

Multiple Agency Fiscal Note Summary

Bill Number: 5767 SB	Title: Highly compensated hospital employee excise 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	800,000	800,000	800,000	1,800,000	1,800,000	1,800,000	1,900,000	1,900,000	1,900,000
Total \$	800,000	800,000	800,000	1,800,000	1,800,000	1,800,000	1,900,000	1,900,000	1,900,000

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	No fiscal impact					
Local Gov. Total						

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	3.1	1,056,500	1,056,500	1,056,500	1.1	213,800	213,800	213,800	1.1	213,800	213,800	213,800
Department of Health	.1	0	0	20,000	.0	0	0	6,000	.0	0	0	2,000
University of Washington	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Employment Security Department	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	3.2	1,056,500	1,056,500	1,076,500	1.1	213,800	213,800	219,800	1.1	213,800	213,800	215,800

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	No fiscal impact								
Local Gov. Total									

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 Health	.0	0	0	.0	0	0	.0	0	0
University of Washington	.0	0	0	.0	0	0	.0	0	0
Employment Security Department	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Breakout

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Prepared by: Cheri Keller, OFM	Phone: (360) 584-2207	Date Published: Final 4/12/2023
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Department of Revenue Fiscal Note

Bill Number: 5767 SB	Title: Highly compensated hospital employee excise tax	Agency: 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 00 - 00 -		800,000	800,000	1,800,000	1,900,000
Total \$		800,000	800,000	1,800,000	1,900,000

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.2	3.0	3.1	1.1	1.1
Account					
GF-STATE-State 001-1	626,500	430,000	1,056,500	213,800	213,800
Total \$	626,500	430,000	1,056,500	213,800	213,800

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: 04/03/2023
Agency Preparation: Erin Valz	Phone: (360) 534-1522	Date: 04/06/2023
Agency Approval: Valerie Torres	Phone: (360) 534-1521	Date: 04/06/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/07/2023

Request # 5767-1-1

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.

CURRENT LAW:

Depending on the business activity, hospitals may be subject to business and occupation (B&O) tax and other taxes. Nonprofit hospitals are statutorily required to report employee compensation information to the department of health (DOH) on an annual basis.

PROPOSAL:

This bill imposes a new tax on excess compensation paid to covered employees by nonprofit hospitals. Excess compensation is defined as the annual total compensation of a covered employee for the tax year exceeding 10 times the average annual wage most recently published by the Employment Security Department as of December 31st of the year immediately preceding the year the tax is due and payable to the Department of Revenue (department). The proposal defines a covered employee as the five highest compensated employees of a hospital, without any direct patient responsibilities, and for whom the hospital must report compensation to DOH. If the five highest compensated employees exclude the lead administrator, then "covered employee" also includes the lead administrator.

The tax equals the sum of the annual total compensation of covered employees reported to DOH during the tax year that are paid excess compensation, multiplied by 7.5%. The tax is not imposed on for-profit hospitals.

The tax will be due starting in 2025 based on the compensation of employees reported to DOH in the calendar year immediately preceding the year the tax is due and payable to the department.

The department may allow hospitals affiliated with each other to report on a single return. The tax is in addition to any other tax.

"Average annual wage" means the quotient calculated by dividing the total monetary salary reported by all employers for the preceding calendar year by the average number of workers reported (under RCW 50.04.355).

"Hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals, not related to the operator, suffering from illness, injury, deformity, abnormality, or any other condition where appropriate care or diagnosis includes obstetrical, medical, or surgical services (chapter 70.41 RCW).

A hospital may deduct from the measure of tax the portion of a covered employee's annual total compensation for work performed outside of Washington when the work is not part of the hospital's business activities in Washington. Hospitals determine the amount of the deduction by multiplying a covered employee's annual total compensation by the portion of their hours worked in Washington in furtherance of the hospital's business activities in this state.

The statutes governing the department's administrative authority (Chapter 82.32 RCW) apply to the new tax.

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.

- Not all hospitals comply with their statutory obligation to submit annual total compensation reports to DOH. This fiscal note assumes a similar level of noncompliance throughout the forecast period for this fiscal note.
- A small portion of total employee compensation may be for work outside of Washington. These amounts qualify for the out-of-state work deduction when calculating the amount of tax due. However, these amounts are unknown. As a result, this estimate may overestimate the fiscal impact, disregarding any other factors affecting this estimate.
- The bill is ambiguous as to whether “employees of a hospital” in the definition of “covered employee” include any employee of the nonprofit organization that owns a hospital, or whether covered employees are just those employees who are employed to work at a hospital.
- Consistent with the rule of statutory construction applied by Washington courts in tax litigation that any doubt as to the meaning of a statute imposing a tax is construed in favor of the taxpayer and against the taxing authority, this estimate only includes employees associated with a specified hospital within DOH’s annual compensation reports. If the annual compensation reports do not indicate that a particular employee is employed by a specific hospital, then the tax calculation excludes that employee. As a result, this estimate may underestimate the fiscal impact, disregarding any other factors affecting this estimate.
- This estimate only includes hospitals submitting an annual compensation report to DOH. As a result, this estimate may underestimate the fiscal impact, disregarding any other factors affecting this estimate.
- The general fund receives the tax.
- The first tax return is due April 15, 2025.

DATA SOURCES:

- IHS Markit, November 2022 forecast for personal income
- Department of Health
- Employment Security Department

REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$800,000 in fiscal year 2025 and by an estimated \$900,000 in fiscal year 2026.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$ 0
FY 2025 -	\$ 800
FY 2026 -	\$ 900
FY 2027 -	\$ 900
FY 2028 -	\$ 900
FY 2029 -	\$ 1,000

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:

Request # 5767-1-1

- This bill affects 100 hospitals.
- Affiliated hospitals will not report covered employees on one return as the bill allows. Instead, the department will require each hospital to file and pay the tax separately.
- The department will enter into a data sharing agreement with DOH.
- This estimate only reflects the department's expenditures. Other state agencies may have additional costs associated with this bill.

FIRST YEAR COSTS:

The department will incur total costs of \$626,500 in fiscal year 2024. These costs include:

Labor Costs – Time and effort equate to 3.23 FTEs.

- Set up, program, and test computer system changes for a new account type and a new return specific to the new tax.
- Create a special notice and update relevant information on the department's website.
- Respond to tax ruling requests and email inquiries.
- Adopt one new administrative rule.

Object Costs - \$242,000.

- Computer system changes, including contract programming.

SECOND YEAR COSTS:

The department will incur total costs of \$430,000 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 3.0 FTEs.

- Continued computer system programming, testing, monitoring, and maintenance.
 - Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.

Object Costs - \$88,000.

- Computer system changes, including contract programming.

THIRD YEAR COSTS:

The department will incur total costs of \$106,900 in fiscal year 2026. These costs include:

Labor Costs - Time and effort equate to 1.1 FTEs.

- Continued computer system monitoring and maintenance.
 - Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.

ONGOING COSTS:

Ongoing yearly costs equal \$106,900 and include similar activities described in the third-year costs. Time and effort equate to 1.1 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.2	3.0	3.1	1.1	1.1
A-Salaries and Wages	234,200	220,300	454,500	138,000	138,000
B-Employee Benefits	77,200	72,800	150,000	45,600	45,600
C-Professional Service Contracts	242,000	88,000	330,000		
E-Goods and Other Services	49,400	35,700	85,100	23,400	23,400
G-Travel	900	1,400	2,300		
J-Capital Outlays	22,800	11,800	34,600	6,800	6,800
Total \$	\$626,500	\$430,000	\$1,056,500	\$213,800	\$213,800

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
EMS BAND 4	126,619	0.0		0.0		
EMS BAND 5	147,919	0.0		0.0		
EXCISE TAX EX 3	61,632	1.0	1.0	1.0	1.0	1.0
IT SYS ADM-JOURNEY	92,844	0.1	0.5	0.3		
MGMT ANALYST4	73,260	1.0	1.2	1.1	0.1	0.1
MGMT ANALYST5	80,952	0.6	0.3	0.5		
TAX POLICY SP 2	75,120	0.3		0.2		
TAX POLICY SP 3	85,020	0.1		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 2	94,669	0.1		0.1		
WMS BAND 3	107,685	0.0		0.0		
Total FTEs		3.2	3.0	3.2	1.1	1.1

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 standard process to adopt WAC 458-20-XXX, titled: "Hospital excess compensation excise tax." Persons affected by this rulemaking would include nonprofit hospitals.

Request # 5767-1-1

Individual State Agency Fiscal Note

Bill Number: 5767 SB	Title: Highly compensated hospital employee excise tax	Agency: 303-Department of Health
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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	0.1	0.1	0.0	0.0
Account					
OTHER 1-State NEW-1	0	20,000	20,000	6,000	2,000
Total \$	0	20,000	20,000	6,000	2,000

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: 04/03/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 04/06/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 04/06/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 04/11/2023

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.

This bill imposes an excise tax on the annual compensation paid to certain highly compensated hospital employees.

Section 5: Allows the Department of Revenue to enter into a data-sharing agreement with the Department of Health (department) for data collected under section 3 of RCW 43.70.052 (Hospital Financial and Patient Discharge Data—Financial Reports—Data Retrieval—American Indian Health Data—Reporting—Patient Discharge Data—Confidentiality and Protection).

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.

The charity care program supports hospital data collection and reporting expenses through an assessment on hospitals outlined in RCW 70.170.080 (Assessments – Costs). The department does not anticipate the need to increase the assessment rate to support the changes proposed in this bill. The department will monitor the program fund balance and adjust the assessment rate, as needed in the future, to recover all program expenditures.

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.

Section 5: Allows the Department of Revenue to enter into a data-sharing agreement with the department for data collected under section 3 of RCW 43.70.052 (Hospital Financial and Patient Discharge Data—Financial Reports—Data Retrieval—American Indian Health Data—Reporting—Patient Discharge Data—Confidentiality and Protection). Currently, the department accepts information in excel and PDFs and posts it publicly on the department’s website. In order to provide usable datasets for the Department of Revenue the department will have to create new workflows in the Hospital Financial Data Repository system to accept and aggregate the information. Costs for establishing a data sharing agreement, system implementation, and ongoing maintenance and operations include staff and associated expenses (including goods and services, intra-agency, and indirect charges).

FY 2025 costs will be 0.1 FTE and \$20,000 (002).

FY 2026 costs will be \$5,000 (002).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
NEW-1	OTHER 1	State	0	20,000	20,000	6,000	2,000
Total \$			0	20,000	20,000	6,000	2,000

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		13,000	13,000	4,000	2,000
B-Employee Benefits		4,000	4,000	1,000	
E-Goods and Other Services		2,000	2,000	1,000	
T-Intra-Agency Reimbursements		1,000	1,000		
Total \$	0	20,000	20,000	6,000	2,000

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
IT SYSTEM ADMINISTRATION - JOURNEY	105,060		0.1	0.1		
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.

Individual State Agency Fiscal Note

Bill Number: 5767 SB	Title: Highly compensated hospital employee excise tax	Agency: 360-University of Washington
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

Non-zero but indeterminate cost and/or savings. Please see discussion.

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: 04/03/2023
Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 04/06/2023
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 04/06/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 04/11/2023

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.

SB 5767 relates to funding health care access by imposing an excise tax on the annual compensation paid to certain highly compensated hospital employees; and adding a new chapter to Title 82 RCW.

Section 1 provides an intent section.

Section 2 provides relevant definitions including:

"Annual total compensation" which means the total compensation of a covered employee as required to be reported to the department of health under RCW 43.70.052(3), which is interpreted to include retirement benefits.

"Average annual wage" has the same meaning as in RCW 50.04.355.16

"Covered employees" means the five highest compensated employees of a hospital, who do not have any direct patient responsibilities, and for whom the hospital must report compensation. If the five highest compensated employees do not include the lead administrator for the hospital, "covered employee" also includes the lead administrator.

"Excess compensation" means the annual total compensation of a covered employee, as required to be reported under RCW 43.70.052 on or before December 31st of the tax year, that exceeds 10 times the average annual wage most recently published, as of December 31st of the tax year, by the employment security department.

"Hospital" means any hospital licensed under chapter 70.41 RCW, which includes UWMC and Harborview.

Section 3 requires by January 1, 2024, for taxes due in 2025, an excess compensation tax is imposed on the hospitals that pay covered employees excess compensation. The tax equals the sum of the annual total compensation, as required to be reported to the department of health under RCW 43.70.052(3) during the tax year, of any covered employee that is paid excess compensation during the tax year, multiplied by 7.5 percent.

Section 4 allows a deduction for work performed outside of this state when such out-of-state work is not in the furtherance of the hospital's business activities in Washington.

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.

FISCAL IMPACTS OF 5767:

The University of Washington assesses the fiscal impacts of this bill to be indeterminate and potentially no impact.

Washington’s average annual wage in 2021 was \$82,508, according to the state Employment Security Department. This would put the threshold for excess compensation at \$825,080 for 2022. Washington’s average annual wage increased by 7.5% between 2020 and 2021, at the same time the state’s allowable merit increases for UW faculty and staff were 0% in

FY21, 2% in FY22, and 3.25% in FY23. This makes it difficult to predict what the threshold will be for FY24 and FY25 in relation to covered employee total compensation when the excise tax would go into effect.

However, using the 2021 threshold and FY22 total compensation including retirement benefits information, the UW would have one covered employee whose total compensation package would exceed the threshold defined in this bill. The UW is interpreting the language of this bill, for the excise tax imposed to apply to the entire compensation package, not just the compensation above the excess compensation threshold set. Therefore, applying the 7.5% calculation to the entire compensation package would result in \$65,350 owed as an example for this year. If the bill were interpreted to apply only to the compensation above the prescribed threshold, the UW would owe \$3,469 based on the same calculations. However, the UW anticipates the excise tax owed would likely remain the same or potentially fall below the threshold to \$0, by the time this bill is in effect. This is due to the likelihood that annual average wage growth will continue to outpace allowable increases at the UW, and only one total compensation package exceeds the current threshold by a small margin.

For the purposes of this fiscal note, the UW anticipates the fiscal impacts as indeterminate.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

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.

Individual State Agency Fiscal Note

Bill Number: 5767 SB	Title: Highly compensated hospital employee excise tax	Agency: 540-Employment Security Department
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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:

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- ☐ 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: 04/03/2023
Agency Preparation: Daniel Hare	Phone: 360 902-9422	Date: 04/06/2023
Agency Approval: Lisa Henderson	Phone: 360-902-9291	Date: 04/06/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 04/06/2023

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.

SB 5767 imposes an excise tax on compensation paid to certain highly-paid hospital administration employees. The bill defines "excess compensation" in terms of income that exceeds 10 times the average annual wage most recently published by the Washington State Employment Security Department (ESD). This bill does not require any changes to Employment Security's policies or processes and therefore has no fiscal impact to the agency.

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.

N/A

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.

N/A

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

N/A

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

Bill Number: 5767 SB

Title: Highly compensated hospital employee excise tax

Part I: Jurisdiction—Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☐ Counties:
- ☐ Special Districts:
- ☐ 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:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Tammi Alexander	Phone: 360-725-5038	Date: 04/11/2023
Leg. Committee Contact: Jeffrey Mitchell	Phone: 360-786-7438	Date: 04/03/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 04/11/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 04/11/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This bill create a new excise tax to be paid on excess compensation to covered employees by nonprofit hospitals. A covered employee is defined as the five highest compensated employees of a hospital, without any direct patient responsibilities, and for whom the hospital must report compensation to the Department of Health.

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.

This bill would not impact local government expenditures.

Although there are nonprofit hospitals operated within public hospital districts, according to Washington State Association of Counties, hospitals raise their own funding and have separate revenue and expenses from the local governments in their region.

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.

This bill would not impact local government revenues.

SOURCES:

Department of Revenue fiscal note, SB 5767 (2023)

Washington State Association of Counties



Multiple Agency Ten-Year Analysis Summary

Bill Number	Title
5767 SB	Highly compensated hospital employee excise tax

This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimated Cash Receipts

	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Department of Revenue	0	800,000	900,000	900,000	900,000	1,000,000	1,000,000	1,100,000	1,100,000	1,200,000	8,900,000
Department of Health	0	0	0	0	0	0	0	0	0	0	0
University of Washington	0	0	0	0	0	0	0	0	0	0	0
Employment Security Department	0	0	0	0	0	0	0	0	0	0	0
Total	0	800,000	900,000	900,000	900,000	1,000,000	1,000,000	1,100,000	1,100,000	1,200,000	8,900,000



Ten-Year Analysis

Bill Number 5767 SB	Title Highly compensated hospital employee excise tax	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

☐ **No Cash Receipts**
☐ **Partially Indeterminate Cash Receipts**
☐ **Indeterminate Cash Receipts**

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Hospital excess compensation excise tax	001		800,000	900,000	900,000	900,000	1,000,000	1,000,000	1,100,000	1,100,000	1,200,000	8,900,000
Total			800,000	900,000	900,000	900,000	1,000,000	1,000,000	1,100,000	1,100,000	1,200,000	8,900,000
Biennial Totals			800,000	1,800,000	1,900,000	2,100,000	2,300,000	8,900,000				

Narrative Explanation (Required for Indeterminate Cash Receipts)

CURRENT LAW:

Depending on the business activity, hospitals may be subject to business and occupation (B&O) tax and other taxes. Nonprofit hospitals are statutorily required to report employee compensation information to the department of health (DOH) on an annual basis.

PROPOSAL:

This bill imposes a new tax on excess compensation paid to covered employees by nonprofit hospitals. Excess compensation is defined as the annual total compensation of a covered employee for the tax year exceeding 10 times the average annual wage most recently published by the Employment Security Department as of December 3 of the year immediately preceding the year the tax is due and payable to the Department of Revenue (department). The proposal defines a covered employee as the five highest compensated employees of a hospital, without any direct patient responsibilities, and for whom the hospital must report compensation to DOH. If the five highest compensated employees exclude the lead administrator, then "covered employee" also includes the lead administrator.

The tax equals the sum of the annual total compensation of covered employees reported to DOH during the tax year that are paid excess compensation, multiplied by 7.5. The tax is not imposed on for-profit hospitals.

The tax will be due starting in 2025 based on the compensation of employees reported to DOH in the calendar year immediately preceding the year the tax is due and payable to the department.



Ten-Year Analysis

Bill Number	Title	Agency
5767 SB	Highly compensated hospital employee excise tax	140 Department of Revenue

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

The department may allow hospitals affiliated with each other to report on a single return. The tax is in addition to any other tax.

"Average annual wage" means the quotient calculated by dividing the total monetary salary reported by all employers for the preceding calendar year by the average number of workers reported (under RCW 50.04.355).

"Hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals, not related to the operator, suffering from illness, injury, deformity, abnormality, or any other condition where appropriate care or diagnosis includes obstetrical, medical, or surgical services (chapter 70.41 RCW).

A hospital may deduct from the measure of tax the portion of a covered employee's annual total compensation for work performed outside of Washington when the work is not part of the hospital's business activities in Washington. Hospitals determine the amount of the deduction by multiplying a covered employee's annual total compensation by the portion of their hours worked in Washington in furtherance of the hospital's business activities in this state.

The statutes governing the department's administrative authority (Chapter 82.32 RCW) apply to the new tax.

EFFECTIVE DATE:

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

- Not all hospitals comply with their statutory obligation to submit annual total compensation reports to DOH. This fiscal note assumes a similar level of noncompliance throughout the forecast period for this fiscal note.
- A small portion of total employee compensation may be for work outside of Washington. These amounts qualify for the out-of-state work deduction when calculating the amount of tax due. However, these amounts are unknown. As a result, this estimate may overestimate the fiscal impact, disregarding any other factors affecting this estimate.
- The bill is ambiguous as to whether "employees of a hospital" in the definition of "covered employee" include any employee of the nonprofit organization that owns a hospital, or whether covered employees are just those employees who are employed to work at a hospital.
- Consistent with the rule of statutory construction applied by Washington courts in tax litigation that any doubt as to the meaning of a statute imposing a tax is construed favor of the taxpayer and against the taxing authority, this estimate only includes employees associated with a specified hospital within DOH's annual compensation reports. If the annual compensation reports do not indicate that a particular employee is employed by a specific hospital, then the tax calculation excludes that employee. As a result, this estimate may underestimate the fiscal impact, disregarding any other factors affecting this estimate.



Ten-Year Analysis

Bill Number 5767 SB	Title Highly compensated hospital employee excise tax	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

- This estimate only includes hospitals submitting an annual compensation report to DOH. As a result, this estimate may underestimate the fiscal impact, disregarding any other factors affecting this estimate.
- The general fund receives the tax.
- The first tax return is due April 15, 2025.

DATA SOURCES:

- IHS Markit, November 2022 forecast for personal income
- Department of Health
- Employment Security Department

REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$800,000 in fiscal year 2025 and by an estimated \$900,000 in fiscal year 2026.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$	0
FY 2025 -	\$	800
FY 2026 -	\$	900
FY 2027 -	\$	900
FY 2028 -	\$	900
FY 2029 -	\$	1,000

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

Agency Preparation: Erin Valz	Phone: 360-534-1522	Date: 4/6/2023 5:25:15 pm
Agency Approval: Valerie Torres	Phone: 360-534-1521	Date: 4/6/2023 5:25:15 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5767 SB	Title Highly compensated hospital employee excise tax	Agency 303 Department of Health
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

☒ **No Cash Receipts** ☐ **Partially Indeterminate Cash Receipts** ☐ **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code											
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Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 4/6/2023 11:11:13 am
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 4/6/2023 11:11:13 am
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5767 SB	Title Highly compensated hospital employee excise tax	Agency 360 University of Washington
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

☒ **No Cash Receipts** ☐ **Partially Indeterminate Cash Receipts** ☐ **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code											
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Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 4/6/2023 11:52:11 am
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 4/6/2023 11:52:11 am
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5767 SB	Title Highly compensated hospital employee excise tax	Agency 540 Employment Security Department
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

☒ **No Cash Receipts** ☐ **Partially Indeterminate Cash Receipts** ☐ **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code											
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Agency Preparation: Daniel Hare	Phone: 360 902-9422	Date: 4/6/2023 10:27:48 am
Agency Approval: Lisa Henderson	Phone: 360-902-9291	Date: 4/6/2023 10:27:48 am
OFM Review:	Phone:	Date: