

# Multiple Agency Fiscal Note Summary

|                             |                                |
|-----------------------------|--------------------------------|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform |
|-----------------------------|--------------------------------|

## Estimated Cash Receipts

| Agency Name          | 2015-17   |                    | 2017-19   |                    | 2019-21   |                    |
|----------------------|-----------|--------------------|-----------|--------------------|-----------|--------------------|
|                      | GF- State | Total              | GF- State | Total              | GF- State | Total              |
| Liquor Control Board | 0         | 108,931,346        | 0         | 320,512,826        | 0         | 347,010,592        |
| <b>Total \$</b>      | <b>0</b>  | <b>108,931,346</b> | <b>0</b>  | <b>320,512,826</b> | <b>0</b>  | <b>347,010,592</b> |

|                     |  |             |  |             |  |             |
|---------------------|--|-------------|--|-------------|--|-------------|
| Local Gov. Courts * |  |             |  |             |  |             |
| Loc School dist-SPI |  |             |  |             |  |             |
| Local Gov. Other ** |  | (2,454,209) |  | (5,488,560) |  | (7,665,569) |
| Local Gov. Total    |  | (2,454,209) |  | (5,488,560) |  | (7,665,569) |

## Estimated Expenditures

| Agency Name                                  | 2015-17  |                 |                    | 2017-19     |                |                    | 2019-21     |                |                    |
|--|--|-----------------|--------------------|-------------|----------------|--------------------|-------------|----------------|--------------------|
|  | FTEs   | GF-State        | Total              | FTEs        | GF-State       | Total              | FTEs        | GF-State       | Total              |
| Joint Legislative Audit and Review Committee | .1   | 15,000          | 15,000             | .0          | 6,000          | 6,000              | .0          | 6,000          | 6,000              |
| Administrative Office of the Courts          | .0   | 0               | 0                  | .0          | 0              | 0                  | .0          | 0              | 0                  |
| Caseload Forecast Council                    | .0   | 0               | 0                  | .0          | 0              | 0                  | .0          | 0              | 0                  |
| Department of Revenue                        | Fiscal note not available  |                 |                    |             |                |                    |             |                |                    |
| Liquor Control Board                         | 11.7   | 0               | 2,580,589          | 17.0        | 0              | 2,804,864          | 15.0        | 0              | 2,560,716          |
| Department of Health                         | 8.7  | 0               | 3,834,000          | 5.2         | 0              | 1,794,000          | 5.2         | 0              | 1,794,000          |
| Department of Corrections                    | Non-zero but indeterminate cost and/or savings. Please see discussion. |                 |                    |             |                |                    |             |                |                    |
| University of Washington                     | .0   | 0               | 0                  | .0          | 0              | 0                  | .0          | 0              | 0                  |
| Washington State University                  | Non-zero but indeterminate cost and/or savings. Please see discussion. |                 |                    |             |                |                    |             |                |                    |
| <b>Total</b>                                 | <b>20.5</b>  | <b>\$15,000</b> | <b>\$6,429,589</b> | <b>22.2</b> | <b>\$6,000</b> | <b>\$4,604,864</b> | <b>20.2</b> | <b>\$6,000</b> | <b>\$4,360,716</b> |

|                     |  |  |  |  |  |  |  |  |  |
|---------------------|--|--|--|--|--|--|--|--|--|
| Local Gov. Courts * |  |  |  |  |  |  |  |  |  |
| 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: 40211

FNS029 Multi Agency rollout

|  |                                 |   |
|--|---------------------------------|---|
| <b>Prepared by:</b> Chris Stanley, OFM | <b>Phone:</b><br>(360) 902-9810 | <b>Date Published:</b><br>Preliminary 2/25/2015 |
|--|---------------------------------|---|

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

\*\* See local government fiscal note

FNPID: 40211

FNS029 Multi Agency rollup

# Individual State Agency Fiscal Note

|                             |                                |  |
|-----------------------------|--------------------------------|--|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 014-Joint Leg. Audit & Review Committee |
|-----------------------------|--------------------------------|--|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

|                          | FY 2016 | FY 2017 | 2015-17 | 2017-19 | 2019-21 |
|--------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years          | 0.1     | 0.0     | 0.1     | 0.0     | 0.0     |
| <b>Account</b>           |         |         |         |         |         |
| General Fund-State 001-1 | 12,000  | 3,000   | 15,000  | 6,000   | 6,000   |
| <b>Total \$</b>          | 12,000  | 3,000   | 15,000  | 6,000   | 6,000   |

### 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: Richard Rodger | Phone: (360)786-7461  | Date: 01/22/2015 |
| Agency Preparation: Dana Lynn       | Phone: 360-786-5177   | Date: 01/27/2015 |
| Agency Approval: Keenan Konopaski   | Phone: 360-786-5187   | Date: 01/27/2015 |
| OFM Review: Shane Hamlin            | Phone: (360) 902-0547 | Date: 01/27/2015 |

## 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.*

SB 5519 provides a sales and use tax exemption for:

- Sales of marijuana concentrates, useable marijuana, immature plants, or marijuana-infused products with a low THC (tetrahydrocannabinol) concentration, high CBD (cannabidiol) ratio by marijuana retailers;
  - Beginning July 1, 2015, sales of medical grade marijuana, or products containing THC with a THC concentration of 0.3 percent or less by marijuana retailers holding medical marijuana endorsements to qualifying patients or designated providers who hold medical marijuana waiver cards; or
  - Until September 1, 2015, sales of marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less by collective gardens under RCW 69.51A.085.
- The use tax exemptions apply to the same products and users on the same dates.

The preferences take effect at various times, some 90 days after session end, some July 1, 2015, and others September 1, 2015.

Tax performance statement details:

The bill: includes a tax performance statement; categorizes the preference as one intended to provide tax relief for certain businesses or individuals (RCW 82.32.808(2)(e)); identifies the public policy objective to provide a sales and use tax exemption to qualifying patients and designated providers on purchases of marijuana concentrates, useable marijuana, and marijuana-infused products for medical use when approved for a waiver by the Department of Health and for all people purchasing such low THC, high CBD ratio products.

The bill instructs JLARC to measure the effectiveness of the exemption in achieving the public policy objective by evaluating the actual fiscal impact of the sales and use tax exemption compared to the estimated impact of the fiscal note for the bill.

### 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.*

### 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.*

JLARC staff will contact the Department of Revenue (DOR) immediately after the bill is passed to ensure that administrative and reporting requirements are implemented and data collected so that the value of the sales and use tax exemption will be readily identified on tax returns. JLARC staff will work to ensure that DOR can identify businesses selling the items specifically exempted, to ensure that JLARC identifies the universe of beneficiaries.

The bill does not state expiration dates for any of the preferences: it is assumed the expiration dates will default to ten years after enactment, as provided in RCW 82.32.805(1)(a).

JLARC staff would annually collect and review data from the Department of Revenue regarding sales qualifying for the tax preference.

The majority of the work to review the tax preference would be performed in 2023, two years prior to the first of three potential expiration dates for different exemptions provided in the bill. JLARC staff note that some preliminary work on this review will occur in years prior to the anticipated study year of 2023.

This audit will require an estimated 1.8 audit months during the six year timeframe of this fiscal note. Additional work would be required in future years.

**JLARC Audit Months:** JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst's time for a month, together with related administrative, support, and goods/services costs. JLARC's anticipated 2015-17 costs are calculated at approximately \$15,000 per audit month.

### 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      |         | 0.1      |         |         |
| A-Salaries and Wages                 | 7,900    | 2,000   | 9,900    | 4,000   | 4,000   |
| B-Employee Benefits                  | 2,500    | 600     | 3,100    | 1,200   | 1,200   |
| C-Professional Service Contracts     |          |         |          |         |         |
| E-Goods and Other Services           | 1,400    | 400     | 1,800    | 800     | 800     |
| G-Travel                             | 200      |         | 200      |         |         |
| J-Capital Outlays                    |          |         |          |         |         |
| M-Inter Agency/Fund Transfers        |          |         |          |         |         |
| N-Grants, Benefits & Client Services |          |         |          |         |         |
| P-Debt Service                       |          |         |          |         |         |
| S-Interagency Reimbursements         |          |         |          |         |         |
| T-Intra-Agency Reimbursements        |          |         |          |         |         |
| 9-                                   |          |         |          |         |         |
| <b>Total:</b>                        | \$12,000 | \$3,000 | \$15,000 | \$6,000 | \$6,000 |

#### 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 |
|--------------------|---------|---------|---------|---------|---------|---------|
| Research Analyst   | 87,219  | 0.1     |         | 0.1     |         |         |
| Support staff      | 62,202  |         |         |         |         |         |
| <b>Total FTE's</b> | 149,421 | 0.1     |         | 0.1     |         | 0.0     |

### 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.*

# Judicial Impact Fiscal Note

|                             |                                |   |
|-----------------------------|--------------------------------|---|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 055-Admin Office of the Courts |
|-----------------------------|--------------------------------|---|

## 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 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:

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- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

|                                     |                      |                  |
|-------------------------------------|----------------------|------------------|
| Legislative Contact: Richard Rodger | Phone: (360)786-7461 | Date: 01/22/2015 |
| Agency Preparation: Renee Lewis     | Phone: 360-704-4142  | Date: 01/23/2015 |
| Agency Approval: Ramsey Radwan      | Phone: 360-357-2406  | Date: 01/23/2015 |
| OFM Review: Cheri Keller            | Phone: 360-902-0563  | Date: 01/23/2015 |

Request # 5519 SB-1

**Part II: Narrative Explanation**

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

The intent of the bill would be to add clarity to the recreational and medical marijuana system. There is no fiscal impact to the courts.

**II. B - Cash Receipts Impact**

**II. C - Expenditures**

**Part III: Expenditure Detail**

**Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

|                             |                                |  |
|-----------------------------|--------------------------------|--|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 101-Caseload Forecast Council |
|-----------------------------|--------------------------------|--|

## 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:

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- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                     |                       |                  |
|-------------------------------------|-----------------------|------------------|
| Legislative Contact: Richard Rodger | Phone: (360)786-7461  | Date: 01/22/2015 |
| Agency Preparation: Ed Vukich       | Phone: 360-664-9374   | Date: 01/27/2015 |
| Agency Approval: John Steiger       | Phone: 360-664-9370   | Date: 01/27/2015 |
| OFM Review: Trisha Newport          | Phone: (360) 902-0417 | Date: 02/02/2015 |



## 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.

# **SB 5519**

## **THE COMPREHENSIVE MARIJUANA REFORM ACT**

**101 – Caseload Forecast Council**  
**January 27, 2015**

### **SUMMARY**

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

Section 501 makes a technical correction to penalty provisions of the Uniform Controlled Substances Act.

Section 502 amends provisions regarding possession of a controlled substance by expanding the list of acceptable amounts of certain forms of marijuana and marijuana products that are not in violation of the section.

Section 502 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 502 additionally amends provisions regarding possession of a controlled substance by allowing for a person to transport and grow marijuana plants in his/her home and to share up to one ounce of marijuana with another person, as long as there is no financial transaction.

Section 605 establishes a new unranked Class C felony offense concerning multiple aspects of medical marijuana.

Section 609 repeals an existing Class C felony: medical marijuana fraudulent records.

### **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:

- Abolishes an existing unranked Class C felony offense; and
- Establishes a new unranked Class C felony offense.

There were no sentences for 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 felony offense established by this bill is not currently a felony 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. Therefore, the Caseload Forecast Council cannot reliably predict correctional bed impacts resulting from the bill. However:

As a Class C felony offense not ranked on the adult felony sentencing grid and presumptively ranked at Offense Category C on the juvenile offender sentencing grid, the felony offense established by the bill would be punishable by a standard range term of confinement of 0-12 months in jail for adults, regardless of the offender's prior criminal history, and from Local Sanctions (0-30 days in local detention) to 15-36 weeks in a Juvenile Rehabilitation Administration facility for juveniles, depending on the juvenile's prior history. Therefore, any impact would be on jail beds only for adults, unless an aggravated exceptional sentence is imposed, and on both local detention beds and Juvenile Rehabilitation Administration beds for juveniles.

# Individual State Agency Fiscal Note

|                             |                                |   |
|-----------------------------|--------------------------------|---|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 195-Liquor Control Board |
|-----------------------------|--------------------------------|---|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

| ACCOUNT                                    | FY 2016 | FY 2017     | 2015-17     | 2017-19     | 2019-21     |
|--|---------|-------------|-------------|-------------|-------------|
| Dedicated Marijuana Account-State<br>315-1 | 994,250 | 107,937,096 | 108,931,346 | 320,512,826 | 347,010,592 |
| <b>Total \$</b>                            | 994,250 | 107,937,096 | 108,931,346 | 320,512,826 | 347,010,592 |

### Estimated Expenditures from:

|  | FY 2016 | FY 2017   | 2015-17   | 2017-19   | 2019-21   |
|--|---------|-----------|-----------|-----------|-----------|
| FTE Staff Years                            | 4.3     | 19.0      | 11.7      | 17.0      | 15.0      |
| <b>Account</b>                             |         |           |           |           |           |
| Dedicated Marijuana Account-State<br>315-1 | 855,589 | 1,725,000 | 2,580,589 | 2,804,864 | 2,560,716 |
| <b>Total \$</b>                            | 855,589 | 1,725,000 | 2,580,589 | 2,804,864 | 2,560,716 |

### 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:

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- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

|                                     |                       |                  |
|-------------------------------------|-----------------------|------------------|
| Legislative Contact: Richard Rodger | Phone: (360)786-7461  | Date: 01/22/2015 |
| Agency Preparation: Aaron Hanson    | Phone: 360-664-1701   | Date: 02/13/2015 |
| Agency Approval: Michael Kashmar    | Phone: 360-664-1690   | Date: 02/13/2015 |
| OFM Review: Chris Stanley           | Phone: (360) 902-9810 | Date: 02/25/2015 |

## 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 201 (vv) – Adds “immature plant” to the definitions in RCW 69.50.101 and defines as a marijuana plant with no observable flower or buds.

Section 203 – Changes the name of the board known as the “Washington State Liquor Control Board” to the “Washington State Liquor and Cannabis Board” (LCB).

Section 301 – Adds immature marijuana plants as an allowable form of marijuana for producer, processor, and retailer licensees.

Section 302 (1) (a) – Requires the LCB to develop a license application process that provides the applicant the opportunity to demonstrate experience and qualifications in the marijuana industry.

Section 303 – Allows the LCB to adopt rules regarding the following:

(3) – Methods of producing, processing, packaging, and transporting marijuana concentrates, and immature plants.

(5) – Security requirements for marijuana distributor and marijuana delivery licensees, and safety protocols for these licensees and their employees.

Section 304 – Requires the LCB to adopt rules that establish the procedures and criteria necessary to implement the following:

(1) – Application forms for marijuana producers that request the applicant to state whether they intend to produce medical grade marijuana and the amount of or percentage of canopy they intend to commit to growing medical grade marijuana.

(2) – Reconsider limits on the amount of square feet permitted to be in production and increasing the percentage of production space for marijuana producers who intend to grow medical grade marijuana

(3) (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 number of retail outlets in order to accommodate the medical needs of qualifying patients and designated providers.

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

Section 308 (1) – Establishes a medical marijuana endorsement to a marijuana retail license.

Section 308 (5) – Requires the LCB, in consultation with the Department of Health and the Department of Agriculture, to establish a medical grade standard and identify medical grade marijuana products that may be sold. The rules must include:

(a) – TCH concentration, CBD concentration, and proper TCH to CBD ratios

(b) – Labeling requirements for medical grade marijuana

(c) – The number and type of medical grade marijuana products that must be offered

(d) – Safe handling requirements

(e) – Laboratory testing requirements

Section 309 – Allows retail outlets to sell immature plants, products containing a TCH concentration of 0.3% or less, and other nonedible consumer goods.

Section 312 – Establishes a marijuana research license that permits a licensee to produce and possess marijuana for limited research purposes.

Section 316 – Establishes a marijuana distribution license that permits a licensee to transport marijuana between licensees, and cash and receipts from licensees to a financial institution. The LCB is required to adopt rules to implement the license.

Section 317 – Establishes a marijuana delivery license that permits a licensee to transport marijuana from a retailer to a consumer. The LCB is required to adopt rules to implement the license.

Section 701 (2) – Allows a city, town, or county to adopt an ordinance decreasing the distance to no less than 500 ft. that a marijuana licensee must be located from recreation centers, child care centers, public parks, public transit centers, public libraries, or game arcades that aren't restricted to those age 21 and over. Additionally, an ordinance can be adopted to prohibit a licensee from locating its premises up to 1,000 ft. from a church.

Section 702 – Prevents a city, town, or county from adopting, renewing, or extending a prohibition or moratorium on marijuana licensees unless adopted by ordinance.

## **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.*

### **EXCISE TAX:**

The cash receipt impact is based on the November 2014 forecast prepared by the Economic and Revenue Forecast Council (ERFC) for the legal recreational market and medical marijuana market share assumptions provided by the Office of Financial Management. 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" for detailed assumptions.

FY 2017 - \$107,224,096

FY 2018 - \$146,294,530

FY 2019 thru FY 2021 - \$172,792,296

### **DISTRIBUTION & DELIVERY LICENSES:**

Sections 316 and 317 of the bill create a marijuana distribution license and a marijuana delivery license, and require the Liquor Control Board to adopt rules setting the license fees. Currently, license fees for marijuana producers, marijuana processors, and marijuana retailers are set at \$250 for license application and \$1,000 for license issuance and annual license renewal. Cash receipts for the marijuana distribution and marijuana delivery licenses assume the Board sets equal license fees and issues 300 licenses.

FY 2016 - \$375,000 (300 applications x \$250 application fee) + (300 licenses issued x \$1,000 license issuance fee)

FY 2017 thru FY 2021 - \$300,000 annually (300 licenses x \$1,000 license renewal fee)

#### RETAILER LICENSE:

Section 304 of the bill requires the Board to reconsider 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. The current 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 thru FY 2021 - \$413,000 annually (413 licenses x \$1,000 license renewal fee)

#### RESEARCH LICENSE:

Section 312 of the bill establishes a marijuana research license permitting a licensee to produce and possess marijuana for limited research purposes. The impact to cash receipts is indeterminate for this license as the demand is unknown at this time.

#### 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:

Sections 316 and 317 of the bill create a marijuana distribution license and a marijuana delivery license. The expenditure impact assumes the Board issues 300 distribution and delivery licenses.

Section 304 of the bill requires the Board to reconsider 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. The expenditure impact assumes the Board receives 825 applications for a retailer license and issues 413 licenses.

#### ENFORCEMENT:

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 8 Liquor Enforcement Officers, which includes 6 officers, 1 sergeant, and 1 lieutenant. Costs for the additional officers beginning in FY 2017 are estimated to be \$914,099 (\$171,384 onetime) and \$742,715 in FY 2018 and annually thereafter. See the attachment titled "Enforcement FI Calculations" for the detailed FI calculations.

#### LICENSING:

Currently, an application for a marijuana producer license, marijuana processor license, and marijuana retailer license requires an average of approximately 14 hours to process. The Board estimates applications for the marijuana distribution license and the marijuana delivery license will also require 14 hours to process.

The impact of the increased workload on the Licensing Division from the marijuana distribution license, marijuana delivery license, and additional retail licenses will require 4 additional FTE's in FY 2016, and 6 FTE's in FY 2017 and 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 - \$266,860 (\$22,712 onetime), FY 2017 - \$377,578 (\$11,356 onetime), 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, an additional fiscal analyst will be required in the tax unit, and 2 additional auditors will be necessary in the audit program to ensure the 713 assumed additional licensees are in compliance. An additional marijuana examiner will be needed to also help ensure licensees are in compliance and assist the licensees with using the marijuana Traceability System. Costs for these FTE's beginning in FY 2017 are \$325,951 (\$12,076 onetime) and in FY 2018 and beyond are \$313,875.

#### INFORMATION TECHNOLOGY:

The Board must hire a contractor to modify the marijuana license application investigation workflow in order to create the medical marijuana endorsement, marijuana distribution, marijuana delivery, and marijuana research license types. 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 \$168,945.

Section 701 allows local jurisdictions to adopt an ordinance to prevent marijuana licensees from locating their premises within 1,000 ft. from a church. The Board will need to update the existing GIS system to include additional data sets for churches. The annual cost beginning in FY 2016 for the subscription is \$5,000.

Additionally, this bill will require modifications and enhancements to the Board's existing marijuana seed to sale 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 new license types established in the bill. The anticipated onetime cost in FY 2016 for a contractor to perform the modifications is \$175,000 and for increased server space is \$100,000.



The Board's IT staff will be assisting contractors with the modifications and performing work in multiple systems related to the name change. An additional FTE in the Board's IT division is necessary 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 \$36,284. Costs for an additional FTE in FY 2017 are \$100,497 (\$5,678 onetime) and in FY 2018 and beyond are \$94,819.

#### 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 ongoing 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.

### Part III: Expenditure Detail

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

|                                      | FY 2016          | FY 2017            | 2015-17            | 2017-19            | 2019-21            |
|--------------------------------------|------------------|--------------------|--------------------|--------------------|--------------------|
| FTE Staff Years                      | 4.3              | 19.0               | 11.7               | 17.0               | 15.0               |
| A-Salaries and Wages                 | 198,120          | 996,132            | 1,194,252          | 1,821,912          | 1,651,560          |
| B-Employee Benefits                  | 71,201           | 364,739            | 435,940            | 665,922            | 602,366            |
| C-Professional Service Contracts     | 464,945          |                    | 464,945            |                    |                    |
| E-Goods and Other Services           | 87,023           | 167,979            | 255,002            | 162,430            | 152,190            |
| G-Travel                             |                  | 109,300            | 109,300            | 154,600            | 154,600            |
| J-Capital Outlays                    | 34,300           | 86,850             | 121,150            |                    |                    |
| 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>\$855,589</b> | <b>\$1,725,000</b> | <b>\$2,580,589</b> | <b>\$2,804,864</b> | <b>\$2,560,716</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> |
|--------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Administrative Regulations Analyst 3 | 58,656         |                | 1.0            | 0.5            | 1.0            | 1.0            |
| Auditor 4                            | 53,148         |                | 2.0            | 1.0            | 2.0            | 2.0            |
| Fiscal Analyst 2                     | 45,828         |                | 1.0            | 0.5            | 1.0            | 1.0            |
| Information Technology Specialist 4  | 71,496         | 0.1            | 1.0            | 0.5            | 1.0            | 1.0            |
| Information Technology Specialist 5  | 78,900         | 0.1            |                | 0.1            |                |                |
| Information Technology Specialist 6  | 87,096         | 0.2            |                | 0.1            |                |                |
| Licensing Specialist 3               | 42,588         | 4.0            | 6.0            | 5.0            | 4.0            | 2.0            |
| Liquor Enforcement Officer 2         | 55,836         |                | 6.0            | 3.0            | 6.0            | 6.0            |
| 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>616,860</b> | <b>4.3</b>     | <b>19.0</b>    | <b>11.7</b>    | <b>17.0</b>    | <b>15.0</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 304 – Requires the Board to adopt rules that establish the procedures and criteria necessary to implement the following:

- (1) – Application forms for marijuana producers that request the applicant to state whether they intend to produce medical grade marijuana and the amount of or percentage of canopy they intend to commit to growing medical grade marijuana.
- (2) – Reconsider limits on the amount of square feet permitted to be in production and increasing the percentage of production space for marijuana producers who intend to grow medical grade marijuana
- (3) (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 number of retail outlets in order to accommodate the medical needs of qualifying patients and designated providers.
- (10) (d) – Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets.

Section 308 (5) – Requires the Board, in consultation with the Department of Health and the Department of Agriculture, to establish rules concerning a medical grade standard and medical grade marijuana products that may be sold.

Section 316 – Requires the Board to adopt rules to implement the marijuana distribution license.

Section 317 - Requires the Board to adopt rules to implement the marijuana delivery license.

### Enforcement Division Field Increment Calculations for SB 5519

|                                       |   |           |                |            |
|---------------------------------------|---|-----------|----------------|------------|
| Number of Licensees:                  | 300   |           |                |            |
| Licence Type:                         | Marijuana Distribution License & Marijuana Delivery License |           |                |            |
|                                       |   |           |                |            |
| Activity                              | Quantity  | # of FI's | # of Staff     | Total FI's |
| Inspections                           | 45  | 15        | 1              | 675        |
| Surveillance                          | 15  | 10        | 2              | 300        |
| Court-Testimony                       | 30  | 10        | 2              | 600        |
| Complaint Investigations              | 30  | 60        | 1              | 1,800      |
| Training/Education                    | 75  | 15        | 1              | 1,125      |
| Transportation & Manifest Inspections | 72  | 5         | 1              | 360        |
|                                       |   |           | Total FI's     | 4,860      |
|                                       |   |           | FI's per FTE   | 4,220      |
|                                       |   |           | FTE's Required | 1.2        |

|                              |                              |           |                |            |
|------------------------------|------------------------------|-----------|----------------|------------|
| Number of Licensees:         | 413                          |           |                |            |
| Licence Type:                | Marijuana Retailer's License |           |                |            |
|                              |                              |           |                |            |
| Activity                     | Quantity                     | # of FI's | # of Staff     | Total FI's |
| 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      |
|                              |                              |           | Total FI's     | 26,535     |
|                              |                              |           | FI's per FTE   | 4,220      |
|                              |                              |           | FTE's Required | 6.3        |

### Marijuana Excise Tax Forecast

|   | <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>                   | \$ 630,729,979        | \$ 696,640,617        | \$ 691,169,182        | \$ 691,169,182        | \$ 691,169,182        |
| <b>ERFC<sup>1</sup> Recreational Forecast</b>   | \$ 119,838,696        | \$ 160,227,342        | \$ 193,527,371        | \$ 193,527,371        | \$ 193,527,371        |
| <b>Medical Forecast<sup>2</sup> (CR Impact)</b> | <b>\$ 107,224,096</b> | <b>\$ 146,294,530</b> | <b>\$ 172,792,296</b> | <b>\$ 172,792,296</b> | <b>\$ 172,792,296</b> |

1) Economic & Revenue Forecast Council

2) Medical Forecast as calculated by the Board based on ERFC's forecast & assumed medical marijuana market share percentages provided OFM

# Individual State Agency Fiscal Note

|                             |                                |   |
|-----------------------------|--------------------------------|---|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 303-Department of Health |
|-----------------------------|--------------------------------|---|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

|  | FY 2016   | FY 2017   | 2015-17   | 2017-19   | 2019-21   |
|--|-----------|-----------|-----------|-----------|-----------|
| FTE Staff Years                            | 8.7       | 8.6       | 8.7       | 5.2       | 5.2       |
| <b>Account</b>                             |           |           |           |           |           |
| Dedicated Marijuana Account-State<br>315-1 | 2,653,000 | 1,181,000 | 3,834,000 | 1,794,000 | 1,794,000 |
| <b>Total \$</b>                            | 2,653,000 | 1,181,000 | 3,834,000 | 1,794,000 | 1,794,000 |

### 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: Richard Rodger | Phone: (360)786-7461  | Date: 01/22/2015 |
| Agency Preparation: Donna Compton   | Phone: (360) 236-4637 | Date: 02/02/2015 |
| Agency Approval: Kristin Bettridge  | Phone: (360) 236-4530 | Date: 02/02/2015 |
| OFM Review: Bryce Andersen          | Phone: (360) 902-0580 | Date: 02/03/2015 |

## 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 308: The state Liquor and Cannabis Board (LCB) in consultation with the department and the Department of Agriculture must establish a medical grade standard and identify medical grade marijuana products that may be sold to qualifying patients or designated providers under a medical marijuana endorsement.

The rules must include: THC concentration, CBD concentration or THC to CBD ratios appropriate for marijuana concentrates, immature plants, useable marijuana or marijuana-infused products sold to qualifying patients; labeling requirements; the number and type of medical grade marijuana products that must be offered at medical marijuana endorsed stores; safe handling requirements, laboratory testing requirements and any other product requirements the state LCB determines necessary to address the medical needs of qualifying patients.

A marijuana retailer holding an endorsement to sell medical grade marijuana must train its employees on the recognition of valid waiver card as well as medical grade marijuana. To meet this requirement, a marijuana retailer may employ a medical marijuana consultant, certified by the Department of Health under section 611. The medical marijuana consultant must be available on the retail outlet premises during business hours to provide advice to consumers on the potential benefits of marijuana.

Section 311: The Department of Health must develop recommendations on establishing medical marijuana specialty clinics that would allow for the authorization and dispensing of marijuana to patients of health care professionals who work on-site of the clinic and who are certified by the Department of Health in the medical use of marijuana. Recommendations must be reported to the chairs of the health care committees of both the House of Representatives and the Senate by December 31, 2015.

Section 602: A medical marijuana waiver is established to be issued by the Department of Health. The medical marijuana waiver permits a qualifying patient or his or her designated provider to:

Possess and purchase more marijuana concentrates, marijuana-infused products, plants, or useable marijuana than what is permitted under RCW 69.50.4013(3) and up to a combination of the following: (a) three ounces of useable marijuana; (b) forty-eight ounces of marijuana infused products in solid form; (c) two hundred sixteen ounces of marijuana-infused products in liquid form; or (d) twenty-one grams of marijuana concentrates. The medical marijuana waiver also permits the qualifying patient or designated provider to grow up to fifteen plants for the personal medical use of the qualifying patient. A waiver can also be obtained to permit a qualified patient or designated provider to purchase high THC products at no tax, persons 18-20 to purchase or grow marijuana, and patients under age 18 to use marijuana if the child's parent or guardian acts as designated provider.

Unless approved by the state LCB and the department, the waiver does not permit a qualifying patient or designated provider to produce marijuana concentrates. The state LCB, in conjunction with the department, may adopt rules permitting waiver holders to produce marijuana concentrates using non-butane extraction methods. At a minimum, the rules must require that waiver holders who produce marijuana concentrates register this information with the state LCB.

Section 603: The department must develop a medical marijuana waiver process in order to process and approve

or deny waiver applications submitted under section 602 of this act. The medical marijuana process must include: (1) development of a waiver application and (2) develop a waiver card that includes the name of qualifying patient or designated provider, the amounts MMJ products the patient is authorized, and the expiration date.

The waiver card may be provided to law enforcement officers who are engaged in a bona fide specific investigation of suspected marijuana-related activity that may be illegal under Washington state law to confirm the validity of the waiver of the qualifying patient or designated provider.

The waiver card may be provided to a marijuana retailer holding a medical marijuana endorsement to confirm the validity of the waiver and to allow waiver holders to purchase medical grade marijuana without paying taxes in accordance with this action.

The waiver card is valid for one year after the date issuance. The waiver card may not be renewed until the qualifying patient has completed a new application.

Section 604: Medical marijuana waiver applications submitted to the department are exempt from disclosure under chapter 42.56 RCW.

Section 611: The department shall adopt rules to establish certification requirements for a medical marijuana consultant. The certification requirement shall include: a) products that meet the definition of MMJ; b) the medical conditions that constitute terminal or debilitating conditions; c) demonstrated knowledge of marijuana reform act and any rules adopted to implement the act; d) training and education requirements related to the use of MMJ; e) other items deemed necessary by the department. MMJ consultant certificates are subject to annual renewals and continuing education requirements established by the department.

## **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.*

This legislation does not provide the department with authority to create new fees to support the requirements of the department. Without explicit fee authority, the department cannot collect the revenue necessary to implement the bill.

## **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.*

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 the department's 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 waiver process available July 1, 2016 as well.

Medical Grade Marijuana Consultation with LCB Rulemaking and Report to the Legislature

Sections 308, and 311 , 602, 603, 604 and 611: the department will consult with the LCB on rules that establish

a medical grade standard and identify medical grade marijuana products that may be sold to qualifying patients or designated providers under a medical marijuana endorsement. The rules must include MMJ labeling, marijuana concentrates, marijuana-infused products. The department is anticipating a significant role in this rules project which requires 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 must develop recommendations on establishing medical marijuana specialty clinics that would allow for the authorization and dispensing of marijuana to patients of health care professionals who work on-site of the clinic and who are 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 house and senate by December 1, 2015. The department anticipates the involvement of many constituent groups, professions and other interested parties and the process will be complex and controversial. The department assumes the earliest a report could be available is July 1, 2016.

There will be one-time rulemaking costs in FY 2016 to adopt rules for MMJ labeling, marijuana concentrates, marijuana-infused products, establish and administrator a MMJ waiver process and medical marijuana consultant certification. 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.

#### Waiver Rulemaking

Sections 602, 603, 604 and 611: There will be one-time rulemaking costs in FY 2016 to adopt rules to establish and administrator a MMJ waiver process. Rulemaking will be very complex and the department will use a facilitator at these meetings. The department will conduct four stakeholder meetings geographically throughout 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.

One-time rulemaking costs will include staff-time and related costs \$160,000, 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 and \$400,000 in FY 2016.

FY2016 FTE: HSC3 0.30; HSC4 0.30; WMS02 0.20; HSC1 0.36; FA2 0.51

#### Program Implementation and Management

Sections 308, 311, 602, 603, 604 and 611: 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 waiver process and medical marijuana consultant certification. This will include contracting for and providing policy oversight to the database administrator, responding to requests for information, developing forms and procedures, coordinating review of petitions to add terminal or debilitating



conditions, any rules as result of an approval and developing and updating websites.

Program administration and management costs in FY 2016 include staff-time and related costs for a total of 2.2 FTE and \$213,000. FY 2017 ongoing will total costs of 3.3 FTE and \$319,000.

FY 2016 FTE: HSC3 0.69; HSC4 0.63; WMS02 0.30; WMS03 0.05; HSC1 0.24; FA2 0.33

FY 2017 FTE: HSC3 1.0; HSC4 1.0; WMS02 0.50; WMS03 0.05; HSC1 0.24; FA2 0.49

#### Medical Marijuana Waiver Database

Sections 602 & 603: The department's assumptions to develop MMJ waiver database are based upon similar estimates calculated in 2014. However, application numbers were increased based upon information from the State of Colorado, which is the only other state besides Washington that has legalized 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 estimates 75,000 of the total estimated 153,500 patients and designated providers will apply for a waiver.

The department is assuming the MMJ waiver database will be available July 1, 2016 after rule adoption. The department also assumes 50 percent of eligible patients and 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) 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.

Costs in FY 2016 will include staff and associated costs \$453,000, one-time software purchase \$1,534,000 for a total of 4.4 FTE and \$1,987,000. Ongoing costs will be for staff and associated costs and support and maintenance of the medical marijuana authorization database. Costs for FY 2017 for a total of 0.90 FTE and \$485,000 and for FY 2018 ongoing, a total of 0.20 FTE and \$424,000 each year.

FY 2016 FTE: HSC4 1.0; ITS4 0.10; ITS5 1.43; ITS6 0.32; WMS02 0.14; HSC1 0.48; FA2 0.91

FY 2017 FTE: HSC4 0.50; ITS5 0.12; ITS6 0.10; HSC1 0.10; FA2 0.19

FY 2018 ongoing FTE: ITS5 0.10; ITS6 0.10

#### MMJ Waiver applications

Sections 602 & 603: Credentialing costs starting in FY 2017 will be for staff to review and process MMJ waiver applications, provide technical assistance, and waiver cards for qualified applicants on an estimated 75,000 applications during the first year. This workload estimate assumes a fully automated application process, no paper applications, verification by the health care provider is completed online prior to submission, and five percent of applications will require additional review by a supervisor. Credentialing costs during FY 2017 total 2.3 FTE and \$220,000. Credentialing costs starting in FY 2018 and ongoing will total 1.3 FTE and \$135,000 per year.

FY 2017 FTE: HSC1 0.89; HSC2 0.57; HSC3 0.43; WMS 0.08; FA2 0.34

FY 2018 ongoing FTE: HSC1 0.80; HSC2 0.15; HSC3 0.15; FA2 0.20

## Medical Marijuana Consultant Certification

### Rulemaking

Section 611: 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 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. Costs include staff-time, travel for staff to locations outside the Olympia area, Office of the Attorney General (OAG) time,. Total one-time costs in FY 2016 total 0.10 FTE (HSC) and \$31,000.

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. Examination administration costs are paid by the applicant directly to the exam company and will not be part of the certification fee. The estimated one-time contract amount is \$10,000 based on other similar examination costs.

### Information Technology

Section 611: 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 types. 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 \$12,000 in FY 2016. Starting in FY 2017, ongoing costs will be 0.10 FTE and \$7,000 each year.

### Medical Marijuana Consultant Certification – Credentialing

Section 611: Credentialing costs starting in FY 2017 will be for staff to review and process applications,, provide technical assistance, and issue certifications for qualified applicants on an estimated 1,000 new applications during the first year, as well as renewals. Credentialing costs during FY 2017 total 1.9 FTE and \$150,000. Credentialing costs FY 2018 and ongoing total 0.10 FTE and \$12,000 per year.

FY2017 FTE: HSC1 0.63; HSC2 0.34; HSC3 0.29; FRA1 0.36; FA2 0.23

FY2018 ongoing FTE: HSC series 0.10

Note: Since this credential does not fall under chapter 18.130 RCW, Regulation of Health Professions - Uniform Disciplinary Act, the department is assuming no background checks will be conducted and no disciplinary costs, since the department would not have disciplinary authority.

### Estimated Total Costs Per Fiscal Year

With no funding identified, the department is assuming the necessary funding is provided from the 315 Dedicated Marijuana Account to cover the costs to implement this legislation in FY 2016. Total costs for FY 2016 are 8.7 FTE and \$2,653,000. FY2017 totals costs 8.6 FTE and \$1,181,000 and FY2018 and ongoing total costs 5.2 FTE and \$897,000.

### 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                | 8.6                | 8.7                | 5.2                | 5.2                |
| A-Salaries and Wages             | 561,000            | 504,000            | 1,065,000          | 634,000            | 634,000            |
| B-Employee Benefits              | 169,000            | 150,000            | 319,000            | 192,000            | 192,000            |
| C-Professional Service Contracts | 1,624,000          | 387,000            | 2,011,000          | 774,000            | 774,000            |
| E-Goods and Other Services       | 271,000            | 121,000            | 392,000            | 182,000            | 182,000            |
| G-Travel                         | 5,000              |                    | 5,000              |                    |                    |
| J-Capital Outlays                | 14,000             | 8,000              | 22,000             |                    |                    |
| T-Intra-Agency Reimbursements    | 9,000              | 11,000             | 20,000             | 12,000             | 12,000             |
| <b>Total:</b>                    | <b>\$2,653,000</b> | <b>\$1,181,000</b> | <b>\$3,834,000</b> | <b>\$1,794,000</b> | <b>\$1,794,000</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*

| Job Classification                   | Salary         | FY 2016    | FY 2017    | 2015-17    | 2017-19    | 2019-21    |
|--------------------------------------|----------------|------------|------------|------------|------------|------------|
| Fiscal Analyst 2                     | 45,828         | 1.8        | 1.2        | 1.5        | 0.8        | 0.8        |
| FORMS & RECORDS ANALYST 1            | 37,620         |            | 0.4        | 0.2        |            |            |
| HEALTH SERVICES                      | 45,828         |            | 1.1        | 0.6        | 0.7        | 0.7        |
| CONSULTANT 1<br>HEALTH SERVICES      | 54,504         |            | 0.9        | 0.5        | 0.2        | 0.2        |
| CONSULTANT 2<br>HEALTH SERVICES      | 63,192         | 1.0        | 1.7        | 1.4        | 1.2        | 1.2        |
| CONSULTANT 3<br>HEALTH SERVICES      | 69,756         | 2.0        | 1.5        | 1.8        | 1.0        | 1.0        |
| CONSULTANT 4<br>Health Svcs Conslt 1 | 44,712         | 1.1        | 0.8        | 1.0        | 0.5        | 0.5        |
| INFO TECH SYSTEMS/APP SPEC<br>6      | 89,280         | 0.4        | 0.2        | 0.3        | 0.2        | 0.2        |
| INFORMATION TECH SPEC 4              | 73,260         | 0.1        |            | 0.1        |            |            |
| INFORMATION TECH SPEC 5              | 80,892         | 1.4        | 0.1        | 0.8        | 0.1        | 0.1        |
| WMS01                                | 69,756         |            | 0.1        | 0.1        |            |            |
| WMS02                                | 80,892         | 0.7        | 0.5        | 0.6        | 0.5        | 0.5        |
| WMS03                                | 89,280         | 0.2        | 0.1        | 0.2        |            |            |
| <b>Total FTE's</b>                   | <b>844,800</b> | <b>8.7</b> | <b>8.6</b> | <b>8.7</b> | <b>5.2</b> | <b>5.2</b> |

### 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 308, 311, 602, 603, 604 and 611: The Department of Health will adopt rules necessary to implement the bill.

# Individual State Agency Fiscal Note

|                             |                                |  |
|-----------------------------|--------------------------------|--|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 310-Department of Corrections |
|-----------------------------|--------------------------------|--|

## 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: Richard Rodger  | Phone: (360)786-7461  | Date: 01/22/2015 |
| Agency Preparation: Margaret Andreas | Phone: (360) 725-8262 | Date: 01/28/2015 |
| Agency Approval: Sarian Scott        | Phone: (360) 725-8270 | Date: 01/28/2015 |
| OFM Review: Trisha Newport           | Phone: (360) 902-0417 | Date: 02/02/2015 |

## 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 comprehensive marijuana reform act.

#### Part I. Intent

Section 1 stipulates that the act be known and cited as the comprehensive marijuana reform act.

Section 101 is a new section, stating the legislative intent to merge the medical and recreational marijuana systems, to merge medical marijuana into the recreational regulatory system so that all products sold meet the same testing and product safety requirements, and to ensure that people who require marijuana for their medical care are provided adequate access.

#### Part II. Definitions

Sections 201 amends RCW 69.50.101, Uniform Controlled Substances Act, Definitions.

Section 201(q), 201(r), 201(v), 201(y) and 201(hh) add marijuana concentrates to the definitions of “lot”, “lot number”, “marijuana processor”, “marijuana retailer” and “retail outlet”.

Sections 201(v), 201(w), 201(y) and 201(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 201(nn), 201(oo), 201(pp), 201(rr), 201(xx) and 201(yy) are added, stipulating that the definitions for “designated provider”, “qualifying patient”, “CBD concentration”, “health care professional”, “waiver” and “medical grade marijuana” are as shown in RCW 69.51A.010, Medical Cannabis, Definitions.

Section 201(qq) is added, defining “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 readily observable root formation consisting of at least two (2) separate and distinct roots, each being at least two (2) centimeters long. Multiple stalks emanating from the same root ball or system are considered part of the same single plant.

Sections 201(ss), 201(tt) and 201(uu) are added, defining “evidence based”, “research-based” and “emerging best practices/promising practice”.

Sections 201(vv) and 201(ww) are added defining “immature plant” as a marijuana plant with no observable flowers or buds and “mature plant” as one with observable flowers or buds.

Section 202 amends RCW 69.51A.010, Medical Cannabis, Definitions.

Section 202(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 the designated provider must have been

listed on a waiver application as being the designated provider to a qualifying patient and may only provide medical marijuana to that qualifying patient under the department-approved waiver.

Section 202(3) revises the definition of “medical use of marijuana”, adding the transportation, delivery, ingestion and application of marijuana to the production, possession or administration. Additionally, the term debilitating medical condition replaces debilitating illness in reference to qualifying patient.

Section 202(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.

Section 202(5) 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.

Section 202(5)g is added, including posttraumatic stress disorder as a terminal or debilitating medical condition.

Section 202(6) 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 202(7) is added defining “department” as the Department of Health (DOH).

Section 202(8) through 202(15), 202(17) and 202(18) are added stating that the definitions of “marijuana”, “marijuana concentrates”, “marijuana producer”, “marijuana-infused products”, “plant”, “THC concentration”, “useable marijuana”, “immature plant” and “mature plant” are as shown in RCW 69.50.101, Uniform Controlled Substances Act, Definitions.

Section 202(16) is added, defining “waiver” or “waiver card” as the document provided by DOH that permits a qualifying patient or designated provider to possess more useable marijuana or marijuana plants than what is permitted under the Uniform Controlled Substances Act, that permits a person between 18 and 21 years of age to purchase marijuana from a retailer holding a medical marijuana endorsement, and permits all marijuana purchases made with the card at a retailer holding a medical marijuana endorsement to be exempt from sales and use tax.

Section 202(19) is added, defining “medical grade marijuana” as marijuana concentrates, useable marijuana, marijuana-infused products, and plants that are identified as beneficial to qualifying patients.

Section 203 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”.

### Part III. Licenses

Section 301 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 and adding “immature marijuana plants” to the list of items requiring licensure.

Section 302 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 302(1) is revised, requiring the state liquor and cannabis board to conduct a comprehensive, fair and impartial evaluation of the applications timely received.

Section 302(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 303 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.

Section 303(3) is revised, adding methods of transporting to methods of producing, processing and packaging; adding marijuana concentrates and immature plants to marijuana, useable marijuana, and marijuana-infused products; and adding safe handling requirements to conditions of sanitation and standards of ingredients.

Section 303(5) is added, including security requirements for marijuana distributor and marijuana delivery licenses and safety protocols for these licensees and their employees.

Section 304 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 304(1) is amended, 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 304(2) 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 304(10)(d) is added, allowing retail outlets with medical marijuana endorsements to advertise themselves as medical retail outlets.

Section 305 amends RCW 69.50.348, Uniform Controlled Substances Act, Representative samples of marijuana, useable marijuana or marijuana-infused products, 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 306 amends RCW 69.50.351, Uniform Controlled Substances Act, Interest – Members of State LCB, replacing “state liquor control board” with “state liquor and cannabis board” throughout. Additionally, marijuana concentrates and immature plants are added to useable marijuana, marijuana-infused products and mature plants

throughout.

Section 307 amends RCW 69.50.354, Uniform Controlled Substances Act, Retail outlet licenses, replacing “state liquor control board” with “state liquor and cannabis board” throughout and adding immature plants to marijuana concentrates, marijuana and marijuana-infused products.

Section 308 is a new section added to RCW 69.50, the Uniform Controlled Substances Act.

Sections 308(1) and 308(2) allow a marijuana retailer to also receive a medical marijuana endorsement.

Section 308(3) establishes the requirements a marijuana retailer must meet to be issued a medical marijuana endorsement.

Section 308(3)(a) stipulates that authorization for the medical use of marijuana may not occur at the retail outlet.

Section 308(3)(b) requires that the outlet carry medical grade marijuana.

Section 308(3)(c) prohibits the outlet from labelling or marketing marijuana concentrates, useable marijuana, immature plants or marijuana-infused product in a manner intentionally attractive to minors.

Section 308(3)(d) requires the retail outlet to keep copies of the qualifying patient’s or designated provider’s waiver 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 308(3)(e) requires the retail outlet to meet other requirements as adopted by DOH or the state liquor and cannabis board.

Section 308(4) allows 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 who possess valid waiver cards.

Section 308(5) is added requiring the state liquor and cannabis board, in consultation with DOH and the Department of Agriculture, to establish a medical grade standard and identify medical grade marijuana products that may be sold to qualifying patients or designated providers.

Section 308(6) is added, establishing required training to be provided to employees of retailers holding medical endorsements.

Section 309 amends RCW 69.50.357, Uniform Controlled Substances Act, Retail outlets – Rules.

Section 309(1)(a) is amended to allow retail outlets to sell immature plants, products containing THC with a THC concentration of 0.3 percent or less, and nonedible consumer goods including clothing containing the retail outlet’s name or logo, in addition to marijuana concentrates, usable marijuana, marijuana-infused products and paraphernalia intended for the use or storage of marijuana.

Sections 309(1)(b) and 309(1)(c) are added, prohibiting retail outlets from selling liquor and permitting the state liquor and cannabis board to adopt rules on nonedible consumer goods that may not be sold, including



prohibiting items intended for use by persons under 18 years of age.

Section 309(2) is amended, allowing qualifying patients aged 18 years of age or older to enter and remain on the premises of a retail outlet holding a medical marijuana endorsement if they possess a waiver card and allowing them to purchase items for their own medical use.

Section 309(3) is amended, establishing training requirements for employees of marijuana retailers and licensed marijuana retailers with medical marijuana endorsements.

Section 309(4) is amended allowing retail outlets that hold medical marijuana endorsements to include this information on signage.

Section 309(5) is revised, adding marijuana concentrates and immature plants to the list of products that may not be displayed in a manner that is visible to the general public.

Section 310 amends RCW 69.50.360, Uniform Controlled Substances Act, Marijuana retailers, employees of retail outlets – Certain acts are not criminal or civil offenses, replacing “state liquor control board” with “state liquor and cannabis board” throughout and adding purchase and possession of up to six (6) immature plants to marijuana concentrates, useable marijuana and marijuana-infused products.

Section 311 is a new section, requiring DOH to develop recommendations for establishing medical marijuana clinics that would allow the authorization and dispensing of marijuana to patients of health care professionals who work on-site of the clinic and who are certified by DOH in the medical use of marijuana. Recommendations must be reported by December 1, 2015.

Section 312 is a new section establishing processes and procedures for a marijuana research license.

Section 313 amends RCW 28b.20.502, Higher Education, University of Washington (UW), Medical Cannabis Research, substituting marijuana for cannabis throughout and authorizing UW and Washington State University (WSU) to contract with marijuana research licensees to conduct research on the efficacy and safety of administering marijuana as part of medical treatment.

Section 314(7) and 314(8) are added to RCW 43.350.030, State Government Executive, Life Sciences Research, Authority – trust powers, allowing for the review and approval of marijuana research licenses and authorizing the review of any reports made by marijuana research licensees.

Section 315 is added to RCW 42.56, Public Records Act, exempting reports submitted by marijuana research licensees that contain proprietary information from disclosure.

Section 316 is added to RCW 69.50, Uniform Controlled Substances Act, establishing a marijuana distribution license allowing transportation from producers and processors, and requiring the state liquor and cannabis board to adopt rules.

Section 317 is added to RCW 69.50, Uniform Controlled Substances Act, establishing a marijuana distribution license allowing transportation from a retailer to a consumer, and requiring the state liquor and cannabis board to adopt rules.

## Part IV. Tax Provisions

Section 401 is a new section added to RCW 82.08, Excise Taxes, Retail sales tax.

Section 401(1) amends RCW 82.08.020, exempting medical marijuana from retail sales tax on rental of farm tractors or vehicles used in the production of marijuana.

Section 401(2) requires each seller making exempt sales to maintain information regarding the purchaser's eligibility of the exemption as required by DOR.

Section 401(3) stipulates that the terms "THC concentration", useable marijuana", marijuana-infused products" and "marijuana retailers" are as defined in RCW 69.50.101 and the terms "qualifying patients", "designated providers", "medical grade marijuana" and "waiver card" are as defined in RCW 69.51A.010.

Section 402 adds a new chapter to RCW 82.12, Excise Taxes, Use tax.

Section 402(1) amends RCW 82.12, exempting medical marijuana.

Section 402(2) stipulates that the terms "THC concentration", "useable marijuana", "marijuana-infused products" and "marijuana retailers" are as defined in RCW 69.50.101 and the terms "qualifying patients", "designated providers", "medical grade marijuana" and "waiver card" are as defined in RCW 69.51A.010.

Section 403 is a new section, relating to medical marijuana.

Section 403(1) states the legislative findings that marijuana use for qualifying patients is a valid and necessary option health care professionals may recommend for their patients; qualifying patients benefit from a wide range of products; products with a low THC, and high CBD ratio are of particular use to persons seeking marijuana for medical use and these products are least likely to be purchased by recreational users. The legislature recognizes that transition to a regulated market may change the manner in which qualifying patients access medical marijuana, and intends to ease the transition and provide a statutory means for an adequate, safe, consistent and secure source for qualifying patients. Section 403(1) further states the legislative intent to provide all people who seek to purchase products with a low THC, high CBD ratio with a retail sales and use tax exemption. Additionally, the legislature recognizes that the medical needs of all patients may not be met through purchase of low THC, high CBD products; the legislature intends to provide qualifying patients who are approved for a waiver from DOH with a retail sales and use tax exemption on purchases of marijuana for medical use.

Section 403(2)(a) and 403(2)(b) describe and categorize the tax preference performance statement.

Section 403(2)(c) states the legislature's public policy objective to provide qualifying patients and designated providers a retail sales and use tax exemption on purchases of marijuana products for medical use, and an exemption for all people purchasing products with low THC, high CBD ratios.

## Part V. Penalties

Section 501 amends RCW 69.50.401(3), Uniform Controlled Substances Act, Prohibited Acts: A – Penalties,

clarifying 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 502 amends RCW 69.50.4013, Uniform Controlled Substances Act, Possession of controlled substances – Penalty – Possession of usable marijuana or marijuana infused products.

Section 502(3) is revised to allow a person over the age of 21 years to possess marijuana plants, in addition to marijuana concentrates, useable marijuana and marijuana-infused products up to specified amounts as follows: (a) one (1) ounce of usable marijuana, if the person grows his or her own plants, the amount may not exceed eight (8) ounces; (b) 16 ounces of marijuana infused product in solid form; (c) 72 ounces of marijuana-infused product in liquid form; (d) seven (7) grams of marijuana concentrate; or (e) six (6) plants.

Section 502(4) is added, stipulating that it is not a violation of the Uniform Controlled Substances Act or any other provision in Washington state law for a qualifying patient or designated provider to possess marijuana or marijuana product in the amounts listed above in Section 502(3) or as authorized below in Section 602.

Section 502(5) is a new section, stipulating that it is not a violation of the Uniform Controlled Substances Act or any other provision in Washington state law to transport immature plants from a marijuana retailer to one's domicile, to possess mature plants in one's domicile, or to share up to one (1) ounce of usable marijuana with another person, provided there is no remuneration for provision of the marijuana.

## Part VI. Medical Use of Marijuana

Section 601 amends RCW 69.51A.030, Medical Cannabis, Acts not constituting crimes or unprofessional conduct, substituting the term marijuana for cannabis throughout.

Section 601(1)(b) is revised for clarity, incorporating the term “waiver” rather than “valid documentation”.

Section 601(2)(a) is removed, eliminating the requirements of the health care provider to complete an in-person physical examination of the patient; provide documentation in the patient's medical record that the patient was informed of other options for treating the terminal or debilitating medical condition, and to document in the patient's medical record other measures used to treat the condition.

Section 601(2)(c) 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.

Section 601(2)(c) 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, and holding an economic interest in an enterprise that produces, processes or dispenses marijuana if the provider authorizes the medical use of marijuana.

Section 602 is a new section added to RCW 69.51A, Medical Cannabis, establishing a waiver process allowing a qualified patient or designated provider to possess or purchase marijuana products and plants in excess of quantities specified in RCW 69.50.4013, specifying allowable quantities of plants and products, and stipulating that the purchases – including high THC products if included in the waiver -- are exempt from sales and use tax.

Section 603 is a new section added to RCW 69.51A, Medical Cannabis, requiring DOH to develop a medical marijuana waiver process as described above in Section 602, establishing required elements in the process and stipulating that the waiver card is valid for one (1) year following the date of issuance.

Section 604 is a new section added to RCW 42.56, exempting medical marijuana waiver applications submitted to DOH containing names and other personally identifiable information from disclosure under the Public Records Act.

Section 605 is a new section added to RCW 69.51A, Medical Cannabis.

Section 605(1) establishes that it is unlawful for a person to knowingly or intentionally: (a) create or present a medical marijuana waiver card or to tamper with a medical marijuana waiver card for the purpose of having it accepted by a medical marijuana retailer in order to purchase marijuana as a qualifying patient or designated provider, or to grow marijuana in quantities greater than authorized under the Uniform Controlled Substances Act; (b) If a person is a designated provider, to sell marijuana produced for the qualifying person to another person or to donate or supply more than one (1) ounce of useable marijuana produced for the qualifying person to another person; or (c) if the person is a qualifying patient, to sell marijuana produced for the qualifying patient to another person or to donate or supply more than one (1) ounce of usable marijuana produced for the qualifying patient to another person.

Section 605(2) establishes a new class C felony for the acts listed in Section 605(1). A person convicted of this offense may be imprisoned for no more than two (2) years, fined no more than \$2,000, or both.

Section 606 amends RCW 69.51A.040, Medical Cannabis, 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 606(1)(a) establishes that the qualified patient or designated provider may possess the amount of marijuana listed in RCW 69.50.4013.

Section 606(3) is amended, permitting the qualifying provider to possess more marijuana than allowed under RCW 69.50.4013, provided he or she keeps a copy of his or her contact information and waiver card posted prominently at his or her residence, next to any marijuana or marijuana products.

Section 606(4) is revised, permitting conversion of up to one (1) ounce of marijuana for personal use.

Section 607 amends RCW 69.51A.055, Medical Cannabis, Limitations of chapter – Persons under supervision, substituting the term law enforcement officer for peace officer, and the term marijuana for cannabis throughout.

Section 608 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.

Section 608(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 608(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 608(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 608(3) is removed, eliminating the prohibition against a person under supervision being licensed as a producer, processor or dispenser of cannabis products.

Section 609 amends RCW 69.51A.060, Medical Cannabis, Crimes – Limitations of chapter, substituting the term marijuana for cannabis throughout.

Section 609(3), establishing that nothing in the chapter requires any health care provider to authorize the medical use of marijuana for a patient, is removed.

Section 609(7), which establishes a class C felony for fraudulently producing any record purported to be or to tamper with the content of any record for purpose of having it accepted as valid documentation under RCW 69.51A as a medical marijuana permit, is deleted. A similar class C felony is established in new Section 605, above.

Section 610 amends RCW 69.51A.070, Addition of medical conditions, allowing the Washington State Medical Quality Assurance Commission, in consultation with the Board of Osteopathic Medicine and Surgery, to make a preliminary finding of good cause before the public hearing. Additionally, the timeframe for approval or denial of the petition to add a terminal or debilitating condition is extended from 180 to 210 days.

Section 611 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.

## Part VII. Local Governments

Section 701 is a new section added to RCW 69.50, Uniform Controlled Substances Act.

Section 701(1) prohibits marijuana producers, processors, retailers and researchers from locating within 1,000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or any game arcade to which admission is not restricted to persons 21 years of age or older.

Section 701(2) allows a city, town or county to adopt an ordinance to decrease the distance required in section 701(1) to 500 feet, and allows a city, town or county to adopt an ordinance prohibiting marijuana producers, processors, retailers and researchers from locating within 1,000 feet of a church.

Section 701(3) defines “church”, for purposes of this section, as a building erected for and used exclusively for religious worship and schooling or another related activity.

Section 702 is added to RCW 69.50, Uniform Controlled Substances Act, prohibiting any city, town or county from adopting, renewing or extending a prohibition or moratorium on marijuana license except by ordinance, and stipulating that no ordinance may take effect unless it is submitted for a public vote and approved by a majority.

Section 703 amends RCW 69.50.369, Uniform Controlled Substances Act, marijuana, producers, processors, retailers – Advertisements, prohibiting advertisements near a school, playground, recreation center or facility, child care center, public park, library, game arcade not restricted to persons 21 years of age or older, or church consistent with any ordinances adopted per section 701, above.

## Part VIII. Repealers and Effective Dates

Section 801 is a new section and repeals the following: RCW 69.51A.005, RCW 69.51A.020, RCW 69.51A.025, RCW 69.51A.43, RCW 69.51A.047, RCW 69.51A.090, RCW 69.51A.140, and RCW 69.51A.200.

Section 802 is a new section, repealing RCW 69.51A.085 (Collective gardens).

Section 803 is a new section and establishes effective date of August 1, 2016 for Section 802.

Sections 1, 101, 201, 202, 301 through 317, a portion of 401 through 403, 501, 502, 601 through 611, 701 through 703 and 801 of this act are assumed effective July 1, 2015.

Portions of Sections 401 through 403, related to tax provisions, are effective September 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. Our impact is general fund state.

### 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 605(1) establishes that it is unlawful for a person to knowingly or intentionally:

- (a) create or present a medical marijuana waiver card or to tamper with a medical marijuana waiver card for the purpose of having it accepted by a medical marijuana retailer in order to purchase marijuana as a qualifying patient or designated provider, or to grow marijuana in quantities greater than authorized under the Uniform Controlled Substances Act;
- (b) If a person is a designated provider, to sell marijuana produced for the qualifying person to another person or to donate or supply more than one (1) ounce of useable marijuana produced for the qualifying person to another person; or
- (c) if the person is a qualifying patient, to sell marijuana produced for the qualifying patient to another person or to donate or supply more than one (1) ounce of usable marijuana produced for the qualifying patient to another person.

Section 605(2) establishes a new class C felony for the acts listed in Section 605(1). A person convicted of this offense may be imprisoned for no more than two (2) years, fined no more than \$2,000, or both.

However, this replaces a similar class C felony eliminated in Section 609(7).

The Caseload Forecast Council (CFC) has no information about the expected incidence or the sentences that might be imposed for the new offense. Therefore, the CFC cannot reliably predict bed impacts resulting from the bill.

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. The CFC does not have any history on this offense and cannot provide bed impact analysis. Therefore the impact is indeterminate. We assume any impact 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.

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 [ $\$12,387 \times 4 \text{ ADP} = \$49,548$ ].

Assumptions:

1. We assume impact based on the 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/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 additional impacts will 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.

# Individual State Agency Fiscal Note

|                             |                                |   |
|-----------------------------|--------------------------------|---|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 360-University of Washington |
|-----------------------------|--------------------------------|---|

## 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: Richard Rodger  | Phone: (360)786-7461 | Date: 01/22/2015 |
| Agency Preparation: Sharyl Morris    | Phone: 2065434679    | Date: 01/23/2015 |
| Agency Approval: Becka Johnson Poppe | Phone: 206-616-7203  | Date: 01/23/2015 |
| OFM Review: Cherie Berthon           | Phone: 360-902-0659  | Date: 01/24/2015 |



## 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.*

SB 5519 Sec. 312(4) states that a marijuana research licensee may contract with the UW to perform research in conjunction with the university. All research projects must be approved by the Life Sciences Discovery Fund authority and meet the requirements of Sec. 312(1). Sec. 313(2) permits the UW to contract with marijuana research licensees to conduct research permitted under this section and section 312.

It is estimated that the proposed bill would not have any fiscal impact on the UW. The costs of any marijuana research done by UW researcher-licensees or through contracts between licensees and the UW, would be borne almost completely by sponsored research agreements. If needed, the costs of licenses for UW researchers would be relatively minor at \$1,250 each, and would be paid as part of a sponsored research agreement.

The precise volume of marijuana research that would be done at the UW is unknown, but is not anticipated to be considerable due to existing federal regulations that prohibit the use or possession of marijuana as a Schedule I Controlled Substance. The proposed bill does not appear to override these regulations. Furthermore, both the Drug-Free Workplace Act and the Drug-Free Schools and Communities Act are expected to continue to prohibit the use or possession of marijuana (even for research purposes) at the UW.

### 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.*

No cash receipts.

### 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.*

None--see summary.

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

NONE

No capital budget impact.

## 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.*

N/A

# Individual State Agency Fiscal Note

|                             |                                |  |
|-----------------------------|--------------------------------|--|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform | <b>Agency:</b> 365-Washington State University |
|-----------------------------|--------------------------------|--|

## 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: Richard Rodger | Phone: (360)786-7461 | Date: 01/22/2015 |
| Agency Preparation: Chris Jones     | Phone: 509-335-9682  | Date: 01/27/2015 |
| Agency Approval: Kelley Westhoff    | Phone: 5093350907    | Date: 01/27/2015 |
| OFM Review: Cherie Berthon          | Phone: 360-902-0659  | Date: 01/27/2015 |

## 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.*

SB 5519, Sec. 312 and Sec. 313, allows WSU to contract with marijuana research licensees to conduct research for the following purposes:

- (a) to test chemical potency and composition levels;
- (b) to conduct clinical investigations of marijuana-derived drug products;
- (c) to conduct research on the efficacy and safety of administering marijuana as part of medical treatment; and
- (d) to conduct genomic or agricultural research.

### 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.*

### 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 SB 5519 is dependent upon the number and scope of the marijuana research projects that WSU may participate in as a result of Sec. 312 and Sec. 313 of the bill. Expenditures are indeterminate without an approximation of the volume of expected contracts.

## Part III: Expenditure Detail

## 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.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

|                             |                                |
|-----------------------------|--------------------------------|
| <b>Bill Number:</b> 5519 SB | <b>Title:</b> Marijuana reform |
|-----------------------------|--------------------------------|

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

### Legislation Impacts:

- ☒ Cities: Cities' revenues will decrease from retail sales and use tax exemptions; local law enforcement costs for class C felony; potential establishment of marijuana specialty clinics
- ☒ Counties: Same as above
- ☒ Special Districts: Same as above except for potential training and administrative costs to obtain medical marijuana consultant certificates for public hospital districts.
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

## Part II: Estimates

- ☐ No fiscal impacts.
- ☒ Expenditures represent one-time costs: Election and ordinance costs for local governments
- ☒ Legislation provides local option: Cities and counties may seek voter approval to prohibit marijuana licensees.
- ☒ Key variables cannot be estimated with certainty at this time: Number of retailers who will receive an MMJ endorsement; number of felonies that would result from tampering with MMJ waiver card, or from violating the provisions concerning selling, supplying, or donating MMJ.

### Estimated revenue impacts to:

| Jurisdiction          | FY 2016   | FY 2017     | 2015-17     | 2017-19     | 2019-21      |
|-----------------------|-----------|-------------|-------------|-------------|--------------|
| City                  | (241,944) | (574,081)   | (816,025)   | (1,824,946) | (2,548,802)  |
| County                | (246,746) | (585,476)   | (832,222)   | (1,861,171) | (2,599,394)  |
| Special District      | (238,960) | (567,002)   | (805,962)   | (1,802,443) | (2,517,373)  |
| <b>TOTAL \$</b>       | (727,650) | (1,726,559) | (2,454,209) | (5,488,560) | (7,665,569)  |
| <b>GRAND TOTAL \$</b> |           |             |             |             | (15,608,338) |

### Estimated expenditure impacts to:

|                             |
|-----------------------------|
| <b>Indeterminate Impact</b> |
|-----------------------------|

## Part III: Preparation and Approval

|  |                       |                  |
|--|-----------------------|------------------|
| Fiscal Note Analyst: Amber Siefer      | Phone: 360-725-2733   | Date: 02/02/2015 |
| Leg. Committee Contact: Richard Rodger | Phone: (360)786-7461  | Date: 01/22/2015 |
| Agency Approval: Steve Salmi           | Phone: (360) 725 5034 | Date: 02/02/2015 |
| OFM Review: Chris Stanley              | Phone: (360) 902-9810 | Date: 02/02/2015 |

## **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 provides retail sales-and-use tax exemptions for retailers that receive endorsements from the Department of Health (DOH) for the sale of "medical grade marijuana" (MMJ) to qualifying patients and qualifying providers.

Section 202 defines "medical grade marijuana" as marijuana concentrates, useable marijuana, marianuan-infused products, and plants that are beneficial to qualifying patients per new Section 308. The "medical use of marijuana" is amended to include transportation, delivery, ingestion, and application of MMJ. Posttraumatic Stress Disorder (PTSD) is included in the list of allowable conditions for the use of MMJ.

Section 303 allows the State Liquor and Cannabis Board (SLCB) to adopt rules concerning identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all MMJ products.

Section 304 allows the SLCB to adopt rules concerning determining the maximum number of retail outlets that may be licensed in each county, and for the number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients, in consultation with the Office of Financial Management (OFM). SLCB is allowed to adopt rules concerning quantities of MMJ products.

New Section 308 allows an endorsed marijuana retailer to sell MMJ that has THC concentration of 0.3 percent or less to qualifying patients or designated providers possessing a valid waiver card at no charge.

New Section 311 requires the DOH to develop recommendations on establishing medical marijuana specialty clinics, and a medical marijuana consultant certificate per new Section 611.

New sections 401 and 402 the retail sales and use taxes levied per RCW 82.08.020, and RCW 82.12, shall not apply to the sale of marijuana concentrates, useable marijuana, immature plants, or marijuana-infused products with a low THC, high CBD ratio. Beginning July 1, 2015, the retail sales tax exemption applies to MMJ, or marijuana products with a THC concentration of 0.3 percent or less, sold by marijuana retailers who hold endorsements per section 308. Until September 1, 2015, the use tax exemption applies to MMJ and marijuana products with a THC concentration of 0.3 percent or less, sold by collective gardens. Operating a collective garden and having a business license and history of paying sales tax to the Department of Revenue (DOR) may be factors used to establish the experience and qualifications of an applicant for a license to produce, process, or sell marijuana per section 302.

Section 501 amends the Uniform Controlled Substances Act so that the provisions of this bill do not constitute a violation of Washington State law.

New Section 605 creates a class C felony for knowingly creating, presenting, or tampering with a medical marijuana waiver card; selling marijuana grown for a qualifying patient; or supplying or donating more than one ounce of useable marijuana.

Section 606 establishes that law enforcement officers may not be held civilly liable for failure to seize marijuana in the amounts permitted under RCW 69.50.4013.

Sections 607 through 608 allow qualifying patients or designated providers to establish an affirmative defense if they are in possession of marijuana products in excess of the amounts allowed per RCW 69.50.4013, with certain exceptions. A class C felony is repealed in Section 609.

New Section 701 allows cities, towns, and counties to adopt an ordinance to decrease the 1,000-foot perimeter requirement by up to 500 feet, and to adopt an ordinance to prohibit licensed marijuana premises from locating within 1,000 feet from a church.

New Section 702 requires cities, towns, and counties to seek voter-approval to enact an ordinance to prohibit or place a moratorium on marijuana licensees.

### **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 are indeterminate costs for cities and counties that would enact ordinances regarding distance requirements per this bill, or to place

a prohibition or moratorium on marijuana licensees. In order to enact an ordinance that would prohibit marijuana licensees, voter approval must be sought. A range of ordinance and election costs are provided at the end of this section for illustrative purposes.

There are also indeterminate prosecution, defense, and local law enforcement costs for the class C felony created in new Section 605. The Caseload Forecast Council (CFC) reports there is no data available to estimate the expected incidences or sentences resulting from the new felony offense. However, CFC concludes the new felony offense would be punishable by a standard range term of confinement of 0-12 months in jail for adults, 0-30 days in local detention, and 15-36 weeks in a Juvenile Rehabilitation Administration facility for juvenile offenders. Therefore, impacts would be on jail beds for adults, and on local detention and juvenile rehabilitation beds.

The Washington Defender Association estimates statewide under 100 defense cases resulting from the possession of marijuana by medical users including those operating co-ops. Of these, it is not certain how many were for felony or misdemeanor charges. If we assume that 70 percent of these cases were related to a felony charge, or 70 (100 x .7), for illustrative purposes, we can deduce the following costs:

Local Government Fiscal Note Program (LGFN) estimates the resulting law enforcement cost for a new class C felony charge in the drug crime category to be \$2,955 per case, for a total law enforcement cost of \$206,850 (70 x \$2,955). Prosecution costs relating to felony charge in the drug crimes category is \$3,125 (including the cost of appeals) per case, for a total prosecution costs of \$218,750 (70 x \$3,125). Defense costs resulting from a felony in the drug crime category are \$3,298 (including the cost of trial and appeal) per case, for a total defense cost of \$230,860 (70 x \$3,298). Therefore, the total estimated costs relating to this bill for law enforcement, defense, and prosecution are \$656,460 (\$206,850 + 218,750 + 230,860).

#### ORDINANCE COSTS:

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.

#### LOCAL ELECTION COSTS:

County auditor election departments conduct elections on behalf of special taxing districts, cities, counties, state government, and federal government. Each county bills its local jurisdictions for a prorated share of the cost of each election. Election costs include both fixed and variable costs related to a specific election. The cost to a jurisdiction varies significantly depending on how many other jurisdictions share the specific election date. If there are many sharing a date, each jurisdiction's share of the costs are lower. November general elections have the most participating jurisdictions so the cost to individual jurisdictions is lower. Conducting a one-issue election on a special election date usually leads to much higher costs.

For example, if a city of around 25,000 population located in one of the Puget Sound counties ran its election in November it would likely cost between \$2,000 and \$4,000. The same election held on a special election date by itself might cost as much as \$75,000, ranging from \$0.20 per voter to almost \$3 per voter.

Alternatively, in a county with 1.1 million voters the cost would likely be \$1.1 million if the election were held in November. Costs in the August primary would likely range from \$1.3 million to \$1.6 million (depending on how many other jurisdictions participate). Running a stand-alone election on a special election date in May or June would cost \$3 million. These costs range from \$1 to \$3 per voter.

#### BACKGROUND:

In a study released by the Rand Corporation's Drug Policy Research Center on behalf of the Liquor Control Board, it was estimated that in 2013 there were 750,000 people who use cannabis in the state. Of those, non-growing medical users make up between 20 to 40 percent of daily to near-daily users. Six percent of those surveyed reported they had obtained medical marijuana from a medical marijuana dispensary. According to the Caseload Forecast Council's "2013 Washington State Adult Sentencing Guidelines Manual," drug offenses committed on or after July 1, 2013, are divided into three seriousness levels and sentenced according to the current drug grid under RCW 69.50, which assigns an offender score ranging from zero to nine plus. 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 marijuana, or to further determine if the person was qualified to use marijuana for medical purposes.

## 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.*

The retail sales and use tax exemptions provided in this bill would result in revenue losses for local governments .

### METHODOLOGY:

The distributions in this note for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2012. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. This results in a distribution of 33.91 percent to counties, 33.25 percent to cities, and 32.84 percent to special districts. The 1 percent DOR administrative fee has also been deducted.

### BACKGROUND:

Retail sales and use tax is currently imposed on all tangible personal property.

### SOURCES:

Department of Revenue fiscal note

Department of Revenue Local Tax Distributions

Caseload Forecast Council fiscal note

Caseload Forecast Council "2013 Washington State Adult Sentencing Guidelines Manual"

Joint Legislative Audit and Review Committee fiscal note

Local Government Fiscal Note Program (LGFN) unit-cost data

Washington Association of Sheriffs and Police Chief's staff and report on "Crime in Washington 2013"

Washington Association of Prosecuting Attorneys

Rand Corporation, "Before the Grand Opening. Measuring Washington State Marijuana Market in the Last Year Before Legalized Commercial Sales"

Washington Defender Association