Multiple Agency Fiscal Note Summary

Bill Number: 6303 SB	**Title:** Energy storage manufacturing

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	(1,038,000)	(1,038,000)	(1,040,000)	(79,836,000)	(79,836,000)	(79,840,000)	(187,766,000)	(187,766,000)	(187,770,000)
Total $	**(1,038,000)**	**(1,038,000)**	**(1,040,000)**	**(79,836,000)**	**(79,836,000)**	**(79,840,000)**	**(187,766,000)**	**(187,766,000)**	**(187,770,000)**

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	.0	0	0	7,200	.0	0	0	16,900	.3	0	0	100,300
Department of Revenue	.9	593,200	593,200	593,200	.4	97,600	97,600	97,600	.3	73,800	73,800	73,800
Total $	**0.9**	**593,200**	**593,200**	**600,400**	**0.4**	**97,600**	**97,600**	**114,500**	**0.6**	**73,800**	**73,800**	**174,100**

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: Amy Hatfield, OFM	**Phone:** (360) 280-7584	**Date Published:** Final 2/ 2/2024

FNPID 70362

Individual State Agency Fiscal Note

Bill Number: 6303 SB	Title: Energy storage manufacturing	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	0.0	0.0	0.0	0.0	0.3
Account					
Performance Audits of Government Account-State 553-1	2,400	4,800	7,200	16,900	100,300
Total $	2,400	4,800	7,200	16,900	100,300

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:	Jeffrey Mitchell	Phone: 360-786-7438	Date: 01/26/2024
Agency Preparation:	Dana Lynn	Phone: 360-786-5177	Date: 01/30/2024
Agency Approval:	Eric Thomas	Phone: 360 786-5182	Date: 01/30/2024
OFM Review:	Gaius Horton	Phone: (360) 819-3112	Date: 01/31/2024

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.

The bill creates a new B&O tax preference providing preferential rates to manufacturers, processors for hire, retailers, and wholesalers of energy storage systems and a new B&O tax credit for jobs created in manufacturing energy storage system production. Businesses using these preferences are required to file an annual tax preference performance report with the Department of Revenue.

The preferences take effect at different times (January 1, 2025, and July 1, 2025). No expiration date is noted. JLARC assumes the preferences would expire January 1, 2036, per RCW 82.32.805(1).

TAX PREFERENCE PERFORMANCE STATEMENT

Section 5 amends the Tax Preference Performance Statement (uncodified) in 2022, chapter 185, section 11 to also apply to these preferences. The preferences are categorized as ones to induce certain designated behavior by taxpayers and create jobs. The Legislature's specific public policy objective is to build manufacturing capacity for carbon-free electricity and to financially incentive use of high labor standards.

JLARC is directed to measure the effectiveness of the preferences by evaluating at least the first five years of available data, reporting its findings to the Legislature by December 31, 2028. The review must evaluate:

• The average construction wages for eligible projects.
• The number of jobs created in the clean technology sector.
• The use of apprenticeable programs and women, minority, or veteran-owned businesses by eligible projects.
• The degree that the preference encouraged manufacturing and component production for technologies that reduce greenhouse gas emissions.
• Whether facilities benefiting from the preference would have been developed without the preference.
• Any other relevant metric.

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 will work with the Department of Revenue and any 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. Staff would work with those same agencies and organizations when conducting its review.

The expenditure detail reflects work conducted to prepare for and conduct the first assigned review of the preference by December 31, 2028. Work for this review will begin in July 2027 and continue through the end of 2028.

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 2024 legislative session.

This audit will require an estimated 5 audit months.

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 2023-25 costs are calculated at approximately $23,900 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
553-1	Performance Audits of Government Account	State	2,400	4,800	7,200	16,900	100,300
		Total $	2,400	4,800	7,200	16,900	100,300

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					0.3
A-Salaries and Wages	1,600	3,100	4,700	10,900	65,200
B-Employee Benefits	500	1,000	1,500	3,500	20,600
C-Professional Service Contracts					
E-Goods and Other Services	300	600	900	2,200	13,200
G-Travel		100	100	300	1,300
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 $	2,400	4,800	7,200	16,900	100,300

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	131,064					0.2
Support staff	110,856					0.1
Total FTEs						0.3

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: 6303 SB	Title: Energy storage manufacturing	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 01 - Retail Sales Tax		(938,000)	(938,000)	(2,146,000)	(2,086,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax				(76,720,000)	(183,720,000)
GF-STATE-State 01 - Taxes 06 - Tax Credits - B & O		(100,000)	(100,000)	(970,000)	(1,960,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax		(2,000)	(2,000)	(4,000)	(4,000)
Total $		(1,040,000)	(1,040,000)	(79,840,000)	(187,770,000)

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	1.7	0.9	0.4	0.3
Account					
GF-STATE-State 001-1	16,500	576,700	593,200	97,600	73,800
Total $	16,500	576,700	593,200	97,600	73,800

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:	Jeffrey Mitchell	Phone: 360-786-7438	Date: 01/26/2024
Agency Preparation:	Alex Merk-Dyes	Phone: 360-534-1601	Date: 02/02/2024
Agency Approval:	Valerie Torres	Phone: 360-534-1521	Date: 02/02/2024
OFM Review:	Amy Hatfield	Phone: (360) 280-7584	Date: 02/02/2024

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.

CURRENT LAW:

No tax incentives exist for manufacturers or processors-for-hire of energy storage systems and their components.

Manufacturers and processors for hire in Washington pay business and occupation (B&O) tax at a rate of 0.484%.

Manufacturers also pay B&O tax on sales of manufactured products in Washington at the retailing rate of 0.471% or the wholesaling rate of 0.484%. They can take a Multiple Activities Tax Credit for the lesser of either the B&O tax on manufacturing or the B&O tax on the selling activity.

PROPOSAL:

PREFERENTIAL B&O TAX RATE (Section 2):
This bill creates a preferential B&O tax rate of 0.275% for businesses engaged in manufacturing, processing for hire, or selling energy storage systems or component parts used to manufacture such systems.

An energy storage system is defined as a device capable of storing energy to supply electrical power at a later time.

This bill defines component parts as major components of energy storage systems including, but not limited to:
- Cathodes and anodes
- Separators, membranes, and electrolytes
- Battery modules, packs, and management systems
- Silane and other industrial gases
- Mechanical devices integral to the operation of energy storage systems

Taxpayers reporting this preferential B&O tax rate must electronically file returns, correspondence, and an annual tax performance report.

This preferential B&O tax rate expires June 30, 2040.

B&O TAX CREDIT (Section 3):
This bill creates an annual B&O tax credit of $4,000 for each qualified manufacturing employment position created and maintained in a qualifying facility, up to 10 years. Positions filled less than six months are eligible for 50% of the credit.

A qualified facility is defined as a facility primarily used to manufacture energy storage systems, component parts, or both.

This B&O tax credit is not refundable, may not exceed tax due, and cannot be claimed on returns filed for reporting periods beginning on or after July 1, 2040.

Taxpayers reporting this B&O tax credit must electronically file returns, correspondence, and an annual tax performance report.

EXPANDING THE CLEAN TECHNOLOGY TAX DEFERRAL (Section 4):

This bill also adds the manufacturing of component parts and energy storage systems to qualifying activities for the clean technology tax deferral.

EFFECTIVE DATE:

The preferential tax rate (section 2) takes effect July 1, 2025.
The B&O tax credit (section 3) takes effect January 1, 2025.
The expansion of the clean technology tax deferral (section 4) takes effect 90 days after the final adjournment of the session.

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 preferential B&O rate takes effect July 1, 2025, and impacts 11 months of collections in fiscal year 2026.
- The B&O tax credit takes effect January 1, 2025. Taxpayers will use half the calendar year 2025 credit in fiscal year 2025.
- Manufacturing production positions eligible for credit are 50% of total employees at a qualifying facility.
- Eligible projects cannot apply for a tax deferral until after June 4, 2024. Initiation of construction or acquisition of machinery and equipment must not begin until after June 4, 2024.
- Projects are operationally complete within one year of when the department receives the application.
- Project costs must be at least $2 million. This bill does not limit the amount of sales tax taxpayers can defer.
- The growth for qualifying project costs mirrors the annual growth for industrial construction as reflected in the November 2023 IHS Market forecast.
- Recipients of the deferral will meet the labor standard requirement to have 100% of the state sales tax waived.
- Large new clean technology structures and machinery and equipment expenditures that would qualify for the deferral are difficult to predict; therefore, this estimate assumes that no large new structures will be built in Washington. Large projects would significantly change the impacts assumed above.
- Additional qualifying facilities or new employees would increase the impact on the state revenues.
- Local revenue estimates use the statewide average local sales and use tax rate of 2.95%.

POTENTIAL LITIGATION:
Legislation creating new exemptions and deferrals for construction projects presents a risk that the federal government or federal contractors will seek to re-litigate Washington v. United States. This risk increases with each additional exemption or deferral that the state enacts.

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

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

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

DATA SOURCES
- Department of Revenue, Excise tax and deferral data
- IHS Market, Industrial Construction Forecast, November 2023
- Online research

REVENUE ESTIMATES
This bill decreases state revenues by an estimated $1.0 million in fiscal year 2025 and by $25.6 million in fiscal year 2026.

This bill also decreases local revenues by an estimated $430,000 in fiscal year 2025 and by $480,000 in fiscal year 2026.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):

FY 2024 -	$ 0
FY 2025 -	($ 1,040)
FY 2026 -	($ 25,570)
FY 2027 -	($ 54,270)
FY 2028 -	($ 80,690)
FY 2029 -	($ 107,080)

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

FY 2024 -	$ 0
FY 2025 -	($ 430)
FY 2026 -	($ 480)
FY 2027 -	($ 500)
FY 2028 -	($ 437)
FY 2029 -	($ 369)

II. C - Expenditures

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

ASSUMPTIONS:
- Expenditures assume three to five energy storage manufacturing projects.
- Taxpayers claiming these new tax preferences must file an annual tax performance report. These expenditures include the costs to implement the new tax preferences.

FIRST YEAR COSTS:
The department will incur total costs of $16,500 in fiscal year 2024. These costs include:

Labor Costs – Time and effort equate to 0.13 FTE.
- Create a special notice regarding a new preferential rate, B&O credit, and sales and use tax deferral for energy storage systems.
- Create and update web content concerning energy storage systems and tax incentives.

SECOND YEAR COSTS:
The department will incur total costs of $576,700 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 1.7 FTEs.
- Set up, program, and test computer system changes to create new preferential rates and deductions.
- Program new multiple activities tax credits for energy storage system B&O classifications.
- Update system processes for the new employee credit.
- Create a new employee worksheet.
- Update systems to include energy storage systems for sales and uses tax deferrals.
- Create or update annual performance reports.
- Develop annual tax incentive report questions.

Object Costs - $332,500.
- Contract computer system programming.
- Software, travel, and training.

THIRD YEAR COSTS:
The Department will incur total costs of $60,700 in fiscal year 2026. These costs include:

Labor Costs – Time and effort equate to 0.5 FTE.
- Continued testing of computer system changes.
- Receive, review, and approve or deny B&O credit applications.
- 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.
- Maintain annual tax incentive report questions.
- Review annual tax incentive report submissions, work to verify submission accuracy, and compile statistics and reports.

Object Costs - $800.
- Software, travel, and training.

ONGOING COSTS:
Ongoing costs for fiscal year 2027 equal $36,900 and include similar activities described in the third-year costs. Time and effort equate to 0.3 FTE.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	1.7	0.9	0.4	0.3
A-Salaries and Wages	10,300	155,100	165,400	63,200	48,200
B-Employee Benefits	3,400	51,100	54,500	20,800	15,800
C-Professional Service Contracts		330,000	330,000		
E-Goods and Other Services	1,900	28,000	29,900	10,200	7,400
G-Travel		600	600	600	600
J-Capital Outlays	900	11,900	12,800	2,800	1,800
Total $	$16,500	$576,700	$593,200	$97,600	$73,800

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
EXCISE TAX EX 2	58,104				0.1	
EXCISE TAX EX 3	64,092		0.1	0.1	0.1	0.1
IT B A-JOURNEY	91,968		0.6	0.3	0.1	
IT SYS ADM-JOURNEY	96,552		0.5	0.3		
TAX POLICY SP 2	78,120	0.1		0.0		
TAX POLICY SP 3	88,416	0.0	0.4	0.2	0.2	0.2
WMS BAND 2	98,456	0.0	0.1	0.1		
Total FTEs		0.1	1.7	0.9	0.4	0.3

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

Part V: New Rule Making Required