

**Benchmarks to Monitor Outcomes and Activities Associated with Recommendations of the
Task Force on the Underground Economy in the Construction Industry (August 2008)**

Underground Economy Benchmark Report

**Joint Report of the
Washington State Department of Labor and Industries
Washington State Department of Revenue
and the
Washington State Employment Security Department**

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November 2009

Benchmarks to Monitor Outcomes and Activities Associated with Recommendations of the Task Force on the Underground Economy in the Construction Industry (August 2008)

In 2009, the Legislature adopted SHB 1555 relating to the recommendations of the joint legislative task force on the underground economy in the construction industry that, among other things, requires the Department of Labor and Industries (L&I), the Department of Revenue (DOR), and the Employment Security Department (ESD) to coordinate and report to the appropriate committees of the legislature by December first of each year on the effectiveness of efforts to address the underground economy. This report is the first of these annual reports to the legislature and will act as a benchmark report from which future progress may be compared. The format and content of the benchmark report are primarily based on recommendations from the August 2008 document, *Benchmarks to Monitor Outcomes and Activities Associated with Recommendations of the Task Force on the Underground Economy in the Construction Industry* prepared by Jim Mayfield of the Washington State Institute for Public Policy for the Joint legislative Task Force On The Underground Economy In The Construction Industry. The report is intended to provide the legislature with information on the effectiveness of state efforts to combat the underground economy by L&I, DOR, and ESD. Particular emphasis is placed on data sharing between the agencies and other areas where the agencies have partnered to uncover and take action on tax misreporting or fraud.

DOR, L&I and ESD formed a Cross-Agency Referral Committee as a result of the 2006 Governor's GMAP on Economic Vitality. Information sharing agreements were written to allow enhanced exchange of data between the three agencies. The committee developed an on-line referral form for staff to exchange leads with other agencies and developed an e-learning tool that is still in use to educate staff on what to look for to help other agencies.

The Committee meets quarterly to share information on tax discovery and fraud prevention as well as to share audit data on businesses with audit findings resulting in a balance due. The agencies also share lists of unregistered businesses that were involuntarily registered on a monthly basis.

On-going efforts of the Cross-Agency Referral Committee focus on new cross-match scenarios and how to refine existing queries. We continue to discuss and focus on using technology such as how best to use our data warehouse information and data analysis software to refine and share leads. The agencies also collaborate on research projects including the 2007 study on the impact of the underground economy in Washington on state revenue. In addition to the work of the committee and the automated exchange of data, managers and staff from all three agencies continue informal sharing when coordinating individual cases, special projects or other items of interest.

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Recommended Activities (Passed in SSB 6732 and ESHB 3122)	Proposed Measures by Agency																							
1. Contractor Registration and Records	ESD	L&I	DOR																					
<p>(a) Require contractor UBI number</p> <p>SSB 6732 Sec.1(1)(b)</p>		<ul style="list-style-type: none"> Number of contractors with UBI numbers: <p align="center">Year-end Contractor Registrations with and without UBIs</p> <table border="1" data-bbox="1024 591 1587 943"> <thead> <tr> <th>Fiscal Year</th> <th>With UBI</th> <th>Without UBI</th> </tr> </thead> <tbody> <tr> <td>2004</td> <td>51,938</td> <td>285</td> </tr> <tr> <td>2005</td> <td>54,172</td> <td>0</td> </tr> <tr> <td>2006</td> <td>56,181</td> <td>0</td> </tr> <tr> <td>2007</td> <td>59,323</td> <td>0</td> </tr> <tr> <td>2008</td> <td>60,769</td> <td>0</td> </tr> <tr> <td>2009</td> <td>56,685</td> <td>0</td> </tr> </tbody> </table> <p>(Beginning in 2005, all registered contractors were required to have a UBI number)</p>	Fiscal Year	With UBI	Without UBI	2004	51,938	285	2005	54,172	0	2006	56,181	0	2007	59,323	0	2008	60,769	0	2009	56,685	0	
Fiscal Year	With UBI	Without UBI																						
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2007	59,323	0																						
2008	60,769	0																						
2009	56,685	0																						
<p>(b) Application denials and suspensions (for no UBI, falsified information or not registered with DOR)</p> <p>SSB 6732 Sec.1(3)(a)(iv-v), 1(3)(b)(iv-v), and 2(7)</p>		<p>Number of contractor registration denials and suspensions by reason (liens, cancelled insurance, no bond, etc.):</p> <ul style="list-style-type: none"> Suspended for unsatisfied Judgments: 1140 Suspended for cancelled insurance: 20,714 Suspended for cancelled bond: 6959 Suspended for bond impaired: 76 Suspended for outstanding infractions: 29. 																						

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Recommended Activities (Passed in SSB 6732 and ESHB 3122)	Proposed Measures by Agency		
2. Penalties	ESD	L&I	DOR
<p>(a) Persons subject to up to \$10,000 penalty for submitting false information on an application.</p> <p>SSB 6732 Sec. 2(8)(a)</p> <p>Note: New registration form will be available by the end of September, 2008.</p>		<ul style="list-style-type: none"> • Number of occurrences: • Collection amounts: • Narrative accounts : <p>The program began the 4th Quarter of FY09 with three infractions for \$2000 for 1st offence.</p> <p>There has been a delay with WAC rule adoption and for computer program modifications to track infractions and payments.</p> <p>More information will be available for next year's report.</p>	
<p>(b) Prohibited from bidding on public works contracts for one year due to specific violations (registration laws, misrepresenting payroll or employee hours, business without L&I certificate of coverage, or second violation of contractor registration).</p> <p>SSB 6732 Sec. 3</p>	<ul style="list-style-type: none"> • Number of occurrences • Narrative accounts of selected cases <p>There were no issues identified from the audits performed by auditors from July 2008 to June 2009.</p>	<ul style="list-style-type: none"> • Number of occurrences • Narrative accounts of selected cases <p>13 companies were debarred from bidding on public works contracts during FY2009.</p> <p>One example was a Thurston County contractor who has been debarred due to two violations of contractor registration laws and one violation for failure to obtain a certificate of coverage for Industrial Insurance.</p>	

**Benchmarks to Monitor Outcomes and Activities Associated with Recommendations of the
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Recommended Activities (Passed in SSB 6732 and ESHB 3122)	Proposed Measures by Agency					
3. Enforcement	ESD		L&I			DOR
<p>(a) Increase L&I investigative staff (vetoed but funded)</p>			<p>Additional auditors (4 FTE)</p> <ul style="list-style-type: none"> • Number of audits completed by the additional auditors: 360 • Dollars assessed: \$1,833,183.29 <p>FAIR Team (2.5 FTE)</p> <ul style="list-style-type: none"> • Number of infractions for unregistered contractors • Number of collection referrals • Number of audit referrals • Dollars <i>collected</i> 			
	<p>SSB 6732 Sec. 11(1)(a)</p>					
<p>FY 2009 FAIR Team Results</p>						
Fiscal Year 2009	FTE	# Infractions	# Collections Referrals	# Audit Referrals	Dollars Assessed from Industrial Insurance Audit Referrals	Dollars Collected
1 st Quarter	3	33	26	73	\$1,089,963.68	\$274,120.46
2 nd Quarter	3	30	30	67	\$1,177,488.36	\$236,167.49
3 rd Quarter	5	59	66	140	\$737,885.32	\$228,940.73
4 th Quarter	5	78	73	153	\$597,445.89	\$401,705.34
FY 2009 Total	-	200	195	433	\$3,602,783.27	\$1,140,934.02
<p>FY09 FAIR Team numbers reflect 3 FTE for the first two quarters and 5.5 FTE for the last two quarters. L&I was delayed in the hiring process because of the General Fund State budget reductions.</p>						

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<p>(b) Attorney General contractor compliance (vetoed but still funded)</p> <p>SSB 6732 Sec. 11(2)</p>		<ul style="list-style-type: none"> • Number of cases initiated for prosecution. • Prosecution outcomes • Narratives. <p>No results for FY 2009. The process and procedures were finalized in August of 2009 and training of staff began in September 09. Results for FY2010 will be reported next year.</p>	
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Recommended Activities (Passed in SSB 6732 and ESHB 3122)	Proposed Measures by Agency		
4. Education and Outreach	ESD	L&I	DOR
<p>(a) Social Marketing Campaign SSB 6732 Sec. 12</p>		<ul style="list-style-type: none"> • L&I Launched a statewide campaign to warn homeowners about using unregistered contractors and encourage the public and legitimate contractors to report unregistered contractors. The first phases of the multi-year campaign relied primarily on radio messaging, supplemented by banners on radio station Web sites, and a small amount of outdoor and print advertising. • L&I began a proactive employer contact program aimed at instructing newer firms — those reporting for two quarters — on proper reporting and recordkeeping rules. The reviews are educational only and no assessments will be issued. The auditor records the visit and instructions in case of future non-compliance by the firms. 	<p>See information in Appendix A: Suspectfraud.com</p>

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5. Data Sharing and Detection	ESD	L&I	DOR																											
<p>(a) Data sharing across agencies SSB 6732 Sec. 6(9)</p>	<ul style="list-style-type: none"> Number of tips and leads shared between agencies: <table border="1" data-bbox="955 365 1690 922"> <thead> <tr> <th colspan="3" data-bbox="955 365 1690 423">Cross-agency Referrals FY 2009</th> </tr> <tr> <th data-bbox="955 423 1249 516">Referral from...to</th> <th data-bbox="1249 423 1453 516">Referrals via Interagency Referral Form</th> <th data-bbox="1453 423 1690 516">Referral via Electronic Data File Transfers</th> </tr> </thead> <tbody> <tr> <td data-bbox="955 516 1249 565">DOR to L&I</td> <td data-bbox="1249 516 1453 565">1</td> <td data-bbox="1453 516 1690 565">9,396</td> </tr> <tr> <td data-bbox="955 565 1249 613">DOR to ESD</td> <td data-bbox="1249 565 1453 613">11</td> <td data-bbox="1453 565 1690 613">2,109</td> </tr> <tr> <td data-bbox="955 613 1249 662">L&I to DOR</td> <td data-bbox="1249 613 1453 662">49</td> <td data-bbox="1453 613 1690 662">5,430</td> </tr> <tr> <td data-bbox="955 662 1249 711">L&I to ESD</td> <td data-bbox="1249 662 1453 711">89</td> <td data-bbox="1453 662 1690 711">4,899</td> </tr> <tr> <td data-bbox="955 711 1249 760">ESD to L&I</td> <td data-bbox="1249 711 1453 760">8</td> <td data-bbox="1453 711 1690 760">3,633</td> </tr> <tr> <td data-bbox="955 760 1249 808">ESD to DOR</td> <td data-bbox="1249 760 1453 808">26</td> <td data-bbox="1453 760 1690 808">0</td> </tr> <tr> <td data-bbox="955 808 1249 857">Total</td> <td data-bbox="1249 808 1453 857">184</td> <td data-bbox="1453 808 1690 857">25,467</td> </tr> </tbody> </table> <p data-bbox="955 873 1102 906"><i>Source: DOR</i></p> <p data-bbox="661 966 1963 1031">Note: Currently measure tips received from auditors at other agencies and tips sent to other agencies. State agencies cannot share IRS data for this and similar purposes.</p>			Cross-agency Referrals FY 2009			Referral from...to	Referrals via Interagency Referral Form	Referral via Electronic Data File Transfers	DOR to L&I	1	9,396	DOR to ESD	11	2,109	L&I to DOR	49	5,430	L&I to ESD	89	4,899	ESD to L&I	8	3,633	ESD to DOR	26	0	Total	184	25,467
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Recommended Activities (Passed in SSB 6732 and ESHB 3122)	Benchmark Measures by Agency For Fiscal Year 2009 (July 2008 through June 2009)		
6. Independent Contractor Status	ESD	L&I	DOR
<p>(a) Combined independent contractor definition</p> <p>ESHB 3122</p>	<ul style="list-style-type: none"> • Staff trained • Revised documentation • Revised guide to independent contractors. 	<ul style="list-style-type: none"> • Staff trained • Revised documentation • Revised guide to independent contractors. 	
7. Monitoring Underground Construction Activity	ESD	L&I	DOR
<p>(a) Establish benchmarks for future monitoring of activities recommended by the task force</p> <p>SSB 6732 Sec. 14</p>	<p>Based on targeted audits:</p> <ul style="list-style-type: none"> • Number of firms misclassifying workers: 1,116 • Number of misclassified workers: 6,602 <p>From 7/1/2008 to 6/30/2009, data includes all industries, not just the construction industry.</p>	<ul style="list-style-type: none"> • Targeted construction audits identifying workers and hours: 1,644 workers' comp construction audits • Number of unregistered contractors identified: 1708 • Dollars identified: \$15,712,279 in workers' comp audit assessments (including penalties) <p>\$2,430,250 identified from Contractor Compliance infractions</p>	<ul style="list-style-type: none"> • Losses according to the DOR Bi-annual Compliance Study <p>See Table 2 and Figure 3 below from the 2008 Compliance Study for information on taxes owed by registered businesses. The next Compliance study will be completed in 2010.</p>

**Benchmarks to Monitor Outcomes and Activities Associated with Recommendations of the
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**FY2009 Audit Assessments on Unregistered Accounts
or Previously Registered Accounts that were Involuntarily Reregistered
Totals by NAICS Sector Code**

Labor & Industries

Naics Sector Code	Naics Sector Desc	Total Accounts Assessed	New Premiums / Taxes	Total Penalties	Assessment Including Penalties
11	AGRICULTURE, FORESTRY, FISHING AND HUNTING	18	\$92,490.54	\$51,061.11	\$143,551.65
21	MINING	1	\$22,273.85	\$2,000.00	\$24,273.85
23	CONSTRUCTION	318	\$3,457,365.81	\$2,077,672.27	\$5,535,038.08
31,32,33	MANUFACTURING	15	\$130,951.17	\$52,617.90	\$183,569.07
42	WHOLESALE TRADE	8	\$26,928.11	\$31,418.81	\$58,346.92
44, 45	RETAIL TRADE	34	\$100,532.41	\$45,404.64	\$145,937.05
48, 49	TRANSPORTATION AND WAREHOUSING	38	\$481,617.02	\$224,696.25	\$706,313.27
51	INFORMATION	4	\$8,631.17	\$9,250.88	\$17,882.05
52	FINANCE AND INSURANCE	10	\$34,089.35	\$37,688.39	\$71,777.74
53	REAL ESTATE AND RENTAL AND LEASING	33	\$176,117.97	\$130,054.92	\$306,172.89
54	PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES	15	\$11,760.04	\$15,052.14	\$26,812.18
56	ADMINISTRATIVE, SUPPORT, WASTE MANAGEMENT AND REMEDIATION SVCS	59	\$156,101.66	\$166,541.33	\$322,642.99
61	EDUCATIONAL SERVICES	2	\$1,062.47	\$2,831.15	\$3,893.62
62	HEALTH CARE AND SOCIAL ASSISTANCE	16	\$59,612.48	\$22,493.45	\$82,105.93
71	ARTS, ENTERTAINMENT, AND RECREATION	4	\$20,427.32	\$7,569.47	\$27,996.79
72	ACCOMMODATION AND FOOD SERVICES	17	\$34,015.43	\$40,398.90	\$74,414.33
81	OTHER SERVICES (EXCEPT PUBLIC ADMINISTRATION)	34	\$99,736.40	\$74,792.15	\$174,528.55
Unk	UNKNOWN NAICS*	34	\$115,664.84	\$65,763.93	\$181,428.77
TOTALS		660	\$5,029,378.04	\$3,057,307.69	\$8,086,685.73

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**FY2009 Audit Assessments on Unregistered Accounts
or Previously Registered Accounts that were Involuntarily Reregistered
Totals by NAICS Sector Code**

Employment Security

Naics Sector Code	Naics Sector Desc	Total Accounts Assessed	New Premiums / Taxes	Total Penalties	Assessment Including Penalties
11	AGRICULTURE, FORESTRY, FISHING AND HUNTING	1	\$19,111.67	\$3,632.49	\$22,744.16
21	MINING	0	0	0	0.00
23	CONSTRUCTION	37	\$292,940.31	\$60,278.42	\$353,218.73
31, 32, 33	MANUFACTURING	0	0	0	0.00
42	WHOLESALE TRADE	2	\$21,263.55	\$4,199.54	\$25,463.09
44, 45	RETAIL TRADE	3	\$73,586.26	\$5,901.52	\$79,487.78
48, 49	TRANSPORTATION AND WAREHOUSING	10	\$76,668.66	\$14,384.33	\$91,052.99
51	INFORMATION	1	\$2,805.58	\$561.11	\$3,366.69
52	FINANCE AND INSURANCE	3	\$7,539.25	\$1,548.48	\$9,087.73
53	REAL ESTATE AND RENTAL AND LEASING	8	\$9,854.58	\$2,006.14	\$11,860.72
54	PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES	5	\$14,832.32	\$2,863.57	\$17,695.89
56	ADMINISTRATIVE, SUPPORT, WASTE MANAGEMENT AND REMEDIATION SVCS	9	\$19,096.49	\$3,698.46	\$22,794.95
61	EDUCATIONAL SERVICES	1	\$2,018.41	\$403.68	\$2,422.09
62	HEALTH CARE AND SOCIAL ASSISTANCE	6	\$10,936.88	\$2,182.25	\$13,119.13
71	ARTS, ENTERTAINMENT, AND RECREATION	1	\$8,236.45	\$1,647.30	\$9,883.75
72	ACCOMMODATION AND FOOD SERVICES	8	\$6,752.72	\$1,289.17	\$8,041.89
81	OTHER SERVICES (EXCEPT PUBLIC ADMINISTRATION)	10	\$16,288.70	\$3,317.15	\$19,605.85
Unk	UNKNOWN NAICS*	0	0	0	0
TOTALS		105	\$581,913.61	\$107,913.61	\$689,845.44

**Benchmarks to Monitor Outcomes and Activities Associated with Recommendations of the
Task Force on the Underground Economy in the Construction Industry (August 2008)**

**FY2009 Assessments on Unregistered Accounts
that were Involuntarily Registered
Totals by NAICS Sector Code**

**Department of Revenue
Compliance Division**

Naics Sector Code	Naics Sector Desc	Total Accounts Assessed	*Total Dollars Assessed
11	AGRICULTURE, FORESTRY, FISHING AND HUNTING	0	\$0.00
21	MINING	0	\$0.00
22	UTILITIES	4	\$59,748.31
23	CONSTRUCTION	21	\$520,730.22
31,32,33	MANUFACTURING	40	\$691,288.27
42	WHOLESALE TRADE	274	\$5,681,442.65
44, 45	RETAIL TRADE	89	1,067,702.98
48, 49	TRANSPORTATION AND WAREHOUSING	5	\$99,348.57
51	INFORMATION	1	\$1,038.81
52	FINANCE AND INSURANCE	4	\$21,350.86
53	REAL ESTATE AND RENTAL AND LEASING	10	\$258,592.82
54	PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES	1	\$4,750.66
56	ADMINISTRATIVE, SUPPORT, WASTE MANAGEMENT AND REMEDIATION SVCS	10	\$199,392.11
61	EDUCATIONAL SERVICES	0	\$0.00
62	HEALTH CARE AND SOCIAL ASSISTANCE	2	\$24,713.58
71	ARTS, ENTERTAINMENT, AND RECREATION	4	\$65,741.60
72	ACCOMMODATION AND FOOD SERVICES	7	\$82,345.13
81	OTHER SERVICES (EXCEPT PUBLIC ADMINISTRATION)	17	\$660,269.13
Unk	Unknown	1	\$37,639.27
	TOTALS	490	\$9,476,094.97

*Assessments include tax, penalties, and interest.

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Appendix A:

Suspectfraud.com

The Department of Revenue (DOR) led efforts to coordinate a state consumer protection promotion effort with Labor and Industries (L&I), Employment Security Department (ESD), and other key state agencies and business associations. Department of Revenue worked with the Governor's Office to proclaim March 1-7 Washington State Consumer Protection Week to coincide with the annual National Consumer Protection Week.

During March 1-7, Department of Revenue launched SuspectFraud.com, populated with links to Revenue's Business Records Database, Reporting Fraud section, Voluntary Disclosure Program, Delinquent Taxpayer List, and other state agencies' fraud reporting sites and consumer services.

SuspectFraud.com was promoted in the Puget Sound area through news releases and radio and web advertising using the "Check with the State Before it's Too Late" and "Your Pain is Their Gain" ad slogans. In partnership, Labor and Industries covered eastern Washington with similar radio advertising focusing on unlicensed contractors. Revenue's efforts resulted in coverage from 12 statewide media outlets including various television, radio and print media. The following data shows DOR's results of the SuspectFraud.com campaign:

SuspectFraud.com Page Views	
February 2009 (site created late-February)	2,704
March 2009	7,184
April 2009	927

Other Web Page Views		
	March 2008	March 2009
Business Records Database	545,705	612,898
Report Fraud	506	1,364
Voluntary Disclosure	838	1,063
Delinquent Taxpayer List	4,002	6,255

Other Results		
	March 2008	March 2009
Compliance referrals:		
• Internet	50	119
• Mail	7	6
800 number	12	6
Voluntary Disclosure Agreements	23	31

DOR, L&I and ESD continue to look for opportunities like SuspectFraud.com to increase consumer awareness about tax discovery and fraud prevention.

**Benchmarks to Monitor Outcomes and Activities Associated with Recommendations of the
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Appendix B:

Summary Data from the 2008 Department of Revenue Compliance Study

Table 2. Noncompliance by Industry

Industry	Estimated Noncompliance	Estimated Noncompliance as a Percent of Total Noncompliance	Voluntarily Reported Tax	Noncompliance as a Percent of Total Tax Liability
Construction	\$34,007,717	14.7%	\$1,200,779,222	2.8%
Manufacturing	\$834,787	0.4%	\$626,269,667	0.1%
Transport/Utility	\$26,452,115	11.4%	\$859,722,595	3.0%
Wholesale	\$15,733,541	6.8%	\$866,404,171	1.8%
Retail	\$99,322,203	43.0%	\$3,701,773,134	2.6%
Fin/Real Estate	\$3,548,971	1.5%	\$446,941,833	0.8%
Business/Personal Services	\$34,127,403	14.8%	\$730,024,044	4.5%
Professional Services	\$16,902,724	7.3%	\$581,296,821	2.8%
Other	\$195,296	0.1%	\$44,356,005	0.4%
Total	\$231,124,757	100.0%	\$9,057,567,492	2.5%

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Appendix B Continued:

Summary Data from the 2008 Department of Revenue Compliance Study

Figure 3. Noncompliance by Industry

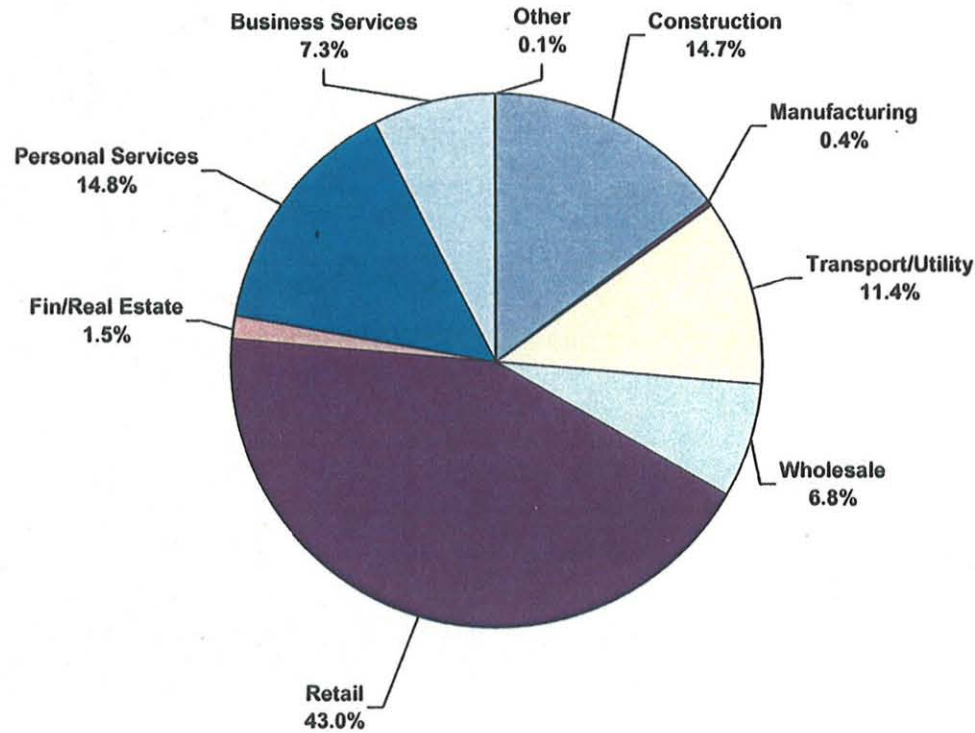


Chart from the 2008 Department of Revenue Compliance Study