

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 6136 S SB	<b>Title:</b> 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	0	0	0	30,000	0	0	60,000
Department of Revenue	0	0	5,600,000	0	0	70,400,000	0	0	120,800,000
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>5,600,000</b>	<b>0</b>	<b>0</b>	<b>70,430,000</b>	<b>0</b>	<b>0</b>	<b>120,860,000</b>

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	.0	0	0	0	.2	0	0	30,000	.3	0	0	60,000
Department of Commerce	.0	0	0	5,600,000	.0	0	0	70,400,000	.0	0	0	120,800,000
Department of Revenue	2.1	1,002,200	1,002,200	1,002,200	7.1	1,378,800	1,378,800	1,378,800	9.4	1,790,100	1,790,100	1,790,100
<b>Total \$</b>	<b>2.1</b>	<b>1,002,200</b>	<b>1,002,200</b>	<b>6,602,200</b>	<b>7.3</b>	<b>1,378,800</b>	<b>1,378,800</b>	<b>71,808,800</b>	<b>9.7</b>	<b>1,790,100</b>	<b>1,790,100</b>	<b>122,650,100</b>

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	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

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

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<b>Prepared by:</b> Amy Hatfield, OFM	<b>Phone:</b> (360) 280-7584	<b>Date Published:</b> Revised 2/ 2/2024
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 6136 S SB	<b>Title:</b> Rental property B&O tax	<b>Agency:</b> 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				30,000	60,000
<b>Total \$</b>				30,000	60,000

### Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.2	0.3
<b>Account</b>					
Legal Services Revolving Account-State 405-1	0	0	0	30,000	60,000
<b>Total \$</b>	0	0	0	30,000	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: Alia Kennedy	Phone: 360-786-7405	Date: 01/25/2024
Agency Preparation: Dan Jensen	Phone: 360-664-9429	Date: 01/30/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/30/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 02/01/2024

## 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 real property. Clarifies that 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,” “renting or leasing,” and “taxable rent.” Provides exclusions from the tax for municipal corporations and political subdivisions.

Section 3 – New Section. Provides effective date of 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). 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 2027 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

### 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.*

Attorney General’s Office (AGO) Agency Assumptions:

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

Location of staffing is assumed to be in a 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’s (REV) Legal Services for the Department of Revenue

(DOR):

The AGO will bill DOR for legal services based on the enactment of this bill.

Other than review of DOR rules, which will occur prior to FY 2026, noticeable legal services associated with this bill are assumed to begin July 1, 2026. Starting in FY 2026 through FY 2028, REV assumes that this bill will result in one to two tax refund lawsuits. DOR estimates that this will result in three administrative appeals before DOR’s Administrative Review and Hearings Division (ARHD) in FY 2025 and FY 2026. DOR estimates an increase in administrative appeals to nine in FY 2027, 11 in FY 2028 and 12 in 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 this will require representation by the AGO. Consequently, up to two BTA and superior court actions are assumed in FY 2027 and one additional appeal is assumed in each of the next two FY. 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. REV assumes new legal services for 0.1 AAG are necessary for FY 2027, FY 2028, and FY 2029. REV will generate direct litigation costs for transcription fees, copying fees, clerk’s papers, and other court related costs of \$500 in each FY.

REV: Total non-King County workload impact:

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

2. The AGO Agriculture and Health Division (AHD) has reviewed this bill and determined it will not increase or decrease the division’s workload in representing the Department of Commerce (Commerce). Commerce would not be given any new authorities or responsibilities under this bill. Therefore, no costs are included in this request.

3. The AGO Administrative Division (ADM) has reviewed this bill and determined it will not increase or decrease the division’s workload. Therefore, no costs are included in this request.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services	State	0	0	0	30,000	60,000
	Revolving Account						
<b>Total \$</b>			0	0	0	30,000	60,000

#### III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				0.2	0.3
A-Salaries and Wages				20,000	40,000
B-Employee Benefits				6,000	12,000
E-Goods and Other Services				4,000	8,000
<b>Total \$</b>	0	0	0	30,000	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
Management Analyst 5	95,184				0.1	0.1
Paralegal 1	69,072				0.1	0.1
<b>Total FTEs</b>					0.2	0.3

#### III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Revenue & Finance Division (REV)				30,000	60,000
<b>Total \$</b>				30,000	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.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 6136 S SB	<b>Title:</b> Rental property B&O tax	<b>Agency:</b> 103-Department of Commerce
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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
<b>Account</b>					
Washington Housing Trust Fund-State 532-1	0	5,600,000	5,600,000	70,400,000	120,800,000
<b>Total \$</b>	0	5,600,000	5,600,000	70,400,000	120,800,000

### 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: 01/25/2024
Agency Preparation: Hayley Tresenriter	Phone: 360-725-3042	Date: 01/29/2024
Agency Approval: Hayley Tresenriter	Phone: 360-725-3042	Date: 01/29/2024
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/29/2024

## 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: A new section describes the history and legal precedents of business and occupation taxes on rental property.

Section 2: A new section adds to RCW 82.04.290 a new business and occupation tax on rental housing and deposits the proceeds into the Home Security Fund for use in the Eviction Prevention Program. The previous version of the bill included a process managed by Commerce to exempt landlords from the tax if they did not raise rents. Those sections are no longer present in this version. This section no longer impacts administrative costs for the Department of Commerce. Commerce assumes that additional revenue will be used to allow additional funding to be awarded on existing Homelessness Prevention Program contracts.

Section 3: A new section establishes an effective date of 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.

Section 2: Based on an analysis from the Department of Revenue, the additional tax is estimated to increase funding for the Eviction Prevention Program by \$5.6 million in the 2023-25 biennium, \$70.4 million in the 2025-27 biennium, and \$120.8 million in the 2027-29 biennium. Commerce assumes the additional funding would be added to the existing Homelessness Prevention Program contracts and would not result in an increase in staff or other administrative costs.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
532-1	Washington Housing Trust Fund	State	0	5,600,000	5,600,000	70,400,000	120,800,000
<b>Total \$</b>			0	5,600,000	5,600,000	70,400,000	120,800,000

### III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services		5,600,000	5,600,000	70,400,000	120,800,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	5,600,000	5,600,000	70,400,000	120,800,000



**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

<b>Bill Number:</b> 6136 S SB	<b>Title:</b> Rental property B&O tax	<b>Agency:</b> 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		5,600,000	5,600,000	70,400,000	120,800,000
<b>Total \$</b>		5,600,000	5,600,000	70,400,000	120,800,000

### Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		4.2	2.1	7.1	9.4
GF-STATE-State 001-1		1,002,200	1,002,200	1,378,800	1,790,100
<b>Total \$</b>		1,002,200	1,002,200	1,378,800	1,790,100

### 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: 60-786-7405	Date: 01/25/2024
Agency Preparation: Beth Leech	Phone: 60-534-1513	Date: 02/02/2024
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 02/02/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/02/2024

Request # 6136-4-3

## 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 a revision to the expenditure impact, and replaces fiscal note number 6136-3.

Note: This fiscal note reflects language in SSB 6136, 2024 Legislative Session.

#### COMPARISON OF SUBSTITUTE BILL WITH ORIGINAL BILL:

The substitute bill removes the delayed start of the new business and occupation (B&O) tax on persons renting or leasing commercial real property. It also removes the B&O tax deduction for those leasing or renting residential real property and the process for the Department of Commerce to certify landlords choosing to comply with residential rent restrictions.

The substitute bill exempts the following from this new B&O tax:

- Municipal corporations
- Political subdivisions
- Taxable rent subject to leasehold excise tax.

The bill is now effective January 1, 2025.

#### CURRENT LAW:

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

#### PROPOSAL:

Any person renting or leasing 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.

This B&O tax does not apply to the following:

- A license to use real property for less than one month.
- Municipal corporations.
- Political subdivisions.
- Taxable rent subject to leasehold excise tax.

The Home Security Fund Account receives all taxes collected from renting or leasing real property to support 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 granting a right to use residential or commercial real property for a continuous period of one month or more.

#### EFFECTIVE DATE:

This bill takes effect on January 1, 2025.

Request # 6136-4-3

## 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:

- This B&O tax only applies to 25% of the income from lessors of residential real estate (as reported by the Economic Census), as most would be excluded due to the small amount of revenue received or because the rentals were short-term and already subject to 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.
- 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 this case 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.
  - 52% revenue collections in fiscal year 2028 and thereafter.
- This legislation takes effect January 1, 2025, and impacts five months of collections in fiscal year 2025.

### DATA SOURCES:

- 2017 Economic Census, Real Estate and Rental and Leasing: Geographic Area Series
- S&P Economic Outlook November 2023 forecast

### REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$5.6 million in the five months of impacted collections in fiscal year 2025 and by \$27.5 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 -	\$ 5,600
FY 2026 -	\$ 27,500
FY 2027 -	\$ 42,900
FY 2028 -	\$ 59,300
FY 2029 -	\$ 61,500

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 estimate 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 \$1,002,200 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 4.15 FTEs.

- Set up, program, and test computer system changes for two new B&O reporting line codes tied to workforce education and apportionment reconciliation audit cases, eight deductions, and dedicated funding account.
- 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.
- Amend two administrative rules.

Object Costs - \$565,800.

- 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 \$544,900 in fiscal year 2026. These costs include:

Labor Costs – Time and effort equate to 5.9 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.

Object Costs - \$3,200.

- 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 \$833,900 in fiscal year 2027. These costs include:

Labor Costs – Time and effort equate to 8.33 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 - \$34,000.

- 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.
- Attorney General Office.

#### ONGOING COSTS:

Ongoing costs for the 2027-29 biennium equal \$1,790,100 and include similar activities described in the second-year costs. Time and effort equate to 9.4 FTEs per year.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		4.2	2.1	7.1	9.4
A-Salaries and Wages		254,800	254,800	811,900	1,071,200
B-Employee Benefits		84,000	84,000	267,800	353,400
C-Professional Service Contracts		161,600	161,600		
E-Goods and Other Services		469,400	469,400	216,300	281,500
G-Travel		2,500	2,500	14,600	18,100
J-Capital Outlays		29,900	29,900	68,200	65,900
<b>Total \$</b>		\$1,002,200	\$1,002,200	\$1,378,800	\$1,790,100

**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	0.9	1.3
EXCISE TAX EX 2	58,104		0.2	0.1	0.7	1.1
EXCISE TAX EX 3	64,092		0.2	0.1	0.4	0.6
IT B A-JOURNEY	91,968		0.3	0.2		
IT SYS ADM-JOURNEY	96,552		0.3	0.2		
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		0.7	0.4	1.5	1.5
TAX INFO SPEC 1	46,596		1.5	0.8	1.9	1.7
TAX INFO SPEC 2	50,088		0.2	0.1	0.1	
TAX POLICY SP 2	78,120		0.1	0.1	0.1	
TAX POLICY SP 3	88,416		0.2	0.1	0.3	0.2
TAX POLICY SP 4	95,184		0.0	0.0	0.0	
WMS BAND 2	98,456		0.0	0.0	0.0	
WMS BAND 3	111,992		0.0	0.0	0.0	
<b>Total FTEs</b>			4.2	2.1	7.2	9.4

### 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.*

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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 S 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: 01/29/2024
Leg. Committee Contact: Alia Kennedy	Phone: 360-786-7405	Date: 01/25/2024
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/29/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/29/2024

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

This bill creates a new state B&O tax on the long-term rental or leasing of real estate. This B&O tax will not apply to: a) license to use real property for less than one month, b) municipal corporations, c) political subdivisions, d) taxable rent subject to leasehold excise 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 will not impact local government revenues.

#### **SOURCES**

Dept. of Revenue Fiscal Note



# Multiple Agency Ten-Year Analysis Summary

<b>Bill Number</b> 6136 S SB	<b>Title</b> 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 Commerce	0	0	0	0	0	0	0	0	0	0	0
Department of Revenue	0	5,600,000	27,500,000	42,900,000	59,300,000	61,500,000	63,700,000	65,700,000	67,900,000	70,200,000	464,300,000
<b>Total</b>	<b>0</b>	<b>5,600,000</b>	<b>27,500,000</b>	<b>42,900,000</b>	<b>59,300,000</b>	<b>61,500,000</b>	<b>63,700,000</b>	<b>65,700,000</b>	<b>67,900,000</b>	<b>70,200,000</b>	<b>464,300,000</b>



# Ten-Year Analysis

<b>Bill Number</b> 6136 S SB	<b>Title</b> Rental property B&O tax	<b>Agency</b> 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**

<b>Name of Tax or Fee</b>	<b>Acct Code</b>												
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Agency Preparation: Dan Jensen	Phone: 360-664-9429	Date: 1/30/2024 7:35:22 pm
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 1/30/2024 7:35:22 pm
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 2/1/2024 9:37:07 pm



# Ten-Year Analysis

<b>Bill Number</b> 6136 S SB	<b>Title</b> Rental property B&O tax	<b>Agency</b> 103 Department of Commerce
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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											

Agency Preparation: Hayley Tresenriter	Phone: 360-725-3042	Date: 1/29/2024 3:37:21 pm
Agency Approval: Hayley Tresenriter	Phone: 360-725-3042	Date: 1/29/2024 3:37:21 pm
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 2/1/2024 9:37:07 pm



# Ten-Year Analysis

<b>Bill Number</b> 6136 S SB	<b>Title</b> Rental property B&O tax	<b>Agency</b> 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		5,600,000	27,500,000	42,900,000	59,300,000	61,500,000	63,700,000	65,700,000	67,900,000	70,200,000	464,300,000
<b>Total</b>			5,600,000	27,500,000	42,900,000	59,300,000	61,500,000	63,700,000	65,700,000	67,900,000	70,200,000	464,300,000
<b>Biennial Totals</b>			5,600,000	70,400,000	120,800,000	129,400,000	138,100,000	464,300,000				

## Narrative Explanation (Required for Indeterminate Cash Receipts)

Note: This fiscal note reflects a revision to the expenditure impact, and replaces fiscal note number 6136-3.  
 Note: This fiscal note reflects language in SSB 6136, 2024 Legislative Session.

### COMPARISON OF SUBSTITUTE BILL WITH ORIGINAL BILL:

The substitute bill removes the delayed start of the new business and occupation (B&O) tax on persons renting or leasing commercial real property. It also removes the B&O tax deduction for those leasing or renting residential real property and the process for the Department of Commerce to certify landlords choosing to comply with residential rent restrictions.

The substitute bill exempts the following from this new B&O tax:

- Municipal corporations
- Political subdivisions
- Taxable rent subject to leasehold excise tax.

The bill is now effective January 1, 2025.

CURRENT LAW:



# Ten-Year Analysis

Bill Number	Title	Agency
6136 S 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)

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

### PROPOSAL:

Any person renting or leasing 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.

This B&O tax does not apply to the following:

- A license to use real property for less than one month.
- Municipal corporations.
- Political subdivisions.
- Taxable rent subject to leasehold excise tax.

The Home Security Fund Account receives all taxes collected from renting or leasing real property to support 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 granting a right to use residential or commercial real property for a continuous period of one month or more.

### EFFECTIVE DATE:

This bill takes effect on January 1, 2025.

### ASSUMPTIONS:

- This B&O tax only applies to 25% of the income from lessors of residential real estate (as reported by the Economic Census), as most would be excluded due to the small amount of revenue received or because the rentals were short-term and already subject to 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.
- 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



# Ten-Year Analysis

Bill Number	Title	Agency
6136 S 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)

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 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 this case 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.
- 52% revenue collections in fiscal year 2028 and thereafter.
- This legislation takes effect January 1, 2025, and impacts five months of collections in fiscal year 2025.

### DATA SOURCES:

- 2017 Economic Census, Real Estate and Rental and Leasing: Geographic Area Series
- S&P Economic Outlook November 2023 forecast

### REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$5.6 million in the five months of impacted collections in fiscal year 2025 and by \$27.5 million in fiscal year 2026, the full year of impacted collections.

### TOTAL REVENUE IMPACT:

#### State Government (cash basis, \$000):

FY 2024 -	\$ 0
FY 2025 -	\$ 5,600
FY 2026 -	\$ 27,500
FY 2027 -	\$ 42,900
FY 2028 -	\$ 59,300
FY 2029 -	\$ 61,500

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





# Ten-Year Analysis

<b>Bill Number</b> 6136 S SB	<b>Title</b> Rental property B&O tax	<b>Agency</b> 140 Department of Revenue
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Agency Preparation: Beth Leech	Phone: 360-534-1513	Date: 2/2/2024 11:48:59 am
Agency Approval: Valerie Torres	Phone: 360-534-1521	Date: 2/2/2024 11:48:59 am
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 2/1/2024 9:37:07 pm