

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5759 SB	<b>Title:</b> Remote technology/eye exams
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## Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	357,500	0	370,000	0	370,000
<b>Total \$</b>	<b>0</b>	<b>357,500</b>	<b>0</b>	<b>370,000</b>	<b>0</b>	<b>370,000</b>

## 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	1.4	0	357,500	1.5	0	370,000	1.5	0	370,000
Department of Health	1.9	0	707,000	1.8	0	698,000	2.3	0	698,000
<b>Total \$</b>	<b>3.3</b>	<b>0</b>	<b>1,064,500</b>	<b>3.3</b>	<b>0</b>	<b>1,068,000</b>	<b>3.8</b>	<b>0</b>	<b>1,068,000</b>

## 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
Department of Health	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

NONE

<b>Prepared by:</b> Bryce Andersen, OFM	<b>Phone:</b> (360) 902-0580	<b>Date Published:</b> Final 2/21/2019
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID: 56325

FNS029 Multi Agency rollup

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5759 SB	<b>Title:</b> Remote technology/eye exams	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

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No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Legal Services Revolving Account-State 405-1	172,500	185,000	357,500	370,000	370,000
<b>Total \$</b>	172,500	185,000	357,500	370,000	370,000

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	1.4	1.5	1.4	1.5	1.5
<b>Account</b>					
Legal Services Revolving Account-State 405-1	172,500	185,000	357,500	370,000	370,000
<b>Total \$</b>	172,500	185,000	357,500	370,000	370,000

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

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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).

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Capital budget impact, complete Part IV.

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Requires new rule making, complete Part V.

Legislative Contact: Greg Attanasio	Phone: 360-786-7410	Date: 02/11/2019
Agency Preparation: Michael Shinn	Phone: 360-759-2122	Date: 02/15/2019
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/15/2019
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 02/18/2019

## 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.*

All sections are new sections.

Section 2 is an intent section.

Section 3 is a definitions section. Department is defined as Department of Health (DOH).

Section 4 allows qualified vision care providers to write prescriptions for corrective lenses by remote technology under specified circumstances.

Section 5 makes it unlawful to make remote technology available under the chapter without complying with the required standards set out in the section.

Section 6 allows disciplinary authorities as defined in RCW 18.130.020 to address violations of the chapter with written warnings and civil penalties. At the request of DOH, the Attorney General's Office (AGO) may file civil actions seeking injunctive or other relief to enforce the chapter.

Section 7 requires DOH to adopt any rules necessary to implement the chapter.

### 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.*

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is DOH. The AGO will bill the client for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

### 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.*

AGO Agency Assumptions:

1. This bill is assumed effective 90 days after the end of the 2019 legislative session.
2. This request does not include cost of living salary increases identified in the Governor's proposed 2019-21 budget.

Assumptions for the AGO AHD Legal Services for DOH:

1. The AGO will bill DOH for legal services based on the enactment of this bill.
2. This bill will regulate the use of remote technology for eye examinations by prescribing qualified vision care providers, which includes physicians, optometrists and osteopaths. These providers will be held to the same standard of care applicable to providers practicing in a traditional clinical setting. In addition to disciplinary action authorized under the Uniform Disciplinary Act, this bill authorizes civil monetary penalties for violations and would authorize the attorney general to file a civil action to seek an injunction or other appropriate relief.
3. AHD estimates providing 20 hours of legal advice for rulemaking to implement the bill in FY 2020, as provided in Section 7. This assumption is based on the relatively limited scope of the needed rulemaking and past experience in advising DOH on rulemaking.
4. Section 6-3 authorizes DOH to request the AGO to file civil actions to enforce the requirements in the bill. It is assumed that AHD will provide such actions given at the request of DOH.
5. AHD assumes the initiation one civil action per FY under Section 6- 3. Such actions are assumed to be relatively infrequent given the option of enforcement through the established administrative disciplinary system.
6. Based on past experience litigating disciplinary actions, AHD assume an average of 160 hours per civil action.
7. Total workload impact:  
FY 2020: 0.10 AAG and 0.05 Legal Assistant (LA) at a cost of 22,500.  
FY 2021 and in each FY thereafter: 0.09 AAG and 0.05 LA at a cost of \$21,000.

Assumptions for the AGO Government Compliance & Enforcement Legal Services for DOH:

1. The AGO will bill DOH for legal services based on the enactment of this bill.
2. GCE litigates health disciplinary cases brought by health care provider boards and commissions. This includes the Medical Quality Assurance Commission, the Board of Osteopathic Medicine and Surgery and the Optometry Board.
3. This bill regulates the use of remote technology for eye examinations by prescribing qualified vision care providers, which includes physicians, optometrists and osteopaths. These providers will be held to the same standard of care applicable to providers practicing in a traditional clinical setting. In addition to disciplinary action authorized under the Uniform Disciplinary Act, this bill will authorize civil monetary penalties for violations and will authorize the AGO to file a civil action to seek an injunction or other appropriate relief.
4. DOH assumes that they will see an increase of 50 complaints per year beginning in FY 2020 as a result of this bill. Based on past experience with the percentage of complaints submitted to DOH for vision care providers that have resulted in a Statement of Charges or a Stipulation of Informal Discipline, DOH assumes that the AGO will see an increase of approximately 5 new disciplinary cases for litigation each year as a result of this bill. GCE agrees with this assumption.
5. Based on past experience with litigating disciplinary actions relating to standard of care violations for this client, GCE assumes that 800 Assistant Attorney General (AAG) hours and 800 Paralegal (PL) hours for the

review, preparation and settlement or hearing of 5 new disciplinary cases beginning in FY 2020 and continuing each year thereafter.

6. GCE further assume that beginning in FY 2021 and continuing each year thereafter, a need for an additional 100 AAG hours of work is required for the litigation of 1 new judicial review case each year.

7. GCE assumes that the total impact of this bill would be an increase of 800 AAG hours and 800 PL hours in FY 2020, and an increase of 900 AAG hours and 800 PL hours beginning in FY 2021 and continuing each year thereafter.

8. Total workload impact:

FY 2020: 0.44 AAG, 0.44 PL and 0.22 Legal Assistant (LA) at a cost of 150,000.

FY 2021 and in each FY thereafter: 0.50 AAG, 0.44 PL and 0.25 LA at a cost of \$164,000.

Note: Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
405-1	Legal Services Revolving Account	State	172,500	185,000	357,500	370,000	370,000
<b>Total \$</b>			172,500	185,000	357,500	370,000	370,000

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	1.4	1.5	1.4	1.5	1.5
A-Salaries and Wages	108,000	116,000	224,000	232,000	232,000
B-Employee Benefits	38,000	41,000	79,000	82,000	82,000
E-Goods and Other Services	23,500	25,000	48,500	50,000	50,000
G-Travel	1,000	1,000	2,000	2,000	2,000
J-Capital Outlays	2,000	2,000	4,000	4,000	4,000
<b>Total \$</b>	172,500	185,000	357,500	370,000	370,000

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

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Assistant Attorney General	103,560	0.5	0.6	0.6	0.6	0.6
Legal Assistant 3	51,004	0.3	0.3	0.3	0.3	0.3
Management Analyst 5	77,614	0.1	0.1	0.1	0.1	0.1
Paralegal 2	65,288	0.4	0.4	0.4	0.4	0.4
<b>Total FTEs</b>		1.4	1.5	1.4	1.5	1.5

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

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Agriculture & Health Division (AHD)	22,500	21,000	43,500	42,000	42,000
Government Compliance & Enforcement Division (GCE)	150,000	164,000	314,000	328,000	328,000
<b>Total \$</b>	172,500	185,000	357,500	370,000	370,000

**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

# Individual State Agency Fiscal Note

Revised

<b>Bill Number:</b> 5759 SB	<b>Title:</b> Remote technology/eye exams	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

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No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	2.0	1.8	1.9	1.8	2.3
<b>Account</b>					
Health Professions Account-State 02G-1	358,000	349,000	707,000	698,000	698,000
<b>Total \$</b>	358,000	349,000	707,000	698,000	698,000

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

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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: Greg Attanasio	Phone: 360-786-7410	Date: 02/11/2019
Agency Preparation: Donna Compton	Phone: (360) 236-4538	Date: 02/21/2019
Agency Approval: Stacy May	Phone: (360) 236-4532	Date: 02/21/2019
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 02/21/2019

## 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.*

This bill adds a new chapter to Title 18 RCW, Businesses and Professions, allowing qualified vision care providers (Washington licensed optometrists, physicians, or osteopathic physicians) to provide remote vision services.

Section 6: Requires the relevant disciplinary authority for the qualified vision care provider to review any written complaint alleging a violation, or attempted violation, of this chapter or rules adopted pursuant to this chapter, and conduct an investigation.

Section 7: The department shall adopt any rules necessary to implement this chapter.

### 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.*

Current law RCW 43.70.250 requires that the health professions administered by the Department of Health (department) be fully self-supporting and that sufficient revenue be collected through fees to fund expenditures in the Health Professions Account. The department does not see the need to adjust fee levels as a result of this bill. The department will monitor the fund, and will adjust fees over a six (6) year period to ensure that the fees are sufficient to cover all 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.*

#### Rulemaking

There will be one-time costs for multi-profession rulemaking in fiscal year (FY) 2020 to adopt rules necessary to implement this bill. Rulemaking will consist of four stakeholder meetings as well as one formal rules hearing. One-time rulemaking costs will include staff-time, board and commission member time, travel, Office of the Attorney General support in the amount of \$1,500 and related costs. Costs in FY 2020 will total 0.1 FTE and \$12,000.

#### Discipline

This bill requires the disciplinary authority conduct and investigation on all complaints. As of October 2018 there were seventeen (17) online eye exam apps maintained by the American Optometric Association. At this time the department is not aware of any current trends in complaints associated with remote eye exams, therefore the department anticipates receiving roughly three (3) complaints per online eye exam app for a total of fifty (50) complaints per year.

The complaint response process includes five steps: 1) intake, 2) assessment, 3) investigation, 4) case disposition, and 5) adjudication. Staff review the complaint, identify the history of the person complained about, and help assess whether an investigation is needed. In more than half the cases, investigation is needed. The



investigator obtains information about the complaint and the respondent and prepares a report detailing the findings. After investigation, the disciplining authority decides whether to pursue legal action. Staff attorneys, paralegals, and other staff work to develop the legal documents and charge the violation. Most cases are settled, and the staff attorney manages that process. If the respondent asks for a hearing, staff must schedule the hearing, and the health law judge considers all legal motions, presides over the hearing, and drafts the final order.

In conjunction with the Office of the Attorney General, the department assumes that beginning in FY 2020 roughly 10% of these complaints will proceed to administrative litigation, along with one civil injunction case per year. Costs in FY2020 include 1.9 FTE staff time, travel, and Attorney General support of \$172,000 for a total of \$346,000. Starting in FY 2021 and ongoing, the department assumes one additional judicial review case each year that will include 1.8 FTE staff time, travel and Attorney General support of \$185,000 for a total cost of \$349,000 each year thereafter.

Total cost to implement this bill are 1.9 FTE and \$358,000 in FY 2020. Starting in FY 2021, ongoing costs total 1.8 FTE and \$349,000 each year.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
02G-1	Health Professions Account	State	358,000	349,000	707,000	698,000	698,000
<b>Total \$</b>			358,000	349,000	707,000	698,000	698,000

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	2.0	1.8	1.9	1.8	2.3
A-Salaries and Wages	120,000	108,000	228,000	216,000	216,000
B-Employee Benefits	42,000	38,000	80,000	76,000	76,000
C-Professional Service Contracts					
E-Goods and Other Services	184,000	196,000	380,000	392,000	392,000
G-Travel					
J-Capital Outlays	3,000		3,000		
T-Intra-Agency Reimbursements	9,000	7,000	16,000	14,000	14,000
<b>Total \$</b>	358,000	349,000	707,000	698,000	698,000

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

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Administrative Asst 3	45,096	0.1	0.1	0.1	0.1	0.1
Fiscal Analyst 2	49,020	0.5	0.5	0.5	0.5	0.5
Health Care Investigator	72,036	0.2	0.2	0.2	0.2	0.2
Health Services Consultant 1	51,000	0.5	0.5	0.5	0.5	0.5
Health Services Consultant 2	60,636	0.2	0.2	0.2	0.2	0.2
Health Services Consultant 3	68,580					
Health Services Consultant 4	75,684	0.1		0.1		
Hearing Examiner	87,792	0.2	0.2	0.2	0.2	0.2
Legal Assistnat 2	46,188	0.1		0.1		
WMS02	118,080	0.1	0.1	0.1	0.1	0.6
<b>Total FTEs</b>		2.0	1.8	1.9	1.8	2.3

### 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 7: The department will adopt rules necessary to implement this bill.