

Multiple Agency Fiscal Note Summary

Bill Number: 5064 SB	Title: Personal information
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Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Consolidated Technology Services	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Department of Health	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Total \$	0	0	0	0	0	0

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Consolidated Technology Services	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Washington State Patrol	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Licensing	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Social and Health Services	Fiscal note not available								
Department of Health	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

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 Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Consolidated Technology Services	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Department of Licensing	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	Fiscal note not available								
Department of Health	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

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

** See local government fiscal note

FNPID: 55292

FNS029 Multi Agency rollup

Estimated Capital Budget Breakout

NONE

Prepared by: Bryan Way, OFM	Phone: (360) 902-0650	Date Published: Preliminary 2/ 5/2019
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note
FNPID: 55292

Individual State Agency Fiscal Note

Bill Number: 5064 SB	Title: Personal information	Agency: 100-Office of Attorney General
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Part I: Estimates

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No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact:	Phone:	Date: 01/14/2019
Agency Preparation: Stacia Hollar	Phone: (360) 664-0865	Date: 01/15/2019
Agency Approval: Nick Klucarich	Phone: 360-586-3434	Date: 01/15/2019
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 01/16/2019

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.

No fiscal impact. This legislation is not expected to generate any costs or savings for the Attorney General's Office (AGO). The AGO completed an analysis for legal services and fiscal impact from the most likely state agencies.

The AGO's Consumer Protection (CPR) and the Medicaid Fraud divisions have reviewed this bill and determined it will not significantly increase or decrease the division's workload with respect to data breach notification or enforcement of RCW 19.255. While the changes will result in more data breach notices being filed, and the possibility of additional enforcement action, any additional work is assumed nominal. New legal services are assumed to be nominal and costs are not included in this request.

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.

Part III: Expenditure Detail

Part IV: 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.

Individual State Agency Fiscal Note

Bill Number: 5064 SB	Title: Personal information	Agency: 163-Consolidated Technology Services
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Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒

If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐

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

☐

Capital budget impact, complete Part IV.

☐

Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 01/14/2019
Agency Preparation: Christina Winans	Phone: 360-407-8908	Date: 01/22/2019
Agency Approval: Tim Gallivan	Phone: (360) 407-8215	Date: 01/22/2019
OFM Review: Bryan Way	Phone: (360) 902-0650	Date: 01/23/2019

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.

Summary:

The proposed legislation amends the state security breach statute, which applies to both state agencies and private businesses. It strengthens consumer protections by broadening the definition of Personally Identifiable Information (PII) and requires agencies and businesses to provide more detail on the nature of a breach. It also shortens the time period to notify the public of a breach from 45 to 30 days.

Bill Analysis:

Section 1-4 applies to businesses and not state agencies. Changes would be important to note for Vendor management purposes, and mirror the changes stated below that are applicable to state agencies.

Section 2 removes the specific grant of authority to the Attorney General to bring suit on behalf of the state to enforce the statute. However, retains general authority under the Consumer Protection Act.

Section 5

The additional language “or otherwise possesses” impacts WaTech, since the agency possesses a significant amount of customer data. Currently, the law as written holds the data owner liable for the breach and requires the data possessor to notify the owner.

The proposed amendment also removes the requirement for the data to be that of a Washington resident, hence expanding the scope of the liability.

Notification requirements are altered to:

- Add reporting a timeline of when the breach began, when it was discovered, the containment date, and all windows of intrusion to the notification requirements.
- Provide AGO notice of the breach within 14 days after the breach was discovered
- Additional new requirements on the AGO notice include:
- A list of the type of personal information believed to be the subject of the breach
- A timeline of when the breach began, when it was discovered, the containment data, and all windows of intrusion;
- A summary of containment efforts; and
- A single sample copy of the security breach notification, redacting any personal information.

If the information is unknown at the time of filing with the AGO, the AGO shall be updated with the information as it is discovered during the investigation.

The notice requirement timeline is shortened from 45 days to 30 days.

The definition of personally identifiable information is expanded to include a person’s first name or first initial and last name in combination with the following new items:

- Full date of birth
- Any numbers or information that can be used to access a person’s financial resources.
- Digital signature
- Student, military or passport ID numbers

- Health Insurance policy numbers or identification numbers
- Information about a consumer's medical history or mental/physical condition or about a health care professional's medical diagnosis or treatment
- Biometric data such as fingerprints, voiceprints, eye retina, irises, or other unique biological patterns used to identify a specific individual.
- User name or email address in combination with the password or security questions & answers that would permit access to an online account
- The section applies to all of the defined areas of PII without first name or first initial and last name if the data was not encrypted, redacted, or made otherwise unusable AND the combination of the data elements would enable a person to commit identity theft against a consumer.

Section 6 retains the Health Insurance and Portability and Accountability Act of 1996 (HIPAA) exemption, meaning compliance with federal law is deemed compliance with the state breach law.

Section 7 retains the remedies available for non-compliance with the statute. Including a private right of action.

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.

Indeterminate Impact.

The Office of Cybersecurity (OCS) is funded by an appropriation via the Consolidated Technology Revolving Account (458-1). Revenues for these services are collected from state agencies and are allocated to the agencies through the central service model. It is assumed that the allocations in the central services model will be adjusted by the Legislature to ensure OCS revenues are sufficient to support the required expenditures.

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.

Indeterminate Impact

1. WaTech does not know when the next data breach will occur or how many people it will impact (as it's subject to the dataset that is compromised).
2. WaTech does not know how much staff time and other resources it will take to identify the identities of those subject to the data breach with the expanded definitions.
3. Because WaTech does not know how many people will have their data breached, the agency does not know how much mailing costs will be to notify them of the breach.

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.

None.

Individual State Agency Fiscal Note

Revised

Bill Number: 5064 SB	Title: Personal information	Agency: 225-Washington State Patrol
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Part I: Estimates

☒ No Fiscal Impact

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact:	Phone:	Date: 01/14/2019
Agency Preparation: Kendra Sanford	Phone: 360-596-4080	Date: 01/24/2019
Agency Approval: Walter Hamilton	Phone: 360-596-4046	Date: 01/24/2019
OFM Review: Erik Hansen	Phone: 360-902-0423	Date: 01/24/2019

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.

After discussion with the Office of Financial Management, the interpretation of this bill are requirements in response to a security breach. This is in contrast to initial interpretation of requirements associated with identifying, responding, reporting, and preventing a security breach.

Senate Bill 5064 amends RCW 19.255 and RCW 42.56 by adding required elements when reporting a security breach, changing the timeline of reporting a security breach to the Attorney General's Office to no more than 14 days after a breach is discovered, and changing the timeline of reporting a security breach to affected consumers to no more than thirty days after a breach is discovered.

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 will be received by the Washington State Patrol (WSP) upon passage of this 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.

Currently, our Information Technology Division (ITD) has two FTEs working the information technology (IT) security program and are only able to identify when a security breach is discovered and when it is contained.

The added reporting requirements - a timeline of when a breach began, all windows of intrusion, a list of the types of personal information taken and/or believed to be taken, and a summary of the containment efforts - cannot be met with current tools and staff.

To meet the proposed required reporting elements and the shorter timeline, we will need additional FTEs, contracted assistance, and security tools.

We need two Information Technology Specialist 5 positions in order to meet a security breach and reporting requirements. Estimates for salaries are based on January 1, 2019, Step L rates, and benefits are based on July 1, 2018 rates. Estimates for goods and services, travel and equipment are based on our rule-of-thumb costs per FTE, which are derived from historical expenditures. Expenditures are rounded to nearest thousand.

Estimates include our indirect cost rate. Indirect costs are based on our negotiated federal rate of 27.69%. We calculate this rate on all categories of expenditures except capitalized equipment and contracted services over \$25,000. The rate represents the agency's administrative support costs associated with this bill. Support costs include, but are not limited to, items such as computer and telecommunications support; payroll processing; vendor payments; contract administration; ordering, accounting for and distribution of supplies; and human resource services.

The proposed changes expand the definition of Personally Identifiable Information (PII). This impacts the agency in what it currently knows about the data it currently uses and retains. Based on this new definition, we do not have a complete inventory of information we retain internally, share with partner organizations and release

to the public. These changes impact data sharing agreements, system security requirements, and the publishing of reports. We need 320 hours of contractor assistance to gather all data elements and data record types into a repository so PII data sources can be properly identified protected and, in a breach, properly identified. We anticipate the costs for these contractor services to be \$32,000.

We cannot adequately identify all the proposed reporting requirements. We have identified the following security tools to improve our current ability to meet the requirements.

Security Event Incident Management – Includes a set of practices, system logs, and tools that allow security staff to reconstruct the activity surrounding a security incident to identify the root cause and implement a solution.

Identity Management and Threat Analytics – Provides current identity management technology to improve security threat analytics and user identification.

These tools require ongoing annual payments for continued use. The Security Event Incident Management tool has a one-time consulting service cost, which we assume will be paid within the first year, as well as annual training costs.

The funding allocation for this estimate is based on the results of the Joint Legislative Audit and Review Committee (JLARC) cost allocation model approved by both the Transportation and the Omnibus Budget Committees in the 2018 Supplemental Budget. The model analyzes costs and relevant activities (hours, transactions, type of enforcement, etc.) of the WSP divisions funded by two or more sources to ensure a consistent and fair use of state resources.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Senate Bill 5064 has no effect on WSP's capital budget.

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.

Senate Bill 5064 does not require rule changes.

Individual State Agency Fiscal Note

Bill Number: 5064 SB	Title: Personal information	Agency: 240-Department of Licensing
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Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒

If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐

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

☐

Capital budget impact, complete Part IV.

☐

Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 01/14/2019
Agency Preparation: Jon Neville	Phone: 360-902-3615	Date: 01/18/2019
Agency Approval: Ellie McMillan	Phone: 360-902-3642	Date: 01/18/2019
OFM Review: Veronica Jarvis	Phone: (360) 902-0649	Date: 01/18/2019

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.

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.

Part III: Expenditure Detail

Part IV: 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.

Individual State Agency Fiscal Note

Agency 240 – Department of Licensing

Bill Number: SB 5064

Bill Title: Personal Information

Part 1: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts:

Account Name	Account	FY 20	FY 21	19-21 Total	21-23 Total	23-25 Total
Account Totals		-	-	-	-	-

Estimated Expenditures:

Non-zero but indeterminate cost. Please see discussion
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Check applicable boxes and follow corresponding instructions.

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

Legislative Request: Steven Puvogel	Phone: 360-902-0576	Date: 01/16/19
Agency Preparation: Jon Neville	Phone: 360-902-3615	Date: 01/18/19
Agency Approval: Justin Leppa/Ann Bruner	Phone: 360-902-3644	Date: 01/18/19

Request #	1
Bill #	5064 SB

Part 2 – Explanation

2.A – Brief Description on what the measure does and how it has a fiscal impact

This bill changes the definitions for personal information and what agencies must do in the event of a breach of security systems. It adds new definitions for “breach of the security of the system” and “personal information” including driver license number or ID card number, and financial information. It removes the requirement that a “person” must be a resident of this state in order to receive notification of a breach.

It amends language to include any agencies that not only own and license, but also “possess” data that includes personal information. This bill adds the requirement of impacted agencies to provide notice to the AGO when a breach of security of personal information occurs, including a timeline of the events of a breach, containment efforts, and copies of the notifications. Additionally, the bill changes the notification period to consumers from 45 days to 30 days.

The bill defines that any waiver of this act is void and unenforceable, that any consumer may seek civil action to recover damages, and that any agency that violates this section may be enjoined in an associated lawsuit.

This bill is effective 90 days past Sine Die.

2.B - Cash Receipt Impact

None.

2.C – Expenditures

Indeterminate.

The cost to notify impacted people no longer residing in Washington State is unknown.

The additional costs to notify impacted people that no longer reside in Washington State will vary depending on the magnitude of the breach. DOL’s system (Omnix) only allows for regional search queries. There is no option for a nationwide or global query, and locating people that have left the United States could prove to be very difficult. Therefore, additional staff could be needed to locate and send notifications to out-of-state people who are impacted by a breach. Since the number of out-of-state people impacted would vary depending on the breach, it is not possible to estimate FTEs needed to complete the notification process.

If DOL systems are breached, DOL would bear the cost of notifying those impacted. However, if another entity, who is a recipient of DOL’s data is breached, it is the burden of the recipient to pay for all costs of the breach. Therefore, in some scenarios the additional costs to DOL to notify those impacted that no longer reside in Washington could be zero.

In summation, the fiscal impact of this bill varies based upon the source of the breach and the amount of people impacted, which makes estimating the fiscal impacts of this bill indeterminate.

Part 3 – Expenditure Detail

3.A – Expenditures by Object or Purpose

Indeterminate.

3.A.1 – Detail of Expenditures by Sub-Object (Goods and Services Only)

Indeterminate.

3.B – FTE Detail

Indeterminate.

3.C – Expenditures by Program (Optional)

Indeterminate.

Part 4 – Capital Budget Impact

None.

Part 5 – New Rule Making Required

None.

Individual State Agency Fiscal Note

Revised

Bill Number: 5064 SB	Title: Personal information	Agency: 303-Department of Health
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Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒

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

☐

Capital budget impact, complete Part IV.

☐

Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 01/14/2019
Agency Preparation: Stacy May	Phone: (360) 236-4532	Date: 01/30/2019
Agency Approval: Stacy May	Phone: (360) 236-4532	Date: 01/30/2019
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 01/30/2019

Part II: Narrative Explanation

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

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

The Department of Health (DOH) assumes the expanded definition of “personal information” in the data breach notice laws will not result in an increase of incidents subject to the modified data breach notice requirements. DOH is unable to identify when the next data breach might occur or how many people it might impact and therefore cannot estimate how much staff time and other resources it will take to identify the identities of those subject to a data breach. Consequently DOH is also unable to estimate the mailing costs associated with notifying individuals of a breach. Because of these unknowns, DOH is unable to determine the fiscal impact associated with this 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.

None.

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.

None.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5064 SB	Title: Personal information
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: Increased costs due to disclosing any breach of the security system to any person who was impacted, if there was risk of harm.
- ☒ Counties: Same as above
- ☒ Special Districts: Same as above
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: There is no way to estimate how many breaches of security there will be, how large each breach will be, or how many of those breaches will be likely to subject consumers to risk of harm.

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Rebecca Duncan	Phone: 360-725-5040	Date: 02/05/2019
Leg. Committee Contact:	Phone:	Date: 01/14/2019
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/05/2019
OFM Review: Bryan Way	Phone: (360) 902-0650	Date: 02/05/2019

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 legislation would expand the definition of personal information and modify data breach notice requirements for various parties. In particular, agencies (state or local) that possess data with personal information would have to disclose any breach of the security of the system to any person 1) whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured; or 2) if the breach is reasonably likely to subject consumers to risk of harm.

Section 1 defines definitions to apply to chapter 19.255 RCW, including expanding the definition of personal information.

Section 2 amends legislation regarding data breach notice requirements for people or businesses that conducts business in this state.

Section 3 creates a new section in chapter 19.255 RCW regarding entities covered under the federal health insurance portability and accountability act.

Section 4 adds a new section to Chapter 19.255 RCW that voids waivers to this chapter and also outlines the actions the Attorney General's Office (AGO) may take toward a violator.

Section 5 amends RCW 42.56.590 to include agencies that not only own or license but also "possess" data that includes personal information. It adds the requirement to provide notice to the AGO when a breach of security of personal information occurs.

Section 6 creates a new section in chapter 42.56 RCW regarding entities covered under the federal health insurance portability and accountability act.

Section 7 creates a new section in chapter 42.56 RCW that voids waivers to this chapter and discusses options for addressing violations of this section.

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.

This legislation would have indeterminate impact on local governments.

Section 5 amends current code so that any agency (state or local) that possesses data that includes personal information would need to disclose any breach of the security of the system to any person whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. Alternatively, the agency must notify people if breach is reasonably likely to subject consumers to risk of harm. Within this chapter (42.56), "agency" includes all state agencies and all local agencies, and "local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

The law as it is currently in effect states that agencies must do this if there is a breach for any data that they own or license, so adding the requirement that agencies possessing personal information would need to notify each of those people of the breach may not change processes too much. However, it may slightly increase costs by expanding the pool of data that agencies would need to be monitoring for security, and potentially increasing the number of people that would need to be notified in the case of a security breach. The costs will likely look different for different local government agencies, and there are some agencies that expect no impact. For example, the Washington Association of Sheriffs and Police Chiefs (WASPC) anticipates no impact to local law enforcement agencies, because criminal justice agencies are required to use IT systems certified by the CJIS division of the FBI to prevent unauthorized access. The Washington Association of County Officials (WACO) also note that there would be indeterminate expenditure impacts to county clerks. Therefore, impacts to local government expenditures from section 5 are indeterminate.

According to the Washington State Association of Local Public Health Officials (WSALPHO), sections regarding the health insurance portability and accountability act (HIPAA) would also impact local health jurisdictions (LHJs). Since LHJs provide some medical care, they are subject to HIPAA and state confidentiality laws so they would be subject to this bill. Fiscal impact would depend on the size of the breach, and the number and size of security breaches cannot be estimated. But this happens very rarely for LHJs because of the type of medical care they provide, so we anticipate impact to LHJs to be minimal.

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.

This legislation would have no impact on local government revenues.

SOURCES:

Washington State Association of Counties

Washington State Association of Local Public Health Officials

Office of Financial Management

Washington Association of Sheriffs and Police Chiefs