

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5748 S SB	<b>Title:</b> Senior living meals/tax
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## 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	(3,540,000)	(3,540,000)	(3,545,000)	(4,180,000)	(4,180,000)	(4,186,000)	(4,400,000)	(4,400,000)	(4,406,000)
<b>Total \$</b>	<b>(3,540,000)</b>	<b>(3,540,000)</b>	<b>(3,545,000)</b>	<b>(4,180,000)</b>	<b>(4,180,000)</b>	<b>(4,186,000)</b>	<b>(4,400,000)</b>	<b>(4,400,000)</b>	<b>(4,406,000)</b>

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		(1,485,000)		(1,782,002)		(1,881,001)
Local Gov. Total		(1,485,000)		(1,782,002)		(1,881,001)

## 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
Department of Revenue	.2	33,700	33,700	33,700	.0	0	0	0	.0	0	0	0
Department of Social and Health Services	.0	0	0	0	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>0.2</b>	<b>33,700</b>	<b>33,700</b>	<b>33,700</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Cheri Keller, OFM	<b>Phone:</b> (360) 584-2207	<b>Date Published:</b> Final 4/ 6/2023
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# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5748 S SB	<b>Title:</b> Senior living meals/tax	<b>Agency:</b> 140-Department of Revenue
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## 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	(1,500,000)	(1,800,000)	(3,300,000)	(3,900,000)	(4,100,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	(110,000)	(130,000)	(240,000)	(280,000)	(300,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	(2,000)	(3,000)	(5,000)	(6,000)	(6,000)
<b>Total \$</b>	(1,612,000)	(1,933,000)	(3,545,000)	(4,186,000)	(4,406,000)

### Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.1	0.2		
GF-STATE-State 001-1	25,100	8,600	33,700		
<b>Total \$</b>	25,100	8,600	33,700		

### 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: 60-786-7438	Date: 03/29/2023
Agency Preparation: Erin Valz	Phone: 60-534-1522	Date: 04/03/2023
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 04/03/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/03/2023

Request # 5748-3-1

## 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.*

Note: This fiscal note reflects language in SSB 5748, 2023 Legislative Session.

#### COMPARISON OF SUBSTITUTE BILL WITH ORIGINAL BILL:

The proposed substitute bill removes the retroactive effective date.

#### CURRENT LAW:

The sale of meals to consumers is generally considered to be a retail sale subject to retail sales tax and business and occupation (B&O) tax under the retailing classification. However, hospitals, nursing homes, assisted living facilities and similar health care facilities are not considered to be making retail sales of meals when furnishing meals as part of the health care services provided to their patients or residents.

In contrast, meals furnished to tenants living independently in a senior living facility and not paying for health-related services as part of their rent are retail sales of the meals. The facility must collect retail sales tax and pay retailing B&O tax on the fair selling price of the meals, even if the facility does not separately itemize the charge for the meals. If the facility does not keep records showing the fair selling price of the meals, the Department of Revenue (department) requires the tax to be calculated on double the cost of the meals served, including the cost of purchasing the food, preparing and serving the meals, and all other incidental costs, including overhead expenses.

Use tax complements the retail sales tax and generally applies to a consumer's use of tangible personal property or certain services acquired by the consumer without the payment of retail sales tax.

The law provides the following retail sales and use tax exemptions for meals sold to senior citizens:

- Those provided under a state-administered nutrition program for the aged as provided under federal and state law.
- Those provided by nonprofits organized under specified state laws.
- Those provided by a qualified low-income senior housing facility to residents 62 years of age or older.

#### PROPOSAL:

This bill exempts the following from sales and use tax: Food, drink, or meals furnished by a senior living community to tenants as part of a rental or residency agreement for which the community makes no separate charge, regardless of whether the tenant is a resident of an assisted living facility (under chapter 18.20 RCW) or a continuing care retirement community (under chapter 18.390 RCW). If the rental or residency agreement constitutes a lease or rental of real estate, then the amounts are exempt from business and occupation taxes.

"Senior living community" means any facility or campus operated under a license or registration issued under chapter 18.20 or 18.390 RCW.

#### EFFECTIVE DATE:

The bill takes effect 90 days after 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:

- Currently, one-third of senior living communities bundle charges for rent and meals to residents such that retail sales tax

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applies to the sale of meals. As a result, this bill impacts one-third of senior living communities' charges for meals.

- The rental or residency agreement of the senior living community includes a lease or rental of real estate.
- Local revenue estimates use the statewide average local sales and use tax rate of 2.9231%.
- Currently, tribes with compacts receive a share of state sales and use tax and certain B&O taxes (RCW 43.06.523). Additionally, local governments may also receive a portion of state sales and use tax. Under this proposal the amount of state sales and use tax revenue shared with tribes and local governments may decrease.

**DATA SOURCES:**

- Economic and Revenue Forecast Council, November 2022 forecast.
- Department of Revenue, audit data.
- Data provided by Washington State Department of Social and Health Services.
- Food Service Director, "2014 LTC/Senior Living Census: Ancillary foodservice locations gain in popularity."

**REVENUE ESTIMATES:**

This bill decreases state revenues by an estimated \$1.6 million in the 10 months of impacted collections in fiscal year 2024, and by \$1.9 million in fiscal year 2025, the first full year of impacted collections.

This bill also decreases local revenues by an estimated \$700,000 in the 10 months of impacted collections in fiscal year 2024, and by \$800,000 in fiscal year 2025, the first full year of impacted collections.

**TOTAL REVENUE IMPACT:**

State Government (cash basis, \$000):

- FY 2024 - (\$ 1,612)
- FY 2025 - (\$ 1,933)
- FY 2026 - (\$ 2,043)
- FY 2027 - (\$ 2,143)
- FY 2028 - (\$ 2,153)
- FY 2029 - (\$ 2,253)

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

- FY 2024 - (\$ 700)
- FY 2025 - (\$ 800)
- FY 2026 - (\$ 900)
- FY 2027 - (\$ 900)
- FY 2028 - (\$ 900)
- FY 2029 - (\$ 1,000)

**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 bill affects 3,900 taxpayers.

**FIRST YEAR COSTS:**

The department will incur total costs of \$25,100 in fiscal year 2024. These costs include:

Labor Costs – Time and effort equate to 0.23 FTE.

- Amend four administrative rules.

- Process tax return work items, assist taxpayers with reporting questions and respond to inquiries via email, web messages, and paper correspondence.

Object Costs - \$200.

- Print and mail special notice to affected taxpayers who do not file tax returns electronically.

**SECOND YEAR COSTS:**

The department will incur total costs of \$8,600 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 0.1 FTE.

- Process tax return work items, assist taxpayers with reporting questions and respond to inquiries via email, web messages, and paper correspondence.

**ONGOING COSTS:**

There are no ongoing costs.

**Part III: Expenditure Detail**

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.1	0.2		
A-Salaries and Wages	15,200	5,600	20,800		
B-Employee Benefits	5,000	1,800	6,800		
E-Goods and Other Services	3,400	900	4,300		
J-Capital Outlays	1,500	300	1,800		
<b>Total \$</b>	<b>\$25,100</b>	<b>\$8,600</b>	<b>\$33,700</b>		

**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		
EXCISE TAX EX 2	55,872	0.1	0.1	0.1		
MGMT ANALYST4	73,260	0.0		0.0		
TAX POLICY SP 2	75,120	0.0		0.0		
TAX POLICY SP 3	85,020	0.1		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
<b>Total FTEs</b>		<b>0.2</b>	<b>0.1</b>	<b>0.2</b>		

**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**

*Provisions of the bill 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 the following rules:

WAC 458-20-119, titled: "Sales by caterers and food service contractors."

WAC 458-20-124, titled: "Restaurants, cocktail bars, taverns and similar businesses."

WAC 458-20-168, titled: "Hospitals, nursing homes, assisted living facilities, adult family homes and similar health care facilities."

WAC 458-20-244, titled: "Food and food ingredients."

Persons affected by this rulemaking would include senior living facilities.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5748 S SB	<b>Title:</b> Senior living meals/tax	<b>Agency:</b> 300-Department of Social and Health Services
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**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: 03/29/2023
Agency Preparation: Mitchell Close	Phone: 3600000000	Date: 04/04/2023
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 04/04/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 04/05/2023



## 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 amends RCW 82.08.0293 to exclude food and drink from the tax levied by RCW 82.08.020. It adds a section to RCW 82.04 to exclude from the rest of the chapter food, drink, and meals furnished by a senior living community to tenants. RCW 82.12.0293 is also amended to provide exceptions and clarifications around food and food ingredients.

Passage of this legislation will not impact the Department of Social and Health Services (DSHS) workload or client benefits. Therefore, there is no fiscal impact to DSHS from this bill.

### 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.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

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

NONE

### 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.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 5748 S SB	<b>Title:</b> Senior living meals/tax
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## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- Cities: use tax revenue decrease
- Counties: use tax revenue decrease
- Special Districts: use tax revenue decrease
- 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 2024	FY 2025	2023-25	2025-27	2027-29
City	(206,397)	(235,882)	(442,279)	(530,736)	(560,221)
County	(253,716)	(289,961)	(543,677)	(652,412)	(688,657)
Special District	(232,887)	(266,157)	(499,044)	(598,854)	(632,123)
<b>TOTAL \$</b>	(693,000)	(792,000)	(1,485,000)	(1,782,002)	(1,881,001)
<b>GRAND TOTAL \$</b>					(5,148,003)

### Estimated expenditure impacts to:

None

## Part III: Preparation and Approval

Fiscal Note Analyst: Angie Hong	Phone: 360-725-5041	Date: 04/03/2023
Leg. Committee Contact: Jeffrey Mitchell	Phone: 360-786-7438	Date: 03/29/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 04/03/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/03/2023

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Description of the bill with an emphasis on how it impacts local government.*

#### **CHANGES FROM PREVIOUS BILL VERSION**

This substitute bill removes the retroactive effective date, which reduces the previous revenue impacts for local governments.

#### **SUMMARY OF CURRENT BILL VERSION**

This bill alters the definition of “sale,” to exclude “food, drink, or meals furnished by a senior living community to tenants as part of a rental or residency agreement for which no separate charge is made, regardless of whether the tenant is a resident.” This definition change expands a state B&O tax exemption and a use tax exemption.

The bill takes effect 90 days after final adjournment of the session.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.*

#### **CHANGES FROM PREVIOUS BILL VERSION**

This substitute bill does not alter the previous analysis of local government expenditure impacts.

#### **SUMMARY OF CURRENT BILL'S EXPENDITURE IMPACTS**

This bill will not impact local government expenditures.

### **C. SUMMARY OF REVENUE IMPACTS**

*Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.*

#### **CHANGES FROM PREVIOUS BILL VERSION**

This substitute bill removes the retroactive effective date, which reduces the previous revenue impacts for local governments.

#### **SUMMARY OF CURRENT BILL'S REVENUE IMPACTS**

According to the Dept. of Revenue, this bill decreases local government revenues by an estimated \$700,000 in the 10 months of impacted collections in fiscal year 2024, and by \$800,000 in fiscal year 2025, the first full year of impacted collections.

#### **LOCAL GOVERNMENT, (DOR #s)**

FY 2024 - (\$ 700,000)

FY 2025 - (\$ 800,000)

FY 2026 - (\$ 900,000)

FY 2027 - (\$ 900,000)

FY 2028 - (\$ 900,000)

FY 2029 - (\$ 1,000,000)

#### **METHODOLOGY**

The distributions for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2021. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. The result is a distribution of 36.61 percent to counties, 29.78 percent to cities, and 33.61 percent to special districts. The one percent DOR administrative fee has also been deducted.

#### **COUNTIES:**

FY 2024	-\$253,716
FY 2025	-\$289,961
FY 2026	-\$326,206
FY 2027	-\$326,206
FY 2028	-\$326,206
FY 2029	-\$362,451

CITIES:

FY 2024	-\$206,397
FY 2025	-\$235,882
FY 2026	-\$265,368
FY 2027	-\$265,368
FY 2028	-\$265,368
FY 2029	-\$294,853

Special Districts:

FY 2024	-\$232,887
FY 2025	-\$266,157
FY 2026	-\$299,427
FY 2027	-\$299,427
FY 2028	-\$299,427
FY 2029	-\$332,696

SOURCES

Department of Revenue Fiscal Note  
Department of Revenue Local Tax Distributions