

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection
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## Estimated Cash Receipts

Agency Name	2015-17		2017-19		2019-21	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	1,195,776	0	545,683	0	423,840
Office of Administrative Hearings	0	234,420	0	175,200	0	175,200
Department of Revenue	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Liquor Control Board	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Department of Health	0	551,000	0	874,000	0	876,000
<b>Total \$</b>	<b>0</b>	<b>1,981,196</b>	<b>0</b>	<b>1,594,883</b>	<b>0</b>	<b>1,475,040</b>

## Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Office of Attorney General	4.4	0	1,195,776	2.0	0	545,683	1.6	0	423,840
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	1.2	0	234,420	.8	0	175,200	.8	0	175,200
Department of Revenue	.0	3,300	3,300	.0	0	0	.0	0	0
Liquor Control Board	18.5	0	4,549,698	22.6	0	3,974,398	20.6	0	3,730,250
Department of Health	8.6	0	4,015,000	5.8	0	2,174,000	5.1	0	1,916,000
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.								
<b>Total</b>	<b>32.7</b>	<b>\$3,300</b>	<b>\$9,998,194</b>	<b>31.2</b>	<b>\$0</b>	<b>\$6,869,281</b>	<b>28.1</b>	<b>\$0</b>	<b>\$6,245,290</b>

Local Gov. Courts *	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other **	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note  
FNPID: 42242

<b>Prepared by:</b> Kathy Cody, OFM	<b>Phone:</b> (360) 902-9822	<b>Date Published:</b> Final 5/12/2015
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID: 42242

FNS029 Multi Agency rollup

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 055-Admin Office of the Courts
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

### Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

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.

Contact	Phone:	Date: 04/15/2015
Agency Preparation: Kitty Hjelm	Phone: 360-704-5528	Date: 04/15/2015
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 04/15/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/15/2015

Request # 2SSB.PL-1

Bill # 5052 2S SB PL

## **Part II: Narrative Explanation**

### **II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts**

There are no judicial impact differences between 5052 2SSB.PL and the previous version 2SSB 5052 H2596.E.

2SSB 5052 H2596.E:

The judicial impact differences between the new version of 2SSB 5052 H2596.E and the previous version 2SSB 5052 H.2286.3 are as follows:

In both versions, Section 23 would make any violation of the section a class C felony and take effect on July 1 , 2016. However in the previous version the penalty would be imprisonment for not more than 2 years, or a fine of not more than two thousand dollars, or both . In this new version of 2SSB 5052 H2596.E, the limits on imprisonment and fines are not included. A violation of section 23 in this new version would result in the current maximum penalty for a class C penalty of imprisonment for five years, or a fine of five thousand dollars, or both.

In both versions, Section 33 would make any violation of the section a misdemeanor and take effect immediately upon passage of the bill. In the previous version the minimum fine would be two hundred fifty dollars and any sentence requiring community restitution would require not fewer than twenty-five hours of community restitution. In this version of 2SSB 5052 H2596.E, the limits on fines and community restitution are not included. A violation of section 33 in this new version would result in the current maximum penalty for a misdemeanor of ninety days in jail, or a fine of one thousand dollars, or both.

Section 44 in this version would add a new section to RCW 69.50 and would make any violation of the new section a class B felony . Section 44 of the previous version is now section 48 .

Section 45 in this version would add a new section to RCW 69.50 and would make any violation of the new section a class C felony . Section 45 of the previous version is now section 49 .

### **II. B - Cash Receipts Impact**

Section 23 and 45 would create new class C felonies, section 44 would create a new class B felony and section 33 would establish a new misdemeanor.

These new felonies and misdemeanor would likely result in some amount of additional fine revenues . However, there is insufficient judicial data to estimate the total amount of fines that would be collected per year .

### **II. C - Expenditures**

There is insufficient judicial data to determine how many new cases the new felonies in sections 23 , 45 and 44 or the new misdemeanor in section 33 would add to the courts statewide per year .

## **Part III: Expenditure Detail**

## **Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2016	FY 2017	2015-17	2017-19	2019-21
Legal Services Revolving Account-State 405-1	605,854	589,922	1,195,776	545,683	423,840
<b>Total \$</b>	605,854	589,922	1,195,776	545,683	423,840

### Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	4.4	4.4	4.4	2.0	1.6
<b>Account</b>					
Legal Services Revolving Account-State 405-1	605,854	589,922	1,195,776	545,683	423,840
<b>Total \$</b>	605,854	589,922	1,195,776	545,683	423,840

### Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*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:	Phone:	Date: 04/15/2015
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 04/21/2015
Agency Approval: Nick Klucarich	Phone: 360-586-3434	Date: 04/21/2015
OFM Review: Regan Hesse	Phone: (360) 902-0650	Date: 04/24/2015

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 1 is a new section providing that this act may be cited as the Cannabis Patient Protection Act.

Section 2 is a new section stating legislative findings and intent.

Section 3 amends RCW 66.08.012 to change the name of the Washington State Liquor Control Board to the Washington State Liquor and Cannabis Board (LCB). This same change is made in many other statutes throughout the act.

Section 4 amends RCW 69.50.101 to add references to “marijuana concentrates” to various definitions. Definitions are added for “designated provider,” “qualifying patient,” “CBD concentration,” “plant,” and “recognition card.” References to “marijuana concentrates” also are added to many other statutes throughout the act.

Section 6 amends RCW 69.50.331 to require the LCB to conduct comprehensive, fair, and impartial evaluations of timely applications. LCB also must develop a competitive, merit-based application process, and must give priority between competing applications in the licensing process to applicants that possess certain listed experience and qualifications.

Section 7 amends RCW 69.50.342 to add references to medical marijuana retail outlets and RCW 69.51A. In addition, rules adopted on medical marijuana retail outlets must be adopted in consultation and coordination with the Department of Health (DOH).

Section 8 amends RCW 69.50.345 to require, among other things, that LCB reconsider limits on the amount of square feet permitted to be in production on the effective date of this section.

Section 9 amends RCW 69.50.354 to delete a reference to Laws of 2013.

Section 10 adds a new section to RCW 69.50 to establish a medical marijuana endorsement to a marijuana retail outlet to allow the marijuana retailer to sell marijuana for medical use to qualifying patients and designated providers. Retailers also may provide marijuana at no charge, at their discretion, to qualifying patients and designated providers. Conditions applying to marijuana retailers to be issued an endorsement are listed.

Section 11 adds a new section to RCW 69.50 authorizing marijuana retailers and marijuana retailers holding a medical endorsement to sell products with a THC concentration of 0.3 percent or less. They also may provide such products at no charge to qualifying patients or designated providers.

Section 12 amends RCW 69.50.357 to address qualifying patients between the ages of 18 and 21.

Section 13 amends RCW 69.50.360 to delete a reference to Laws of 2013.

Section 14 amends RCW 69.50.4013 to provide that possession by a qualifying patient or preferred provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with RCW

69.51A is not a violation of this section, this chapter, or any other provision of state law.

Section 15 adds a new section to RCW 69.50 to provide that nothing in this chapter permits anyone other than a validly licensed processor to use butane or other explosive gases to extract or separate resin from marijuana or to produce any form of marijuana concentrates or marijuana-infused products that include marijuana concentrates not purchased from a validly licensed marijuana retailer as an ingredient. Cooking oil, butter, and other nonexplosive home cooking substances may be used by qualified patients and designated providers to make marijuana extracts for noncommercial personal medical use. Except for the use of butane, the LCB may not enforce this section until it has adopted the rules required by section 28 of this act.

Section 16 amends RCW 69.51A.005 to replace “cannabis” with “marijuana.”

Section 17 amends RCW 69.51A.010 to amend the definitions of “designated provider,” “medical use of marijuana,” “qualifying patient,” “terminal or debilitating medical condition,” and “valid documentation.” New definitions are added for various terms. Beginning July 1, 2016, the definition of “authorization” provides that an authorization is not a prescription as defined in RCW 69.50.101.

Section 18 amends RCW 69.51A.030 listing various acts that do not constitute crimes under state law of unprofessional conduct under RCW 18.130 and providing certain protections to health care professionals.

Section 19 adds a new section to RCW 69.51A to enable a health care provider, as part of authorizing qualifying patients or designated providers, to include recommendations on the amount of marijuana that is likely needed. If the health care provider does not include such recommendations, the marijuana retailer with a medical endorsement, when adding the qualified patient of designated provider to the medical marijuana authorization database, shall enter an endorsement containing identified restricting quantities of marijuana products that may be purchased or grown.

Section 20 adds new section to RCW 69.51A authorizing health care professionals to authorize the medical use of marijuana for qualifying patients who are under the age of 18 and providing conditions.

Section 21 adds a new section to chapter 69.51 RCW, authorizing DOH to contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database. Requirements for the database, beginning July 1, 2016, are provided. A marijuana retailer with a medical marijuana endorsement may add a qualifying patients or designated providers to the database. DOH must develop recognition card requirements by rule. Requirements for such cards are provided, and require that of marijuana retailer with a medical marijuana endorsement be able to add listed information to the database. Personally identifiable information of qualifying patients and designated providers included in the database is confidential and exempt from disclosure under RCW 42.56. DOH must charge a \$1 fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement, to be collected by the retailer from qualifying patient or designated provider at the time that he or she is entered into the database and issued a recognition card. By November 1, 2016, DOH must report to the Governor and legislative fiscal committees regarding the cost of implementing and administering the medical marijuana authorization database. DOH is may adopt rules to implement this section.

Section 22 adds a new section to RCW 42.56 adding an exemption from disclosure to records in the medical marijuana authorization database.

Section 23 adds a new section to RCW 69.51A making it unlawful to knowingly or intentionally do certain acts with respect to the medical marijuana authorization database and recognition cards, or for a designated provider or qualifying patient to sell, donate, or supply marijuana produced or obtained for or by a qualifying patient.

Section 24 amends RCW 69.51A.040 regarding the amount of marijuana concentrates, useable marijuana, plants, or marijuana-infused products a qualifying patient or designated provider who has been entered into the medical marijuana authorization database and holds a valid recognition card may possess.

Section 25 amends RCW 69.51A.043, related to the affirmative defenses a qualifying patient or designated professional may raise in criminal cases. References to the registry established in section 901 are stricken and replaced by references to “the medical marijuana authorization database.”

Section 25(1) is amended to apply to a qualifying patient or designated professional who has a valid recognition card from his or her health care professional, but is not entered in the medical marijuana authorization database.

Section 25(2) is amended to apply to a qualifying patient or designated professional who is not entered in the medical marijuana authorization database and who does not have an recognition card, but who presents his or her authorization to any law enforcement officer who questions the patient or provider regarding his or her medical use of marijuana.

Section 26 adds a new section to RCW 69.51A authorizing qualifying patients and designated providers to form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. Various limitations, conditions, and requirements are provided. LCB may adopt rules to implement this section. LCB or law enforcement may inspect a cooperative registered under this to ensure compliance. LCB must adopt rules on reasonable hours and reasons for inspection.

Section 27 adds a new section to RCW 69.51A to list several prohibitions related to marijuana growing, production, and processing, and authorizing enforcement by cities, town, counties, and other municipalities.

Section 28 adds a new section to RCW 69.51A to provide that once the LCB adopts rules under subsection (2) of this section, qualifying patients or designated providers may only extract or separate the resin from marijuana or produce or process any form of marijuana concentrates or marijuana-infused products in accordance with those standards.

Section 29 amends RCW 69.51A.045 to replace “cannabis” with “marijuana” and add references to “marijuana concentrates” and “marijuana-infused products.”

Section 30 amends RCW 69.51A.055 to strike a provision relating to persons who are supervised for a criminal conviction by a corrections agency or department.

Section 31 amends RCW 69.51A.060 to authorize a school to permit a minor who meets the requirements of section 22 to consume marijuana on school grounds.

Section 32 amends RCW 69.51A.085 to prohibit persons under 21 from participating in collective gardens or receiving marijuana that was produced, processes, transported, or delivered through a collective garden.

Section 33 adds a new section to RCW 69.50 to authorize LCB to conduct controlled purchases. Conditions are listed.

Section 34 amends RCW 69.51A.100 pertaining to a qualified patient's decision to revoke the designation of a specified designated provider and designate a different designated provider. DOH is authorized to adopt rules to implement this section.

Section 35 adds a new section to chapter 69.51 RCW providing that neither this chapter nor RCW 69.50 prohibits a health care professional from selling or donating topical, non-ingestible products that have a THC concentration of less than 0.3 percent to qualifying patients.

Section 36 adds a new section to RCW 69.51A that applies certain prohibitions and limitations to employers of health care professionals with respect to the authority of health care professionals.

Section 37 adds a new section to RCW 69.51A to establish a medical marijuana consultant certificate. DOH is authorized to adopt rules that are necessary to implement this chapter, establish forms and procedures, approve training or educational programs, receive criminal history record information, establish administrative procedures, administrative requirements, and fees, and maintain the official record of all applicants and certificate holders. Requirements for a training or education program are listed. Such certificates are subject to annual renewal and continuing education requirements as established by DOH. DOH is empowered to refuse, suspend, or revoke the certificates of medical marijuana consultants. The services that a medical marijuana consultant may provide are listed.

Section 38 adds a new section to chapter 69.51 RCW, requiring the listed health care boards to develop and approve continuing education programs related to the use of marijuana for medical purposes for the health care providers that they regulate.

Section 39 amends RCW 43.70.320, pertaining to the health professions account, to add a reference to section 21 of this act.

Section 40 adds a new chapter to 82.04 RCW, providing that this chapter does not apply to any cooperative in respect to growing marijuana or manufacturing marijuana concentrates, usable marijuana, or marijuana-infused products. The tax preference in this section is not subject to RCW 82.32.805 or .808

Section 41 is a new section requiring DOH to develop recommendations on establishing medical marijuana specialty clinics, and to report recommendations to the legislature by December 1, 2015.

Section 42 amends RCW 69.50.203 to provide that marijuana concentrates, useable marijuana, or marijuana-infused products that DOH has identified as appropriate for sales to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement may not be placed in Schedule I.

Section 43 amends RCW 69.50.204 to provide an exception related to certain marijuana and to defined the term "tetrahydrocannabinols."

Sections 44 and 45 add a new section to RCW 69.50 providing that it is unlawful for any person to manufacture, deliver, possess with intent to deliver, marijuana concentrates, or possess useable marijuana, and marijuana-infused products identified by DOH as appropriate for sale to qualifying patients and designated

providers in a retail outlet that holds a medical marijuana endorsement except for those activities that comply with RCW 69.51A and section 26 of this act.

Section 46 amends RCW 9.9A.518 to add references to manufacturing, delivering, possessing with intent to deliver, and possessing marijuana pursuant to sections 44 and 45 of this act.

Section 47 is a new section providing that all references to the Liquor Control Board must be construed as referring to the Liquor and Cannabis Board.

Sections 48 and 49 are new sections repealing various statutes.

Section 46 is a new section providing that sections 38 and 39 of this act take effect October 1, 2015.

Section 50 is a new section providing that sections 12, 19, 20, 23 through 26, 31, 35, 40 and 49 take effect July 1, 2016.

Section 51 is a new section providing an emergency clause with respect to sections 21, 22, 32, and 33.

Section 52 is a new section providing that this act takes effect on the dates provided in sections 50 through 52 if HB 2136, or any subsequent version of HB 2136, is enacted into law by October 1, 2015.

In order to provide legal services for LCB and DOH, the Attorney General's Office (AGO) estimates a workload impact of:

FY2016: 2.98 Assistant Attorney General (AAG) and 1.45 Legal Assistant (LA) at a cost of \$605,854 (this includes direct litigation costs of \$1,200).

FY2017: 2.9 AAG and 1.45 LA at a cost of \$589,922 (this includes direct litigation costs of \$1,500).

FY2018: 1.44 AAG and 0.72 LA at a cost of \$293,182 (this includes direct litigation costs of \$1,000).

FY2019: 1.24 AAG and 0.62 LA at a cost of \$252,501 (this includes direct litigation costs of \$900).

FY2020 and in each FY thereafter: 1.04 AAG and 0.52 LA at a cost of \$211,920 (this includes direct litigation costs of \$900).

This bill is assumed effective October 1, 2015.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Funds are assumed to be appropriated Legal Service Revolving Account dollars. Legal services costs incurred by the AGO will be billed through the revolving fund to the client agency.

The client agencies are assumed to be LCB and DOH. The AGO will bill LCB and DOH for legal services rendered.

Please note that these cash receipts represent the AGO authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

### **AGO AGENCY ASSUMPTIONS:**

LCB will be billed:

FY2016 (LSRF): \$401,750 for 1.98 AAG and 0.95 LA.

FY2017 (LSRF): \$385,518 for 1.9 AAG and 0.95 LA.

FY2018 (LSRF) and in each FY thereafter: \$89,278 for 0.44 AAG and 0.22 LA.

DOH will be billed:

FY2016 (LSRF): \$204,104 for 1.0 AAG and 0.5 LA (including \$1,200 in direct litigation costs).

FY2017 (LSRF): \$204,404 for 1.0 AAG and 0.5 LA (including \$1,500 in direct litigation costs).

FY2018 (LSRF): \$203,904 for 1.0 AAG and 0.5 LA (including \$1,000 in direct litigation costs).

FY2019 (LSRF): \$163,223 for 0.8 AAG and 0.4 LA (including \$900 in direct litigation costs).

FY2020 (LSRF) and in each FY thereafter: \$122,642 for 0.6 AAG and 0.3 LA (including \$900 in direct litigation costs).

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

In order to provide legal services for LCB and DOH, the AGO estimates a workload impact of:

FY2016: 2.98 AAG and 1.45 LA at a cost of \$605,854 (this includes direct litigation costs of \$1,200).

FY2017: 2.9 AAG and 1.45 LA at a cost of \$589,922 (this includes direct litigation costs of \$1,500).

FY2018: 1.44 AAG and 0.72 LA at a cost of \$293,182 (this includes direct litigation costs of \$1,000).

FY2019: 1.24 AAG and 0.62 LA at a cost of \$252,501 (this includes direct litigation costs of \$900).

FY2020 and in each FY thereafter: 1.04 AAG and 0.52 LA at a cost of \$211,920 (this includes direct litigation costs of \$900).

Assumptions:

1. Legal services associated with the enactment of this bill are assumed to begin on October 1, 2015.

Assumptions for the AGO Government Compliance and Enforcement Division's Legal Services for LCB:

1. We assume that we will bill LCB for legal services resulting from this bill.

2. We assume there are 1,100 existing medical dispensaries. We assume that 75% of the existing dispensaries will seek retail licensure resulting in 825 applications. We further assume that 50% of the applications will be granted, which will result in 413 new retail licenses. We assume these projections are conservative since there is a certainty that others will seek a retail license once a new legal pathway exists.

3. Historically, 8.69% of marijuana application denials have resulted in hearings. These were applicants that were not already operating marijuana business. Because the new pool of applicants will be individuals who are already operating marijuana businesses and who have a significant financial stake in continuing to operate their businesses, we assume that 268 (or 65%) of the 412 expected new application denials will result in license disputes within the first two years after the bill is enacted.

4. Because of the likelihood of legal challenge to the provisions relating to the competitive, merit-based application process that must take into account and prioritize competing applicants' prior experience and

qualifications, we assume that 60% of the 268 licensing cases will resolve short of a hearing. This will result in approximately 107 hearings per year (FY2016 and FY2017). Based on these numbers and newly presented legal issues, we assume that each case will average 32 hours of AAG time for a total of 3,424 hours (107 x 32). We estimate that 1.90 AAG FTE can appropriately respond to these new licensing cases.

5. Beginning in FY2018, we assume that the majority of the cases resulting from this bill will be enforcement actions against retailers, both with and without medical marijuana endorsements. We assume an up to 100 new enforcement cases per FY relating to the new marijuana retailers. We assume that approximately 60% of these cases will be settled prior to hearing, leaving 40 hearings per FY. We assume conservatively that 20 AAG hours are required for each hearing for a total of 800 AAG hours (40 X 20). We assume 0.44 AAG can appropriately respond to these new licensing cases.

6. In summary, we assume LCB will be billed for:

FY2016 and FY2017: 1.9 AAG and 0.95 LA at a cost of \$385,518.

FY2018 and in each FY thereafter: 0.44 AAG and 0.22 LA at a cost of \$89,278.

Assumptions for the AGO Licensing and Administrative Law Division's Legal Services for LCB:

1. We assume we will bill LCB for legal services based on the enactment of this bill.
2. Section 6 requires LCB to develop a merit-based application process for producers, processors, and retailers that includes an opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. This provision will require an estimated 25 hours in FY2016 for advice.
3. Section 8 requires LCB to increase limits on production and to potentially reopen the producer application window. It also requires LCB to determine the number of retail outlets to hold medical marijuana endorsements and to reopen the retailer application window. This will require 50 AAG hours for advice in FY2016.
4. Section 10 requires DOH to adopt rules on requirements for medical marijuana in consultation with LCB. This will require 25 AAG hours for rulemaking advice in FY2016.
5. Section 26 (delayed effective date to FY2017) allows qualifying patients and designated providers to form a cooperative to produce and process marijuana for the medical use of members of the cooperative. The members must register with LCB, and LCB may adopt rules to implement this section. This will require 25 AAG hours in FY2017 for rulemaking advice.
6. Section 28 requires LCB to adopt rules permitting qualifying patients and designated providers to extract or separate the resin from marijuana using noncombustible methods. This will require 25 AAG hours in FY2016 for rulemaking advice.
7. Section 33 (emergency clause) allows LCB to conduct a controlled buy program using minors to enforce the age restrictions for sale of marijuana. This will require 20 AAG hours per year for advice on final orders.
8. We assume legal services in FY2017 and in each FY thereafter are nominal and will be provided with existing resources.

9. In summary, we assume LCB will be billed for 0.08 AAG at a cost of 16,232.

Assumptions for the AGO Agriculture and Health Division's Legal Services for DOH:

1. We assume we will bill DOH for legal services based on the enactment of this bill.
2. We assume 1.0 AAG and 0.5 LA for advice and rulemaking in FY2016 for hearings and appeals on the medical marijuana consultant certifications (Section 36). We assume 1,500 medical marijuana consultant applications with up to 100 cases involving denials, revocations or suspensions under the Administrative Procedures Act.
3. We assume 1.0 AAG and 0.5 LA for advice and rulemaking in FY2017 for hearings and appeals on the medical marijuana consultant certifications (Section 36). We assume up to 100 cases with an increasing number of revocation or suspensions versus denials.
4. We assume 1.0 AAG and 0.5 LA for advice and rulemaking in FY2018 for hearings and appeals on medical marijuana consultant certifications (Section 36). We assume up to 100 cases but with increasing complexity on appeals and almost exclusively focused on suspension or revocations for violations of Section 36 (6), which may implicate free speech challenges.
5. We assume 0.8 AAG and 0.4 LA primarily for litigation, with some advice and rulemaking in FY2019.
6. We assume 0.6 AAG and 0.3 LA primarily for litigation, with some advice and rulemaking, in FY2020 and thereafter.
7. We assume direct litigation costs for travel for rulemaking, meetings and litigation. We assume:
  - FY2016: \$1,200
  - FY2017: \$1,500
  - FY2018: \$1,000
  - FY2019 and in each FY thereafter: \$900
8. In summary, we assume DOH will be billed:
  - A. FY2016: \$204,104 for 1.0 AAG and 0.5 LA (which includes \$1,200 in direct litigation costs).
  - B. FY2017: \$204,404 for 1.0 AAG and 0.5 LA (which includes \$1,500 in direct litigation costs).
  - C. FY2018: \$203,904 for 1.0 AAG and 0.5 LA (which includes \$1,000 in direct litigation costs).
  - D. FY2019: \$163,223 for 0.8 AAG and 0.4 LA (which includes \$900 in direct litigation costs).
  - E. FY2020 and in each FY thereafter: \$122,642 for 0.6 AAG and 0.3 LA (which includes \$900 in direct litigation costs).

## Part III: Expenditure Detail

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

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	4.4	4.4	4.4	2.0	1.6
A-Salaries and Wages	328,201	321,048	649,249	296,691	230,266
B-Employee Benefits	101,963	99,910	201,873	92,331	71,660
C-Professional Service Contracts	1,200	1,500	2,700	1,900	1,800
E-Goods and Other Services	147,870	154,414	302,284	142,701	110,754
G-Travel	4,470	4,350	8,820	4,020	3,120
J-Capital Outlays	22,150	8,700	30,850	8,040	6,240
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	\$605,854	\$589,922	\$1,195,776	\$545,683	\$423,840

### III. B - 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 2016	FY 2017	2015-17	2017-19	2019-21
Assistant Attorney General	90,972	3.0	2.9	2.9	1.3	1.0
Legal Assistant II	42,588	1.5	1.5	1.5	0.7	0.5
<b>Total FTE's</b>	133,560	4.4	4.4	4.4	2.0	1.6

### III. C - Expenditures By Program (optional)

Program	FY 2016	FY 2017	2015-17	2017-19	2019-21
Agriculture and Health Division (AHD)	204,104	204,404	408,508	367,127	245,284
Government Compliance & Enforcement Division	385,518	385,518	771,036	178,556	178,556
Licensing and Administrative Law Division (LA)	16,232		16,232		
<b>Total \$</b>	605,854	589,922	1,195,776	545,683	423,840

## Part IV: Capital Budget Impact

NONE

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 101-Caseload Forecast Council
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## Part I: Estimates

**No Fiscal Impact**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*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:	Phone:	Date: 04/15/2015
Agency Preparation: Ed Vukich	Phone: 360-664-9374	Date: 04/17/2015
Agency Approval: John Steiger	Phone: 360-664-9370	Date: 04/17/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 04/22/2015

## **Part II: Narrative Explanation**

### **II. A - Brief Description Of What The Measure Does That Has Fiscal Impact**

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

See the attachment.

### **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None.

### **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

See the attachment.

## **Part III: Expenditure Detail**

## **Part IV: Capital Budget Impact**

NONE

None.

## **Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None.

# **2SSB 5052.PL**

## **ESTABLISHING THE CANNABIS PATIENT PROTECTION ACT**

**101 – Caseload Forecast Council  
April 17, 2015**

### **SUMMARY**

#### **A brief description of what the measure does that has fiscal impact.**

- Section 14 amends provisions regarding possession of a controlled substance by specifying that no one under the age of 21 may possess, manufacture, sell or distribute marijuana products, unless that person is a qualifying patient with valid authorization.
- Section 14 additionally amends provisions regarding possession of a controlled substance by specifying that qualifying patients and designated providers are not in violation of any Washington State law if they possess amounts of certain forms of marijuana and marijuana products that are in accordance with the law.
- Section 23 establishes a new unranked Class C felony offense concerning multiple aspects of medical marijuana.
- Section 31 abolishes an existing Class C felony: medical marijuana fraudulent records.
- Section 33 establishes a new misdemeanor offense.
- Section 43 amends Schedule I of the Uniform Controlled Substances Act by excluding legitimate medical marijuana.
- Section 43 additionally amends Schedule I of the Uniform Controlled Substances Act by excluding legitimate medical marijuana from the definition of tetrahydrocannabinols.
- Section 44 establishes a new Class B felony offense: manufacture, deliver or possess with intent to deliver marijuana.
- Section 45 establishes a new Class C felony offense: possession of marijuana.
- Section 46 ranks manufacture, deliver or possess with intent to deliver marijuana at Seriousness Level I on the drug offender sentencing grid.
- Section 46 ranks possession of marijuana at Seriousness Level I on the drug offender sentencing grid.

### **EXPENDITURES**

#### **Assumptions.**

None.

#### **Impact on the Caseload Forecast Council.**

This bill would require modification of the Council's adult and juvenile databases and data entry programs. These recurring costs are included in the agency's budget.

## **Impact on correctional beds.**

This bill:

- Establishes a new unranked Class C felony offense;
- Abolishes an existing unranked Class C felony offense;
- Establishes a new misdemeanor offense;
- Establishes a new Class B felony offense and ranks it on the drug offender sentencing grid; and
- Establishes a new Class C felony offense and ranks it on the drug offender sentencing grid.

The felony offenses established by this bill are not currently offenses under Washington State law. As such, the Caseload Forecast Council has no information about its expected incidence or the sentences that might actually be imposed and, therefore, cannot reliably predict bed impacts resulting from the bill. However:

As a Class C felony offense not ranked on the adult felony sentencing grid, violating medical marijuana provisions would be punishable by a standard range term of confinement of 0-12 months in jail, regardless of the offender's prior criminal history. Therefore, any impact would be on jail beds only, unless an aggravated exceptional sentence is imposed.

As a Class B felony offense ranked at Seriousness Level I on the drug offender sentencing grid, manufacture, deliver or possess with intent to deliver marijuana would be punishable by a standard range term of confinement of between 0-6 months in jail and 12+-24 months in prison, depending on the offender's prior criminal history. Therefore, any impact would be on both jail beds and prison beds.

As a Class C felony offense ranked at Seriousness Level I on the drug offender sentencing grid, possession of marijuana would be punishable by a standard range term of confinement of between 0-6 months in jail and 12+-24 months in prison, depending on the offender's prior criminal history. Therefore, any impact would be on both jail beds and prison beds.

There were no sentences in Fiscal Year 2014 for medical marijuana fraudulent records, the unranked Class C felony offense that is abolished under the bill. As such, there is no impact resulting from this provision of the bill.

The misdemeanor offense established by this bill is not currently an offense under Washington State law. As such, the Caseload Forecast Council has no information about its expected incidence or the sentences that might actually be imposed and, therefore, cannot reliably predict bed impacts resulting from the bill. However:

A misdemeanor offense is punishable by a term of confinement of 0-90 days in jail. Therefore, any impact would be on jail beds only.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 110-Office of Administrative Hearings
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

ACCOUNT	FY 2016	FY 2017	2015-17	2017-19	2019-21
Administrative Hearings Revolving Account-State 484-1	117,210	117,210	234,420	175,200	175,200
<b>Total \$</b>	117,210	117,210	234,420	175,200	175,200

### Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	1.2	1.2	1.2	0.8	0.8
<b>Account</b>					
Administrative Hearings Revolving Account-State 484-1	117,210	117,210	234,420	175,200	175,200
<b>Total \$</b>	117,210	117,210	234,420	175,200	175,200

### Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*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:	Phone:	Date: 04/15/2015
Agency Preparation: Jane Habegger	Phone: 360-407-2756	Date: 04/24/2015
Agency Approval: Larry Dzieza	Phone: 360-407-2717	Date: 04/24/2015
OFM Review: Regan Hesse	Phone: (360) 902-0650	Date: 04/24/2015

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Enrolled Second Substitute Senate Bill 5052 changes the laws related to licensing the production, processing and selling of marijuana in retail outlets, provides for a medical marijuana endorsement to a marijuana retail license and contains other provisions relating to the medical use of marijuana. The licensing and regulation of these activities is done by the Liquor Control Board (LCB). The LCB is renamed the Liquor and Cannabis Board. Some of the activities governed by this bill are also regulated by the Department of Health.

Administrative Law Judges employed by the Washington State Office of Administrative Hearings conduct LCB hearings, including the hearings generated by the regulation of recreational marijuana under Initiative 502 and hearings which will be generated by this bill, including decisions of the LCB to deny or revoke a license and enforcement activities to enforce these new laws.

The Enrolled Second Substitute Senate Bill provides that the LCB must develop a competitive, merit-based application process for a license to produce, process or sell marijuana that includes an opportunity for the applicant to demonstrate experience and qualifications in the marijuana industry.

The LCB must give preference to applicants who meet criteria set forth in section 6 of the bill:

First priority is given to applicants who:

- (1) applied to the state liquor and cannabis board for a marijuana retailer license prior to July 1, 2014;
- (2) operated or were employed by a collective garden before January 1, 2013;
- (3) have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and
- (4) have had a history of paying all applicable state taxes and fees.

Second priority shall be given to applicants who:

- (1) operated or were employed by a collective garden before January 1, 2013;
- (2) have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and
- (3) have had a history of paying all applicable state taxes and fees.

Third priority shall be given to all other applicants who do not have the experience and qualifications identified in (a)(i) and (ii) of this subsection 5(b) of Section 6 the bill.

The bill also provides that the LCB must adopt rules which determine the maximum number of retail outlets which will be licensed, taking into consideration the number of these retail outlets which hold a medical marijuana endorsement. It directs the LCB to reconsider and increase the number of retail outlets it authorized prior to the effective date of this bill and allow for a new license application period and greater number to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients and designated providers must consider the information in the database established in this bill.

The bill creates a medical marijuana endorsement to a marijuana retail license and provides the criteria to qualify for a medical endorsement to a marijuana retail license.

Both licensed marijuana retailers and marijuana retailers which hold a medical endorsement may sell products which meet criteria to be developed in rules adopted by the Department of Health, in conjunction with the LCB. Marijuana retailers holding a medical marijuana endorsement may provide authorized marijuana products at no cost to qualifying patients and designated providers.

The LCB is required to reconsider and increase the limits on the amount of square feet permitted for the production of marijuana and specifically the percentage of production space for medical marijuana for those producers who intend to supply marijuana to marijuana retailers who hold a medical marijuana endorsement. The bill also sets criteria for the LCB to reopen the license period for new marijuana producers who agree to grow medical marijuana.

The bill also provides for a certificate which medical marijuana consultants must apply for from the Department of Health and a continuing education requirement for certificate holders.

The bill sets forth the medical criteria for a patient to be issued medical marijuana and the permitted quantities of marijuana which may be dispensed to a qualifying patient by a designated provider. The medical criteria are expanded to include posttraumatic stress disorder and traumatic brain injuries. The term "terminal of debilitating medical condition" is defined. It also provides that for a qualifying patient 18 years of age or older, an authorization from a health care professional for the use of medical marijuana expires one year after issuance and for qualifying patients under 18, it expires six months after issuance. An authorization may be renewed after an in-person physical examination and compliance with other provisions of the bill.

Additionally it creates a marijuana authorization database and system of authorization cards. These are voluntary for qualifying patients and designated providers but mandatory for qualifying patients who are minors and their designated providers. Qualifying patients and designated providers who are entered in the database and obtain an authorization card qualify for sales and use tax exemptions and protection from arrest.

Records in the medical marijuana authorization database are exempt from disclosure under the public records act.

The law authorizing collective gardens is repealed effective July 1, 2016. In its place, up to four qualifying patients or designated providers may participate in a cooperative to produce and process marijuana. Cooperatives must be registered with the LCB and there are restrictions on where they may be located. They may not be located within one mile of a marijuana retailer. People who form cooperatives must register the location with the LCB.

Qualifying patients who agree to have their name and designated provider information entered into the database may possess 48 ounces of marijuana-infused products in solid form, 216 ounces of marijuana-infused products in liquid form, and 21 grams of marijuana concentrates; and qualifying patients may purchase marijuana concentrates, useable marijuana, and marijuana-infused products from medical marijuana retailers. It also permits a health care professional to authorize an authorized patient to grow up to 15 plants for personal medicinal use and in excess of the previously stated limits if the patient's medical needs exceed the limits. Qualifying patients who sign up for the database receive protection from arrest.

A qualifying patient who does not agree to enter into the medical marijuana authorization database may be permitted to grow up to 4 plants for medicinal use. These individuals are provided an affirmative defense to

charges of violating the medical marijuana law.

The enactment of this bill is contingent on the enactment of HB 2136 or some form of this bill by October 1, 2015.

We anticipate that hearings generated under this bill will take an average of 16 hours to conduct the prehearing conference and draft the Prehearing Conference Order and to conduct the hearing and draft the Initial Order. Our hourly rate for Administrative Law Judge time is \$120 an hour, inclusive. Thus these hearings cost an average of \$1,920 per hearing.

The LCB has estimated that they expect approximately 825 entities to apply for a retail license after this bill is enacted and roughly half of them to be approved. This would mean there would be 412 denials issued by the LCB. We assume that 268 of these entities will request an administrative hearing to challenge the denial and 107 of these will proceed to a full hearing. For the 161 appeals which do not proceed to a full hearing, we assume that 1.5 hours will be spent on each case to conduct a Prehearing Conference and draft a Prehearing Conference Order. Thus the cost for these cases will be \$28,980. For the full hearings the costs will be \$205,440. Based on these assumptions, the Office of Administrative Hearings costs would be \$234,420 for 2015-17. We assume this will occur over the course of 2 fiscal years. We do not anticipate this being an ongoing increase in caseload because the LCB has informed us that they do not think they will open up another opportunity for the licensure and endorsement in the following few years.

For the following years, we assume 100 appeals per fiscal year related to enforcement actions of which 40 will proceed to a full hearing. For the 60 appeals which will not proceed to a full hearing, we assume that 1.5 hours will be spent on each case to conduct a Prehearing Conference and draft a Prehearing Conference Order. Thus the cost for these cases will be \$10,800 per year. For full hearings the costs will be \$76,800 per fiscal year. The total will therefore be \$87,600 per year.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

We anticipate that hearings generated under this bill will take an average of 16 hours to conduct the prehearing conference and draft the Prehearing Conference Order and to conduct the hearing and draft the Initial Order. Our hourly rate for Administrative Law Judge time is \$120 an hour, inclusive.

The LCB has estimated that they expect approximately 825 entities to apply for a retail license after this bill is enacted and roughly half of them to be approved. This would mean there would be 412 denials issued by the LCB. We assume that 268 of these entities will request an administrative hearing to challenge the denial and 107 of these will proceed to a full hearing. For the 161 appeals which do not proceed to a full hearing, we assume that 1.5 hours will be spent on each case to conduct a Prehearing Conference and draft a Prehearing Conference Order. Thus the receipts for these cases will be \$28,980. For the full hearings the receipts will be \$205,440. Based on these assumptions, the Office of Administrative Hearings' receipts would be \$234,420 for 2015-17. We assume this will occur over the course of two fiscal years. We do not anticipate this being an ongoing increase in caseload because the LCB has informed us that they do not think they will open up another opportunity for the licensure and endorsement in the following few years.

For the following years, we assume 100 appeals per fiscal year related to enforcement actions of which 40 will proceed to a full hearing. For the 60 appeals which will not proceed to a full hearing, we assume that 1.5 hours

will be spent on each case to conduct a Prehearing Conference and draft a Prehearing Conference Order. Thus the receipts for these cases will be \$10,800 per year. For full hearings the receipts will be \$76,800 per fiscal year. The total will therefore be \$87,600 per year.

**II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

We anticipate that hearings generated under this bill will take an average of 16 hours to conduct the prehearing conference and draft the Prehearing Conference Order and to conduct the hearing and draft the Initial Order. Our hourly rate for Administrative Law Judge time is \$120 an hour, inclusive.

The LCB has estimated that they expect approximately 825 entities to apply for a retail license after this bill is enacted and roughly half of them to be approved. This would mean there would be 412 denials issued by the LCB. We assume that 268 of these entities will request an administrative hearing to challenge the denial and 107 of these will proceed to a full hearing. For the 161 appeals which do not proceed to a full hearing, we assume that 1.5 hours will be spent on each case to conduct a Prehearing Conference and draft a Prehearing Conference Order. Thus the cost for these cases will be \$28,980. For the full hearings the cost will be \$205,440. Based on these assumptions, the Office of Administrative Hearings' cost would be \$234,420 for 2015-17. We assume this will occur over the course of two fiscal years. We do not anticipate this being an ongoing increase in caseload because the LCB has informed us that they do not think they will open up another opportunity for the licensure and endorsement in the following few years.

For the following years, we assume 100 appeals per fiscal year related to enforcement actions of which 40 will proceed to a full hearing. For the 60 appeals which will not proceed to a full hearing, we assume that 1.5 hours will be spent on each case to conduct a Prehearing Conference and draft a Prehearing Conference Order. Thus the cost for these cases will be \$10,800 per year. For full hearings the cost will be \$76,800 per fiscal year. The total will therefore be \$87,600 per year.

**Part III: Expenditure Detail**

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

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	1.2	1.2	1.2	0.8	0.8
A-Salaries and Wages	64,532	64,532	129,064	96,460	96,460
B-Employee Benefits	22,691	22,691	45,382	33,916	33,916
C-Professional Service Contracts					
E-Goods and Other Services	26,126	26,126	52,252	39,052	39,052
G-Travel	1,518	1,518	3,036	2,270	2,270
J-Capital Outlays	2,343	2,343	4,686	3,502	3,502
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	\$117,210	\$117,210	\$234,420	\$175,200	\$175,200

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

<b>Job Classification</b>	<b>Salary</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>
Administrative Assistant 4	3,549	0.2	0.2	0.2	0.1	0.1
Administrative Law Judge 3	6,495	0.6	0.6	0.6	0.4	0.4
Legal Secretary 1	2,920	0.2	0.2	0.2	0.2	0.2
Office Assistant 3	2,482	0.2	0.2	0.2	0.1	0.1
<b>Total FTE's</b>	15,446	1.2	1.2	1.2	0.8	0.8

**Part IV: Capital Budget Impact**

NONE

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 140-Department of Revenue
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**Part I: Estimates**

**No Fiscal Impact**

**Estimated Cash Receipts to:**

<b>Indeterminate Impact</b>
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**Estimated Expenditures from:**

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	0.1		0.0		
<b>Account</b>					
GF-STATE-State 001-1	3,300		3,300		
<b>Total \$</b>	3,300		3,300		

**Estimated Capital Budget Impact:**

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*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:	Phone:	Date: 04/15/2015
Agency Preparation: Kim Davis	Phone: 360-534-1508	Date: 05/04/2015
Agency Approval: Kathy Oline	Phone: 360-534-1534	Date: 05/04/2015
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 05/06/2015

Request # 5052-7-1

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Note: This fiscal note reflects language in draft legislation 2SSB 5052 as passed in the 2105 Legislative Session.

This bill makes a number of changes affecting the sale of medical marijuana (MMJ) to integrate MMJ into the regulatory structure that governs recreational marijuana (RMJ). This fiscal note is concerned with those aspects of the bill that affect the Department of Revenue (Department), particularly sales and use tax exemptions for certain MMJ products.

Current law imposes retail sales and use taxes on the retail sale of all tangible personal property; there are no exemptions for marijuana products purchased by MMJ patients.

This bill repeals as of July 1, 2016, the statute that allows collective gardens. The bill also establishes, as of that date, a MMJ endorsement to a marijuana retail license, which authorizes RMJ licensed retailers to sell marijuana for medical use to qualifying patients and designated providers. In addition, the bill authorizes cooperatives to be formed by up to four qualifying patients or designated providers to share the responsibility for acquiring and supplying the resources needed to produce and process marijuana for the medical use of the cooperative's members.

Beginning July 1, 2016 a business and occupation tax exemption is provided for marijuana grown or marijuana products manufactured by a cooperative.

This bill takes effect if House Bill 2136, or any subsequent version of House Bill 2136 is enacted into law by October 1, 2015.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

#### ASSUMPTIONS

- House Bill 2136 or some subsequent version of House Bill 2136 is enacted prior to October 1, 2015.
- It is unknown what portion of the MMJ market will ultimately be found beneficial for medical use by the Department of Health. The following assumptions are made about various product categories:
  - Products having a THC content of 0.3 percent or less are five percent of the current MMJ market, and growing rapidly;
  - Products with a low THC/high CBD ratio are ten percent of the current MMJ market, and growing rapidly;
  - Other consumables, edibles, smokable and otherwise useable marijuana products, that will be found "beneficial for medical use," are equal to ten percent of the current MMJ market;
  - Smokable marijuana that has a THC greater than 0.3 percent is currently fifty percent of the MMJ market; and
  - Consumables, edibles, smokable and otherwise useable marijuana products that are not described above are currently twenty-five percent of the MMJ market.
- The existence of cooperatives will have a small, negative impact on retail sales and use tax collections.
- The use tax exemption for marijuana grown or marijuana products manufactured by a cooperative, is assumed to be effective July 25, 2015, with ten months of collections the first fiscal year.
- The impact of the B&O exemption for cooperatives on sales and use tax collections is indeterminate.

## DATA SOURCES

- Economic and Revenue Forecast Council (ERFC)- February 2015 forecast
- Department Excise Data and Liquor Control Board Data
- Industry Sources
- 2013 Botec/Rand study "Before the Grand Opening, Measuring Washington State's Marijuana Market in the Last Year Before Legalized Commercial Sales"

## REVENUE ESTIMATES

2SSB 5052 (House Amendment) has impacts on state and local tax revenues, but the overall impacts are indeterminate. The impact of bill components are as follows.

TOTAL REVENUE IMPACT for 2SSB 5052 alone. This impact includes regulation changes.

### State General Fund (cash basis, \$000):

FY 2016 -	(\$ 1,519)
FY 2017 -	\$ 21,129
FY 2018 -	\$ 29,993
FY 2019 -	\$ 35,362
FY 2020 -	\$ 35,302
FY 2021 -	\$ 35,263

REVENUE IMPACT - Cash receipt impact from the regulation of medical marijuana pursuant to 2SSB 5052 and taxation of marijuana pursuant to E2SHB 2136

### State General Fund (cash basis, \$000):

FY 2016 -	(\$ 10,466)
FY 2017 -	\$ 8,942
FY 2018 -	\$ 14,473
FY 2019 -	\$ 17,348
FY 2020 -	\$ 16,651
FY 2021 -	\$ 15,983

Please refer to this attachment for further detail on the above impacts:  
"5052-7 Summary"

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

### ASSUMPTIONS

500 taxpayers will be affected by this legislation.  
SB 2136 or an amended version is enacted by October 1, 2015.

### INITIAL COSTS

The Department will incur costs of \$21,900 in Fiscal Year 2015 that are NOT included in the six-year expenditure impact for this fiscal estimate. These start-up costs include:

- Labor Costs - Time and effort equates to 0.2 FTE.
- Modify the Business License System (BLS) to establish a medical marijuana endorsement for marijuana retailer licensees.

**FIRST YEAR COSTS**

The Department will incur total costs of \$3,300 in Fiscal Year 2016. These costs include:

Labor Costs - Time and effort equates to 0.03 FTE.

- Amend six administrative rules. Due to efficiencies realized in amending multiple rules concurrently, the Department will only incur costs for the amendment of one administrative rule.

Object Costs - \$200.

- Print and mail a special notice to affected taxpayers

**ONGOING COSTS**

There are no ongoing costs.

**Part III: Expenditure Detail**

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

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	0.1		0.0		
A-Salaries and Wages	1,900		1,900		
B-Employee Benefits	600		600		
E-Goods and Other Services	600		600		
J-Capital Outlays	200		200		
<b>Total \$</b>	<b>\$3,300</b>		<b>\$3,300</b>		

**III. B - 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 2016	FY 2017	2015-17	2017-19	2019-21
ADM ASST 5	47,014	0.0		0.0		
EMS BAND 4	103,896	0.0		0.0		
HEARINGS SCHEDULER	32,688	0.0		0.0		
TAX POLICY SP 2	61,628	0.0		0.0		
TAX POLICY SP 3	69,756	0.0		0.0		
TAX POLICY SP 4	75,080	0.0		0.0		
<b>Total FTE's</b>	<b>390,062</b>	<b>0.1</b>		<b>0.1</b>		

**Part IV: Capital Budget Impact**

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

None.

**Part V: New Rule Making Required**

Identify provisions of the measure 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 rule-making process to amend WAC 458-20-135, titled: "Extracting natural products"; WAC 458-20-136, titled: "Manufacturing, Processing for hire"; WAC 458-20-13601, titled: "Manufacturing and Processing for hire - Sales and use tax exemption"; WAC 458-20-209, titled: "Farming for hire and Horticultural services performed for farmers"; WAC 458-20-210, titled: "Sales of tangible personal property for farming - Sales of agricultural products by farmers"; and WAC 458-20-244, titled: "Food and food ingredients." Persons affected by this rule making would include marijuana retailers that sell medical marijuana to qualifying patients who hold authorization cards.

**Sales Tax Impacts of Passage of E2SHB 2136 and 2SSB 5052 <sup>1</sup>**

**Current Law Taxable Retail Sales:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Recreational Marijuana	200,646,000	285,938,000	369,185,000	433,985,000	433,985,000	433,985,000
Medical Marijuana	130,267,000	141,205,000	151,876,000	162,206,000	172,136,000	181,619,000
<b>Total</b>	<b>330,913,000</b>	<b>427,143,000</b>	<b>521,061,000</b>	<b>596,191,000</b>	<b>606,121,000</b>	<b>615,604,000</b>

**Current Law State Retail Sales Tax Due:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Forecasted Recreational Marijuana State Retail Sales Tax <sup>2</sup>	13,042,000	18,586,000	23,997,000	28,209,000	28,209,000	28,209,000
Estimated Medical Marijuana State Retail Sales Tax	8,467,000	9,178,000	9,872,000	10,543,000	11,189,000	11,805,000
<b>Total</b>	<b>21,509,000</b>	<b>27,764,000</b>	<b>33,869,000</b>	<b>38,752,000</b>	<b>39,398,000</b>	<b>40,014,000</b>

**Proposed Law Change Assumptions:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Recreational base adjustment (2136) <sup>3</sup>	31.6%	31.6%	31.6%	31.6%	31.6%	31.6%
Medical exemption adjustment (2136) <sup>4</sup>	50.0%	60.0%	70.0%	75.0%	76.0%	77.0%
Medical to illegal market adjustment (% on remainder not exempt) (5052) <sup>4</sup>	33.5%	32.5%	31.5%	30.5%	29.5%	28.5%

**Reductions to Current Law Taxable Retail Sales**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Recreational base adjustment (2136)	(63,404,000)	(90,356,000)	(116,662,000)	(137,139,000)	(137,139,000)	(137,139,000)
Medical exemption adjustment (2136)	(65,134,000)	(84,723,000)	(106,313,000)	(121,655,000)	(130,823,000)	(139,847,000)
Medical to illegal market adjustment (5052)	(21,820,000)	(18,357,000)	(14,352,000)	(12,368,000)	(12,187,000)	(11,905,000)
<b>Total</b>	<b>(150,358,000)</b>	<b>(193,436,000)</b>	<b>(237,327,000)</b>	<b>(271,162,000)</b>	<b>(280,149,000)</b>	<b>(288,891,000)</b>

**Sales Tax Loss from Law Change Adjustments**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Recreational base adjustment (2136)	(4,121,000)	(5,873,000)	(7,583,000)	(8,914,000)	(8,914,000)	(8,914,000)
Medical exemption adjustment (2136)	(4,234,000)	(5,507,000)	(6,910,000)	(7,908,000)	(8,503,000)	(9,090,000)
Medical to illegal market adjustment (5052)	(1,418,000)	(1,193,000)	(933,000)	(804,000)	(792,000)	(774,000)
<b>Total</b>	<b>(9,773,000)</b>	<b>(12,573,000)</b>	<b>(15,426,000)</b>	<b>(17,626,000)</b>	<b>(18,209,000)</b>	<b>(18,778,000)</b>

**Proposed Law Taxable Retail Sales:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Current Recreational Marijuana Sales (less base adjustment)	137,242,000	195,582,000	252,523,000	296,846,000	296,846,000	296,846,000
Current Medical Marijuana Sales (less exempt and illegal market adjustments)	43,313,000	38,125,000	31,211,000	28,183,000	29,126,000	29,867,000
New Recreational Marijuana Sales (from regulation/enforcement) <sup>5</sup>	-	321,908,000	445,246,000	520,400,000	519,354,000	518,523,000
<b>Total</b>	<b>180,555,000</b>	<b>555,615,000</b>	<b>728,980,000</b>	<b>845,429,000</b>	<b>845,326,000</b>	<b>845,236,000</b>

**Proposed Law State Retail Sales Tax:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Current Recreational Marijuana Sales Tax	8,921,000	12,713,000	16,414,000	19,295,000	19,295,000	19,295,000
Current Medical Marijuana Sales Tax	2,815,000	2,478,000	2,029,000	1,832,000	1,893,000	1,941,000
New Recreational Marijuana Sales Tax (5052)	-	20,924,000	28,941,000	33,826,000	33,758,000	33,704,000
<b>Total</b>	<b>11,736,000</b>	<b>36,115,000</b>	<b>47,384,000</b>	<b>54,953,000</b>	<b>54,946,000</b>	<b>54,940,000</b>

**Net State RETAIL SALES TAX from E2SHB 2136 & 2SSB 5052:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Sales tax loss from E2SHB 2136	(8,355,000)	(11,380,000)	(14,493,000)	(16,822,000)	(17,417,000)	(18,004,000)
Sales tax loss/gain from 2SSB 5052	(1,418,000)	19,731,000	28,008,000	33,022,000	32,966,000	32,930,000
<b>Total</b>	<b>(9,773,000)</b>	<b>8,351,000</b>	<b>13,515,000</b>	<b>16,200,000</b>	<b>15,549,000</b>	<b>14,926,000</b>

**Net State B&O TAX from E2SHB 2136 & 2SSB 5052:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
B&O tax loss from E2SHB 2136	(605,000)	(825,000)	(1,050,000)	(1,219,000)	(1,262,000)	(1,305,000)
B&O tax loss/gain from 2SSB 5052	(103,000)	1,430,000	2,030,000	2,393,000	2,389,000	2,386,000
<b>Total</b>	<b>(708,000)</b>	<b>605,000</b>	<b>980,000</b>	<b>1,174,000</b>	<b>1,127,000</b>	<b>1,081,000</b>

**Net State GENERAL FUND from E2SHB 2136 & 2SSB 5052:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
State general fund loss from E2SHB 2136	(8,947,000)	(12,187,000)	(15,520,000)	(18,014,000)	(18,651,000)	(19,280,000)
State general fund loss/gain from 2SSB 5052	(1,519,000)	21,129,000	29,993,000	35,362,000	35,302,000	35,263,000
<b>Total</b>	<b>(10,466,000)</b>	<b>8,942,000</b>	<b>14,473,000</b>	<b>17,348,000</b>	<b>16,651,000</b>	<b>15,983,000</b>

**Net State PERFORMANCE AUDIT from E2SHB 2136 & 2SSB 5052:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
State performance audit loss from E2SHB 2136	(13,000)	(18,000)	(23,000)	(27,000)	(28,000)	(29,000)
State performance audit loss/gain from 2SSB 5052	(2,000)	32,000	45,000	53,000	53,000	53,000
<b>Total</b>	<b>(15,000)</b>	<b>14,000</b>	<b>22,000</b>	<b>26,000</b>	<b>25,000</b>	<b>24,000</b>

**Net State Impact from E2SHB 2136 & 2SSB 5052:**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
State performance audit loss from E2SHB 2136	(8,960,000)	(12,205,000)	(15,543,000)	(18,041,000)	(18,679,000)	(19,309,000)
State performance audit loss/gain from 2SSB 5052	(1,521,000)	21,161,000	30,038,000	35,415,000	35,355,000	35,316,000
<b>Total</b>	<b>(10,481,000)</b>	<b>8,956,000</b>	<b>14,495,000</b>	<b>17,374,000</b>	<b>16,676,000</b>	<b>16,007,000</b>

<sup>1</sup> Sales tax amounts include both general fund and performance audit portions.

<sup>2</sup> Source: Economic & Revenue Forecast Council (ERFC) February 2015 Forecast, Table 3.19.

<sup>3</sup> Per Liquor Control Board (LCB): The new retail sales tax base will be only 68.4% of the current base due to the removal of the marijuana excise tax from the "taxable amount." We will lose 31.6% of the taxable base.

<sup>4</sup> Percentages based on consultation with industry experts.

<sup>5</sup> New taxable retail sales provided by LCB.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 195-Liquor Control Board
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

**Non-zero but indeterminate cost. Please see discussion.**

### Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	11.4	25.6	18.5	22.6	20.6
<b>Account</b>					
Dedicated Marijuana Account-State 315-1	1,853,582	2,696,116	4,549,698	3,974,398	3,730,250
<b>Total \$</b>	1,853,582	2,696,116	4,549,698	3,974,398	3,730,250

### Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*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:	Phone:	Date: 04/15/2015
Agency Preparation: Aaron Hanson	Phone: 360-664-1701	Date: 04/24/2015
Agency Approval: Michael Kashmar	Phone: 360-664-1690	Date: 04/24/2015
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 04/28/2015

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 3 - Changes the name of the board known as the “Washington State Liquor Control Board” to the “Washington State Liquor and Cannabis Board” (LCB).

Section 6(1)(a) - States the LCB must develop an application process for a new license and the renewal of an existing license, to produce, process, or sell marijuana, that allows for the applicant to demonstrate experience and qualifications in the marijuana industry. Preference between competing applications is to be given to applicants that have the following experience and qualifications, in the following order of priority:

(i) - First priority is given to applicants who:

- (A) - Applied to the LCB for a marijuana retailer license prior to July 1, 2014;
- (B) - Operated or were employed by a collective garden before January 1, 2013;
- (C) - Have maintained a state business license and a municipal business license; and
- (D) - Have had a history of paying all applicable state taxes and fees;

(ii) - Second priority shall be given to applicants who:

- (A) - Operated or were employed by a collective garden before January 1, 2013;
- (B) - Have maintained a state business license and a municipal business license; and
- (C) - Have had a history of paying all applicable state taxes and fees; and

(iii) - Third priority shall be given to all other applicants.

Section 8 - Requires the LCB to adopt rules that establish the procedures and criteria necessary to implement the following:

(1)(a) - Application forms for marijuana producers that request the applicant to state whether they intend to produce marijuana for sale by marijuana retailers holding medical marijuana endorsements and the amount of or percentage of canopy they intend to commit to growing medical marijuana products as determined by the Department of Health.

(1)(b) - Reconsider and increase limits on the amount of square feet permitted to be in production and increase the percentage of production space for marijuana producers who intend to grow for marijuana retailers holding a medical marijuana endorsement.

(2)(d) - The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients and allow for a new license application period to increase the maximum number of retail outlets previously established in order to accommodate the medical needs of qualifying patients and designated providers.

(9)(d) - Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets.

Section 10(1) - Establishes a medical marijuana endorsement to a marijuana retail license, permitting a marijuana

retailer to sell marijuana for medical use to qualifying patients and designated providers.

Section 10(4) - Requires the Department of Health, in conjunction with the LCB, to adopt rules on requirements for marijuana products that may be sold to qualifying patients or designated providers at a retail outlet holding a medical marijuana endorsement. The rules must include:

- (a) - THC concentration, CBD concentration, and varying ratios of THC and CBD that are appropriate;
- (b) - Labeling requirements that include the labels attached to medical marijuana products contain THC and CBD concentration and THC to CBD ratios;
- (c) - Other product requirements, including any additional mold, fungus or pesticide testing requirements, or limitations to the types of solvents that may be used;
- (d) - Safe handling requirements; and
- (e) - Training requirements for employees.

Section 26(1) - States qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative.

Section 26(2) - States that a cooperative may not be located within one mile of a marijuana retailer and people who wish to form a cooperative must register the location with the LCB.

Section 26(3) - Requires qualifying patients or designated providers no longer participating in growing at a cooperative to notify the LCB within fifteen days of the date the participation ceased.

Section 26(6) - States the LCB may adopt rules to implement cooperatives that include security requirements, and a seed to sale traceability model that will allow the LCB to track all marijuana grown in a cooperative.

Section 26(7) - Allows the LCB to inspect a registered cooperative to ensure compliance and requires the LCB to adopt rules on reasonable inspection hours and reasons for inspection.

Section 28(2) - Requires the LCB to adopt rules permitting qualifying patients and designated providers to extract or separate the resin from marijuana using non-combustible methods.

Section 33 - Adds a new section to chapter 69.50 RCW that allows the LCB to conduct controlled purchase programs on marijuana retailers, marijuana retailers holding a medical marijuana endorsement, collective gardens until July 1, 2016, and cooperatives.

Section 50 - States sections 12, 19, 20, 23 through 26, 31, 35, 40 and 49 of the act take effect July 1, 2016.

Section 51 - States sections 21, 22, 32, and 33 of the act take effect immediately.

Section 52 - States this act only takes effect if House Bill No. 2136 or any subsequent version of House Bill No. 2136 is enacted into law by October 1, 2015.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Specific regulatory policy changes have an indeterminate impact on revenue for the current regulated marijuana market and any assumed regulation of medical marijuana.

CASH RECEIPT IMPACT OF INDIVIDUAL BILL COMPONENTS:

Section 8 of the bill requires the Board to reconsider and increase the maximum number of retail outlets and allow for a new license application period and a greater number of retail outlets in order to accommodate the medical needs of qualifying patients and designated providers.

LICENSING FEES:

Cash Receipt Impact:

License fees for a marijuana retailer license are set at \$250 for license application and \$1,000 for license issuance and annual license renewal. Based on data collected from multiple internet websites, the Board estimates 1,100 medical marijuana dispensaries are currently in operation statewide. Cash receipts for the marijuana retailer's license assume 825 applications for a license and 413 licenses issued.

FY 2016 \$619,250 (825 applications x \$250 application fee) + (413 licenses issued x \$1,000 license issuance fee)  
FY 2017 \$413,000 (413 licenses x \$1,000 license renewal fee)  
FY 2018 \$413,000 (413 licenses x \$1,000 license renewal fee)  
FY 2019 \$413,000 (413 licenses x \$1,000 license renewal fee)  
FY 2020 \$413,000 (413 licenses x \$1,000 license renewal fee)  
FY 2021 \$413,000 (413 licenses x \$1,000 license renewal fee)

\*EXCISE TAX:

Scenario 1 – Displays the cash receipt impact of revenue gained from the regulation of medical marijuana under the existing tax structure.

Cash Receipt Impact:

The cash receipt impact from additional marijuana excise tax is based on the February 2015 forecast prepared by the Economic and Revenue Forecast Council (ERFC). Excise taxes are assumed to flat line after FY 2019 as the forecast prepared by ERFC does not extend beyond that. See attached file titled "Marijuana Excise Tax - Scenario 1" for detailed assumptions.

FY 2016 \$0  
FY 2017 \$114,100,683  
FY 2018 \$150,327,294  
FY 2019 \$172,810,763  
FY 2020 \$172,810,763  
FY 2021 \$172,810,763

Scenario 2 – Displays the cash receipt impact of implementing the changes to the existing tax structure as

outlined in the various versions of House Bill No. 2136 (HB 2136). The changes would eliminate the excise tax levied on wholesale sales of marijuana by marijuana producers and processors and create a single point of excise taxation at a rate of 30% on sales by marijuana retailers.

Cash Receipt Impact:

The cash receipt impact is based on the revenue forecast prepared by the Economic and Revenue Forecast Council in February 2015 and on actual marijuana sales from January 2015. Actual retail sales accounted for 68% of total sales. Please see the attached file "Marijuana Excise Tax - Scenario 2" for the basis of the assumptions and method by which the cash receipts impact was derived.

Recreational Marijuana Market:

FY 2016 (\$16,464,704)  
FY 2017 (\$23,464,470)  
FY 2018 (\$30,294,529)  
FY 2019 (\$35,612,842)  
FY 2020 (\$35,612,842)  
FY 2021 (\$35,612,842)

Medical Marijuana Market:

FY 2016 \$0  
FY 2017 \$93,106,157  
FY 2018 \$122,667,072  
FY 2019 \$141,013,582  
FY 2020 \$141,013,582  
FY 2021 \$141,013,582

CASH RECEIPT IMPACT OF ALL BILL COMPONENTS:

ACCOUNT 315 – DEDICATED MARIJUANA ACCOUNT:

Scenario 1

FY 2016 \$619,250  
FY 2017 \$114,513,683  
FY 2018 \$150,740,294  
FY 2019 \$173,223,763  
FY 2020 \$173,223,763  
FY 2021 \$173,223,763

Scenario 2

FY 2016 (\$15,845,454)  
FY 2017 \$70,054,688

FY 2018 \$92,785,543  
FY 2019 \$105,813,740  
FY 2020 \$105,813,740  
FY 2021 \$105,813,740

\*Note: The impact on cash receipts from excise taxes shown in this fiscal note is also shown in fiscal notes for multiple versions of House Bill No. 2136. The impacts shown in each of the fiscal notes are not cumulative but are the net cash receipt impact of the two bills.

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

The Board assumes all expenditures reflected in this fiscal note are in addition to the costs for which the Board is disbursed up to \$10M biennially for the administration of Initiative 502 under RCW 69.50.540.

### ENFORCEMENT:

Assumptions are based on 413 additional marijuana retailer licensees.

The Liquor Control Board Enforcement Division utilizes a methodology called “Field Increments” (also known as “FI”) when determining the workload impact of an enforcement activity. Enforcement officers spend portions of their time driving, training, being in the office, and taking leave. Time spent in these activities is time that an officer is unavailable for field work directly engaging in activities such as premise checks, inspections, and investigations. Field Increments are the amount of time that it takes to do an activity in the field. Each FI is 1/10th of an hour (6 minutes). For example, if a tavern premise check takes 2 FI’s and two officers, it is anticipated that one check will consume 4 FI’s (24 minutes of field work time - 2 FI’s x 2 officers x 6 minutes). Using historical data, the Enforcement Division has determined that an officer is available for 4,220 FI’s each year.

The workload impact to the Enforcement Division will require an additional 7 Liquor Enforcement Officers, which includes 5 officers, 1 sergeant, and 1 lieutenant. Costs for the additional officers beginning in FY 2017 are estimated to be \$838,146 (\$149,686 onetime) and \$688,460 in FY 2018 and annually thereafter. See the attachment titled “Enforcement Officer Field Increment Calculations” for the detailed FI calculations.

### LICENSING:

Assumptions are based on 825 applications for a marijuana retailer license and 413 licenses issued.

Currently, an application for a marijuana retailer license requires an average of approximately 14 hours to process. The impact of the increased workload on the Licensing Division from the additional retail licenses will require 6 additional FTE’s in FY 2016 through FY 2018 to process the original license applications, then decrease to 2 FTE’s in FY 2019 and beyond to handle annual license renewals, and maintain the licenses after issuance. Costs for additional licensing staff are estimated as follows: FY 2016 - \$400,290 (\$34,068 onetime), FY 2017 through FY 2018 - \$366,222, and FY 2019 and beyond - \$122,074.

## FINANCE:

Due to the assumed increased number of licensees who will be required to pay excise tax on sales of marijuana to the Board, 3 additional fiscal analyst positions will be required in the tax unit to administer the increased volume of collections, and 2 additional auditors will be necessary in the audit program to ensure the 413 assumed additional licensees are in compliance with and properly educated on marijuana laws. An additional 2 marijuana examiners will be needed to monitor the reporting activity of licensees in the WSLCB Traceability System in addition to acting as liaisons between the LCB and licensees by assisting them to understand specified compliance requirements under rule and various reporting requirements in the WSLSCB Traceability System. Current staffing level for these functions is at, or beyond, capacity. Increasing the number of tax paying licensees by 400-500 requires an associated increase to current staffing levels. Using our experience and workload assessments with tax paying spirits, beer, and wine licensees, the incremental increase requested here should be adequate to properly handle the increased workload at the current level of service. Costs for these FTE's beginning in FY 2017 are \$552,448 (\$29,110 onetime) and in FY 2018 and beyond are \$523,338.

## INFORMATION TECHNOLOGY:

The Board must hire a contractor to modify the marijuana license application investigation workflow in order to create the medical marijuana endorsement. Additional modifications are required to allow an applicant for a producer's license to indicate whether they intend to grow medical grade marijuana. The onetime cost in FY 2016 for a contractor to perform the modifications is estimated to \$69,491.

Additionally, this bill will require modifications and enhancements to the WSLCB Traceability System. Additional server capacity will be required to handle the increased amount of data in the system resulting from the additional retail licensees and additional medical grade marijuana products as established in the bill. The anticipated onetime costs in FY 2016 are \$150,000 for a contractor to perform the modifications and \$100,000 for the increased server space.

Section 26 of the bill states that people who wish to form a cooperative must register the location with the State Liquor and Cannabis Board. The Board must create a standalone medical marijuana cooperative registration and tracking system to maintain the registered cooperatives. Estimated onetime costs for a hired contractor to design and construct the registration system in FY 2016 are \$75,000.

The Board's IT staff will be assisting contractors with the modifications of systems and performing work in multiple systems related to the name change of the Board. Additionally, an FTE in the Board's IT division will be necessary beginning in FY 2017 to support the increased number of FTE's required throughout the agency as a result of this bill. Onetime costs for IT staff in FY 2016 are \$93,784 and ongoing costs for IT staff in FY 2017 and beyond to maintain the cooperative registration system are \$11,380. Costs for an additional FTE to support increased agency staff in FY 2017 are \$109,150 (\$5,678 onetime) and in FY 2018 and beyond are \$103,472.

## MISCELANNEOUS STAFFING:

It is assumed the bill will create a workload requiring a temporary need for an additional Contract Specialist 2 over a two year period. The position will assist with space planning and leasing for additional enforcement staff

in various field offices throughout the state as well as for the additional staff the bill requires that will be working out of the headquarters office. The position will also manage new contracts and contract amendments with vendors who will be performing systems modifications and enhancements. The Contract Specialist will also assist with project management and request for proposals assumed to be necessary for implementation of the bill. Estimated costs for the position in are \$82,197 (\$5,678 onetime) in FY 2016 and \$76,519 in FY 2017.

The increased number of FTE's necessary to implement the bill creates a workload impact to the Human Resources division requiring an Administrative Assistant and one-half of a Human Resources Consultant to assist with recruitment and development of employees, provide consultative services to employees, managing employee data in HRMS, and provide other administrative support functions throughout the agency. Costs are estimated to be \$106,442 (\$11,356 onetime) in FY 2016 and \$95,086 in FY 2017 and beyond.

Based upon the passage of Initiative 502, the LCB has experienced unprecedented growth in the volume of public records requests – both in terms of the number of requests as well as the number of records sought. The number of requests increased from 807 in 2013 to 2,144 in 2014 – a one year increase of 166%. Over 80% of the requests were related to marijuana, and the average amounts of records produced on requests related to marijuana are 350 pages in length. The process consumes a large amount of time as each page must be reviewed by staff for exemptions and information that must be redacted. The number of requests received monthly continues to remain consistent and it is assumed to significantly increase if this bill is enacted. The additional workload impact creates the need for an additional Forms & Records Analyst to assist with meeting the increased demand of requests from citizens and the industry. Additionally, the Forms & Records Analyst will help to prevent non-compliance of the records disclosure laws related to the turnaround time, therefore avoiding costly penalties. Estimated costs for the position are \$66,715 (\$5,678 onetime) in FY 2016 and \$61,037 in FY 2017 and annually thereafter.

The Liquor Control Board continues to face extreme demands for timely information from the media, stakeholders and the general public regarding the industries it regulates. In 2013-14, the LCB's Communications Director and its sole Communications Consultant fielded an average of 50 media requests each week or 10 per day. In addition, the two are the primary leads for extensive agency internal and external communications including the intranet, the agency website and major agency publications such as the annual report. The LCB's Communications Department is working at its maximum capacity under current circumstances. The impact of this bill is assumed to increase the workload of the department; therefore, an additional Communications Consultant 4 is required to help the Board keep pace and continue providing efficient and effective communications. Estimated costs for the position are \$87,203 (\$5,678 onetime) in FY 2016 and \$81,525 in FY 2017 and annually thereafter.

#### NAME CHANGE:

This bill requires the name of the board known as the Washington State Liquor Control Board be changed to the Washington State Liquor and Cannabis Board. Licenses, permits, invoices, letters, and reports generated from the Board's existing COBOL based licensing application will have to be modified. The original software used to create forms and form overlays for the licensing and permitting system is no longer available. A new forms creation solution will need to be procured and implemented to update the name, logo, and address blocks used on the licenses, permits, and notices. Existing staff will be responsible for recreating all the forms.

Onetime costs in FY 2016 for the purchase and installation of the software solution by a contractor are estimated

to be \$33,500 and the ongoing costs in FY 2017 and beyond are anticipated to be \$1,875 for maintenance and support of the software.

If it's assumed that SB 5400 is enacted to fund the Board's licensing and enforcement system modernization project, the Board would avoid costs in FY 2016 of \$33,500 for the purchase and implementation of the creation solution to update the current licensing and permitting system, and ongoing annual costs of \$1,875 in FY 2017 and beyond for support and maintenance of the software, as the work would be incorporated into the licensing and enforcement system modernization project instead.

The name change will also require the replacement of badges, shirts, shoulder patches, caps, and many other Enforcement Division supplies resulting in an estimated onetime cost of \$70,000 in FY 2016.

**LEGAL SERVICES:**

Office of the Attorney General (AGO):

The Board's costs for legal services provided by the AGO are assumed to increase with the enactment of this bill. The AGO estimates that the majority of the assumed increased services provided to the Board will be licensing related cases in FY 2016 and FY 2017, and then cases related to enforcement actions taken against marijuana retail licensees beginning in FY 2018. As estimated by the AGO, costs for the increased legal services in FY 2016 are \$401,750, FY 2017 are \$385,518, FY 2018 and annually thereafter are \$89,278.

Office of Administrative Hearings (OAH):

If this bill is enacted, the Board assumes 413 marijuana retailer licenses will be issued from the assumed 825 applications received. Of the assumed 412 applicants who were not issued a license, the OAH estimates that 268 will request an administrative hearing to challenge the decision, of which 107 will proceed to a full hearing to be heard by an Administrative Law Judge. The OAH also assumes an increased number of hearings related to enforcement actions. The OAH estimates costs to be billed to the LCB for the increased number of hearings at \$117,210 per year in FY 2016 and FY 2017, and \$87,600 in annual ongoing costs beginning in FY 2018.

**Part III: Expenditure Detail**

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

	<b>FY 2016</b>	<b>FY 2017</b>	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>
FTE Staff Years	11.4	25.6	18.5	22.6	20.6
A-Salaries and Wages	563,236	1,342,632	1,905,868	2,403,240	2,232,888
B-Employee Benefits	181,777	464,539	646,316	829,276	765,720
C-Professional Service Contracts	415,491		415,491		
E-Goods and Other Services	620,628	701,175	1,321,803	593,322	583,082
G-Travel		102,280	102,280	148,560	148,560
J-Capital Outlays	72,450	85,490	157,940		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	<b>\$1,853,582</b>	<b>\$2,696,116</b>	<b>\$4,549,698</b>	<b>\$3,974,398</b>	<b>\$3,730,250</b>

**III. B - 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 2016	FY 2017	2015-17	2017-19	2019-21
Administrative Assistant 4	48,168	1.0	1.0	1.0	1.0	1.0
Administrative Regulations Analyst 3	58,656		2.0	1.0	2.0	2.0
Auditor 4	53,148		2.0	1.0	2.0	2.0
Communications Consultant 4	60,120	1.0	1.0	1.0	1.0	1.0
Contracts Specialist 2	55,836	1.0	1.0	1.0		
Fiscal Analyst 2	45,828		3.0	1.5	3.0	3.0
Forms & Records Analyst 2	42,588	1.0	1.0	1.0	1.0	1.0
Human Resources Consultant 3	58,656	0.5	0.5	0.5	0.5	0.5
Information Technology Specialist 4	71,496	0.2	0.1	0.2	0.1	0.1
Information Technology Specialist 5	78,900	0.4	1.0	0.7	1.0	1.0
Information Technology Specialist 6	87,096	0.3		0.2		
Licensing Specialist 3	42,588	6.0	6.0	6.0	4.0	2.0
Liquor Enforcement Officer 2	55,836		5.0	2.5	5.0	5.0
Liquor Enforcement Officer 3	60,120		1.0	0.5	1.0	1.0
Liquor Enforcement Officer 4	63,192		1.0	0.5	1.0	1.0
<b>Total FTE's</b>	<b>882,228</b>	<b>11.4</b>	<b>25.6</b>	<b>18.5</b>	<b>22.6</b>	<b>20.6</b>

**Part IV: Capital Budget Impact**

NONE

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Section 8 - Requires the LCB to adopt rules that establish the procedures and criteria necessary to implement the following:

(1)(a) - Application forms for marijuana producers that request the applicant to state whether they intend to produce marijuana for sale by marijuana retailers holding medical marijuana endorsements and the amount of or percentage of canopy they intend to commit to growing medical marijuana products as determined by the Department of Health.

(1)(b) - Reconsider and increase limits on the amount of square feet permitted to be in production and increase the percentage of production space for marijuana producers who intend to grow for marijuana retailers holding a medical marijuana endorsement.

(2)(d) - The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients and allow for a new license application period to increase the maximum number of retail outlets previously established in order to accommodate the medical needs of qualifying patients and designated providers.

(9)(d) - Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets.

Section 10(4) - Requires the Department of Health, in conjunction with the LCB, to adopt rules on requirements for marijuana products that may be sold to qualifying patients or designated providers at a retail outlet holding a medical marijuana endorsement. The rules must include:

- (a) - THC concentration, CBD concentration, and varying ratios of THC and CBD that are appropriate;
- (b) - Labeling requirements that include the labels attached to medical marijuana products contain THC and CBD concentration and THC to CBD ratios;
- (c) - Other product requirements, including any additional mold, fungus or pesticide testing requirements, or limitations to the types of solvents that may be used;
- (d) - Safe handling requirements; and
- (e) - Training requirements for employees.

Section 26(6) - States the LCB may adopt rules to implement cooperatives that include security requirements, and a seed to sale traceability model that will allow the LCB to track all marijuana grown in a cooperative.

Section 26(7) - Allows the LCB to inspect a registered cooperative to ensure compliance and requires the LCB to adopt rules on reasonable inspection hours and reasons for inspection.

Section 28(2) - Requires the LCB to adopt rules permitting qualifying patients and designated providers to extract or separate the resin from marijuana using non-combustible methods.

## Marijuana Excise Tax - Scenario 1

	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Recreational Market %</b>	19%	23%	28%	28%	28%
<b>Medical Market %</b>	17%	21%	25%	25%	25%
<b>Total Marijuana Market</b>	\$ 671,180,489	\$ 715,844,257	\$ 691,243,050	\$ 691,243,050	\$ 691,243,050
<b>ERFC<sup>1</sup> Recreational Forecast</b>	\$ 127,524,293	\$ 164,644,179	\$ 193,548,054	\$ 193,548,054	\$ 193,548,054
<b>Medical Forecast<sup>2</sup> (CR Impact)</b>	<b>\$ 114,100,683</b>	<b>\$ 150,327,294</b>	<b>\$ 172,810,763</b>	<b>\$ 172,810,763</b>	<b>\$ 172,810,763</b>

1) Economic & Revenue Forecast Council

2) Medical Forecast as calculated by the Board based on ERFC's February 2015 forecast and assumptions concerning medical marijuana market share percentages.

## Marijuana Excise Tax - Scenario 2

### Cash Receipts Impact from Recreational Marijuana Excise Tax (I-502)

	Excise Tax Forecast <sup>1</sup>		Current Excise Tax Rate <sup>2</sup>		Total Sales Forecast <sup>3</sup>		Retail Sales Percentage of Total Sales <sup>4</sup>		Assumed Retail Sales <sup>5</sup>		Proposed Excise Tax Rate <sup>6</sup>		Assumed Excise Tax <sup>7</sup>	Cash Receipt Impact <sup>8</sup>
FY 2016	89,482,085	/	25%	=	357,928,338	x	68%	=	243,391,270	x	30%	=	73,017,381	(16,464,704)
FY 2017	127,524,293	/	25%	=	510,097,172	x	68%	=	346,866,077	x	30%	=	104,059,823	(23,464,470)
FY 2018	164,644,179	/	25%	=	658,576,716	x	68%	=	447,832,167	x	30%	=	134,349,650	(30,294,529)
FY 2019	193,548,054	/	25%	=	774,192,216	x	68%	=	526,450,707	x	30%	=	157,935,212	(35,612,842)
FY 2020	193,548,054	/	25%	=	774,192,216	x	68%	=	526,450,707	x	30%	=	157,935,212	(35,612,842)
FY 2021	193,548,054	/	25%	=	774,192,216	x	68%	=	526,450,707	x	30%	=	157,935,212	(35,612,842)

### Cash Receipts Impact from Medical Marijuana Excise Tax (SB 5052)

	Excise Tax Forecast <sup>9</sup>		Current Excise Tax Rate <sup>2</sup>		Total Sales Forecast <sup>3</sup>		Retail Sales Percentage of Total Sales <sup>4</sup>		Assumed Retail Sales <sup>5</sup>		Proposed Excise Tax Rate <sup>6</sup>		Assumed Excise Tax <sup>7</sup>	Cash Receipt Impact <sup>10</sup>
FY 2016	0	/	25%	=	0	x	68%	=	0	x	30%	=	0	0
FY 2017	114,100,683	/	25%	=	456,402,733	x	68%	=	310,353,858	x	30%	=	93,106,157	93,106,157
FY 2018	150,327,294	/	25%	=	601,309,175	x	68%	=	408,890,239	x	30%	=	122,667,072	122,667,072
FY 2019	172,810,763	/	25%	=	691,243,050	x	68%	=	470,045,274	x	30%	=	141,013,582	141,013,582
FY 2020	172,810,763	/	25%	=	691,243,050	x	68%	=	470,045,274	x	30%	=	141,013,582	141,013,582
FY 2021	172,810,763	/	25%	=	691,243,050	x	68%	=	470,045,274	x	30%	=	141,013,582	141,013,582

1) Marijuana excise tax forecast<sup>1</sup> prepared by the Economic and Revenue Forecast Council in February 2015.

2) Current marijuana excise tax rate<sup>2</sup> per RCW 69.50.535.

3) Total marijuana sales forecast<sup>3</sup> computed based on the excise tax forecast<sup>1</sup> provided by the Economic and Revenue Forecast Council as the forecast does not include total sales numbers.

4) Retail sales percentage<sup>4</sup> of total marijuana sales based on January 2015 actual sales data.

5) Assumed retail sales<sup>5</sup> based on the total sales forecast<sup>3</sup> and the actual percentage of total sales occurring at retail in January 2015.

6) Proposed marijuana excise tax rate<sup>6</sup> per House Bill 2136.

7) Assumed excise tax<sup>7</sup> based on assumed retail sales<sup>5</sup> and proposed excise tax rate<sup>6</sup> in House Bill 2136.

8) Cash receipt impact<sup>8</sup> reflects the difference between assumed excise taxes<sup>7</sup> and the February 2015 excise tax forecast<sup>1</sup> for the existing I-502 recreational marijuana market.

9) Marijuana excise tax<sup>9</sup> as calculated by the Board based on the forecast prepared by the Economic and Revenue Forecast Council in February 2015 and assumptions concerning medical marijuana market share percentages.

10) Cash receipt impact<sup>10</sup> reflects the assumed excise taxes<sup>7</sup> resulting from the regulation of medical marijuana.

### Enforcement Officer Field Increment Calculations

<b>Licence Type:</b>	<b>Marijuana Retailer's License</b>			
<b>Number of Licensees:</b>	<b>413</b>			
<b>Activity</b>	<b>Quantity</b>	<b># of FI's</b>	<b># of Staff</b>	<b>Total FI's</b>
Premises Checks	1,239	3	2	5,576
Premises Checks w/Violations	124	6	1	743
Complaints	41	3	1	124
Complaint Investigations	8	100	1	826
Inspections	62	15	1	929
Complex Investigations	21	10	2	413
Compliance Checks	1,239	2	2	4,956
Compliance ReChecks	248	2	2	991
New Licensee Support	413	15	1	6,195
Under Cover Operations	25	15	2	743
Surveillance	50	5	2	496
Court Testimony	41	10	1	413
Audit Follow-ups	21	200	1	4,130
			<b>Total FI's</b>	26,535
			<b>FI's per FTE</b>	4,220
			<b>FTE's Required</b>	<b>6.3</b>

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

ACCOUNT	FY 2016	FY 2017	2015-17	2017-19	2019-21
General Fund-Private/Local 001-7		472,000	472,000	714,000	714,000
Health Professions Account-State 02G-1		79,000	79,000	160,000	162,000
<b>Total \$</b>		551,000	551,000	874,000	876,000

### Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	8.7	8.5	8.6	5.8	5.1
<b>Account</b>					
General Fund-Private/Local 001-7	98,000	535,000	633,000	624,000	458,000
Health Professions Account-State 02G-1	2,605,000	777,000	3,382,000	1,550,000	1,458,000
<b>Total \$</b>	2,703,000	1,312,000	4,015,000	2,174,000	1,916,000

### Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*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:	Phone:	Date: 04/15/2015
Agency Preparation: Donna Compton	Phone: (360) 236-4637	Date: 04/17/2015
Agency Approval: Stacy May	Phone: 360-236-4532	Date: 04/17/2015
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 04/21/2015

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

The fiscal impact has not changed since the previous fiscal note (2SSB 5052, FN15-138.2).

Section 7: Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the Department of Health (department).

Section 8: In consultation with the Department of Agriculture and the department, the state Liquor and Cannabis Board (LCB) must establish classes of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration or other qualitative measurements deemed appropriate by the state LCB.

Section 10: The department, in conjunction with the LCB must develop rules on requirements for marijuana concentrates, useable marijuana and marijuana infused products that may be sold to qualifying patients or designated providers at a retail outlet holding a medical marijuana endorsement.

The rules must include: THC concentration, CBD concentration or low THC, high CBD ratios appropriate for marijuana concentrates, useable marijuana or marijuana-infused products sold to qualifying patients; labeling requirements; other product requirements that the department determines necessary to address the medical needs of qualifying patients; safe handling requirements; and training requirements for employees.

A marijuana retailer holding an endorsement to sell marijuana to qualifying patients or designated providers must train its employees on:

- (a) Procedures regarding the recognition of valid recognition cards and the use of equipment to enter qualifying patients and designated providers into the medical marijuana authorization database;
- (b) Recognition of valid recognition cards; and
- (c) Recognition of strains, varieties, THC concentration, CBD concentration and THC to CBD ratios of marijuana concentrates, useable marijuana, and marijuana-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

Section 18: The department shall develop the form for the health care professional to use as an authorization for qualifying patients and designated providers. The form shall include the qualifying patient's or designated provider's name, address, and date of birth; the health care professional's name, address, license number; the amount of and type of marijuana recommend for the qualifying patient; a telephone number where the authorization can be verified during normal business hours; the dates of issuance and expiration; and a statement that an authorization does not provide protection from arrest unless the qualifying patient or designated provider is also entered into the medical marijuana (MMJ) authorization database and holds a recognition card.

Until July 1, 2016, a health care professional who, within a single calendar month, authorizes the medical use of marijuana to more than 30 patients must report the number of authorizations issued.

The appropriate disciplining authority may inspect or request patient records to confirm compliance with this section. Failure to cooperate with a written request for patient records or failure to comply with the requirements of this section shall result in citations and fines issued consistent with RCW 18.130.230. Failure to otherwise comply with the requirements of this section shall be considered unprofessional conduct and subject to sanctions

under the uniform disciplinary act, chapter 18.130 RCW.

Section 21(1): The department must contract with an entity to create, administer, and maintain a secure and confidential medical marijuana (MMJ) authorization database (i.e., a registry system) that beginning July 1, 2016 allows:

- (a) a marijuana retailer with a MMJ endorsement to add a qualifying patient or designated provider and include the amount of marijuana concentrates, usable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under section 19 of this act.
- (b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;
- (c) a qualifying patient or designated provider to request and receive their own information health care information or information on any person or entity that has queried their name or information;
- (d) appropriate local, state, tribal or federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected marijuana-related activity under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;
- (e) A marijuana retailer holding a MMJ endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;
- (f) Department of Revenue (DOR) to verify tax-exemptions;
- (g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and
- (h) Authorizations to expire six months or one-year after entry into the MMJ authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the MMJ authorization database at a marijuana retailer with a MMJ endorsement. After a qualifying patient or designated provider is placed in the MMJ authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

- (a) A randomly generated and unique identifying number;
- (b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;
- (c) A photograph of the qualifying patient or designated provider taken by an employee of the marijuana retailer with a MMJ endorsement at the same time that the qualifying patient or designated provider is being placed in the MMJ authorization database in accordance with rules adopted by the department;
- (d) The amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under section 19 of this act;
- (e) The effective date and expiration date of the recognition card;
- (f) The name of the health care professional who authorized the qualifying patient or designated provider; and
- (g) Additional security features as necessary to ensure its validity.

(4) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date the health care professional issued the authorization. For qualifying patients under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the MMJ authorization database until they have been reexamined by a health care professional and determined to

meet the definition of qualifying patient. After reexamination, a marijuana retailer with a MMJ endorsement must reenter the qualifying patient or designated provider into the MMJ authorization database and a new recognition card will be issued in accordance with department rules.

(5) If a recognition card is lost or stolen, a marijuana retailer with a MMJ endorsement, in conjunction with the MMJ authorization database administrator, may issue a new card that will be valid for six months to one year, if the patient is reexamined and determined to meet the definition of a qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection (4) of this section. If a reexamination is not performed, the expiration date of the replacement card will remain the same as the lost or stolen card.

(6) The MMJ authorization database administrator must remove qualifying patients and designated providers from the MMJ authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the MMJ authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the database if the qualifying patient or designated provider no longer qualifies for the medical use of marijuana. The MMJ authorization database administrator must retain database records for at least five calendar years to permit the state Liquor and Cannabis Board and the Department of Revenue to verify eligibility for tax exemptions.

(7) During development of the database, the database administrator must consult with the department, stakeholders and persons with relevant expertise to include but not limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cyber security firm, vendor, or service.

(8) The MMJ authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information is not susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices;

(d) The database must be upgradeable and updated in a timely to keep current with state of the art privacy and security standards and practices.

(9) (a) Personally identifiable information of qualifying patients and designated providers included in the medical marijuana authorization database is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) The information in the MMJ database may be releasable in aggregate form, with all personally identifiable information redacted, for analysis.

(c) Information contained in the MMJ authorization database shall not be shared with the federal government or its agents unless the particular patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10) (a) The department must charge a one dollar fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement. The marijuana retailer with a MMJ endorsement shall

collect the fee from the qualifying patient or designated provider at the time he or she is entered into the database and issued a recognition card. The department shall establish a schedule for marijuana retailers with a MMJ endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the health professions account under RCW 43.70.230.

(b) By November 1, 2016, the department shall report to the governor and the fiscal committees of both the House of Representatives and the Senate regarding the cost of implementation and administration of the medical marijuana authorization database. The report must specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana database as well as estimates of the continuing costs associated with operating the medical marijuana database. The report must also provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the dedicated marijuana fund created under RCW 69.50.530.

(12) The department may adopt rules to implement this section.

Section 34: A qualifying patient may revoke their designation of a specific designated provider and designate a different designated provider at any time. A revocation must be in writing, signed, dated and provided to the designated provider and, if applicable, the MMJ authorization database administrator. A person may stop serving as a designated provider to a given qualifying patient at any time by revoking that designation in writing, signed, dated and provided to the qualifying patient and, if applicable, the MMJ authorization database administrator. However, that person may not begin serving as a designated provider to a different qualifying patient until fifteen days have elapsed from the date the last qualifying patient designated them to serve as a provider. The department may adopt rules to implement this section including a procedure to remove the name of a designated provider from the MMJ database upon receipt of a revocation.

Section 37: (1) Establishes the medical marijuana consultant certificate. In addition to any other authority provided by law, the secretary of the department may:

- (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;
- (b) Establish forms and procedures necessary to administer this chapter;
- (c) Approve training and education programs;
- (d) Receive criminal history information, and the secretary shall require each applicant for initial certification to obtain a background check;
- (e) Establish administrative procedures and fees in accordance with RCW 43.70.250; and
- (f) Maintain the official department records.

(2) A training program approved by the secretary must include the following topics:

- (a) The medical conditions that constitute terminal or debilitating conditions;
- (b) Short and long-term effects of cannabinoids,
- (c) Product knowledge;
- (d) Risks and benefits of various routes of administration;
- (e) Safe handling and storage of useable marijuana, marijuana-infused products, and marijuana products and

marijuana concentrates, including strategies to reduce access to minors;

(f) Demonstrated knowledge of this chapter and the rules adopted to implement it; and

(g) Other subjects deemed necessary and appropriate by the department to ensure that MMJ consultants are able to provide evidence-based and medically accurate advice on the medical use of marijuana. MMJ consultant certificates are subject to annual renewals and continuing education requirements established by the secretary.

(4) The secretary shall have the power to refuse, suspend or revoke the certificate of any medical marijuana consultant upon proof that:

(a) A certificate was procured through fraud, misrepresentation, or deceit;

(b) The certificate holder committed acts in violation of this section; or

(c) The certificate holder violated or has permitted any employee or volunteer to violate any of laws of this state relating to drugs or controlled substances or has been convicted of a felony.

In any case of the refusal, suspension or revocation of certificate under the provisions of this chapter, appeal may be taken in accordance with chapter 34.05 RCW, the administrative procedures act.

(6) Nothing in the section authorizes a medical marijuana consultant to:

(a) Offer or undertake to diagnose or cure any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary by the use of marijuana or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of marijuana.

(7) Nothing in this section requires an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.534 and holding a medical marijuana endorsement to obtain a medical marijuana consultant certification.

(8) Nothing in this section applies to the practice of a health care profession by individuals licensed, certified, or registered in a professions listed in RCW 18.130.040(2) and who performing services within their authorized scope of practice.

Section 38: The Board of Naturopathy (BON), the Board of Osteopathic Medicine and Surgery (BOMS), the Medical Quality Assurance Commission (MQAC), and the Nursing Care Quality Assurance Commission (NCQAC), shall develop and approve continuing education programs related to the use of marijuana for medical purposes for the health care providers that they regulate that are based upon practice guidelines that have been adopted by each entity.

Section 39: Changes the allowable expenditures in the health professions account to include the implementation and administration of the medical marijuana authorization database established in section 21 of this act.

Section 41: The department must develop recommendations on establishing medical marijuana specialty clinics that would allow for the authorization and dispensing of marijuana to patients of health care professional who work on-site of the clinic and certified by the department in the medical use of marijuana. Recommendations must be reported to the chairs of the health care committees of both the Senate and House of Representatives by December 1, 2015.

Section 48: Repeals parts of chapter 69.51A RCW, including the section directing MQAC, with BOMS consultation, to evaluate petitions to add new terminal or debilitating conditions to those that are eligible for the authorization of MMJ.

## II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Section 21: The department must charge a one-dollar fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement. Fees collected under this subsection shall be deposited in to the health professions account created under RCW 43.70.320. Revenue collections will begin in fiscal year (FY) 2017.

Using the state of Colorado's medical marijuana registry and its population, the following estimates were developed for the number registrations in Washington, assuming that approximately half of all potential MMJ patients and designated providers register for an authorization card

FY 2017 – 71,000 adult registrations, 8,000 minor registrations approx. \$79,000  
FY 2018 – 71,200 adult registrations, 8,400 minor registrations approx. \$80,000  
FY 2019 – 71,390 adult registrations, 8,820 minor registrations approx. \$80,000  
FY 2020 – 71,571 adult registrations, 9,261 minor registrations approx. \$81,000  
FY 2021 – 71,742 adult registrations, 9,724 minor registrations approx. \$81,000

Adult registrations are voluntary and valid for one year; minor registrations and their designated providers are mandatory and valid for six months. The department is estimating a five (5) percent new application rate or 3,950 new applications per year after the first year with a 95 percent renewal rate. Patients may no longer qualify under the criteria and will not re-register after a physical examination.

For the purposes of this fiscal note, the department assumes the database will comply with this section; therefore, the estimated amount of fines collected is indeterminate.

Section 37: This bill allows the department to establish a fee adequate to cover the costs of administering the medical marijuana consultant program. Current law, RCW 43.70.250, requires that professions be fully self-supporting and that sufficient revenue collected through fees to fund expenditures. The calculation of specific fees will happen during rulemaking and a fee proposal presented as part of the rules package. Revenue collection will start July 1, 2017.

Based on the ratio of pharmacy assistants to pharmacies, the department estimates three medical marijuana consultants per licensed retail outlet and that each retail outlet will receive a medical marijuana endorsement. Existing licensed retail outlets is 334 plus an estimated 413 new, for 747 licensed retail outlets.

### Medical Marijuana Consultant Certification:

FY 2017 – 2,241 applications, 530 renewals, approx. \$472,000  
FY 2018 – 118 applications, 2,241 renewals, approx. \$357,000  
FY 2019 – 118 applications, 2,241 renewals, approx. \$357,000  
FY 2020 – 118 applications, 2,241 renewals, approx. \$357,000  
FY 2021 – 118 applications, 2,241 renewals, approx. \$357,000

The department is estimating a five (5) percent new application rate after the first year with a 95 percent renewal rate. The estimated revenue collections will recover costs over a three to five year period.

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

### Assumptions

Non-controversial standard rulemaking takes about 12 months, complex and controversial rulemaking takes 18 to 24 months. Based on the department's rulemaking experience and experience with the medical marijuana (sixty-day supply rules in 2006- 2008), the department anticipates the involvement of many constituent groups, professions and other interested parties and the rulemaking process will be complex and controversial. The department assumes the earliest adoption of rules is July 1, 2016, making the MMJ authorization database available July 1, 2016 as well.

### Rulemaking

Sections 10, 21, and 34: There will be one-time rulemaking costs in FY 2016 to adopt rules for MMJ labeling, marijuana concentrates, marijuana-infused products, and to establish and contract for an administrator for a MMJ authorization database. Rulemaking will be very complex and will require knowledge in areas where the department has no expertise (e.g., labeling and setting appropriate THC and cannabidiol content concentrations). The department will consult with the LCB and outside experts for this additional knowledge. Due to this complexity and interest around the medical use of marijuana, the department will use a facilitator at these meetings. The department will conduct four stakeholder meetings geographically through the state. Rulemaking will require two formal rule hearings, one in eastern Washington and one in western Washington. Larger than normal facilities and security will be required for the rule hearings. Estimated facilitator, outside expertise and security costs are \$25,000, \$40,000 and \$15,000 respectively for a total \$80,000 in personal service contracts.

Section 37: The standards required this section will require rulemaking. There will be onetime costs for rulemaking in FY 2016. Rulemaking will establish certification requirements that include training and education requirements and continuing education requirements, as well as fees, for medical marijuana consultant certification. Rulemaking will consist of four stakeholder meetings, and a formal rules hearing to allow stakeholders to participate and provide comments during the rulemaking process.

One-time rulemaking costs will include staff-time and related costs \$160,000, three personal service contracts for a facilitator, outside expertise and security personnel \$80,000, Office of Attorney General OAG costs of \$160,000 for a total of 1.7 FTE and \$400,000 in FY 2016.

### Program Implementation and Management

Sections 10, 18, 21, 34 37: Based on the department's experience with implementing new health profession credentials and the Prescription Monitoring Program, staff will be required for implementing and managing the new medical marijuana authorization system for qualifying patients and designated providers. This will include contracting for and providing policy oversight to the database administrator, developing the authorization form for health care professionals, responding to requests for information, and developing procedures.

Section 21: By November 1, 2016, the department shall report to the governor and the fiscal committees of both

the House of Representatives and the Senate regarding the cost of implementation and administration of the medical marijuana authorization database. The report must specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana database as well as estimates of the continuing costs associated with operating the medical marijuana database. The report must provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.

Section 37: The department will need to contract with an examination company to develop the examination for medical marijuana consultant certification since there is not a nationally recognized body for this profession. Payment of examination administration costs is by the applicant directly to the exam company and will not be part of the certification fee. The estimated one-time contract amount is \$25,000 based on other similar examination costs.

Section 38: BOMS, BON, MQAC and NCQAC must develop and approve continuing education (CE) for their licensees related to MMJ. Over the last year, the four boards and commissions established practice guidelines related to MMJ, these practice guidelines would serve as a basis for the approval of CE programs. Starting in FY 2016 and ongoing, costs will include staff-time and related costs and board and commission member time for a total of 0.20 FTE and \$18,000 each year.

Costs to implement section 38 will offset the savings from section 48.

Section 41: The department must develop recommendations on establishing medical marijuana specialty clinics that would allow for the authorization and dispensing of marijuana to patients of health care professional who work on-site of the clinic and certified by the department in the medical use of marijuana. Recommendations must be report the chairs of the health care committees of both the Senate and House of Representatives by December 1, 2015.

Section 48: Over the past fifteen years, the department has received fifteen petitions to approve new medical conditions related to medical marijuana. This bill repeals parts of chapter 69.51A RCW, including the MQAC consultation requirement with BOMS to evaluate petitions for new approved conditions. With the elimination of the petition process, the department expects a cost savings of (0.2) FTE and (\$18,000) in FY 2016 and each year thereafter. This cost savings will be in the department's Health Professions Account and not the Dedicated Marijuana Account.

Program administration and management costs in FY 2016 include staff-time, related costs, personal services contract \$25,000 and Office of Attorney General support \$42,000 for a total of 2.5 FTE and \$302,000. Costs in FY 2017 include staff-time, related costs \$344,000 and Office of Attorney General support \$105,000 for a total of 3.7 FTE and \$449,000. Costs during FY 2018 and FY 2019 include staff-time, related costs \$344,000 and Office of Attorney General support \$102,000 for a total of 3.7 FTE and \$446,000. Starting in FY 2020 and ongoing, costs will include staff-time, related costs \$332,000 and Office of Attorney General support \$57,000 for a total of 3.6 FTE and \$389,000 each year.

#### Medical Marijuana Authorization Database

Section 21: The department's assumptions to develop an MMJ authorization database are based upon similar estimates calculated in 2014. However, registration numbers were increased based upon information from the State of Colorado, which is the only other state besides Washington that has legalized and implemented marijuana for recreational and medical purposes. The department assumes the population of Washington State

will have a similar composition of medical and recreational marijuana users as Colorado State. Extrapolating the information, we received from Colorado's MMJ registry the department Washington has 153,500 patients and designated providers and that half of all adult patients will register. With a six-month validation period and mandatory registration for minors and their designated providers, the actual number of applications will be slightly higher.

The department is assuming the MMJ authorization database will be available July 1, 2016 after rule adoption. The department also assumes 50 percent of eligible patients and designated providers will register with the program by January 31, 2017.

One-time costs in FY 2016 are for the acquisition and implementation of a commercial off the shelf (COTS) solution hosted and managed by a third party vendor in an environment that can support Category 4 data and state OCIO standards for security. Estimates include resources necessary to establish interfaces between the system and the department's Integrated Licensing and Regulatory (ILRS) for exchange of health care professional credentialing information. The personal services contract for the MMJ authorization database administrator will include hosting and management by a third party vendor and providing technical assistance to authorization applicants. This workload estimate assumes a fully automated application process, no paper applications, verification of the health care provider is online with the interface between the MMJ authorization database and the department's Integrated Licensing and Regulatory (ILRS). The MMJ authorization database administrator must remove qualifying patients and designated providers upon expiration, or at the request qualifying patients and/or designated providers. The MMJ authorization database administrator must retain database records for at least five calendar years to permit the state Liquor and Cannabis Board and the Department of Revenue to verify eligibility for tax exemptions. Starting in FY 2017 and ongoing, the contract estimate is \$381,000

Costs in FY 2016 will include staff and associated costs \$460,000, one-time software purchase \$1,534,000 for a total of 4.4 FTE and \$1,994,000. Starting in FY2017 and ongoing, costs will include staff-time, related costs for the support and maintenance of MMJ authorization database \$37,000 and the personal services contract \$381,000 for a total of 0.3 FTE and \$418,000 each year.

### Information Technology

Section 37: During FY 2016, information technology (IT) staff will be required for implementing the new certification program. This will include conducting a business analysis, configuration, and testing of a new credential type. Tasks include establishing credentialing workflows, user defined fields, templates, fee tables, renewals and modification or creation of reports in the department's Integrated Licensing and Regulatory System (ILRS). Total one-time costs include IT staff and associated costs for 0.10 FTE and \$7,000 in FY 2016. Starting in FY 2017, ongoing costs will total \$1,000 each year.

### Medical Marijuana Consultant Certification – Credentialing

Section 37: Starting in FY 2017, credentialing costs will be for staff to review and process applications, provide technical assistance, and issue certifications for qualified applicants on an estimated 2,241 new applications during the first year, as well as renewals. Credentialing costs for FY 2017 will include staff-time and related costs for a total of 2.8 FTE and \$223,000. Starting in FY 2018 and ongoing, credentialing costs will total 0.20 FTE and \$17,000 per year.

## Medical Marijuana Consultant Certification – Discipline

Based on the secretary’s authority to deny, suspend or revoke certifications, the department estimates 60 denials, suspensions or revocation during the first two years of the program. In addition, the department estimates a complaint rate of two (2) percent of certification holders per year or 45 complaints per year for medical marijuana consultants.

The complaint response process includes five steps: 1) intake, 2) assessment, 3) investigation, 4) case disposition, and 5) adjudication. Staff review the complaint, identify the history of the person complained about, and help assess whether an investigation is needed. In more than half the cases, investigation is needed. The investigator obtains information about the complaint and the respondent and prepares a report detailing the findings. After investigation, the disciplining authority decides whether to pursue legal action. Staff attorneys, paralegals, and other staff work to develop the legal documents and charge the violation. Most cases are settled, and the staff attorney manages that process. If the respondent asks for a hearing, staff must schedule the hearing, and the health law judge considers all legal motions, presides over the hearing, and drafts the final order.

Cost estimates for the complaint response process in relation to were calculated using the department’s Disciplinary Workload Model for the complaint response process. Estimated discipline costs in FY 2017 include staff-time, related costs, Office of Attorney General support \$97,000 and travel for a total of 1.3 FTE and \$222,000. Costs during FY 2018 include staff-time, related costs, travel \$136,000 and Office of Attorney General support \$100,000 for a total of 1.4 FTE and \$236,000. Costs during FY 2019 will include staff time, related costs, travel \$111,000 and Office of Attorney General support \$63,000 for a total of 1.1 FTE and \$174,000. Starting in FY2020 and ongoing costs will include staff time, related costs, travel \$88,000, and Office of Attorney General support \$45,000 for a total of 0.9 FTE and \$133,000.

### Estimated Total Costs per Fiscal Year

FY2016 - 8.7 FTE and \$2,703,000

FY2017 - 8.5 FTE and \$1,312,000

FY2018 - 5.9 FTE and \$1,118,000

FY2019 – 5.6 FTE and \$1,056,000

FY2020 and ongoing 5.1 FTE and \$958,000

## Part III: Expenditure Detail

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

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	8.7	8.5	8.6	5.8	5.1
A-Salaries and Wages	569,000	476,000	1,045,000	688,000	628,000
B-Employee Benefits	171,000	142,000	313,000	206,000	188,000
C-Professional Service Contracts	1,639,000	381,000	2,020,000	762,000	762,000
E-Goods and Other Services	298,000	291,000	589,000	495,000	316,000
G-Travel	3,000	5,000	8,000	12,000	12,000
J-Capital Outlays	14,000	8,000	22,000		
T-Intra-Agency Reimbursements	9,000	9,000	18,000	11,000	10,000
<b>Total:</b>	<b>\$2,703,000</b>	<b>\$1,312,000</b>	<b>\$4,015,000</b>	<b>\$2,174,000</b>	<b>\$1,916,000</b>

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

<b>Job Classification</b>	<b>Salary</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>
Fiscal Analyst 2	45,828	1.8	1.5	1.7	1.2	0.9
FORMS & RECORDS ANALYST 1	37,620		0.6	0.3		
HEALTH CARE INVESTIGATOR	61,632		0.3	0.2	0.3	0.3
3 HEALTH SERVICES	45,828		1.1	0.6	0.5	0.3
CONSULTANT 1 HEALTH SERVICES	54,504		0.5	0.3	0.1	0.1
CONSULTANT 2 HEALTH SERVICES	63,192	1.0	1.4	1.2	1.0	1.0
CONSULTANT 3 HEALTH SERVICES	69,756	2.0	1.0	1.5	1.0	1.0
CONSULTANT 4 Health Svcs Conslt 1	44,712	1.1	1.0	1.1	0.8	0.6
HEARINGS EXAMINER 3	80,892		0.2	0.1	0.2	0.1
INFO TECH SYSTEMS/APP SPEC	89,280	0.4	0.1	0.3	0.1	0.1
6 INFORMATION TECH SPEC 4	73,260	0.1		0.1		
INFORMATION TECH SPEC 5	80,892	1.5	0.1	0.8	0.1	0.1
WMS01	69,756		0.1	0.1		
WMS02	80,892	0.6	0.5	0.6	0.5	0.5
WMS03	89,280	0.2	0.1	0.2	0.1	0.1
<b>Total FTE's</b>	987,324	8.7	8.5	8.6	5.8	5.1

**Part IV: Capital Budget Impact**

NONE

NONE

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Sections 10, 18, 21, 34 and 37: The Department of Health will adopt rules as necessary to implement the bill.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection	<b>Agency:</b> 310-Department of Corrections
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Expenditures from:**

**Non-zero but indeterminate cost. Please see discussion.**

**Estimated Capital Budget Impact:**

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

*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:	Phone:	Date: 04/15/2015
Agency Preparation: Margaret Andreas	Phone: (360) 725-8262	Date: 04/21/2015
Agency Approval: Sarian Scott	Phone: (360) 725-8270	Date: 04/21/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 04/22/2015

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill establishes a cannabis patient protection act.

Section 1 is a new section, stipulating that the act be known and cited as the cannabis patient protection act.

Section 2 is a new section describing the legislative intent to adopt a comprehensive act using regulations in place for the recreational marijuana market to provide regulation for the medical use of marijuana, to ensure patients retain their ability to grow marijuana for their own medical use, to ensure patients may possess more marijuana-infused products, usable marijuana and marijuana concentrates than what is available to a non-medical user, and to adopt medical specific regulations so that safe handling practices and testing standards for medical marijuana products will meet or exceed the standards for recreational marijuana.

Section 3 amends RCW 66.08.012, Liquor Control Board (LCB) – General Provisions, Creation of board, changing the name of the board from “Washington state liquor control board” to “Washington state liquor and cannabis board”.

Section 4 amends RCW 69.50.101, Uniform Controlled Substances Act, Definitions.

Sections 4(q), 4(r), 4(v), 4(y) and 4(hh) add marijuana concentrates to the definitions of “lot”, “lot number”, “marijuana processor”, “marijuana retailer” and “retail outlet”.

Sections 4(v), 4(w), 4(y) and 4(hh) substitute “state liquor and cannabis board” for “state liquor control board” in the definitions of “marijuana processor”, marijuana producer”, “marijuana retailer” and “retail outlet”.

Sections 4(nn), 4(oo), 4(pp), 4(qq) and 4(rr) are added, stipulating that the definitions for “designated provider”, “qualifying patient”, “CBD concentration”, “plant” and “recognition card” are as shown in RCW 69.51A.010, Medical Cannabis, Definitions.

Section 5 amends RCW 69.50.325, Uniform Controlled Substances Act, Marijuana producer’s license, replacing “state liquor control board” with “state liquor and cannabis board” throughout.

Section 6 amends RCW 69.50.331, Uniform Controlled Substances Act, Application for license, replacing “state liquor control board” with “state liquor and cannabis board” throughout.

Section 6(1) is revised, requiring the state liquor and cannabis board to conduct a comprehensive, fair and impartial evaluation of applications timely received.

Section 6(1)(a) is added, requiring the state liquor and cannabis board to develop a competitive, merit-based application process that includes the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry.

Section 7 amends RCW 69.50.342, Uniform Controlled Substances Act, LCB may adopt rules, replacing “state liquor control board” with “state liquor and cannabis board” throughout. Additionally, marijuana concentrates

are added to useable marijuana and marijuana-infused products throughout.

Section 7(1)(c) is revised, adding safe handling requirements, and approved pesticides and pesticide testing requirements to conditions of sanitation and standards of ingredients.

Section 7(2) is added, requiring that rules adopted on retail outlets holding medical marijuana outlets holding medical marijuana endorsements be adopted in coordination and consultation with DOH.

Section 8 amends RCW 69.50.345, Uniform Controlled Substances Act, Rules – Procedures and criteria, replacing “state liquor control board” with “state liquor and cannabis board” throughout. Additionally, marijuana concentrates are added to useable marijuana and marijuana-infused products throughout.

Section 8(1)(a) is added, requiring that application forms for marijuana producers request the applicant to state whether he or she intends to produce medical grade marijuana for sale by retailers holding medical marijuana endorsements and the amount of canopy the applicant intends to commit to growing medical grade marijuana.

Section 8(1)(b) is added, requiring the state liquor and cannabis board to reconsider limits on the amount of square feet permitted to be in production and increasing the percentage of production space for those producers who intend to grow medical grade marijuana if the producer designates the increased production space to medical grade marijuana. If current producers do not use all of the increased production space, the state liquor and cannabis board may reopen the license period for new applicants, but only to those who agree to grow medical grade marijuana for medical marijuana endorsed retail outlets.

Section 8(2)(d) is added requiring that the maximum number of retail outlets that may be licensed in each county take into consideration the number of outlets holding medical marijuana endorsements in order to meet the medical needs of qualifying patients.

Section 8(7)(c) is amended, adding CBD concentration to the list of labeling requirements.

Section 8(8) is amended, adding CBD concentration to the qualitative measures used in establishing classes of marijuana.

Section 8(9)(d) is added, allowing retail outlets with medical marijuana endorsements to advertise themselves as medical retail outlets.

Section 9 amends RCW 69.50.354, Uniform Controlled Substances Act, Retail outlet licenses, replacing “state liquor control board” with “state liquor and cannabis board”.

Section 10 is a new section added to RCW 69.50, the Uniform Controlled Substances Act.

Section 10(1) establishes a medical marijuana endorsement to allow a marijuana retailer to sell marijuana for medical use to qualifying patients and designated providers.

Section 10(2) allows an applicant to apply for a medical marijuana endorsement concurrently with a marijuana retail license.

Section 10(3) establishes the requirements a marijuana retailer must meet to be issued a medical marijuana

endorsement.

Section 10(3)(a) stipulates that authorization for the medical use of marijuana may not occur at the retail outlet.

Section 10(3)(b) requires that the outlet carry medical grade marijuana.

Section 10(3)(c) prohibits the outlet from labelling or marketing marijuana concentrates, useable marijuana, or marijuana-infused product in a manner intentionally attractive to minors.

Section 10(3)(d) requires the outlet to demonstrate the ability to enter qualifying patients and designated providers in the medical marijuana database and issue recognition cards in compliance with DOH standards.

Section 10(3)(e) requires the retail outlet to keep copies of the qualifying patient's or designated provider's recognition card, or keep equivalent records as required by rule of the state liquor and cannabis board or the department of revenue (DOR) to document the validity of tax exempt sales.

Section 10(3)(f) requires the retail outlet to meet other requirements as adopted by DOH or the state liquor and cannabis board.

Section 10(4) is added requiring DOH, in consultation with the state liquor and cannabis board, to adopt rules on requirements for marijuana concentrates, useable marijuana and marijuana-infused products that may be sold to qualifying patients or designated providers at a retail outlet holding a medical marijuana endorsement.

Section 10(4)(a) requires rules regarding THC concentration, CBD concentration, or low THC, high CBD ratios appropriate for marijuana concentrates, usable marijuana or marijuana infused products sold to qualifying patients or designated providers.

Section 10(4)(b) establishes labeling requirements.

Section 10(4)(c) allows for other product requirements, including mold, fungus or pesticide testing requirements, or limitations to the types of solvents that may be used in processing that DOH deems necessary to address the medical needs of qualifying patients.

Section 10(4)(d) allows for safe handling requirements.

Section 10(4)(e) allows rules to be established for employee training requirements.

Section 10(5) is added, establishing required training to be provided to employees of retailers holding medical endorsements.

Section 11 is a new section added to RCW 69.50 allowing a retailer holding a medical marijuana endorsement to sell or provide at no charge products with a THC concentration of 0.3 percent or less to qualifying patients or designated providers.

Section 12 amends RCW 69.50.357, Uniform Controlled Substances Act, Retail outlets – Rules.

Section 12(2) is amended, allowing qualifying patients between 18 and 21 years of age to enter and remain on the

premises of a retail outlet holding a medical marijuana endorsement and allows them to purchase items for their own medical use. Additionally, qualifying patients who are under the age of 18 and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

Section 12(3) is amended, establishing training requirements for employees of marijuana retailers and licensed marijuana retailers with medical marijuana endorsements.

Section 12(4) is amended allowing retail outlets that hold medical marijuana endorsements to include this information on signage.

Section 12(5) is revised, adding marijuana concentrates to the list of products that may not be displayed in a manner that is visible to the general public.

Section 13 amends RCW 69.50.360, replacing “state liquor control board” with “state liquor and cannabis board” throughout.

Section 14 amends RCW 69.50.4013, Uniform Controlled Substances Act, Prohibited Acts: A – Penalties.

Section 14(4) stipulates that a person under 21 years old may not possess, manufacture, sell or distribute marijuana, marijuana-infused products, or marijuana concentrates. Qualifying patients with valid authorization are excluded.

Section 14(5) clarifies that production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana in compliance with RCW 69.51A does not constitute violation of RCW 69.50 or any other provision in Washington state law.

Section 15 is a new section added to RCW 69.50, stipulating that only a validly licensed marijuana processor is permitted to use butane or other explosive gases to extract or separate resin from marijuana or to produce or process marijuana concentrates or marijuana-infused products that include marijuana concentrates not purchased from a licensed marijuana retailer as an ingredient. Cooking oil, butter and other nonexplosive home cooking substances may be used to make marijuana extracts for noncommercial personal use.

Section 16 amends RCW 69.51A.005, replacing “cannabis” with “marijuana” throughout.

Section 17 amends RCW 69.51A.010, Medical Cannabis, Definitions.

Section 17(1) revises the definition of “designated provider”, requiring that the person be 21 years of age or older and the parent or guardian of a qualifying patient under the age of 18, or designated in writing by a qualifying patient as that patient’s designated provider. Additionally—as of July 1, 2016 -- the designated provider must be entered into the medical marijuana database as being the designated provider to a qualifying patient and may only provide medical marijuana to that qualifying patient.

Section 17(3) revises the definition of “medical use of marijuana”, adding the manufacture, transportation, delivery, ingestion and application of marijuana to the production, possession or administration of marijuana. Additionally, the term debilitating medical condition replaces debilitating illness in reference to qualifying patient.

Section 17(4) revises the definition of “qualifying patient”, excluding a person who is actively being supervised for criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision. Additionally – as of July 1, 2016 – a qualifying patient must be entered into the medical marijuana database and must have been provided a recognition card.

Section 17(6) further defines “terminal or debilitating medical condition” as a condition severe enough to significantly interfere with the patient’s activities of daily living and ability to function, which can be objectively assessed and evaluated.

Sections 17(6)(g) and 17(6)(h) are revised to remove “any other medical condition approved by the Washington State Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery” from the list of conditions included in definition of “terminal or debilitating medical condition” and add “posttraumatic stress disorder” and “traumatic brain injury” to the list of conditions.

Section 17(8) defines “recognition card” as a card issued to qualifying patients and designated providers whose health care professionals have entered them into the medical marijuana authorization database.

Section 17(9) is added, defining “CBD concentration” as the percentage of cannabidiol content per dry weight of any part of the plant Cannabis, or by volume or weight of marijuana product.

Section 17(10) is added defining “department” as DOH.

Sections 17(11) through 17(15), sections 17(17), 17(20), 17(22) and 17(23) are added stating that the definitions of “marijuana”, “marijuana concentrates”, “marijuana processor”, “marijuana producer”, “marijuana retailer”, “marijuana-infused products”, “retail outlet”, THC concentration” and “useable marijuana” are as shown in RCW 69.50.101, Uniform Controlled Substances Act, Definitions.

Section 17(16) defines “marijuana retailer with a medical marijuana endorsement”.

Section 17(18) defines “medical marijuana authorization database”.

Section 17(19) defines “plant” as a marijuana plant having at least three (3) distinguishable and distinct leaves, each leaf at least three (3) centimeters in diameter and a root formation consisting of at least two (2) separate roots, each at least two (2) centimeters in length. Multiple stalks emanating from the same root ball or root system are considered part of the same single plant.

Section 17(21) defines “Secretary” as the Secretary of DOH.

Section 17(24) defines “low THC, high CBD” as products determined by DOH to have a low THC, high CBD ratio as specified in section 10. Additionally, low THC, high CBD products must be inhalable, ingestible or absorbable.

Section 17(25) defines “public place” as having the meaning provided in RCW 70.160.020.

Section 17(26) defines “housing unit” as a house, apartment, mobile home, group of rooms or single room occupied as separate living quarters.

Section 18 amends RCW 69.51A.030, Medical Cannabis, Acts not constituting crimes or unprofessional conduct, substituting the term “marijuana” for “cannabis” throughout.

Section 18(1)(b) is revised for clarity, stipulating that the patient or designated provider will be provided authorization, rather than provided valid documentation.

Section 18(2)(a) is revised, allowing a health care professional to provide a qualifying patient or designated provider with authorization for the medical use of marijuana in accordance with the section.

Section 18(2)(b)(i) is added, requiring that the health care professional have a documented relationship with the patient as a principal care provider or specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient’s terminal or debilitating medical condition.

Section 18(2)(b)(vi) is added, requiring the health care professional to complete an authorization on forms provided by DOH in accordance with the section.

Section 18(2)(c) is added, stipulating that an authorization for a qualifying patient 18 years or older will expire one (1) year after issuance and an authorization for a qualifying patient less than 18 years old will expire six (6) months after issuance. Renewal requires completion of an in-person physical exam and compliance with the other requirements of the section.

Section 18(2)(d)(iv) is revised to prohibit a health care professional from having a business or practice which consists primarily (rather than solely) of authorizing the medical use of marijuana, or authorizing the medical use of marijuana at any location other than his or her practice’s permanent physical location.

Section 18(2)(d)(v) is amended, eliminating prohibitions from including reference to medical use of marijuana in a health care provider’s advertisement for his or her practice or business.

Section 18(3) requires DOH to develop the form for authorization of qualifying patients and designated providers and establishes the information to be included in the form.

Section 18(4) is added requiring that, until July 1, 2016, a health care professional who authorizes the medical use of marijuana for more than 30 patients within a single calendar month to report the number of authorizations issued.

Section 18(5) is added, allowing the appropriate health professionals disciplinary authority to inspect or request patient records to confirm compliance with the section. Timeframes for producing records and consequences for noncompliance are established.

Section 18(6) is added, requiring a health care provider to discuss with the qualifying patient how to use marijuana and the types of products the patient should seek from a retail outlet.

Section 19 is a new section added to RCW 69.51A, Medical Cannabis.

Section 19(1) is added to RCW 69.51A, allowing a health care professional, as part of registering a qualifying patient or designated provider in the medical marijuana registry, to include recommendations on the amount of

marijuana that is likely needed by the qualifying patient. If no recommendations are included, the qualifying patient or designated provider may purchase at a marijuana retailer that holds a medical marijuana endorsement a combination of the following: three (3) ounces of usable marijuana; 48 ounces of marijuana-infused product in solid form; 216 ounces of marijuana-infused product in liquid form; or 21 grams of marijuana concentrates. The qualifying patient or designated provider may also grow, in his or her domicile, up to six (6) plants for the personal use of the qualifying patient. If plants are grown for the medical use of the qualifying patient, he or she may possess up to eight (8) ounces of usable marijuana produced by the plants.

Section 19(2) is added to RCW 69.51A, allowing the health care professional to recommend a greater amount for the personal use of the qualifying patient -- up to 16 ounces of usable marijuana or 15 plants – if determined medically necessary.

Section 19(3) is added to RCW 69.51A, establishing that, if a qualifying patient or designated provider with an authorization from a health care professional has not been entered into the medical marijuana database, he or she may not receive an recognition card and may only purchase the amounts established in RCW 69.50.360, Uniform Controlled Substances Act, Marijuana retailers. Additionally, the qualifying patient or designated provider may grow, in his or her domicile, up to four (4) plants for the personal medical use of the qualifying patient and possess up to six (6) ounces of usable marijuana.

Section 20 is a new section added to RCW 69.51A, allowing health care professionals to authorize the medical use of marijuana for qualifying patients under the age of 18 if the following requirements are met.

Section 20(1)(a) requires that the parent or guardian participate in the minor's treatment and agree to the minor's medical use of marijuana.

Section 20(1)(b) requires the parent or guardian to act as the designated provider and have sole control over the minor's marijuana.

Section 20(2) stipulates that the minor may not grow plants, and may not purchase marijuana-infused products, usable marijuana or marijuana concentrates.

Section 20(3) requires that the minor and the minor's parent or guardian who is acting as the designated provider be entered in the medical marijuana data base and hold a recognition card.

Section 20(4)(a) requires that the health care professional consult with other providers involved in the minor's treatment, as medically indicated, prior to authorization or reauthorization of the medical use of marijuana.

Section 20(4)(b) requires that the health care professional reexamines the minor at least every six (6) months and that the examination (i) determine that the minor continues to have a terminal or debilitating medical condition, and that the condition benefits from the medical use of marijuana; and (ii) includes a follow-up discussion with the minor's parent or guardian to ensure continued participation in the minor's treatment.

Section 21 is a new section added to RCW 69.51A, Medical Cannabis.

Section 21(1) requires DOH to contract with an entity to create, administer and maintain a secure and confidential medical marijuana database that beginning July 1, 2016 allows:

- (a) a marijuana retailer with a medical marijuana endorsement to add a qualifying patient or designated provider and include the amount of marijuana concentrates, usable marijuana, marijuana-infused products, or plants the patient is authorized;
- (b) persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care;
- (c) a qualifying patient or designated provider to request his or her health care information or information on any person or entity that has queried their name or information;
- (d) access to local, state, tribal and federal law enforcement or prosecutorial official engaged in a bona fide and specific investigation;
- (e) a marijuana retailer to confirm validity of an recognition card;
- (f) the Department of Revenue (DOR) to verify tax exemptions;
- (g) access to DOH and the health care professionals disciplinary authorities; and
- (h) reporting of authorizations due to expire.

Section 21(2) requires that a qualifying patient and designated provider, if any, be placed in the medical marijuana database by the patient's health care professional and be provided with a recognition card.

Section 21(3) requires that the recognition card contain the following:

- (a) a randomly generated and unique identifying number;
- (b) for designated providers, the unique identifying number of the qualifying patient;
- (c) a photograph of the qualifying patient or designated professional;
- (d) the amount of marijuana concentrates, usable marijuana, marijuana-infused products, or plants for which the patient is authorized;
- (e) the effective date and the expiration date of the card;
- (f) the name of the health care professional who authorized the patient or designated provider; and
- (g) additional recognition card security features as necessary to ensure validity.

Section 21(4) stipulates that recognition cards will be valid for one (1) year following issue for qualifying patients 18 years or older and for six (6) months following issue for qualifying patients under the age of 18 and their designated providers. Qualifying patients may not be reentered into the database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient.

Section 21(5) provides procedures to follow in the event a recognition card is lost or stolen.

Section 21(6) requires the database administrator to remove qualifying patients and designated providers from the database upon expiration of the recognition card.

Additionally qualifying patients and designated providers may request to remove themselves prior to expiration, and health care professionals may request to remove qualifying patients and designated providers if the patient no longer qualifies for the medical use of marijuana. The database administrator must retain database records for at least five (5) calendar years to permit the state liquor and cannabis board and DOR to verify eligibility of tax exemptions.

Section 21(7) requires the database administrator to consult with DOH, stakeholders, qualifying patients and designated providers, law enforcement, health care professionals, the University of Washington computer science and engineering security and privacy research lab or other cyber security service during the development of the database.

Section 21(8) requires the medical marijuana database to meet the following requirements:

- (a) personally identifiable information must be nonreversible;
- (b) personally identifiable information must not be susceptible to linkage by use of data external to the database;
- (c) best differential privacy practices must be incorporated; and
- (d) the database must be upgradable.

Section 21(9)(a) stipulates that personally identifiable information is confidential and is exempt from public disclosure, inspection or copying under RCW 42.56, Public records act.

Section 21(9)(b) allows information in the database to be released in aggregate form, with all personally identifiable information redacted, for the purpose of statistical analysis and oversight.

Section 21(9)(c) prohibits sharing of database information with the federal government unless the specific patient or designated provider is convicted in state court for violating RCW 69.51A or RCW 69.50.

Section 21(10) requires DOH to charge a one (1) dollar fee for each initial and renewal card issued by a marijuana retailer with a medical marijuana endorsement. Fees will be deposited in the Health Professions Account created under RCW 43.70.320.

Section 21(11) provides a mechanism for DOH to cancel any contracts with the database administrator and to administer a fine of up to \$5,000 if the administrator fails to comply with any portion of this section.

Section 21(12) authorizes DOH to adopt rules to implement this section.

Section 22 is added to RCW 42.56, Public record act, exempting records in the medical marijuana database containing names and other personally identifiable information of qualifying patients and designated providers from public disclosure.

Section 23 is a new section added to 69.51A, Medical Cannabis.

Section 23(1) makes it illegal for a person to:

- (a) access the medical marijuana data base for any reason not authorized under section 21 of this act;
- (b) disclose any information received from the database in violation of section 21;
- (c) produce or tamper with a recognition card for the purpose of having it accepted by a marijuana retailer in order to purchase marijuana as a medical marijuana patient or to grow marijuana plants;
- (d) for a designated provider to sell, donate or otherwise use marijuana produced or obtained for the qualifying patient for the designated provider's own use or benefit; or
- (e) for a qualified patient to sell, donate or otherwise supply marijuana produced or obtained by the qualifying patient to another person.

Section 23(2) establishes a class C felony for the acts listed in this section.

Section 24 amends RCW 69.51.A.040, Compliance with chapter – Qualifying patients and providers not subject to penalties or liabilities, substituting the term “law enforcement officer” for “peace officer”, and the term “marijuana” for “cannabis”, throughout.

Section 24(1) requires that the qualified patient or designated provider hold a valid recognition card and may possess a combination of the amounts of marijuana concentrates, usable marijuana plants and marijuana-infused product authorized in this chapter.

Section 25 amends RCW 69.51A.043, Medical marijuana, Failure to register – Affirmative defense, substituting the term “law enforcement officer” for “peace officer”, and the term “marijuana” for “cannabis”, throughout.

Section 26 is a new section added to RCW 69.51A, Medical Cannabis.

Section 26(1) permits qualifying patients or designated providers to form a cooperative to produce and process marijuana for the medical use of members of the cooperative. No more than four (4) qualifying patients or designated providers may become members of the cooperative and all must hold valid recognition cards.

Section 26(2) stipulates that cooperatives may not be located within one (1) mile of a marijuana retailer and the location must be registered with the state liquor and cannabis board.

Section 26(3) requires that a qualifying patient or designated provider notify the state liquor and cannabis board within 15 days of ceasing participation in the cooperative. Additional qualifying patients or designated providers may not join the cooperative until at least 60 days from the date the last qualified patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in the cooperative.

Section 26(4) stipulates that qualifying patients or designated providers who participate in the cooperative (a) may grow up to the total number of plants authorized for each participating member and possess the amount of

usable marijuana produced with the number of plants permitted, up to a maximum of 60 plants; (b) may participate in only one (1) cooperative; (c) may grow plants in the cooperative and at no other location; (d) must provide assistance in growing plants; and (e) may not sell, donate or otherwise provide marijuana or marijuana products to a person who is not a participant in the cooperative.

Section 26(5) requires that the cooperative be located at the domicile of one (1) of the participants.

Section 26(6) allows the state liquor and cannabis board to adopt rules, including: (a) security requirements necessary to ensure safety of the cooperative and reduce the risk of diversion from the cooperative; and (b) establish a seed to sale traceability model.

Section 26(7) permits the state liquor and cannabis board or law enforcement to inspect a cooperative in order to ensure compliance with the section.

Section 27 is a new section added to RCW 69.51A, Medical Cannabis.

Section 27(1) prohibits the growing of more than 15 plants in any one (1) housing unit other than a cooperative.

Section 27(2) prohibits the production or processing of marijuana or marijuana-infused products, and storage or growing of plants if such activity can be readily seen or smelled from a public place or the private property of another housing unit.

Section 27(3) allows cities, towns and municipalities to create and enforce civil penalties for the growing or processing of marijuana and for keeping marijuana plants beyond what is authorized in this section.

Section 28 is a new section added to RCW 69.51A, Medical Cannabis, prohibiting qualifying patients and designated providers from extracting or separating resin from marijuana or producing or processing marijuana concentrates or marijuana-infused products until the state liquor and cannabis board adopts rules establishing the noncombustible methods permitted and any restrictions to the practice.

Section 29 amends RCW 69.51A.045, Medical Cannabis, Possession of Cannabis exceeding lawful amount, substituting the term “law enforcement officer” for “peace officer”, and the term “marijuana” for “cannabis” throughout, and adding marijuana concentrates and marijuana-infused products to usable marijuana.

Section 30 amends RCW 69.51A.055, Limitations of chapter – Persons under supervision.

Section 30(1)(a) provides that the arrest and prosecution protections established in RCW 69.51A.040 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department that has determined the terms of the section are inconsistent and contrary to supervision.

Section 30(1)(b) provides that the affirmative defenses established in RCW 69.51A.045 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department that has determined the terms of the section are inconsistent and contrary to supervision.

Section 30(2) stipulates that the provisions of RCW 69.51A.040 do not apply to a person who is supervised of a criminal conviction by a corrections agency or department that has determined that the terms of this section are inconsistent and contrary to supervision.

Section 30(3) is removed, eliminating the prohibition against a person under supervision being licensed as a producer, processor or dispenser of cannabis products.

Section 31 amends RCW 69.51A.060, Crimes – Limitations of chapter, replacing the term “cannabis” with “marijuana” throughout.

Section 31(4) provides that there is no requirement to accommodate medical marijuana use in any place of employment, school bus or school grounds, youth center, or correctional facility. The section further provides that there is no requirement to allow for marijuana smoking in any public place, hotel or motel. Section 31(4) is amended to add that a school may permit a minor who meets the requirements of the act to consume medical marijuana on school grounds in accordance with school policy relating to medication use on school grounds.

Section 31(5) is added specifying that nothing in the chapter authorizes possession or use of marijuana or marijuana-infused products on federal property.

Section 31(7), which established a class C felony for fraudulent documentation records, is removed.

Section 32 amends RCW 69.51A.085, Collective gardens, replacing the term “cannabis” with “marijuana” throughout.

Section 32(1)(b) is added, prohibiting a person under 21 from participating in a collective garden and authorizing the designated provider for the qualifying patient under 21 to participate on his or her behalf.

Section 33 is a new section added to RCW 69.50, Uniform controlled substances act.

Sections 33(1), 33(3) and 33(4) permit the state liquor and cannabis board to conduct controlled purchase programs related to marijuana retailers, collective gardens (up to July 1, 2016) and cooperatives (after July 1, 2016).

Section 33(2)(a) exempts persons between the ages of 18 and 21 who possess a valid recognition card and purchase marijuana at a retail outlet holding a medical marijuana endorsement.

Section 33(2)(b) exempts persons between the ages of 18 and 21 who are participating in a controlled purchase program.

Section 33(5) establishes that a person between the ages of 18 and 21 who is convicted of a violation of this section is guilty of a misdemeanor punishable as provided by RCW 9A.20.021.

Section 34 amends RCW 69.51A.100, Qualifying patient’s designation of provider.

Section 34(1) requires that a qualified patient who revokes his or her specific provider to provide a copy of the written revocation to medical marijuana database administrator and the provider.

Section 34(2) requires that a designated provider who revokes that designation provide a copy of the written revocation to both the qualifying patient and the medical marijuana database administrator.

Section 34(3) is added allowing DOH to adopt rules to implement this section.

Section 35 is added to RCW 69.51A, Medical Cannabis, allowing a health care professional to sell or donate topical, non-ingestible products with a THC concentration of less than 0.3 percent to a qualifying patient.

Section 36 is a new section added to RCW 69.51A, Medical Cannabis, prohibiting the employer of a health care professional from prohibiting or limiting the authority of a health care professional to:

(1) advise a patient about the risks and benefits of the medical use of marijuana or that the patient may benefit from the medical use of marijuana; or

(2) provide a patient or designated provider with an authorization.

Section 37 is a new section added to RCW 69.51A, Medical Cannabis, establishing a medical marijuana consultant certificate, requiring DOH to adopt rules, and specifying certification requirements, including annual renewal and continuing education.

Section 38 is a new section added to RCW 69.51A, Medical Cannabis, requiring the Board of Naturopathy, the Board of Osteopathic Medicine and Surgery, the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission to develop and approve continuing education programs related to the medical use of marijuana for health care providers that they each regulate and that are based on practice guidelines adopted by each entity.

Section 39 amends RCW 43.70.320, DOH, Health professions account.

Section 39(2) is revised, adding implementation and administration of the medical marijuana authorization database to the licensing activities paid from the Health Professions Account.

Section 40 is added to RCW 82.04, Business and occupational tax, stipulating that the tax does not apply to cooperatives with respect to growing marijuana or producing marijuana products.

Section 41 is a new section, requiring DOH to develop recommendations on establishing medical marijuana specialty clinics. Recommendations must be reported to specified legislative committees by December 1, 2015.

Section 42 amends RCW 69.50.203, Schedule I tests.

Section 42(3)(c) is added, stipulating that no marijuana concentrates, usable marijuana or marijuana-infused products identified in this act as appropriate for sale to qualifying patients or designated providers in a retail outlet that holds a medical marijuana endorsement may be placed in Schedule I.

Section 43 amends RCW 69.50.204, Schedule I.

Section 43(c)(22) is amended to provide an exception for marijuana concentrates, usable marijuana and marijuana-infused products identified as appropriate for sale to qualifying patients or designated providers in a retail outlet that holds a medical marijuana endorsement for inclusion in Schedule I as a hallucinogenic substance.

Section 43(30)(ii) is added, stipulating that the term “tetrahydrocannabinols” does not include marijuana concentrates, usable marijuana and marijuana infused-products products identified as appropriate for sale to qualifying patients or designated providers in a retail outlet that holds a medical marijuana endorsement.

Section 44 is a new section added to RCW 69.50.

Section 44(1) establishes that it is unlawful to manufacture, deliver or possess with intent to manufacture or deliver marijuana concentrates, usable marijuana or marijuana-infused products for sale to qualifying patients or designated providers at a retail outlet that holds a medical marijuana endorsement except:

- (a) as associated with lawful operation as a licensed marijuana producer, processor, retailer, or retailer with a medical marijuana endorsement;
- (b) in association with the lawful operation of a cooperative;
- (c) until July 1, 2016, in association with the lawful operation of a collective garden; or
- (d) as a designated provider or qualifying patient supporting the personal, medical use of the patient.

Section 44(2) establishes a Class B felony for violation of the section.

Section 45 is added to RCW 69.50.

Section 45(1) establishes that it is unlawful to possess marijuana concentrates, usable marijuana or marijuana-infused products identified as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement unless:

- (a) obtained and possessed by a designated provider or qualifying patient, within authorized amounts and obtained from: (i) a licensed marijuana retailer or retailer operating with a medical marijuana endorsement, (ii) a cooperative operating in compliance with section 26, or (iii) until July 1, 2016, a collective garden.
- (b) obtained and possessed in amounts not exceeding those authorized in RCW 69.50.360, and obtained from a licensed marijuana retailer or retailer with a medical endorsement.

Section 45(2) establishes a Class C felony for violation of the section.

Section 46 amends RCW 9.94A.518, Sentencing reform act of 1981, Table 4 – Drug offenses seriousness level, adding manufacture, delivery or possession with intent to deliver marijuana and possession of marijuana pursuant to sections 44 and 45 of this act as seriousness level I offenses.

Section 47 is a new section, stipulating that all references to the LCB must be construed as referring to the state liquor and cannabis board.

Section 48 repeals the following: RCW 69.51A.020 (construction of chapter); RCW 69.51A.025 (construction of chapter); RCW 69.51A.047, Failure to register or present valid documentation – Affirmative defense; RCW 69.51A.70, Addition of medical conditions; RCW 69.51A.090, Applicability of valid documentation definition; RCW 69.51A.140, Counties, cities and towns – Authority to adopt and enforce requirements; and RCW

693.51A.200, Evaluation.

Section 49 repeals RCW 69.51A.085, Collective gardens.

Section 50 stipulates that sections 12, 19, 20, 23 through 26, 31 35, 40 and 49 of this act are effective July 1, 2016.

Section 51 declares an emergency and stipulates that sections 21, 22, 32 and 33 are effective July 1, 2015.

Section 52 establishes that this act takes effect on the dates provided in sections 50 and 51 provided that House Bill 2136 or any subsequent version is enacted into law by October 1, 2015.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None.

## **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

The fiscal impact of the proposed bill is indeterminate, assumed to be less than \$50,000 per Fiscal Year (FY).

Section 23(1) establishes that it is unlawful to (a) access the medical marijuana data base for any reason not authorized under section 21 of this act; (b) disclose any information received from the data base in violation of section 21; (c) produce or tamper with an recognition card for the purpose of having it accepted by a marijuana retailer in order to purchase marijuana as a medical marijuana patient or to grow marijuana plants; (d) for a designated provider to sell, donate or otherwise use marijuana produced or obtained for the qualifying patient for the designated provider's own use or benefit; or (e) for a qualified patient to sell, donate or otherwise supply marijuana produced or obtained by the qualifying patient to another person.

Section 23(2) establishes a new class C felony for any of the acts listed in section 23(1).

This new felony replaces a similar class C felony for fraudulent documentation records eliminated in section 31(7).

Section 33(5) establishes a new misdemeanor for persons between the ages of 18 and 21 who violate the section.

Section 44(1) establishes that it is unlawful to manufacture, deliver or possess with intent to manufacture or deliver marijuana concentrates, usable marijuana or marijuana-infused products for sale to qualifying patients or designated providers at a retail outlet that holds a medical marijuana endorsement. Exceptions are made for licensed marijuana producers, processors, retailers, and retailers with a medical marijuana endorsement; persons operating a cooperative; until July 1, 2016, persons operating a collective garden; and designated providers or and qualifying patients.

Section 44(2) establishes a Class B felony for violation of the section.

Section 45(1) establishes that it is unlawful to possess marijuana concentrates, usable marijuana or marijuana-infused products identified as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement. Exceptions are made when obtained and possessed by a designated provider or qualifying patient, within authorized amounts and obtained from a licensed marijuana retailer or retailer operating with a medical marijuana endorsement, a cooperative operating in compliance with section 26, or until July 1, 2016, a collective garden, or obtained and possessed in amounts not exceeding those authorized in RCW 69.50.360, and obtained from a licensed marijuana retailer or retailer with a medical endorsement.

Section 45(2) establishes a Class C felony for violation of the section.

The Caseload Forecast Council (CFC) has no information about the expected incidence or the sentences that might be imposed for the new class C or class B felony offenses. Therefore, the CFC cannot reliably predict bed impacts resulting from the bill. Any impact resulting from the new misdemeanor offense would be on jail beds only.

The Department of Corrections (DOC) assumes impact based on the CFC estimated Average Daily Population (ADP) impacts to DOC institutions. This bill creates a new unranked class C felony and a new class B felony ranked at Seriousness Level I on the drug offender sentencing grid. The CFC does not have any history on these offenses and cannot provide bed impact analysis. Therefore the impact is indeterminate.

We assume any impact from the new class C felony would be on jail beds only, unless an aggravated exceptional sentence is imposed that results in a sentence that exceeds 12 months and would be served in prison.

We assume the new class B felony could have impact on prison beds. The new crime is ranked at Seriousness Level I on the Drug Sentencing Grid, punishable by zero (0) six (6) months in jail to 12+ to 24 months in prison depending on offender score.

Both new offenses created are considered drug offenses for the purpose of requiring community supervision, therefore there is a potential increase to community supervision workload.

DOC assumes that this bill would likely result in an ADP increase of less than four (4) offenders, though the impact cannot be estimated. Therefore, the fiscal impact is indeterminate and DOC assumes the cost will be less than \$50,000 per FY given an average unit cost of \$12,387 per offender per FY.

#### Assumptions:

1. We assume impact based on the Caseload Forecast Council (CFC) estimated ADP impacts to DOC prison facilities/institutions and/or community supervision caseload.
2. We assume an Average Unit Cost (AUC) of \$12,387 per offender per FY to facilitate cost discussions during legislative session for bills. This cost estimate includes prison custody staffing on living/housing units, prison direct variable costs, health services direct variable costs, and prison non-custody essential staffing on living/housing units. It does not include staffing or dollars necessary for staffing needed at the facility outside of the living/housing units. AUC is calculated by DOC and reviewed and approved by Office of Financial Management, Senate, House and Washington State Institute for Public Policy staffing each legislative session. DOC will need to true up impact to DOC so that full impact can be determined, i.e. opening/closing units or prisons once we better understand impacts down to the custody level, and facility.
3. We assume an average annual cost for supervision of \$7,126 per FY per ADP.

4. We assume additional impacts may result when ADP caseload changes in either prison or community, and resources will be necessary. DOC will “true up” our fiscal impact in subsequent budget submittals.

### **Part III: Expenditure Detail**

### **Part IV: Capital Budget Impact**

NONE

None.

### **Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None Required.

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 5052 2S SB PL	<b>Title:</b> Cannabis patient protection
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## Part I: Jurisdiction—Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- Cities:** Cities would experience an indeterminate loss of revenue from exemption of business and occupation tax for cooperatives and from marijuana sold to qualifying patients and designated providers at no charge; possible increase in revenue from projected increases in marijuana sales. Local law enforcement agencies, defense, prosecution, and jail costs would increase as a result of new felony and misdemeanor violations.
- Counties:** Same as above
- Special Districts:** Jurisdictions would experience indeterminate loss of revenue for business and occupation tax exemption and no charge sales to qualifying patients and designated providers, and an increase in revenue from projected increases in marijuana sales.
- Specific jurisdictions only:**
- Variance occurs due to:**

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:** Local governments may create and enforce civil penalties for the growing or processing of medical marijuana in residences of qualifying patients and designated providers
- Key variables cannot be estimated with certainty at this time:** Number of new cooperatives that will form; amount of sales provided at no charge to qualifying patients and designated providers; the amount and imposition of the medical marijuana database administration fee, and associated training costs for law enforcement agencies; number of new misdemeanor offenses; number of new felony offenses

### Estimated revenue impacts to:

<b>Indeterminate Impact</b>
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### Estimated expenditure impacts to:

<b>Indeterminate Impact</b>
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## Part III: Preparation and Approval

Fiscal Note Analyst: Amber Siefer	Phone: 360-725-2733	Date: 04/20/2015
Leg. Committee Contact:	Phone:	Date: 04/15/2015
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 04/20/2015
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 04/28/2015

## **Part IV: Analysis**

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

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

This bill establishes the Cannabis Patient Protection Act in order to integrate the use of medical marijuana (MMJ) with the regulated recreational marijuana (RMJ) market. Notably, the current version of this bill eliminates the sales and use tax exemptions for collective gardens, qualifying patients and designated providers, and for low THC/high CBD ratio sales; and the tax preference performance statement.

#### **CHANGES FROM CURRENT BILL THAT IMPACT LOCAL GOVERNMENTS:**

New Section 10 permits retailers who carry a medical marijuana endorsement to provide marijuana at their discretion at no charge to qualifying patients and designated providers.

New Section 11 allows marijuana retailers with a medical marijuana endorsement to sell products containing a THC concentration of 0.3% or less at no charge to qualifying patients and designated providers.

Section 14 restricts persons under the age of 21 from possessing, manufacturing, selling, or distributing marijuana, except for qualifying patients who possess a valid authorization from a health care professional.

Section 17 a recognition card may be issued by marijuana retailers who hold a medical marijuana endorsement to qualifying patients and designated providers.

New Section 26 requires that all members of a cooperative be at least 21 years old. A designated provider who is under 21 years old may be a member of a cooperative on the qualifying patient's behalf.

New Section 36 prohibits employers of health care professionals from prohibiting or limiting health care professionals from advising patients about marijuana, or from providing authorization for patients to use marijuana.

New Section 40 the business and occupation tax exemption for cooperatives is not subject to tax preference expiration dates.

New Section 44 establishes a new class B felony for unlawful manufacturing, delivery, or possession of marijuana products.

New Section 45 establishes a new class C felony for unlawful possession of marijuana in retail outlets.

New Section 48 repeals the authority given to counties, cities, and towns to adopt and enforce requirements under RCW 69.51A.140 for zoning, licensing, health and safety requirements, and business taxes concerning production, processing, and dispensing of cannabis or cannabis products.

New Section 49 repeals RCW 69.51A.085 concerning the creation of collective gardens. This section takes effect July 1, 2016.

New Section 52 makes the passage of this bill contingent upon the passage of House Bill 2136.

#### **CHANGES FROM VERSION 2SSB TO VERSION H2286.3 THAT CONTINUE TO IMPACT LOCAL GOVERNMENTS UNDER CURRENT BILL:**

Sections 25 and 29 allow a qualifying patient or designated provider to raise and establish an affirmative defense under certain circumstances provided they are in compliance with the law.

Section 30 persons supervised by a corrections agency, including local governments or jails, cannot assert affirmative defenses under RCW 69.51A.043 and 045, for failing to register, and for possession of marijuana exceeding lawful amounts.

#### **SUMMARY FROM VERSION SSB THAT CONTINUES TO IMPACT LOCAL GOVERNMENTS UNDER CURRENT BILL :**

Section 14 exempts qualifying patients and designated providers who possess marijuana from the class C felony violation provided under RCW 69.50.4013.

Section 21 creates a medical marijuana database (hereafter database), which may be accessed by law enforcement officers.

Section 23 It is a class C felony for a person to access the database for an unauthorized purpose, disclose any information obtained, produce or tamper with an authorization card, or sell, donate, or supply marijuana produced for a qualifying patient to another person . A person who is found guilty of violating this section may be imprisoned for not more than two years, and fined not more than \$2,000. This section takes effect July 1, 2016.

New Section 26 authorizes cooperatives to form between no more than four qualifying patients and/or designated providers who may grow up to a maximum of 60 plants. This section takes effect July 1, 2016.

New Section 27 cities, towns, counties, and other municipalities may create and enforce civil penalties, including abatement procedures, concerning growing or processing marijuana in residences of qualifying patients or designated providers .

Section 31 eliminates the class C felony for fraudulent production of records relating to valid documentation for the use of medical marijuana under RCW 69.51A.010 (32)(a). This section takes effect July 1, 2016.

New Section 33 establishes a new misdemeanor offense for selling marijuana to minors, and for minors who attempt to purchase marijuana unlawfully.

New Section 40 exempts cooperatives from business and occupation tax imposed under RCW 82 .04. This section takes effect July 1, 2016.

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

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

There is no data available to show the number of arrests or charges that have resulted from the use of cannabis for medical purposes . Therefore, any increase in local law enforcement, prosecution, defense, or jail bed costs related to new felony and misdemeanor offenses is indeterminate. A range of estimated costs for misdemeanors and felonies are provided at the end of this section .

This bill would cause an indeterminate and likely negligible increase in training costs for law enforcement officers to use the medical marijuana database.

Local governments may incur ordinance and/or resolution costs to create and enforce new civil penalties to limit the production and processing of medical marijuana in residences of qualifying patients and designated providers . A range of estimated costs for ordinances are provided at the end of this section.

### **MEDICAL MARIJUANA DATABASE:**

The medical marijuana database would be used by law enforcement officers to verify the sale and use of medical marijuana . A fee must be established by the Department of Health (DOH) to cover the costs of administering the database. The fee setting will occur during rule-making with stakeholder input. DOH states that the database will be hosted and managed by a third-party vendor, and technical assistance will be provided to authorized users of the database. The Local Government Fiscal Note Program (LGFN) assumes that the use of the new database will likely require training. Based on discussions with the Washington State Patrol, training costs will be absorbed through ongoing regional training.

### **FELONY EXEMPTIONS:**

Exemptions are provided under the following statutes: RCW 69.50.4013 for possession of marijuana by qualifying patients and designated providers; 69.51A.010 (32)(a) for fraudulent production of records. According to the Caseload Forecast Council (CFC), there were no violations in Fiscal Year 2014 for medical marijuana fraudulent records; therefore, no fiscal impact results from the repeal of this provision.

According to the 2015 Local Government Fiscal Note for HB 1020, there were a total of 111 felony sentences for marijuana offenses in 2014, with 88 of these resulting in jail sentencing, and 13 resulting in prison sentencing (data provided by the Caseload Forecast Council). However, it is not possible to determine how many of these felonies were related to medical use or possession of cannabis . Further, the Washington Defender Association estimates there were under 100 defense cases statewide that resulted from possession of cannabis by medical users, including those operating co-ops. Total drug related arrests statewide in 2013 were 10,090, according to the Washington Association of Sheriffs and Police Chief's report on "Crime in Washington 2013." It is not possible to determine how many of these arrests were the result of possession of cannabis, or to further determine if the person was qualified to use cannabis for medical purposes .

### **NEW MISDEMEANOR AND FELONY OFFENSES**

There is no data available to estimate the number of new offenses that would result from convictions of persons that sale marijuana to minors, or minors who attempt to purchase marijuana relating to controlled purchase programs which would be conducted by the State Liquor and Cannabis Board. The Local Government Fiscal Note Program (LGFN) estimates that the total cost to prosecute, defend, and incarcerate one misdemeanor case, assuming no trial or appeals, range from \$615 to \$8,535.

New felony violations are established under the following statutes: RCW 69.50.401 for the production of marijuana concentrates by non-licensed persons; new section under 69.51A relating to unauthorized use of the medical marijuana database; and RCW 69.50 for unlawful manufacturing, delivery, and possession of marijuana. There is no data available to estimate the number of new offenses that would result from these new crimes. LGFN estimates the total cost to prosecute, defend, and incarcerate one felony case, assuming no trial or appeals, range from \$4,560 to \$36,592.

Enforcement, prosecution, defense, and jail bed costs and relevant data are provided below :

- The total average cost to prosecute one misdemeanor crime against property case, assuming no appeals, is \$291
- The total average cost to defend one misdemeanor substance crime case, assuming no trial, is \$151
- The total average cost to prosecute one felony drug crime, assuming no trial or appeals, is \$957
- The total average cost to defend one felony drug crime, assuming no trial, is \$648
- The trial rate for misdemeanor substance crimes is six percent
- The proportion of misdemeanor substance crime cases requiring indigent defense is 70 percent
- The weighted average daily jail bed rate is \$88
- Misdemeanors carry 0-90 day jail sentences, for a cost range of \$0-\$7,920 per case
- Felonies carry 0-364 day jail sentences, for a cost of \$0-\$32,032 per case

Note that specific prosecution cost data related to substance crimes are not available; cost data for misdemeanor crimes against property are used as a proxy.

-- Total costs to enforce, prosecute, defend, and incarcerate one misdemeanor case, assuming no trial or appeals, range from \$615 (\$173+\$291+\$151+\$0) to \$8,535 (\$173+\$291+\$151+\$7,920).

-- Total costs to enforce, prosecute, defend, and incarcerate one felony case, assuming no trial or appeals, range from \$4,560 (\$2,955+\$957+\$648+\$0) to \$36,592 (\$2,955+\$957+\$648+\$32,032)

#### ORDINANCE AND/OR RESOLUTION COSTS

In order to regulate consumption of medical marijuana that is grown or processed in private households, local governments would potentially enact new ordinances and/or resolutions.

According to LGFN unit-cost data, passing an ordinance ranges from approximately \$350 for a simple ordinance to \$1,400 for a moderate ordinance to upwards of \$3,600 for a large or complex ordinance. Ordinance cost estimates take into account attorney, professional staff, council or commission member, and administrative staff time needed to draft the ordinance and associated reports, hold public, advisory, and legislative meetings, solicit and incorporate public input, and execute or enforce the ordinance. Estimates also include publication and public notice media costs. These costs include attorney, staff, management, and governing body time, plus the costs of required media publication notices and one special public meeting. Were a public hearing of the same complexity to be included, the costs would increase to approximately \$1,040 to \$4,990 total.

Court impacts, including judicial costs, clerk costs, and court fees, are described in fiscal notes prepared by the Administrative Office of the Court (AOC). Local government fiscal notes include county expenditures for indigent defenders, county prosecutors, and jail costs .

### C. SUMMARY OF REVENUE IMPACTS

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

Revenue losses resulting from marijuana obtained at no charge by qualifying patients and designated providers is unknown . Further, the business and occupation tax exemption given to cooperatives will result in an indeterminate revenue loss to local governments .

Projections of increased revenue from increased marijuana sales are estimated by the Department of Revenue .

#### SOURCES:

Local Government Fiscal Note 2SSB 5052 AMH HCA H2286.3 (2015) which includes:  
Department of Revenue staff

Senate Bill Report 2SSB 5052  
Administrative Office of the Courts Fiscal Note  
Department of Revenue Fiscal Note  
Department of Revenue Local Tax Distributions  
Caseload Forecast Council Fiscal Note  
Local Government Fiscal Note HB 2058 (2015)  
Local Government Fiscal Note Program unit cost models  
Department of Health Fiscal Note 2SSB  
Washington State Patrol staff and Fiscal Note 2SSB