

Individual State Agency Fiscal Note

Bill Number: S 3183	Bill Title: An ACT relating to modifying business and occupation tax surcharges, rates, and the advanced computing surcharge cap, clarifying the business and occupation tax deduction for certain investments, and creating a temporary business and occupation tax surcharge	Agency: 140 Department of Revenue
Part I: Estimates [] No Fiscal Impact		

Estimated Cash Receipts to:

Fund	Fiscal Year 2026	Fiscal Year 2027	2025-2027 Total	2027-29 Biennium	2029-31 Biennium
GF-State Business and Occupation Tax	544,400,000	1,417,500,000	1,961,900,000	3,259,100,000	3,107,400,000
Workforce Educ Invest Acct Business and Occupation Tax	152,500,000	327,600,000	480,100,000	683,900,000	723,300,000
Total	696,900,000	1,745,100,000	2,442,000,000	3,943,000,000	3,830,700,000

Estimated Expenditures from:

Fund	Fiscal Year 2026	Fiscal Year 2027	2025-2027 Total	2027-29 Biennium	2029-31 Biennium
FTE Staff Years	7.01	13.4	10.2	8.55	4
GF-State 001	1,459,100	1,476,900	2,936,000	1,796,700	852,500
Total	1,459,100	1,476,900	2,936,000	1,796,700	852,500

The revenue and expenditures 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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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Note: This fiscal note reflects language in the proposed substitute to SB 5815 (S-3183.1), 2025 Legislative Session.

CURRENT LAW:

Washington's primary business tax is the business and occupation (B&O) tax. Businesses operating in Washington pay B&O tax on the business's gross income without deductions for the cost of doing business. A business's activities determine the B&O tax classification(s) and tax rate(s) for which the business pays B&O taxes.

The major B&O tax rates include:

0.471% for retailing.

0.484% for manufacturing, wholesaling, and extracting.

1.5% for service and other activities when the business's taxable service and other activities income is less than \$1 million in the prior year.

1.75% for service and other activities if the business's taxable service and other activities income is \$1 million or more in the prior year.

The General Fund receives the majority of B&O taxes collected. One exception is tax collected from the 1.75% service and other activities B&O tax rate; the Workforce Education Investment Account (WEIA) receives 14.3% of those tax collections.

A B&O tax deduction is available for amounts derived from investments that are incidental to the main purpose of the business.

This deduction does not apply to:

- Amounts received from loans, the extension of credit, revolving credit arrangements, installment sales, and similar interest income.

- Banking, lending, or security businesses.

Certain taxpayers pay B&O surcharges in addition to B&O tax, such as the specified financial institution surcharge and the workforce education investment surcharge. Surcharges are in addition to B&O tax.

The additional tax on specified financial institutions is a 1.2% B&O surcharge on their service and other activities income.

A specified financial institution is a member of a consolidated financial institution group that reported an annual net income of at least \$1 billion on its consolidated financial statement for the previous year, not including net income attributable to noncontrolling interests.

The workforce education investment advanced computing surcharge (ACS) is a 1.22% B&O surcharge on the service & other activities B&O income of select advanced computing businesses subject.

The amount of ACS paid by all members of an affiliated group is capped at \$9 million per calendar year.

The General Fund receives the tax collections from the additional tax on specified financial institutions. The Workforce Education Investment Account receives the tax collections from the ACS.

PROPOSAL:

PART I - BUSINESS AND OCCUPATION RATE CHANGES

Part I of this bill increases the B&O tax rates for:

- All B&O classifications that have a tax rate of 0.471% or 0.484% to 0.5%.
- Gambling contests of chance to 1.8%.
- Service and other activities (\$1 million or greater) to 2.1%.

PART II - SURCHARGE ON HIGH GROSSING BUSINESSES AND FINANCIAL INSTITUTIONS

Part II of this bill creates an additional 0.5% B&O surcharge on taxpayers with taxable income over \$250 million and excludes:

- Specified financial institutions.
- Manufacturing and the sale of manufactured goods by a manufacturer.
- Farmers or apiarists
- Sales of food, food ingredients, food stamp purchases, and prescription drugs.

The exclusions apply to the measure of taxable income and the measure of tax.

The B&O surcharge expires on December 31, 2030.

Part II also increases the B&O surcharge on specified financial institutions to 1.5%.

PART III - ADVANCED COMPUTING SURCHARGE

Part III of this bill increases the B&O surcharge on select advanced computing businesses to 5% and the annual cap to \$50 million.

PART IV - MODIFYING THE BUSINESS AND OCCUPATION TAX DEDUCTION UNDER RCW 82.04.4281

Part IV of this bill defines what it means for investments to be incidental to the main purpose of a person's business. Investments are incidental to the main purposes of a person's business if the income from investments is less than 5% of the person's worldwide gross income from all sources annually.

A non-profit organization or collective investment vehicle (CIV) can deduct all investment income even if their income is 5% or more.

However, the deduction for a CIV's investment income does not include the following:

- Amounts received by a CIV investor.
- Amounts received as compensation for services rendered to CIVs or their investors.
- Non-investment income received by a CIV.
- Amounts derived from factoring.

A CIV is a person who meets the following criteria:

- Has total gross income derived from its investments of 90% or more of total worldwide gross income.
- Holds title to passive investment assets for the benefit of investors and has another person who serves as the CIV's manager or advisor making the investment decisions.
- Accepts unrelated persons as investors.

A CIV may be a mutual fund, collective fund, or similar investment vehicle.

Investments include, but are not limited to:

- Securities.

- Trading account assets.
- Federal funds.
- Options.
- Futures and forward contracts.
- Notional principal contracts.
- Equities,
- Foreign currency transactions.
- Fixed income instruments.
- Derivative instruments.
- Commodities.

The department must adopt rules illustrating the taxability of personal investments and investment income received through CIVs.

PART V - MISCELLANEOUS PROVISIONS

The new tax preference performance provisions do not apply to this bill (see section 501).

EFFECTIVE DATE:

PART I - BUSINESS AND OCCUPATION RATE CHANGES

The increase for the service and other activities (\$1 million or greater) rate to 2.1% takes effect October 1, 2025 (section 109).

The increase to all B&O classifications that have a tax rate of 0.471% or 0.484% to 0.5% and the increase for gambling contest of change to 1.8% take effect January 1, 2027 (sections 101 through 108 and sections 110 through 112). These rates continue after January 1, 2034 (section 113).

PART II - SURCHARGE ON HIGH GROSSING BUSINESSES AND FINANCIAL INSTITUTIONS

The additional 0.5% B&O surcharge on certain taxpayers with taxable income over \$250 million takes effect on January 1, 2026 (section 201).

The increase to the B&O surcharge on specified financial institutions to 1.5% takes effect October 1, 2025 (section 202).

PART III - ADVANCED COMPUTING SURCHARGE

PART IV - MODIFYING THE BUSINESS AND OCCUPATION TAX DEDUCTION UNDER RCW 82.04.4281

Parts III and IV take effect on January 1, 2026 (sections 301, 401, and 402).

II. B - Revenue Impact

ASSUMPTIONS:

- The revenue impact from Part IV's 5% investment income requirement is indeterminate but positive. The data needed to calculate the impact is unavailable.
- The revenue impact from Part IV's non-profit organization exemption is indeterminate but negative. The data needed to calculate the impact is unavailable.
- There is no revenue impact from Part IV's CIV deduction; this is a clarification of current law.
- Part IV's CIV requirement that a CIV accept unrelated persons as investors means the CIV accepts investors outside its affiliates, subsidiary entities, parent entity, or subsidiaries of the CIV's common parent entity.
- The standard B&O tax rate increases will be implemented on January 1, 2027, impacting five months of collections in fiscal year 2027.

- The service and other activities and the additional tax on financial institution rate increases take effect October 1, 2025, and impact eight months of collections in fiscal year 2026.
- The B&O surcharge is effective January 1, 2026, with the first monthly payment reported on the January 2026 return, impacting five months of collections in fiscal year 2026.
- The ACS changes take effect January 1, 2026, and impact one quarter of ACS collections in fiscal year 2026.
- The total amount of all B&O taxable activity, less taxable manufacturing, manufacturing-related selling activities, and sales of food and prescription drugs, is used to estimate taxpayers subject to the B&O surcharge.
- The taxable amounts subject to the surcharge do not include manufacturing-related activity. Manufacturing-related activities are the amounts reported on excise tax returns with manufacturing line codes and the related manufactured product selling activity reported on the Multiple Activities Tax Credit Schedule C.
- The taxable amounts subject to the surcharge do not include food, food ingredients, eligible foods purchased with food benefits under SNAP, or prescription drug sales. Deductions taken on the excise tax returns for exempt food and prescription drugs are used to estimate the amount of such sales.
- Some manufacturers "net" reported amounts instead of taking the multiple tax activities credit. These businesses were removed from the population.
- Taxpayers who owe the B&O surcharge must file excise tax returns monthly.
- The general fund receives the taxes from the B&O surcharge.
- The WEIA allocation for service and other activities (over \$1 million) remains 14.3%.
- Taxpayers file the ACS return quarterly on one return for all entities in an affiliated group.
- Because the amount of ACS tax paid is capped, 41% of the annual tax paid is collected in quarter 1 of the calendar year.
- The annual growth for B&O tax classifications mirrors the taxable B&O growth reflected in the Economic and Revenue Forecast November 2024 forecast.
- The annual growth for aerospace B&O tax classifications reflects the growth in aerospace products and parts production in the S&P Global Market Intelligence November 2024 forecast.
- Currently, tribes with compacts receive a share of state sales and use taxes and certain business and occupation taxes (RCW 43.06.523). Under this legislation, the amount of revenue shared with tribes may increase.

DATA SOURCES:

- Department of Revenue, Excise tax data
- Economic and Revenue Forecast Council, November 2024 taxable B&O forecast
- S&P Global Market Intelligence, November 2024 forecast for Aerospace Products and Parts
- Federal Financial Institutions Examination Council, Call reports
- Federal Deposit Insurance Corporation data

REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$696.9 million in the eight months of impacted collections in fiscal year 2026, and by \$1.745 billion in fiscal year 2027, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2026 -	\$ 696,900
FY 2027 -	\$ 1,745,100
FY 2028 -	\$ 1,926,700
FY 2029 -	\$ 2,016,300
FY 2030 -	\$ 2,109,500
FY 2031 -	\$ 1,721,200

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

II. C - Expenditure Impact

ASSUMPTIONS:

This proposal affects 191,000 taxpayers.

FIRST YEAR COSTS:

The department will incur total costs of \$1,459,100 in fiscal year 2026. These costs include:

Labor Costs – Time and effort equate to 7.01 FTEs.

- Amend two administrative rules and adopt one new administrative rule.
- Create a special notice and update relevant information on the department's website.
- Gather requirements, attend implementation meetings, and document system changes.
- Set up, program, and test computer system 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.
 - Accounting activities for the new tax rates; compiling receivable information for statewide financial statements and stakeholders.
 - Investigate, assess, and collect additional taxes from affected taxpayers.
 - Respond to data requests and questions, compile statistics, and manage data.
 - Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
 - Examine accounts and make corrections as necessary.
 - Answer phone calls at the telephone information center on tax questions and tax return preparation from businesses, individuals, and accountants.

Object Costs - \$569,100.

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

SECOND YEAR COSTS:

The department will incur total costs of \$1,476,900 in fiscal year 2027. These costs include:

Labor Costs – Time and effort equate to 13.4 FTEs.

- Amend one administrative rule.
- Create a special notice and update relevant information on the department's website.
- Continued computer system testing, monitoring, and maintenance.
- 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.
 - Develop, improve, and maintain websites and educate and inform customers.
 - Investigate, assess, and collect additional taxes from affected taxpayers.
 - Respond to data requests and questions, compile statistics, and manage data.
 - Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
 - Examine accounts and make corrections as necessary.
 - Answer phone calls at the telephone information center on tax questions and tax return preparation from businesses, individuals, and accountants.

Object Costs - \$5,000.

- Print and mail a special notice to all affected taxpayers.
- Print and mail additional taxpayer correspondence.

THIRD YEAR COSTS:

The department will incur total costs of \$1,099,000 in fiscal year 2028. These costs include:

Labor Costs – Time and effort equate to 10.5 FTEs.

- 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.
- Investigate, assess, and collect additional taxes from affected taxpayers.
- Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Answer phone calls at the telephone information center on tax questions and tax return preparation from businesses, individuals, and accountants.
- Continued computer system testing, monitoring, and maintenance.

Object Costs - \$2,600.

- Print and mail additional taxpayer correspondence.

FOURTH YEAR COSTS:

The department will incur total costs of \$697,700 in fiscal year 2029. These costs include:

Labor Costs – Time and effort equate to 6.6 FTEs.

- 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.
- Investigate, assess, and collect additional taxes from affected taxpayers.
- Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.

Object Costs - \$300.

- Print and mail additional taxpayer correspondence.

ONGOING COSTS:

Ongoing costs for the 2029-31 biennium equal \$852,500 and include similar activities described in the second-year costs.

Time and effort equate to 4.0 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object or Purpose:

	Fiscal Year 2026	Fiscal Year 2027	2025-2027 Total	2027-29 Biennium	2029-31 Biennium
Salaries and Wages	557,500	910,100	1,467,600	1,121,100	534,000
Benefits	200,800	327,500	528,300	403,600	192,300
Personal Service Contracts	567,100		567,100		
Supplies & Material	105,300	196,000	301,300	238,600	110,900
Travel	400	400	800	800	
Office Equipment	28,000	42,900	70,900	32,600	15,300

Total	1,459,100	1,476,900	2,936,000	1,796,700	852,500
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III. B - FTE Detail:

Job Classification	Salary	FY 2026 FTEs	FY 2027 FTEs	2025 - 2027 Total	2027 - 2029	2029 - 2031
ADM ASST 3	47,988		.1	.05	.05	
EMS BAND 4	135,635	.01	.01	.01		
EMS BAND 5	158,451	.01		.01		
EXCISE TAX EX 2	59,844	1.5	5.6	3.55	4.4	1.95
EXCISE TAX EX 3	66,012	1.2	2.9	2.05	2.35	1.1
EXCISE TAX EX 4	72,924		.8	.4	.65	.6
IT B A-JOURNEY	94,728	1.4	.7	1.05	.05	
IT B A-SR/SPEC	104,412	.2		.1		
IT QA-SR/SPEC	104,412	.1		.05		
IT SYS ADM-JOURNEY	99,444	.9	.4	.65		
MGMT ANALYST4	78,468	.02	.01	.02		
REVENUE AGENT 3	67,716	.2	.2	.2	.2	
REVENUE AGENT 4	71,148	.2	.2	.2	.2	
TAX INFO SPEC 1	47,988	.2	.9	.55	.05	
TAX POLICY SP 2	80,460	.31	.31	.31		
TAX POLICY SP 3	91,068	.61	.84	.73	.3	.15
TAX POLICY SP 4	98,040	.02	.1	.06	.1	
WEB DESIGNER & UI/UX SPECIALIST 3	82,512		.1	.05		
WMS BAND 2	101,410	.12	.22	.17	.2	.2
WMS BAND 3	115,352	.01	.01	.01		
Total		7.01	13.4	10.22	8.55	4

III. C - Expenditures by Program (optional):

	Fiscal Year 2026	Fiscal Year 2027	2025-2027 Total	2027-29 Biennium	2029-31 Biennium
Total					

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

Should this legislation become law, the department will use the expedited rulemaking process to amend the following rules:

- WAC 458-20-290, titled: "Workforce education investment surcharge - Select advanced computing program."
- WAC 458-20-146, titled: "National and state banks, mutual savings banks, savings and loan associations and other financial institutions."
- WAC 458-20-135, titled: "Extracting natural products."

Should this legislation become law, the department will use the standard rulemaking process to adopt one new rule under chapter 458-20 WAC.

This rulemaking would affect taxpayers who report income under the B&O tax, use the investment income deduction, taxpayers with Washington taxable income over \$250 million per calendar year, and those subject to the financial institutions surcharge.

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Revenue Impact Detail

FUND	SOURCE	CODE	First Biennium		Second Biennium		Third Biennium	
			1st YEAR	2nd YEAR	3rd YEAR	4th YEAR	5th YEAR	6th YEAR
GF-State	Business and Occupation Tax	0105	544,400,000	1,417,500,000	1,589,500,000	1,669,600,000	1,753,000,000	1,354,400,000
Total			544,400,000	1,417,500,000	1,589,500,000	1,669,600,000	1,753,000,000	1,354,400,000
OTHER								
Workforce Educ Invest Acct	Business and Occupation Tax	0105	152,500,000	327,600,000	337,200,000	346,700,000	356,500,000	366,800,000
Total			152,500,000	327,600,000	337,200,000	346,700,000	356,500,000	366,800,000
Net			696,900,000	1,745,100,000	1,926,700,000	2,016,300,000	2,109,500,000	1,721,200,000

Revenue Impact - by Biennium

FUND	SOURCE	CODE	1st Biennium	2nd Biennium	3rd Biennium
GF-State	Business and Occupation Tax	0105	1,961,900,000	3,259,100,000	3,107,400,000
Total			1,961,900,000	3,259,100,000	3,107,400,000
OTHER					
Workforce Educ Invest Acct	Business and Occupation Tax	0105	480,100,000	683,900,000	723,300,000
Total			480,100,000	683,900,000	723,300,000
Net			2,442,000,000	3,943,000,000	3,830,700,000