# Multiple Agency Fiscal Note Summary

| **Bill Number:** 5029 SB | **Title:** Investment project tax defs. |
|---|---|

## Estimated Cash Receipts

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---|---|---|---|---|---|---|---|---|---|
| | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total |
| Department of Revenue | (13,608,000) | (13,608,000) | (13,630,000) | (17,971,000) | (17,971,000) | (18,000,000) | (20,667,000) | (20,667,000) | (20,700,000) |
| **Total $** | **(13,608,000)** | **(13,608,000)** | **(13,630,000)** | **(17,971,000)** | **(17,971,000)** | **(18,000,000)** | **(20,667,000)** | **(20,667,000)** | **(20,700,000)** |

| Agency Name | 2021-23 | | 2023-25 | | 2025-27 | |
|---|---|---|---|---|---|---|
| | GF- State | Total | GF- State | Total | GF- State | Total |
| Local Gov. Courts | | | | | | |
| Loc School dist-SPI | | | | | | |
| Local Gov. Other | | (5,930,100) | | (7,821,000) | | (8,989,200) |
| Local Gov. Total | | (5,930,100) | | (7,821,000) | | (8,989,200) |

## Estimated Operating Expenditures

| Agency Name | 2021-23 | | | | 2023-25 | | | | 2025-27 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total |
| Department of Revenue | .3 | 138,900 | 138,900 | 138,900 | .2 | 38,800 | 38,800 | 38,800 | .2 | 38,800 | 38,800 | 38,800 |
| **Total $** | **0.3** | **138,900** | **138,900** | **138,900** | **0.2** | **38,800** | **38,800** | **38,800** | **0.2** | **38,800** | **38,800** | **38,800** |

## Estimated Capital Budget Expenditures

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---|---|---|---|---|---|---|---|---|---|
| | 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** |

## Estimated Capital Budget Breakout

NONE

| **Prepared by:** Ramona Nabors, OFM | **Phone:** (360) 902-0547 | **Date Published:** Final 1/25/2021 |
|---|---|---|

FNPID: 61285

FNS029 Multi Agency rollup

# Department of Revenue Fiscal Note

| Bill Number: 5029 SB | Title: Investment project tax defs. | Agency: 140-Department of Revenue |
|---|---|---|

## Part I: Estimates

☐ **No Fiscal Impact**

**Estimated Cash Receipts to:**

| Account | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| GF-STATE-State 01 - Taxes 01 - Retail Sales Tax | (5,631,000) | (7,977,000) | (13,608,000) | (17,971,000) | (20,667,000) |
| Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax | (9,000) | (13,000) | (22,000) | (29,000) | (33,000) |
| **Total $** | (5,640,000) | (7,990,000) | (13,630,000) | (18,000,000) | (20,700,000) |

**Estimated Expenditures from:**

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| FTE Staff Years | 0.5 | 0.2 | 0.3 | 0.2 | 0.2 |
| **Account** | | | | | |
| GF-STATE-State 001-1 | 119,500 | 19,400 | 138,900 | 38,800 | 38,800 |
| **Total $** | 119,500 | 19,400 | 138,900 | 38,800 | 38,800 |

**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: | Clinton McCarthy | Phone: 360-786-7319 | Date: 01/11/2021 |
| Agency Preparation: | Marianne McIntosh | Phone: 360-534-1505 | Date: 01/13/2021 |
| Agency Approval: | Don Gutmann | Phone: 360-534-1510 | Date: 01/13/2021 |
| OFM Review: | Ramona Nabors | Phone: (360) 902-0547 | Date: 01/25/2021 |

## Part II: Narrative Explanation

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

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Note: This fiscal note reflects language in SB 5029, 2021 Legislative Session.

CURRENT LAW
Chapter 82.60 provides a sales and use tax deferral for qualified investment projects located in high unemployment counties or community empowerment zones. To qualify a firm must be involved in manufacturing, activities of research and development or commercial testing laboratories, or conditioning of vegetable seeds. The investment project includes qualified buildings or machinery and equipment, including labor and services rendered in the planning, installation and construction of the project.

High unemployment counties means a county with an unemployment rate, as determined by the Department of Employment Security, of at least 20% above the state average for the three calendar years immediately preceding the year in which the list of qualifying counties is established or updated. The qualifying county list is effective for a 24 month period and must be updated by July 1st, two years following the last update.

For investment projects located in a community empowerment zone, applicants must hire at least one qualified employment position for each $750,000 of investment. The position must be filled by persons who, at the time of hire, are residents of the community empowerment zone or the county in which the zone is located. The qualified position must be filled by the end of the calendar year in which the project is operationally complete. If the position is not filled by the end of the second calendar year following the year in with the project is operationally complete, then all deferred taxes are immediately due.

The deferral becomes a waiver of the tax if the business maintains qualified business activities for eight years. If the investment project is no longer utilized for qualifying business activities prior to fulfilling the eight year requirement, the deferred taxes become immediately due based on the following schedule:

| Year qualifying activities cease | Percent tax due |
|---|---|
| 1 | 100% |
| 2 | 100% |
| 3 | 100% |
| 4 | 100% |
| 5 | 90% |
| 6 | 75% |
| 7 | 55% |
| 8 | 30% |

Applications for the deferral as well as the Department of Revenue's (Department) authority to issue deferral certificates expired July 1, 2020. Deferral applications approved prior to July 1, 2020 are valid as long as the requirements stated in Chapter 82.60 are met.

Persons receiving the benefit of the deferral are required to file an annual tax performance report beginning the year following the year in which the project is operationally complete and continue filing for next seven years.

PROPOSED LAW
The bill adds new sections to Chapter 82.60 to allow the Department to accept new deferral applications and issue deferral certificates. Both sections expire July 1, 2031.

The bill adds a new section to 82.60 to include the requirement that recipients of a deferral certificate must begin meaningful

construction on an eligible investment project within two years of receiving a deferral certificate, unless construction was delayed due to circumstances beyond the recipient's control. Lack of funding is not considered beyond the recipient's control. If the recipient does not begin meaningful construction within two years, the issued deferral certificate is invalid and taxes deferred are due immediately. Meaningful construction means an active construction site, where excavation of a building site, laying of a building foundation, or other tangible signs of construction are taking place and that clearly show a progression in the construction process at the location designated by the taxpayer in the application for deferral.

The bill amends the repayment schedule if the investment project is not being utilized for qualifying purposes for the seven years immediately following the project certified as operationally complete. In addition, if the investment project is not operationally complete within five calendar years from the issuance of the tax deferral certificate, then the deferred taxes are due immediately. The payment schedule is amended to the following:

| Year in which use occurs | Percent of deferred tax due |
|---|---|
| 1 | 100% |
| 2 | 87.5% |
| 3 | 75% |
| 4 | 62.5% |
| 5 | 50% |
| 6 | 37.5% |
| 7 | 25% |
| 8 | 12.5% |

RCW 82.60.060 (repayment schedule) and RCW 82.60.065 (Tax deferral on construction labor and investment projects - repayment forgiven) are repealed. Deferrals qualifying prior to July 1, 2020 continue to follow the repayment schedule under RCW 82.60.060 if the project is not being utilized for qualifying activity for the seven years after certified operationally complete.

EFFECTIVE DATE
This bill takes effect on July 1, 2021.

**II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

ASSUMPTIONS
- Nine month impact for Fiscal Year 2022, applications accepted beginning July 1, 2021 and the Department has 60 days to review.
- This estimate uses a national level investment in fixed assets data that has been adjusted to reflect Washington State investment levels.
- Large investments in new structures, machinery, and equipment expenditures that would qualify for the deferral/exemption are difficult to predict; therefore, this estimate assumes no large new structures will be built in Washington. Large projects may significantly change the fiscal impact.
- The statewide average local tax rate is 2.88533 percent.
- Annual growth is equal to the growth in non-residential investment in R&D and private investment in industrial facilities for the United - States as reflected in the November 2020 IHS Markit forecast.
- 25 of the 39 counties qualify for the high unemployment deferral based on Employment Security Department's 2019 "Distressed areas list" as of May 12, 2020.
- The qualifying counties are as follows:

| | | | | |
|---|---|---|---|---|
| Adams | Douglas | Grays Harbor | Mason | Skamania |
| Benton | Ferry | Jefferson | Okanogan | Spokane |
| Clallam | Franklin | Kittitas | Pacific | Stevens |

Columbia Garfield Klickitat Pend Oreille Wahkiakum
Cowlitz Grant Lewis Skagit Yakima

- It is assumed the qualifying counties remain high unemployment counties until the deferral expires.
- The Department may not accept deferral applications after June 30, 2031.

DATA SOURCES
- Employment Security Department, 2019 list of distressed areas
- Department of Revenue, Excise tax returns and high unemployment county deferral data
- IHS Market forecast for non-residential investment in R&D and private investment in industrial facilities, November 2020
- Bureau of Labor Statistics, employment data
- Bureau of Economic Analysis, fixed asset data

REVENUE ESTIMATES
This bill decreases state revenues by an estimated $5.6 million in the 9 months of impacted collections in Fiscal Year 2022, and by $8 million in Fiscal Year 2023, the first full year of impacted collections. This bill also decreases local revenues by an estimated $2.5 million in the 9 months of impacted collections in Fiscal Year 2022, and by $3.5 million in Fiscal Year 2023, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):
FY 2022 - ($ 5,640)
FY 2023 - ($ 7,990)
FY 2024 - ($ 8,640)
FY 2025 - ($ 9,360)
FY 2026 - ($ 10,050)
FY 2027 - ($ 10,650)

Local Government, if applicable (cash basis, $000):
FY 2022 - ($ 2,480)
FY 2023 - ($ 3,510)
FY 2024 - ($ 3,790)
FY 2025 - ($ 4,110)
FY 2026 - ($ 4,410)
FY 2027 - ($ 4,670)

**II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

ASSUMPTIONS:
This bill affects 30 taxpayers.

FIRST YEAR COSTS:
The Department will incur total costs of $119,500 in Fiscal Year 2022. These costs include:

Labor Costs – Time and effort equates to 0.47 FTEs.
- Create a Special Notice and identify publications that need to be created or updated.
- Respond to email inquiries and more difficult call backs from the telephone information center.
- Amend one administrative rule.

- Complete non-qualifying audits annually.
- Perform and complete computer system testing.

Object Costs - $70,400.
- Contract computer system programming.

SECOND YEAR COSTS:
The Department will incur total costs of $19,400 in Fiscal Year 2023. These costs include:

Labor Costs – Time and effort equates to 0.2 FTEs.
- Complete non-qualifying audits annually.

ONGOING COSTS:
Ongoing costs for the 2023-2025 Biennium equal $38,800 and include similar activities described in the second year costs. Time and effort equates to 0.2 FTEs.

# Part III: Expenditure Detail

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

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| FTE Staff Years | 0.5 | 0.2 | 0.3 | 0.2 | 0.2 |
| A-Salaries and Wages | 29,200 | 11,900 | 41,100 | 23,800 | 23,800 |
| B-Employee Benefits | 10,500 | 4,300 | 14,800 | 8,600 | 8,600 |
| C-Professional Service Contracts | 70,400 | | 70,400 | | |
| E-Goods and Other Services | 5,400 | 2,300 | 7,700 | 4,600 | 4,600 |
| G-Travel | 700 | 700 | 1,400 | 1,400 | 1,400 |
| J-Capital Outlays | 3,300 | 200 | 3,500 | 400 | 400 |
| **Total $** | $119,500 | $19,400 | $138,900 | $38,800 | $38,800 |

**III. B - 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 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|---|
| EMS BAND 4 | 119,061 | 0.0 | | 0.0 | | |
| IT QA-JOURNEY | 85,644 | 0.1 | | 0.1 | | |
| MGMT ANALYST4 | 70,956 | 0.0 | | 0.0 | | |
| REVENUE AUDITOR 2 | 59,688 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 |
| TAX INFO SPEC 4 | 64,332 | 0.1 | | 0.1 | | |
| TAX POLICY SP 2 | 72,756 | 0.0 | | 0.0 | | |
| TAX POLICY SP 3 | 82,344 | 0.0 | | 0.0 | | |
| TAX POLICY SP 4 | 88,644 | 0.0 | | 0.0 | | |
| WMS BAND 3 | 101,257 | 0.0 | | 0.0 | | |
| **Total FTEs** | | 0.5 | 0.2 | 0.4 | 0.2 | 0.2 |

**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**

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and dexcribe potential financing methods*

NONE

None.

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Should this legislation become law, the Department will use the expedited process to amend WAC 458-20-24001, titled: "Sales and use tax deferral-Manufacturing and research/development activities in high unemployment counties-Applications filed after June 30, 2010".

Persons affected by this rule-making would include taxpayers who may qualify for the deferral.

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

| **Bill Number:** 5029 SB | **Title:** Investment project tax defs. |
|---|---|

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

### Legislation Impacts:

- [X] Cities: decrease in sales tax revenue
- [X] Counties: decrease in sales tax revenue
- [X] Special Districts: decrease in sales tax revenue
- [ ] 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:**

| Jurisdiction | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| City | (737,166) | (1,043,328) | (1,780,494) | (2,348,232) | (2,698,980) |
| County | (864,514) | (1,223,566) | (2,088,080) | (2,753,894) | (3,165,236) |
| Special District | (853,520) | (1,208,006) | (2,061,526) | (2,718,874) | (3,124,984) |
| **TOTAL $** | (2,455,200) | (3,474,900) | (5,930,100) | (7,821,000) | (8,989,200) |
| **GRAND TOTAL $** | | | | | (22,740,300) |

**Estimated expenditure impacts to:**

**None**

## Part III: Preparation and Approval

| | | |
|---|---|---|
| Fiscal Note Analyst: Tammi Vellinga | Phone: 360-725-5038 | Date: 01/15/2021 |
| Leg. Committee Contact: Clinton McCarthy | Phone: 360-786-7319 | Date: 01/11/2021 |
| Agency Approval: Allan Johnson | Phone: 360-725-5033 | Date: 01/15/2021 |
| OFM Review: Ramona Nabors | Phone: (360) 902-0547 | Date: 01/25/2021 |

# Part IV: Analysis

## A. SUMMARY OF BILL

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

BACKGROUND
Chapter 82.60 provides a sales and use tax deferral for qualified investment projects located in high unemployment counties or community empowerment zones. Applications for the deferral as well as the Department of Revenue's authority to issue deferral certificates expired July 1, 2020. Deferral applications approved prior to July 1, 2020 are valid as long as the requirements stated in Chapter 82.60 are met.

BILL SUMMARY
The bill adds new sections to Chapter 82.60 to allow the Department to accept new deferral applications and issue deferral certificates, both expire July 1, 2031.

The bill adds a new section to 82.60 to include the requirement that recipients of a deferral certificate must begin meaningful construction on an eligible investment project within two years of receiving a deferral certificate, unless construction was delayed due to circumstances beyond the recipient's control. Lack of funding is not considered beyond the recipient's control. If the recipient does not begin meaningful construction within two years, the issued deferral certificate is invalid and taxes deferred are due immediately.

This bill also amends the repayment schedule if the investment project is not being utilized for qualifying purposes for the seven years immediately following the project certified as operationally complete. In addition, if the investment project is not operationally complete within five calendar years from the issuance of the tax deferral certificate, then the deferred taxes are due immediately. The payment schedule is amended to the following:

| Year in which use occurs | Percent of deferred tax due |
|---|---|
| 1 | 100% |
| 2 | 87.5% |
| 3 | 75% |
| 4 | 62.5% |
| 5 | 50% |
| 6 | 37.5% |
| 7 | 25% |
| 8 | 12.5% |

This bill would repeal RCW 82.60.060 and RCW 82.60.065.

This bill would take effect July 1, 2021.

## B. SUMMARY OF EXPENDITURE IMPACTS

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

This bill would not impact local government expenditures.

## C. SUMMARY OF REVENUE IMPACTS

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

According to the Department of Revenue, this bill would decrease local government revenues by an estimated $2,480,000 in the 9 months of impacted collections in Fiscal Year 2022, and by $3.5 million in Fiscal Year 2023, the first full year of impacted collections.

ASSUMPTIONS
- Nine month impact for Fiscal Year 2022, applications accepted beginning July 1, 2021 and the Department has 60 days to review.
- This estimate uses a national level investment in fixed assets data that has been adjusted to reflect Washington State investment levels.
- Large investments in new structures, machinery, and equipment expenditures that would qualify for the deferral/exemption are difficult to predict; therefore, this estimate assumes no large new structures will be built in Washington. Large projects may significantly change the fiscal impact.

- The statewide average local tax rate is 2.88533 percent.
- Annual growth is equal to the growth in non-residential investment in R&D and private investment in industrial facilities for the United States as reflected in the November 2020 IHS Markit forecast.
- 25 of the 39 counties qualify for the high unemployment deferral based on Employment Security Department's 2019 "Distressed areas list" as of May 12, 2020.
- The qualifying counties are as follows:

| | | | | |
|---|---|---|---|---|
| Adams | Douglas | Grays Harbor | Mason | Skamania |
| Benton | Ferry | Jefferson | Okanogan | Spokane |
| Clallam | Franklin | Kittitas | Pacific | Stevens |
| Columbia | Garfield | Klickitat | Pend Oreille | Wahkiakum |
| Cowlitz | Grant | Lewis | Skagit | Yakima |

- It is assumed the qualifying counties remain high unemployment counties until the deferral expires.
- The Department of Revenue may not accept deferral applications after June 30, 2031.

DATA SOURCES
- Employment Security Department, 2019 list of distressed areas
- Department of Revenue, Excise tax returns and high unemployment county deferral data
- IHS Market forecast for non-residential investment in R&D and private investment in industrial facilities, November 2020
- Bureau of Labor Statistics, employment data
- Bureau of Economic Analysis, fixed asset data

LOCAL GOVERNMENT REVENUE IMPACT:

Counties:

| | |
|---|---|
| FY 2022 | -864,513 |
| FY 2023 | -1,223,565 |
| FY 2024 | -1,321,172 |
| FY 2025 | -1,432,722 |
| FY 2026 | -1,537,300 |
| FY 2027 | -1,627,935 |

Cities:

| | |
|---|---|
| FY 2022 | -737,166 |
| FY 2023 | -1,043,328 |
| FY 2024 | -1,126,556 |
| FY 2025 | -1,221,674 |
| FY 2026 | -1,310,848 |
| FY 2027 | -1,388,131 |

Special Districts:

| | |
|---|---|
| FY 2022 | -853,520 |
| FY 2023 | -1,208,006 |
| FY 2024 | -1,304,371 |
| FY 2025 | -1,414,502 |
| FY 2026 | -1,517,751 |
| FY 2027 | -1,607,233 |

METHODOLOGY:
The distributions in this note for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2019. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. This results in a distribution of 35.21 percent to counties, 30.02 percent to cities, and 34.76 percent to special districts. The one percent DOR administrative fee has also been deducted.

SOURCES:
Department of Revenue Fiscal Note, SB 5029, 2021
Department of Revenue Local Tax Distributions (2019)
Local Government Fiscal Note program, Local Sales Tax model 2021
Local Government Fiscal Note program, Sales and Use Tax Distribution model 2021