

Multiple Agency Fiscal Note Summary

Bill Number: 5983 SB	Title: Cannabinoid regulations
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Estimated Cash Receipts

Agency Name	2021-23			2023-25			2025-27		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	113,000	0	0	122,000	0	0	30,000
Liquor and Cannabis Board	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	113,000	0	0	122,000	0	0	30,000

Agency Name	2021-23		2023-25		2025-27	
	GF- State	Total	GF- State	Total	GF- State	Total

Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.4	0	0	113,000	.4	0	0	122,000	.1	0	0	30,000
Department of Revenue	.1	77,900	77,900	77,900	.0	0	0	0	.0	0	0	0
Liquor and Cannabis Board	6.0	0	0	1,654,724	7.0	0	0	1,529,604	2.0	0	0	521,740
Washington State Patrol	.0	1,655,000	1,655,000	1,655,000	.0	254,000	254,000	254,000	.0	254,000	254,000	254,000
Total \$	6.5	1,732,900	1,732,900	3,500,624	7.4	254,000	254,000	1,905,604	2.1	254,000	254,000	805,740

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

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Includes WSP fiscal note

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Date Published:
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Individual State Agency Fiscal Note

Bill Number: 5983 SB	Title: Cannabinoid regulations	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Legal Services Revolving Account-State 405-1		113,000	113,000	122,000	30,000
Total \$		113,000	113,000	122,000	30,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.8	0.4	0.4	0.1
Account					
Legal Services Revolving Account-State 405-1	0	113,000	113,000	122,000	30,000
Total \$	0	113,000	113,000	122,000	30,000

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.

Legislative Contact: Amanda Cecil	Phone: 360-786-7460	Date: 02/26/2022
Agency Preparation: Danielle Hess	Phone: 509-335-2636	Date: 03/02/2022
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/02/2022
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 03/03/2022

Part II: Narrative Explanation

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

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

Section 1: States that there is a need to protect consumers by establishing standards for all cannabinoid products and isolates that might be impairing. There also is a need to maintain clarity between marijuana and hemp.

Section 3: Requires cannabinoid products to be sold by a marijuana producer; provides that cannabinoid products are within the regulatory authority of the board. Provides exclusions for certain cannabis health and beauty aids and hemp flower.

Section 4: Clarifies applicability of licenses for marijuana producers, processors, and retailers.

Section 5: Allows marijuana producers and processors to use cannabinoids and isolates as product enhancers within certain limits.

Section 6: Grants rulemaking authority to the board over naturally-derived and synthetically-derived cannabinoids and hemp products.

Section 7: Excludes certain compounding activities from state criminal laws.

Section 8: Excludes certain cannabinoids from the medical marijuana endorsement.

Section 13: Creates a temporary license surcharge fee to be charged to vapor product retailer's licenses and tobacco retailer's licenses. Excludes grocery and convenience stores.

Section 14: Requires the board to conduct enforcement operations for products containing cannabinoids that may be impairing, including those containing delta-8 tetrahydrocannabinol (THC), that are not authorized for sale under 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.

AGO AGENCY ASSUMPTIONS:

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

The client agency is the Liquor and Cannabis Board (LCB). The Attorney General's Office (AGO) will bill all clients 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 agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

The AGO will bill LCB based on the AGO's Government Compliance and Enforcement (GCE) and Licensing and Administrative Law (LAL) divisions' workload assumptions:

- Fiscal Year (FY) 2023: \$113,000 / 0.44 Assistant Attorney General (AAG) / 800 hours, 0.06 Paralegal 2 (PL 2) / 112 hours, and 0.22 Legal Assistant 3 (LA 3).
- FY 2024: \$99,000 / 0.38 AAG (685 hours), 0.06 PL 2 (112 hours), and 0.19 LA 3.
- FY 2025: \$23,000 / 0.09 AAG (165 hours), 0.01 PL 2 (24 hours) and 0.04 LA 3.

- FY 2026: \$15,000 / 0.06 AAG (110 hours), 0.01 PL 2 (24 hours) and 0.03 LA 3, and each FY thereafter.

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 Attorney General's Office (AGO) Agency Assumptions:

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables, for every one Assistant Attorney General (AAG), the AGO include 0.5 FTE for a Legal Assistant 3 (LA 3) and 0.25 of a Management Analyst 5 (MA 5). The MA 5 is used as a representative classification.

The AGO's Agriculture and Health Division (AHD) assumptions related to the enactment of this bill :

Section 5 requires the Liquor and Cannabis Board (LCB) to consult with the Washington State Department of Health (DOH) and the Washington State Department of Agriculture (WSDA) for rules being developed by LCB pertaining to any synthetically derived cannabinoid, in relation to usage by marijuana producers and processors. The bill may also require rulemaking by the Pharmacy Commission to update definitions regarding cannabinoids. The enactment of this bill is unlikely to have an impact on the provision of legal services to AHD. Any legal advice provided is assumed nominal. Therefore, costs are not included in this request.

The AGO's Government Compliance and Enforcement (GCE) division assumes the following impact :

1. GCE represents LCB in licensing and enforcement actions.
2. This bill would define artificial and synthetically derived cannabinoid and would prohibit the sale of artificial cannabinoids. LCB would be required to adopt rules to effectuate this bill. Beginning Fiscal Year (FY) 2023 and continuing through FY 2024, this bill would also require a license surcharge on certain liquor retail licensees, vapor products retail licensees and tobacco products retail licensees to support enforcement operations relating to the provisions of this bill.
3. The AGO's Licensing and Administrative Law (LAL) division would provide the majority of the legal support for rulemaking under this bill, but GCE assumes it would be asked for input. GCE would provide approximately 30 AAG hours of rulemaking advice in FY 2023, 15 AAG hours in FY 2024, and five AAG hours in FY 2025.
4. The LCB assumes that beginning in FY 2023 and continuing each FY thereafter, between one and two administrative cases for litigation involving cannabis retailers as a result of this bill would be referred to GCE.
5. The LCB assumes that in addition to their enforcement actions relating to cannabis licensees, LCB would create a team of LCB inspectors to educate the above-identified licensed non-cannabis retailers and to enforce the provisions of this bill. During FY 2023 and 2024, LCB would conduct 5,669 premises checks on the identified non-cannabis retailers. As a result of the premises checks, LCB assumes it would obtain approximately 235 search warrants to seize illegal product and would also issue administrative violation notices to those non-cannabis retail licensees. LCB assumes that of the 235 administrative violation notices issued, 26 licensees would request a formal administrative hearing and would be referred to GCE for litigation.
6. Based on LCB's assumptions relating to enforcement actions under this bill, GCE assume that in FY 2023 and FY 2024, four new administrative litigation referrals each FY involving both cannabis and non-cannabis retail licensees. GCE further assumes that once the non-cannabis retailers were familiarized with the provisions of this bill, GCE would see a significant

reduction in the number of litigation referrals. As a result, beginning in FY 2025 and continuing each year thereafter, GCE assumes that we would receive three new litigation referrals from all retail license types. GCE assumes that the litigation of each new referral would utilize 25 AAG hours and eight Paralegal 2 (PL 2) hours of work, resulting in the following workload increase: FY 2023 – 350 (14 x 25) AAG hours and 112 (14 x 8) PL 2 hours; FY 2024 – 350 (14 x 25) AAG hours and 112 (14 x 8) PL 2 hours; FY 2025 and each FY thereafter - 75 (3 x 25) AAG hours and 24 (3 x 8) PL 2 hours.

7. In FY 2023 and FY 2024, GCE assumes to provide advice on new administrative seizures resulting from this bill, which would generate 30 AAG hours of new work. Beginning in FY 2025, after the conclusion of the education and enforcement relating to non-cannabis retailers, GCE assumes there would be a reduction in the number of administrative seizures under this bill and that advice relating to seizures would generate 5 AAG hours of new work each FY thereafter.

Therefore, as a result of this bill, GCE assumes to see a total FTE increase in AAG and PL hours as follows (non-Seattle rate):

Workload Hours (AAG and PL 2):

- FY 2023: 410 (30 + 350 + 30) AAG hours and 112 PL 2 hours.
- FY 2024: 395 (15 + 350 + 30) AAG hours and 112 PL 2 hours.
- FY 2025: 85 (5 + 75 + 5) AAG hours and 24 PL 2 hours.
- FY 2026: 80 (75 + 5) AAG hours and 24 PL 2 hours, and each FY thereafter.

Workload Financial Impact (Funding and FTE):

- FY 2023: \$61,000 / 0.23 AAG, 0.06 PL 2, and 0.11 LA 3.
- FY 2024: \$59,000 / 0.22 AAG, 0.06 PL 2, and 0.11 LA 3.
- FY 2025: \$13,000 / 0.05 AAG, 0.01 PL 2, and 0.02 LA 3.
- FY 2026: \$12,000 / 0.04 AAG, 0.01 PL 2, and 0.02 LA 3, and each FY thereafter.

The AGO's LAL division assumes the following impact:

1. The AGO will bill the Liquor and Cannabis Board for legal services based on the enactment of this bill.
2. This bill would define artificial and synthetically derived cannabinoid and would prohibit the sale of artificial cannabinoids. LCB would be required to adopt rules to effectuate this bill.
3. LAL provides advice to LCB on rulemaking, and will defend any rulemaking challenges brought against LCB. LAL will also defend any challenges to the statutory provisions of the bill, should it pass, although at this time, LAL does not anticipate any challenges to the statutory provisions.
4. LAL projects that advice on rulemaking will require the following resources: 250 AAG hours in FY 2023; 150 AAG hours in FY 2024; and 50 AAG hours in FY 2025.
5. LAL advises LCB on final orders of administrative regulatory actions. GCE projects 14 new enforcement actions in FY 2023 and 2024 stemming from the provisions of this bill. Once non-cannabis retailers are familiarized with the provisions of this bill, there is an assumption that there will be a significant reduction of litigation referrals. Beginning in FY 2025, and continuing each FY thereafter, GCE assumes that it would receive three new litigation referrals from all retail license types as a result of this bill. Each of these licensing and enforcement actions will require ten hours of AAG time to advise LCB. Therefore, LAL projects 140 AAG hours on advising LCB on final orders in FY 2023 and 2024, 30 AAG hours in FY 2025, and each FY thereafter.

Therefore, as a result of this bill, LAL assumes to see a total FTE increase in AAG and PL hours as follows

(non-Seattle-rate):

Workload Hours (AAG):

- FY 2023: 390 (250 + 140) AAG hours.
- FY 2024: 290 (150 + 140) AAG hours.
- FY 2025: 80 (50 + 30) AAG hours.
- FY 2026: 30 AAG hours, and each FY thereafter.

Workload Financial Impact (Funding and FTE):

- FY 2023: \$52,000 / 0.22 AAG and 0.11 LA 3.
- FY 2024: \$40,000 / 0.16 AAG and 0.08 LA 3.
- FY 2025: \$10,000 / 0.04 AAG and 0.02 LA 3.
- FY 2026: \$3,000 / 0.02 AAG and 0.01 LA 3, and each FY thereafter.

Below is the total AGO GCE and LAL division's and administration support staffing assumptions (non-Seattle rates):

- FY 2023: \$113,000 / 0.44 AAG (800 hours), 0.06 PL 2 (112 hours), and 0.22 LA 3.
- FY 2024: \$99,000 / 0.38 AAG (685 hours), 0.06 PL 2 (112 hours), and 0.19 LA 3.
- FY 2025: \$23,000 / 0.09 AAG (165 hours), 0.01 PL 2 (24 hours) and 0.04 LA 3.
- FY 2026: \$15,000 / 0.06 AAG (110 hours), 0.01 PL 2 (24 hours) and 0.03 LA 3, and each FY thereafter.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
405-1	Legal Services Revolving Account	State	0	113,000	113,000	122,000	30,000
Total \$			0	113,000	113,000	122,000	30,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		0.8	0.4	0.4	0.1
A-Salaries and Wages		75,000	75,000	80,000	20,000
B-Employee Benefits		25,000	25,000	27,000	8,000
C-Professional Service Contracts					
E-Goods and Other Services		13,000	13,000	15,000	2,000
G-Travel					
J-Capital Outlays					
Total \$	0	113,000	113,000	122,000	30,000

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
Assistant Attorney General	112,200		0.4	0.2	0.2	0.1
Legal Assistant 3	54,108		0.2	0.1	0.1	0.0
Management Analyst 5	88,644		0.1	0.1	0.1	0.0
Paralegal 2	69,264		0.1	0.0	0.0	0.0
Total FTEs			0.8	0.4	0.5	0.1

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Government Compliance & Enforcement Division (GCE)		61,000	61,000	72,000	24,000
Licensing & Administrative Law Division (LAL)		52,000	52,000	50,000	6,000
Total \$		113,000	113,000	122,000	30,000

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

Part V: New Rule Making Required

Department of Revenue Fiscal Note

Bill Number: 5983 SB	Title: Cannabinoid regulations	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.1	0.1	0.1		
Account					
GF-STATE-State 001-1	67,900	10,000	77,900		
Total \$	67,900	10,000	77,900		

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: Amanda Cecil	Phone: 60-786-7460	Date: 02/26/2022
Agency Preparation: Van Huynh	Phone: 60-534-1512	Date: 03/02/2022
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 03/02/2022
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/02/2022

Request # 5983-1-1

Part II: Narrative Explanation

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

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

CURRENT LAW:

Current law provide sales and use tax exemptions for the retail sale of medical marijuana.

PROPOSAL:

This bill amends current law by adding that the exemption does not apply to products containing artificial or synthetically-derived cannabinoids.

The bill also adds the following provisions to the law :

Beginning July 1, 2022, and ending June 30, 2024, the Liquor and Cannabis Board (LCB) must impose a license fee surcharge of \$25 to initial application and annual renewal of licenses. The surcharge applies to the following licenses :

- Any vapor product retailer's license issued; and
- Any entity licensed to sell cigarettes, tobacco, and other tobacco products at retail.

No business may be required to pay the surcharge on more than one license type identified above.

The surcharge expires July 1, 2024 and does not apply to businesses classified as "supermarkets and other grocery stores" and "convenience stores" described in codes 445110 and 445120 of the North American industry classification system.

EFFECTIVE DATE:

This bill takes effect on July 1, 2022.

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.

The revenue impact of this bill is indeterminate, as it is unknown what share of medical marijuana sales are products containing artificial or synthetically-derived cannabinoids.

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

ASSUMPTIONS:

This legislation will affect approximately 3,400 taxpayers.

FIRST YEAR COSTS:

The Department will incur total costs of \$67,900 in Fiscal Year 2022. These costs include :

- Labor Costs - Time and effort equates to 0.1 FTE.
- Set up, program, and test computer system changes.

Object Costs - \$53,700.

- Printing and postage.
- Contract computer system programming.

SECOND YEAR COSTS:

The Department will incur total costs of \$10,000 in Fiscal Year 2023. These costs include :

- Labor Costs - Time and effort equates to 0.1 FTE.
- Attend implementation meetings, conduct audit case review, and monitor reports.
- Correspond with taxpayers impacted by these account changes.

ONGOING COSTS:

There are no further ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.1	0.1	0.1		
A-Salaries and Wages	9,000	6,000	15,000		
B-Employee Benefits	3,200	2,100	5,300		
C-Professional Service Contracts	52,800		52,800		
E-Goods and Other Services	2,200	1,200	3,400		
J-Capital Outlays	700	700	1,400		
Total \$	\$67,900	\$10,000	\$77,900		

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 2022	FY 2023	2021-23	2023-25	2025-27
EXCISE TAX EX 3	59,688		0.1	0.1		
IT SYS ADM-JOURNEY	89,916	0.1		0.1		
Total FTEs		0.1	0.1	0.1		

III. C - 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

None.

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5983 SB	Title: Cannabinoid regulations	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	12.0	6.0	7.0	2.0
Account					
Dedicated Marijuana Account-State 315-1	0	324,370	324,370	541,740	513,740
Liquor Revolving Account-State 501-1	91,800	1,238,554	1,330,354	987,864	8,000
Total \$	91,800	1,562,924	1,654,724	1,529,604	521,740

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: Amanda Cecil	Phone: 360-786-7460	Date: 02/26/2022
Agency Preparation: Colin O Neill	Phone: (360) 522-2281	Date: 03/02/2022
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 03/02/2022
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/02/2022

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 authorizes the Liquor and Cannabis Board (Board) to regulate all cannabinoids that may be impairing, regardless of origin, and to direct the Board to adopt rules related to cannabinoid products and cannabis isolates, except those authorized as a drug by the federal Food and Drug Administration.

Section 2c: creates a definition of "artificial cannabinoid", which (in brief summary) is a solely chemically created substance that does not originate from the cannabis plant but is structurally the same or substantially similar.

but is not listed as a controlled substance by the Washington state controlled substances act. These do not include :

- 1) Naturally occurring chemical substances that is separated from the cannabis plant
- 2) Cannabinoids produced by decarboxylation from a naturally occurring cannabinoid acid without use of a chemical catalyst
- 3) Any other chemical substance resembling in any manner a compound found in the cannabis plant that is identified by the Washington State Liquor and Cannabis Board ("Board") in consultation with the Department of Health.

Section 2h: redefines CBD product to narrow it to only cannabidiol not exceeding 0.3% THC, and not more than 0.5mg per serving or 2mg total in the package product of a cannabinoid.

Section 2(aa): adds a definition of the term "impairing" to the Uniform Controlled Substances Act; in relation to a cannabinoid, the term means a psychotropic constituent of the plant cannabis which may diminish a person's cognitive, mental, or physical function or ability. Authorizes the Liquor and Cannabis Board ("Board") to further revise the definition by rule for the limited purposes of the provisions of the bill addressing cannabinoids that may be impairing, the Board's rulemaking regarding cannabinoids, and with respect to non-impairing cannabinoid additives used in cannabis products.

Section 2(gg): modifies the definition of "marijuana."

Section 2 also creates or modifies definitions for cannabinoid, catalyst, distillate, extract, extraction, isolate, hemp (among other changes).

Section 3(a): Products containing or consisting of cannabinoids produced and processed for any type of consumption into a human body, whether marketed as such or not, exceeding 0.3 percent THC on a dry weight basis, that contains more than 0.5 milligrams per serving or 2 milligrams total in the packaged product of a cannabinoid which may be impairing, may only be sold by a marijuana producer, marijuana processor, or marijuana retailer licensed by the Board unless authorized as a drug by the federal food and drug administration.

Section 3(c): Sale of products identified in subsection (a) of this section is prohibited unless conducted by a business holding a valid marijuana producer, marijuana processor or marijuana retailer license issued by the Board.

Section 3(h): Manufacturing and sales of artificial cannabinoids is prohibited.

Section 3(i) – This section does not apply to unadulterated hemp flower that is not further processed into extracts, infused products, or concentrates.

Section 5(1): Licensed cannabis producers and processors may use CBD, or other non-impairing cannabinoids, or non-impairing cannabis plant isolate for the purpose of enhancing the non-impairing cannabinoid concentration of any product authorized for production, processing, and sale under this chapter.

Section 5(4): Licensed marijuana producers and licensed marijuana processors may not use any artificial cannabinoids, as defined in this chapter, as an additive to any product authorized for production, processing, and sale under this chapter.

Section 5(5): Licensed marijuana producers and licensed marijuana processors must disclose on packaging and labeling all synthetically derived cannabinoids contained in products and may not make any statements or claims indicating those cannabinoids are a natural substance.

Section 5(6): The Board must revise rules as appropriate to conform to the terminology described in this act.

Section 6: The Board may adopt rules regarding the production, processing, transportation, delivery, sale, and purchase of naturally, or synthetically derived, cannabinoids, with the exception of hemp as defined in RCW 15.140.020, and products authorized as a drug by the federal food and drug administration.

Section 12: Requires the Board to notify specified members of the Legislature when developing and adopting rules authorized or required under the substitute bill, including related to the sale of products containing certain cannabinoids and synthetically derived cannabinoids.

Sect 13 –

(1) creates a new \$25 “license issuance and renewal surcharge” on :

- o 2a) vapor product retailers (RCW 70.345.030)
- o 2b) cigarette retailers (RCW 82.24) and other tobacco product (OTP) retailers (RCW 82.26).

(3) The surcharge is only assessed once per licensee, regardless of how many license types they hold.

(4) The surcharge does not apply to businesses classified as "supermarkets and other grocery stores" and "convenience stores" as described in the North American industry classification system.

(5) This section expires July 1, 2024.

Section 14 -

(1) The Board must conduct enforcement operations regarding products containing cannabinoids that may be impairing or are marketed as impairing, including, but not limited to, products containing delta-8 THC, and not authorized for sale under this chapter.

(2) For purposes of this section, "enforcement operations" includes efforts to attain compliance, prevent noncompliance, and the removal of products containing cannabinoids that may be impairing and that are not authorized for sale under this chapter.

Sect 15(1) – amends RCW 70.345.050 to reference the surcharge.

Sect 16(4) – amends RCW 82.24.510 to reference the surcharge.

Sect 17(2) – amends RCW 82.24.530 to reference the surcharge.

Sect 18(3) – amends RCW 82.26.170 to reference the surcharge.

Section 20 – this act takes effect July 1, 2022.

Section 21 – Sections 15-18 of this act (the surcharge) expire June 30, 2024.

II. B - Cash receipts Impact

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

Section 13 creates a new \$25 “license issuance and renewal surcharge” on vapor product retailers (RCW 70.345.030), cigarette retailers (RCW 82.24), and other tobacco product (OTP) retailers (RCW 82.26). The surcharge does not apply to businesses classified as "supermarkets and other grocery stores" and "convenience stores" as described in the North American industry classification system. The surcharge is only assessed once per licensee, regardless of how many license types they hold and expires July 1, 2024.

Revenue impact is indeterminate as it is unknown how many vapor, cigarette, or OTP licensees fall under the exemption listed in Section 13(4).

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.

COSTS RELATING TO SECTIONS 1-12 (CHARGED TO FUND 315 - DEDICATED MARIJUANA ACCOUNT)

BOARD DIVISION:

Director's Office: The agency anticipates significant additional ongoing rulemaking as a result of this legislation, requiring 1 additional Regulatory Analyst 3 (RA3).

1.0 FTE Regulatory Analyst 3 - \$126,140/yr (\$123,370 salary/benefits, \$2,770 in associated costs). Onetime costs in FY23 of \$6,105 for equipment purchases.

Attorney General Costs: the Attorney General's Office assumes it will bill the Board for costs relating to rulemaking, final orders, litigation, and advice as a result of this bill.

FY23: \$46,000
FY24: \$33,000
FY25: \$17,000
FY26+: \$11,000/yr

ENFORCEMENT DIVISION:

The LCB keeps detailed statistics on all of its enforcement activities and tracks this activity using a unit of measure called a Field Increment (FI). All direct enforcement activities such as premise checks, inspections and investigations are tracked to determine how many FI's are needed to accomplish each activity. Each FI is equivalent to 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. Using historical data to factor out indirect activities such as driving time, training, office time and leave, it has been determined that officers are available for an average of 4,220 FI's each year.

Based on the attached analysis "5983 SB Concerning untested and unregulated cannabinoid products - Enforcement Field Increment Calculator.pdf", the agency will need 1 additional LCB Enforcement Officer 2 (LEO2).

1.0 FTE LCB Enforcement Officer 2 - \$119,330/yr (\$103,470 salary/benefits, \$15,860 in associated costs). Onetime costs in FY23 of \$26,395 for equipment purchases.

There will also be costs for testing product samples, estimated at \$400 /year.

COSTS RELATING TO SECTIONS 13 - 21 (CHARGED TO FUND 501 - LIQUOR REVOLVING ACCOUNT)

BOARD DIVISION:

Attorney General Costs: the Attorney General's Office assumes it will bill the Board for costs relating to rulemaking, final orders, litigation, and advice as a result of this bill.

FY23: \$67,000
FY24: \$66,000
FY25: \$6,000
FY26+: \$4,000/yr

ENFORCEMENT DIVISION:

The agency intends to perform premise checks on grocery stores, tobacco retailers, and vapor product retailers to confirm that no artificial cannabinoids are being sold, for a two-year time period (FY23-FY24). Estimates are:

- 40-45% of premise checks will find licensees possessing artificial cannabinoids.
- 10% of those premise checks will have licensees that will not come into voluntary compliance, in which intervention is needed.
- 8 hours per incident of enforcement efforts with regards to involuntary compliance.

The above premise checks will be performed by a team of 8 Program Specialist 2's and 1 Program Specialist 4 (team supervisor). The team will need an Administrative Assistant 3 (AA3) as support.

When additional enforcement efforts will be needed for compliance, the agency anticipates overtime for both officers and team specialists.

Please see the attached "5983 SB Concerning untested and unregulated cannabinoid products - Enforcement Field Increment Calculator.pdf" for the workload assumptions for the Team.

COSTS ARE FOR FY23-FY24 ONLY.

8.0 FTE Program Specialist 2 - \$650,472/yr (\$605,832 salary/benefits, \$44,640 in associated costs). Onetime costs in FY23 of \$70,440 for equipment purchases.

1.0 FTE Program Specialist 4 - \$102,567/yr (\$101,497 salary/benefits, \$1,070 in associated costs). Onetime costs in FY23 of \$1,725 for equipment purchases.

1.0 FTE Administrative Assistant 3 - \$73,825/yr (\$72,755 salary/benefits, \$1,070 in associated costs). Onetime costs in FY23 of \$1,725 for equipment purchases.

LCB Enforcement Officer 2 (LEO2) overtime: \$50,000 per year.

Program Specialist 2 (PS2) overtime: \$19,000 per year.

Additional travel costs for PS2 team: \$20,000 per year.

Mobile test units – 9 units x \$10,000 each - \$90,000 in FY23.

INFORMATION TECHNOLOGY DIVISION (FY22/FY23):

There is a significant impact on the agency's information technology division from this bill. With the given effective date of July 1st, 2022, all labor will need to be contract labor, including labor normally identified as staff hours. There is also an indeterminate cost component to this bill.

NEW ENFORCEMENT TEAM:

- The Enforcement division will be building a new team which will require a new GIS map layer.
- The system must connect to the Enforcement Notebook (EN) to capture site visits and display a dynamic indicator to show site visited/needs to be visited/needs to be revisited.
- An assigned officer will need to be indicated in GIS.
- Reports will have to be created on visits completed, outstanding, etc.

VENDOR COSTS:

ArcGIS: 80 hours x \$270/hr = \$21,600

CONTRACTOR COSTS (in place of staff): Total 1,080 hours x \$150/hr estimate = \$162,000

ArcGIS: 600 hours

Enforcement Notebook: 240 hours

Replication: 80 hours

BI/SSRS Reports: 160 hours

INDETERMINATE: The cost to implement the surcharge in Section 13 is indeterminate, as the Board does not classify businesses according to the North American industry classification system.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
315-1	Dedicated Marijuana Account	State	0	324,370	324,370	541,740	513,740
501-1	Liquor Revolving Account	State	91,800	1,238,554	1,330,354	987,864	8,000
Total \$			91,800	1,562,924	1,654,724	1,529,604	521,740

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		12.0	6.0	7.0	2.0
A-Salaries and Wages		783,804	783,804	951,540	335,472
B-Employee Benefits		292,120	292,120	351,224	118,208
C-Professional Service Contracts	91,800	91,800	183,600		
E-Goods and Other Services		155,960	155,960	158,440	44,780
G-Travel		59,160	59,160	66,320	22,320
J-Capital Outlays		180,080	180,080	2,080	960
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	91,800	1,562,924	1,654,724	1,529,604	521,740

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
Administrative Assistant 3	50,256		1.0	0.5	0.5	
LCB Enforcement Officer 2	74,604		1.0	0.5	1.0	1.0
Program Specialist 2	52,776		8.0	4.0	4.0	
Program Specialist 4	74,604		1.0	0.5	0.5	
Regulatory Analyst 3	93,132		1.0	0.5	1.0	1.0
Total FTEs			12.0	6.0	7.0	2.0

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Board Division (010)		245,245	245,245	374,280	282,280
Enforcement Division (060)		1,225,879	1,225,879	1,155,324	239,460
Information Technology Division (070)	91,800	91,800	183,600		
Total \$	91,800	1,562,924	1,654,724	1,529,604	521,740

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

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 2(aa): adds a definition of the term "impairing" to the Uniform Controlled Substances Act; in relation to a cannabinoid, the term means a psychotropic constituent of the plant cannabis which may diminish a person's cognitive, mental, or physical function or ability. Authorizes the Liquor and Cannabis Board ("Board") to further revise the definition by rule for the limited purposes of the provisions of the bill addressing cannabinoids that may be impairing, the Board's rulemaking regarding cannabinoids, and with respect to non-impairing cannabinoid additives used in cannabis products.

Section 5(6): The Board must revise rules as appropriate to conform to the terminology described in this act.

Section 6: The Board may adopt rules regarding the production, processing, transportation, delivery, sale, and purchase of naturally, or synthetically derived, cannabinoids, with the exception of hemp as defined in RCW 15.140.020, and products authorized as a drug by the federal food and drug administration.

Enforcement Field Increment (FI) Calculator

5983 SB "Concerning untested and unregulated cannabinoid products"

Cannabis Retailer checks (LCB Enforcement Officer 2 - LEO2)

Event	Number of events	Time Factor	Staffing Factor	FI Total
Cannabis Premises Checks (Retail/Non-Retail)	96	10	1.00	958
Cannabis Complaint Investigations (Non-Retail)	43	25	1.30	1,397
Licensee Support and Education (Non-Retail)	287	7	1.00	2,006
Licensee Support and Education (Retail)	48	7	1.00	338
Complex Investigations	4	40	1.30	208
Sampling	2	5	1.30	13

Cost Factors	Frequency
Cannabis Retailers	483
Cannabis Producer/Processors	1,433
Cannabis Premises Checks (Retail/Non-Retail)	5%
Cannabis Complaint Investigations (Non-Retail)	3%
Licensee Support and Education (Non-Retail)	20%
Licensee Support and Education (Retail)	10%
Complex Investigations (% of complaints)	10%
Sampling (annually)	2
# of lab tests (annually)	2
Cost per lab test (product)	\$200 per test

Total FI's	4,920
Total Field Increments per FTE	4,220
FTE's required	1.17
Round	1.00

Non-Cannabis Retailer checks (Program Specialist 2 - PS2)

	Number of events	Time Factor	Staffing Factor	FI Total
License Support and Education	2,467	7	1.00	17,270
Premises checks	5,669	2	1.00	11,338
Rechecks of Premises checks	2,268	2	1.00	4,535

Cost Factors	Frequency
Grocery stores and spirit retailers	5,669
Stand alone vapor shops/Tobacco retailers	499
License Support and Education	40%
Premises checks	100%
Rechecks of Premises checks	40%

Total FI's	33,144
Total Field Increments per FTE	4,220
FTE's required	7.85
Round	8.00

Individual State Agency Fiscal Note

Bill Number: 5983 SB	Title: Cannabinoid regulations	Agency: 225-Washington State Patrol
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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
Account					
General Fund-State 001-1	0	1,655,000	1,655,000	254,000	254,000
Total \$	0	1,655,000	1,655,000	254,000	254,000

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.

Legislative Contact: Amanda Cecil	Phone: 360-786-7460	Date: 02/26/2022
Agency Preparation: Yvonne Ellison	Phone: 360-596-4042	Date: 03/04/2022
Agency Approval: Walter Hamilton	Phone: 360-596-4046	Date: 03/04/2022
OFM Review: Ruth Roberson	Phone: (360) 995-3826	Date: 03/07/2022

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 proposed legislation does not directly change any duties or responsibilities of the Washington State Patrol (WSP), however, the proposed legislation makes changes to definitions that apply throughout Chapter 69.50 RCW. This is expected to result in changes to evidentiary standards that will impact the WSP.

Changes with potential impact to the WSP include the following :

Section 2(c) adds a detailed definition of Artificial cannabinoid.

Section 2(e) adds a detailed definition of Cannabinoid.

Section 2(h) adds language to the definition of CBD product that includes minimum levels of THC.

Section 2(w) adds a detailed definition of Extract.

Section 2(bb) adds a detailed definition of Isolate.

Section 2(gg) adds language to the definition of Marijuana that includes concentrated resins, cannabinoids, and the products thereof.

Section 2(gg)(2) adds language to the definition of Hemp that includes maximum levels of THC.

Section 2(ddd) adds a detailed definition of Synthetically derived cannabinoid.

Section 2(eee) adds a detailed definition of Tetrahydrocannabinol or THC.

Section 2(ggg) adds a detailed definition of Total THC.

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.

We assume that our Crime Laboratory Division (CLD) will need to provide evidence testing that meets the new definitions of the proposed legislation to the extent scientifically possible. In order to accomplish this, the CLD will need to acquire new Liquid Chromatography-Mass Spectrometry (LC/MS) instruments capable of conducting the more detailed analysis required. It will also be necessary to develop and validate new testing protocols for the new instruments and then train staff on these protocols. We expect the development of these new protocols to require two scientists 22 weeks to complete. This will be done by current staff, but as they will not be performing normal testing during this time we expect it to result in an increased need for overtime by other staff of approximately 2,320 hours in the first year. We also expect the new testing protocols to result in an increase of approximately 30 percent to the current per case processing time. Based on this,

we expect to have an ongoing need of approximately 386 hours of overtime for the increase in testing time. Other expected costs include an increase in the cost of the consumable supplies needed to conduct the testing, and maintenance costs for the new instruments.

Funding for these costs are currently included in the governor’s budget based on the pre-filed version of this legislation requested by the LCB in Z-0334.2.

Our estimated costs are shown below.

First Year costs:

- \$1,350,000 – 3-Liquid Chromatography-Mass Spectrometry (LC/MS) Instruments at \$450,000 ea.
- \$155,000 – Overtime Salaries
- \$45,000 – Overtime Benefits
- \$30,000 – Testing Consumables (increased for development and validation of testing protocols)
- \$3,000 – Travel (for training)
- \$72,000 – Agency Indirect Costs

Ongoing annual costs:

- \$26,000 – Overtime Salaries
- \$8,000 – Overtime Benefits
- \$14,000 – Testing Consumables
- \$57,000 – LC/MS Annual Maintenance (starting second year)
- \$22,000 – Agency Indirect Costs

\$1,655,000 – Total First Year Costs

\$127,000 – Total Ongoing Costs

We based estimated overtime salary expenditures on current levels for a Forensic Scientist 3 per published salary schedules. We computed estimated benefits expenditures based on federal or state mandated rates plus state provided amounts for health insurance and workers’ compensation insurance. We assume that any increases in these rates or amounts will be covered by legislation establishing the increase.

We base our indirect cost rate on our negotiated federal rate of 30.84%. 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 proposed legislation. 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.

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	0	1,655,000	1,655,000	254,000	254,000
Total \$			0	1,655,000	1,655,000	254,000	254,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years					
A-Salaries and Wages		155,000	155,000	52,000	52,000
B-Employee Benefits		45,000	45,000	16,000	16,000
C-Professional Service Contracts				114,000	114,000
E-Goods and Other Services		30,000	30,000	28,000	28,000
G-Travel		3,000	3,000		
J-Capital Outlays		1,350,000	1,350,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Agency Indirect Costs		72,000	72,000	44,000	44,000
Total \$	0	1,655,000	1,655,000	254,000	254,000

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*

NONE

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

Part V: New Rule Making Required