

# SENATE BILL REPORT

## ESB 5220

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As Passed Senate, March 4, 2021

**Title:** An act relating to the taxation of salmon recovery grants by updating the state business and occupation tax deduction for these grants, creating a sales and use tax exemption for grant proceeds received by recipients of these grants, and clarifying the sales and use tax obligations for goods and services purchased by recipients of these grants.

**Brief Description:** Concerning the taxation of salmon recovery grants by updating the state business and occupation tax deduction for these grants, creating a sales and use tax exemption for grant proceeds received by recipients of these grants, and clarifying the sales and use tax obligations for goods and services purchased by recipients of these grants.

**Sponsors:** Senators Van De Wege and Rolfes; by request of Department of Revenue.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/26/21, 1/28/21 [DP-WM].

Ways & Means: 2/19/21, 2/22/21 [DP, w/oRec].

**Floor Activity:** Passed Senate: 3/4/21, 48-1.

**Brief Summary of Engrossed Bill**

- Exempts salmon recovery grants provided to nonprofit organizations from retail sales and use tax.
- Expands the business and occupation tax deduction for salmon recovery grants to nonprofit organizations to include grants from tribal governments.

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### SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, Rolfes, Short and Stanford.

**Staff:** Jeff Olsen (786-7428)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hunt, Keiser, Liias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Hasegawa.

**Staff:** Jeffrey Mitchell (786-7438)

**Background:** Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Legislation enacted in 2004 provides a deduction from B&O tax for amounts received by a nonprofit organization from the United States, the state of Washington, or local governments as grants to support salmon restoration purposes. In 2018, the Department of Revenue issued an interim guidance statement to address the tax-reporting responsibilities of nonprofit conservation organizations receiving income from government agencies to coordinate or facilitate habitat restoration projects for fish and wildlife. The interim guidance states that generally, nonprofit organizations are subject to B&O tax and retail sales tax unless there is a specific tax exemption or deduction.

**Summary of Engrossed Bill:** A retail sales tax exemption is provided for a qualifying grant made by federal, state, tribal, and local governments for salmon habitat restoration. The existing B&O tax exemption is expanded to include grants received by a nonprofit organization from tribal governments.

A salmon recovery grant includes financial assistance provided to primarily benefit the public as a whole by renewing, restoring, or protecting salmon ecosystems or habitats by human intervention.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony (Agriculture, Water, Natural Resources & Parks):** PRO: This agency request legislation is to address taxation of habitat restoration grants received by nonprofit organizations. Federal, state, and local governments provide funding to nonprofit organizations for habitat restoration. Generally, funding provided to these nonprofit organizations is subject to taxation unless a specific exemption applies. In 2018, the DOR issued an interim statement that expires on June 30, 2021. A stakeholder process identified how taxes apply to restoration grants, and this legislation clarifies what restoration activities would be exempt. It is critical to ensure the funding goes to its intended purpose of restoring salmon habitat and ecosystems. Projects and funding can be larger and complex, and the bill takes into account how grant funds are currently being used to implement projects. Salmon recovery grants are critical for restoring salmon habitat and fish passage, which can include multiple funding sources, including tribes, utilities, and state agencies.

**Persons Testifying (Agriculture, Water, Natural Resources & Parks):** PRO: Senator Kevin Van De Wege, Prime Sponsor; Michael Bailey, DOR; Brynn Brady, Regional Fisheries Coalition; Nicholas Norton, Washington Association of Land Trusts; Travis Klaas, Mountains to Sound Greenway Trust; Mendy Harlow, Hood Canal Salmon Enhancement Group; Brian Burns, Tristate Steelheaders.

**Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The bill provides the clarity that we need as conservation practitioners. It will ensure that already very limited funding for salmon recovery efforts will continue to go to these purposes. The state funds are leveraging millions of dollars of federal funds. This bill will allow every dollar to go towards salmon recovery efforts.

**Persons Testifying (Ways & Means):** PRO: Nicholas Norton, Washington Association of Land Trusts; Brynn Brady, Regional Fisheries Coalition; Mendy Harlow, Hood Canal

Salmon Enhancement Group.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.