Multiple Agency Fiscal Note Summary

Bill Number: 5091 SB	**Title:** Hydrogen fuel cells

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	(100,000)	(100,000)	(100,000)	(600,000)	(600,000)	(600,000)	(600,000)	(600,000)	(600,000)
Total $	**(100,000)**	**(100,000)**	**(100,000)**	**(600,000)**	**(600,000)**	**(600,000)**	**(600,000)**	**(600,000)**	**(600,000)**

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Joint Legislative Audit and Review Committee	.1	17,600	17,600	17,600	.0	0	0	0	.0	0	0	0
Department of Revenue	.8	341,600	341,600	341,600	.2	45,200	45,200	45,200	.2	45,200	45,200	45,200
Total $	**0.9**	**359,200**	**359,200**	**359,200**	**0.2**	**45,200**	**45,200**	**45,200**	**0.2**	**45,200**	**45,200**	**45,200**

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

Estimated Capital Budget Breakout

Prepared by: Cheri Keller, OFM	**Phone:** (360) 584-2207	**Date Published:** Final

FNPID 65622

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 5091 SB	Title: Hydrogen fuel cells	Agency: 014-Joint Legislative Audit and Review Committee

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
FTE Staff Years	0.1	0.0	0.1	0.0	0.0
Account					
General Fund-State 001-1	17,600	0	17,600	0	0
Total $	17,600	0	17,600	0	0

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:	Kim Cushing	Phone: (360) 786-7421	Date: 01/03/2023
Agency Preparation:	Dana Lynn	Phone: 360-786-5177	Date: 01/06/2023
Agency Approval:	Eric Thomas	Phone: 360 786-5182	Date: 01/06/2023
OFM Review:	Gaius Horton	Phone: (360) 819-3112	Date: 01/12/2023

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.

The bill creates three new B&O tax incentives intended to encourage hydrogen cell research, development, manufacture, and sales in Washington.

TAX PERFORMANCE STATEMENT DETAILS

Section 1 is the tax preference performance statement that categorizes the preferences as intended to:

- Induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).
- Improve industry competitiveness, as indicated in RCW 82.32.808(2)(b).
- Create or retain jobs as indicated in RCW 82.32.808(2)(c).

The Legislature's specific public policy objective is to encourage hydrogen fuel cell research, development, manufacture, and sales in Washington to advance hydrogen fuel cell technology, production, and adoption in the state.

If a review finds that the number of businesses in Washington focused on hydrogen fuel cell research, development, manufacture, or sales has increased as measured by the number of businesses claiming the tax preferences, or that Washington businesses forces on hydrogen fuel cell research and development and manufacturing in the state have made advancements in hydrogen fuel cell technology, then the Legislature intends to extend the expiration dates of the preferences.

Section 2 adds a new section to chapter 82.04 RCW, establishing a 0.2904% preferential B&O tax rate for persons in Washington that manufacture, or make retail or wholesale sales of, hydrogen fuel cells. The preferential rate begins October 1, 2023, and expires January 1, 2034.

Section 3 adds a new section to chapter 82.04 RCW, creating a B&O tax credit for qualified hydrogen fuel cell development. Manufacturers or processors for hire of hydrogen fuel cells may begin earning credits for expenditures made after July 1, 2023. The credit is equal to the amount of qualified hydrogen fuel cell development expenditures multiplied by 1.75%.

Several terms are defined and persons claiming the credit are required to file an annual tax preference performance report with the Department of Revenue. The credit expires January 1, 2034.

Section 4 adds a new section to chapter 82.04 RCW, establishing a B&O tax credit for property and leasehold excise taxes paid during the calendar year. The credit is equal to:

- Property taxes paid on buildings and land on which the buildings are located, or both, or leasehold excise taxes paid for buildings constructed after July 1, 2023, the land on which the buildings are located, or both. In any case, the buildings must be used exclusively in manufacturing hydrogen fuel cells.
- Property taxes attributable to an increase in assessed value due to renovation or expansion of a building used exclusively in manufacturing hydrogen fuel cells.
- An amount equal to property taxes paid by manufacturers of hydrogen fuel cells on machinery and equipment exempt from sales and use tax under RCW 82.08.02565 or 82.12.02565 and acquired after July 1, 2023.

A formula for calculating the property tax credit is provided in the section. Several terms are defined and persons claiming the credit are required to file an annual tax preference performance report with the Department of Revenue. The credit expires January 1, 2034.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

JLARC staff would contact and work with the Department of Revenue and other appropriate agencies immediately after passage of the bill to ensure project contacts are established and any other necessary data for JLARC staff's future evaluation needs are identified and collected. JLARC will likely review these preferences in 2031.

The expenditure detail reflects work conducted to prepare for the future review of the preferences. Costs associated with the review are not included in this fiscal note. This fiscal note reflects only the costs associated with establishing data collection.

This tax preference review may require additional resources. The audit will be conducted and presented to JLARC consistent with the processes used for other tax preference reviews. Based on all tax preference legislation that is passed, JLARC may subsequently determine that it can absorb the costs for this proposed bill in its base budget, if the workload of other enacted tax preference legislation does not exceed current staffing. JLARC will assess all of the tax preference reviews mandated in the 2023 legislative session.

This audit will require an estimated 1 audit month.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst's time for a month, together with related administrative, support, and goods/services costs. JLARC's anticipated 2021-23 costs are calculated at approximately $22,100 per audit month.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	17,600	0	17,600	0	0
		Total $	17,600	0	17,600	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	11,400		11,400		
B-Employee Benefits	3,600		3,600		
C-Professional Service Contracts					
E-Goods and Other Services	2,400		2,400		
G-Travel	200		200		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	17,600	0	17,600	0	0

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Research Analyst	126,694	0.1		0.1		
Support staff	89,671					
Total FTEs		0.1		0.1		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Department of Revenue Fiscal Note

Bill Number: 5091 SB	Title: Hydrogen fuel cells	Agency: 140-Department of Revenue

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		(100,000)	(100,000)	(600,000)	(600,000)
Total $		(100,000)	(100,000)	(600,000)	(600,000)

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.2	0.4	0.8	0.2	0.2
Account					
GF-STATE-State 001-1	295,000	46,600	341,600	45,200	45,200
Total $	295,000	46,600	341,600	45,200	45,200

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:	Kim Cushing	Phone: (360) 786-7421	Date: 01/03/2023
Agency Preparation:	Beth Leech	Phone: 360-534-1513	Date: 01/17/2023
Agency Approval:	Valerie Torres	Phone: 360-534-1521	Date: 01/17/2023
OFM Review:	Cheri Keller	Phone: (360) 584-2207	Date: 01/17/2023

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:
These business and occupation (B&O) tax rates apply to the following activities:
- manufacturing or wholesaling of hydrogen fuel cells, 0.484%.
- retailing of hydrogen fuel cells, 0.471%.

Manufacturers and processors for hire of hydrogen fuel cells do not earn B&O tax credits for qualified hydrogen fuel cell development expenditures or for property or leasehold excise taxes paid.

PROPOSAL:
PREFERENTIAL BUSINESS AND OCCUPATION TAX RATE (Section 2):
Provides a preferential B&O tax rate for the manufacturing or selling of hydrogen fuel cells:
- For manufacturers the amount of tax is equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, multiplied by the rate of 0.2904%.
- For processors for hire the amount of tax is equal to the gross income of the business, multiplied by the rate of 0.2904%.

Hydrogen fuel cell means a technology that uses an electrochemical reaction to generate electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.

This preferential tax rate expires January 1, 2034.

BUSINESS AND OCCUPATION TAX CREDIT FOR HYDROGEN FUEL CELL RESEARCH AND DEVELOPMENT (Section 3):
Allows a B&O tax credit for qualified hydrogen fuel cell development. Manufacturers or processors for hire of hydrogen fuel cells may earn the credit for expenditures occurring after July 1, 2023.

The credit is equal to the amount of qualified hydrogen fuel cell development expenditures multiplied by 1.75%. Taxpayers claim this credit against taxes due for the same calendar year in which the qualified hydrogen fuel cell development expenditures occurred. Unused credits may be carried forward.

Hydrogen fuel cell development is defined as:
- Research, design, and engineering activities performed in relation to the development of hydrogen fuel cells, hydrogen fuel cell technology, or of a product line of a hydrogen fuel cell.
- The discovery or translation of technological information into new or improved products, processes, techniques, formulas, or inventions, and the adaptation of existing products into new products.
- Tool design and engineering design for the manufacturing process.

Hydrogen fuel cell development does not include surveys and studies, social science and humanities research, market research or testing, quality control, sales promotion and service, computer software development for internal use, research in peripheral areas or manufacturing activities.

Qualified hydrogen fuel cell development means development performed in Washington.

Qualified hydrogen fuel cell development expenditures include operating expenses, wages, compensation of a proprietor or a partner, benefits, supplies, and computer expenses directly incurred in qualified hydrogen fuel cell development.

Other than amounts paid to a public educational or research institution, qualified hydrogen fuel cell development expenditures do not include amounts paid to conduct qualified hydrogen fuel cell development or capital costs and overhead.

Taxable amount means the B&O taxable amount less any taxable amount related to the multiple activities tax credit.

Taxpayers claiming this credit must file a complete annual tax performance report with the Department of Revenue (department).

This credit expires January 1, 2034.

BUSINESS AND OCCUPATION TAX CREDIT FOR PROPERTY TAXES (Section 4):
Manufacturers of hydrogen fuel cells qualify for a B&O tax credit equal to the property taxes paid on land and buildings constructed after July 1, 2023, used exclusively to manufacture hydrogen fuel cells. The credit is also available for leasehold excise tax paid on land and buildings constructed after July 1, 2023, used exclusively for the same purposes.

Eligible property taxes include taxes paid on:
- new structures and the land beneath them.
- increased value due to facility renovation or expansion.
- manufacturing machinery and equipment.

This credit expires January 1, 2034.

EFFECTIVE DATE:
Section 2 takes effect on October 1, 2023. The remainder of the bill takes effect 90 days after final adjournment of the session. However, due to the time it will take to program this bill's changes, the department is unable to implement the bill until July 1, 2024.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS
- The U.S. Department of Energy choses Washington as a hydrogen hub.
- Two companies build plants and produce hydrogen fuel cells in Washington within the next 5 years.
- These companies complete one new facility in fiscal year 2025 and one new facility in fiscal year 2026.
- Based on data from New York and that Washington's population is 39.6% of New York's population, a new hydrogen fuel cell facility's estimated valued is $21.8 million.
- Approximately 40% of the facility investment qualifies for the B&O tax credit.
- Construction on the first plant begins July 1, 2023.
- The B&O credit cannot exceed B&O tax due each fiscal year.
- Hydrogen fuel cells produced in Washington are sold in Washington.
- The growth mirrors the annual growth for B&O taxable activity, as reflected in the November 2022 Economic and Revenue Forecast Council forecast.

DATA SOURCES
- Governor of New York press release, March 2022
- Hydrogenfuelnews.com, "Biggest Plug Power green hydrogen plant in North America headed to NY state."
- Geekwire.com, "How Washington state's leaders and tech giants are embracing the 'Swiss Army knife' of clean energy."
- Crosscut.com, "Washington wants to plug in to the next thing in fuel: hydrogen."

- TimesUnion.com, "Plug Power revenue rises as Slingerlands site nears completion."
- Plug Power revenues, press releases
- U.S. Census Bureau, population data
- Economic and Revenue Forecast Council, November 2022 forecast
- Property Tax State Levy Model, November 2022

REVENUE ESTIMATES
This bill decreases state revenues by an estimated $200,000 in fiscal year 2025, and by $400,000 in fiscal year 2026.

This legislation results in no revenue impact to the state property tax levy. This legislation also results in no revenue impact to local property tax levies.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):
FY 2024 - $ 0
FY 2025 - ($ 100)
FY 2026 - ($ 300)
FY 2027 - ($ 300)
FY 2028 - ($ 300)
FY 2029 - ($ 300)

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

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:
- This legislation will affect two taxpayers that will manufacture and sell hydrogen fuel cells in Washington state.
- Expenditures assume an effective date of July 1, 2024, providing the department with 12 months to implement the required changes. The department will incur additional costs if required to use a different implementation date.
- A taxpayer claiming these new tax preferences must file an annual tax performance report (RCW 82.32.808). Expenditures include the costs to implement the new tax preferences.

FIRST YEAR COSTS:
The department will incur total costs of $295,000 in fiscal year 2024. These costs include:

Labor Costs - Time and effort equate to 1.2 FTEs.
- Set up, program, and test computer system changes for new preferential B&O tax rates for manufacturing, wholesaling, retailing, and processing for hire.
- Update multiple activities tax credit for the new preferential rates.
- Create a new hydrogen fuel cell B&O tax credit with worksheet for research and development costs.
- Create a new hydrogen fuel cell B&O tax credit with worksheet for property tax costs.
- Create new performance reports for the preferential B&O rates and tax credits.
- Create a special notice and identify publications and information that the department may need to create or update on the department's website.
- Respond to tax ruling requests and email inquiries.
- Issue one new Excise Tax Advisory.

Object Costs - $149,600.
- Contract computer system programming

SECOND YEAR COSTS:
The department will incur total costs of $46,600 in fiscal year 2025. These costs include:

Labor Costs - Time and effort equate to 0.4 FTE.
- Update special notice, web pages, and publications.
- Respond to tax ruling requests and email inquiries.
- Process returns, payments and all associated work items, including issuing assessments for return errors and underpayments.
- Assist taxpayers with reporting questions and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Develop and maintain annual tax incentive report questions.
- Review annual tax incentive report submissions, verify submission accuracy, and compile statistics and reports.

ONGOING COSTS:
Ongoing costs for the 2025-27 biennium equal $45,200 and include similar activities described in the second-year costs. Time and effort equate to 0.2 FTE 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	1.2	0.4	0.8	0.2	0.2
A-Salaries and Wages	89,600	29,800	119,400	30,200	30,200
B-Employee Benefits	29,500	9,800	39,300	10,000	10,000
C-Professional Service Contracts	149,600		149,600		
E-Goods and Other Services	18,100	5,000	23,100	3,800	3,800
J-Capital Outlays	8,200	2,000	10,200	1,200	1,200
Total $	$295,000	$46,600	$341,600	$45,200	$45,200

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	126,619	0.0		0.0		
EMS BAND 5	147,919	0.0		0.0		
EXCISE TAX EX 3	61,632	0.1	0.1	0.1		
IT SYS ADM-JOURNEY	92,844	0.3		0.2		
MGMT ANALYST4	73,260	0.4		0.2		
TAX INFO SPEC 4	66,420	0.3	0.1	0.2	0.1	0.1
TAX POLICY SP 2	75,120	0.0		0.0		
TAX POLICY SP 3	85,020	0.1	0.2	0.1	0.1	0.1
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
Total FTEs		1.2	0.4	0.8	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

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

NONE

Part V: New Rule Making Required