:

This bill takes effect on July 1, 2024. However, due to the time it will take to program this bill's changes, the department cannot implement the bill until July 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

- Qualified donation items include food items plus the cost of fuel charge by the distributor to transport the items.
- Credits earned in a calendar year are used as they are earned. Unused credit is carried forward and used for one additional calendar year. Credit may not exceed B&O tax owed.
- The value of donated items is the cost of such items to the seller.
- Credits can be earned until July 1, 2034. Credits can be used towards B&O tax owed in reporting periods through December 31, 2035.
- Qualified food retailers include:
 - Warehouse clubs and supercenters (NAICS 455211)
 - Supermarkets and Other Grocery Retailers (NAICS 445110)
 - Specialty food retailers (NAICS beginning with 4452)
- Food sales for warehouse clubs and supercenters (NAICS 455211) are 50% of total sales.
- Food sales for supermarkets and other grocery retailers (NAICS 445110) are 82% of total sales.

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- Food sales for specialty food retailers (NAICS beginning with 4452) are 100% of total sales.
- The average cost of food is 97% of the selling price.
- 30% of food sold in grocery stores is not sellable. Of the 30%, 19% is donated to food banks.
- The cost of fuel to transport food items to a food bank is 3% of cost of the donated items.
- Annual growth mirrors the retail growth reflected in the Economic and Revenue Forecast November 2023 forecast.
- The department will implement the credit by July 1, 2025.

DATA SOURCES

- Department of Revenue, Excise tax data
- Statista, Net sales of Costco worldwide in 2019 and 2023, by merchandise category
- Statista, Net sales share of Walmart U.S. in the United States in fiscal year 2023, by merchandise category
- The Food Industry Association, Supermarket Sales by Department - Percent of Total Supermarket Sales, 2018
- Business Wire, (February 15,2023) Americans Believe Grocery Store Profits are 14 Times Higher than Reality
- Recycle Track Systems, Food Waste in America in 2024 Statistics + Facts
- ReFED, Stakeholder Recommendations- Retailers: Solutions for Grocery Waste
- Feeding America, June 30, 2022, financial report
- Economic and Revenue Forecast Council, November 2023 forecast

REVENUE ESTIMATES

This bill decreases state revenues by an estimated \$231 million in the 11 months of impacted collections in fiscal year 2026, and by \$261 million in fiscal year 2027, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$	0
FY 2025 -	\$	0
FY 2026 -	(\$	231,191)
FY 2027 -	(\$	261,420)
FY 2028 -	(\$	270,967)
FY 2029 -	(\$	280,863)

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 will affect 4,600 food retailers and grocers.
- Expenditures assume an effective date of July 1, 2025, providing the department with at least 12 months to implement the required changes. The department will incur additional costs if required to use a different implementation date.
- A taxpayer claiming these new tax preferences must file an annual tax performance report (RCW 82.32.808). Expenditures include the costs to implement the new tax preferences.

FIRST YEAR COSTS:

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

SECOND YEAR COSTS:

The department will incur total costs of \$283,200 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 1.01 FTEs.

- Set up, program, and test computer system changes for the new credit program.
- System adjustments for paper returns from taxpayers who do not file electronically.
- Create new performance reports for the B&O tax credit.
- Develop and maintain annual tax incentive report questions.
- Create a special notice and new information about the credit on the department’s website.

Object Costs - \$145,800.

- Contract computer system programming.
- Software, training, and travel.

THIRD YEAR COSTS:

The Department will incur total costs of \$46,000 in fiscal year 2026. These costs include:

Labor Costs – Time and effort equate to 0.4 FTE.

- Continued testing of computer systems.
 - Process returns, payments and all associated work items, including issuing assessments for return errors and underpayments.
 - Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
 - Examine accounts and make corrections as necessary.
 - Develop and maintain annual tax incentive report questions.
 - Review annual tax incentive report submissions, verify submission accuracy, and compile statistics and reports.

Object Costs - \$500.

- Software, training, and travel.

ONGOING COSTS:

Ongoing costs for fiscal year 2027 equal \$46,000 and include similar activities described in the third-year costs. Time and effort equate to 0.4 FTE.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		1.0	0.5	0.4	0.4
A-Salaries and Wages		85,300	85,300	60,400	60,400
B-Employee Benefits		28,100	28,100	20,000	20,000
C-Professional Service Contracts		145,800	145,800		
E-Goods and Other Services		16,700	16,700	8,800	8,800
G-Travel		300	300	400	400
J-Capital Outlays		7,000	7,000	2,400	2,400
Total \$		\$283,200	\$283,200	\$92,000	\$92,000

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
EXCISE TAX EX 2	58,104		0.1	0.1	0.1	0.1
EXCISE TAX EX 3	64,092		0.1	0.1	0.1	0.1
IT B A-JOURNEY	91,968		0.3	0.2	0.1	0.1
IT SYS ADM-JOURNEY	96,552		0.2	0.1		
TAX POLICY SP 2	78,120		0.1	0.0		
TAX POLICY SP 3	88,416		0.2	0.1	0.1	0.1
WMS BAND 2	98,456		0.0	0.0		
Total FTEs			1.0	0.5	0.4	0.4

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

Part V: New Rule Making Required