

Multiple Agency Fiscal Note Summary

Bill Number: 2289 HB	Title: Salmon recovery projects/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	(20,000,000)	(20,000,000)	(20,030,000)	(103,000,000)	(103,000,000)	(103,160,000)	(110,000,000)	(110,000,000)	(110,180,000)
Total \$	(20,000,000)	(20,000,000)	(20,030,000)	(103,000,000)	(103,000,000)	(103,160,000)	(110,000,000)	(110,000,000)	(110,180,000)

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	Fiscal note not available					
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
Department of Revenue	1.2	350,800	350,800	350,800	1.7	283,900	283,900	283,900	1.3	226,000	226,000	226,000
Total \$	1.2	350,800	350,800	350,800	1.7	283,900	283,900	283,900	1.3	226,000	226,000	226,000

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	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
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	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Breakout

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

Prepared by: Amy Hatfield, OFM	Phone: (360) 280-7584	Date Published: Preliminary 1/22/2024
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Department of Revenue Fiscal Note

Bill Number: 2289 HB	Title: Salmon recovery projects/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 01 - Retail Sales Tax		(20,000,000)	(20,000,000)	(103,000,000)	(110,000,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax		(30,000)	(30,000)	(160,000)	(180,000)
Total \$		(20,030,000)	(20,030,000)	(103,160,000)	(110,180,000)

Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		2.3	1.2	1.7	1.3
GF-STATE-State 001-1		350,800	350,800	283,900	226,000
Total \$		350,800	350,800	283,900	226,000

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.

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Agency Preparation: Erin Valz	Phone: 60-534-1522	Date: 01/22/2024
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 01/22/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/22/2024

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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:

Sales and use taxes generally apply to the construction of salmon recovery projects.

PROPOSAL:

This bill creates a sales and use tax exemption for the following:

- Labor and services on the construction of a qualified salmon recovery project.
- The installation of equipment or property incorporated into a qualified salmon recovery project.
- Building materials, equipment, and property incorporated in a qualified salmon recovery project.

To obtain the exemption, the qualified salmon recovery project sponsor must apply to the Department of Revenue (department) for an exemption certificate. The exemption certificate expires on the date when the project is certified as operationally complete by the qualified salmon recovery project.

The bill defines a "qualified salmon recovery project" as a project with the goal of increasing salmon and steelhead stocks. This includes the construction, restoration, or improvement of habitat, hatchery facilities, and fish barrier removal or replacement, as well as land acquisition and easements.

The bill defines a "qualified salmon recovery project sponsor" as any private, public, or tribal entity engaging in the construction or rehabilitation of a qualified salmon recovery project for which they received state funding.

A qualified salmon recovery project sponsor must pay any sales or use tax due within 60 days of the expiration of the exemption certificate. The department may not assess any penalties or interest on the amount due if paid within the 60-day period. The department may require the qualified salmon recovery project sponsor to periodically submit documentation to allow the department to track the total amount of exempted sales and use taxes.

EFFECTIVE DATE:

The bill takes effect 90 days after the final adjournment of the session. However, due to the time it will take to program this bill's changes, the department cannot implement the bill until 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:

- State and federal agencies fund most qualified salmon recovery projects.
- This fiscal note may underestimate the total impact because other funding sources may exist.
- Local revenue estimates use the statewide average local sales and use tax rate of 2.95%.
- The department receives the taxes from monthly taxpayers the month after the business collects the sales tax from the consumer. Most local tax distributions occur the month after the department receives sales and use taxes that businesses collect. This leads to a one-month delay in revenues for the state and a two-month delay in revenues for local jurisdictions.
- This legislation takes effect January 1, 2025, impacting five months of state collections and four months of local collections in fiscal year 2025.

POTENTIAL LITIGATION:

Legislation creating new exemptions and deferrals for construction projects presents a risk that the federal government or

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federal contractors will seek to re-litigate Washington v. United States. This risk increases with each additional exemption or deferral that the state enacts.

The department's legal counsel at the Attorney General's Office has opined that the federal contractor risk applies to all exemptions and deferrals of construction activity, not just construction projects of the type that the federal government is likely to engage in. It also applies even if the exemption or deferral applies to federal construction projects as well as non-federal construction projects.

Sales/use tax exemptions pose the greatest legal risk because they plainly treat the beneficiaries of the exemption more favorably than federal contractors are treated. Sales/use tax deferrals also pose a significant legal risk. Each such exemption or deferral increases the likelihood that the federal government or federal contractors will seek to re-litigate Washington v. United States in which they would claim that Washington now discriminates against federal contractors.

If a legal challenge to a deferral or exemption were successful, in addition to lost future revenues, refunds potentially would be owed under the statutory period (current year plus four previous years). Each year approximately \$90 million is collected on federal government contracting. If refunds were included as part of a potential court decision, the revenue impact could reach nearly \$500 million.

DATA SOURCES:

- Department of Revenue, Excise tax data
- Economic and Revenue Forecast Council, November 2023 forecast
- Washington Department of Transportation
- Washington Recreation and Conservation Office
- Washington Department of Ecology
- Washington Department of Fish and Wildlife
- Washington Department of Natural Resources
- U.S. Environmental Protection Agency
- U.S. Census Bureau
- U.S. Department of the Interior
- Congressional Research Service
- Statistics of Income - Tax Stats - Charities & Other Tax-Exempt Organizations

REVENUE ESTIMATES:

This bill decreases state revenues by an estimated \$20.0 million in the five months of impacted collections in fiscal year 2025, and by \$51.1 million in fiscal year 2026, the first full year of impacted collections.

This bill decreases local revenues by an estimated \$7.0 million in the four months of impacted collections in fiscal year 2025, and by \$23.0 million in fiscal year 2026, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

- FY 2024 - \$ 0
- FY 2025 - (\$ 20,030)
- FY 2026 - (\$ 51,080)

FY 2027 - (\$ 52,080)
FY 2028 - (\$ 54,090)
FY 2029 - (\$ 56,090)

Local Government, if applicable (cash basis, \$000):

FY 2024 - \$ 0
FY 2025 - (\$ 7,000)
FY 2026 - (\$ 23,000)
FY 2027 - (\$ 24,000)
FY 2028 - (\$ 25,000)
FY 2029 - (\$ 25,000)

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:

Expenditures assume this bill affects 86,000 taxpayers performing construction services or selling building materials for projects.

FIRST YEAR COSTS:

The department will not incur costs in fiscal year 2024.

SECOND YEAR COSTS:

The department will incur total costs of \$350,800 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 2.32 FTEs.

- Set up, program, and test computer system changes.
- Create special notice and update relevant information on the department’s website.
 - Answer additional phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
 - Process applications, issue exemption certificates, examine accounts and make corrections as necessary, and monitor reports.
- Amend one excise tax advisory (ETA).
- Adopt one new administrative rule.
- Hear additional administrative reviews.

Object Costs - \$115,000.

- Computer system changes, including contract programming.
- Purchase one additional agent seat license for the Telephone Information Center.

THIRD YEAR COSTS:

The department will incur total costs of \$161,300 in fiscal year 2026. These costs include:

Labor Costs – Time and effort equate to 1.9 FTEs.

- Answer additional phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.
 - Process applications, issue exemption certificates, examine accounts and make corrections as necessary, and monitor reports.
 - Hear additional administrative reviews.

FOURTH YEAR COSTS:

The department will incur total costs of \$122,600 in fiscal year 2027. These costs include:

Labor Costs – Time and effort equate to 1.4 FTEs.

- Answer additional phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants.

- Process applications, issue exemption certificates, examine accounts and make corrections as necessary, and monitor reports.

- Hear additional administrative reviews.

ONGOING COSTS:

Ongoing costs for fiscal year 2028 and following fiscal years equal \$113,000 and include similar activities described in the third-year costs. Time and effort equate to 1.3 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		2.3	1.2	1.7	1.3
A-Salaries and Wages		138,600	138,600	178,900	142,800
B-Employee Benefits		45,600	45,600	58,900	47,000
C-Professional Service Contracts		113,000	113,000		
E-Goods and Other Services		37,600	37,600	35,400	28,000
J-Capital Outlays		16,000	16,000	10,700	8,200
Total \$		\$350,800	\$350,800	\$283,900	\$226,000

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	131,684		0.0	0.0		
EMS BAND 5	153,836		0.0	0.0		
EXCISE TAX EX 2	58,104		0.3	0.2	0.3	0.3
EXCISE TAX EX 3	64,092		0.4	0.2	0.5	0.4
IT B A-JOURNEY	91,968		0.1	0.1		
IT SYS ADM-JOURNEY	96,552		0.1	0.1		
MGMT ANALYST4	76,188		0.0	0.0		
TAX INFO SPEC 1	46,596		1.0	0.5	0.8	0.5
TAX INFO SPEC 2	50,088		0.1	0.1	0.1	0.1
TAX POLICY SP 2	78,120		0.1	0.0		
TAX POLICY SP 3	88,416		0.2	0.1		
TAX POLICY SP 4	95,184		0.0	0.0		
WMS BAND 2	98,456		0.0	0.0		
WMS BAND 3	111,992		0.0	0.0		
Total FTEs			2.3	1.2	1.7	1.3

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

Part V: New Rule Making Required

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-NEW, titled: "Salmon recovery project and grants." Persons affected by this rulemaking would include taxpayers involved in qualified salmon recovery projects.