

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4952-01  
Bill No.: HB 1448  
Subject: Drugs and Controlled Substances; Licenses - Miscellaneous; Agriculture; Public Safety Department; Crimes and Punishment  
Type: Original  
Date: April 10, 2018

Bill Summary: This proposal establishes provisions regarding the legalization of marijuana and establishes certain licensing requirements.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2022)
General Revenue	\$0 or (Up to \$6,772,699)	\$0 or \$3,844,041	\$0 or \$18,403,173	\$0 or \$55,889,193
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or (Up to \$6,772,699)</b>	<b>\$0 or \$3,844,041</b>	<b>\$0 or \$18,403,173</b>	<b>\$0 or \$55,889,193</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2022)
Marijuana Cash	\$0	\$0 or (\$4,162,749)	\$0 or (\$1,433,365)	\$0 or (\$2,514,486)
Criminal Records System	\$0	\$0	\$0 or \$540,854	\$0 or \$54,054
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0 or (\$4,162,749)</b>	<b>\$0 or (\$892,511)</b>	<b>\$0 or (\$2,460,432)</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 24 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
General Revenue	0 or 1	0 or 3	0 or 7	0 or 7
Marijuana Cash	0	0 or 23.5	0 or 47	0 or 47
<b>Total Estimated Net Effect on FTE</b>	<b>0 or 1</b>	<b>0 or 26.5</b>	<b>0 or 54</b>	<b>0 or 54</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0 or \$39,250</b>	<b>\$0 or \$25,000 to \$500,000</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety (DPS), Division of Alcohol and Tobacco Control (ATC)** assume this proposal will make ATC responsible for implementing a comprehensive licensing and regulatory system for the cultivation, manufacture, sale, distribution, dispensing and testing of retail marijuana and retail marijuana products in the state of Missouri.

Section 195.2206.1 requires ATC promulgate rules for the proper regulation and control of the retail marijuana act. In order to meet that deadline, ATC would initially hire a marijuana consultant expert who has experience in implementing a recreational marijuana program in other states. This person would help set out a framework for implementation of a seed to sale tracking system, promulgate rules, and provide information on testing protocols that need to be in place to assure product integrity. This person would start as soon as the bill is signed and would require general revenue (GR) funding for his fee and expenses for the first year. ATC has estimated costs of approximately \$4,461,839 in FY'20 to the Marijuana Cash Fund.

ATC would add staff at four district offices (Kansas City, St. Louis, Springfield, and Jefferson City) and station a District Supervisor, six Agent/Special Agents, a Senior Office Support Assistant, and an Agricultural Expert in each office to be able to cover the territory more effectively and efficiently. This would allow potential licensees more direct access to ATC staff to facilitate licensing demands and respond to questions.

It is estimated that ATC will need to increase the space for the Jefferson City office to accommodate 18 new FTE, additional storage space for evidence, for fingerprinting scanners and reception space to consult with licensees. ATC is requesting an additional 6,900 square feet of office space for the 18 FTE which includes 300 sq. ft. for each FTE, 600 sq. ft. for evidence storage, 600 sq. ft. for the reception area, and 300 sq. ft. for the fingerprint scanner area.

Rental Rate - \$96,600 (\$14 per sq. ft. \* 6,900 sq. ft.) and Janitorial \$10,350 (\$1.50 per sq. ft. \* 6,900) and Utility Rates \$13,800 (\$2.00 per sq. ft. \* 6,900) = \$120,750.

**Oversight** notes in response to other proposals from the current session in which agencies indicated a need for additional rental space, officials from the Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC) provided that additional space in leased facilities for additional staff in the Cole County area is estimated at 230 sq. ft. per FTE times \$17.50 per sq. ft., or \$4,025 annually per FTE. These costs are building lease cost, fuel and utilities, and janitorial services. The assumption for the need for larger space and/or in other regions of the state, or possible new construction space, would be a higher cost per sq. ft. (estimated at \$24.50 per sq. ft.).

ASSUMPTION (continued)

As a result, **Oversight** will reduce the sq. ft. per FTE to 230 sq. ft plus the additional space needed for evidence storage (600 sq. ft.), reception area (600 sq. ft) and fingerprint scanner area (300 sq. ft.) for a total of 5,640 sq. ft. Rental space costs for the Jefferson City office total \$98,700 annually including janitorial, fuel and utility costs (5,640 sq. ft. \* \$17.50/sq. ft).

ATC will open office in St. Louis, Springfield and Kansas City that will provide space for 10 additional staff in the St. Louis office and 9 additional staff in the Springfield and Kansas City offices, along with additional storage space for evidence, for fingerprinting scanners and reception space to consult with licensees.

**Oversight** notes the ATC uses the same assumptions regarding the sq. ft. needed per FTE, evidence storage, reception are and fingerprint scanner area used for the Jefferson City office. Therefore, Oversight will reduce the sq. ft. requested per FTE to the recommended amount provided by FMDC plus the additional space requested for evidence storage, reception, and fingerprint scanner areas. ATC estimated per sq. ft. leasing costs according to FMDC guidelines for location.

**Oversight** assumes additional rental costs for offices in St. Louis (\$79,800), Springfield (\$62,475) and Kansas City (\$73,185) to be \$215,460 annually including janitorial, fuel and utility costs. Total annual rental costs for all locations is **\$314,160** (\$98,700 + \$79,800 + \$62,475 + \$73,185).

Each office would have an ID card printing device to facilitate with the occupational licensing of an expected 6,684 possible owners, managers, officers, and employees of an approximate 156 licensed establishments. These numbers were calculated using Colorado's current statistics. Since Missouri has approximately 10% additional population, the numbers were adjusted to reflect that increase. The potential for this number to be much higher is entirely possible as Colorado also has a large number of outlets and occupational licenses that relate to their medical marijuana program, which were not used in the calculations for Missouri. The Jefferson City office will have two ID card printers. The total cost for the ID Card Printers and supplies will be approximately \$86,000 in FY'20.

Fingerprint Scanning Machines will be purchased for all four offices. Currently, the Cogent Livescan device is the only Livescan that can link to the Missouri Automated Criminal History Site (MACHS) for the electronic registration and submissions of applicant fingerprint submissions to the Central Repository.

ASSUMPTION (continued)

The cost for a Cogent Livescan device is \$4,995 for the outright purchase. This includes either the laptop or desktop computer, Missouri applicant software, Windows 7 OS, 3M Cogent fingerprint scanner, camera w/ backdrop, shipping, online / remote system set up and training, and one full year warranty, maintenance and support. After the first year of maintenance and support, the cost is \$600 annually for maintenance. The first year will cost \$20,000 to purchase the machines, and following years' maintenance costs will be \$2,400 annually. This will facilitate the requirement that all people associated with the retail marijuana license have fingerprint criminal records check. The number of checks will coincide with the number of ID cards expected above.

The fingerprint background checks from Highway Patrol are \$40.30, which will cost approximately \$1.4 million in the first year, and \$148,000 in the second year. The Division plans to charge a \$50 fee to do the fingerprint scans at the ATC offices.

However, more stringent background checks are required and would require agents to follow up in various measures to assure the person is of good moral character, and that the affirmations in the application are valid and true. Inspections would be required to verify information on the licensed premises, and to validate that the signage, security and sanitary requirements are being met. A thorough review of applicant's financial records must be made. Background checks would be required on each owner, officer, manager, stockholder, and all employees who work at or are otherwise associated with the operation. Following is the specific breakdown of the positions requested:

**District Supervisor** – 4 (\$57,648 each, annually) – ATC would locate a District Supervisor in each office to oversee the activities of five Agent/Special Agents located in the field offices.

**Agents/Special Agents** – 24 (\$49,116 each, annually) – Special Agents would each be assigned a specific territory in the district to oversee licensing and regulation. Agents would be the key contact person for licensees to contact with questions and application problems. Agents would attend public hearings, perform inspections and do background checks. ATC will have 4 districts.

**Administrative Office Support Assistant (SOSA)** – 7 (\$35,040 each annually) – The SOSA's will be assisting in the large amount of clerical work related to the implementation and ongoing licensing of all the retail marijuana stores, cultivation and production facilities, medical testing facilities, and all the occupational licenses. In addition, this position would assist with the fingerprint scanning. Four will be located in the field offices (2 in St. Louis, 1 in Kansas City, 1 in Springfield) and three will be located in the Jefferson City central office.

ASSUMPTION (continued)

**Executive I** – 3 (\$39,000 each, annually) – The Executives I would be working with the administrative and licensing sections to process licenses, data entry, track statistics, and facilitate the composition of the reports required by law. They would in addition be utilized to assist in the payroll and payables of processing the increased transaction.

**Auditor II** – 4 – (\$49,116 each, annually) – The Auditors will be responsible for auditing licensed premises records to ascertain that the State of Missouri is receiving all taxes due, and the licensee is keeping records according to regulatory standards.

**Staff Attorney** – 1 (\$65,000 annually)– This person would be responsible for sorting through the complex language of the bill, and interpreting the statutes and assisting with the promulgation of new rules to implement the act.

**Agricultural Expert** – 4 (\$65,000 each, annually) – ATC would employ these persons to assist with the technical aspects of the marijuana growth process, cultivation, preparation of, testing of, storage of and anything to do with the product itself.

**Expense and Equipment** would be necessary for staff as outlined in the expense and equipment fiscal portion to include basic office equipment, laptops and telephone equipment. Agents will need law enforcement equipment to include weapons, ammunition, ballistic vest, vehicles, travel expenses, etc.

**Oversight** has, for fiscal note purposes only, changed the starting salary for all merit positions requested by the ATC to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

**ATC** will model the bill similar to the Colorado law enacted in 2012. Colorado's FY17 revenue from excise tax of 15% from recreational marijuana was almost \$71.5 million (Colorado brought in more than \$210 million in taxes for FY17, including sales tax and excise tax. Colorado DOR Office of Research and Analysis.) This bill does not provide for a retail sales tax and has an excise tax rate of 20%. Since Missouri's population of just over 6.1 million exceeds Colorado's population of approximately 5.5 million, ATC believes Missouri will generate at least 13% more in sales, which will require more production. Since licenses will not be issued until halfway through the fiscal year of FY21, ATC does not predict a high collection of excise taxes in FY21. ATC predicts first year excise tax revenue of over **\$49 million in FY22**. This does not include the portion generated by Colorado's medical marijuana industry, which may increase revenue in Missouri because of the lack of a medical marijuana program. (State of Colorado Marijuana Taxes, Licenses and Fees Transfers and Distribution – May 2017 Sales Reported in June 2017, including year to date numbers)

ASSUMPTION (continued)

Revenue will be generated from licensing establishments for the cultivation and production of marijuana for recreational use. Revenue collected will be deposited into the marijuana cash fund that will be used for the administration and enforcement of the Sections 195.2200 to 195.2281. ATC has estimated that deposits won't be made into this fund in FY20 as ATC will not begin accepting license applications until October 1, 2020 (FY21). ATC estimates that licensing and user fees will bring in \$3,605,751 in the first year of operation and \$2,632,014 in the second year. ATC has estimated about a 10% turnover in licensing for the second year of operation.

ATC will annually review the fees and charges to determine if adjustments are necessary to reflect the actual direct and indirect costs of the division in the administration and enforcement of the retail marijuana licensing program. ATC has set fees at a higher level initially to reflect the uncertainties in implementing a new program such as this.

ATC does not believe the first two years will result in fines as the licensing process won't begin until FY21. It is estimated that in FY22 and ongoing fines could be \$25,000 - \$500,000 annually. (It should also be noted that ATC believes it might be a conflict of interest to receive the financial benefits from the administrative disciplinary process by being responsible for enforcing the law, administering discipline and then collecting money from the violators, and thus concludes that fines will be treated in the same manner as Alcohol and deposited into local school districts.)

**Oversight** notes Article IX, Section 7 of the Missouri Constitution provides that fines and penalties be distributed to schools. Oversight will range the fine revenues estimated by ATC from \$0 or \$25,000 to \$500,000 annually to school districts since this proposal contains a referendum to go to a vote of the people and it is unknown whether the proposal will be passed.

Officials from the **DPS, Missouri State Highway Patrol (MHP)** and ATC assume this proposal will have a positive fiscal impact. ATC officials state according to the Colorado Department of Revenues Marijuana Enforcement Division, as of December 1, 2015 there were 408 stores, 512 cultivation centers, 160 product manufactures, and 17 testing facilities, totaling 1,097 businesses associated with the sales and production of marijuana. Estimating 20 employees per facility, including owners, officers, managers, contractors, employees, and other support staff of entities licensed under this chapter, a total of 21,940 background checks were generated from this legislation in Colorado. According to the 2014 United States Census Bureau's census estimate, Missouri's population was 6,063,589 and Colorado's population was 5,355,866. Figuring a 12% increase in the number of background checks generated in Missouri, due to the population difference, it is estimated that 24,572 (21,940 + 2,632) background checks will be submitted to the MHP for licensing purposes.

ASSUMPTION (continued)

The cost for a fingerprint-based background check, to include state and federal open and closed records, is as follows:

State fee: \$20.00  
FBI fee: \$12.00  
Applicant fingerprinting vendor fee: \$8.30  
Total fee per applicant: \$40.30

Of these amounts, the state retains the \$20 state fee and \$2 of the federal change of \$12 for a pass thru fee (total \$22). The \$8.30 charge is paid directly to the vendor at the time of application.

Initial licensure fees = 24,572 applicants x \$40.30 = \$990,252 (rounded)

State fee portion deposited into the **Criminal Records System Fund** = 24,572 applicants x \$22 = **\$540,584**.

Based on a 10% turnover rate in employment each year for the stores, cultivation centers, product manufactures, and testing facilities, it is estimated that after initial licensure 2,457 background checks will be submitted annually.

Annual licensure = 2,457 applicants x \$40.30 = \$99,017 (rounded)

State fee portion deposited into the **Criminal Records System Fund** = 2,457 applicants x \$22 = **\$54,054**.

ATC officials provided the response for the **Office of Administration (OA), Division of Information Technology Services Division (ITSD)/DPS**. ITSD assumes that every new IT project/system will be bid out because all ITSD resources are at full capacity. The current contract rate for IT consultants is \$75 per hour.

ITSD estimates FY19 costs to the GR fund of \$193,299 to implement the ATC licensing system and obtain necessary equipment; on-going costs to GR for FY20 and FY21 are estimated to be \$47,863 and \$49,061, respectively.

**Oversight** is extrapolating on-going costs through FY22, the estimated fully implemented year to be \$50,286.

Officials from the **Department of Health and Senior Services (DHSS), Division of Community and Public Health (DCPH)** state section 192.945, RSMo, allows the DHSS to issue a hemp extract registration card for persons suffering from intractable epilepsy. The hemp extract registration card allows for the legal possession and use of cannabidiol (CBD) oil. This proposal allows for the legal use of marijuana for both medical and recreational purposes. Therefore, persons with intractable epilepsy would not need to apply for a hemp extract registration card in order to legally use the CBD oil.

ASSUMPTION (continued)

In order to carry out Section 195.2206.2(7) of the proposed legislation, DHSS would need one (1) Environmental Public Health Specialist (EPHS) V position (\$46,056 annually) and one (1) Grain Inspector Compliance Coordinator position (\$46,056 annually). The EPHS V position will develop the health and safety regulations and standards needed for the manufacture of marijuana, provide technical assistance to ATC in development of administrative rules and continuous revision/updating of administrative rules, and provide technical assistance to ATC regarding problematic inspections related to product manufacturing. This position will also supervise the work of the EPHS IV (duties in next paragraph) and Grain Compliance Coordinator positions. The Grain Inspector Compliance Coordinator position will develop the health and safety regulations and standards needed for the cultivation of marijuana, provide technical assistance to ATC in development of administrative rules and continuous revision/updating of administrative rules, and provide technical assistance to ATC regarding problematic inspections related to cultivation of marijuana. The EPHS V and Grain Compliance Coordinator positions will begin on July 1, 2019 to ensure the regulations are developed prior to July 1, 2020 as required by the proposed legislation.

The proposed legislation does not limit the amount of manufacturing licenses that may be issued by ATC. States which have legalized retail marijuana have seen a significant demand for edible marijuana products. For the purposes of this fiscal note, DHSS estimates that there will be at least 300 food manufacturing facilities that will be established as a result of this proposal. In order to properly inspect these manufacturing facilities, as required in Sections 196.010 through 196.298, RSMo, DCPH would require a minimum of two (2) additional Environmental Public Health Specialist IV staff (\$44,352 each, annually). The proposed legislation states that ATC shall adopt rules and regulations before July 1, 2019, following the November 2018 election. Therefore, DCPH assumes that the two Environmental Public Health Specialist IV positions would begin July 1, 2020. This hire date would allow for training and program preparation to occur prior to October 1, 2020, which is the date ATC shall begin accepting license applications.

The DHSS estimates costs to the GR fund of \$0 for FY19; \$178,449 for FY20; and \$359,682 for FY22.

**Oversight** is extrapolating DHSS costs through FY22, the estimated fully implemented year.

**Oversight** notes the DHSS used a lease cost for the additional rental space needed for four (4) new FTE of \$21 per square foot. This is an average of the lease rates for the various regions in the state. Oversight reduced the average cost to \$17.50 per square foot (which includes utilities and janitorial services), the amount provided by OA, Facilities Management, Design and Construction.

ASSUMPTION (continued)

In response to proposals from the current session in which agencies indicated the need for additional rental space, officials from the **Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC)** provided additional space in leased facilities for additional staff in the Cole County area is estimated at 230 sq. ft. per FTE times \$17.50 per sq. ft., or \$4,025 annually per FTE. These costs are building lease cost, fuel and utilities, and janitorial services. The assumption for the need for larger space and/or in other regions of the state, or possible new construction space, would be a higher cost per sq. ft. (estimated at \$24.50 per sq. ft.).

Officials from the **Department of Revenue (DOR), Motor Vehicle (MV)/ Driver License (DL) Division** provide the following assumptions:

§195.2251 of the proposed language levies a 20 percent tax on the sale of marijuana by a wholesale marijuana-cultivation facility to a wholesale marijuana-product manufacturing facility or a retail marijuana store. The DOR directs the Division of Alcohol and Tobacco Control (ATC) to establish procedures for the collection of these taxes. The DOR enforces the tax similar to the tax on cigarettes under chapter 149.

**Administrative Impact**

To implement the proposed legislation, the DOR will require new reporting and application forms to track and monitor the sale of stamps and stamp inventory.

**Excise Tax:**

The DOR must develop a new reporting form(s) and application form(s) to track and monitor the sale of the stamps and track the inventory of the stamps.

As the provisions of this legislation ultimately impose an excise tax and require registration requirements that mirror those of tobacco tax, the DOR assumes this function would not be a part of the integrated tax system at this time. Based on this premise, the DOR would be required to create a new program resembling the motor fuel or cigarette tax application.

Excise tax requires one Revenue Processing Technician I (\$26,340 annually) for registration and stamp order processing, one Revenue Processing Technician I (\$26,340 annually) for processing reporting forms, phone calls, and correspondence, and one Management Analysis Specialist I (\$38,304 annually) to work with the Division of Alcohol and Tobacco Control to administer this legislation.

ASSUMPTION (continued)

DOR estimates costs to the General Revenue (GR) Fund of \$410,515 for FY19; costs of \$153,824 for FY20 and costs of \$155,071 for FY21 including OA, ITSD costs.

**Oversight** is extrapolating DOR's costs through FY22, the estimated fully implemented year. However, Oversight assumes the DOR would need only the Management Analysis Specialist I to work with ATC to administer the legislation beginning in FY19. Oversight assumes DOR would need 2 FTE Revenue Processing Technicians I beginning FY21 when ATC begins issuing licenses and marijuana sales begin.

**Revenue Impact:**

Based on medical marijuana market stats received from the Office of Administration-Budget and Planning, this legislation could result in an estimated tax increase to General Revenue in the amount of \$42,813,231.

**Oversight** notes the provisions of this proposal provide for the legalization of marijuana and would, therefore, likely generate more revenue than estimates for medical marijuana. Therefore, Oversight will use DPS, ATC's revenue estimates for fiscal note purposes.

**OA-ITSD Impact**

This proposal will require a new tax system be developed for the RSD-Integrated Tax System Response at a cost to GR of \$260,021 for FY19. ITSD assumes that every new IT project/system will be bid out because all ITSD resources are at full capacity.

Officials from the **Department of Corrections (DOC)** state HB 1448 decriminalizes cannabis use, possession, cultivation, transport, and manufacturing for persons above the age of 21 years. The proposed legislation retains the same penalties concerning controlled substances and cannabis as in the current section 579.015, 579.020, and 579.055, RSMo for persons less than 21 years of age. The bill provides a mechanism, section 579.001, for release of incarcerated offenders (age 21 or older at the time of offense) with nonviolent, cannabis-related offenses to parole after enactment of the bill. These offenders are released to 3 years of parole.

Research shows the annual number of persons admitted to prison for cannabis offenses is expected to be 209; and 986 is the estimated number sent to probation. Typically, incarcerated offenders spend 1 year in prison and three years on parole while probationers spend three years on field supervision. Of note regarding section 579.040, a three-year average calculates nine persons per year are charged with commercial sale of drug paraphernalia (class E felony); however, none of the offenses were associated with cannabis in FY14-16.

ASSUMPTION (continued)

The initial impact for FN 4952.01, to the Department of Corrections, is 209 fewer offenders incarcerated and 986 fewer persons sent to probation. The full impact occurs in FY22 with 418 fewer persons incarcerated and 3,334 fewer persons sent to probation.

If this impact statement has changed from statements submitted in previous years, it is because the DOC has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

The DOC cost of incarceration is \$17.003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

The DOC would assume this legislation will result in long-term cost avoidance as indicated in the chart below:

ASSUMPTION (continued)

	fewer # to prison	Cost per year	Total Savings for prison	fewer # on probation & parole	Savings - fewer P&P officers needed	Total saving for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	(209)	(\$6,206)	\$1,080,878	(989)	(9)	\$460,326	\$1,541,204
Year 2	(418)	(\$6,206)	\$2,645,990	(1,972)	(26)	\$1,613,012	\$4,259,002
Year 3	(460)	(\$6,206)	\$2,970,092	(3,125)	(59)	\$3,699,763	\$6,669,855
Year 4	(460)	(\$6,206)	\$3,029,494	(3,334)	(66)	\$4,183,411	\$7,212,905
Year 5	(460)	(\$6,206)	\$3,090,084	(3,334)	(66)	\$4,228,566	\$7,318,651
Year 6	(460)	(\$6,206)	\$3,151,886	(3,334)	(66)	\$4,274,275	\$7,426,161
Year 7	(460)	(\$6,206)	\$3,214,923	(3,334)	(66)	\$4,320,626	\$7,535,549
Year 8	(460)	(\$6,206)	\$3,279,222	(3,334)	(66)	\$4,367,453	\$7,646,675
Year 9	(460)	(\$6,206)	\$3,344,806	(3,334)	(66)	\$4,414,760	\$7,759,566
Year 10	(460)	(\$6,206)	\$3,411,702	(3,334)	(66)	\$4,462,722	\$7,874,424

**Oversight** notes the projected impact is a savings to the General Revenue fund.

Officials from the **Office of State Public Defender (SPD)** state if passed, this legislation would have a positive impact on the workload of the SPD. Possession, manufacture, distribution, etc. of cannabis would no longer be unlawful.

The exact positive impact is difficult to predict because cases are tracked by statutory offense and most drug offenses are not limited to marijuana. However, assuming 25% of drug cases relate to marijuana, this proposal could reduce the workload of SPD attorneys by approximately 2,472 cases, thereby potentially saving as many as 52,230 attorney hours. With 2,080 hours per attorney work year, that represents the work of more than 25 attorneys.

The SPD does not assume there would be a reduction in the number of attorneys working for the department; rather a reduction in cases would reduce the current workload to help the SPD meet current workload standards.

Officials from the **Office of State Courts Administrator (OSCA)** state the proposed legislation establishes provisions regarding the legalization of marijuana and establishes certain licensing requirements. It would allow citizens over the age of twenty-one to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to these sections.

ASSUMPTION (continued)

The average of all marijuana-related charge codes from 2012 to 2016 for Circuit case types is 11,537 per year. The average of all marijuana-related charge codes from 2012 to 2016 for Associate case types is 8,765. The OSCA is unable to determine what number of these charges were for someone over the age of twenty-one.

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

OSCA also assumes there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time OSCA is unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Department of Transportation (MoDOT)** state failure to comply with 49 C.F.R. 384.225 and 384.226 could result in a withholding of Missouri's federal-aid highway funds apportioned to it under each of Title 23, United States Code (U.S.C.), sections 104(b)(1), (b)(3), and (b)(4). The federal funds impacted consist of national highway performance program funds, highway safety improvement program funds, and congestion mitigation and air quality improvement funds. The withholding amount would be four percent for the first year of non-compliance and eight percent for the second and subsequent years.

Section 302.700.2(19) defines "driving under the influence of a controlled substance". In that definition, the statute defines "controlled substance" as "any substance so classified under section 102(6) of the Controlled Substances Act (21 USC 802(6)) including any substance listed in Schedules I through V of 21 CFR 1308". That means that so long as marijuana is not removed from the federal definition of "controlled substances", it will not be removed from the provisions of the Uniform Commercial Driver's License Act under Missouri law. FMCSA (Federal Motor Carrier Safety Administration) has stated that the legalization of the use and possession of marijuana by a State does not change the treatment of marijuana use under federal regulations applicable to drivers operating CMVs (Commercial Motor Vehicles). Marijuana use and possession is still prohibited for CDL(Commercial Driver's License) holders.

<https://www.fmcsa.dot.gov/faq/does-legalization-use-and-possession-marijuana-state-or-other-country-has-d>

MoDOT officials state HB 1448 could possibly have federal compliance issues relating to the possession of marijuana while operating a motor vehicle. Missouri may be at risk of losing federal funds because the section 302.405 offense of possession of a controlled substance while operating a motor vehicle could be violated and, because possession of marijuana is no longer unlawful under this bill, a CDL holder would not have any new offense listed on his or her driving record.

ASSUMPTION (continued)

Title 49 Code of Federal Regulations (CFR) 384.226 states that a "State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP or CDL holder's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDL driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another state." Additionally, 49 CFR 384.225 lays out specific record keeping requirements regarding the posting and maintaining of CDL holders' records that states must meet in order to be in substantial compliance with Federal Motor Carrier Safety Regulations. These records include all convictions, disqualifications, and other licensing action for violations of any state or local law relating to motor vehicle traffic control (other than parking, vehicle weight, or vehicle defect violations) committed in any type of vehicle.

Because the section 302.405 offense of possession of a controlled substance while operating a motor vehicle would not be "masked" under 49 CFR 384.226 and 384.225, it is unlikely that Missouri would lose federal funds. The violations of state and local law that occurred prior to the enactment of this bill would still be on all CDL driver records, and CDL driver records after enactment of this bill would not list these violations because they would not be violations.

**Oversight** contacted MoDOT officials regarding the potential loss of federal funds if this proposal is passed. MoDOT officials stated if Missouri were deemed to be out of compliance, it could cost the state up to 10% of federal highway-related funds or up to \$95,000,000 annually. However, MoDOT officials believe that although it is possible Missouri could lose federal highway funding, they do not consider it likely. Therefore, Oversight will not present the possible loss of federal highway funds for fiscal note purposes.

Officials from the **University of Missouri, Economic & Policy Analysis Research Center (EPARC)** state EPARC is unable to predict the pace and extent a marijuana market would develop and grow in the State of Missouri within the next several fiscal years if this bill were to be enacted. Therefore, EPARC is unable to estimate the amount of new tax collections this proposal would impose.

Officials from the **Office of State Treasurer (STO)** are unable to determine a fiscal impact for this proposal due to federal law providing that marijuana is an illegal drug.

Officials from the **Department of Mental Health (DMH)** state the proposed legislation appears to place no obligation or requirement on the DMH that would result in a fiscal impact. However, the demand for substance use disorder treatment could be impacted.

ASSUMPTION (continued)

Officials from the **Department of Agriculture**, the **Joint Committee on Administrative Rules**, and the **Missouri Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the Secretary of State (SOS), Rules Division** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Office of Secretary of State (SOS), Elections Division** state each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$7.8 million based on the cost of the 2016 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle

ASSUMPTION (continued)

with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation. In FY 2017 the Secretary of State's office was appropriated \$2.6 million to publish the full text of the measures. In FY 2017, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$2.4 million to publish (an average of \$400,000 per issue). The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, the SOS reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

**Oversight** notes Section B of this proposal provides this legislation be put to a vote of the people in November 2018 or at a special election called by the Governor. As a result all revenues, savings and costs are listed as \$0 or... pending the result of an election.

**Oversight** has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this proposal voted on during a special election in fiscal year 2019. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of the elections should be shown in the fiscal note. The next scheduled statewide primary election is in August 2018 and the next scheduled general election is in November 2018 (both in FY 2019). It is assumed the subject within this proposal could be on one of these ballots; however, it could also be on a special election called for by the Governor. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2019.

**Oversight** assumes, if this proposal passes, that tax on the sales of marijuana will impact multiple state funds; however, for fiscal note purposes, all potential sales tax/excise revenue will be shown only in the General Revenue Fund.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2022)
<b>GENERAL REVENUE FUND</b>	\$0 or...	\$0 or...	\$0 or...	\$0 or...
<u>Revenue</u> - Taxes on marijuana sales p. 6	\$0	\$0	\$12,306,424	\$49,225,697
<u>Savings</u> - DOC Reduction in prison and probation & parole expenditures p.13	\$1,541,204	\$4,259,002	\$6,669,855	\$7,212,905
<u>Total All Revenue and Savings</u>	<u>\$0 or \$1,541,204</u>	<u>\$4,259,002</u>	<u>\$18,976,279</u>	<u>\$56,438,602</u>
<u>Costs</u> - SOS Special election costs <b>if</b> called by GOV p. 17	\$0 or (\$7,800,000)	\$0	\$0	\$0
<u>Costs</u> - DPS, ATC Consultant costs	\$0	(\$103,576)	\$0	\$0
Equipment and expense	<u>\$0</u>	<u>(\$26,778)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs</u> - DPS, ATC p. 3-6	<u>\$0</u>	<u>(\$130,354)</u>	<u>\$0</u>	<u>\$0</u>
<u>Costs</u> - OA, ITSD ATC system development and on- going costs	(\$193,299)	(\$47,863)	(\$49,061)	(\$50,286)
<u>Costs</u> - DHSS Personal service	\$0	(\$93,033)	(\$184,450)	(\$189,061)
Fringe benefits	\$0	(\$49,207)	(\$97,934)	(\$98,481)
Equipment	<u>\$0</u>	<u>(\$32,908)</u>	<u>(\$70,532)</u>	<u>(\$55,248)</u>
<u>Total Costs</u> - DHSS	<u>\$0</u>	<u>(\$175,148)</u>	<u>(\$352,916)</u>	<u>(\$342,790)</u>
FTE Change - DHSS p. 9	0 FTE	2 FTE	4 FTE	4 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2022)
<b>GENERAL REVENUE FUND (continued)</b>	\$0 or...	\$0 or...	\$0 or...	\$0 or...
<u>Costs - DOR</u>				
Personal service	(\$31,920)	(\$38,687)	(\$92,813)	(\$93,741)
Fringe benefits	(\$20,268)	(\$22,278)	(\$59,929)	(\$60,205)
RSD-Integrated				
Tax System (ITSD)	(\$260,021)	\$0	\$0	\$0
Equipment and expense	(\$8,395)	(\$631)	(\$18,387)	(\$2,387)
Total <u>Costs - DOR</u>	<u>(\$320,604)</u>	<u>(\$61,596)</u>	<u>(\$171,129)</u>	<u>(\$156,333)</u>
FTE Change - DOR p. 9-11	1 FTE	1 FTE	3 FTE	3 FTE
 Total <u>All Costs</u>	 <u>\$0 or (Up to \$8,313,903)</u>	 <u>\$0 or (\$414,961)</u>	 <u>\$0 or (\$573,106)</u>	 <u>\$0 or (\$549,419)</u>
 <b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	 <b><u>\$0 or (Up to \$6,772,699)</u></b>	 <b><u>\$0 or \$3,844,041</u></b>	 <b><u>\$0 or \$18,403,173</u></b>	 <b><u>\$0 or \$55,889,193</u></b>
 Estimated Net FTE Change on the General Revenue Fund	 0 or 1 FTE	 0 or 3 FTE	 0 or 7 FTE	 0 or 7 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2022)
<b>MARIJUANA</b> <b>CASH FUND</b>	\$0 or...	\$0 or...	\$0 or...	\$0 or...
<u>Income</u> - DPS, ATC				
Licensing and renewal fees p. 7	\$0	\$0	\$3,605,751	\$2,632,014
<u>Costs</u> - DPS, ATC				
Personal service	\$0	(\$960,960)	(\$1,941,079)	(\$1,960,489)
Fringe benefits	\$0	(\$707,926)	(\$1,083,536)	(\$1,089,301)
Consultant costs	\$0	(\$621,456)	(\$1,242,916)	(\$1,305,834)
Equipment and expense	<u>\$0</u>	<u>(\$1,872,407)</u>	<u>(\$771,585)</u>	<u>(\$790,876)</u>
Total <u>Costs</u> - DPS, ATC p. 3-6	<u>\$0</u>	<u>(\$4,162,749)</u>	<u>(\$5,039,116)</u>	<u>(\$5,146,500)</u>
FTE Change - DPS, ATC	\$0	23.5 FTE (6 months)	47 FTE	47 FTE
 <b>ESTIMATED NET EFFECT ON THE MARIJUANA CASH FUND</b>	 <b><u>\$0</u></b>	 <b><u>(\$4,162,749)</u></b>	 <b><u>(\$1,433,365)</u></b>	 <b><u>(\$2,514,486)</u></b>
 Estimated Net FTE Effect on the Marijuana Cash Fund	 0 FTE	 0 or 23.5 FTE	 0 or 47 FTE	 0 or 47 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2022)
<b>CRIMINAL RECORDS SYSTEM FUND (#0671)</b>	\$0 or...	\$0 or...	\$0 or...	\$0 or...
<u>Income - DPS, MHP</u> Background check fees p. 8	<u>\$0</u>	<u>\$0</u>	<u>\$540,584</u>	<u>\$54,054</u>
<b>ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS SYSTEM FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0 or \$540,584</u></b>	<b><u>\$0 or \$54,054</u></b>

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2022)
<b>LOCAL GOVERNMENTS - CITIES AND COUNTIES</b>	\$0 or...	\$0 or...	\$0 or...	\$0 or...
<u>Income - Cities and Counties</u> 50% of state licensing application fees (195.2236)	\$0	\$0	\$39,250	\$0
<u>Total Income - Cities and Counties</u>	\$0	\$0	\$0 or \$39,250	\$0

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2022)
<b>LOCAL GOVERNMENTS - SCHOOL DISTRICTS</b>	\$0 or...	\$0 or...	\$0 or...	\$0 or...
<u>Income - School Districts</u>				
Fines and penalties	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$25,000 to</u> <u>\$500,000</u>
<u>Total Income - School Districts</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0 or \$25,000 to</u> <u>\$500,000</u>
<b>LOCAL GOVERNMENTS - ELECTION AUTHORITIES</b>	\$0 or...	\$0 or...	\$0 or...	\$0 or...
<u>Income - Election Authorities</u>				
Reimbursement for special election p. 17	\$7,800,000	\$0	\$0	\$0
<u>Costs - Election Authorities</u>				
Special election costs <b>if</b> called by GOV p. 17	<u>(\$7,800,000)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Effect - Election Authorities</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON ALL LOCAL GOVERNMENTS</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0 or \$39,250</u>	<u>\$0 or \$25,000 to</u> <u>\$500,000</u>

### FISCAL IMPACT - Small Business

This proposal will provide new opportunities for licensees to open marijuana-related businesses around the state to manufacture, produce, retail, or test marijuana products that are currently not legal.

### FISCAL DESCRIPTION

This bill legalizes the possession and use of less than 35 grams of marijuana by an individual over the age of 21 who purchases the marijuana from a licensed retail marijuana store. Nothing in this bill requires an employer to permit or accommodate the use of marijuana in the workplace.

Nothing in this bill allows driving under the influence of marijuana. Nothing in this bill prevents a school, hospital, detention facility or any other entity from prohibiting or regulating the possession and use of marijuana on its property.

The bill creates a licensure system for the cultivation, testing, and sale of marijuana and marijuana products. The Division of Alcohol and Tobacco Control, within the Department of Public Safety, is given the authority to develop rules and regulations for the issuance, renewal, suspension, and revocation of licenses; licensure application and renewal fees; qualifications for licensure, including fingerprint-based criminal history checks; security requirements for retail marijuana establishments; labeling requirements; health and safety standards; advertising restrictions; independent testing requirements; regulation of storage and transportation of marijuana; sanitary requirements for retail marijuana establishments; and enforcement. The bill limits the number of retail marijuana store licenses and marijuana cultivation facility licenses to 50 each and requires that 35% of the licensees be minority-owned businesses. This bill also requires the division to develop and maintain a see-to-sale tracking system for marijuana.

Under this bill a locality may limit the time, place, manner, or number of marijuana businesses within such locality. A locality may also completely prohibit the operation of marijuana cultivation, manufacturing, and testing facilities, as well as marijuana retail stores through the enactment of an ordinance or through an initiated or referendum measure.

This bill creates a tax, similar to the current cigarette tax, to be levied upon the sale or transfer of marijuana. The money from such tax shall be deposited in the General Revenue Fund, with no more than 10% to be used to fund higher education, 10% to fund elementary and secondary education, and 5% to fund programs assisting children with mental health issues.

This bill will only go into effect if approved by a majority of the voters at an election.

This legislation is not federally mandated and would not duplicate any other program. This bill would require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety -  
    Division of Alcohol and Tobacco Control  
    Missouri State Highway Patrol  
Department of Agriculture  
Department of Health and Senior Services -  
    Division of Community and Public Health  
Department of Mental Health  
Department of Corrections  
Department of Revenue -  
    Motor Vehicle/Driver's License Division  
Joint Committee on Administrative Rules  
Missouri Department of Transportation  
Missouri Office of Prosecution Services  
Office of Administration -  
    Information Technology Services Division  
    Facilities Management, Design and Construction  
Office of State Courts Administrator  
Office of Secretary of State -  
    Rules Division  
    Elections Division  
Office of State Public Defender  
Office of State Treasurer  
University of Missouri -  
    Economic & Policy Analysis Research Center

Ross Strobe



Acting Director  
April 10, 2018