

Individual State Agency Fiscal Note

Bill Number: 5020 SB	Title: Rx drug price increases	Agency: 107-Washington State Health Care Authority
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	4.0	3.5	3.8	3.5	3.5
Account					
General Fund-State 001-1	1,128,000	472,000	1,600,000	944,000	944,000
Total \$	1,128,000	472,000	1,600,000	944,000	944,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

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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 Attached Narrative.

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.

See Attached Narrative.

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 Attached Narrative.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	1,128,000	472,000	1,600,000	944,000	944,000
Total \$			1,128,000	472,000	1,600,000	944,000	944,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	4.0	3.5	3.8	3.5	3.5
A-Salaries and Wages	355,000	304,000	659,000	608,000	608,000
B-Employee Benefits	123,000	112,000	235,000	224,000	224,000
C-Professional Service Contracts	550,000		550,000		
E-Goods and Other Services	56,000	49,000	105,000	98,000	98,000
G-Travel	3,000	3,000	6,000	6,000	6,000
J-Capital Outlays	41,000	4,000	45,000	8,000	8,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,128,000	472,000	1,600,000	944,000	944,000

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 2022	FY 2023	2021-23	2023-25	2025-27
IT System Administration- Journey		1.0	0.5	0.8	0.5	0.5
Management Analyst 4		1.0	1.0	1.0	1.0	1.0
Program Specialist 5		1.0	1.0	1.0	1.0	1.0
Washington Management Service WMS2		1.0	1.0	1.0	1.0	1.0
Total FTEs		4.0	3.5	3.8	3.5	3.5

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

See Attached Narrative.

Part V: New Rule Making Required

HCA Fiscal Note

Bill Number: SB 5020

HCA Request #: 21-22

Part II: Narrative Explanation

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

This bill creates penalties for drug manufacturers who are found to have unsupported price increases as published in an annual report by the non-profit Institute for Clinical and Economic Review (ICER).

Section 1 creates a new section where the legislature declares their findings and intent for the bill.

Section 2 creates a new section in a new chapter in Title 69 RCW (Food, Drugs, Cosmetics, and Poisons) that lists the definitions to be used in this chapter:

Section 3 creates a new section in a new chapter that describes the penalty on identified drugs and how the penalty is calculated.

Section 3 (2) the penalty in any calendar year must equal 80 percent of the difference between the revenue generated by sales within the state of identified drugs and the revenue that would have been generated if the manufacturer had maintained the wholesale acquisition cost from the previous calendar year, adjusted for inflation using the consumer price index.

Section 3 (3)(a) states manufacturer is subject to the penalty if the manufacturer has at least \$250,000 in total annual sales.

Section 3 (3)(b) states the manufacture is required to report the drug as a "covered drug" under 43.71C RCW.

Section 3 (4) states Health Care Authority (HCA) must identify manufacturers of identified drugs within 60 days of the annual publication of the ICER unsupported price increase report. HCA must notify manufacturers that the penalty will be levied for the two calendar years following the appearance in the annual publication by ICER.

Section 3(5) states penalties must be collected by HCA annually and manufacturers must pay the penalty by December 31 of the previous calendar year.

Section 3(6) states the information described in subsection five and what it must contact.

Section 3(6)(a) the total amount of sales of identified drug within the state.

Section 3(6)(b) the total number of units sold of the identified drug within the state.

Section 3(6)(c) the wholesale acquisition cost of the identified drug during the reporting period and any changes in the wholesale acquisition cost during the calendar year.

Section 3(6)(d) the wholesale acquisition cost during the previous calendar year.

Section 3(6)(e) the calculation of the penalty owed.

Section 3(6)(f) any other information necessary for HCA to calculate the penalty owed.

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Section 3 (7) states failure for manufacturers to file the information in subsection (6) results in an additional penalty of either greater of 10 percent or \$50,000.

Section 3 (8) requires all revenue collected from the penalty is deposited into the foundational public health services account created under RCW 82.25.015 (Foundational public health services account). This will create a new program for HCA to monitor and review the ICER report annually and identify manufacturers of identified drugs and collect and enforce penalties.

Section 4 (1) states that a manufacturer or distributor of an identified drug must not withdraw that drug from sale or distribution in Washington State (WA) in order to avoid the penalty described in Section 3.

Section 4 (2) states any manufacturer or distributor who intends to withdraw an identified drug from sale or distribution from within WA to avoid a penalty must provide notice of withdrawal in writing to HCA at least 180 days before such withdrawal.

Section 4 (3) states HCA must assess a penalty of \$500,000 per identified drug on any entity, including the manufacturer or distributor of an identified drug, when it determines has withdrawn an identified drug from distribution or sale in WA.

Sec 5 states this act takes effect on October 1, 2021.

Sec 6 creates a new chapter in Title 69 RCW for Sec 1 through Sec 5.

II. B - Cash Receipts Impact

None.

Given the criteria necessary to meet the penalty, HCA believes there will be little to no revenue generated by this legislation as currently written. The Unsupported Price Increase report published by ICER in January 2021 identified seven drugs as 'identified drugs'. Of these seven drugs, none met the criteria of 'covered drug' and were required to be reported to the Drug Price Transparency program. This means HCA could not collect any revenue this year. HCA assumes that future unsupported price increases will also not meet the requirements to report to the Drug Price Transparency program therefore resulting in no revenue.

II. C - Expenditures

HCA requests \$1,128,000 of General Fund-State funding and 4.0 Full Time Equivalent (FTE) staff in the 2021-23 Biennium and \$472,000 of General Fund-State Funding and 3.5 FTE each Biennium thereafter.

Data (Acquisition/Exchange, Analysis, Governance, Measurement):

Staff from HCA Data will assist on this work, including Analysis, Governance, and Measurement. Chief Data Officer will need:

- 1.0 FTE (Management Analyst 4) to lead the extracting, cleaning, data validation, analysis, monitoring and visualization of data for this project. This analyst will determine the amount of sales of drugs occurred in the state using data submitted from manufacturers.
- 1.0 FTE (IT System Admin – Journey) for agency-wide implementation for the first year to build, test, document, train on an external portal for how HCA receives, validates, stores, and uses data

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HCA Request #: 21-22

submitted by external stakeholders. This FTE will reduce to 0.5 FTE for ongoing maintenance of the application.

HCA will also need three licenses for Service Now to track tickets associated with this new process. The three licenses would have an annual cost of \$3,564.00.

Pharmacy (Apple Health Managed Care, Apple Health Fee-for-Service, Employee and Retiree Benefits):

Staff from the HCA Pharmacy Services Unit will lead the work, including staff from the Drug Price Transparency program. The Pharmacy Services Unit will need 1.0 FTE (Program Specialist 5) to support this work.

Other:

1.0 FTE (Washington Management Service-WMS 2 Staff Attorney), this FTE will work in the Division of Legal Services assisting in creating processes assessing a penalty for unsupported price increases and when a manufacturer or distributor withdraws a drug from sales within the state. This position will be responsible for developing criteria in order to determine whether the drug was withdrawn from the market to avoid the penalty or for another reason. They will also create a process for the manufacturer or distributor to dispute the finding, review communications such as notices to manufactures, notices of fines, and consult with Assistant Attorney General on any legal risk to program and agency.

HCA will need \$300,000 of one-time funding for hiring a project manager for one year via contract.

HCA will need \$250,000 for a contract to hire a consultant for one year to provide expert advice on taxation, inflation and how it applies to the pharmacy industry.

HCA's Expenditures by Fund:

Expenditures			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
FundNumber	FundDesc	FundType	FY1	FY2	FY3	FY4	FY5	FY6
001	GF-State	1	1,128,000	472,000	472,000	472,000	472,000	472,000
Total			1,128,000	472,000	472,000	472,000	472,000	472,000
Biennial Total				1,600,000		944,000		944,000

HCA's Expenditures by Object:

Objects		FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
A	Salaries & Wages	355,000	304,000	304,000	304,000	304,000	304,000
B	Employee Benefits	123,000	112,000	112,000	112,000	112,000	112,000
C	Personal Serv Contr	550,000	-	-	-	-	-
E	Goods and Services	56,000	49,000	49,000	49,000	49,000	49,000
G	Travel	3,000	3,000	3,000	3,000	3,000	3,000
J	Capital Outlays	41,000	4,000	4,000	4,000	4,000	4,000
M	Inter Agency Fund Transfers	-	-	-	-	-	-
N	Grants, Benefits Services	-	-	-	-	-	-
P	Debt Service	-	-	-	-	-	-
S	Interagency Reimbursement	-	-	-	-	-	-
T	Intra-Agency Reimbursement	-	-	-	-	-	-
Total		1,128,000	472,000	472,000	472,000	472,000	472,000

HCA's Expenditures by FTE:

HCA Fiscal Note

Bill Number: SB 5020

HCA Request #: 21-22

Job title	Salary	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
MANAGEMENT ANALYST 4	80,292	1.0	1.0	1.0	1.0	1.0	1.0
IT System Administration -	101,748	1.0	0.5	0.5	0.5	0.5	0.5
PROGRAM SPECIALIST 5	80,292	1.0	1.0	1.0	1.0	1.0	1.0
WMS BAND 2	92,859	1.0	1.0	1.0	1.0	1.0	1.0
-	-	0.0	0.0	0.0	0.0	0.0	0.0
Total	355,191	4.0	3.5	3.5	3.5	3.5	3.5

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.