

Multiple Agency Fiscal Note Summary

Bill Number: 5536 E 2S SB AMH CSJ H1807.2	Title: 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	14,160,000	0	0	28,918,000	0	0	32,404,000
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 Social and Health Services	0	0	259,000	0	0	158,000	0	0	158,000
Department of Health	0	0	4,000	0	0	8,000	0	0	8,000
Total \$	0	0	14,423,000	0	0	29,084,000	0	0	32,570,000

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	1.6	3,819,600	3,819,600	3,819,600	1.0	3,574,800	3,574,800	3,574,800	1.0	3,574,800	3,574,800	3,574,800
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	19.5	41,288,000	41,288,000	55,448,000	16.9	66,951,000	66,951,000	95,869,000	16.9	72,924,000	72,924,000	105,328,000
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	199,000	199,000	199,000	.0	202,000	202,000	202,000	.0	202,000	202,000	202,000
Department of Social and Health Services	3.5	915,000	915,000	1,174,000	2.0	560,000	560,000	718,000	2.0	560,000	560,000	718,000
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 Children, Youth, and Families	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
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	.0	0	0	0	.0	0	0	0	.0	0	0	0
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 \$	30.2	50,562,256	50,562,256	65,063,356	23.5	74,841,910	74,841,910	103,950,910	23.7	80,947,837	80,947,837	113,542,837

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 Social and Health Services	.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
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

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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Prepared by: Cynthia Hollimon, OFM	Phone: (360) 810-1979	Date Published: Preliminary 4/12/2023
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Individual State Agency Fiscal Note

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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
Account					
Performance Audits of Government Account-State 553-1	17,600	4,500	22,100	9,000	9,000
Total \$	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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Dana Lynn	Phone: 360-786-5177	Date: 04/05/2023
Agency Approval: Eric Thomas	Phone: 360 786-5182	Date: 04/05/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/06/2023

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 20 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 21 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 tax 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 tax 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 20 or 21. 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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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	2.2	1.0	1.6	1.0	1.0
Account					
General Fund-State 001-1	2,032,200	1,787,400	3,819,600	3,574,800	3,574,800
State Subtotal \$	2,032,200	1,787,400	3,819,600	3,574,800	3,574,800
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
Account					
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					
Account					
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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 04/03/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 04/03/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/05/2023

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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 proposed amendment to the engrossed second substitute bill would add reporting requirements to the Administrative Office of the Courts. The other fiscal impacts of the bill are assumed to remain the same.

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 and knowing possession and use of a controlled substance in a public place a misdemeanor. It encourages law enforcement and 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 determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity detailed in Section 10 of this act.

Section 3 would make a person who "knowingly" possesses a controlled substance a misdemeanor instead of a C Felony. This section also makes knowing possession and use in a public place a misdemeanor offense. 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 determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity detailed in Section 10 of this act.

Section 4 would add the "knowing" element to possession of 40 grams or less of cannabis and would provide for the same diversion options for possession of 40 grams or less of cannabis.

Section 5 would maintain "knowing" possession of any legend drug as a misdemeanor, add knowing possession and use of any legend drug in a public place to the statute prohibiting possession of a legend drug, and add the same diversion options outlined in previous sections of the bill.

Section 8 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 9 would fully occupy and preempt the field of drug paraphernalia regulation within the boundaries of the state and cities, towns, counties, and other municipalities may only enact those laws and ordinances specifically authorized by state law and consistent with this RCW 69.50. Local laws inconsistent with, more restrictive than, and or which exceed the requirements of state law may not be enacted and are preempted and repealed.

Section 10 would require:

* the court to provide the defendant and the defendant's counsel with information about the pretrial diversion program, including the procedures and consequences of the diversion program, including that the court notify individuals who undergo the substance use disorder (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.

* that prosecutors consent to diversion of defendants and strongly encourages them to divert cases in which the defendant is only charged with possession or is charged with possession and other nonfelony charges. Courts would need to create a pretrial diversion program 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.

* the state to make resources available to assist defendants access SUD evaluation and treatment services within 7 days of a defendant's acceptance into pretrial diversion. The SUD assessment/evaluation must be provided at no cost to defendants who qualify for public defense services or who are found indigent by the court. The court shall provide defendants with a list of local resources available to assist the defendant with transportation to the SUD evaluation and the court may contract with third parties to provide SUD evaluations, which may be collocated at the court. The state would have to reimburse the local courts for costs associated with the SUD assessments.

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* the evaluation and report to be filed under seal with the court, exempts the report and its copies from public disclosure, and directs the court to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant, and no statement or information relating to the charge for which the defendant is receiving treatment or services made by the defendant to the treatment or services provider made during the course of assessment or during the provision of treatment or services may be admissible in any action proceeding subsequent to the investigation.

* courts to exonerate bail/bond for individuals in pretrial diversion and to allow for scheduling of proceedings if a pretrial diversion participant is “not meaningfully engaged” with the required treatment.

* 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-office-monitored treatment program. This section also provides that the state shall make resources available to assist individuals with accessing SUD evaluations as part of a suspended sentence, directs local courts to provide lists of resources available to assist the convicted individual with transportation to their SUD Assessment, and provides that the state shall reimburse local courts for the cost of SUD evaluations and transportation. Treatment providers providing treatment or services to individuals serving a suspended sentence are required to provide status updates to the court at least monthly and the prosecutor may make a motion to the court to for a hearing to consider sanctions if it appears the individual is not meaningfully engaged in treatment. No sanctions may be applied if there is no available treatment or if there is no funding for treatment for indigent individuals. Upon successfully completing the recommended treatment or services, the individual must file proof of successful completion with the court and the court must terminate probation and enter and order vacating the individual’s conviction. 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.

New in the bill are AOC reporting requirements outlined in Section 13. It would require the AOC to collect data and information related to the utilization and outcomes of pretrial diversions pursuant to Section 10, convictions pursuant to Section 11, and motions to vacate convictions in Sections 11 and 12. The data and information that would be required is listed in the bill; not all of it is currently collected by AOC and some of it likely would never be collected by AOC. The bill would require the AOC submit an annual report to the Legislature beginning August 1, 2024 and on August 1st of every year thereafter.

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 bill has been amended to provide eligibility criteria for pretrial diversion which could reduce the number of diversions (i.e., cases with felony charges may not divert, the prosecutor must consent to diversion, and the courts are given clear guidance about when they have discretion to divert). However, the impact of the eligibility criteria on the number of cases is unknown. For the purposes of this judicial impact note, we are using the same assumptions used in previous versions of the bill.

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

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the case assumption is the high-end number of cases because of the variability with private insurance or self-pay costs.

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

There will be implementation issues with the AOC reporting requirements under Section 13. Some of the data elements required are captured now in the legacy Judicial Information System and in the courts of limited jurisdiction (Enterprise Justice) case management system. Other data elements are not captured, and could be with system development. Finally, in some cases it may not be possible to ever capture the required data because of core system functionality that cannot be modified in the systems. This judicial impact note assumes costs related to additional codes, programming, and report development. The estimated cost is \$240,000 based on 2,465 staff hours at an average of approximately \$57 per hour across multiple job classifications needed to complete the interface (Business Analyst, System Integrator, Senior System Integrator, IT Supervisor, and Manager).

Additionally, the salary, benefits, and associated standard costs for 1.0 FTE will be needed ongoing for a Senior Research Associate to compile and analyze the data and prepare the annual report. (FY 2024 = \$196,200; FY 2025 and Ongoing = \$191,400)

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 will instead 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 allows judges discretion in imposition of 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-sentencing 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 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

187,328.00

Form FN (Rev 1/00)

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	2.2	1.0	1.6	1.0	1.0
Salaries and Wages	251,500	111,500	363,000	223,000	223,000
Employee Benefits	80,600	35,600	116,200	71,200	71,200
Professional Service Contracts					
Goods and Other Services	7,800	3,800	11,600	7,600	7,600
Travel	5,500	2,500	8,000	5,000	5,000
Capital Outlays	8,400	1,600	10,000	3,200	3,200
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	82,400	36,400	118,800	72,800	72,800
Total \$	2,032,200	1,787,400	3,819,600	3,574,800	3,574,800

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
Total \$	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
Total \$	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000

III. D - FTE Detail

<i>Job Classification</i>	<i>Salary</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
Business Analyst/System	118,750	1.2		0.6		
Integrators/IT Supervisor/ Senior Research Associate	111,500	1.0	1.0	1.0	1.0	1.0
Total FTEs		2.2	1.0	1.6	1.0	1.0

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

187,328.00

Form FN (Rev 1/00)

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

NONE

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 04/03/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 04/03/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/03/2023

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 as amended by the Community Safety, Justice, and Reentry Committee addresses penalties for knowing possession of a controlled substance, and provides for treatment.

There is no fiscal impact to the Washington State Office of Public Defense (OPD). OPD does not provide public defense services in criminal matters at the trial court level.

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 04/04/2023
Agency Approval: Joe Zawislak	Phone: 360-586-3003	Date: 04/04/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/05/2023

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 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 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 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 22 of this bill requires DCYF to work with the Healthcare Authority (HCA) to develop a training for parents of children with substance use disorder. This will likely require additional legal assistance in FY 2024 to review the training for legal accuracy. Section 23 of this bill 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. This will likely require additional legal assistance in FY2024 to advise on new policies relating to DCYF employees carrying and using opioid reversal medications. CYF assumes any new legal services are nominal and 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 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.

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 04/03/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 04/03/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/04/2023

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 (H-1807.2)
**CONCERNING POSSESSION OF CONTROLLED
AND COUNTERFEIT SUBSTANCES AND
LEGEND DRUGS**
101 – Caseload Forecast Council
March 30, 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 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. Upon arraignment for a violation of subsection (1)(b) or (c) of this section, requires the court to determine whether the defendant has been advised by his/her counsel about the pretrial diversion opportunity in Section 10 of the act.
- 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 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. Upon arraignment for a violation of subsection (1)(b) or (c) of this section, requires the court to determine whether the defendant has been advised by his/her counsel about the pretrial diversion opportunity in Section 10 of the act.
- 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. Upon arraignment for a violation of subsection (1)(b) or (c) of this section, requires the court to determine whether the defendant has been advised by his/her counsel about the pretrial diversion opportunity in Section 10 of the act.
- 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 and adds the use of any legend drug in a public place by injection, inhalations, ingestion, or other means is unlawful. 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 stating the Washington State Patrol (WSP) shall aim to complete analysis for evidence for a suspected violation of RCW 69.50.4011(1)(b) or (c), 69.50.4013, or 69.41.030, within 45 days of receipt of request, subject to appropriations. Additionally states WSPs failure to comply shall not constitute grounds for dismissal of a criminal charge.
- Section 8 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 9 Adds a new section to chapter 69.50 RCW limiting cities, towns, and counties and other municipalities to enacting only laws and ordinances relating to drug paraphernalia that are specifically authorized by the state and consistent with this chapter.
- Section 10 Adds a new section to chapter 69.50 RCW establishing an opportunity for pretrial diversion and vacating convictions. Allows the defendant, with the consent of the prosecuting attorney, to seek to resolve charges under RCW 69.50.4011(b) or (c), 69.50.4014, or 69.41.030(2)(b) or (c) through available therapeutic courts or other alternatives to prosecution.

For any defendant charged with an eligible offense may make a motion to participate in pretrial diversion, subject to the following:

- (a) In all cases, the court may not grant the motion unless the prosecuting attorney consents;
- (b) In cases where the defendant is only charged with an eligible offense and has not been convicted of any offense after the effective date of this section, the court shall grant the motion, continue the hearing, and refer for assessment by any substance use disorder (SUD) treatment program (per chapter 71.24 RCW); and
- In cases where the defendant does not meet the criteria in (b), the court may grant the motion, continue the hearing, and refer for assessment by any substance use disorder (SUD) treatment program.

Requires the court to provide the defendant and defendant’s counsel information regarding pretrial diversion, prior to granting the motion of participation.

Requires the state to make resources available to assist the defendant in scheduling a SUD evaluation/assessment 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.

Requires the SUD counseling agency completing the assessment to make a written report to the court stating its findings and recommendations. Subject to availability of funds appropriated, the assessment and recommended services or treatment must be provided at no cost for individuals who have been found to be indigent by the court. Requires the court to inform the individual of the federal restriction against possessing firearms or ammunition if the report indicates a SUD and the court is to require the individual to surrender all firearms after the assessment has been filed with the court.

Participation in pretrial diversion does not constitute a conviction, a stipulation of facts, or an admission of guilt for any purposes. If the defendant successfully completes pretrial diversion, at the end of that period, the charge or charges under RCW 69.50.4011(1)(b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)(b) or (c) must be dismissed.

Section 11 Adds a new section to chapter 69.50 RCW which sets the punishment for individuals convicted in courts of limited jurisdiction for convictions of RCWs 69.50.4011(1)(b) or (c), 69.50.4013, 69.50.4014, or 69.50.030(2)(b) or (c) and the individual agrees as a condition of probation to submit to a SUD assessment and participate with treatment recommendations or services, the court shall sentence the individual to a term of confinement of up to 90 days, all of which shall be suspended for a period not to exceed one year. If a suspended sentence is imposed, the court the individual to obtain a SUD assessment and participate in any recommended treatment or services.

Subject to availability of funds appropriated, the assessment and recommended services or treatment must be provided at no cost for individuals who have been found to be indigent by the court.

The court may not sanction an individual for failing to comply with the recommended treatment or services if the court finds the individual has made reasonable efforts to comply but cannot comply either due to a lack of available treatment or services or, for sentenced individuals found to be indigent by the court, due to a lack of funding for treatment or services.

If the individual has successfully completes the recommended treatment or services, the individual must file proof of successful completion with the court. Upon verification, 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 SUD treatment or services program and files for proof of completion with the court, the prosecutor must make a motion to vacate of the conviction(s). Upon verification of successful completion, the court must grant to motion to vacate.

Section 15 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 16 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 17 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 18 Repeals RCW 10.31.115 (Drug Possession Referral to assessment and services) and 2021 c 311 s 13.
- Section 19 Adds a new section to chapter 71.24 RCW that increases recovery housing (subject to appropriations.)
- Section 20 Amends RCW 84.36.043 by adding approved recovery residences used by nonprofit organizations to taxation exemptions.
- Section 21 Adds a new section regarding tax preference.
- Section 22 Adds a new section to chapter 71.24 RCW requiring the Health Care Authority (HCA), in consultation with the Department of Children, Youth and Families (DCYF) to develop training for parents of children and transition age youth with SUDs.
- Section 23 Adds a new section to chapter 43.216 RCW requiring DCYF 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 24 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 25 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 26 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 27 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 28 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 29 Adds a new section to chapter 71.24 RCW that requires HCA (subject to appropriations) to:
- Continue and expand efforts to provide opioid use disorder medication in city, county, regional, and tribal jails;

- Provide support funds to new and established Department of Health certified clubhouses throughout the state;
- Award grants to crisis service providers and establish/expand 23-hour crises relief center capacity;
- Maintain a MOU with the Criminal Justice Training Commission to provide ongoing funding for community grants; and
- Provide ongoing grants to law enforcement assistant diversion programs.

Section 30 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 SUD services with recommendations due by December 1, 2024.

Section 31 States Section 7 of the is act takes effect January 1, 2025.

Section 32 States Sections 8-10 and 12 of this act expire on July 1, 2023.

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 if any provision is held invalid, the remainder to the act is not affected.

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 retains simple possession of a controlled or counterfeit substance as a 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 offenses to remain criminal offenses.

Possession of a Counterfeit or Controlled Substance or Legend Drug offenses are currently misdemeanor offenses that will remain misdemeanors 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 CFC does not collect data on misdemeanor and gross misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. 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 determine if the defendant and his/her counsel has been advised of the pretrial diversion opportunity established in the bill. For individuals who complete 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 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 offenses to remain criminal offenses.

Possession of a Counterfeit or Controlled Substance is currently a misdemeanor offense that will remain a 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. 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 on the Juvenile Offense Grid.

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, any incidences of this offense diverted through a pretrial program 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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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
Account					
General Fund-State 001-1	36,956	0	36,956	0	0
Total \$	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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 04/04/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 04/04/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 04/05/2023

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 the engrossed second substitute and the engrossed second substitute striking amendment (5536 S2.E AMH CSJR H 1807.2):

- Section 17 amends the new capital program for substance use treatment facilities to also include services programs.

The engrossed second substitute striking amendment did not substantively modify Part IV, which contains provisions for the 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 the second substitute bill:

Section 14 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 17 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 14: 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 17) 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 assumed to be 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.

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 17: 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 for substance use treatment facilities and services programs 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 17.
- 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 17 and to form a new substance use disorder treatment and

services 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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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	5,164,000	8,996,000	14,160,000	28,918,000	32,404,000
Total \$	5,164,000	8,996,000	14,160,000	28,918,000	32,404,000

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	19.9	19.1	19.5	16.9	16.9
Account					
General Fund-State 001-1	17,386,000	23,902,000	41,288,000	66,951,000	72,924,000
General Fund-Federal 001-2	5,164,000	8,996,000	14,160,000	28,918,000	32,404,000
Total \$	22,550,000	32,898,000	55,448,000	95,869,000	105,328,000

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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Samuel Quartey	Phone: 360-725-0000	Date: 04/05/2023
Agency Approval: Cliff Hicks	Phone: 360-725-0875	Date: 04/05/2023
OFM Review: Arnel Blancas	Phone: (360) 000-0000	Date: 04/05/2023

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	17,386,000	23,902,000	41,288,000	66,951,000	72,924,000
001-2	General Fund	Federal	5,164,000	8,996,000	14,160,000	28,918,000	32,404,000
Total \$			22,550,000	32,898,000	55,448,000	95,869,000	105,328,000

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	19.9	19.1	19.5	16.9	16.9
A-Salaries and Wages	1,447,000	1,400,000	2,847,000	2,448,000	2,448,000
B-Employee Benefits	493,000	479,000	972,000	842,000	842,000
C-Professional Service Contracts	250,000	40,000	290,000	151,000	284,000
E-Goods and Other Services	601,000	599,000	1,200,000	1,184,000	1,184,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	19,164,000	29,807,000	48,971,000	90,228,000	99,554,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	595,000	573,000	1,168,000	1,016,000	1,016,000
9-					
Total \$	22,550,000	32,898,000	55,448,000	95,869,000	105,328,000

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
CONTRACTS SPECIALIST 3	81,000	1.0	1.0	1.0	1.0	1.0
FISCAL ANALYST 3	65,000	5.1	4.9	5.0	4.4	4.4
IT APP DEVELOPMENT - JOURNE	101,000	0.5	0.5	0.5	0.5	0.5
IT DATA MANAGEMENT - SENIOR/SPECIALIST	111,000	2.0	2.0	2.0	2.0	2.0
IT SYSTEM ADMINISTRATION - 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	1.5	1.5	1.5	1.0	1.0
Total FTEs		19.9	19.1	19.5	16.9	16.9

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 AMH CSJR Controlled Substance

HCA Request #: 23-229

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:

No new sections that affect HCA. There are new sections that affect other agencies.

Sections that have an impact to HCA are as follows:

Section 10 (4) - For defendants who agree to participate in the diversion program, the 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 15 - 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 19 - 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 22 - 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 24 - 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.

Section 25 - 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.

HCA Fiscal Note

Bill Number: 5536 E2SSB AMH CSJR Controlled Substance

HCA Request #: 23-229

Section 26 - 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 27 - 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 28 - 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 29 - 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 subject to the availability of funds appropriated.

Section 30 - 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	1,291,000	1,249,000	1,096,000	1,096,000	1,096,000	1,096,000
General Fund-Medicaid 001-C	3,873,000	7,747,000	11,620,000	15,106,000	15,106,000	15,106,000
Totals	\$ 5,164,000	\$ 8,996,000	\$ 12,716,000	\$ 16,202,000	\$ 16,202,000	\$ 16,202,000

HCA Fiscal Note

Bill Number: 5536 E2SSB AMH CSJR Controlled Substance

HCA Request #: 23-229

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.

HCA requests \$49,147,000 for FY2024 (GF-S \$42,733,000) and for FY2025 \$57,818,000 (GF-S \$47,572,000) for known cost impacts.

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 15 – Indeterminate, Potential staffing impact.

The LEAD project is converted to a grant program and removes geographical restrictions on the program. 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 19 – 1.8 FTE/\$268,000 plus additional indeterminate costs

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.

HCA Fiscal Note

Bill Number: 5536 E2SSB AMH CSJR Controlled Substance

HCA Request #: 23-229

- 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 22 – 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 24 – 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.

Section 25 – 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 26 – 5.1 FTE/\$643,000, and phased-in hub support costs (see below).

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

- 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.

HCA Fiscal Note

Bill Number: 5536 E2SSB AMH CSJR Controlled Substance

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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 as follows:

- FY24: 10 Hubs, \$13,174,000
- FY25: 20 Hubs, \$23,817,000
- FY26: 30 Hubs, \$34,461,000
- FY27: 39 Hubs, \$43,787,000
- FY28: 39 Hubs, \$43,787,000
- FY29: 39 Hubs, \$43,787,000

Section 27 – 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 28 – 3 FTE/\$448,000, GIS platform cost \$400,000/year.

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. HCA anticipates that resources such as the following may be needed:

- GIS capability (tool or software) to meet geospatial analysis needs at \$400,000/year
- 1.0 FTE IT System Administrator - Senior Specialist at \$146,000/FTE
- 1.0 FTE IT Data Management - Senior Specialist at \$146,000/FTE
- 1.0 WMS2 Research Data Manager at \$156,000/FTE

HCA Fiscal Note

Bill Number: 5536 E2SSB AMH CSJR Controlled Substance

HCA Request #: 23-229

Section 29 – 1.55 FTE/\$180,000 in staff costs plus identified appropriations needed to perform HCA duties in this section listed below, subject to the availability of funds appropriated, HCA shall:

- 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 30 – 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 captured and/or included as Fiscal Analyst 3 classification.

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	17,386,000	23,902,000	30,520,000	36,431,000	36,564,000	36,360,000
001-2	General Fund	Federal	1,291,000	1,249,000	1,096,000	1,096,000	1,096,000	1,096,000
001-C	General Fund	Medicaid	3,873,000	7,747,000	11,620,000	15,106,000	15,106,000	15,106,000
Totals			\$ 22,550,000	\$ 32,898,000	\$ 43,236,000	\$ 52,633,000	\$ 52,766,000	\$ 52,562,000

HCA Fiscal Note

Bill Number: 5536 E2SSB AMH CSJR Controlled Substance

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II. C - Expenditures by Object Or Purpose

		FY-2024	FY-2025	FY-2026	FY-2027	FY-2028	FY-2029
FTE		19.9	19.1	16.9	16.9	16.9	16.9
A	Salaries and Wages	1,447,000	1,400,000	1,224,000	1,224,000	1,224,000	1,224,000
B	Employee Benefits	493,000	479,000	421,000	421,000	421,000	421,000
C	Professional Service Contracts	250,000	40,000	40,000	111,000	244,000	40,000
E	Goods and Other Services	601,000	599,000	592,000	592,000	592,000	592,000
N	Grants, Benefits & Client Services	19,164,000	29,807,000	40,451,000	49,777,000	49,777,000	49,777,000
T	Intra-Agency Reimbursements	595,000	573,000	508,000	508,000	508,000	508,000
Totals		\$ 22,550,000	\$ 32,898,000	\$ 43,236,000	\$ 52,633,000	\$ 52,766,000	\$ 52,562,000

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

None

Department of Revenue Fiscal Note

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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
Account					
GF-STATE-State 001-1	594,200	139,500	733,700	279,000	279,000
Total \$	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: Yvonne Walker	Phone: 60-786-7841	Date: 03/31/2023
Agency Preparation: Kari Kenall	Phone: 60-534-1508	Date: 04/03/2023
Agency Approval: Marianne McIntosh	Phone: 60-534-1505	Date: 04/03/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/03/2023

Request # 5536-4-1

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 House amendment AMH CSJR H-1807.2 to E2SSB 5536, 2023 Legislative Session.

This fiscal note only addresses section 20 of the bill, which impacts the Department of Revenue (department).

COMPARISON OF THE PROPOSED AMENDMENT WITH THE ENGROSSED SECOND SUBSTITUTE BILL:

While the proposed amendment renumbers the section, there were no changes to what became section 20.

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:

The expanded property tax exemption (Section 20) 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%

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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
Total \$	\$594,200	\$139,500	\$733,700	\$279,000	\$279,000

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		
Total FTEs		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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 225-Washington State Patrol
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.0	2.0	2.0	2.0	2.0
Account					
General Fund-State 001-1	813,000	450,000	1,263,000	900,000	900,000
Total \$	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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Yvonne Ellison	Phone: 360-596-4042	Date: 04/04/2023
Agency Approval: Shawn Eckhart	Phone: 360-596-4083	Date: 04/04/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 04/05/2023

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 amended 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 misdemeanor rather than the previous standing as a Class B or C felony. It also encourages offering a referral to assessment and services available under RCW 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 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, subject to the availability of funds appropriated for this purpose, to aim 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 section also includes a clause stating that failure of the WSP to comply with the section shall not constitute grounds for dismissal of a criminal charge.

Section 8 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.

New Section 13(2) requires the Administrative Office of the Courts (AOC), in cooperation with the WSP and Washington Association of Sheriffs and Police Chiefs (WASPC), to collect data and information related to reported violations of RCWs 69.50.4011(1)(b) or (c), 69.50.4013, 69.50.4014, and 69.41.030(2)(b) or (c) responded to by law enforcement. This data must include, but is not limited to whether the violations were deferred to treatment in lieu of further legal involvement, the number of violations involving repeat offenders, and the number of such violations involving persons who previously participated in pretrial diversion pursuant to Section 10 or were previously sentenced pursuant to Section 11.

Section 18 repeals RCW 10.31.115

New Section 31 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.

It is unknown what the impact of New Section 13(2) will be to the WSP. We assume that the AOC will establish the methods and procedures for the WSP and WASPC to provide information related to reported violations of the relevant RCW's to which we responded. We expect that at a minimum there will be an increased workload related to this activity, but are unable to estimate what it will be until the methods and procedures are developed. In addition, there could be significant additional costs if we are required to add any new systems or software.

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

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
Total \$			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
Total \$	813,000	450,000	1,263,000	900,000	900,000

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
Forensic Scientist 3	96,156	2.0	2.0	2.0	2.0	2.0
Total FTEs		2.0	2.0	2.0	2.0	2.0

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.

Individual State Agency Fiscal Note

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 227-Criminal Justice Training Commission
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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
Account					
General Fund-State 001-1	98,000	101,000	199,000	202,000	202,000
Total \$	98,000	101,000	199,000	202,000	202,000

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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Brian Elliott	Phone: 206-835-7337	Date: 04/03/2023
Agency Approval: Brian Elliott	Phone: 206-835-7337	Date: 04/03/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/04/2023

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 13(2) states the administrative office of the courts shall, in cooperation with the Washington State Patrol and the Washington Association of Sheriffs and Police Chiefs, collect data and information related to reported violations of RCW 69.50.4011(1) (b) or (c), 69.40.4013, 69.50.4014, and 69.41.030(2) (b) or (c) responded to by law enforcement.

Section 29(4) requires the Health Care 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; and

Section 29 (5) provide ongoing grants to law enforcement assistant diversions programs under RCW 71.24.589.

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.

To meet the requirements of section 13, the Washington Association of Sheriffs and Police Chiefs requires a program coordinator to act as a liaison between the Administrative Office of the Courts and local law enforcement. Salary and benefits are as follows:

Fiscal year 2024 = \$98,000

Fiscal year 2025 and each year after = \$101,000.

Per Section 29(4) 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

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	98,000	101,000	199,000	202,000	202,000
Total \$			98,000	101,000	199,000	202,000	202,000

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					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	98,000	101,000	199,000	202,000	202,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	98,000	101,000	199,000	202,000	202,000

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)

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 300-Department of Social and Health Services
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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	114,000	145,000	259,000	158,000	158,000
Total \$	114,000	145,000	259,000	158,000	158,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	4.0	3.5	2.0	2.0
Account					
General Fund-State 001-1	403,000	512,000	915,000	560,000	560,000
General Fund-Federal 001-2	114,000	145,000	259,000	158,000	158,000
Total \$	517,000	657,000	1,174,000	718,000	718,000

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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Teresa Elliott	Phone: 360-902-8177	Date: 04/03/2023
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 04/03/2023
OFM Review: Arnel Blancas	Phone: (360) 000-0000	Date: 04/03/2023

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 28 requires the Health Care Authority (HCA) to collaborate with the Department of Health (DOH), and the Department of Social and Health Services (DSHS) to expand the Washington Recover Help Line. This includes developing a recovery readiness asset tool to provide a dynamically updated statewide behavioral health treatment and recovery support services mapping tool that includes a robust resource database. For those seeking services this database referral system will be incorporated within the locator tool to help facilitate the connection between an individual and a facility that is currently accepting new referrals. The tool must include dual interface capability, one for public access and one for internal use and management.

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.

It is assumed that the provisions of this bill would be eligible for federal funding based on the DSHS cost allocation plan for Administration (program 110).

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.

Research and Data Analysis (RDA) will need four FTEs during the first two years to develop the system enhancements necessary to provide the services required of this legislation. Two FTEs will be needed in year three and ongoing to provide maintenance and updates to the system. The hiring process will take place during the first year and it is expected to take several months to find the right candidates to fulfill each role.

The positions and roles for the Geographic Information System (GIS) are as follows:

The Senior GIS/IT Application Developer will be the lead web GIS application developer for the full development life cycle of a new dynamic web mapping tool and referral system, with dual interface capability, that supports statewide behavioral health treatment and recovery support services.

The Journey GIS/IT Application Developer will be a co-developer and back-up for the full development life cycle of a new dynamic web mapping tool and referral system, with dual interface capability, that supports statewide behavioral health treatment and recovery support services.

The GIS Data Engineer will lead the full development life cycle for a geo-enabled resource database to be integrated with the dynamic web mapping tool and referral system.

The GIS Specialist will manage cartographic representation of the map data, and automate and oversee routine Geo processes such as geocoding, updating, editing, and publishing web map services from the geo-enabled databases to be used by the web mapping tool and referral system. The GIS Specialist will also serve as a back-up to the GIS Data Engineer.

The Technical Project Manager will oversee the fulfillment of the agile development, implementation, and on-going support of the behavioral health treatment and recovery support services web mapping tool and referral system; coordinate and coach development team members; and understand the needs and requirements of the project.

The two ongoing FTEs will provide maintenance and operations as well as ongoing enhancements as requested by program

managers and stakeholders.

This includes a combination of:

- 1) Application development work for ongoing development of the web mapping tool and referral system to support statewide behavioral health treatment as well as recovery support services.
- 2) Data Management to ensure ongoing updates, geocoding, quality control, and publishing of the data from various providers.
- 3) Supervisory responsibilities.

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	403,000	512,000	915,000	560,000	560,000
001-2	General Fund	Federal	114,000	145,000	259,000	158,000	158,000
Total \$			517,000	657,000	1,174,000	718,000	718,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	4.0	3.5	2.0	2.0
A-Salaries and Wages	348,000	457,000	805,000	450,000	450,000
B-Employee Benefits	119,000	157,000	276,000	224,000	224,000
C-Professional Service Contracts					
E-Goods and Other Services	19,000	26,000	45,000	26,000	26,000
G-Travel					
J-Capital Outlays	18,000		18,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service	1,000	2,000	3,000	2,000	2,000
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	12,000	15,000	27,000	16,000	16,000
9-					
Total \$	517,000	657,000	1,174,000	718,000	718,000

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
GIS IT App Development - Journey		0.7	1.0	0.9	0.5	0.5
GIS IT App Development - Senior / Specialist		1.0	1.0	1.0	0.5	0.5
GIS IT App Development - Senior IT Manager		0.5	0.5	0.5	0.2	0.2
GIS IT Data Management - Journey		0.3	0.5	0.4	0.5	0.5
GIS IT Data Management - Senior / Specialist		0.5	1.0	0.8	0.3	0.3
Total FTEs		3.0	4.0	3.5	2.0	2.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative and Support Services Administration (110)	517,000	657,000	1,174,000	718,000	718,000
Total \$	517,000	657,000	1,174,000	718,000	718,000

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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
Total \$		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
Account					
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
Total \$	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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 03/31/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 03/31/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 04/05/2023

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 E2SSB. This striker amendment removes 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 16(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 16: 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 16: 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 16: 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		
Total FTEs		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.

Individual State Agency Fiscal Note

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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
Account					
General Fund-State 001-1	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

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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Kevin Keogh	Phone: 360-628-2652	Date: 04/04/2023
Agency Approval: Crystal Lester	Phone: 360-628-3960	Date: 04/04/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/06/2023

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 AMH CSJR H1807.2 and 5536 E2SSB

Section 19 has been removed. This section gave 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.

There are many other small changes, none of which directly impact the fiscal impact statement for the Department of Children Youth and Families (DCYF).

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 22(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 22(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 23 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 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 x \$64 x 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

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					
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-					
Total \$	1,152,000	1,152,000	2,304,000	2,304,000	2,304,000

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
Children and Family Services (010)	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

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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
Account					
General Fund-State 001-1	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.

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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: James Cerna	Phone: (360) 725-8428	Date: 04/05/2023
Agency Approval: Ronell Witt	Phone: (360) 489-4417	Date: 04/05/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/06/2023

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 E2SSB.AMH CSJR H1807.2 revises the following from the 5536 E2S SB:

Section 2 amends RCW 69.50.4011 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly”

Section 3 amends RCW 69.50.4013 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly”

Section 4 amends RCW 69.50.4014 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly”

Section 5 amends RCW 69.41.030 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly”

Section 9 is a new section limiting cities, towns, and counties and other municipalities to only enacting laws and ordinances relating to drug paraphernalia that are specifically authorized by the state and consistent with this chapter.

Section 31 states section 7 of this act takes effect January 1, 2025.

Section 32 states sections 8-10 and 12 of this act expire on July 1, 2023.

Section 33 states sections 2 - 6, 8-12, and 32 of this act take effect July 1, 2023.

Section 34 is new and reads as follows, “If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.”

Unless otherwise specified, the effective date is assumed to be 90 days after adjournment in which this bill is passed.

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 reaffirms it is a criminal offense to possess a controlled substance, counterfeit substance, or legend drug.

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 Case Load Forecast (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 for individuals as the court may terminate pretrial diversion if the defendant is not meaningfully engaging in the recommended treatment, 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 CFC has no information concerning how many incidents of knowingly possessing a controlled substance may occur. As such, the CFC cannot reliably predict bed impacts resulting from the bill.

The Department of Corrections (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. OMNI data tables need to be updated based on prescribed changes to RCW's. Due to the complexity to complete the development, testing and implementation of the statutory changes, contracted services are necessary in FY2024.

Cost Calculation Estimate:

- IT Application Developer| \$120 per hour x 10 hours = \$1,200
- IT Quality Assurance| \$120 per hour x 8 hours = \$960
- IT Business Analyst| \$120 per hour x 5 hours = \$600

Total One-Time Costs - FY2024 \$3,000 (Rounded to the nearest \$1,000)

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 360-University of Washington
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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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 03/31/2023
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 03/31/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 04/03/2023

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.

5536 E2S SB 5536-S2.E AMH CSJR H-1807.2 relates to the justice system and behavioral health responses for persons experiencing circumstances that involve controlled substances, counterfeit substances, legend drugs, and drug paraphernalia.

The striking amendment removes Section 17 from the E2S version of the bill, which drove the University of Washington's (UW) prior indeterminate fiscal impacts for the E2S version of the bill. Therefore the UW assesses no fiscal impacts for this version.

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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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
Account					
General Fund-State 001-1	0	0	0	71,110	204,037
Total \$	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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Catherine Nicolai	Phone: (360) 664-9087	Date: 04/03/2023
Agency Approval: Dane Apalategui	Phone: 360-867-6517	Date: 04/03/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 04/03/2023

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. 25 of E2SSB 5536-S2.E AMH CSJR H-1807.2 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, the law enforcement assisted diversion national support bureau, and the substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to 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. The law enforcement assisted diversion national support bureau may supplement the report with additional recommendations to improve the recovery navigator program by enhancing its ability to provide a viable, accepted, community-based care alternative to jail and prosecution. The authority shall cooperate with the Washington state institute for public policy to provide data for this report."

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. 25 of E2SSB 5536-S2.E AMH CSJR H-1807.2 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
Total \$			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
Total \$	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
Total FTEs					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

Bill Number: 5536 E 2S SB AMH CSJR H1807.2	Title: Controlled substances	Agency: 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: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 04/03/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 04/03/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 04/04/2023

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. No Cash Receipts.

The only section that deals with the Growth Management Act (GMA) is Section 14.

Section 14. RCW 36.70A.200 is amended to include an expanded definition of “essential public facilities” under (1)(a) to include opioid treatment programs including both mobile and fixed-site medication units, recovery residences, and harm reduction programs excluding safe injection sites. Subsection (d) defines “harm reduction programs.”

This change in definition does not change the fundamental character of existing public facilities in a way that would result in additional appeals to the Growth Management Hearings Board (GMHB) under the GMA.

NO FISCAL IMPACT to the GMHB 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 AMH CSJR H1807.2	Title: Controlled substances
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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 due to change in demand for jail beds as a result of pretrial diversion program, new sentencing requirements; 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 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 prosecutors and public defenders as a result of new sentencing requirements; indeterminate expenditure impact due to change in demand for jail, juvenile detention beds as a result of pretrial diversion program, new sentencing requirements; 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:** Net change in demand for prosecutor, public defender time, and jail, juvenile detention beds 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)
TOTAL \$	(32,000)	(65,000)	(97,000)	(148,000)	(175,000)
GRAND TOTAL \$					(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: 04/04/2023
Leg. Committee Contact: Yvonne Walker	Phone: 360-786-7841	Date: 03/31/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 04/04/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/06/2023

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 impact of E2SSB 5536 AMH CSJR H1807.2 and compares it to the impact of E2SSB 5536.

CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The amendment to the engrossed second substitute bill would specify that knowing possession and use in public of counterfeit or controlled substances and legend drugs is a criminal offense. Both knowing possession and use in public of counterfeit or controlled substances would be classified as misdemeanors in the current bill version, while in the previous bill version these offenses were classified as gross misdemeanors.

The amendment would also reintroduce a provision included in earlier bill versions specifying that the state of Washington would fully occupy and preempt the field of drug paraphernalia regulation within the borders of the state, and would include modified language concerning both the pretrial diversion program detailed in section 10 and the new sentencing requirements detailed in section 11.

Finally, the amendment would remove the language creating a right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings that section 19 of the engrossed second substitute bill would have included.

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 and knowing possession and use in public of a counterfeit substance are misdemeanors.

Section 3 would amend RCW 69.50.4013, specifying that knowing possession and knowing possession and use in public of a controlled substance under certain circumstances, or knowing possession of “cannabis, cannabis-infused products, or cannabis concentrates” by someone under 21 is a 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 and knowing possession and use in public 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 determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 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 8 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 programs, community-based HIV prevention programs, outreach, shelter, and housing programs, and pharmacies.”

Section 9 would add a new section to chapter 69.50 RCW, specifying that the state of Washington would fully occupy and preempt the field of drug paraphernalia regulation within the borders of the state.

Section 10 would add a new section to chapter 69.50 RCW, specifying that individuals charged with violations of RCW 69.50.4011(1)(b), 69.50.4013, 14 69.50.4014, or 69.41.030 may make a motion to participate in the pretrial diversion program detailed in this section.

This section would require the state to assist people participating in the pretrial diversion program with scheduling a substance use disorder evaluation or expedited assessment within seven days of a person agreeing to participate in the program. This evaluation would be required to be provided at no cost to people found to be indigent by the court, and the state would be required to reimburse local courts for the costs associated with substance use disorder assessments and any associated required travel.

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 engage 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.

The state would be required to assist people who agree to participate in a probation program under this section in scheduling 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 (7) 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 or violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030 (2) (b) or (c)” who successfully completes a substance use disorder treatment or services program if the court verifies the individual’s proof of completion.

Section 14 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 15 would amend RCW 71.24.589, directing the Washington State Healthcare Authority to administer a grant program for law enforcement assisted diversion programs.

Section 16 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 20 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 31 specifies that section 7 of the proposed legislation would take effect on January 1, 2025.

Section 32 would specify that sections 8 through 10, and 12 of Chapter 311, Laws of 2021 would expire on July 1, 2023.

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

Section 34 specifies that if any part of this act were to be held to be invalid, the remainder of the act would be unaffected.

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 amendment would remove the provision included in the engrossed second substitute bill that would have created a right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings. It was unknown in how many cases counsel may have been appointed, how much attorney time a given proceeding would have required, or what rates contracted attorneys may have been compensated at, so the local government expenditure impact of this provision was indeterminate.

By removing this provision, the amendment would not create this indeterminate local government impact.

In addition, the amendment would maintain knowing the status of possession of a counterfeit or controlled substance, or legend drug as misdemeanor offenses, while the engrossed second substitute bill would have upgraded these offenses to gross misdemeanors. The Washington State Caseload Forecast Council (CFC) does not collect data on misdemeanor or gross misdemeanor offenses, and so cannot reliably estimate the jail or juvenile detention bed impacts of the current bill.

Despite that, however, it is reasonable to assume that the amendment would not create any local government expenditure impacts that would have resulted from increased demand for jail or juvenile detention beds due to the longer standard range terms of confinement for gross misdemeanor offenses. This impact, which the engrossed second substitute bill could have created, was of indeterminate magnitude, in part because of the pretrial detention program and new sentencing requirements in sections 10 and 11.

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 CFC fiscal note on this bill, since CFC does not collect data on misdemeanor and gross misdemeanor offenses, it cannot predict the jail or juvenile detention bed impacts resulting from this bill. In addition, section 10, which would outline a pretrial diversion program for people charged with certain specified drug possession offenses 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. 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 juveniles may enter pre-trial diversion per section 10, so the resulting impact on county juvenile detention expenditures is indeterminate.

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 meaningfully participate in the recommended treatment or

services,” 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.

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,” that person could 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 cities X \$15,000 per update) + (4 counties X \$50,000 per update) = \$1,430,000

Calendar year 2025:
(48 cities X \$15,000 per update) + (10 counties X \$50,000 per update) = \$1,220,000

Calendar year 2026:
(55 cities X \$15,000 per update) + (8 counties X \$50,000 per update) = \$1,225,000

Calendar year 2027:
(33 cities X \$15,000 per update) + (6 X \$50,000 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

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 amendment 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