

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5400H.03C
Bill No.: HCS for HB 2704
Subject: Drugs and Controlled Substances; Crimes and Punishment; Criminal Procedure;
Agriculture; Department of Health and Senior Services; Health Care; Taxation and
Revenue - Income; Courts
Type: Original
Date: April 11, 2022

Bill Summary: This proposal modifies and establishes provisions relating to marijuana.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
General Revenue Fund	Less than \$12,393,156	Less than \$17,398,163	Less than \$18,017,308	Less than \$18,213,497
Total Estimated Net Effect on General Revenue	Less than \$12,393,156	Less than \$17,398,163	Less than \$18,017,308	Less than \$18,213,497

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
Criminal Records System	Unknown	Unknown	Unknown	Unknown
Cannabis* Freedom	Could exceed \$10,507,906 to \$19,300,483	Could exceed \$20,041,312 to \$29,196,984	Could exceed \$29,532,785 to \$38,688,457	Could exceed \$28,772,402 to \$37,928,074
School District Trust	\$2,171,024 to \$4,327,358	\$3,712,771 to \$5,769,811	\$3,712,771 to \$5,769,811	\$3,712,771 to \$5,769,811
Conservation Commission	\$271,378 to \$540,919	\$464,096 to \$721,226	\$464,096 to \$721,226	\$464,096 to \$721,226
Park, Soil & Water	\$271,102 to \$432,736	\$371,277 to \$576,981	\$371,277 to \$576,981	\$371,277 to \$576,981
Highway	(Up to \$397,549)	(Up to \$460,624)	(Up to \$465,315)	(Up to \$479,694)
Total Estimated Net Effect on Other State Funds	Could exceed \$12,823,861 to \$24,203,947	Could exceed \$24,128,832 to \$35,804,378	Could exceed \$33,615,614 to \$45,291,160	Could exceed \$32,840,852 to \$44,516,398

* Oversight notes the provisions of §196.3021.3 provide that any moneys remaining in the Cannabis Freedom Fund after all costs have been paid shall be disbursed as follows: 10% each to the deputy sheriff salary implementation fund (§57.278), the peace officer standards and training commission fund (§590.178) and the state fire marshal for disbursement of grants to volunteer fire protection associations; 15% to establish and administer a work training program (§557.059.3) and 5% to assist with small business loans (§196.3047). For simplicity, Oversight is not showing the transfers-out from the Cannabis Freedom Fund to the abovementioned funds.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
Total Estimated Net Effect on All Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
General Revenue	Up to -5 FTE	Up to -1 FTE	Up to -8 FTE	Up to -10 FTE
Cannabis Freedom	800 FTE	800 FTE	800 FTE	800 FTE
Highway	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE
Total Estimated Net Effect on FTE	Up to 801 FTE	Up to 805 FTE	Up to 798 FTE	Up to 796 FTE

- ☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☒ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
Local Government	Greater than \$9,172,577 to \$17,439,253	Greater than \$14,962,468 to \$23,252,337	Greater than \$14,962,468 to \$23,252,337	Greater than \$14,962,468 to \$23,252,337

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration (OA), Office of Administration - Budget and Planning (B&P)** state this proposal would enact the Cannabis Freedom Act creating the Cannabis Enforcement Authority (CEA) within the Department of Health and Senior Services (DHSS) to regulate adult-use recreational marijuana for individuals 21 years or older. Nothing in this proposal alters the current medical marijuana program as authorized under Article XIV, Section 1 of the Missouri Constitution.

§57.278 – Deputy Sheriff Salary Supplementation Fund

B&P states this section adds language permitting the Deputy Sheriff Salary Supplementation Fund to receive disbursements from the newly created Cannabis Freedom Fund in §196.3021.3.

§143.121 – Medical and recreation marijuana expense deduction

B&P states this section would allow any medical marijuana related business to deduct business expenses from their Missouri adjusted gross income. B&P notes that this proposal would begin August 28, 2022, which is during tax year 2022. Therefore, B&P assumes that this deduction would become available for taxpayers for tax year 2022. B&P notes that tax year 2022 returns would not be filed until April 2023. Therefore, B&P estimates that this proposal could reduce General Revenue (GR) beginning in FY23.

B&P also notes that typically businesses are allowed to deduct certain expenses from their federal adjusted gross income (FAGI). Those deductions would then flow through to the business's Missouri adjusted gross income (MAGI) allowing for an implicit deduction from Missouri's income tax. However, because marijuana is a controlled substance at the federal level, marijuana related businesses are not allowed to deduct their business expenses on their federal taxes. This would allow such businesses to receive the business expense deduction at the state level.

B&P was unable to obtain enough revenue, cost, or profit margin data for medical marijuana related businesses to estimate the GR impact from this proposal. Therefore, B&P estimates that this proposal will reduce total state revenue (TSR) and GR by an unknown, but significant, amount beginning with FY23.

If a new crime is created or there is an increase in class of crime, any portion of any associated penalty fees/fines that go to the state may impact TSR.

Oversight does not have any information to the contrary. Oversight will reflect the potential reduction for business expenses as a part of the Department of Revenue's fiscal impact.

Officials from the **Department of Revenue (DOR)** state this provision would allow medical marijuana businesses and recreational marijuana businesses a subtraction from the federal adjusted gross income the amount that would have been allowed from the computation of the taxpayer's federal taxable income if the income were not disallowed solely from them being a medical marijuana business. Under federal law, marijuana is a controlled substance and businesses selling it are not allowed some deductions that other businesses are entitled to. Since marijuana is allowed to be sold in Missouri, this would allow them to adjust their federal adjusted gross income before calculating their Missouri adjusted gross income.

This would require the DOR to make an independent interpretation of federal law on what would or would not be an allowable federal deduction. The DOR is unable to calculate the amount of income and deductions that these businesses could possibly be allowed to deduct under this proposal. The DOR assumes this could result in an Unknown, potentially significant, negative fiscal impact to general revenue and total state revenue.

This provision would become effective August 28, 2022, for all expense as of January 1, 2022 and would allow people to start filing for this immediately. For fiscal note purposes only, DOR will assume they file their amended returns starting in FY 2023.

This would require a change to the Form MO-A and the MO-1120. The Form MO-A has a selection of check boxes for a set of "other" subtractions, so a new line would not necessarily be required. The Form MO-1120 does not currently have this checkbox option, so it would either require a new line or a reformatting of the subtractions in Part 2.

Additionally, this would require DOR to update its individual income tax computer system. These changes are estimated to cost \$11,579.

The DOR notes it may need the following FTE if the volume of returns justify the FTE.

- 1 FTE Revenue Processing Technician for every 14,700 errors created
- 1 FTE Revenue Processing Technician for every 5,700 pieces of correspondence generated
- 1 temporary employee for new line item

Oversight does not have any information to the contrary. Given the small number of potential qualifiers for the proposed deduction, Oversight assumes the DOR has sufficient staff and resources available to absorb the costs associated with this section and will reflect no fiscal impact for DOR for this section.

§§191.255 – Disclosure of information a felony

B&P states §191.255.2 creates a Class E felony for any violations described in §191.255.1 which pertain to the prohibition of disclosing individual information of persons who have applied for or obtained a medical marijuana patient or caregiver card authorized in Article XIV, Section 1 of the Missouri Constitution. A Class E felony is subject to a fine up to \$10,000 and up to four

years in prison. It is unknown how many violations may occur annually under this statute or the fines that may be imposed per occurrence. Therefore, this proposal could increase total state revenue by an unknown amount beginning August 28, 2022.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a \$0 to Unknown positive impact relating to the potential collection of fines under this section. It is assumed the unknown fiscal impact will be less than \$250,000 as at least 25 violations would have to occur annually to reach that threshold. Any collection of potential fines is assumed to be the responsibility of the Department of Health and Senior Services.

DOR officials state provisions of §191.255 makes it a felony, notwithstanding any other provision of law to the contrary, for a state agency or its employees “disclosing to the federal government [...] the statewide list or any individual information of persons who have applied for or obtained a qualifying patient identification card, a qualifying patient cultivation card, or a primary caregiver identification card [as described in the constitutional provision relating to medical marijuana.]” Read literally, this would mean that DOR and other state agencies are unable to share any individual information – from any source – with federal agencies so long as the individual has obtained one of those specified cards. This could significantly impact DOR’s working relationship with the IRS by prohibiting the sharing of individual information with the IRS simply because an individual has applied for or obtained a qualifying patient identification card, qualifying patient cultivation card, or primary caregiver identification card.

This could result in an unknown negative impact on general revenue from the DOR being unable to do collections from the IRS for outstanding tax debt owed the state.

Oversight does not have any information to the contrary. Oversight will present an unknown loss to GR for this section of the proposal.

§§195.006, 195.017, 195.815 and 196.3028 – Cannabis no longer controlled substance/background checks

B&P officials state §§195.815 and 196.3028.4(9) require that all marijuana business owners, staff, or other affiliated individuals of the facility, regulated by the Cannabis Enforcement Authority undergo a fingerprint-based criminal background check. The Missouri State Highway Patrol (MHP) Criminal Justice Information Services (CJIS) Division processes all state and federal fingerprint background checks. The CJIS has the following fee structure for background checks:

State fee:	\$20.00
Vendor Fee:	\$8.50
FBI fee:	\$13.25
Total fees:	\$41.75

The state retains the \$20 state fee and \$2 of the FBI fee (\$22 total retained by the state). All fees collected will be deposited in the MHP Criminal Records System Fund. MHP verified that over

90% of background checks are conducted using third party vendor, IDEMIA, who charges the applicant an \$8.50 fee which is kept by IDEMIA. The applicant pays the full fee of \$41.75 to the vendor and MHP then collects the full state and FBI fees (\$33.25) from the vendor each month. The FBI bills MHP monthly, and MHP pays the FBI their portion of the FBI fee out of the MHP Criminal Records System Fund. This would increase TSR by an unknown amount. B&P defers to MHP for further discussion on this impact.

Officials from the **Department of Public Safety (DPS) - Missouri Highway Patrol (MHP or Patrol)** state the Patrol would have a financial burden for replacing its current canine unit. The majority of the Patrol's canines are currently trained using Cannabis/Marijuana as one of four drugs they alert to. If this bill were to pass, it would likely mean the MHP's current canines would have to be retired. The purchase and initial training for a canine is approximately \$25,000. The overall cost to purchase and train the current canine program would be approximately \$150,000 (\$25,000 x 6). Not only will there be a financial impact to the Patrol, but there will also be an impact to the services the Patrol provides to other law enforcement agencies, who use the Patrol's canine service.

Oversight does not have any information to the contrary. Oversight will reflect the fiscal impact provided by the MHP to replace its canine unit for purposes of this fiscal note.

Oversight contacted MHP officials regarding a potential fiscal impact related to background checks performed as a result of this legislation. Officials stated they have no data available to determine how many background checks might be performed or what the potential fiscal impact might be. Therefore, for fiscal note purposes, the impact to the Criminal Records System Fund would be a positive Unknown.

DOR officials state these sections are not expected to have a fiscal impact on the department.

§§196.3000 – 196.3048 Cannabis Enforcement Authority (CEA) or the Department of Health and Senior Services

B&P states §196.3009.1(2) allows individuals age 21 or older to possess up to six mature, flowering marijuana plants for personal use if they possess a personal cultivation registration card. DHSS' CEA will set any fines for individuals who exceed the limitations. It is unknown how many violations may occur annually under this statute or the fines that may be imposed per occurrence. Therefore, this proposal could increase total state revenue by an unknown amount beginning August 28, 2022. B&P defers to DHSS for more details.

Oversight notes the Department of Health and Senior Services did not specifically mention fines collected under this section in their response but an Unknown positive fiscal impact was included in their fiscal estimate.

B&P officials state §196.3021.1 levies a tax on marijuana or marijuana products to consumers at a rate of 4.225 percent. DOR shall direct the CEA to establish procedures for tax collections as well as issue stamps used as evidence of the taxes. DOR is to enforce the collection of marijuana taxes similar to cigarette taxes under Chapter 149, RSMo. Subsection 2 establishes the Cannabis Freedom Fund as the location for which all recreational marijuana taxes are to be deposited. Funds are to be used for expenses of CEA program operations. Subsection 3 specifies that excess funds shall be divided in the following way:

- Ten percent to the deputy sheriff salary supplementation fund under §57.278, RSMo;
- Ten percent to the peace officer standards and training commission fund under §590.178, RSMo;
- Ten percent to the state fire marshal for disbursement of grants to volunteer fire protection associations for the purpose of funding such association's costs related to workers' compensation insurance premiums for volunteer firefighters under §287.245, RSMo;
- Fifteen percent to DHSS to establish and administer the work training program under subsection 3 of §557.059, RSMo; and
- Five percent to provide assistance with small business loans under §196.3047, RSMo.

Section 196.3021.4 provides that any excess moneys in the fund after all costs and disbursements under subsections 2 and 3 of this section have been paid shall revert to GR and §196.3021.5 allows for recreational marijuana purchases to be subject to state and local sales tax.

B&P states §196.3028.1 creates marijuana business licenses for the following categories:

- Marijuana commercial growers;
- Marijuana processors; and
 - Nonhazardous marijuana processor (Section 196.3028.9);
 - Hazardous marijuana processor(Section 196.3028.9);
- Marijuana retailers.

Section 196.3028.3 grants authority to the CEA to determine the applicable application fees for each license type in an amount sufficient to cover their operational expenses with the fees to be deposited into the Cannabis Freedom Fund. B&P defers to DHSS for more details on the license fees.

B&P notes subdivisions of 196.3028 specify other requirements relating to licenses, fees, other requirements that must be met by potential applicants, and when the CEA must approve or reject applications submitted. Subsection 17 specifically requires DHSS to issue the following number of licenses as compared to those issued as of August 28, 2022 for the medical marijuana program under Article XIV, Section 1 of the Missouri Constitution:

- At least twice the number of marijuana commercial growers licenses as authorized or issued for medical marijuana cultivation facilities;
- At least twice the number of marijuana processing licenses as authorized or issued for medical marijuana-infused products manufacturing facilities; and

- At least twice the number of marijuana retailer licenses as authorized or issued for medical marijuana dispensary facilities; and
- The department may lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana in the state and ensure a competitive market.

Section 196.3029.1 creates a conditional marijuana business license that will provide the necessary permissions to operate as though under an annual license. Subsection 3 authorizes DHSS, upon conditional license approval, to continue its review of the licensee of the conditional marijuana business license and conduct all necessary inspections and investigations before approving the licensee for an annual marijuana business license. Subsection 6 requires all local permits and licenses be obtained prior to annual license approval. For license renewal, if it is after the expiration date, the licensee must pay a nonrefundable late renewal fee equal to ten percent of the license fee. B&P defers to DHSS on the late fee. Any license expired for more than 90 days shall not be renewed.

Section 196.3031 specifies what entities or customers a given licensee may sell product to. This section further specifies additional violations that would result in a denial of licensure.

- Subsection 2(2) provides that the CEA shall create guidelines that are in line with current food preparation guidelines for processors to follow in preparation of edible marijuana products.
- Subsection 2(3) authorizes the CEA to inspect growing and processing operations to determine compliance. If the growers or processors do not correct any deficiencies within one month, they will be subject to fines from the CEA. B&P defers to DHSS for further details.
- Subsection 2(4) specifies that sales between licensed growers and processors are not subject to taxation.

Section 196.3032.12 specifies that the fee for a marijuana transporter agent license shall be \$100 with any reprints to be \$100 each. The license shall be valid for three years after the date of issuance. A marijuana transporter agent is an individual agent, employee, officer, or owner of a marijuana transporter license. These fees will result in an increase to TSR and impact the calculation under Article X, Section 18(e). Subsection 14 details that any transporter licensee or transporter license agent who knowingly violate provisions within §196.3032 may have their license revoked or suspended as well as other penalties established by the law for violations. B&P is unsure what the other penalties may be and defers to DHSS for further details.

Section 196.3036 provides that currently licensed medical marijuana businesses may apply for a recreational marijuana business license as long as the requirements under §§196.3000 to 196.3048 are met.

Section 196.3045 creates the Cannabis Freedom Fund which shall collect all moneys generated from the Cannabis Freedom Act under §§196.3021, 196.3028, 196.3029, and 196.3032.

Section 196.3047 requires DHSS to establish an interest-free loan program for women and minority businesses.

Revenue Estimates

Based on research, B&P was able to find forecasts for the U.S. legal market for cannabis. According to such forecasts, the U.S. market for legal marijuana will be approximately \$33.74 billion in calendar year 2023 and grow up to \$56.84 billion by calendar year 2028. Based on information from the Substance Abuse and Mental Health Services Administration, from 2019-2020 approximately 16.72% of Missouri residents and 18.33% of all U.S. residents surveyed have used marijuana within the last year. Using the populations of Missouri residents compared to the U.S. population, B&P estimates that the market for legal marijuana in Missouri is 1.71% of the total U.S. market. Therefore, B&P estimates that the Missouri market for legal marijuana would be approximately \$578.5 million in calendar year 2023 (\$33.74 billion x 1.71%) and up to \$816.2 million by calendar year 2026 (\$56.84 billion x 1.71%).

Based on further research, B&P estimates that there are approximately 146,700 medical marijuana users in Missouri. Using these estimates, and the estimates shown above, B&P estimates that the Missouri market for medical marijuana is approximately 0.34% of the total U.S. Market for legal marijuana. Therefore, B&P estimates that the total Missouri market for recreational marijuana is about 1.40% of the total U.S. market. Table 1 shows the estimated U.S. and Missouri markets for marijuana.

Table 1: Estimated Marijuana Market Size for U.S. and Missouri

Calendar Year	Estimated U.S. Market	Estimated MO Market	Estimated MO Medical Market	Estimated MO Recreational Market
2021	\$24,500,000,000	\$420,094,628	\$78,036,154	\$342,058,474
2022	\$29,120,000,000	\$499,312,472	\$111,180,816	\$388,131,657
2023	\$33,740,000,000	\$578,530,317	\$144,325,478	\$434,204,839
2024	\$38,360,000,000	\$657,748,161	\$177,470,140	\$480,278,021
2025	\$42,980,000,000	\$736,966,005	\$210,614,802	\$526,351,203
2026	\$47,600,000,000	\$816,183,849	\$243,759,463	\$572,424,386
2027	\$52,220,000,000	\$895,401,693	\$276,904,125	\$618,497,568
2028	\$56,840,000,000	\$974,619,538	\$310,048,787	\$664,570,750

There is no specified date for which the newly created CEA within DHSS must begin accepting conditional marijuana business applications, thus B&P assumes they will begin accepting applications on the implementation date of August 28, 2022 and provide approval of such applications within 90 days (11/26/2022) to meet the requirements of Section 196.3028.13. B&P further notes that revenues collected from the sales of medical marijuana are distributed one

month behind retailer collections. Therefore, revenues from the sale of recreational marijuana will also be distributed one month behind retail collections. As a result, B&P will show revenues beginning January 2023 providing six months of revenue in FY 23.

B&P estimates that this proposal may increase state revenues by **\$36,690,309** in calendar year 2023. By calendar year 2025, B&P estimates that this proposal may increase state revenues by **\$44,476,677**. This proposal could increase **local sales tax** collections by **\$17,498,455** in calendar year **2023** and increase **local revenues** by **\$21,211,953** by calendar year **2025**. There is likely to be some shift of medical marijuana sales to recreational, however the amounts are unknown. Table 2 shows the estimated revenues generated by calendar year.

Table 2: Calendar Year Revenue Impact			
	<u>CY 2023</u>	<u>CY 2024</u>	<u>CY 2025</u>
GR (3.0% tax)	\$13,026,145	\$14,408,341	\$15,790,536
Education (1.0% tax)	\$4,342,048	\$4,802,780	\$5,263,512
Conservation (0.125% tax)	\$542,756	\$600,348	\$657,939
Parks, soil, water (0.1% tax)	\$434,205	\$480,278	\$526,351
Total 4.225% state sales tax)	\$18,345,154	\$20,291,746	\$22,238,338
Cannabis Freedom Fund (4.225% excise tax)	\$18,345,154	\$20,291,746	\$22,238,338
TSR Total	\$36,690,309	\$40,583,493	\$44,476,677
Local Sales Tax (4.03%)	\$17,498,455	\$19,355,204	\$21,211,953

B&P estimates that this proposal may increase **state revenues** by **\$18,345,154** in fiscal year **2023**. By fiscal year **2025**, B&P estimates that this proposal may increase state revenues by **\$42,530,085**. This proposal could increase **local sales tax collections** by **\$8,749,228** in fiscal year **2023** and increase **local revenues** by **\$20,283,579** by fiscal year **2025**. This will impact the calculation under Article X, Section 18(e). Table 3 shows the estimated revenues generated by calendar year.

Table 3: Fiscal Year Revenue Impact			
	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
GR (3.0% tax)	\$6,513,073	\$13,717,243	\$15,099,438
Education (1.0% tax)	\$2,171,024	\$4,572,414	\$5,033,146
Conservation (0.125% tax)	\$271,378	\$571,552	\$629,143
Parks, soil, water (0.1% tax)	<u>\$217,102</u>	<u>\$457,241</u>	<u>\$503,315</u>
Total 4.225% state sales tax)	\$9,172,577	\$19,318,450	\$21,265,042
Cannabis Freedom Fund (4.225% excise tax)	<u>\$9,172,577</u>	<u>\$19,318,450</u>	<u>\$21,265,042</u>
TSR Total	\$18,345,154	\$38,636,901	\$42,530,085
Local Sales Tax (4.03%)	\$8,749,228	\$18,426,830	\$20,283,579

Oversight does not have any information to the contrary. For fiscal note purposes, Oversight will range the amount of taxes estimated to be collected between the low and high estimates provided by B&P and DOR.

§196.3021 – Taxation of recreational cannabis

DOR officials state this provision sets the tax rate of 4.225% percent on marijuana sold for personal use and does not address the medical marijuana tax. DOR assumes the 4% tax for medical marijuana use will remain. The medical marijuana tax will continue to go into the Missouri Veteran’s Health Care Fund while the new 4.225% tax will go into the Cannabis Freedom Fund created in this provision.

This provision assesses the special tax but does not state it is an excise tax or sales tax. So it is considered a special tax. Since marijuana will be considered a new product to be sold in

Missouri, the businesses will also be required to collect sales and use tax on the marijuana. This provision allows for the assessment of state and local sales tax on the marijuana also.

To calculate the fiscal impact of this proposal DOR used the following data.

Based on a study completed by Gallup in 2019 and again in 2021, they found that 12% of the nation's adults smoke marijuana regularly. Based on information published by the US Census Bureau there are approximately 4,525,345 individuals at age 21 or above in the State of Missouri; 12% of the total number of adults aged 21 or older would equal 543,041 adults ($4,525,345 \times 0.12$).

A report published by Headset Inc., a new market insights from Seattle-based Cannabis Intelligence Company, believes that the average cannabis consumer spends roughly \$645 on marijuana and related products per year. Based on information provided in the report, the largest pool of individuals surveyed spent \$1,000 or above each year on marijuana and marijuana products.

This proposal begins on the effective date of the proposal, August 28, 2022. It should be noted that the special tax and the sales tax are distributed by the state one month behind the collection due to processing. Therefore, only nine months of impact would be expected in FY 2023.

Special Tax- Low Amount

If the 12% of adults in Missouri, age 21 and older, spend \$645 each year on marijuana and included in this amount is the tax (passed on from seller to purchaser) and assuming the tax is 4.225%, the DOR estimates that \$14,797,867 would be collected and deposited into the Cannabis Freedom Fund.

$$\$645 \times 4.225\% = \$27.250 \times 543,041 = \$14,797,867$$

If the average amount spent each year on marijuana by adults in Missouri, over the age of 21, is \$645 and not included in this amount is the tax, the DOR estimates that \$15,438,656 would be collected and deposited into Marijuana Freedom Fund.

$$(\$645 / 95.775\% = \$673 \times 4.225\% = \$28.43 \times 543,041 = \$15,438,656$$

DOR estimates the fiscal impact as \$14,797,867 to \$15,438,656 once fully implemented in FY 2025.

Special Tax- High Amount

If the \$1,000 included tax (assumed at 4.225%), the DOR estimates that \$22,943,482 would be collected and deposited into the Cannabis Freedom Fund. ($\$1,000 \times 4.225\% = \$42.25 \times 543,041$)

If the \$1,000 does not include tax, the DOR estimates that \$23,953,539 would be collected and deposited into Cannabis Freedom Fund. ($\$1,000 / 95.775\% = \$1,044 \times 4.225\% = \$44.11 \times 543,041$)

DOR estimates the fiscal impact as \$22,943,482 to \$23,953,539 once fully implemented in FY 2025.

FY 2023(9 months)		FY 2024			FY 2025
Low	High	Low	High	Low	High
\$11,098,400	\$17,965,154	\$14,797,867	\$23,953,539	\$14,797,867	\$23,953,539

State and Local Sales Tax

Since this is a new product it will be subject to state and local sales tax. The state sales tax rate is 4.225% and the Department uses a 4.03% weighted average for calculating the local sales tax rate.

Assuming the special tax price is included in the price of the marijuana, DOR expects the purchase price would be \$683.70 (\$645 + \$38.70 special tax) on the low end, and total sales would equal **\$371,277,132** ($\$683.70 \times 543,041$). Therefore the total state sales tax collected would be **\$15,686,459** ($\$371,277,132 \times 4.225\%$ state sales tax rate).

Fund	Full Year Low Impact
General Revenue (3%)	\$11,138,314
School District Trust (1%)	\$3,712,771
Conservation Commission (0.125%)	\$464,096
Park, Soil & Water (0.1%)	\$371,277
Local (4.03% weighted)	\$14,962,468

The high end estimate is expected to generate total sales of \$576,981,063 [$(\$1,000 \text{ spending} + \$62.50 \text{ special tax}) \times 543,041$]. This would generate state sales tax of \$24,550,544.

Fund	Full Year High Impact
General Revenue (3%)	\$17,309,432
School District Trust (1%)	\$5,769,811
Conservation Commission (0.125%)	\$721,226
Park, Soil & Water (0.1%)	\$576,981
Local (4.03% weighted)	\$23,252,337

So the potential impact from the sales tax is:

Fund	FY 2023 (9 mo. collection)	FY 2024 +
General Revenue	\$8,353,736- \$12,982,074	\$11,138,314 - \$17,309,432
School District Trust	\$2,784,578 - \$4,327,358	\$3,712,771 - \$5,769,811
Conservation Commission	\$348,072-\$540,919	\$464,096 - \$721,226
Park, Soil & Water	\$278,458 - \$432,736	\$371,277 - \$576,981
Locals	\$11,221,851-\$17,439,253	\$14,962,468 - \$23,252,337

Oversight notes that the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution, thus Missouri Department of Conservation's (MDC) sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P's and DOR's fiscal impact estimates for MDC's funds.

Oversight notes the Park, Soil, and Water Sales Tax funds are derived from the one-tenth of one percent sales and use tax pursuant to Article IV Section 47 (a) thus Department of Natural Resources (DNR) sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P's and DOR's fiscal impact estimates for DNR's funds.

DOR states this proposal requires the special 4.225% marijuana tax to be handled the way DOR does the cigarette tax with stamps. The seller pays the tax and is provided stamps of proof of the tax paid. The seller then can charge the buyer to reimburse the tax to the seller. This is how DOR does the cigarette tax.

The cost for the DOR to buy the cigarette stamps is \$245,000 annually. Additionally the DOR has 2 FTE that run the cigarette stamp program. It is assumed DOR would need at least the 2 Association Customer Service Representatives (ACSRs; annual salary \$27,776 each) to handle the processing of the form, phone calls and stamps and the \$245,000 to fund the marijuana program. This provision allows the DOR to receive funding from the Cannabis Freedom Fund to pay for the administrative costs.

This allows the DOR to establish the method for collection the sales tax. DOR assumes it would collect it in the same manner as the current state and local sales tax. DOR assumes no additional administrative impact for the collection of the sales tax.

However, this would create a new special tax that is collected. The Department assumes it will run the program similar to its other excise programs (like motor fuel) and will need a need a new marijuana database for tracking payments and the stamps. ITSD provided DOR with the below impact for the creation of the new database.

Additionally, this will require new marijuana reporting form(s) and application form(s).

ITSD estimates it will require 311.04 consultant hours for the creation of the marijuana database, including requirements gathering, analysis, design, development, test, implementation and project management. The consultant rate of \$95/hour based is based on current contract(s) pricing as it is assumed that any new IT project/system will be bid out, as all ITSD resources are at full capacity. Therefore, the total cost to General Revenue in FY2023 for the new database is estimated to be \$29,549 (311.04 consultant hrs x \$95/hr).

Oversight does not have any information to the contrary. For fiscal note purposes, Oversight will range the amount of taxes estimated to be collected between the low and high estimates provided by B&P and DOR.

Officials from the **City of Kansas City** and the **Kansas City Firefighter's Pension System** each assume the legislation could have a positive fiscal impact on Kansas City if there are increased sales tax revenues.

Oversight will present the potential increase in sales tax revenues to local governments as provided by the DOR.

§196.3036 – Marijuana licenses

DOR officials state §§196.3024 – 196.3036 and §§196.3042 – 196.3048 are about the use of cannabis and licensing of cannabis facilities. These sections will not have a fiscal impact on the DOR.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this section of the proposal for the DOR.

Officials from the **Department of Health and Senior Services (DHSS)** state the proposal establishes a new adult use marijuana industry to be licensed by DHSS, the Cannabis Freedom Act.

§196.3027.17 – Authorizes the DHSS to authorize beyond the minimum specified in order to establish a competitive market and sufficient supply. DHSS assumes it will issue 9,000 facility licenses in Year 1, 10,500 in Year 2 and upwards of 12,000 in Year 3 as more than the minimum facilities will be needed for some types of facility licenses to ensure consumer access to sufficient retail locations as well as sufficient supply of infused-products. These licensure numbers are based on observations of other states, primarily Oklahoma, and would be 24 times the number of licenses issued under and regulated by Missouri's existing medical marijuana program.

The new adult use program would require similar regulatory activity as is needed for the existing medical program; some medical program duties are not required, and some adult use program

duties are entirely new. DHSS will apply this factor of 24 to the relevant existing medical program staffing structure in order to project staffing needs for the new adult use program.

DHSS will require:

EXPENDITURES

144- Senior Regulatory Auditors at annual salary of \$50,000 each;
576 -Compliance Inspectors at annual salary of \$59,300 each; and
72-Program Specialists at annual salary of \$54,300 each.

These staff will cover all licensing, auditing, compliance, enforcement, and operations functions related to the number of licensees expected. These staff will also conduct background checks on facility agents as specified under §195.815 as well as enforcement of statewide labeling requirements in §196.3026.

Compliance Inspector positions will be remote with vehicle/travel costs associated. All others will be based in Jefferson City.

DHSS' Fiscal Unit needs the following staff to process payments and review loan documents:

4-Senior Accountants at an annual salary of \$59,186 each.
4-Administrative Support Professional at an annual salary of \$39,898 each.

§196.3026 - requires licensees to test product before sale and for DHSS to certify and regulate testing facilities. This task is addressed by staffing listed above. Additionally, DHSS assumes the product labeling oversight and enforcement needs for correct labeling and measure potency will be absorbed by the staff and IT system described (where noted below) for the Cannabis Freedom Act.

§196.3027- gives DHSS oversight and auditing responsibilities to ensure all marijuana grown for adult use is tracked in a Seed-to-Sale (STS) system. DHSS currently has a STS system for the medical program, and based on the cost for that system, DHSS estimates it would expend \$168,000 in the first year (one-time tracking equipment costs—RFID Readers) and \$229,000 in the first year and each year after (ongoing software costs) to track adult use product under this bill. DHSS can use this same system to track/enforce package labels with an additional \$120,000 annually. DHSS program staff will collaborate with the contractor to implement these systems.

§196.3028- requires DHSS to develop a website for adult use facility application and directs that fees be set in an amount sufficient to cover administration, regulation, and enforcement associated with the program. In order to do so, application fees will need to be established at \$8,000 or higher for the first year, which will be the fee for subsequent years until there is data available indicating a need to raise or lower the fee. DHSS will require an application system to accept and process these applications. Using the existing application system contract as a basis,

DHSS estimates it will expend \$281,000 (implementation plus annual cost) in Year 1 and \$181,000 each year after that on a third party application system contract.

§196.3031- sets out compliance and enforcement expectation for DHSS. These tasks are covered by the staffing projections above.

§196.3045- establishes the Cannabis Freedom Fund where taxes and fees related to the adult use program will be deposited and then be used to pay for every cost associated with the bill. Section 196.3021 provides provisions for taxation and disbursement Fund monies to be used to pay for every cost associated with the bill. It appears this Fund will be accessible to any government agency/program with new costs associated with this bill and not just to DHSS. The Fund will also be used for small business loans under §196.3021.3.(5); five percent of the monies deposited in the Fund are designated for this purpose. It is unknown how much of the Fund will go to other agencies or what will be the amount designated for small business loans.

§196.3047- requires that DHSS establish a loan program for women and minority businesses. The task of administering the program is addressed by staff listed above. The loan program will be funded by five percent of the taxes and fees related to the adult use program, which are unknown, as explained above.

§557.059.3- requires that DHSS collaborate with the Division of Workforce Development to establish a 6-week work training for certain persons. DHSS assumes it will contract with or hire a training and subject matter expert to develop and present the training and it will expend at least \$50,000 annually on this requirement.

REVENUES

§196.3021- set a tax on sale of adult use marijuana. Based on its experience with implementation timelines of medical marijuana facilities, DHSS assumes these revenues will begin to generate from some licensees in Year 1 but that the bulk of the licensees will not be operational and generating revenues until the end of Year 1, at the earliest, or well into Year 2. DHSS also assumes many licensees will never become operational since the fees to licensure are low but regulatory compliance/operational costs will be high, but there is no data on which to estimate what portion of the licensees will never generate revenue. Tax is paid through stamp purchase from DOR and not point of sale by consumer, therefore, the amount of tax revenues is unknown.

Oversight will use tax estimates provided by B&P and the DOR for fiscal note purposes rather than the unknown provided by the DHSS.

§196.3029- directs that licenses be renewed annually with a fee. DHSS assumes the fee will be the same as the initial application fee in order to continue covering administration, regulation, and enforcement costs. Therefore, renewal fees will need to be established at \$8,000 or higher.

§196.3032- establishes requirements for transporter licenses, including a fee to transporter agents, which is \$100 per year. §196.3032.4 specifies that each business which possesses, sells, or transfers cannabis will also possess a transporter license. DHSS assumes 980 transporter licensees, which are reflected in the licensee estimates above, and 7 employees per one transporter licensee, which equals a total of 6,860 transporter agents in year one that will be licensed at \$100 per agent and an annual revenue \$686,000 the first year. Agents are licensed for three years, but DHSS anticipates issuing additional transporter licenses each year.

Facility Revenues: DHSS is to set facility fees in Year 1 such that they be sufficient to cover program costs. **Program costs the first year** are projected to be **\$71,350,671**. The fee set in the first year will remain the same for subsequent years until there is data available indicating a need to raise or lower the fee.

FY2023: \$72,686,000 [(9,000 licenses X \$8,000) + \$686,000 for agents].
FY2024: \$84,644,000 [(10,500 licenses X \$8,000) + \$644,000 for agents].
FY2025: \$96,630,000 [(12,000 licenses X \$8,000) + \$630,000 for agents].

While this proposed legislation makes no changes to Article XIV Section 1 of the Missouri Constitution, which establishes the medical marijuana program, DHSS assumes the need for the medical program would diminish over time. It is unknown to what extent or how quickly the need would diminish, so it is unknown what fiscal impact to DHSS would result from that diminishing need.

Oversight notes DHSS indicated the Section for Medical Marijuana Regulation (SMMR) will not need ITSD to implement the Seed-to-Sale Tracking System and the Online Registry (AU facility) because the contract with Complia and Metrc will require them to implement the system in collaboration with program staff. In addition, the proposed legislation could result in 224 additional FTE that will be located in Jefferson City with an estimated annual lease cost of \$927,360 (\$18 x 230 sq. ft. x 224). The remaining 576 FTE proposed by the legislation are assumed to be telecommuters.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the income, costs and unknown impacts as provided by DHSS as the fiscal impact of this proposal.

Officials from the **Missouri Department of Agriculture (MDA)** state all scales at points-of-sale are required to be inspected annually by MDA's Division of Weights & Measures. Estimates for the number of facilities to retail marijuana were based on the below percentages:

Gas/Convenience Store: 75% (2,167); Grocery Stores: 15% (177); Marijuana Retail Stores: NEW (est. 750)

All facilities are estimated to require 1 scale at each location, with the exception of Marijuana Retail Stores, where MDA estimates an average of 3.5 scales at each location. Medical marijuana

scales are currently inspected at a rate of \$30 per scale; this computation was reflected in MDA's revenue estimate. MDA estimates Scale Inspection Fees received will total \$220,647 annually.

This estimate of facilities will require 7 FTE, as defined above, and their respective fringe benefits and equipment and expenses.

Various sections of HB 2704 allow growth or cultivation of marijuana which conflicts with the existing Noxious Weed Law (263.190 through 263.474). Section 263.250 specifically requires the destruction of marijuana. Conflicting statutes would need to be addressed.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the income and costs provided by the MDA for fiscal note purposes.

Oversight notes the provisions of §196.3021.3 provide that any moneys remaining the fund (Cannabis Freedom Fund) after all costs have been paid shall be disbursed as follows:

- 10% - deputy sheriff salary implementation fund under §57.278
- 10% - peace officer standards and training (POST) commission fund under §590.178
- 10% - state fire marshal for disbursement of grants to volunteer fire protection associations
- 15% - establish and administer a work training program under §557.059.3
- 5% - assist with small business loans under §196.3047
- Any excess funds (50%) - general revenue fund.

Since it is unknown the amount of operating revenue DHSS will need each year to fund operations, it is unknown what amount of funds remaining in the Cannabis Freedom Fund will be determined as available for distribution. Therefore, for fiscal note purposes, Oversight will not show a transfer out of the Cannabis Freedom Fund to the funds listed above.

§288.045 – Employee testing

DOR officials state this section is about testing employees and marijuana use. This section will not fiscally impact the DOR.

§§362.003 – 370.070 – Cannabis businesses and financial institutions

B&P states §§362.033.1, 362.105.1(17), 369.144(21), 369.326.1, 370.064.1, and 370.070(14) permit banks, trust companies, associations, and credit unions to provide loans, deposit funds, and invest funds of bank customers authorized to operate as medical marijuana or recreational marijuana businesses pursuant to Article XIV, Section 1 of the Missouri Constitution and Sections 196.3000 to 196.3048. B&P notes however that the federal prohibition on banks working with marijuana related businesses would remain in place.

DOR officials state these sections allow financial institutions to offer bank accounts to businesses that are in the cannabis business. Additionally, it provide protections for the cannabis businesses and financial institutions. These sections are not expected to have an impact on the DOR.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these sections of the proposal.

§§557.059, 577.001, 579.015 and 610.135 – Vacating cannabis convictions/court petitions/training program

B&P states §557.059 provides that a person who files a petition with the court in which the person was convicted of a nonviolent marijuana-related offense or violation, as of August 28, 2022, may have any conviction, remaining sentence, ongoing supervision, or unpaid court-ordered restitution vacated after a court hearing.

Sections 579.015, 579.020, 579.030, 579.055, 579.065, 579.068, and 579.105 remove marijuana and substances containing marijuana from the list of offenses detailed within each of these sections. As a result, the number of offenses committed each year could decrease resulting in a decrease to total state revenue by an unknown amount beginning August 28, 2022.

Section 610.135 provides that any person may petition the court for expungement of a nonviolent marijuana-related offense or violation if it was prosecuted under the jurisdiction of a Missouri associate circuit court, circuit court, or municipal court and the original charge was not reduced by plea agreement. Additionally, the person must not have been convicted of any further drug-related offenses for a period of ten years. If the court determines the person's acts would no longer violate current marijuana statute, the court may enter an order of expungement.

If a new crime is created or there is an increase in class of crime, any portion of any associated penalty fees/fines that go to the state may impact TSR.

Officials from the **Office of the State Courts Administrator (OSCA)** state the proposed legislation modifies and establishes the provisions relating to marijuana.

The average of all marijuana related charge codes from 2017 to 2021 for Circuit case types is 16,666. The average of all marijuana related charge codes from 2017 to 2021 for Associate case types is 28,824.

The average of all marijuana related charge codes from 2017 to 2021 for Circuit cases for persons over the age of twenty-one is 15,572. The average of all marijuana related charge codes from 2017 to 2021 for Associate cases for persons over the age of twenty-one is 25,846.

The following Criminal Court Costs would be affected by this proposed legislation:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	\$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	\$45.00	State of Missouri - General Revenue \$36, County \$9
County Fee	\$75.00	County
Court Automation Fund Fee	\$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	\$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	\$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	\$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	\$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	\$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	\$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	\$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	\$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	\$5.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	\$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	\$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	<u>\$2.00</u>	State of Missouri - Spinal Cord Injury Fund
Total	\$283.50	
Misdemeanor Case Costs		

Basic Civil Legal Services Fund surcharge	\$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	\$15.00	\$12 State of Missouri / \$3 County
County Fee	\$25.00	County
Court Automation Fund Fee	\$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	\$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	\$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	\$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	\$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	\$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	\$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	\$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	\$5.00	\$0.50 State of Missouri / \$0.50 County
Sheriffs' fee	\$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	\$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	\$2.00	State of Missouri - Spinal Cord Injury Fund
Total	\$106.50	
Municipal Case (Filed in Associate Division) Costs		

Clerk Fee	\$15.00	\$12 State of Missouri / \$3 County
Court Automation Fund Fee	\$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	\$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	\$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	\$3.00	Sheriffs' Retirement Fund
Total	\$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	\$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

Oversight does not have any information to the contrary. For fiscal note purposes, Oversight will reflect an (unknown) reduction in revenue to GR for the reduction in court fees collected by OSCA as a result of the legalization of marijuana. It is further assumed the reduction in revenue collected will exceed \$250,000 annually.

Officials from the **Department of Corrections (DOC)** state FN 5400-03C (HCS HB 2704) modifies and establishes provisions relating to marijuana, making the responsible use of marijuana legal as of 8/28/2022. Marijuana will no longer be listed among Missouri's drug schedule and will no longer be considered a controlled substance. As a result of this bill, any conviction, remaining sentence, ongoing supervision, or unpaid court-ordered restitution of any person who on August 28, 2022, is or will be serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of the person's conviction of an offense or municipal violation involving a nonviolent marijuana-related offense or violation that was committed prior to obtaining a patient identification card under Article XIV, Section 1 of the Constitution of Missouri, or prior to the enactment of §§196.3000 to 196.3048, shall have the conviction, remaining sentence, ongoing supervision, or unpaid court-ordered restitution vacated.

This bill also prohibits any state agency or its employees from disclosing to the federal government, any federal government employee, or any unauthorized third party the statewide list or any individual information of persons who have applied for or obtained a qualifying patient identification card, a qualifying patient cultivation identification card, or a primary caregiver identification card, as those cards are described in Article XIV, Section 1 of the Constitution of Missouri relating to the right to access medical marijuana. The violation of this portion of the bill will be guilty of a new Class E felony.

This bill also introduces language known as the "Cannabinoid Product Labeling Act". It creates a definition for Cannabinoid products as well as establishes language to regulate it. Any dealer of Cannabinoid products that violates the guidelines in this bill will be guilty of a Class D misdemeanor.

Operational Impact

§191.255 – Disclosure of statewide list/information

For each new nonviolent class E felony, the DOC estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2025.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

§557.059 – Marijuana-related offense discharges

There are currently 774 offenders in prison in who were admitted only on drug sentences, and 16,148 offenders under some type of supervision based only on drug-related sentences. Using the

estimate of 3.5% of all drug sentences are related specifically to marijuana, DOC estimates 27 could be immediately discharged from prison and 565 offenders could be immediately discharged from supervision as a result of the passage of this bill if they successfully petition the court after receiving a patient identification card under Article XIV, Section 1 of the Constitution of Missouri.

§579.015 – Decriminalization of marijuana

The estimate of the number of offenders who will be impacted by the decriminalization of marijuana can be calculated from the sentencing records maintained by the DOC, but with an important qualification. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, sale, distribution or possession of a controlled substance, but the drug type is not always part of the sentence information that the DOC receives. In some cases the drug type is known and is included in the offender management database, but the proportion of cases in which the drug related to the offense is known is a minority of the cases. Given that the drug associated with the offense is unknown by the DOC in the majority of cases, the estimation of the total impact that follows will use the proportions of cases in which the associated drug is known to determine the number of cases in which the associated drug is unknown that are likely related to marijuana. Therefore, DOC assumes 3.5% of all prison admissions related to drug sentences are related to marijuana (see table 1).

Table 1. FY 2017 through FY 2021 admissions to prison on only drug-related sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	104	3.5%
Other Drug	2,892	96.5%
Total	2,996	100.0%

There were 713 offenders with new commitments to prison in FY 2021 who were admitted only on drug sentences. The average length of those sentences was 5.7 years. Based on DOC's assumption that 3.5% of those sentences are related to marijuana, DOC estimates 25 admissions for sentences for offenses related only to marijuana.

In FY 2021, there were 539 offenders released from prison who had been incarcerated for new commitments to prison only on drug sentences. Their average length of time served to first release was 1.1 years, which is what DOC assumes for all new commitments in FY 2021 in estimating its impact.

Based on DOC's analysis of new probation cases related to drug sentences received by the department in FY 2021, approximately 7.6% of the cases in which the associated drug is known are related to marijuana (see table 2). Therefore, DOC assumes 7.6% of all new probation cases are based on drug sentences related to marijuana.

Table 2. FY 2021 probation cases related only to drug sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	218	7.6%
Other Drug	2,667	92.4%
Total	2,885	100.0%

There were 4,656 offenders with new probation cases in FY 2021 whose cases were only on drug sentences. Based on DOC's assumption that 7.6% of those sentences are related to marijuana, DOC estimates 354 new probation cases related only to marijuana. The average length of those sentences was 5.4 years. Given the possibility of earned compliance credit, DOC applies a 3 year sentence in its estimation of impact.

The estimated cumulative impact of this part of the proposal on department operations is 65 fewer people in prison and 1,140 fewer people under supervision in the field by FY 2028.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	25	25	25	25	25	25	25	25	25	25
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	354	354	354	354	354	354	354	354	354	354
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	-25	-25	-25	-25	-25	-25	-25	-25	-25	-25
Probations	-354	-354	-354	-354	-354	-354	-354	-354	-354	-354
Cumulative Populations										
Prison	-25	-50	-65	-65	-65	-65	-65	-65	-65	-65
Parole			-10	-35	-60	-78	-78	-78	-78	-78
Probation	-354	-708	-1,062	-1,062	-1,062	-1,062	-1,062	-1,062	-1,062	-1,062
Impact										
Prison Population	-25	-50	-65	-65	-65	-65	-65	-65	-65	-65
Field Population	-354	-708	-1,072	-1,097	-1,122	-1,140	-1,140	-1,140	-1,140	-1,140
Population Change	-379	-758	-1,137	-1,162	-1,187	-1,205	-1,205	-1,205	-1,205	-1,205

Combined Estimated Cumulative Impact

The combined estimated cumulative impact of creating a new class E felony as well as the decriminalization of marijuana is estimated to be 63 fewer offenders in prison and 1,133 fewer offenders on field supervision by FY 2028.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	52	25	25	25	25	25	25	25	25	25
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	919	354	354	354	354	354	354	354	354	354
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	-51	-24	-24	-24	-24	-24	-24	-24	-24	-24
Probations	-917	-352	-352	-352	-352	-352	-352	-352	-352	-352
Cumulative Populations										
Prison	-51	-48	-63	-63	-63	-63	-63	-63	-63	-63
Parole	0	0	-9	-34	-59	-77	-77	-77	-77	-77
Probation	-917	-704	-1,056	-1,056	-1,056	-1,056	-1,056	-1,056	-1,056	-1,056
Impact										
Prison Population	-51	-48	-63	-63	-63	-63	-63	-63	-63	-63
Field Population	-917	-704	-1,065	-1,090	-1,115	-1,133	-1,133	-1,133	-1,133	-1,133
Population Change	-968	-752	-1,128	-1,153	-1,178	-1,196	-1,196	-1,196	-1,196	-1,196

* If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$22.616 per day or an annual cost of \$8,255 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$88.12 per day or an annual cost of \$32,162 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases 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.

	# to prison	Cost per year	Total Savings for prison	Change in probation & parole officers	Total savings for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	-51	(\$8,255)	\$350,838	(17)	\$975,845	(917)	\$1,326,683
Year 2	-48	(\$8,255)	\$404,165	(13)	\$905,089	(704)	\$1,309,254
Year 3	-63	(\$8,255)	\$541,076	(20)	\$1,407,453	(1,065)	\$1,948,528
Year 4	-63	(\$8,255)	\$551,897	(21)	\$1,493,743	(1,090)	\$2,045,640
Year 5	-63	(\$8,255)	\$562,935	(21)	\$1,509,849	(1,115)	\$2,072,785
Year 6	-63	(\$8,255)	\$574,194	(22)	\$1,598,821	(1,133)	\$2,173,015
Year 7	-63	(\$8,255)	\$585,678	(22)	\$1,616,126	(1,133)	\$2,201,804
Year 8	-63	(\$8,255)	\$597,391	(22)	\$1,633,605	(1,133)	\$2,230,996
Year 9	-63	(\$8,255)	\$609,339	(22)	\$1,651,317	(1,133)	\$2,260,656
Year 10	-63	(\$8,255)	\$621,526	(22)	\$1,669,207	(1,133)	\$2,290,733

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the estimated savings to General Revenue provided by DOC for fiscal note purposes.

Officials from the **Department of Higher Education and Workforce Development (DHEWD)** state §557.059.3 states the department, in conjunction with the division of workforce development, shall establish a six-week work training program for any person subject to this section. The work training program shall train and educate the person for workforce entry into the marijuana industry."

DHEWD would need an FTE for this requirement. However, DHEWD has no way of knowing how many people are subject to this section as included in the bill and therefore is unable to estimate the total number of people that would be trained annually. Furthermore, this section does not designate which department the Office of Workforce Development would be working with on this statutory requirement. There are several different departments listed throughout the bill. In addition, it is not clear if this training is to be provided in person or if it could be offered in a blended format with some virtual training. If virtual training is determined as an option, then the ITSD costs would also need to be included in the development of a learning management system.

Furthermore, DHEWD wouldn't be able to use any existing OWD federal funding resources as that would jeopardize the department's federal funds and this activity is not covered in the authorized purposes for these funds. Six weeks of training curriculum would also have to be created and a consultant would need to be hired to develop the curricula. DHEWD is a federally approved cost-allocated agency and existing staff at DHEWD and department resources could not support this effort due to potential violation of federal guidelines. Overall, due to unknown costs for development and delivery of the six-week training courses and a lack of the number of

people subject to this training, DHEWD is unable to provide a complete cost estimate at this time.

Oversight does not have any information to the contrary. Oversight will reflect the estimated fiscal impact provided by the DHEWD, but assumes it is possible that costs will exceed the amount provided, especially if DHEWD had to hire a consultant to develop curricula for the program and ITSD needed to develop virtual training.

Officials from the **Office of the State Public Defender (SPD)** state the proposed legislation removes marijuana from the list of controlled substances under §579.015, and therefore, could decrease the number of persons who are eligible for representation by SPD. The fiscal impact of this legislation on SPD is unknown as the number of additional cases eligible for representation as the result of the legislation is unknown, but it is anticipated that any decrease would be less than \$250,000.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect an unknown savings, less than \$250,000 annually, to GR as the fiscal impact for SPD for this proposal.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state currently there are 65,496 conviction records in the Traffic Arrest System (TAS) that meet the criteria of this proposed legislation. To process 65,496 court orders, the Patrol will require a minimum of six (6) FTE to process the court orders within an approximate twelve-month timeframe (5 Patrol Records Division (PRD) Technicians III @ \$38,184 annually; 1 PRD Program Supervisor @ \$47,448 annually) .

1 full-time employee (FTE) = 1,864 hours (average work hours per year) x 60 minutes per hour
= 111,840 minutes per year.

30 minutes = estimate of the amount of time per petition to log, process, research, review, and expunge the information/record when the order is received.

1 FTE can process 3,728 expungements per year = 111,840/30.

Oversight does not have any information to the contrary. However, Oversight assumes if all of the conviction records currently in the TAS are expunged in one year, the number of FTE requested by MHP may be reduced. Therefore, for fiscal note purposes, Oversight will present MHP's fiscal impact/number of FTE as "Up to" the amount provided.

DOR officials state these provisions will allow the courts to expunge all marijuana related offenses or violations from a person's records and removes marijuana offenses from the crime list.

Courts order a driver license suspension/revocation to individuals convicted of possession of controlled substances, both over and under the age of 21, pursuant to the Abuse and Lose. If a

possession of marijuana offense is expunged through the court, and such offense has resulted in an Abuse and Lose suspension/revocation, an expungement order from the court reversing the suspension/revocation would be necessary for the DOR to comply with requiring restoration to the status that such person occupied as if such event had never taken place.

The DOR receives only about 20 court orders a month. There were approximately 167 court orders received in FY 2021 under the Abuse and Lose actions. The DOR would not be able to accurately identify how many of the above actions on record would be eligible for expungement, as the orders do not specify the violation that warranted the suspension/revocation.

An Associate Customer Service Representative can process 50 court-ordered expungements per day. The DOR does not feel that a significant increase in expungements will be received based on this proposal. If the increase is more significant than anticipated, additional FTE will be requested through the appropriation process.

To implement the proposed legislation, the DOR would be required to:

- Review and update internal procedures; and
- Train staff

FY 2022 – Driver License Bureau

Research/Data Analyst	10 hrs. @ \$25.01 per hr.	= \$250
Administrative Manager	10 hrs. @ \$23.35 per hr.	= \$233
		= \$483

The DOR presumes it will be able to absorb the above listed costs. If multiple bills pass which require DOR resources, the DOR could request additional FTE and related equipment and expenses through the appropriation process.

§§302.420 and 302.541 allow the DOR to collect a reinstatement fee on Abuse and Lose suspensions/revocations, which is \$45 per reinstatement. The proposed legislation may result in the loss of reinstatement fees associated with the expungement of active actions on record. The DOR is unable to accurately identify the amount of potential revenue lost, as it is unable to identify how many of the above actions on record would be eligible for expungement. The loss in reinstatement fees should be minimal.

This proposal could also prevent the State of Missouri from obtaining Impaired Driving federal grant funding. This funding is distributed through MODOT and the DOR defers to them for any fiscal impact.

Oversight does not have any information to the contrary. Oversight assumes the DOR has sufficient staff and resources available to absorb the minimal costs associated with expungements and the loss of reinstatement fees and will reflect no fiscal impact for DOR related to these provisions of the proposal. However, if multiple proposals pass which require DOR resources, DOR could request additional funding through the appropriations process.

Oversight notes §610.135.5 excludes the expungement of records relating to commercial drivers' license holders. DOR deferred to MODOT regarding the potential fiscal impact of these provisions. MODOT officials assume the proposal will have no fiscal impact on their organization (see below, in Bill as a whole). Therefore, Oversight assumes this proposal would have no fiscal impact on Impaired Driving federal grant funding.

Officials from the **DOC** state this legislation may cause an increase in workload for Institutional Records Office Staff, as it expands the list of offenses for which an individual can request expungement. Expunging these records for the specified offenses through destruction, redacting or removal (electronic) will result in an increase in workload for DOC's Institutional Records Officers, as they are the custodian of records for the offender files. This could also affect records kept at Probation and Parole Offices. While it represents an increase in workload, it is not anticipated that it will significantly impact the DOC.

There is also some concern for tracking previous medical, mental health, substance use treatment, and education records should the offender return to supervision by the DOC.

If there should be a significant number of additional requests for expungement or a significant expansion in the number of offenses that could be expunged, it could result in additional costs to the DOC, but without knowing the extent of expungements that would need to be completed, this cost is unknown.

Oversight does not have any information to the contrary. Oversight assumes the duties and requirements of this section could be performed with current staff and resources. However, the DOC could request additional staff and resources through the appropriations process if determined necessary.

Section 1 – Giving marijuana or marijuana accessory to a person under 21

B&P states Section 1.1 establishes that any person who provides marijuana or any marijuana accessory or product to someone under age 21 shall be guilty of a misdemeanor, with the exception of individuals providing marijuana to individuals under age 21 who have a medical marijuana card. Subsection 2 describes that any person or entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under age 21 to possess or use marijuana or marijuana products or knowingly fails to stop a person under age 21 from possessing or using marijuana or marijuana products on such property is guilty of a Class B Misdemeanor subject to up to six months in jail and a fine not to exceed \$1,000. Any subsequent violation shall be a Class A Misdemeanor subject to up to one year in jail and a fine not to exceed \$2,000.

Section 2 – Persons between 17 and 21 year presenting themselves to be 21 or older

B&P states Section 2.1 provides that any person between the ages of 17 and 21 who represents themselves as being age 21 or older for the purpose of acquiring marijuana or any marijuana product, except in cases authorized by law, shall be deemed guilty of a misdemeanor. Subsection 2 details that in addition to penalties administered in subsection 1, any person who is under age 21 and uses any kind of fake government-issued identification card for the purpose of acquiring marijuana or any marijuana product shall be guilty of a misdemeanor and shall be subject to a fine of five hundred dollars for each separate offense.

Section 3 – Under 21 years of age and visible intoxication

B&P states Section 3 establishes that any person under age 21 who purchases or attempts to purchase, or has in his or her possession, any marijuana or marijuana, or who is visibly in an intoxicated condition, is guilty of a misdemeanor unless such person is able to purchase or possess marijuana or a marijuana-infused product under Article XIV, Section 1 of the Constitution of Missouri. A first violation of this section shall be punishable as a Class D Misdemeanor of a fine not to exceed five hundred dollars. Any subsequent violation of this section shall be punishable as a class A misdemeanor subject to up to one year in jail and a fine not to exceed \$2,000.

Section 4 – Misrepresenting age on an ID to be of legitimate age

B&P states Section 4.3 details that any person who changes or misrepresents a driver's license or identification card as legitimate shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars or confinement for not more than one year, or both.

Therefore, these provisions in Sections 1, 2, 3, and 4 could increase total state revenue by an unknown amount beginning August 28, 2022.

Oversight notes that violations of Sections 1 through 4 could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine varies widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Bill as a whole

Officials from the **Department of Public Safety, Missouri Veterans Commission (MVC)** defers to DOR regarding the amount of the fiscal impact of this proposal.

Officials from the **University of Central Missouri** assume the proposal would have an indeterminate fiscal impact on their organization due to uncertainty of application.

Oversight does not have any information to the contrary. However, Oversight assumes any impact that might be incurred by the University would be minimal and absorbable within current funding levels.

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **Missouri Office of Prosecution Services (MOPS)** state there is no measurable fiscal impact to MOPS. The enactment of new crimes [191.255, Section 1, Section 2, Section 3 and Section 4] creates additional responsibilities for county prosecutors and the circuit attorney which may in turn result in additional costs which are difficult to determine.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for this proposal for MOPS.

Officials from the **Department of Commerce and Insurance, the Department of Economic Development, the Department of Elementary and Secondary Education, the Department of Mental Health, the Department of Labor and Industrial Relations, the Department of Natural Resources, the Department of Public Safety – Alcohol and Tobacco Control, the Department of Social Services, the Missouri Department of Conservation, the Missouri Department of Transportation, the Office of Administration, the City of Springfield, the City of Urich, the Newton County Health Department, the St. Louis County Health Department, the Phelps County Sheriff's Department, the Kansas City Police Department, the St. Joseph Police Department, the St. Louis County Police Department, the Sheriff's Retirement System, the St. Joseph Policemen's Pension Fund, the St. Louis City Firefighter's Pension Fund, the Hermann Area Hospital District, Missouri State University, the Office of the State Treasurer, the Missouri House of Representatives and the Missouri Senate** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 \$5,000. 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 its 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 only reflects the responses received from state agencies and political subdivisions; however, other cities, various county officials, local public health agencies, nursing homes, sheriffs' departments, police departments, first responder retirement plans, schools, hospitals, and colleges and universities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
GENERAL REVENUE FUND				
<u>Income</u> – DHSS (§191.255) - Penalty income p. 5-6	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Income</u> – DOR (§196.3021) – sales tax on recreational cannabis p. 12-16	\$6,813,073 to \$12,982,074	\$11,138,314 to \$17,309,432	\$11,138,314 to \$17,309,432	\$11,138,314 to \$17,309,432
<u>Income</u> – MDA (§196.3036) – Scale inspection fees p. 16-20	\$220,647	\$220,647	\$220,647	\$220,647
<u>Revenue reduction</u> – DOR (§143.121) – marijuana business deductions p. 5	(Unknown)	(Unknown)	(Unknown)	(Unknown)
<u>Revenue reduction</u> – DOR (§191.255) – reduction in collections p. 6	(Unknown)	(Unknown)	(Unknown)	(Unknown)
<u>Revenue reduction</u> – OSCA (§§557.059, 577.001, 579.015, & 610.135) – reduction in court fees collected p. 24-29	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
GENERAL REVENUE (continued)				
<u>Savings – DOC</u> (§§191.255, 557.059, and 579.015) p. 22-26				
Personal service	\$548,998	\$508,820	\$790,640	\$896,038
Fringe benefits	\$377,666	\$350,028	\$543,894	\$616,405
Equipment and expense	\$49,181	\$46,241	\$72,919	\$86,378
Reduction in incarceration and P&P expenditures	\$350,838	\$404,165	\$541,076	\$574,194
<u>Total Savings – DOC</u>	<u>\$1,326,683</u>	<u>\$1,309,254</u>	<u>\$1,948,529</u>	<u>\$2,173,015</u>
FTE Change – DOS	-17 FTE	-13 FTE	-20 FTE	-22 FTE
<u>Savings – SPD</u> (§579.015) – reduction in number of cases p. 30	Less than \$250,000	Less than \$250,000	Less than \$250,000	Less than \$250,000
<u>Costs – DPS, MHP</u> (§195.017) – Repurchase canines and training p. 7	(\$150,000)	\$0	\$0	\$0
<u>Costs – DOR</u> (§196.3021) p. 12-16				
Personal service	(\$114,625)	(\$139,550)	(\$141,581)	(\$144,566)
Fringe benefits	(\$84,997)	(\$102,633)	(\$102,857)	(\$104,180)
Equipment and expense	(\$33,388)	(\$1,473)	(\$1,509)	(\$1,625)
ITSD/marijuana database	(\$29,549)	\$0	\$0	\$0
Marijuana stamps	(\$204,167)	(\$251,125)	(\$257,403)	(\$277,195)
<u>Total Costs – DOR</u>	<u>(\$466,726)</u>	<u>(\$494,781)</u>	<u>(\$503,350)</u>	<u>(\$527,566)</u>
FTE Change – DOR	4 FTE	4 FTE	4 FTE	4 FTE

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
GENERAL REVENUE (continued)				
<u>Costs – MDA</u> (\$196.3036) p. 16-20				
Personal service	(\$239,073)	(\$292,625)	(\$298,478)	(More than \$298,478)
Fringe benefits	(\$166,453)	(\$201,667)	(\$203,629)	(More than \$203,629)
Equipment and expense	(\$346,091)	(\$120,932)	(\$123,350)	(More than \$123,350)
<u>Total Costs – MDA</u>	(\$751,617)	(\$615,224)	(\$625,457)	(More than \$625,457)
FTE Change - MDA	7 FTE	7 FTE	7 FTE	7 FTE
<u>Costs – DHEWD</u> (\$5573.059) p. 29-30	Could exceed...	Could exceed...	Could exceed...	Could exceed...
Personal service	(\$38,614)	(\$47,264)	(\$48,209)	(\$51,160)
Fringe benefits	(\$25,274)	(\$30,640)	(\$30,957)	(\$31,884)
Equipment and expense	(\$12,723)	(\$3,261)	(\$3,327)	(\$3,530)
<u>Total Costs - DHEWD</u>	(Could exceed \$76,611)	(Could exceed \$81,165)	(Could exceed \$82,493)	(Could exceed \$86,574)
FTE Change – DHEWD	Could exceed 1 FTE	Could exceed 1 FTE	Could exceed 1 FTE	Could exceed 1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Less than \$12,393,156</u>	<u>Less than \$17,398,163</u>	<u>Less than \$18,017,308</u>	<u>Less than \$18,213,497</u>
Estimated Net FTE Change on the General Revenue Fund	Up to -5 FTE	Up to -1 FTE	Up to -8 FTE	Up to -10 FTE

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
CRIMINAL RECORDS SYSTEM FUND (0671)				
<u>Income – MHP</u> (§§195.006, 195.017, 195.815 and 196.3028) – Background check fees p. 7	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS SYSTEM FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
CANNABIS FREEDOM FUND				
<u>Income – DOR</u> (§196.3021) – 4.225% recreational cannabis tax p. 12-16	\$9,172,577 to \$17,965,154	\$14,797,867 to \$23,953,539	\$14,797,867 to \$23,953,539	\$14,797,867 to \$23,953,539
<u>Income – DHSS</u> (§196.3036) – application fees, conditional licenses and transport fees p. 17-19	\$72,686,000	\$84,644,000	\$96,630,000	Could exceed \$96,630,000
<u>Income – DHSS</u> (§196.3009) – Fines p.7	Unknown	Unknown	Unknown	Unknown

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
CANNABIS FREEDOM FUND (continued)				
<u>Costs – DHSS</u> (§§196.3000 – 196.3048) p. 16-19				
Personal service	(\$38,052,250)	(\$46,119,363)	(\$46,580,557)	(\$46,701,403)
Fringe benefits	(\$22,212,199)	(\$25,143,777)	(\$26,988,174)	(\$27,032,090)
Equipment and expense	(\$4,783,952)	(\$642,060)	(\$658,112)	(\$708,714)
Extensive travel	(\$4,849,440)	(\$5,964,811)	(\$6,113,931)	(\$6,584,035)
Seed-to-Sale system	(\$229,000)	(\$229,000)	(\$229,000)	(\$229,000)
Online registry	(\$281,000)	(\$181,000)	(\$181,000)	(\$181,000)
Workforce development	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)
Labeling capability in STS	(\$120,000)	(\$120,000)	(\$120,000)	(\$120,000)
Rent	(\$772,800)	(\$950,544)	(\$974,308)	(\$1,049,223)
<u>Total Costs - DHSS</u>	<u>(\$71,350,671)</u>	<u>(\$79,400,555)</u>	<u>(\$81,895,082)</u>	<u>(\$82,655,465)</u>
FTE change - DHSS	800 FTE	800 FTE	800 FTE	800 FTE
ESTIMATED NET EFFECT ON THE CANNABIS FREEDOM FUND*	<u>Could exceed \$10,507,906 to \$19,300,483</u>	<u>Could exceed \$20,041,312 to \$29,196,984</u>	<u>Could exceed \$29,532,785 to \$38,688,457</u>	<u>Could exceed \$28,772,402 to \$37,928,074</u>
Estimated Net FTE Change on the Cannabis Freedom Fund	800 FTE	800 FTE	800 FTE	800 FTE
*Provisions of §196.3021.3 provide that any moneys remaining in the Cannabis Freedom Fund after all costs have been paid shall be disbursed as follows: 10% each to the deputy sheriff salary implementation fund (§57.278), the peace officer standards and training commission fund (§590.178), and the state fire marshal for disbursement of grants to volunteer fire protection associations; 15% to establish and administer a work training program (§557.059.3); and 5% to assist with small business loans (§196.3047). For simplicity, Oversight is not showing the transfers out of the Cannabis Freedom Fund to the funds previously listed.				

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
SCHOOL DISTRICT TRUST FUND (0688)				
<u>Income</u> – DOR (§196.3021) – sales tax on recreational cannabis p. 12-16	<u>\$2,171,024 to</u> <u>\$4,327,358</u>	<u>\$3,712,771 to</u> <u>\$5,769,811</u>	<u>\$3,712,771 to</u> <u>\$5,769,811</u>	<u>\$3,712,771 to</u> <u>\$5,769,811</u>
ESTIMATED NET EFFECT ON THE SCHOOL DISTRICT TRUST FUND	<u>\$2,171,024 to</u> <u>\$4,327,358</u>	<u>\$3,712,771 to</u> <u>\$5,769,811</u>	<u>\$3,712,771 to</u> <u>\$5,769,811</u>	<u>\$3,712,771 to</u> <u>\$5,769,811</u>
CONSERVATION COMMISSION FUND (0609)				
<u>Income</u> – DOR (§196.3021) – sales tax on recreational cannabis p. 12-16	<u>\$271,378 to</u> <u>\$540,919</u>	<u>\$464,096 to</u> <u>\$721,226</u>	<u>\$464,096 to</u> <u>\$721,226</u>	<u>\$464,096 to</u> <u>\$721,226</u>
ESTIMATED NET EFFECT ON THE CONSERVATION COMMISSION FUND	<u>\$271,378 to</u> <u>\$540,919</u>	<u>\$464,096 to</u> <u>\$721,226</u>	<u>\$464,096 to</u> <u>\$721,226</u>	<u>\$464,096 to</u> <u>\$721,226</u>

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
PARK, SOIL & WATER FUND				
<u>Income</u> – DOR (§196.3021) – sales tax on recreational cannabis p. 12-16	<u>\$271,102 to \$432,736</u>	<u>\$371,277 to \$576,981</u>	<u>\$371,277 to \$576,981</u>	<u>\$371,277 to \$576,981</u>
ESTIMATED NET EFFECT ON THE PARK, SOIL & WATER FUND	<u>\$271,102 to \$432,736</u>	<u>\$371,277 to \$576,981</u>	<u>\$371,277 to \$576,981</u>	<u>\$371,277 to \$576,981</u>
HIGHWAY FUND (0644)				
<u>Costs</u> – DPS, MHP (§§544.186, 577.059 & 610.135) p. 30	Up to...	Up to...	Up to...	Up to...
Personal service	(\$198,640)	(\$240,752)	(\$243,159)	(\$250,527)
Fringe benefits	(\$176,591)	(\$214,029)	(\$216,168)	(\$222,719)
Equipment and expense	<u>(\$22,318)</u>	<u>(\$5,843)</u>	<u>(\$5,988)</u>	<u>(\$6,448)</u>
<u>Total Costs</u> – DPS, MHP	<u>(Up to \$397,549)</u>	<u>(Up to \$460,624)</u>	<u>(Up to \$465,315)</u>	<u>(Up to \$479,694)</u>
FTE Change – DPS, MHP	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE
ESTIMATED NET EFFECT ON THE HIGHWAY FUND	<u>(Up to \$397,549)</u>	<u>(Up to \$460,624)</u>	<u>(Up to \$465,315)</u>	<u>(Up to \$479,694)</u>
Estimated Net FTE Change on the Highway Fund	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
LOCAL GOVERNMENTS				
<u>Income</u> – Cities and Counties (\$196.3021) – sales tax on recreational cannabis p. 12-16	\$9,172,577 to \$17,439,253	\$14,962,468 to \$23,252,337	\$14,962,468 to \$23,252,337	\$14,962,468 to \$23,252,337
<u>Income</u> – School Districts (Sections 1, 2, 3, and 4) – fine revenue p. 32	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>Greater than \$9,172,577 to \$17,439,253</u>	<u>Greater than \$14,962,468 to \$23,252,337</u>	<u>Greater than \$14,962,468 to \$23,252,337</u>	<u>Greater than \$14,962,468 to \$23,252,337</u>

FISCAL IMPACT – Small Business

This proposal could have a significant fiscal impact on a variety of small business that go into the recreational marijuana industry and any small business in the hospitality industry.

FISCAL DESCRIPTION

This bill establishes the "Cannabis Freedom Act".

Under the provisions of this bill, taxpayers are authorized to conduct business under the medical cannabis provisions of the Constitution of Missouri or under the provisions of this bill may deduct the amount that would have been deducted from the computation of the taxpayer's federal taxable income if such a deduction were not disallowed under 26 U.S.C. Section 280E, as in effect on January 1, 2022, because of the status of marijuana as a controlled substance under federal law (§143.121).

No state agency shall disclose to the federal government, any federal government employee, or any unauthorized third party, the statewide list or any individual information of persons who have applied for or obtained a qualifying patient identification card, a qualifying patient cultivation identification card, or a primary caregiver identification card, as those cards are described in Article XIV, Section 1 of the Constitution of Missouri relating to the right to access medical marijuana (§191.255).

This bill removes marijuana and tetrahydrocannabinols (THC), as defined, from the list of controlled substances and removes marijuana from the offenses of possession, delivery, distribution, manufacture, and trafficking of a controlled substance (§§195.006, 195.017, 579.015, 579.020, 579.030, 579.055, 579.065, and 579.068).

Currently, all owners, officers, managers, contractors, employees, and other support staff of licensed or certified medical marijuana facilities must submit fingerprints to the State Highway Patrol for state and federal criminal background checks. Additionally, the Department of Health and Senior Services may require fingerprint submissions of owners, officers, managers, contractors, employees, and other support staff for licensure authorizing that person to own or work at a medical marijuana facility. This bill adds that the Cannabis Enforcement Authority will require all officers, managers, contractors, employees, and other support staff of marijuana business, and the owners of the businesses, to be subject to such fingerprinting (§195.815).

These sections establish the "Cannabis Freedom Act". The Cannabis Enforcement Authority shall promulgate all necessary rules and regulations for the administration of these sections. The provisions of these sections shall not restrict the rights of employers to maintain a drug- and alcohol-free workplace or require any employer to allow or accommodate the use of marijuana. These provisions shall not allow the operation of motor vehicles while impaired by marijuana, or allow individuals under the age of 21 to purchase marijuana. These provisions do not restrict the rights of employers, schools, care facilities, or correctional facilities to prohibit or regulate conduct otherwise allowed under these provisions.

These provisions legalize the possession and consumption of marijuana for personal use, allow for anyone 21 years of age or older to cultivate and possess no more than six mature, flowering marijuana plants for noncommercial use, and allows for the sale of marijuana products to consumers 21 years of age or older. The use or possession of marijuana shall not impede a person's legal right to possess a firearm. It shall be lawful for a person 21 years of age or older to transfer or gift marijuana to another adult or for a parent or guardian to transfer or gift marijuana to a person under 21 years of age if that person has a recommendation by a physician.

Marijuana farmers, manufacturers, processors, and distributors shall not be subject to special zoning requirements or licensing fees.

Asset or civil forfeiture shall no longer be used in the state in association with legal marijuana cultivation, use, sale, or possession. A tax shall be levied on the sale of marijuana and marijuana products at a rate not to exceed 4.225%. All tax revenues collected shall be deposited into the "Cannabis Freedom Fund", as established under the bill, and used to pay for costs associated with the implementation, administration, and enforcement of the provisions of these sections. Excess moneys remaining in the Fund shall be divided in proportions specified in the bill between deputy sheriffs, Peace Officer Standards and Training (POST) Commission, and volunteer fire protection associations, as well as to provide help for small business loans and to the Department of Health and Senior Services to establish and administer a work training

program. These provisions shall not prohibit any state or local sales taxes. Any sale of marijuana for medical use shall not be subject to the tax established herein.

These provisions establish the "Cannabis Enforcement Authority", under the Department of Health and Senior Services. The Authority shall have oversight and auditing responsibilities and shall implement an inventory tracking system. The Authority shall require business records be kept for all transactions. Inventory shall be tracked and updated after each individual sale and reported to the Authority. The Authority shall require a seed-to-sale tracking system that tracks marijuana from either the seed or immature plant stage until the marijuana or marijuana product is sold to a consumer, as described in the bill.

These provisions establish the marijuana business license, which includes annual licenses for the following categories: marijuana commercial growers, marijuana processors, and marijuana retailers. Grower, processor, and retailer, prospective licensees must submit a comprehensive application for an annual license.

The Authority shall develop a website for marijuana business applications. Applications must meet general requirements as provided in the bill and all applicants shall undergo a background check. The Authority shall review, approve or reject, and mail such approval or rejection within 90 days of receipt of the application.

A licensed commercial grower shall sell only at the wholesale level to a licensed retailer, grower, or processor. Licensed commercial growers and processors shall complete and submit monthly yield and sales reports to the Authority, as described in the bill. The Authority shall have oversight and auditing responsibility to ensure all marijuana grown by a licensed commercial grower is accounted for and all marijuana processors producing products with marijuana as an additive are in compliance with the requirements of the bill.

In addition to the application requirements established under these provisions, licensed commercial growers and processors shall demonstrate that they have a bank account and shall provide growth estimates, processing estimates, and predicted electrical and water usage to grow or process marijuana.

The Authority may issue different kinds of processor licenses based on the level of risk posed by the type of processing being conducted as either a nonhazardous marijuana processor license or a hazardous marijuana processor license. The Authority shall establish standards for licensed processors for the preparation of edible marijuana products.

A marijuana transporter license shall allow the holder to transport marijuana from a Missouri-licensed marijuana retailer, licensed commercial grower facility, or licensed processor facility to a Missouri-licensed marijuana retailer, licensed commercial grower facility, or licensed processing facility. All marijuana or marijuana products shall be transported in a locked container labeled as "Marijuana or Derivative". No business may possess, sell, or transfer marijuana without a valid transporter license. A transporter licensee may contract with multiple

marijuana businesses. A transporter licensee shall use the seed-to-sale tracking system promulgated by the Authority. The Authority shall issue transporter agent licenses to individual agents, employees, and owners of a transporter license in order for that individual to qualify to transport marijuana. Such agent license shall be subject to an annual fee of \$100 and shall be valid for three years or until the transporter licensee alerts the Authority that the agent is no longer employed by the licensee. The transportation and inventory tracking of marijuana and marijuana products shall comply with requirements as provided for in the bill.

In addition to failure to meet the requirements established under the bill, grounds for denial for a temporary or annual license shall include: unlawful sales or purchases, fraudulent acts, falsified records or misrepresentation to the Authority, grossly inaccurate or fraudulent reporting, threatening or harming any marijuana patient, caregiver, consumer, medical practitioner, or employee of the Authority, use of prohibited substances for processing in residential areas, and endangering public health and safety.

If marijuana is decriminalized on a federal level, any licensed marijuana business in the state may engage in interstate commerce, and the state may enter into any interstate compact or agreement relating to marijuana (§§ 196.3000 to 196.3048).

No bank, trust company, association, or credit union shall be prohibited, penalized, have any adverse action taken against it, or otherwise discouraged from providing financial services to facilities licensed under the provisions of this bill or under Article XIV, Section 1 of the Constitution of Missouri or to any service provider to such a facilities.

Furthermore, banks, trust companies, associations, and credit unions are permitted to receive the savings of, make loans to, deposit the funds of, and invest funds of customers who operate as a facility licensed under the provisions of this bill or under Article XIV, Section 1 of the Constitution of Missouri. No such institution acting pursuant to this bill shall be liable under state law for contracting with such facilities (§§362.105, 369.144, 369.326, 370.064, and 370.070).

Any conviction, remaining sentence, ongoing supervision, or unpaid court-ordered restitution of any person incarcerated, on probation or parole, or other form of community supervision resulting from a conviction of a nonviolent marijuana-related offense shall have such conviction, remaining sentence, ongoing supervision, or unpaid court-ordered restitution vacated if the person files a petition in the court in which the person was convicted of the offense or violation. The lawful possession or use of marijuana shall not result in any punitive action with regard to probation or parole status. No condition of probation or parole shall consist of restricting the possession or use of marijuana, and no revocation or extension of probation or parole shall be imposed as a consequence of the lawful possession or use of marijuana.

Any person who was convicted of a nonviolent marijuana-related offense may petition the court to have such offense expunged so long as the offense or violation was prosecuted under the jurisdiction of a Missouri court and all nonviolent marijuana-related offenses are listed in the

petition of expungement (§§559.023, 557.059, and 610.135). This bill contains penalty provisions.

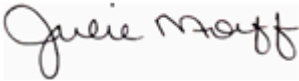
This legislation is not federally mandated and would not duplicate any other program, but would require additional capital improvements or rental space.

SOURCES OF INFORMATION

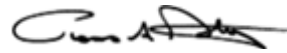
Attorney General's Office
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety –
 Alcohol and Tobacco Control
 Missouri Highway Patrol
 Missouri Veterans Commission
Department of Social Services
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Office of Administration - Budget and Planning
Office of the Secretary of State
Office of the State Public Defender
City of Springfield
City of Kansas City
City of Urich
Newton County Health Department
St. Louis County Health Department
Phelps County Sheriff's Department
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department
Kansas City Firefighter's Pension System
Sheriff's Retirement System
St. Joseph Policemen's Pension Fund
St. Louis City Firefighter's Pension Fund

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Hermann Area Hospital District
Missouri State University
University of Central Missouri
Office of the State Treasurer
Missouri House of Representatives
Joint Committee on Administrative Rules
Missouri Senate
Missouri Office of Prosecution Services
Office of the State Courts Administrator



Julie Morff
Director
April 11, 2022



Ross Strobe
Assistant Director
April 11, 2022