

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances
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## Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Washington State Health Care Authority	0	0	4,472,000	0	0	4,122,000	0	0	4,122,000
Washington State Health Care Authority	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Department of Health	0	0	4,000	0	0	8,000	0	0	8,000
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>4,476,000</b>	<b>0</b>	<b>0</b>	<b>4,130,000</b>	<b>0</b>	<b>0</b>	<b>4,130,000</b>

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		(97,000)		(148,000)		(175,000)
Local Gov. Total		(97,000)		(148,000)		(175,000)

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Joint Legislative Audit and Review Committee	.1	0	0	22,100	.0	0	0	9,000	.0	0	0	9,000
Administrative Office of the Courts	.0	3,192,000	3,192,000	3,192,000	.0	3,192,000	3,192,000	3,192,000	.0	3,192,000	3,192,000	3,192,000
Office of Public Defense	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Attorney General	.0	0	0	0	.0	0	0	0	.0	0	0	0
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Commerce	.1	36,956	36,956	36,956	.0	0	0	0	.0	0	0	0
Washington State Health Care Authority	15.6	63,558,000	63,558,000	68,030,000	13.0	61,393,000	61,393,000	65,515,000	13.0	61,526,000	61,526,000	65,648,000
Washington State Health Care Authority	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Department of Revenue	3.2	733,700	733,700	733,700	1.3	279,000	279,000	279,000	1.3	279,000	279,000	279,000
Washington State Patrol	2.0	1,263,000	1,263,000	1,263,000	2.0	900,000	900,000	900,000	2.0	900,000	900,000	900,000
Criminal Justice Training Commission	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Health	.2	0	0	60,000	.1	0	0	24,000	.1	0	0	24,000
Department of Children, Youth, and Families	.0	2,304,000	2,304,000	2,304,000	.0	2,304,000	2,304,000	2,304,000	.0	2,304,000	2,304,000	2,304,000
Department of Corrections	.0	3,000	3,000	3,000	.0	0	0	0	.0	0	0	0
Department of Corrections	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
University of Washington	Non-zero but indeterminate cost and/or savings. Please see discussion.											
The Evergreen State College	.0	0	0	0	.2	71,110	71,110	71,110	.4	204,037	204,037	204,037
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	21.2	71,090,656	71,090,656	75,644,756	16.6	68,139,110	68,139,110	72,294,110	16.8	68,405,037	68,405,037	72,560,037

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts			92,636,000			92,636,000			92,636,000
Loc School dist-SPI									
Local Gov. Other			3,839,760			1,407,500			
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			3,839,760			1,407,500			

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Public Defense	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Washington State Health Care Authority	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Criminal Justice Training Commission	.0	0	0	.0	0	0	.0	0	0
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
University of Washington	.0	0	0	.0	0	0	.0	0	0
The Evergreen State College	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.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>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
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 Breakout

Department of Commerce	Non-zero but indeterminate cost and/or savings. Please see discussion.
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<b>Prepared by:</b> Cynthia Hollimon, OFM	<b>Phone:</b> (360) 810-1979	<b>Date Published:</b> Final 3/17/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 014-Joint Legislative Audit and Review Committee
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.0	0.1	0.0	0.0
<b>Account</b>					
Performance Audits of Government Account-State 553-1	17,600	4,500	22,100	9,000	9,000
<b>Total \$</b>	17,600	4,500	22,100	9,000	9,000

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Dana Lynn	Phone: 360-786-5177	Date: 03/13/2023
Agency Approval: Eric Thomas	Phone: 360 786-5182	Date: 03/13/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/13/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The bill creates a new property tax exemption for nonprofit organizations that maintain an approved recovery residence. The only section of the bill with an impact for JLARC is Part VI, sections 21 and 22.

SECTION 21 adds a new real and personal property tax exemption - RCW 84.36.043(2) - for nonprofit organizations that maintain an approved recovery residence registered under RCW 41.05.760 when certain criteria (noted in the bill) are met. The preference applies to taxes levied for collection in calendar years 2024 through 2033.

#### TAX PERFORMANCE STATEMENT DETAILS

SECTION 22 is the tax preference performance statement that categorizes the preference as intended to provide tax relief to certain businesses or individuals, as indicated in RCW 82.32.808(2)(e). The Legislature's specific public policy objective is to maximize funding for recovery residences to the extent possible, thus increasing availability of such residences.

To measure the effectiveness of the tax preference, JLARC must evaluate:

- Annual changes in the total number of parcels qualifying for the exemption.
- The annual amount of property tax relief resulting from the tax exemption.
- The average annual number of people housed at recovery residences located on property qualifying for the exemption.
- The annualized amount charged for housing at recovery residences located on qualifying property and the annualized estimated increase in the charge for housing if the properties had not been eligible for the exemption.
- The annual amount of expenditures by nonprofits to maintain recovery residences located on qualifying property.

The Legislature intends to extend the expiration date of the preference if a JLARC review finds that:

- The number of properties qualifying for the new exemption has increased.
- The number of individuals using recovery housing located on qualifying property has increased.
- The amount charged for recovery housing is reasonably consistent with the actual cost of operating and maintaining the housing.

To obtain data to perform the review, JLARC staff is directed to refer to:

- Initial applications for the tax exemption as approved by the Department of Revenue under RCW 84.36.815.
- Annual financial statements prepared by nonprofit entities claiming the exemption.
- Filings with the federal government to maintain federal tax exemption status by nonprofit organizations claiming the exemption.
- Any other data necessary for the evaluation.

No effective date is detailed for the sections 21 and 22. It will likely take effect 90 days after the end of the 2023 legislative session.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

JLARC staff would contact and work with the Department of Revenue and other appropriate agencies immediately after passage of the bill to ensure project contacts are established and any other necessary data for JLARC staff's future evaluation needs are identified and collected. The tax preference is scheduled to apply to property taxes collected for calendar years 2024 through 2033. JLARC usually reviews tax preferences so that there are two legislative sessions between the JLARC review and the expiration date. Based on this, JLARC would likely schedule this preference for review in 2031.

The expenditure detail reflects work conducted to prepare for the future review of the preferences. Costs associated with the review are not included in this fiscal note. This fiscal note reflects only the costs associated with establishing data collection and collecting preliminary data in preparation for the 2031 review.

This tax preference review may require additional resources. The audit will be conducted and presented to JLARC consistent with the processes used for other tax preference reviews. Based on all tax preference legislation that is passed, JLARC may subsequently determine that it can absorb the costs for this proposed bill in its base budget, if the workload of other enacted tax preference legislation does not exceed current staffing. JLARC will assess all of the tax preference reviews mandated in the 2023 legislative session.

This audit will require an estimated 2 audit months.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst's time for a month, together with related administrative, support, and goods/services costs. JLARC's anticipated 2023-25 costs are calculated at approximately \$22,100 per audit month.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
553-1	Performance Audits of Government Account	State	17,600	4,500	22,100	9,000	9,000
Total \$			17,600	4,500	22,100	9,000	9,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	11,400	2,900	14,300	5,800	5,800
B-Employee Benefits	3,600	900	4,500	1,800	1,800
C-Professional Service Contracts					
E-Goods and Other Services	2,400	600	3,000	1,200	1,200
G-Travel	200	100	300	200	200
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	17,600	4,500	22,100	9,000	9,000

**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 2024	FY 2025	2023-25	2025-27	2027-29
Research Analyst	126,694	0.1		0.1		
Support staff	89,671					
Total FTEs		0.1		0.1		0.0

**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**  
*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*  
NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*  
  
NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

STATE	FY 2024	FY 2025	2023-25	2025-27	2027-29
State FTE Staff Years					
<b>Account</b>					
General Fund-State 001-1	1,596,000	1,596,000	3,192,000	3,192,000	3,192,000
State Subtotal \$	1,596,000	1,596,000	3,192,000	3,192,000	3,192,000
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
<b>Account</b>					
Local - Counties	18,039,000	18,039,000	36,078,000	36,078,000	36,078,000
Counties Subtotal \$	18,039,000	18,039,000	36,078,000	36,078,000	36,078,000
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
<b>Account</b>					
Local - Cities	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000
Cities Subtotal \$	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000

### Estimated Capital Budget Impact:

NONE

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 03/14/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 03/14/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/17/2023

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## Part II: Narrative Explanation

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

The engrossed second substitute bill would add requirements that the court notify and inform individuals under certain circumstances about certain firearm requirements.

The following sections of the bill would decrease the annual number of cases before superior courts by changing certain drug offenses from a felony to a misdemeanor and, as a result, increase the annual number of cases before the courts of limited jurisdiction. Additionally, these cases are expected to take more court time because additional hearings would be needed in each case.

Section 2 would make knowing possession of a counterfeit substance a gross misdemeanor. It encourages prosecutors to divert such cases for assessment, treatment, and other services; encourages law enforcement officers to refer the defendant to assessment and services; and requires the court to advise the defendant of the pretrial diversion program as indicated in Section 9 of the bill.

Section 3 would make a person who “knowingly” possesses a controlled substance a gross misdemeanor instead of a C Felony. It encourages prosecutors to divert such cases for assessment, treatment, and other services; encourages law enforcement officers to refer the defendant to assessment and services; and requires the court to advise the defendant of the pretrial diversion program as indicated in Section 9 of the bill.

Section 4 would provide for the same diversion options for possession of forty grams or less of cannabis.

Section 5 would maintain “knowing” possession of any legend drug as a misdemeanor and add the same diversion options outlined in previous sections of the bill.

Section 9 would remove the act of giving drug paraphernalia from actions considered as a class 1 civil infraction, removes testing and analysis equipment from the definition of drug paraphernalia, and expands the public health exception for distribution of public health supplies and substance testing.

Section 10 would require the court to notify the defendant of the pretrial diversion program which the courts would need to create or, if available, utilize existing therapeutic courts. Absent data on how many individuals would divert into these programs, the assumption is that about 50 percent of the defendants will choose the pretrial diversion program alternative. Section 10 would require courts to help defendants access substance use disorder (SUD) evaluation and treatment services within 7 days of a defendant’s acceptance into pretrial diversion. The state would have to reimburse the local courts for costs associated with the SUD assessments. Section 10 would require the evaluation and report to be filed under seal with the court and directs the court to avoid public discussion of report contents, and requires courts to exonerate bail/bond for individuals in pretrial diversion and allows for scheduling of proceedings if a pretrial diversion participant is “not meaningfully engaged” with the required treatment. NEW: Section 10(2)(f) would require that the court notify individuals who undergo the SUD assessments and are found to have a SUD that it is unlawful under federal law for individuals addicted to controlled substances to ship, transport, possess, or receive firearms or ammunition which has been shipped in interstate or foreign commerce. Section 10 (8) would require that, once the diagnostic treatment evaluation report is filed with the court, if the report indicates the person has a SUD, the court must inform the person that under federal law they may not possess any firearm or ammunition. The court would then sign an order of ineligibility to possess firearms.

Section 11 would provide sentencing standards for individuals convicted of knowing simple possession of counterfeit substances, controlled substances, cannabis, and legend drugs, and provide for a post-conviction, probation monitored treatment program. This section would provide for mandatory jail sanctions for failure to comply with treatment if defendants agree to treatment as a condition of probation and a suspended sentence, as well as providing for vacation upon submission of proof of successful program completion with the court. The state would reimburse the local courts for costs associated with the substance use disorder assessments. NEW: Section 11(1) would require that the court inform any person convicted of violating 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b) prior to sentencing that under federal law it is unlawful for someone who is a user of or addicted to any controlled substance to ship, transport, possess, or receive firearms or ammunition shipped in interstate or foreign commerce.

Section 12 would edit the vacate rules to allow someone that was convicted of a possession charge to get their charge vacated upon petition if they provide proof of subsequently completing an approved substance use disorder treatment program.

## II. B - Cash Receipts Impact

None

## II. C - Expenditures

This bill would have fiscal impact on the AOC, superior courts, and the courts of limited jurisdiction. The impact to the courts is difficult to accurately estimate. This judicial impact note makes a best estimate of the number of cases that would shift from superior courts to courts of limited jurisdiction based upon superior court caseload data.

### ADMINISTRATIVE OFFICE OF THE COURTS

Sections 10 and 11 would require the state to reimburse courts for the costs of substance use disorder assessments. The assessments would apply to anyone going through diversion (in 6,000 cases for the purposes of this fiscal note) and anyone agreeing to treatment as part of a sentence (up to the total estimated 12,000 cases). The Medicaid reimbursement rate for a substance use disorder assessment is \$133. For uninsured individuals, treatment agencies may have a sliding scale and costs with private insurance or self-pay costs are often higher. For the purposes of this fiscal note, the cost assumption is based on the Medicaid rate and the case assumption is the high-end number of cases because of the variability with private insurance or self-pay costs.

$\$133 * 12,000 \text{ cases} = \$1,596,000$  per year state reimbursement to courts

### SUPERIOR COURT

No Fiscal Impact

Where the bill changes the seriousness of certain drug offenses from a felony to a misdemeanor, this judicial impact note assumes fewer cases will remain in superior court and be heard in district or municipal court. However, there will not be a cost savings to superior court as existing judges and staff would redirect their efforts to provide adequate time and attention to other cases before the court and to reducing caseload backlogs.

### COURTS OF LIMITED JURISDICTION

Because the bill changes the seriousness of certain drug offenses from a felony to a misdemeanor, offers the option of pretrial diversion programs, and prescribes mandatory jail sanctions for failure to comply with post-sentence treatment, this judicial impact note assumes four fiscal impacts to the courts of limited jurisdiction: the cost of additional cases, the cost of additional pretrial diversion hearings per case, the cost of pretrial diversion programs, and the cost of post-sentence compliance hearings – including a contested hearing per case.

### TOTAL ADDITIONAL CASES

12,000 additional cases would be heard in district or municipal court each year – approximately 44 percent of them in district court (27 percent from state filings and 17 percent from municipal filings heard in district court because of interlocal contracts between municipalities and district courts) and 56 percent of them in municipal court.

The estimated case split was changed in the second substitute bill after a review of 2021 non-traffic filings in district court and the municipal filings heard in district court through interlocal agreements. Additionally, the estimated time for new cases was changed. These cases would be new to district and municipal court. After a review of the time standards for these cases, a decision was made to change the estimated time spent on these cases to the superior court time estimate for these cases (from approximately 16 minutes per case to 68 minutes per case). These changes have increased the estimated costs.

This would equal an estimated annual court cost of \$6,197,000.

Counties annual cost = \$1,274,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$796,000

Cities annual cost = \$4,127,000

### ADDITIONAL PRETRIAL DIVERSION HEARINGS PER CASE

The assumptions about the pre-trial hearing lengths in the engrossed second substitute have changed from the second substitute bill. However, the change in time assumptions are not significant enough to affect the overall fiscal impact of the bill.

These additional cases would require an estimated 3 additional hearings as the person facing charges considers diversion. Two of the

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hearings are estimated to take 15 minutes each. A third hearing is estimated to take 20 minutes. The additional time is for judges to explain the consequence of potentially diverting and potentially being found to have a SUD as well as the potential consequences of not diverting, being convicted, and then also being ineligible to ship, transport, possess, or receive firearms or ammunition which have been shipped or transported in commerce. For all 12,000 cases, pre-trial diversion hearings would add judicial officer time and associated court costs with an overall estimated annual cost of \$4,634,000.

Counties annual cost = \$825,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$825,000

Cities annual cost = \$2,984,000

#### PRETRIAL DIVERSION PROGRAMS

Pretrial diversion can take many forms in different jurisdictions. Those outlined in the bill include law enforcement referral to assessment services before referral to the prosecutor, prosecutor diversion involving court probation departments, and therapeutic courts. Depending on the path, the costs of the pretrial diversion program would be borne differently. Because it is impossible to predict case to case how pretrial diversion may take place, this judicial impact note assumes diversion to new therapeutic substance use disorder courts. This is in addition to existing therapeutic courts.

Judges assume 6,000 cases (50 percent of total cases) will result in diversion. Based on caseloads in five King County therapeutic courts, the assumption is that each therapeutic court would have 120 cases per year. And, an average cost of therapeutic courts (\$340,000) based on the courts of limited jurisdiction participating in AOC's therapeutic court grant program in the 2021-23 biennium. This is likely a low estimate of the actual costs of therapeutic courts.

The costs of the pretrial diversion program would be:

6,000 cases divided by 120 cases per therapeutic court = 50 new therapeutic courts statewide multiplied by \$340,000 per court = \$17,000,000 per year

Counties annual cost = \$4,534,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$2,833,000

Cities annual cost = \$9,633,000

#### POST-SENTENCE TREATMENT COMPLIANCE ADDITIONAL/CONTESTED HEARINGS PER CASE

These additional cases would also require an estimated 3 additional hearings at 15 minutes each and one, longer contested hearing estimated at 60 minutes. For all 12,000 cases, this would add judicial officer time and associated court costs with an overall estimated annual cost of \$18,487,000.

Counties annual cost = \$4,072,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$2,880,000

Cities annual cost = \$11,535,000

### Part III: Expenditure Detail

## Part III: Expenditure Detail

### III. A - Expenditure By Object or Purpose (State)

<i>State</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Wages					
Employee Benefits					
Professional Service Contracts					
Goods and Other Services					
Travel					
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services	1,596,000	1,596,000	3,192,000	3,192,000	3,192,000
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
<b>Total \$</b>	1,596,000	1,596,000	3,192,000	3,192,000	3,192,000

### III. B - Expenditure By Object or Purpose (County)

<i>County</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other	18,039,000	18,039,000	36,078,000	36,078,000	36,078,000
<b>Total \$</b>	18,039,000	18,039,000	36,078,000	36,078,000	36,078,000

### III. C - Expenditure By Object or Purpose (City)

<i>City</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000
<b>Total \$</b>	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000

### III. D - FTE Detail

NONE

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B1 - Expenditures by Object Or Purpose (State)

NONE

186,338.00

Form FN (Rev 1/00)

5

Request # 245-1

Bill # 5536 E 2S SB

**IV. B2 - Expenditures by Object Or Purpose (County)**

NONE

**IV. B3 - Expenditures by Object Or Purpose (City)**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

None

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 056-Office of Public Defense
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## Part I: Estimates

☒ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

NONE

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Brett Ballew	Phone: 360-586-3164 1	Date: 03/12/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 03/12/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/13/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

E2SSB 5536 addresses penalties for knowing possession of a controlled substance, and provides for treatment.

\* Section 19(1) of the engrossed second substitute bill amends Chapter 26.12 RCW to authorize the court to appoint counsel for a parent, guardian, or custodian in family law parenting plan or child custody proceedings where the court determines the parent, guardian, or custodian is affected by substance use disorders, mental health, or behavioral health concerns such that they are unable to represent their own interests, or their parental rights may be restricted. If appropriate, appointed counsel must have understanding of the Indian Child Welfare Act and knowledge about tribal child welfare systems. The bill does not specify an entity to be responsible for providing counsel in these matters. Providing counsel for Title 26 family law matters is not among OPD's enumerated statutory duties, therefore OPD assumes that Section 19(1) would not create a fiscal impact to OPD.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals 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

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

☒ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

NONE

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 03/14/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/14/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/14/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The Attorney General's Office (AGO), Agriculture & Health Division (AHD) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Commerce (Commerce). The change to the Growth Management Act (GMA) in Section 13 is not expected to affect Commerce Growth Management Services. The new program created in Section 16 for funding construction costs of Substance Use Disorder (SUD) treatment facilities is not expected to generate more than minimal legal work. Additionally, Commerce was assigned this fiscal note request for its role in estimating the impact of bills on local governments. This will not generate any legal work. Therefore, costs are not included in this request.

The AGO AHD has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Health (DOH). The enactment of this bill will not impact the provision of legal services to DOH. This bill would modify some requirements for opioid treatment program licensure (Section 15). DOH would be required to include stakeholders in rulemaking concerning health engagement hubs (Section 27). Additionally, DOH would be required to implement a statewide tool to map and direct individuals with behavioral health disorders to treatment and recovery support services locations. AHD assumes new legal services are nominal. Therefore, costs are not included in this request.

The AGO Revenue and Finance Division (REV) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Revenue (DOR). Section 20 creates an exemption for property used by a nonprofit organization in maintaining an approved and registered recovery residence. REV assumes this bill is unlikely to generate any requests for advice or need for litigations since the exemption will be administered by county assessors. Therefore, costs are not included in this request.

The AGO Corrections Division (COR) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Corrections (DOC). This bill increases the penalty for drug possession (of certain substances) to gross misdemeanor, and creates a pretrial diversion program for individuals charged with simple possession. Individuals convicted of gross misdemeanors serve any confinement time in local jails, not in DOC prisons. Additionally, diversion programs are administered at the local level. Although DOC does supervise certain individuals for misdemeanor convictions, any increase in such supervision is unlikely to increase DOR's need for legal services. Therefore, costs are not included in this request.

The AGO Social & Health Services – Olympia Division (SHO) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Health Care Authority (HCA). While this bill directs HCA to perform a study and work on several programs, SHO already advises the portion of HCA that handles the Substance Use Disorder (SUD) legal issues. This bill should not result in additional expansion of SUD program. SHO anticipates that the same program staff will continue providing advice and working on these issues. Therefore, costs are not included in this request.

The AGO Children, Youth and Families (CYF) Division has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Children, Youth, and Families (DCYF). Section 19 provides that parents, guardians, and legal custodians may have a right to appointed counsel in parenting plan and other child custody cases if the parent, guardian, or legal custodian is affected by SUD, a mental health disorder, or a behavioral health concern. This may result in a small increase in parents with attorneys seeking to modify guardianships, or other custody arrangements entered following a dependency case. However, CYF assumes legal services assistance would be minimal. Additionally, CYF anticipates a minimal legal assistance required by Section 23 for DCYF work with HCA to develop a training for parents of children with SUD. Section 24 requires DCYF to make "opioid reversal medication" available to case workers and other employees who may come into contact with individuals who might experience an

overdose. CYF assumes new legal services are nominal. Therefore, costs are not included in this request.

**II. B - Cash receipts Impact**

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

**II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

NONE

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

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals 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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 101-Caseload Forecast Council
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## Part I: Estimates

☒ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

NONE

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 03/13/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 03/13/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/15/2023

Part II: Narrative Explanation

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

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

See attached.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: FTEs listed by classification and corresponding annual compensation. Totals 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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

**E2SSB 5536**  
**CONCERNING POSSESSION OF CONTROLLED**  
**AND COUNTERFEIT SUBSTANCES AND**  
**LEGEND DRUGS**  
**101 – Caseload Forecast Council**  
**March 10, 2023**

**SUMMARY**

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

- Section 1 States legislative intent.
- Section 2 Amends RCW 69.50.4011 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Counterfeit Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 10(2) of the act, upon arraignment.
- Section 3 Amends RCW 69.50.4013 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Controlled Substance. Additionally, establishes the offense as a gross misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 10(2) of the act, upon arraignment.
- Section 4 Amends RCW 69.50.4014 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of 40 grams or less of Cannabis. Additionally, states the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 10(2) of the act, upon arraignment.
- Section 5 Amends RCW 69.41.030 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” for possession in the offense of Sell, Deliver, or Possess any Legend Drug. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Requires the court to advise defendant of the pretrial diversion program in Section 10(2) of the act, upon arraignment.
- Section 6 Amends RCW 69.50.509 to add the term “knowingly” for probable cause that a controlled substance is being possessed.

- Section 7 New Section is added to chapter 43.43 RCW requiring the Washington State Patrol (WSP) to complete analysis for evidence for a suspected violation of RCW 69.50.4011(1)(b), 69.50.4013, or 69.41.030 within 45 days of receipt of request. Additionally states WSPs failure to comply shall not constitute grounds for dismissal of a criminal charge.
- Section 8 New section appropriating funds the WSP solely to support analysis listed in Section 7.
- Section 9 Amends RCW 69.50.4121 by contracting the definition of a class I civil infraction regarding drug paraphernalia. Additionally removes testing and analyzing from the definition of drug paraphernalia. Also adds public health supplies, smoking equipment, and drug testing equipment from prohibited distribution.
- Section 10 Adds a new section to chapter 69.50 RCW requiring the court to advise the defendant and his/her attorney of the pretrial diversion program for certain drug offenses. Additionally describes the pretrial diversion program and states if the defendant successfully completes pretrial diversion, the criminal possession charge or charges must be dismissed. States nothing in the section prevents the defense from seeking to resolve possession charges through therapeutic courts. If the prosecuting attorney thinks the defendant is not substantially complying with treatment or services, is convicted or an offense of violence, is charged with a subsequent violation of certain violations of chapter 69.50 RCW, or the defendant is convicted of a felony, the prosecuting attorney may make a motion for termination from pretrial diversion.
- Section 10 Additionally requires the state to make resources available to assist the defendant in obtaining a substance use disorder (SUD) evaluation within 7 days of agreement to participate in the diversion program, at no expense to the defendants who qualify for public defense services or are found to be indigent. Requires the state to reimburse local courts for the costs associated with assessments.
- Section 10 Additionally requires the court to inform the individual of the federal restriction against possessing firearms and ammunition, after the diagnostic and treatment recommendation has been filed with the court.
- Section 11 Adds a new section to chapter 69.50 RCW which sets the punishment for individuals convicted in courts of limited jurisdiction for possession offenses as follows:
- For convictions of RCWs 69.50.4011(1)(b) or 69.50.4013, if individual agrees as a condition of probation to submit to a SUD assessment and comply with treatment recommendations, the sentence includes a term of confinement of up to 364 days suspended for a period not to exceed 2 years.
  - For convictions of 69.41.030(2)(b), if individual agrees as a condition of probation to submit to a SUD assessment and comply with treatment recommendations, the sentence includes a term of confinement of up to 90 days suspended for a period not to exceed 1 year.
  - For convictions of 69.41.030(2)(b), if individual agrees as a condition of probation to submit to a SUD assessment and comply with treatment recommendations, the sentence includes a term of confinement of up to 90 days suspended for a period not to exceed 1 year.
  - For convictions of 69.50.4011(1)(b), 69.50.4013, or 69.41.030(2)(b) for a schedule II substance and the individual refuses assessment and treatment, the sentence shall be a term of not less than 21 days.



Section 11 Additionally describes the process and requirements for SUD evaluation and treatment. Requires the punishment for individuals agreeing to the diversion program that willfully abandon or demonstrate a consistent failure to comply with treatment, to be:

- For first instance of being sentenced under this section the court may use its discretion in determining amount of suspended sentence to be reinstated.
- For second instance, the court is required to reinstate no less than 21 days of the suspended sentence.
- For third or subsequent instance, the court is required to reinstate no less than 45 days of the suspended sentence.

Section 11 Additionally states that the court may consider any subsequent possession charges filed against someone that is participating in the diversion program a willful abandonment of treatment. States that for successful completion of recommended treatment program, the individual must file proof of completion with the court and that the court must terminate probation and enter an order vacating the individual's conviction.

Section 12 Amends RCW 9.96.060, adding a new subsection that states for individuals convicted of certain drug offenses who subsequently complete an approved substance use disorder treatment program, may apply to the court for vacation of the conviction(s). Upon verification of successful completion, the court must vacate.

Section 14 Amends RCW 71.24.589 (Substance use disorders—Law enforcement assisted diversion—Pilot project) by changing the pilot program to a grant program. Includes language regarding civil liability.

Section 15 Amends RCW 71.24.590 (Opioid treatment—Program licensing or certification by department, department duties—Use of medications by program—Definition) by specifying opioid treatment. Additionally allows establishment of a mobile or fixed-site medication unit as part of a licensed opioid treatment program.

Section 16 Adds a new section to chapter 43.330 RCW establishing a program in the Department of Commerce to fund construction costs necessary to start up SUD treatment programs in regions of the state currently lacking access to such programs (subject to appropriations). States the funding must be used to increase the number of SUD treatment programs in underserved areas such as Central and Eastern Washington.

Section 17 Amends RCW 10.31.110 (Alternatives to arrest—Individuals with mental disorders or substance use disorders) by removing language regarding local diversion programs and the recovery navigator program described in RCW 71.24.115 when filing original charges.

Section 18 Repeals RCW 10.31.115 (Drug Possession Referral to assessment and services) and 2021 c 311 s 13.

Section 20 Adds a new section to chapter 71.24 RCW that increases recovery housing (subject to appropriations.)

Section 21 Amends RCW 84.36.043 by adding approved recovery residences used by nonprofit organizations to taxation exemptions.

Section 22 Adds a new section regarding tax preference.

Section 23 Adds a new section to chapter 43.216 RCW requiring the Health Care Authority (HCA) to develop training for parents of children and transition age youth with SUDs.

Section 24 Adds a new section to chapter 43.216 RCW requiring the Department of Children, Youth and Families to make opioid overdose reversal medication available for use by

caseworkers or employees that may come in contact with individuals experiencing overdose and to make appropriate training available.

Section 25 Adds a new section requiring HCA to develop and implement a data integration platform by June 30, 2024, to serve as a :

- common database for diversion efforts across the state;
- data collection and management tool for practitioners; and
- standardizing definitions and practices.

Section 26 Requires HCA to contract with the Washington State Institute for Public Policy to conduct a study of the long-term effectiveness of the recovery navigator program.

Section 27 Adds a new section to chapter 71.24 RCW that requires HCA to develop payment structures for health engagement hubs by January 1, 2025. States requirements of a health engagement hub.

Section 28 Adds a new section to chapter 71.24 RCW that requires HCA to establish a grant program for providers of employment, training, certification, and other supportive programs designed to provide persons recovering from a SUD with employment opportunities. States the program give priority to programs that engage with black, indigenous, persons of color, and historically underserved communities (subject to appropriations.)

Section 29 Adds a new section to chapter 71.24 RCW that requires HCA to collaborate with the Department of Social and Health Services to expand the Washington Recovery Helpline and the recovery readiness asset tool to provide dynamically updated statewide behavioral health treatment and recovery support services mapping tool (subject to appropriations.)

Section 30 States the legislative intent to increase investments in the 2023-2025 biennium substantially over baseline levels established in the 2021-2023 operating and capital budgets to increase the provision of evidence-based prearrest and prefiling diversion programs in all regions of the state. States the appropriation amounts proved to the state HCA and the conditions and limitations of the appropriated amounts.

Section 31 Adds a new section to chapter 71.24 RCW that requires HCA to convene a workgroup to recommend changes to systems, policies, and processes related to intake, screening, and assessment for substance use disorder services with recommendations due by December 1, 2024.

Section 32 States Section 7 of the is act takes effect January 1, 2025.

Section 33 Amends 2021 c 311 s 29 to read Sections 8-10 and 12 of this act expire on July 1, 2023.

Section 34 States Sections 2, 6, 8-12, and 33 of this act take effect July 1, 2023.

## **EXPENDITURES**

### **Assumptions**

None.

### **Impact on the Caseload Forecast Council.**

None.

## **Background Information**

In February 2021, the Washington State Supreme Court ruled in *State v. Blake* that the state's felony drug possession statute was unconstitutional. Prior to the Blake decision, Drug Possession was a felony offense ranked at Seriousness Level I on the Adult Felony Drug Grid and a Category C on the Juvenile Offender Sentencing Grid.

As a result of the court decision in February 2021, simple drug possession became non-criminal.

The 2021 Legislature addressed the issue and made changes to the statutes ruled unconstitutional by adding the term “knowingly” – effective as of May 13, 2021 (ESB 5476). The bill also lowered the prior felony possession offenses to misdemeanor offenses and encouraged prosecutors to divert cases for assessment, treatment, or other services. The possession offenses were removed from the Adult felony Drug Grid, and lowered to a Category E on the Juvenile Offender Grid.

ESB 5476 contained a sunset clause, making the changes expire as of July 1, 2023, at which time without any changes, simple possession would once again be unconstitutional and no longer a crime.

This bill reintroduces the term “knowingly” to the drug possession statutes and classifies simple possession of a controlled or counterfeit substance as a gross misdemeanor. Additionally reintroduces the term “knowingly” to the sale, possession or delivery of a legend drug. The sale, delivery, or possession with intent to sell or deliver a legend drug remains a Class B felony. Knowingly possessing a legend drug remains a misdemeanor offense.

## **Impact on prison and jail beds and community corrections population:**

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, since misdemeanor offenses are punishable by a term of confinement of 0-90 days in jail and gross misdemeanor offenses are punishable by a term of confinement of 0-364 days in jail, any impact of the change from current sentencing would manifest itself as a potential increased need for jail beds only. This bill additionally requires individuals agreeing to the diversion program that willfully abandon or demonstrate a consistent failure to comply with treatment to be sentenced to confinement for: the courts discretion on the first instance; 21 days on the second instance, and for 45 days for the third instance. For those that refuse treatment, the minimum confinement will be 21 days. It is unknown how many individuals will refuse treatment or how many of those that participate will willfully abandon or fail treatment and what the bed impact will be.

However, the bill also adds that the prosecutor is encouraged to divert such cases to assessment, treatment or other services. Law enforcement is encouraged to offer a referral to assessment and services. Upon arraignment for a violation for possession offenses, the court is required to

advise the defendant of the pretrial diversion program established in the bill. For individuals who completes pretrial diversion, the criminal possession charge or charges must be dismissed. It is unknown if confinement time will increase or decrease from current practice as individuals as the court may terminate pretrial diversion if the defendant is not meaningfully engaging in the recommended treatment or services or is convicted of an intervening crime. Individuals who successfully complete a substance use disorder treatment program shall have their offense vacated by the court.

The provisions of the bill have no impact to DOC supervision caseload.

### **Impact on Juvenile Rehabilitation and local beds**

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) By adding the term “knowingly” to possession offenses, the offenses conform with the issue raised in the Blake decision, and will remain criminal offenses as of July 1, 2023. The bill amends 2021 c 311 s 29 by removing expiration of sections 15 and 16 of the bill, leaving Possession of a Counterfeit or Controlled Substance as a Category E offense.

The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, the offense of Possession of a Controlled Substance would be punishable by a standard range term of Local Sanctions (0-30 days in local juvenile detention) for juveniles adjudicated for the offense. Therefore, incidences of this offense would likely impact local juvenile detention beds.

As described above under Prison and Jail Bed Impacts, juveniles may also participate in pretrial diversion. It is unknown if confinement time will increase or decrease from current practice as individuals may be terminated from the diversion program or if successful, charges may be dismissed.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 103-Department of Commerce
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## Part I: Estimates

☐

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.0	0.1	0.0	0.0
<b>Account</b>					
General Fund-State 001-1	36,956	0	36,956	0	0
<b>Total \$</b>	36,956	0	36,956	0	0

### Estimated Capital Budget Impact:

Non-zero but indeterminate cost and/or savings. 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 03/10/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 03/10/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 03/13/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Differences between E2SSB 5536 and 2SSB 5536:

- Updates to Part I on possession of controlled substances and Part III on pre-trial diversion, but no updates to Part IV regarding Opioid treatment access and expansion.

The engrossed second substitute did not modify Part IV, which contains provisions for the Department of Commerce (department) to provide essential facilities siting guidance and a new capital program for new substance use disorder treatment facilities in unserved areas of the state, and does not change the fiscal impact to the department.

Summary of E2SSB 5536:

Section 13 amends RCW 36.70A.200 to modify the essential facilities that cities and counties planning under the Growth Management Act would add into their processes for identifying and siting such facilities within their comprehensive plans. Facilities include opioid treatment facilities, substance use disorder facilities, and both mobile and fixed-site medication units, recovery residences, and harm reduction programs except for safe injection sites.

Section 16 adds a new section to RCW 43.330 that requires the department to form and operate a program for the capital construction needs of substance use disorder treatment programs. Awards must be made to unserved areas of the state and specifically Eastern and Central Washington.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Section 13: Growth Management Services essential facilities guidance.

Assumptions:

- The department assumes minor updates to existing essential facilities guidance and rulemaking to update WAC 396-550.
- Guidance includes outreach and engagement in coordination with the staff of the grant program developed by the department in Section 16 with emphasis on siting issues and opportunities at the local level.

0.20 FTE Commerce Specialist 3 (418 hours) in FY24 to provide essential facility guidance, technical assistance to cities and counties, and to update department rules for essential facilities. Staff would be responsible for coordinating with the department's grant program staff (Section 16) during outreach and engagement.

Salaries and Benefits:

FY24: \$22,211

Goods and Services:

FY24: \$3,433

Travel:

Outreach and engagement to Eastern and Central Washington for 10 days, all of which are likely overnight trips.

FY24: \$4,005

Intra-agency Reimbursements:

FY24: \$7,307

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration. Agency administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

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Total Costs:

FY24: \$36,956

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	36,956	0	36,956	0	0
Total \$			36,956	0	36,956	0	0

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2		0.1		
A-Salaries and Wages	16,411		16,411		
B-Employee Benefits	5,800		5,800		
C-Professional Service Contracts					
E-Goods and Other Services	3,433		3,433		
G-Travel	4,005		4,005		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	7,307		7,307		
9-					
Total \$	36,956	0	36,956	0	0

#### 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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Services - Indirect	111,168	0.0		0.0		
Commerce Specialist 3	82,056	0.2		0.1		
Total FTEs		0.2		0.1		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

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

IV. B - Expenditures by Object Or Purpose

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

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

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

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

NONE

Section 16: Development and implementation of a substance use disorder treatment capital program.

Agency assumptions:

- The proposed legislation creates a new substance use disorder treatment capital grant program that is subject to appropriation and does not identify a funding source.
- The department assumes 3% of a potential appropriation for administrative costs, but without a clearly identified funding level, the costs outlined for the department to implement the proposed legislation are illustrative only.
- The department assumes a process to develop the grant program criteria, including eligibility, funding prioritization, application question development, and scoring process would be in consultation with state partners from the Health Care Authority (HCA) and the Department of Health (DOH), Health Systems Quality Assurance Team. The department would convene virtually for between four and six half-day meetings between July 1, 2023 and December 31, 2023.
- The timeline to form and develop the program would take approximately eight months, with hiring to occur in alignment with budget authority on July 1, 2023. The department assumes the program would be operational by March 1, 2023 and would begin its first grant cycle thereafter to generate a prioritized project list by September 1, 2024.
- The department would leverage existing Behavioral Health Facilities staff to develop the substance use disorder program required in Section 16.
- Application review and scoring would be in consultation with the HCA and DOH and require approximately 40 hours of staff time depending on the number of applications received. It could be higher if there is a significant volume of applications, such as more than 10.
- The department assumes outreach and engagement with existing providers to assess interest and opportunity to retrofit or build new substance use disorder treatment facilities in Central and/or Eastern Washington.
- The level of appropriation required for implementing Section 16 and to form a new substance use disorder treatment capital program in the department is unknown. The level of demand for state funding to support providers to expand substance use disorder treatment services, including opioid treatment programs, in Central and Eastern Washington and the



number of grants that would be awarded are also unknown.

1.0 FTE Commerce Specialist 3 (2,088 hours) in FY24-FY29, for general program administration and consultation with providers and interagency partners. This position will be responsible for ongoing program operations, including contract management and coordinating outreach to providers and communities. Compliance may include site visits and corresponding compliance reports. Staff will manage capital contracts, validate invoices, monitor contract implementation and commitment period, and develop project communications.

1.0 FTE Commerce Specialist 5 (2,088 hours) in FY24-FY29, to provide staff management, including assigning and negotiating contracts and project support services. Staff will also provide rule development oversight, as required. Staff will also support application development, outreach, and application scoring and prioritization. Staff will present advanced technical business information to higher education institutions and coordinate with key stakeholders. Staff will present advanced technical business information to eligible providers. Staff will oversee program development, including application, scoring and other relevant process with interagency partners.

0.20 FTE WMS2 (418 hours) in FY24-29, to provide leadership, oversight, supervision, rules coordination and final decision making over all grantmaking activities of the program. Staff will provide expert leadership, oversight, rules coordination and decision making over all capital elements of the program.

0.10 WMS3 (209 hours) in FY24-29, to coordinate project delivery in compliance with established rules and laws, provide guidance on new capital grant solicitations, contract negotiation, as needed, and oversight of any consultant agreements.

0.10 Administrative Assistant 3 (209 Hours) in FY24-FY29, to review contract documents, facilitate accounting and project financial data management in the Contracts Management System, and records retention. Composes program correspondence regarding grantee projects, such as requests for documentation and responses to requests for information. Provides project support services and facilitates planning for for grantee meetings.

#### Salaries and Benefits:

FY24: \$294,914

FY25-FY29: \$304,862 each fiscal year

#### Goods and Services:

An annual ZoomGrants license at \$2,458 and 50 hours of Assistant Attorney General (AAG) consultation at \$210 per hour in FY24.

FY24: \$55,899

FY25-FY29: \$45,416 each fiscal year

#### Travel:

Outreach and engagement to Eastern and Central Washington for 10 days, all of which are likely overnight trips.

FY24-FY29: \$4,005 each fiscal year

#### Equipment:

Standard workstations for new team members and a replacement computer on the agency's five-year lifecycle replacement schedule.

FY24: \$10,000

FY28: \$4,800

Intra-agency Reimbursements:

FY24: \$97,027  
FY25-FY29: \$100,300 each fiscal year

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration. Agency administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

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Total costs:

FY24: \$462,685  
FY25-FY27: \$454,583 each fiscal year  
FY28: \$459,383  
FY29: \$454,583

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

The department would update rules under WAC 396-550 for essential facilities.

# Individual State Agency Fiscal Note

Revised

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 107-Washington State Health Care Authority
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
General Fund-Federal 001-2	2,258,000	2,214,000	4,472,000	4,122,000	4,122,000
<b>Total \$</b>	2,258,000	2,214,000	4,472,000	4,122,000	4,122,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	16.0	15.2	15.6	13.0	13.0
<b>Account</b>					
General Fund-State 001-1	32,744,000	30,814,000	63,558,000	61,393,000	61,526,000
General Fund-Federal 001-2	2,258,000	2,214,000	4,472,000	4,122,000	4,122,000
<b>Total \$</b>	35,002,000	33,028,000	68,030,000	65,515,000	65,648,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Samuel Quartey	Phone: 360-725-0000	Date: 03/15/2023
Agency Approval: Cliff Hicks	Phone: 360-725-0875	Date: 03/15/2023
OFM Review: Arnel Blancas	Phone: (360) 000-0000	Date: 03/15/2023

Part II: Narrative Explanation

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

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

See Attached.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

See attached.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	32,744,000	30,814,000	63,558,000	61,393,000	61,526,000
001-2	General Fund	Federal	2,258,000	2,214,000	4,472,000	4,122,000	4,122,000
Total \$			35,002,000	33,028,000	68,030,000	65,515,000	65,648,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	16.0	15.2	15.6	13.0	13.0
A-Salaries and Wages	1,106,000	1,059,000	2,165,000	1,766,000	1,766,000
B-Employee Benefits	386,000	370,000	756,000	624,000	624,000
C-Professional Service Contracts	250,000	40,000	290,000	151,000	284,000
E-Goods and Other Services	195,000	193,000	388,000	372,000	372,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	32,587,000	30,910,000	63,497,000	61,820,000	61,820,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	478,000	456,000	934,000	782,000	782,000
9-					
Total \$	35,002,000	33,028,000	68,030,000	65,515,000	65,648,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

**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 2024	FY 2025	2023-25	2025-27	2027-29
Contract Specialist 3	81,000	1.0	1.0	1.0	1.0	1.0
Fiscal Analyst 3	65,000	4.2	4.0	4.1	3.5	3.5
IT APP DEVELOPMENT - JOURNE	101,000	0.5	0.5	0.5	0.5	0.5
IT DATA MANAGEMENT - SENIOR/SPECIALIST	111,000	1.0	1.0	1.0	1.0	1.0
MANAGEMENT ANALYST 5	92,000	1.0	1.0	1.0	1.0	1.0
MEDICAL ASSISTANCE PROGRA SPECIALIST 3	83,000	5.8	5.2	5.5	5.0	5.0
WMS BAND 01	100,000	2.0	2.0	2.0	1.0	1.0
WMS BAND 02	119,000	0.5	0.5	0.5		
<b>Total FTEs</b>		16.0	15.2	15.6	13.0	13.0

**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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# HCA Fiscal Note

Bill Number: 5536 E2SSB Controlled Substance

HCA Request #: 23-203

## Part II: Narrative Explanation

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

This bill amends various statutes related to controlled substances, counterfeit substances, legend drugs, and drug paraphernalia.

Sections that changed that have an impact to the Health Care Authority (HCA) are as follows:

**Section 10 (4)(a)** - now requires the state to make resources available to assist defendants.

**Section 10 (4)(b)** - now requires the state to reimburse for related travel.

**Section 14** - Converts law enforcement assisted diversion (LEAD) from a pilot project to a grant program and removes geographical restrictions on the program.

**Section 27 (2)(a)** - adds the following language: A health engagement hub may not provide supervised injection services.

\*\*\*\*\*

Sections that have an impact to HCA are as follows:

**Section 10 (4)** - For defendants who agree to participate in the diversion program, the court state shall make resources available to assist the defendant in obtaining a substance use disorder evaluation within seven days of the defendant's agreement to participate in the diversion program. The state shall also reimburse local courts for costs associated with the substance use disorder assessments and related travel under this subsection.

**Section 14** - Amends RCW 71.24.589, HCA shall administer a grant program for law enforcement assisted diversion which shall adhere to LEAD core principles recognized by the law enforcement assisted diversion national support bureau, the efficacy of which have been demonstrated in peer-reviewed research studies.

**Section 20** - Adds a new section to RCW 71.24 directing HCA to fund recovery residences, including by expansion of a revolving fund program, establish a voucher program to allow accredited recovery housing operators to hold bed space for individuals transitioning to stable housing, to conduct outreach to underserved and rural areas to support recovery housing focused on women, LGBTQIA+, and youth; and develop training for housing providers by January 1, 2024, focusing on aligning and providing appropriate housing for LGBTQIA+ communities.

**Section 23** - Adds a new section to RCW 43.216 directing HCA in consultation with the Department of Children, Youth, and Families (DCYF) to develop a training for parents of children and transition age youth with substance use disorders by June 30, 2024, addressing specific criteria.

**Section 25** - Directs HCA to develop and implement a data integration platform by June 30, 2024 to support the recovery navigator program. HCA is to leverage existing platforms if possible, and to establish a quality assurance process for the Behavioral Health Administrative Services Organizations (BHASOs) for the data collection workbook.

# HCA Fiscal Note

Bill Number: 5536 E2SSB Controlled Substance

HCA Request #: 23-203

**Section 26** - Adds a new section to RCW 71.24 directing HCA to contract with the Washington State Institute for Public Policy (WSIPP) to conduct a study of the long-term effectiveness of the recovery navigator program, with reports due by June 30th in the years 2028, 2033, and 2038. Directs WSIPP to collaborate with HCA and the Substance Use and Recovery Services Advisory Committee (SURSAC) to determine the parameters of the report and recommendations for modification of the recovery navigator program. Directs HCA to create an expedited pre-approval process by August 1, 2023.

**Section 27** - Adds a new section to RCW 71.24 directing HCA to develop payment structures for health engagement hubs by January 1, 2025. Provides definition of a health engagement hub. Requires HCA to direct Medicaid managed care organizations to adopt value-based bundled payment methodology in contracts with health engagement hubs and other opioid treatment providers. Directs HCA to make available sufficient funding to ensure that health hubs are available within a two-hour drive for all communities, and that there is at least one health engagement hub per 200,000 residents in Washington state.

**Section 28** - Adds a new section to RCW 71.24 directing HCA to establish a grant program to provide employment opportunities for persons recovering from substance use disorder. Priority to be given to programs that engage with black, indigenous, persons of color, and other historically underserved communities.

**Section 29** - Adds a new section to RCW 71.24 directing HCA to collaborate with the Department of Health (DOH) and the Department of Social and Health Services (DSHS) to expand the Washington Recovery Help Line and the Recovery Readiness Asset Tool to provide a dynamically updated statewide behavioral health treatment and recovery services mapping tool. The tool must be robust enough to help facilitate the connection of individuals with facilities accepting patients and a dual interface for both internal and external users.

**Section 30** - Provides legislative intent to increase the provision of evidence-based prearrest and prefiling diversion programs in all regions of the state; services which shall be increased and included in every health purchasing region include crisis stabilization units, 23-hour crisis relief centers, mobile crisis response services for youth and adults, recovery navigator programs, and law enforcement assisted diversion and identifies appropriation amounts.

- \$18,114,000 from state general fund for FY 2024; and \$16,437,000 from state general fund for FY 2025, provided solely for HCA to continue and expand efforts to provide opioid use disorder medication in city, county, regional, and tribal jails.
- \$3,500,000 from state general fund for FY 2024; and \$3,500,000 from state general fund for FY 2025, provided solely for HCA to provide support funds to new and established clubhouses throughout the state.
- \$1,583,000 from state general fund for FY 2024; and \$1,583,000 from state general fund for FY 2025, provided solely for HCA to award grants to crisis services providers to establish and expand 23-hour crisis relief center capacity, equivalently between areas east and west of the Cascade mountains.
- \$900,000 from state general fund for FY 2024; and \$900,000 from state general fund for FY 2025 to maintain ongoing funding for community grants through the Criminal Justice Training Commission.

# HCA Fiscal Note

Bill Number: 5536 E2SSB Controlled Substance

HCA Request #: 23-203

- \$1,250,000 from state general fund for FY 2024, \$1,250,000 from state general fund for FY 2025, and \$2,500,000 from general fund federal for the biennium to provide ongoing grants for LEAD

**Section 31** - Adds a new section to RCW 71.24 directing HCA to convene a work group regarding intake, screening, and assessment for substance use disorder services to meet specific goals and outcomes. Work group participants are listed and a report with recommendations is due by December 1, 2024.

## II. B - Cash Receipts Impact

Indeterminate overall impact.

For this analysis the revenue is based on the bill providing appropriation authority related to the LEAD grants using federal funds. In addition, HCA assumed administrative staff costs would be eligible for federal matching and a rate of 50% was used.

There may be other areas that could be eligible for federal funding.

### II. B - Estimated Cash Receipts to:

ACCOUNT	FY- 2024	FY- 2025	FY- 2026	FY- 2027	FY- 2028	FY- 2029
General Fund-Federal 001-2	2,258,000	2,214,000	2,061,000	2,061,000	2,061,000	2,061,000
Totals	\$ 2,258,000	\$ 2,214,000	\$ 2,061,000	\$ 2,061,000	\$ 2,061,000	\$ 2,061,000

## II. C – Expenditures

Indeterminate overall impact to HCA.

HCA is unable to estimate impact to services at this time, so no estimate is provided.

HCA has estimated anticipated costs for staff and some potential contracts to support the workload. Not all contractual or IT based impacts will be known until HCA begins to work on some of the outlined requirements. Costs summarized by section do not factor in general staff support or other agency administrative costs. However, those impacts are included in the overall fiscal note summary.

### Section 10 – Indeterminate service impact

The bill requires the state to make resources available to defendants for an assessment by any substance use disorder treatment program. This section also requires the state to reimburse local courts for travel and related costs. These may increase service costs. Currently, HCA is unable to estimate the impact to services.

### Section 14 – Indeterminate, Potential staffing impact.

The LEAD project is converted to a grant program and removes geographical restrictions on the program. Based on proposed appropriated amounts, HCA anticipates being able maintain the current four agreements. If the intent is to provide funding to additional entities, an additional staff person may be needed to address workload.

### Section 20 – 1.8 FTE/\$268,000 plus additional indeterminate costs



## HCA Fiscal Note

Bill Number: 5536 E2SSB Controlled Substance

HCA Request #: 23-203

HCA currently contracts with an organization to support a revolving fund program. HCA would need to modify the agreement to increase funding or contract with an additional vendor. To meet the requirement of having an adequate number of recovery residences in each region, HCA will need to collect and map data. Depending on the size of the increase provided to HCA, additional ongoing staff would be needed in both the program and agency support units to support this workload.

HCA will need to establish a voucher program. HCA anticipates needing ongoing program staff to oversee and monitor this new program. Contracts staff may be tasked to support new or modified contracts. Depending on the size of the voucher program additional support staff may be needed.

To meet the outreach and training requirements, HCA anticipates hiring a vendor to assist with development and disbursement of materials and training. HCA anticipates there will be a higher initial cost and then a need for on-going funds to support updates and turnover of those needing training. HCA would need program staff to oversee this function and support from contracts staff.

- 1.0 FTE Medical Assistance Program Specialist 3 at \$113,000/FTE
- 0.5 FTE Fiscal Analyst 3 at \$92,000/FTE
- 0.3 FTE Contracts Specialist at \$111,000/FTE
- \$1,000 Miscellaneous Outreach goods and services
- Loan/grant impacts will be dependent on an analysis of need.
- Voucher costs are not able to be calculated at this time and will depend on location and volume.
- Outreach and Training could be between \$50,000 to \$100,000, with on-going costs of \$10,000 to \$30,000. For this analysis, one-time costs are assumed to be \$75,000 and ongoing to be \$20,000.
- Leverage new IT staff requested in other sections to support as needed. Geographic tools may also be needed to ensure adequate resources in a geographical region.

### **Section 23 – 0.5 FTE/\$132,000**

HCA will need to work with DCYF on the development of a training program. HCA anticipates needing to work with consultants or other experts in the field to develop a training program. Costs will be higher for the initial training development, with lower on-going costs.

- 0.5 FTE Medical Assistance Program Specialist 3 at \$113,000/FTE - project
- Training could be between \$50,000 to \$100,000, with on-going costs of \$10,000 to \$30,000. For this analysis, one-time costs are assumed to be \$75,000 and ongoing to be \$20,000.

### **Section 25 – 1.75 FTE/\$387,000**

HCA will need to develop and implement a data integration platform and establish quality assurance processes for the BHASOs. HCA anticipates that IT staff will lead the efforts using existing platforms as reasonable.

- 1.0 FTE IT Data Management Senior/Specialist at \$146,000/FTE
- 0.25 FTE IT App Development – Journey at \$134,000/FTE
- 0.5 FTE Management Analyst at \$124,000/FTE
- Increased licensing cost \$45,000/year
- Edifecs – data block estimated cost at \$100,000/year – this could increase and is a potential shared resource across several sections.
- Additional software may be needed if unable to leverage existing platforms – Indeterminate at this time.

# HCA Fiscal Note

Bill Number: 5536 E2SSB Controlled Substance

HCA Request #: 23-203

## **Section 26 – Fiscal impact in future biennia per WSIPP**

HCA will contract with WSIPP to study long-term effectiveness of the recovery navigator program and produce reports. The contract with WSIPP will cost a total of \$857,218 with \$71,110 in FY 2027 and \$204,037 in FY 2028, HCA program staff support will be needed to coordinate and help with the report.

- Leverage new IT staff requested in other sections to support as needed.

## **Section 27 – 5.1 FTE/\$643,000**

To implement this section HCA anticipates they will first need to develop payment structures. HCA will also need to work with managed care organization to adopt a new value-based bundled payment.

At a minimum, HCA estimates that 39 hubs will be required based on population data (7,864,400 residents divided by 200,000). Additional hubs may be needed to address the travel requirements. HCA further assumes that the hubs will be phased in over several years and that various support models may be needed to ensure availability for all communities.

Fiscal impacts related to supporting hubs are unable to be calculated at this time.

- 1.0 FTE WMS1 Policy Support at \$133,000/FTE – project FTE
- 1.0 FTE WMS1 Project Development Lead at \$133,000/FTE
- 2.0 FTE Medical Assistance Program Specialist 3 at \$113,000/FTE
- 0.5 FTE WMS2 (Fiscal Information and Data Analyst) at \$156,000/FTE – project FTE
- 0.5 FTE Management Analyst at \$124,000/FTE
- 0.1 FTE Contracts Specialist 3 at \$111,000/FTE
- Leverage new IT staff requested in other sections to support as needed
- Vendor or software costs to support mapping may be needed - indeterminate.

## **Section 28 – 1.2 FTE/\$6,145,000**

HCA anticipates they will need programmatic staff to develop and manage this new grant program and contracts staff to enter into agreements with community partners to disburse grant funds. For analysis purposes, HCA estimates they may be able to partner with ten organizations that would be able to provide programs to support persons recovering from substance use disorder. This estimate includes staff costs as well as program costs to support up to 70 individuals per organization per year.

- 1.0 FTE Medical Assistance Program Specialist 3 at \$113,000/FTE
- 0.2 FTE Contracts Specialist 3 at \$111,000/FTE
- \$20,000 Miscellaneous training and implementation costs
- \$5,990,000 for Community Partners

## **Section 29 – Indeterminate**

HCA currently uses a vendor to support the Washington Recovery Help Line and the Recovery Readiness Asset Tool. HCA anticipates they will need to work with these or other vendors to expand these systems to support a dynamically updated statewide behavioral health treatment and recovery support services mapping tool. The tool needs to include a resource database for those seeking services and a referral system to facilitate the connection between individual and facility. The tool must also include an interface for public access and internal management. Based on language in the bill, HCA assumes that DOH and DSHS will partner in the development and provide support as needed. HCA will need to work with the vendor(s) regarding project scope, existing capabilities, needed support, and what existing or new resources will be needed. Until this is done, HCA is unable to provide an estimate. HCA anticipates that resources such as the following may be needed:

- Project management and coordination
- Data Management to support development and maintain datasets

## HCA Fiscal Note

Bill Number: 5536 E2SSB Controlled Substance

HCA Request #: 23-203

- Application Developer
- Subject matter expertise
- GIS capability (tool or software) to meet geospatial analysis needs
- IT Software and/or licenses

**Section 30** – 1.55 FTE/\$180,000 in staff costs plus identified appropriations.

Appropriations are made to HCA to:

- Continue and expand efforts to provide opioid use disorder medication in city, county, regional, and tribal jails
- Support new and established clubhouses throughout the state
- Award grants to crisis services providers to establish and expand 23-hour crisis relief center capacity
- Maintain a memorandum of understanding with the Criminal Justice Training Commission for community grants.
- Support LEAD programs.

HCA anticipates that appropriations identified would be on-going. Additional staff will be needed to support these on-going programs.

- 1.0 FTE Medical Assistance Program Specialist 3 at \$113,000/FTE
- 0.3 FTE Contracts Specialist 3 at \$111,000/FTE
- 0.25 FTE IT App Development – Journey at \$134,000/FTE
- Additional IT software may be needed to support geographic distribution of programs.
- Increases to infrastructure and capacity for substance use disorder programs may increase service costs. Until there is more certainty about the impact, HCA is unable to estimate these impacts.

**Section 31** – 0.35 FTE/\$140,000

HCA will need to convene a workgroup and provide staff support. HCA anticipates that much of the analytical work could be contracted with the Washington State Department of Social and Health Services (DSHS) Research and Development Administration.

- 0.25 FTE Medical Assistance Program Specialist 3 at \$113,000/FTE
- 0.1 FTE Contracts Specialist 3 at \$111,000/FTE
- \$1,000 miscellaneous goods and services to support workgroup such as printing
- Contract with DSHS for analytical support \$100,000

At this time many expenses are estimated using state general fund. Some costs may be eligible for federal match. For this analysis, HCA assumed administrative staff costs are eligible for federal matching and a rate of 50% was used.

Goods and services, travel, and equipment are calculated on actual program averages per FTE.

Administrative costs are calculated at \$39,000 per 1.0 FTE. This cost is included in Object T based on HCA's federally approved cost allocation plan and are capture and/or included as Fiscal Analyst 3 classification.

# HCA Fiscal Note

Bill Number: 5536 E2SSB Controlled Substance

HCA Request #: 23-203

## II. C - Operating Budget Expenditures

Account	Account Title	Type	FY-2024	FY-2025	FY-2026	FY-2027	FY-2028	FY-2029
001-1	General Fund	State	32,744,000	30,814,000	30,661,000	30,732,110	30,865,037	30,661,000
001-2	General Fund	Federal	2,258,000	2,214,000	2,061,000	2,061,000	2,061,000	2,061,000
Totals			\$ 35,002,000	\$ 33,028,000	\$ 32,722,000	\$ 32,793,110	\$ 32,926,037	\$ 32,722,000

## II. C - Expenditures by Object Or Purpose

		FY- 2024	FY- 2025	FY- 2026	FY- 2027	FY- 2028	FY- 2029
FTE		16.0	15.2	13.0	13.0	13.0	13.0
A	Salaries and Wages	1,106,000	1,059,000	883,000	883,000	883,000	883,000
B	Employee Benefits	386,000	370,000	312,000	312,000	312,000	312,000
C	Professional Service Contracts	250,000	40,000	40,000	111,110	244,037	40,000
E	Goods and Other Services	195,000	193,000	186,000	186,000	186,000	186,000
N	Grants, Benefits & Client Services	32,587,000	30,910,000	30,910,000	30,910,000	30,910,000	30,910,000
T	Intra-Agency Reimbursements	478,000	456,000	391,000	391,000	391,000	391,000
Totals		\$ 35,002,000	\$ 33,028,000	\$ 32,722,000	\$ 32,793,110	\$ 32,926,037	\$ 32,722,000

## Part IV: Capital Budget Impact

None

## Part V: New Rule Making Required

None

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

☐

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.1	1.3	3.2	1.3	1.3
<b>Account</b>					
GF-STATE-State 001-1	594,200	139,500	733,700	279,000	279,000
<b>Total \$</b>	594,200	139,500	733,700	279,000	279,000

### 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: Corban Nemeth	Phone: (603) 606-786-7736	Date: 03/09/2023
Agency Preparation: Kari Kenall	Phone: (603) 606-534-1508	Date: 03/10/2023
Agency Approval: Valerie Torres	Phone: (603) 606-534-1521	Date: 03/10/2023
OFM Review: Cheri Keller	Phone: (603) 606-584-2207	Date: 03/13/2023

Request # 5536-3-1

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Note: This fiscal note reflects language in E2SSB 5536, 2023 Legislative Session.

This fiscal note only addresses section 21 of the bill, which impacts the Department of Revenue (department).

#### COMPARISON OF THE ENGROSSED SECOND SUBSTITUTE BILL WITH THE SECOND SUBSTITUTE BILL:

The changes in the engrossed second substitute bill do not impact section 21.

#### CURRENT LAW:

The law exempts nonprofit organizations owning or leasing real and personal property used in providing emergency or transitional housing to people who are homeless and low-income or victims of domestic violence. The law limits the exemption to organizations with a limited length-of-stay policy. For emergency housing and transitional housing that is 60 days or two-years respectively.

#### PROPOSAL:

This bill expands the property tax exemption for nonprofit organizations owning or leasing real and personal property used in providing emergency or transitional housing to people who are homeless and low-income or victims of domestic violence to include approved registered recovery residences. An approved registered recovery residence does not require a limited length-of-stay policy. In addition, the home must:

- Register as a recovery residence with the Washington State Health Care Authority.
- Involve peers in the governance of the recovery residence.
- Integrate recovery support into the daily activities.
- Maintain an environment that is home-like, promotes healthy recovery, and is free from alcohol and illicit drugs.
- Not charge more for the housing than the actual cost of operating and maintaining the housing.
- Ensure the property tax exemption benefits the nonprofit organization when the nonprofit organization is leasing the property.

This bill limits the exemption to taxes levied for collection in calendar years 2024 through 2033.

#### EFFECTIVE DATE:

This bill takes effect beginning with property taxes due for calendar year 2024.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

#### ASSUMPTIONS:

- There are approximately 450 recovery residences.
- Total estimated real property value of recovery residences is \$242,500,000.
- Total estimated personal property value of recovery residences is \$830,000.
- Approximately 75% of qualified residences would apply and receive property tax exemption in calendar year 2024 with an additional 4% each calendar year after accounting for added participation of existing residences and new residences established.
- Analysis of local property tax levies show that with a new property tax exemption, 90% of local taxes would shift to non-exempt property owners and 10% of local taxes would decrease revenues for local taxing districts.
- Based on five years of state property tax collections, 52.35% of state property tax collections occur in April and 47.65%

Request # 5536-3-1

occur in October. When converting from calendar year to fiscal year, this estimate assumes revenues shifts and losses follow this trend.

DATA SOURCES:

- Washington State Health Care Authority, Registered recovery residences
- Washington Center for Real Estate Research, University of Washington, quarter 3, 2022, median resale price by county
- Department of Revenue, Property tax division data
- Department of Revenue, State School Levy forecast model, November 2022

REVENUE ESTIMATES:

The Economic and Revenue Forecast Council predicts the state property tax levy remains below the \$3.60 limit throughout the 2027-29 biennium. This expanded exemption results in a shift and no loss to the state levy.

PROPERTY TAX SHIFTS:

This legislation results in a state levy shift to other taxpayers of an estimated \$198,000 for fiscal year 2024 and \$390,000 in fiscal year 2025, the first full fiscal year.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000): None

Local Government, if applicable (cash basis, \$000):

- FY 2024 - (\$ 32)
- FY 2025 - (\$ 65)
- FY 2026 - (\$ 71)
- FY 2027 - (\$ 77)
- FY 2028 - (\$ 84)
- FY 2029 - (\$ 91)

DETAIL OF REVENUE IMPACT FOR PROPERTY TAX BILLS, Calendar Year Basis

State Government, Impact on Revenues (\$000): None

State Government, (\$000), Shift of Tax Burden:

- CY 2024 - \$ 380
- CY 2025 - \$ 400
- CY 2026 - \$ 430
- CY 2027 - \$ 450
- CY 2028 - \$ 480
- CY 2029 - \$ 510

Local Government, Impact on Revenues (\$000) :

- CY 2024 - (\$ 60)
- CY 2025 - (\$ 70)
- CY 2026 - (\$ 70)

CY 2027 - (\$ 80)  
CY 2028 - (\$ 90)  
CY 2029 - (\$ 90)

Local Government, (\$000), Shift of Tax Burden:

CY 2024 - \$ 1,070  
CY 2025 - \$ 1,170  
CY 2026 - \$ 1,280  
CY 2027 - \$ 1,400  
CY 2028 - \$ 1,540  
CY 2029 - \$ 1,680

## II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

### FIRST YEAR COSTS:

The department will incur total costs of \$594,200 in fiscal year 2024. These costs include:

Labor Costs - Time and effort equate to 5.07 FTEs.

- Create a special notice and update forms and publications.
- Receive, process, and approve or deny applications for exemption from nonprofit organizations maintaining recovery residences.
- Amend one administrative rule.

### SECOND YEAR COSTS:

The department will incur total costs of \$139,500 in fiscal year 2025. These costs include:

Labor Costs - Time and effort equate to 1.3 FTEs.

- Receive, process, and approve or deny applications or renewals for exemption from nonprofit organizations maintaining recovery residences.

### ONGOING COSTS:

Ongoing costs for the 2025-27 biennium equal \$279,000 and include similar activities described in the second-year costs. Time and effort equate to 1.3 FTEs.

## Part III: Expenditure Detail

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.1	1.3	3.2	1.3	1.3
A-Salaries and Wages	351,700	88,500	440,200	177,000	177,000
B-Employee Benefits	116,100	29,200	145,300	58,400	58,400
E-Goods and Other Services	76,200	13,900	90,100	27,800	27,800
G-Travel	15,000	3,900	18,900	7,800	7,800
J-Capital Outlays	35,200	4,000	39,200	8,000	8,000
<b>Total \$</b>	<b>\$594,200</b>	<b>\$139,500</b>	<b>\$733,700</b>	<b>\$279,000</b>	<b>\$279,000</b>



**III. B - Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	126,619	0.0		0.0		
MGMT ANALYST4	73,260	0.0		0.0		
PROPERTY AND ACQUISITION SJ	68,076	4.0	1.3	2.7	1.3	1.3
PROPERTY AND ACQUISITION SJ	77,028	1.0		0.5		
TAX POLICY SP 2	75,120	0.0		0.0		
TAX POLICY SP 3	85,020	0.0		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
<b>Total FTEs</b>		5.1	1.3	3.2	1.3	1.3

**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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Should this legislation become law, the department will use the expedited rulemaking process to amend WAC 458-16-320, titled: “Emergency or transitional housing.” Persons affected by this rulemaking would include nonprofits that provide housing for vulnerable populations.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 225-Washington State Patrol
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## Part I: Estimates

☐

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.0	2.0	2.0	2.0	2.0
<b>Account</b>					
General Fund-State 001-1	813,000	450,000	1,263,000	900,000	900,000
<b>Total \$</b>	813,000	450,000	1,263,000	900,000	900,000

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Yvonne Ellison	Phone: 360-596-4042	Date: 03/10/2023
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 03/10/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 03/15/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The proposed legislation will have a fiscal impact on the Washington State Patrol (WSP).

The engrossed second substitute version of the proposed legislation makes changes that do not change our previous fiscal impact assumptions.

Section 2 adds “knowingly” to the current language for possessing a counterfeit substance and makes creating, delivering, or knowingly possessing a counterfeit substance a gross misdemeanor rather than the previous standing as a Class B or C felony. It also encourages diverting the case to assessment, treatment, and service programs such as referenced under RCWs 10.31.110, 36.28A.450, 71.24.589, and 71.24.115 in lieu of a felony booking and referral to prosecution.

Section 3 adds the word “knowingly” to possessing a controlled substance, changes the offense from a class C felony to a gross misdemeanor, and encourages similar diversion recommendations referenced in Section 2.

Sections 4 and 5 add “knowingly” to possessing 40g or less of cannabis or any legend drug, and encourages similar diversion recommendations referenced in Section 2.

Section 6 adds “knowingly” to the current language for possessing a controlled substance.

New Section 7 requires the WSP Forensic Laboratory Services Bureau to complete the necessary analysis of any evidence submitted for suspected violations of RCWs 69.50.4011(1)(b), 69.50.4013, and 69.41.030 within 45 days of receipt of the request for analysis. The engrossed second substitute version adds a clause stating that failure of the WSP to comply with the section shall not constitute grounds for dismissal of a criminal charge.

New Section 8 identifies appropriations of \$780,000 in fiscal year 2024, and \$425,000 in fiscal year 2025 for the WSP to complete the analysis as required in New Section 7.

Section 9 removes gifting of drug paraphernalia as a class I civil infraction and removes testing or analyzing as functional use of equipment that would constitute a definition of drug paraphernalia. It also expands the exception of supplies allowed to be distributed, and adds an exemption from arrest for public health and syringe service program staff taking samples of substances for the purpose of analyzing the composition of the substance or detecting the presence of certain substances.

New Section 11 adds mandatory treatment options as a condition of probation to the sentencing guidelines of counterfeit and controlled substances and legend drugs.

Section 12 allows individuals who successfully complete a mandatory treatment program to request that related convictions be dismissed or vacated by providing proof of successful completion to the court. The court must then dismiss or vacate the convictions.

Section 18 repeals RCW 10.31.115

New Section 32 in the engrossed second substitute version makes New Section 7 effective January 1, 2025.

New Section 33 makes Sections 2, 6, 8-12, and 33 effective July 1, 2023.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

NONE

## **II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

We anticipate needed training on changes to existing law and introduction of new requirements will be minimal and can be absorbed under our current funding. We expect that vacating actions resulting from the proposed legislation will have minimal impact to the WSP Criminal Records Division and will be supported by current resources.

We expect the changes in definition for possession of a counterfeit substance, controlled substance, and legend drug without a valid prescription, and the requirement to complete the necessary analysis of submitted evidence for suspected violations of RCWs 69.50.4011, 69.50.4013, and 69.41.030 within 45 days to have a significant impact on the WSP Crime Laboratory Division (CLD).

The CLD's current testing capacity for seized drug samples is approximately 9,000 per year, with a current turnaround time of approximately 60 days from the receipt of the request to the completion of testing. We expect that the changes in definition will increase the number of samples for analysis to 14,000 or more per year.

In order to meet the demands of the expected increase in requests for testing, and also complete the testing analysis within the 45 days required in the proposed legislation, we need two full-time seized drug analysts and the necessary testing equipment including Gas Chromatography Mass Spectrometers (GC/MS), stereomicroscopes, polarized light microscopes (PLM), analytical balances, and consumable testing supplies including glassware, solvents, and packaging material. We expect that it will take us approximately 18 months to meet the 45-day turnaround due to the time needed to recruit, hire and train the new Forensic Scientist 3s. We expect to be able to meet the effective date for this requirement of January 1, 2025, however if the requests for testing increase more than expected, we may need to request additional resources in order to meet the new turnaround time.

The estimated first year costs are:

1. \$258,000 – salaries and benefits for two Forensic Scientist 3 FTEs for Materials Analysis
2. \$50,000 – consumable testing supplies
3. \$20,000 – position support costs (standard supplies, enterprise agreement true-up, non-capitalized equipment/software etc.)
4. \$320,000 – two GC/MS
5. \$10,000 – two Stereomicroscopes
6. \$20,000 – two PLM
7. \$5,000 – two electronic balances
8. \$20,000 – two workstations
9. \$110,000 – Agency Indirect Costs

The estimated ongoing costs are:

1. \$258,000 – salaries and benefits for two Forensic Scientist 3 FTEs for Materials Analysis
2. \$50,000 – consumable testing supplies
3. \$18,000 – position support costs (standard supplies, ongoing enterprise agreement, non-capitalized equipment/software etc.)

4. \$13,000 – ongoing equipment maintenance agreements
5. \$2,000 – ongoing capitalized equipment/software
6. \$109,000 – Agency Indirect Costs

Our total estimated costs are:

Fiscal Year 2024 - \$813,000

Fiscal Year 2025 and ongoing - \$450,000

These costs reflect an increase in the expected cost of the GC/MS instruments based on a new vendor quote, and an increase in our agency approved indirect rate. As a result, our total estimated first year and ongoing costs slightly exceed the appropriations identified in the proposed legislation of \$780,000 for fiscal year 2024 and \$425,000 for fiscal year 2025.

There is also the possibility of an increase in Latent Print and DNA testing requests as a result of the changes in definition in an effort to demonstrate knowing possession. This would negatively impact the case turn-around times in these functional areas, particularly in DNA as the WSP is currently under a legislatively mandated 45-day turn-around for Sexual Assault Kit analysis that could be impacted by having to test touch DNA in drug possession cases. If this occurs, we will seek funding in a future budget period for the necessary personnel to meet any increased demand in those sections.

We base estimated salary expenditures on current levels for the positions requested per published salary schedules, plus any applicable incentive or assignment pay. We compute 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 compute estimated support expenditures such as supplies & materials, communications, computer costs (hardware and software), vehicle and vehicle operating costs, among others, using average costs to support agency FTEs. We adjust the estimated support costs to reflect the needs of individual divisions or positions within the agency.

We base our estimate for agency indirect costs on the federal indirect cost rate of 33.41 percent approved by the U.S. Department of Transportation on February 14, 2023. This rate is effective July 1, 2023, and is used on all estimates completed after the approval date. We apply this indirect cost rate percentage to all categories of expenditure with only two exceptions: capital equipment and expenditures after \$25,000 of each projected contract. Indirect costs include, but are not limited to, computer and telecommunications support, payroll processing, vendor payments, general accounting, procurement administration, inventory control, and human resource management.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	813,000	450,000	1,263,000	900,000	900,000
<b>Total \$</b>			813,000	450,000	1,263,000	900,000	900,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.0	2.0	2.0	2.0	2.0
A-Salaries and Wages	192,000	192,000	384,000	384,000	384,000
B-Employee Benefits	66,000	66,000	132,000	132,000	132,000
C-Professional Service Contracts					
E-Goods and Other Services	63,000	74,000	137,000	148,000	148,000
G-Travel	5,000	5,000	10,000	10,000	10,000
J-Capital Outlays	377,000	4,000	381,000	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-Agency Indirect Costs	110,000	109,000	219,000	218,000	218,000
<b>Total \$</b>	<b>813,000</b>	<b>450,000</b>	<b>1,263,000</b>	<b>900,000</b>	<b>900,000</b>

### 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 2024	FY 2025	2023-25	2025-27	2027-29
Forensic Scientist 3	96,156	2.0	2.0	2.0	2.0	2.0
<b>Total FTEs</b>		<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

### 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

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

## Part V: New Rule Making Required

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 227-Criminal Justice Training Commission
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## Part I: Estimates

☒ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

NONE

### 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.

<b>Legislative Contact:</b> Corban Nemeth	<b>Phone:</b> 360-786-7736	<b>Date:</b> 03/09/2023
<b>Agency Preparation:</b> Brian Elliott	<b>Phone:</b> 206-835-7337	<b>Date:</b> 03/13/2023
<b>Agency Approval:</b> Brian Elliott	<b>Phone:</b> 206-835-7337	<b>Date:</b> 03/13/2023
<b>OFM Review:</b> Cynthia Hollimon	<b>Phone:</b> (360) 810-1979	<b>Date:</b> 03/15/2023

Part II: Narrative Explanation

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

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

Section 30(2)(d) states the following sums, or so much thereof as may be necessary, are each appropriated: \$900,000 from the state general fund for the fiscal year ending June 30, 2024; \$900,000 from the state general fund for the fiscal year ending June 30, 2025; and \$1,800,000 from the state general fund-federal for the fiscal biennium ending June 30, 2025. The amounts in this subsection are provided solely for the authority to maintain a memorandum of understanding with the criminal justice training commission to provide ongoing funding for community grants pursuant to RCW 36.28A.450.

RCW 36.28A.450 relates to the Washington Association of Sheriffs and Police Chiefs to develop and implement a grant program aimed at supporting local initiatives to properly identify criminal justice system-involved persons with substance use disorders and other behavioral health needs and engage those persons with therapeutic interventions and other services, the efficacy of which have been demonstrated by experience, peer-reviewed research, or which are credible promising practices, prior to or at the time of jail booking, or while in custody.

Funding received from the Health Care Authority for this grant program will be passed through to the Washington Association of Sheriffs and Police Chiefs for the grant program.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

This bill has no cash receipt impact.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The Washington State Criminal Justice Training Commission, Heath Care Authority, and Washington Association of Sheriffs and Police Chiefs will enter into a contract for the grant program. The Health Care Authority will provide funds to the Criminal Justice Training Commission and the Criminal Justice Training Commission will provide these funds to the Washington Association of Sheriffs and Police Chiefs for the grant program.

There is no expenditure impact to the Criminal Justice Training Commission as expenditures to the Washington Association of Sheriffs and Police Chiefs will be offset by funds received from Health Care Authority recorded as a recovery of expenditures.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: FTEs listed by classification and corresponding annual compensation. Totals 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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

☐

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Health Professions Account-State 02G-1		4,000	4,000	8,000	8,000
<b>Total \$</b>		4,000	4,000	8,000	8,000

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.3	0.2	0.1	0.1
<b>Account</b>					
General Fund-Private/Local 001 -7	19,000	28,000	47,000	14,000	14,000
Health Professions Account-State 02G-1	0	13,000	13,000	10,000	10,000
<b>Total \$</b>	19,000	41,000	60,000	24,000	24,000

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 03/15/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 03/15/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 03/16/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

This fiscal note has not changed from the previous fiscal note on 5536 2SSB. This engrossed second substitute bill does not remove language in the currently enacted version of RCW 71.24.590 (Opioid Treatment—Program Licensing or Certification by Department, Department Duties—Use of Medications by Program—Definition) that was stricken from previous version of this bill. This action maintains the requirement for a public hearing in the community in which a new opioid treatment program is proposed to be located. Changes in the bill do not change the fiscal impact for the Department of Health (department).

Section 15(8): Amends RCW 71.24.590 to include a mobile or fixed-site medication unit may be established as part of a licensed opioid treatment program.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

Current law, RCW 43.70.250 (License fees for professions, occupations, and businesses) requires that a business-licensing program be self-supporting and sufficient revenue be collected through fees to fund expenditures. The department does not anticipate the need to increase Pharmacy Commission licensing fees to support the changes proposed in this bill. However, the department anticipates raising Behavior Health Agency licensing fees over the next year to maintain a healthy fund balance. The department will monitor the program fund balance and adjust fees over a six (6) year period to ensure that fees are sufficient to cover all program expenditures.

#### Behavioral Health Agencies

Based on the departments work with mobile units, the department anticipates 10 off-site medication units as a result of this bill; however, this is deemed to be an extension of the behavioral health agency license and will not generate additional revenue for this program.

#### Pharmacy Commission

The Pharmacy Commission (commission) anticipates all off-site medication units will apply to become licensed under “other controlled substance registration” to give them the authority to purchase, possess, administer, and dispense controlled substances. The commission will charge fees based on WAC 246-945-990 (Pharmaceutical Licensing Fees and Renewal Cycle) and anticipates \$360 per application.

FY 2025 – \$4,000 (10 Applications)?

FY 2026 – \$4,000 (10 Renewals)

FY 2027 – \$4,000 (10 Renewals)

FY 2028 – \$4,000 (10 Renewals)

FY 2029 – \$4,000 (10 Renewals)

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

#### Rulemaking

Section 15: The department will develop and adopt rules to allow a substance use disorder treatment program to establish off-site medication units. The department anticipates utilizing a team of subject matter experts to implement this bill. This team will consist of the program manager and a community engagement specialist to identify underreached communities

and engage them in the rulemaking process. This process will include two meetings with interested parties as well as one formal rules hearing, all held virtually, and will take approximately 12 months to complete. The department anticipates providing the rules hearing announcement and materials in both English and Spanish and providing ASL and Spanish interpretation services at the rules hearing.

Costs include staff, associated expenses (including goods and services, travel, intra-agency, and indirect charges), and Office of Attorney General support in the amount of \$3,000.

FY 2024 costs will be 0.1 FTE and \$19,000 (GF-L).

FY 2025 costs will be 0.1 FTE and \$21,000 (GF-L).

### Inspection

Section 15: The department will conduct inspections and clinical record reviews based on the three-year survey cycle for each behavioral health agency for compliance with the minimum operating and patient care standards. The average inspection is expected to take 3 hours per off-side medication location and 14 hours for each clinical record review.

FY 2025 and ongoing, costs will be 0.1 FTE and \$7,000 (GF-L).

### Pharmacy Commission

Section 15: The commission will conduct initial facility inspections and review facility inspections once within a two-year period for compliance with the minimum operating and patient care standards.

FY 2025 costs will be 0.1 FTE and \$13,000 (02G).

FY 2026 and ongoing, costs will be \$5,000 (02G).

Total costs to implement this bill are:

FY 2024 – 0.1 FTE and \$19,000 (GF-L)

FY 2025 – 0.3 FTE and \$28,000 (GF-L), and \$13,000 (02G)

FY 2026 and ongoing – 0.1 FTE and \$7,000 (GF-L), and \$5,000 (02G)

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-7	General Fund	Private/Local	19,000	28,000	47,000	14,000	14,000
02G-1	Health Professions Account	State	0	13,000	13,000	10,000	10,000
Total \$			19,000	41,000	60,000	24,000	24,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.3	0.2	0.1	0.1
A-Salaries and Wages	11,000	28,000	39,000	16,000	16,000
B-Employee Benefits	3,000	6,000	9,000	4,000	4,000
C-Professional Service Contracts					
E-Goods and Other Services	4,000	6,000	10,000	4,000	4,000
T-Intra-Agency Reimbursements	1,000	1,000	2,000		
Total \$	19,000	41,000	60,000	24,000	24,000

**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 2024	FY 2025	2023-25	2025-27	2027-29
Fiscal Analyst 2	53,000		0.1	0.1		
HEALTH SERVICES CONSULTANT 4	82,896				0.1	0.1
NURSING CONSULTATION ADVISOR	147,360	0.1	0.1	0.1		
PHARMACIST - INVESTIGATOR	120,132		0.1	0.1		
<b>Total FTEs</b>		0.1	0.3	0.2	0.1	0.1

**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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Sections 15: The department will adopt rules in 246-341 WAC (Behavioral Health Agency Licensing and Certification Requirements) as necessary to implement the bill.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 307-Department of Children, Youth, and Families
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
<b>Account</b>					
General Fund-State 001-1	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
<b>Total \$</b>	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Kevin Keogh	Phone: 360-628-2652	Date: 03/10/2023
Agency Approval: Crystal Lester	Phone: 360-628-3960	Date: 03/10/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/15/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

#### Comparison of 5536 E2SSB and 5536 2SSB

None of the changes between this version and the last version directly impact the fiscal impact statement for the Department of Children Youth and Families (DCYF).

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Section 2 amends the RCW on counterfeit substances to include to include the term “knowingly” for counterfeit substance possession. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It establishes this crime as a gross misdemeanor and encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 3 amends the RCW on controlled substances to include to include the term “knowingly” for controlled substances possession. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It establishes this crime as a gross misdemeanor and encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 4 amends the RCW on possession of 40 grams or less of marijuana to include to include the term “knowingly”. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It also encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 5 amends the RCW on legend drugs to include to include the term “knowingly” for legend drug possession. This language was set to expired on July 1, 2023 rendering the crime unconstitutional as determined by the State v. Blake supreme court decision. It also encourages prosecutors and law enforcement to refer violators of this statute to assessment and treatment services in lieu of criminal prosecution.

Section 9 amends the RCW on drug paraphernalia to decriminalize “giving” drug paraphernalia to another person.

Section 10 requires the court to inform defendants of pretrial diversion programs for the drug possession crimes being amended in the previous sections of this bill.

Section 12 allows individuals with the drug possession charges amended in this bill to petition the court for vacation of their conviction upon providing proof of meaningful engagement with a substance use disorder treatment program.

Section 18 repeals the RCW that requires law enforcement officers to offer a referral to assessment services for individuals with the drug possession charges amended above. Much of this language is included in the amendments above, but law enforcement officers are encouraged rather than required to offer referrals.

Section 19 gives the court the option for providing court appointed counsel to parents involved in custody proceedings who are affected by substance use disorder, mental health disorder, or behavioral health concerns to the degree that the parent cannot represent their own interests or they may have their parental rights restricted.

Section 23(1) requires Health Care Authority (HCA) to develop a training in coordination with the Department of Children, Youth, and Families (DCYF) for parents of children and transition age youth with substance use disorders (SUD) by June

30, 2024. The section also establishes topic areas that must be covered by the training.

Section 23(2) requires DCYF to make the training developed in subsection 1 of publicly available and promote the training to licensed foster parents and caregivers.

Section 24 requires DCYF to make available opioid reversal medication and appropriate training for use by caseworkers or employees that may come in contact with individuals experiencing overdose.

**II. B - Cash receipts Impact**

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

None.

**II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Indeterminate fiscal impact.

Sections 2-18: Indeterminate

The amendments to the drug possession RCWs, which effectively maintain drug possession as a prosecutable crime would likely result in an increase in Average Daily Population (ADP). The bill also allows for individuals to complete a substance use disorder treatment program and have their sentences vacated which could result in a reduction in ADP. It is unknown at this time how many youth will be impacted; therefore the caseload forecast and per capita adjustments are not known at this time.

DCYF assumes the impact will result when the ADP caseload changes in the JR residential facilities forecast. The impact would be reflected in the forecasted maintenance level budget step. DCYF will true up our fiscal impact in subsequent budget submittals if the legislation is enacted into law.

Section 19: Indeterminate

Total cost for this section is Indeterminate due to potential increased length of stay in foster care for children/youth in a small number of cases in which a parenting plan is contested Family Court and must be amended to discharge a case in Juvenile Court. Unequal access to legal representation for parents who do not have a right to counsel under the bill could result in cases lingering in care longer when one parent in the case has an attorney and the parent with which DCYF is seeking reunification does not.

Section 23: No Impact

DCYF assumes that it can absorb the cost of coordinating with HCA on substance use disorder training.

Section 24: \$2,304,000 GFS in the 23-25BN

Currently, there are 1,500 DCYF caseworkers and employees that may come in contact with individuals experiencing overdose. DCYF may be able to purchase an overdose kit at a discounted cost rate of \$64 per kit (actual cost may vary). Estimating one kit per month for 1,500 employees;  $1,500 \times \$64 \times 12 = \$1,152,000$  per year.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
Total \$			1,152,000	1,152,000	2,304,000	2,304,000	2,304,000



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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

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

NONE

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

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Children and Family Services (010)	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000
<b>Total \$</b>	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

### IV. C - Capital Budget Breakout

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

## Part V: New Rule Making Required

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 310-Department of Corrections
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
<b>Account</b>					
General Fund-State 001-1	3,000	0	3,000	0	0
<b>Total \$</b>	3,000	0	3,000	0	0

In addition to the estimates above, there are additional indeterminate costs and/or savings. 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: James Cerna	Phone: (360) 725-8428	Date: 03/14/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 03/14/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/15/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Proposed substitute 5536 E2S SB revises the following from the 5536 2S SB:

Section 32 is a new section and reads as follows, “Section 7 of this act takes effect January 1, 2025.”

Section 33 incorporates previous language from section 32 and now reads, “2021 c 311 s 29 (uncodified) is amended to read as follows: Sections 8 through 10 and 12 of this act expire July 1, 2023. Also deletes sections “15 & 16” as well as “the effective date of this section.”

Section 34 deletes sections “2-12” and replaces this with, “sections 2,6, 8 and 12 and 33 taking effect July 1, 2023.”

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

None

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

The fiscal impact of this bill is indeterminate, assumed to be less than \$50,000 per Fiscal Year (FY).

This bill results in the possession of a controlled or counterfeit substance or legend drug to remain a criminal offense.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that is being raised to a gross misdemeanor offense under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) The CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, since misdemeanor offenses are punishable by a term of confinement of 0-90 days in jail and gross misdemeanor offenses are punishable by a term of confinement of 0-364 days in jail, any impact of the change from current sentencing would manifest itself as a potential increased need for jail beds only.

However, the bill also adds that the prosecutor is encouraged to divert such cases to assessment, treatment, or other services. Law enforcement is encouraged to offer a referral to assessment and services. Upon arraignment for a violation for possession offenses, the court is required to advise the defendant of the pretrial diversion program established in the bill. For individuals who completes pretrial diversion, the criminal possession charge or charges must be dismissed. It is unknown if confinement time will increase or decrease from current practice as individuals as the court may terminate pretrial diversion if the defendant is not meaningfully engaging in the recommended treatment or services or is convicted of an intervening crime. Individuals who successfully complete a substance use disorder treatment program shall have their offense vacated by the court

The Caseload Forecast Council (CFC) has no information concerning how many incidents of knowingly possess a controlled substance may occur. As such, the CFC cannot reliably predict bed impacts resulting from the bill.

The DOC assumes this bill would likely result in an Average Daily Population (ADP) increase, although the impact cannot be reliably estimated. Therefore, the fiscal impact is indeterminate, assumed to be less than \$50,000 per FY.

Customization of the Offender Management Network Information (OMNI) system is needed to meet the requirements of this legislation. Due to the complexity to complete the development, testing and implementation of the statutory changes, contracted services are necessary in FY2024.

To implement this legislation, OMNI data tables need to be updated to RCW for technical corrections.

Cost Calculation Estimate:

IT Application Developer| \$120 per hour x 10 hours = \$1,000 (Rounded to nearest 1,000)

IT Quality Assurance| \$120 per hour x 8 hours = \$1,000 (Rounded to nearest 1,000)

IT Business Analyst| \$120 per hour x 5 hours = \$1,000 (Rounded to nearest 1,000)

Total One-Time Costs - FY2024 \$3,000

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	3,000	0	3,000	0	0
Total \$			3,000	0	3,000	0	0

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts	3,000		3,000		
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	3,000	0	3,000	0	0

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. C - Operating FTE Detail: FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.

NONE

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative & Support Services (100) (100	3,000		3,000		
Total \$	3,000		3,000		

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 360-University of Washington
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

Non-zero but indeterminate cost and/or savings. 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 03/10/2023
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 03/10/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 03/10/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

E2S SB 5536 concerns the justice system and behavioral health responses for persons experiencing circumstances that involve controlled substances, counterfeit substances, legend drugs, drug paraphernalia, and provides treatment options.

The engrossed second substitute does not differ in ways that impact our fiscal analysis from the substitute bill, and continues to strike Section 28 concerning the Safe Supply Work Group. There are no changes to Section 17, which drives our indeterminate fiscal impacts. Therefore we are submitting the same fiscal note as the second substitute bill.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

#### SECTION 17

This section encourages a police officer that has reasonable cause to believe that an individual has committed acts constituting a crime, and the individual is known by history or consultation with the behavioral health administrative services organization, managed care organization, crisis hotline, local crisis services providers, or community health providers to have a mental disorder or substance use disorder, in addition to existing authority under state law or local policy, as an alternative to arrest, the arresting officer is authorized and encouraged to:

- (a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020.
- (b) Take the individual to a triage facility as defined in RCW 71.05.020.
- (c) Refer the individual to a designated crisis responder for evaluation for initial detention and proceeding under chapter 71.05 RCW;
- (d) Release the individual upon agreement to voluntary participation in outpatient treatment;
- (e) Refer the individual to youth, adult, or geriatric mobile crisis response services, as appropriate; or
- (f) Refer the individual to the regional entity responsible to receive referrals in lieu of legal system involvement, including the recovery navigator program described in RCW 71.24.115.

In addition, if the individual is released to the community from the facilities in subsection (1)(a) through (c) of this section, the mental health provider or substance use disorder professional shall make reasonable efforts to inform the arresting officer of the planned release prior to release if the arresting officer has specifically requested notification and provided contact information to the provider. The mental health provider or substance use disorder professional is also required to inform the referring law enforcement agency if a patient violates terms requiring participation in services or treatment.

#### FISCAL IMPACTS OF SECTION 17:

The UW assumes there would be indeterminate but non-zero impacts to both UW Medicine and UWPD resulting from reporting requirements around diversion pathways under this section. Some of these requirements are already met by current diversion pathways, however, this bill would likely increase the number of individuals being brought in under a diversion pathway to facilities listed under subsection 1, and increase the communication and reporting requirements for both healthcare providers and law enforcement agencies. For the purposes of this fiscal note, the UW assumes

indeterminate but under 50k expenditures per FY.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

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

III. B - Expenditures by Object Or Purpose

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

III. C - Operating FTE Detail: FTEs listed by classification and corresponding annual compensation. Totals 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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 376-The Evergreen State College
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.2	0.4
<b>Account</b>					
General Fund-State 001-1	0	0	0	71,110	204,037
<b>Total \$</b>	0	0	0	71,110	204,037

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Catherine Nicolai	Phone: (360) 664-9087	Date: 03/09/2023
Agency Approval: Dane Apalategui	Phone: 360-867-6517	Date: 03/09/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 03/10/2023

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Sec. 26 of 2ESSB 5536 directs the Health Care Authority to contract with the Washington State Institute for Public Policy (WSIPP) to "conduct a study of the long-term effectiveness of the recovery navigator program under RCW 71.24.115." WSIPP "shall collaborate with the authority and substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to determine the parameters of the report, which shall include recommendations, if any, for modification and improvement of the recovery navigator program."

Reports are due by June 30, 2028, June 30, 2033, and June 30, 2038.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Sec. 26 of 2ESSB 5536 directs the Health Care Authority to contract with WSIPP to complete a study. The cost detailed below is what WSIPP would expect to be covered in a contract with HCA.

In order to complete the study outlined in Sec. 26 of 2SSB 5536, WSIPP would assign the following resources:

FY 27:

- 0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.
- 0.06 FTE Methods Review to develop a study plan.
- Assumes \$1,750 in WSIRB fees.

FY 28:

- 0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.
- 0.06 FTE Methods Review for methodological review.
- 0.06 FTE Editing/Publication for report publication.
- Assumes \$50,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

FY 32—Total cost for FY32 is \$76,628: \$53,324 in salaries, \$14,844 in benefits, \$8,210 in goods and services, and \$250 in WSIRB fees.

- 0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.
- 0.06 FTE Methods Review to develop a study plan.
- Assumes \$250 in WSIRB fees.

FY33—Total cost for FY33 is \$199,256: \$113,864 in salaries, \$31,793 in benefits, \$21,349 in goods and services, and \$32,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

- 0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.

- 0.06 FTE Methods Review for methodological review.
- 0.06 FTE Editing/Publication for report publication.
- Assumes \$32,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

FY37—Total cost for FY37 is \$84,574: \$58,874 in salaries, \$16,389 in benefits, \$9,062 in goods and services, and \$250 in WSIRB fees.

-0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.

-0.06 FTE Methods Review to develop a study plan.

-Assumes \$250 in WSIRB fees.

FY38—Total cost for FY38 is \$221,611: \$125,715 in salaries, \$35,102 in benefits, \$23,744 in goods and services, and \$36,800 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

-0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.

-0.06 FTE Methods Review for methodological review.

-0.06 FTE Editing/Publication for report publication.

-Assumes \$36,800 in data fees for the Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

The total cost to complete the assignment would be \$857,218.

\*Goods and other services include a 12% indirect rate for The Evergreen State College.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	0	0	71,110	204,037
<b>Total \$</b>			0	0	0	71,110	204,037

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				0.2	0.4
A-Salaries and Wages				48,297	103,130
B-Employee Benefits				13,444	28,796
C-Professional Service Contracts					
E-Goods and Other Services				7,619	21,861
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Data/WSIRB fees				1,750	50,250
<b>Total \$</b>	0	0	0	71,110	204,037

### 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 2024	FY 2025	2023-25	2025-27	2027-29
Editing/Publication	107,544					0.0
Methods Review	120,984				0.0	0.0
Researcher	107,544				0.2	0.4
<b>Total FTEs</b>					0.2	0.4

**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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB	<b>Title:</b> Controlled substances	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
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## Part I: Estimates

☒ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

NONE

### 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: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 03/09/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 03/09/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/09/2023

Part II: Narrative Explanation

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

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

NO CHANGES TO ANTICIPATED IMPACTS from earlier versions of this bill.

The only section that deals with the Growth Management Act (GMA) under the jurisdiction of the Growth Management Hearings Board (GMHB) is Section 13. No changes to section 13 with this version.

NO FISCAL IMPACT to the GMHB is anticipated.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: FTEs listed by classification and corresponding annual compensation. Totals 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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

**Bill Number:** 5536 E 2S SB

**Title:** Controlled substances

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

### Legislation Impacts:

- ☒ **Cities:** Approximately \$3,270,000 to update comprehensive plans; approximately \$442,860 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact on local law enforcement due to processing incidents of upgraded gross misdemeanor offense; indeterminate expenditure impact due to change in demand for jail beds; indeterminate expenditure impact resulting from increased demand for services from alternative response and arrest and jail alternative programs; approximately \$125,084 in reduced property tax revenue through fiscal year 2029 as a result of new exemption; indeterminate increased law enforcement expenditures as a result of processing additional firearms surrenders
- ☒ **Counties:** Approximately \$1,400,000 to update comprehensive plans; approximately \$134,400 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact on local law enforcement, prosecutors, and public defenders as a result of processing incidents of upgraded gross misdemeanor offense; indeterminate expenditure impact on prosecutors and public defenders as a result of new sentencing requirements; indeterminate expenditure impact due to change in demand for jail, juvenile detention beds; indeterminate expenditure impact due to change in demand for jail beds; indeterminate expenditure impact resulting from increased demand for services from alternative response and arrest and jail alternative programs; approximately \$153,770 in reduced property tax revenue through fiscal year 2029 as a result of new exemption; indeterminate increased law enforcement expenditures as a result of processing additional firearms surrenders
- ☒ **Special Districts:** Approximately \$141,146 in reduced property tax revenue through fiscal year 2029 as a result of new exemption
- ☐ **Specific jurisdictions only:**
- ☐ **Variance occurs due to:**

## Part II: Estimates

- ☐ **No fiscal impacts.**
- ☒ **Expenditures represent one-time costs:** Approximately \$4,670,000 to update comprehensive plans; approximately \$577,200 to train local law enforcement officers on modified criminal offenses, referral requirements and other procedures
- ☐ **Legislation provides local option:**
- ☒ **Key variables cannot be estimated with certainty at this time:** Number of incidents of upgraded gross misdemeanor offense that may occur; net change in demand for prosecutor, public defender time that may result from diversion language in section 10 and sentencing requirements in section 11; change in demand for services from alternative response and arrest and jail alternative programs; number of additional firearms surrenders the new provisions of sections 10 and 11 would require, amount of law enforcement time required to process such a surrender in a given case

**Estimated revenue impacts to:**



Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	(9,530)	(19,354)	(28,884)	(44,079)	(52,121)
County	(11,716)	(23,800)	(35,516)	(54,185)	(64,069)
Special District	(10,754)	(21,846)	(32,600)	(49,736)	(58,810)
<b>TOTAL \$</b>	(32,000)	(65,000)	(97,000)	(148,000)	(175,000)
<b>GRAND TOTAL \$</b>	(420,000)				

Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	1,725,360	1,080,000	2,805,360	907,500	
County	534,400	500,000	1,034,400	500,000	
TOTAL \$	2,259,760	1,580,000	3,839,760	1,407,500	
GRAND TOTAL \$	5,247,260				
In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.					

### Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 03/16/2023
Leg. Committee Contact: Corban Nemeth	Phone: 360-786-7736	Date: 03/09/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 03/16/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/17/2023

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Description of the bill with an emphasis on how it impacts local government.*

This fiscal note analyzes the impacts of E2SSB 5536 and compares it to 2SSB 5536.

#### **CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:**

The engrossed second substitute bill would require courts to notify people facing a drug possession charge of federal firearms prohibitions for people who are unlawful users of or addicted to any controlled substance. Courts would also be required to order people found to have a substance use disorder before participating in the diversion program under section 10 or before participating in a probation program under section 11 of the proposed legislation to be ineligible to possess firearms.

People subject to such orders would be required to surrender any firearms in their possession.

#### **SUMMARY OF CURRENT BILL:**

The proposed legislation would amend several RCW sections related to drug possession and prescribe penalties, among other changes.

Section 2 would amend RCW 69.50.4011, specifying that knowing possession of a counterfeit substance is a gross misdemeanor.

Section 3 would amend RCW 69.50.4013, specifying that knowing possession of a controlled substance under certain circumstances, or knowing possession of “cannabis, cannabis-infused products, or cannabis concentrates” by someone under 21 is a gross misdemeanor.

Section 4 would amend RCW 69.50.4014, specifying that “any person found guilty of knowing possession of 40 grams or less of cannabis is guilty of a misdemeanor.”

Section 5 would amend RCW 69.41.030, specifying that knowing possession of a legend drug under certain circumstances is a misdemeanor.

Sections 2 through 5 would specify that “law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement,” and that “upon arraignment for a violation of this section involving knowing possession, the court shall advise the defendant of the availability of the pretrial diversion program as indicated in section 9 (1) of this act.” Prosecutors would also be “encouraged to divert such cases for assessment, treatment, or other services.”

Section 6 would amend RCW 69.50.509, specifying that judges shall authorize warrants for search and seizure based on a sworn complaint of knowing possession of any controlled substance in violation of chapter 69.50 RCW.

Section 9 would amend RCW 69.50.4121, removing giving or allowing drug paraphernalia to be given from the definition of actions that constitute a class I civil infraction, and adding smoking and drug testing equipment to the list of items that may be legally distributed “through public health and community-based HIV prevention programs, and pharmacies.”

Section 10 would add a new section to chapter 69.50 RCW, requiring courts to advise individuals charged with violations of RCW 69.50.4011(1)(b), 69.50.4013, 14 69.50.4014, or 69.41.030 of the pretrial diversion program. This section would define certain required criteria for such notification.

This section would also specify that if an individual agrees “to waive his or her right to a speedy trial and trial by jury if granted pretrial diversion, the court may grant the motion and continue the hearing and refer the defendant for a diagnostic investigation and evaluation to an approved substance use disorder treatment program as designated in chapter 71.24

RCW.” Subject to the availability of appropriated funds, this investigation and evaluation would be required to be provided at no cost to an individual deemed to be indigent. The state would be required to reimburse local courts for the costs of substance use disorder assessments under this section.

Finally, this section would describe requirements related to the above diversion program and any violations of its conditions, and would require that individuals who successfully complete this program and substantially comply with recommended treatment or services have their charges dismissed. Courts would be required to order people participating in the above program who have been found to have a substance use disorder to be ineligible to possess firearms, and such people would be required to surrender their firearms.

Section 11 would add a new section to chapter 69.50 RCW, specifying sentencing requirements for drug possession cases in courts of limited jurisdiction. These requirements would include suspended sentences of specified lengths for people who agree to participate in court-ordered substance use disorder treatment or alcohol and drug information school as a condition of probation. This section also describes the penalties for people who violate the conditions of their probation.

Courts would be required to assist people who agree to participate in a probation program under this section to obtain a substance use disorder assessment and these assessments would be required to be provided at no cost to people deemed indigent. The state would be required to reimburse local courts for costs associated with substance use disorder assessments under this section.

Subsection 11 (6) specifies that “subject to the availability of funds appropriated for this purpose, the substance use disorder assessment and recommended treatment as ordered by the court shall be provided at no cost for sentenced individuals who have been found to be indigent by the court.”

If a person who receives an assessment under this section was found to have a substance use disorder, courts would be required to order that person to be ineligible to possess firearms.

Section 12 would amend RCW 9.96.060, requiring that a court vacate the conviction or convictions of “an individual who is convicted of a violation of RCW 28 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030 who subsequently engages with a substance use disorder treatment program” if the court verifies the individual’s proof of completion.

Section 13 would amend RCW 36.70A.200, adding programs that include “opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities” under the definition of essential public facilities. The comprehensive plans of certain cities and counties are required to include a process for identifying and siting such facilities.

Section 14 would amend RCW 71.24.589, directing the Washington State Healthcare Authority to administer a grant program for law enforcement assisted diversion programs.

Section 15 would amend RCW 71.24.590, specifying that “Counties and cities may require conditional use permits with reasonable conditions for the siting of programs only to the extent that such reasonable conditional use requirements applied to opioid treatment programs are similarly applied to other essential public facilities and health care settings.” This section would also specify that “no city or county legislative authority may impose a maximum capacity for an opioid treatment program.”

Section 18 would repeal RCW 10.31.115.

Section 19 would add a new section to chapter 26.12 RCW, establishing the right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings.

Section 21 would amend RCW 84.36.043, creating a property tax exemption for nonprofit organizations that maintain an approved recovery residence and that meet certain conditions.

Section 33 would specify that sections 8 through 10, and 12 of Chapter 311, Laws of 2021 would expire on July 1, 2023.

Section 34 specifies that sections 2, 6, 8 through 12, and 33 the proposed legislation would take effect July 1, 2023.

## **B. SUMMARY OF EXPENDITURE IMPACTS**

*Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.*

### **CHANGES IN EXPENDITURE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:**

The engrossed second substitute bill would require that people who are found to have a substance use disorder and agree to participate in either the diversion program or a probation program, described in sections 10 and 11 of the proposed legislation, respectively, would be ordered to be ineligible to possess firearms, and would have to surrender any firearms in their possession. The law enforcement expenditure impact of this requirement is detailed below.

### **EXPENDITURE IMPACT OF CURRENT BILL:**

The proposed legislation would have both determinate and indeterminate impacts on local government expenditures.

Please note that the Washington State Administrative Office of the Courts (AOC) estimates that the proposed legislation would have significant expenditure impacts on both county and municipal courts. These expenditure impacts are detailed in the AOC fiscal note for this bill version.

According to the Washington Association of Sheriffs and Police Chiefs (WASPC), all local law enforcement officers would need to go through training regarding the modifications this bill would make to existing criminal offenses, and the changes it would make to referral requirements and other current procedures. WASPC estimates that approximately one hour of training would be required per law enforcement officer. This training would require a one-time cost of \$442,860 for cities and \$134,400 for counties, for a total one-time cost to local governments of \$577,260.

The 2021 Crime in Washington Report conducted by WASPC states that there are 6,710 commissioned officers in police departments and 2,240 commissioned officers in sheriff's departments, for a total of 8,950 commissioned law enforcement employees that would require training. The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates the average hourly salary (including benefits and overhead) for an officer employed by a city to be \$66, and the same figure for an officer employed by a county to be \$60. If every officer in Washington had to complete approximately one hour of training, the cost to local governments would be:

Cities:

6,710 officers X 1 hour X \$66 = \$442,860

Counties:

2,240 officers X 1 hour X \$60 = \$134,400

Total:

\$442,860 + \$134,400 = \$577,260

Training materials and time required may differ among different departments, however.

An increase in firearms surrenders as a result of the new provisions included in sections 10 and 11 of the proposed legislation would result in an increase in law enforcement expenditures as a result of having to process these additional

surrenders. It is unknown how many people who agree to participate in a diversion or parole program might possess firearms that would be required to surrendered, however, and the amount of law enforcement time required in a given case can vary, so the magnitude of this expenditure impact is indeterminate.

According to the Washington State Caseload Forecast Council's (CFC) fiscal note on this bill, raising knowing possession of a counterfeit or controlled substance from a misdemeanor to a gross misdemeanor could increase demand for jail beds. Gross misdemeanors are punishable by a term of confinement of 0-364 days in jail, while misdemeanors are punishable by a term of confinement of 0-90 days in jail.

However, since CFC does not collect data on misdemeanor and gross misdemeanor offenses, it cannot predict the jail bed impacts resulting from this bill. In addition, section 10 would require courts to advise people charged with violations of sections 2 through 5 of the option to enter a pre-trial diversion program, which could decrease demand for jail beds. People who violate the conditions of this program could have their case proceed to trial and face a sentence of a term of confinement in jail. Accordingly, the associated expenditure impact on local governments stemming from a change in demand for jail beds as a result of the proposed legislation is indeterminate. The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates that the average daily cost of occupying a jail bed is \$145.

Section 11 would require courts of limited jurisdiction to deliver suspended sentences of specified lengths to people convicted of the drug possession offenses listed in this section if these people agree to submit to substance use disorder assessment and treatment as a condition of probation. In these cases, jails would not incur the costs of confinement for people convicted of drug possession offenses that they otherwise would have. In cases where a court finds a person "has willfully abandoned or demonstrated a consistent failure to comply with the recommended treatment," a portion of that person's suspended sentence would be reinstated, resulting in confinement expenditures for jails.

It is unknown, however, how many people may agree to the probation conditions under section 11, or how many of those people may subsequently have a portion of their suspended sentence reinstated, so the local government expenditure impact due to a change in demand for jail beds compared with the first substitute bill is indeterminate.

According to the CFC fiscal note for this bill, continuing to classify knowing possession of a counterfeit or controlled substance as criminal offenses could also increase demand for county juvenile detention beds. The proposed legislation would not amend the juvenile sentencing grid, so possession of a controlled substance would be a category C offense, punishable by between 0-30 days in juvenile detention and 52 weeks in juvenile rehabilitation, beginning July 1, 2023. The Local Government Fiscal Note Program does not have detailed information on the costs of juvenile detention, however the average daily rate for juvenile detention beds is generally higher than the same figure for a jail bed. Additionally, it is unknown how many future juvenile incidents of knowing possession of a counterfeit or controlled substance may occur as a result of this bill's provisions, or how many juveniles may enter pre-trial diversion per section 10, so the resulting impact on county juvenile detention expenditures is indeterminate.

In addition to bed impacts, upgrading knowing possession of a counterfeit or controlled substance could also increase law enforcement, prosecution and public defense expenditures as a result of processing incidents of the upgraded offenses. According to the 2023 Local Government Fiscal Note Program Criminal Justice Cost Model, the combined law enforcement, prosecution and public defense costs to process an incident of a misdemeanor, and a gross misdemeanor are as follows:

Misdemeanor: \$2,073

Gross misdemeanor: \$5,660

However, given that it is unknown how many incidents of the upgraded offenses may occur, the magnitude of the

expenditure impacts on local governments from processing incidents of these offenses is indeterminate.

The Washington Association of Prosecuting Attorneys (WAPA) indicates that the new sentencing requirements that section 10 of the proposed legislation would create could require additional prosecutor time. While it is unknown what the implementation details of the pre-trial diversion program this section references might be, WAPA indicates that it could be structured in a similar way to existing county drug courts. According to WAPA, diversion supervision typically requires time from a prosecutor, a probation officer or other court staffer, a defender, and in some cases, a judge. These supervision cases often require regular meetings, however the total time required of participating parties in a given case can vary. It is reasonable to assume such cases would require a similar amount of time from both prosecutors and public defenders.

If a person who entered a pre-trial diversion program under section 10 of the bill were to be found to be “not meaningfully engaging in the recommended treatment or services,” or if they were convicted of an offense that reflects a propensity for violence, or a felony, that person would face trial, requiring additional prosecutor and public defender time.

It is unknown, however, how many people may choose to enter the pre-trial diversion program under section 10 of the proposed legislation, and how many of those people may violate the conditions of the program and require a subsequent trial. It is also unknown how the time required for a diversion case would compare with the time that would not be required for a trial. Finally, under the requirements of Chapter 311, Laws of 2021, prosecutors are already “encouraged to divert” cases concerning knowing drug possession “for assessment, treatment, or other services,” and the proposed legislation would keep that language. It is unknown if or how section 10 of the proposed legislation may change the number of people who enter pre-trial diversion compared to the present.

Accordingly, the local government expenditure impact resulting from any changes in demand for prosecutor and public defender time related to section 10 of the proposed legislation is indeterminate. The 2023 Local Government Fiscal Note Program Unit Cost Model estimates that the average hourly salary plus benefits and overhead for a prosecuting attorney is \$82.

According to WAPA, section 11 could also create additional demands for prosecutor time. WAPA indicates that, as described above in relation to the diversion program in section 10, prosecutors may participate in the supervision of people who have entered into probation under section 11, requiring an indeterminate amount of prosecutor time. Similarly, WAPA indicates that in the cases of people who violate their probation conditions, the required hearings would require additional prosecutor time, and the association estimates these hearings would likely require a similar amount of time as probation hearings for DUI, which typically take approximately 10-15 minutes.

It is unknown, however, how many people may agree to the probation conditions under section 11, or how many of those people may subsequently have a portion of their suspended sentence reinstated, so the local government expenditure impact due to a change in demand for prosecutor time compared with the first substitute bill is indeterminate.

Both the diversion program under section 10 and the language in sections 2-5 encouraging law enforcement to offer referrals to assessment and services in lieu of arrest and jail booking for the possession offenses in those sections could create additional local government expenditures.

The Association of Washington Cities (AWC) indicates that the language in sections 2-5 encouraging law enforcement to offer referrals to assessment and services in lieu of arrest and jail booking for the possession offenses in those sections could create additional demand for services from the existing alternative response, and arrest and jail alternative programs that some cities and local law enforcement agencies administer. These costs would vary based on jurisdiction and how many additional participants may be directed into these programs, however, and are accordingly indeterminate. By way of

illustration, a 2019 analysis found that Seattle's Law Enforcement Assisted Diversion program costs averaged between \$530 and \$900 per participant per month.

According to AWC, while the proposed legislation does not require it, some cities may choose to respond to the language in sections 2-5 and 10 by creating new alternative response, or arrest and jail alternative programs to be able to provide assessment and services to people who have interactions with law enforcement that are related to drug possession. These costs could vary widely based on the kind of program a jurisdiction may choose to set up, the existing level of resources in a jurisdiction and the number of people a program may be designed to serve. As a result of this variability, the statewide expenditure impact of setting up new alternative response, or arrest and jail alternatives, for jurisdictions that choose to do so, is indeterminate. By way of illustration, in 2022, AWC provided grants averaging \$135,000 per jurisdictions to assist in setting up alternative response programs.

Section 13 of the proposed legislation would require Growth Management Act fully planning cities and counties to update their comprehensive plans to “include a process for identifying and siting” substance use disorder treatment programs. This requirement would result in one-time costs of approximately \$3,270,000 for cities and \$1,400,000 for counties, for a total one-time cost to local governments of approximately \$4,670,000.

It is assumed that qualifying cities and counties would incur the costs of this required update during the next scheduled periodic comprehensive update specified by RCW 36.70A.130 (5). In a fiscal note for a bill that required a similar update to comprehensive plans, the Washington State Association of Counties estimated that each update would cost a qualifying county approximately \$50,000. The Association of Washington Cities estimates that the same figure for cities would be approximately \$15,000.

The following lists the numbers of cities and counties with planning deadlines at the end of calendar years 2024-2027, and the total local planning costs to update comprehensive plans in accordance with section 13 of the proposed legislation in each year:

Calendar year 2024:

$(82 \text{ cities} \times \$15,000 \text{ per update}) + (4 \text{ counties} \times \$50,000 \text{ per update}) = \$1,430,000$

Calendar year 2025:

$(48 \text{ cities} \times \$15,000 \text{ per update}) + (10 \text{ counties} \times \$50,000 \text{ per update}) = \$1,220,000$

Calendar year 2026:

$(55 \text{ cities} \times \$15,000 \text{ per update}) + (8 \text{ counties} \times \$50,000 \text{ per update}) = \$1,225,000$

Calendar year 2027:

$(33 \text{ cities} \times \$15,000 \text{ per update}) + (6 \times \$50,000 \text{ per update}) = \$795,000$

Total: \$4,670,000

These following approximate fiscal year spending estimates are based on planning work occurring two years before the submission date of a periodic update as per RCW 36.70A.130(5). These figures also assume work on the development regulations would begin 90 days after the effective date of the bill and all planning jurisdictions with 2024 and 2025 due dates would begin in fiscal year 2024.

Fiscal year 2024:

City: \$1,282,500

County: \$400,000  
Combined: \$1,682,500

Fiscal year 2025:  
City: \$1,080,000  
County: \$500,000  
Combined: \$1,580,000

Fiscal year 2026:  
City: \$660,000  
County: \$350,000  
Combined: \$1,010,000

Fiscal year 2027:  
City: \$247,500  
County: \$150,000  
Combined: \$397,500

Total: \$4,670,000

Section 19 would establish the right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings. While counsel in these circumstances would be provided at court expense, it is unknown in how many cases counsel may be appointed, how much attorney time a given proceeding may require, or what rates contracted attorneys may be compensated at. Accordingly, the local government expenditure impact of section 19 of the substitute bill is indeterminate.

## C. SUMMARY OF REVENUE IMPACTS

*Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.*

### CHANGES IN REVENUE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The engrossed second substitute bill would not change the local government revenue impact the previous bill version would have had.

### REVENUE IMPACT OF CURRENT BILL:

According to the Department of Revenue (DOR) this bill would result in a state levy shift to other taxpayers of an estimated \$198,000 for fiscal year 2024 and \$390,000 in fiscal year 2025, the first full fiscal year. It would also decrease local government revenue by \$32,000 for fiscal year 2024 and \$65,000 in fiscal year 2025. Please see the DOR fiscal note for this bill for its full list of assumptions and data sources.

### ASSUMPTIONS AND METHODOLOGY:

#### Tax Shift and Revenue Loss:

Tax exemptions lower the taxable value against which taxing districts levy their taxes. When exemptions are enacted, taxing districts may compensate for the loss in taxable value by increasing the tax rate for taxpayers who are not eligible for the exemptions. Consequently, taxpayers who do not benefit from the exemption would pay a higher tax. This higher tax results in a tax shift from the exempt taxpayers to the non-exempt taxpayers. However, when a taxing district is restricted from increasing the tax rate due to a levy limit, the taxing district incurs a revenue loss. Local government revenue losses were computed by taking the DOR fiscal note data and multiplying the result by the property tax distribution for counties, cities and special districts. These percentages are derived from DOR Property Tax Statistics for 2022.

#### Calendar Year versus Fiscal Year:

Note that a tax shift is presented by calendar year (CY) and a revenue loss is presented by fiscal year (FY). Taxes are



assessed and collected by the counties on a calendar-year basis. When a tax shift occurs, it is computed for the calendar year. Because revenue and expenditures are reported on a fiscal year basis, the revenue loss is also for a fiscal year. Tax shift figures for special districts include school districts; school districts do not experience a revenue loss.

REVENUE CHANGE BREAKDOWN:

COUNTIES:

FY 2024 -\$11,716  
FY 2025 -\$23,800  
FY 2026 -\$25,994  
FY 2027 -\$28,191  
FY 2028 -\$30,753  
FY 2029 -\$33,316

CITIES:

FY 2024 -\$9,530  
FY 2025 -\$19,354  
FY 2026 -\$21,146  
FY 2027 -\$22,933  
FY 2028 -\$25,018  
FY 2029 -\$27,103

SPECIAL DISTRICTS:

FY 2024 -\$10,754  
FY 2025 -\$21,846  
FY 2026 -\$23,860  
FY 2027 -\$25,876  
FY 2028 -\$28,229  
FY 2029 -\$30,581

TAX SHIFT:

COUNTIES:

CY 2024 \$213,216  
CY 2025 \$233,143  
CY 2026 \$255,062  
CY 2027 \$278,974  
CY 2028 \$306,872  
CY 2029 \$334,769

CITIES:

CY 2024 \$172,187  
CY 2025 \$188,279  
CY 2026 \$205,980  
CY 2027 \$225,291  
CY 2028 \$247,820  
CY 2029 \$270,349

SPECIAL DISTRICTS:

CY 2024 \$684,597

CY 2025 \$748,578

CY 2026 \$818,957

CY 2027 \$895,735

CY 2028 \$985,308

CY 2029 \$1,074,881

SOURCES:

Association of Washington Cities

Crime in Washington Report, 2021

Local government fiscal note for HB 1799, 2022

Local Government Fiscal Note Program Criminal Justice Cost Model, 2023

Local Government Fiscal Note Program Tax Shift and Revenue Loss Model, 2023

Local Government Fiscal Note Program Unit Cost Model, 2023

Washington Association of Prosecuting Attorneys

Washington Association of Sheriffs and Police Chiefs

Washington State Administrative Office of the Courts

Washington State Caseload Forecast Council

Washington State Department of Revenue