

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5400H.011  
Bill No.: HB 2704  
Subject: Drugs and Controlled Substances; Crimes and Punishment; Criminal Procedure;  
Agriculture; Department of Agriculture; Health Care; Taxation and Revenue -  
Income; Courts  
Type: Original  
Date: March 7, 2022

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Fully Implemented (FY 2028)</b>
General Revenue Fund	Unknown, greater than (\$87,035,279)	Unknown, less than \$19,342,075	Unknown, less than \$19,972,657	Unknown, less than \$20,172,215
<b>Total Estimated Net Effect on General Revenue</b>	<b>Unknown, greater than (\$87,035,279)</b>	<b>Unknown, less than \$19,342,075</b>	<b>Unknown, less than \$19,972,657</b>	<b>Unknown, less than \$20,172,215</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Fully Implemented (FY 2028)</b>
Cannabis Freedom	\$0	Less than \$47,461,497 to \$79,457,473	Less than \$47,461,497 to \$79,457,473	Less than \$47,461,497 to \$79,457,473
School District Trust	\$2,942,196 to \$4,626,709	\$3,922,928 to \$6,168,946	\$3,922,928 to \$6,168,946	\$3,922,928 to \$6,168,946
Conservation Commission	\$367,774 to \$578,338	\$490,366 to \$771,118	\$490,366 to \$771,118	\$490,366 to \$771,118
Park, Soil & Water	\$294,220 to \$462,671	\$392,293 to \$616,895	\$392,293 to \$616,895	\$392,293 to \$616,895
Highway	(Up to \$397,549)	(Up to \$460,624)	(Up to \$465,315)	(Up to \$479,694)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Less than \$5,667,718</b>	<b>Less than \$87,014,432</b>	<b>Less than \$87,014,432</b>	<b>Less than \$87,014,432</b>

\*Oversight notes, any “excess moneys” remaining in the Cannabis Freedom Fund is to be split equally between teachers’ salaries, first responders’ pensions and the Missouri Veterans Commission.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Fully Implemented (FY 2028)</b>
General Revenue	-13 FTE	-9 FTE	-16 FTE	-16 FTE
Cannabis Freedom	431 FTE	431 FTE	431 FTE	431 FTE
Highway	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE	Up to 6 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>Up to 424 FTE</b>	<b>Up to 428 FTE</b>	<b>Up to 421 FTE</b>	<b>Up to 421 FTE</b>

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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Fully Implemented (FY 2028)</b>
<b>Local Government</b>	<b>\$11,857,051- \$18,383,024</b>	<b>\$15,809,401- \$24,510,699</b>	<b>\$15,809,401- \$24,510,699</b>	<b>\$15,809,401- \$24,510,699</b>

## FISCAL ANALYSIS

### ASSUMPTION

Due to time constraints of 15 days from the introduction of this bill to hearing (including a holiday), **Oversight** assumes some agencies may not have had time to adequately collect, evaluate, and formulate all of the information that should have been included in their response to the fiscal note request. As a result, Oversight likewise has had limited time to perform analysis and review of the information provided. Therefore, Oversight has presented this fiscal note on the best information available. Upon the receipt of any additional information, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

### §143.121 – Medical and recreation marijuana expense deduction

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.

#### §143.2200 – Deduction of denied license

**DOR** officials state this provision would allow a deduction from Missouri adjusted gross income of the amount of a license application fee paid under the medical marijuana laws, if the applicant was denied the issuance of a medical marijuana license. This provision says it is effective with tax years starting January 1, 2023.

This provision is a part of a proposal that is establishing recreational cannabis for all over the age of 21. These recreational cannabis laws do not have limits on the number of establishments that can grow or sell marijuana and it appears a license will only be denied for failure to file a complete application.

Under the current medical marijuana laws there were a limited number of licenses given, so businesses could apply and be denied. This provision appears to want to help those that applied for the medical marijuana licenses and were denied due to the limited number of licenses issued. The deduction authorized by §143.2200 begins to take effect for tax years beginning on or after January 1, 2023, and applies to amounts spent by the taxpayer on a denied license application “in a given tax year[,]” which presumably means the tax year for which the deduction is taken. The State appears to currently only be issuing transportation and seed-to-sale licenses at this point in time, while the “application period has closed for cultivation, testing, manufacturing and dispensary license[s]”. If that remains the situation in 2023 and beyond, the number of individuals that may financially benefit from this deduction – and in turn the fiscal impact of this aspect of the proposal – could be limited, although still potentially existent.

However, since this proposal does not start until tax years beginning on or after January 1, 2023, only those applying for the transportation and seed-to-sale licenses would be eligible for this deduction if they are denied the license. This could result in an unknown loss to general revenue.

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

§§191.255, 196.1176, 557.059, and 579.015 – Marijuana-related offenses/disclosure of information a felony

**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.

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 Corrections (DOC)** state FN 5400-011 (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
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
<b>Change (After Legislation - Current Law)</b>										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
<b>Population Change</b>	<b>3</b>	<b>6</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>

§196.1173 – Dealer disclosures/sales

The portion of the bill that adds a Class D misdemeanor will have no impact to the department since misdemeanors fall outside DOC’s purview.

§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 or 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
<b>New Admissions</b>										
Current Law	25	25	25	25	25	25	25	25	25	25
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Probation</b>										
Current Law	354	354	354	354	354	354	354	354	354	354
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions	-25	-25	-25	-25	-25	-25	-25	-25	-25	-25
Probations	-354	-354	-354	-354	-354	-354	-354	-354	-354	-354
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
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
<b>Population Change</b>	<b>-379</b>	<b>-758</b>	<b>-1,137</b>	<b>-1,162</b>	<b>-1,187</b>	<b>-1,205</b>	<b>-1,205</b>	<b>-1,205</b>	<b>-1,205</b>	<b>-1,205</b>

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
<b>New Admissions</b>										
Current Law	52	25	25	25	25	25	25	25	25	25
After Legislation	1	1	1	1	1	1	1	1	1	1
<b>Probation</b>										
Current Law	919	354	354	354	354	354	354	354	354	354
After Legislation	2	2	2	2	2	2	2	2	2	2
<b>Change (After Legislation - Current Law)</b>										
Admissions	-51	-24	-24	-24	-24	-24	-24	-24	-24	-24
Probations	-917	-352	-352	-352	-352	-352	-352	-352	-352	-352
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
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
<b>Population Change</b>	<b>-968</b>	<b>-752</b>	<b>-1,128</b>	<b>-1,153</b>	<b>-1,178</b>	<b>-1,196</b>	<b>-1,196</b>	<b>-1,196</b>	<b>-1,196</b>	<b>-1,196</b>

\* 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 <b>prison</b>	Change in probation & parole officers	Total savings for <b>probation and parole</b>	# 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.

§§195.006, 195.017 and 195.815 – Recreational cannabis/background checks

Officials from the **Department of Health and Senior Services (DHSS)** state §195.815 proposed changes would have minimal impact to DHSS’ Section for Medical Marijuana Regulations (SMMR) processes regarding criminal background checks.

**Oversight** does not have any information to the contrary. Oversight assumes the DHSS has sufficient staff and resources to absorb the minimal additional responsibilities required by this proposal and will reflect no fiscal impact for this section for DHSS.

§196.1173 – Labeling of cannabis

**DOR** officials state this provision would designate cannabinoid oil product as a “food” under Section 196. Section 144.014.1 imposes a 1% state sales tax on the retail sale of food. Section 144.014.2 defines food as products for which SNAP benefits can be used. In order to be subject to the 1.225% food sales tax rate the food must be products and types of food for which food stamps may be redeemed pursuant to 7 U.S.C. Section 2012. Federal statutes do not include cannabinoid oil products as food and, therefore, these products would be subject to the 4.225% state sales tax rate.

Allowing additional products to be considered taxable will result in an increase of revenue to the state and local sales tax funds. The impact will be shown below in Section 196.3021 regarding the taxation of cannabis.

Officials from the **City of Kansas City** and the **Kansas City Firefighter's Pension System** both state the preemption provision would have a negative fiscal impact by prohibiting Kansas City from levying a tax.

**Oversight** does not have any information to the contrary. However, Oversight assumes the 4.03% (weighted average) of the special tax on sales of marijuana products collected and distributed by DOR to cities and counties would compensate the City of Kansas City for any taxes that could not be implemented because of the preemption provision in the proposal. Therefore, Oversight will present the increase from the special tax collected by DOR as the impact to local governments.

**Oversight** notes the provisions of §196.3021.3 provide that any excess moneys remaining the fund (Cannabis Freedom Fund) after all costs have been paid shall be divided equally between teachers' salaries, first responders' pensions, and the Missouri Veterans Commission. Any contributions from the Cannabis Freedom Fund to the Kansas City Firefighter's Pension System would help offset the pre-emption provision.

§§196.3000 – 196.3048 Cannabis Enforcement Authority (Missouri Department of Agriculture)

Officials from the **Missouri Department of Agriculture (MDA)** state this proposal will require the addition of seven (7) regional offices [St. Louis (163 FTE), Kansas City (115 FTE), Jefferson City (65 FTE), Springfield (22 FTE), Poplar Bluff/Cape Girardeau (22 FTE), St. Joseph (22 FTE), and Kirksville/Hannibal (22 FTE)] for 431 new FTEs. The estimated costs for rental space/ capital improvements is 431 FTE X 230 sq.ft. X \$18/sq.ft. (average) or \$1,784,340 annually.

MDA is a consolidated agency for ITSD purposes and ITSD will need to provide expertise in the selection and implementation of a seed-to-sale tracking system from an outside source. Contracted IT services are estimated to cost \$61,000,000 annually for an over-the-counter seed-to-sale tracking system and annual maintenance/updates to the system.

Set up of this program (cost of the legislation) is estimated to cost \$152,259,394 annually. It is expected at some time in the future the program will be supported by fees from the regulated entities. However, since the proposal does not provide upfront funding for program activities, MDA requests ten percent (10%) of the projected budget from General Revenue to initiate regulatory activities.

MDA officials state revenues for the recreational marijuana program would need to fully fund the program for years subsequent to the initial implementation. Year one would need to be fully funded by general revenue.

An estimated 5,474 marijuana retail facilities would be licensed; therefore, the license cost of \$28,807 per facility, per year, would need to be collected to fully fund this program in year two and years to follow.

Sales tax revenue would also be generated through this program. There is no way to estimate the sales tax revenue for the state of Missouri without knowing the established sales tax rate for recreational marijuana. (NOTE: See Sales Tax estimates provided by DOR beginning on page 14 of this fiscal note)

Based on the information provided by MDA, **Oversight** notes personnel service costs with fringe benefits for 431 FTE totals \$51,883,170 annually. Equipment and expense costs, including rent, professional services and contracted IT services, are estimated to cost \$100,467,224 annually (total of all costs = \$152,259,394). None of these costs include increases for inflation in subsequent years. Therefore, for fiscal note purposes, Oversight will present MDA costs as “likely to exceed” the amounts provided by MDA for all years after FY2023. Oversight also assumes that all expenses will be paid from the Cannabis Freedom Fund. It is assumed that General Revenue funds will be required to set up the program since no license fee revenue will have been collected while the program is being established. Oversight will show a transfer from General Revenue to the Cannabis Freedom Fund in an amount to cover costs.

**Oversight** further assumes that MDA will implement annual license fees in amounts for the various licensees necessary to cover the costs to operate the program. Oversight assumes the actual number of licenses for all businesses associated with selling legalized marijuana will be greater than the number assumed by MDA and that actual licensing fees per licensee will be lower, but the total fees collected will cover the cost of operating the program. However, for fiscal note purposes, Oversight assumes license/fee revenue of \$157,689,518 (5,474 retail facilities x \$28,807 license fee per facility) and unknown penalties beginning in FY2024.

**Oversight** notes the provisions of §196.3021.3 provide that any excess moneys remaining the fund (Cannabis Freedom Fund) after all costs have been paid shall be divided equally between teachers’ salaries, first responders’ pensions, and the Missouri Veterans Commission. Since it is unknown the amount of operating revenue MDA will need each year to fund operations, it is unknown what amount of funds remaining in the Cannabis Freedom Fund will be determined to be “excess moneys”. Therefore, for fiscal note purposes, Oversight will not show a transfer out of the fund for teachers’ salaries, first responders’ pensions or the Missouri Veterans Commission.

#### §196.3018 – Asset forfeiture

**DOR** officials state this provision would prohibit the use in Missouri of “asset or civil forfeiture” “in association with legal marijuana cultivation, use, sale, or possession.” It should be noted that DOR does use some of these legal mechanisms in order to ensure that taxpayers satisfy all their tax debt. Due to the vagueness of which mechanisms are no longer allowed, this

could fiscally impact the DOR's ability to collect outstanding tax debt. This could result in an unknown negative impact on the Department.

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

§196.3021 – Sale of marijuana for medical use

**DOR** officials state this provision sets the tax rate of 12% percent on marijuana sold for personal use and retains the 4% tax for medical use. The medical marijuana tax will continue to go into the Missouri Veteran's Health Care Fund while the new 12% 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 x 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 12%, the DOR estimates that \$42,031,373 would be collected and deposited into the Cannabis Freedom Fund.

$$\$645 * 12\% = \$77.40 \times 543,041 = \$42,031,373$$

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 \$47,765,886 would be collected and deposited into Cannabis Freedom Fund.

$$(\$645 / 88\% = \$733 \times 12\% = \$87.96 \times 543,041 = \$47,765,886)$$

DOR estimates the fiscal impact as \$42,031,373 to \$47,765,886 once fully implemented in FY 2025.

Special Tax- High Amount

If the \$1,000 included tax (assumed at 12 percent), the DOR estimates that \$65,164,920 would be collected and deposited into the Cannabis Freedom Fund. ( $\$1,000 \times 12\% = \$120 \times 543,041$ )

If the \$1,000 does not include tax, the DOR estimates that \$74,027,349 would be collected and deposited into Cannabis Freedom Fund. ( $\$1,000 / 88\% = \$1,136 \times 12\% = \$136.32 \times 543,041$ )

DOR estimates the fiscal impact as \$65,164,920 to \$74,027,349 once fully implemented in FY 2025.

FY 2023(9 months)		FY 2024			FY 2025	
Low	High	Low	High	Low	High	
\$31,523,530	\$55,520,512	\$42,031,373	\$74,027,349	\$42,031,373	\$74,027,349	

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 would expect the purchase price would be \$722.40 (\$645 + \$77.40 special tax) on the low end, and total sales would equal **\$392,292,818** ( $\$722.40 \times 543,041$ ). Therefore, the total state sales tax collected would be **\$16,574,372** ( $\$392,292,818 \times 4.225\%$  state sales tax rate).

Fund	Full Year Low Impact
General Revenue (3%)	\$11,768,785
School District Trust (1%)	\$3,922,928
Conservation Commission (0.125%)	\$490,366
Park, Soil & Water (0.1%)	\$392,293
Local (4.03% weighted)	\$15,809,401

The high end estimate is expected to generate total sales of \$608,205,920 [(\$1,000 spending + \$120 special tax) x 543,041]. This would generate state sales tax of \$25,696,700.

Fund	Full Year Low Impact
General Revenue (3%)	\$18,506,837
School District Trust (1%)	\$6,168,946
Conservation Commission (0.125%)	\$771,118
Park, Soil & Water (0.1%)	\$616,895
Local (4.03% weighted)	\$24,510,699

So the potential impact from the sales tax is:

Fund	FY 2023 (9 mo. collection)	FY 2024 +
General Revenue	\$8,826,589 - \$13,880,128	\$11,768,785 - \$18,506,837
School District Trust	\$2,942,196 - \$4,626,709	\$3,922,928 - \$6,168,946
Conservation Commission	\$367,774 - \$578,338	\$490,366 - \$771,118
Park, Soil & Water	\$294,220 - \$462,671	\$392,293 - \$616,895
Locals	\$11,857,051 - \$18,383,024	\$15,809,401 - \$24,510,699

**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 12% 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 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).

**DHSS** officials state section 196.3021.5: Sale of marijuana for medical use to licensed medical marijuana patients shall not be subject to any additional tax under the Cannabis Freedom Act. SMMR does not anticipate any reduction/increase in tax revenue to the Veterans' Health and Care Fund based on the proposed language.

**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 DHSS.

#### §196.3036 – Marijuana licenses

**DHSS** officials state section 196.3036: Entities may concurrently apply for both adult use and medical marijuana licenses. SMMR does not anticipate this provision will require changes to the processes or application requirements of medical marijuana licensees. In the event SMMR accepts applications for medical marijuana licenses, it will need to collaborate with the Cannabis Enforcement Agency to ensure entities applying for adult use are aware they can apply for medical marijuana licenses at the same time.

For fiscal note purposes DHSS discussed with Legislative Oversight that “Department” and “Authority” in the proposed legislation related to adult use is the Department of Agriculture. DHSS, SMMR will need to collaborate with the Cannabis Enforcement Agency to coordinate regulatory processes when entities are licensed as both adult use and medical marijuana facilities. The department anticipates being able to absorb these costs.

**Oversight** does not have any information to the contrary. Oversight assumes the DHSS has sufficient staff and resources to absorb the minimal additional responsibilities required by this proposal and will reflect no fiscal impact for this section of the proposal for DHSS.

**DOR** officials state §§196.3024 – 196.3036 and §§196.3042 – 196.3048 are about the use of cannabis and licensing of cannabis facilities. These section 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.

§196.3039 – Statewide hospitality license

**DOR** officials state this provision allows certain businesses (bars and restaurants) to apply for and receive a “hospitality business license” to sell cannabis or cannabis products for consumption on their premises or a catering business to sell cannabis or cannabis products at a private event. This new license will not impact the collection of sales and excise taxes for the sale of cannabis and cannabis products because all the hospitality license does is alert the authority that businesses other than cannabis dispensaries will be selling cannabis at retail. These other businesses would be required to collect the sales and excise tax if they sell cannabis.

**Oversight** does not have any information to the contrary. Oversight assumes any impact to DOR is being reflected in their response to §196.3021.

§§362.003 – 370.070 – Cannabis businesses and financial institutions

**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 for the DOR.

§487.205 – Family court decisions

**DOR** officials state this provision does not allow a family court to consider cannabis use by a person over the age of 21 when making decisions. This section is 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 this section of the proposal for the DOR.

§§544.186, 577.059 & 610.135 – Expungement of cannabis convictions

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.

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.

Sections 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.

#### Bill as a whole

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

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 and 196.1173.8(2)] 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 Elementary and Secondary Education**, the **Department of Mental Health**, the **Department of Labor and Industrial Relations** the **Department of Social Services**, the **Missouri Department of Transportation**, the **University of Missouri System**, the **City of Claycomo**, the **Newton 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 **Rock Community Fire Department Retirement Plan**, the **Sheriff's Retirement System**, the **Spanish Lake Fire Department Retirement Plan**, the **St. Joseph Policemen's Pension Fund**, the **Hermann Area Hospital District**, **Missouri State University**, **St. Charles Community College**, the **Office of the State Treasurer** and the **State Tax Commission** 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.

Officials from the **Department of Natural Resources** defer to the Department of Revenue for response regarding the fiscal impact of this proposal on their organization.

#### 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.

Officials from the **Office of Administration - Budget and Planning** and the **Office of the State Courts Administrator** did not respond to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
<b>GENERAL REVENUE FUND</b>				
<u>Income – DOR</u> (§196.3021) – sales tax on recreational cannabis p. 14-17	\$8,826,589- \$13,880,128	\$11,768,785- \$18,506,837	\$11,768,785- \$18,506,837	\$11,768,785- \$18,506,837
<u>Transfer-out – to Cannabis Freedom Fund for MDA initial program costs p. 12-13</u>	(\$96,738,882 - \$120,735,864)	\$0	\$0	\$0
<u>Revenue reduction – DOR (§143.121) – marijuana business deductions p. 4</u>	(Unknown)	(Unknown)	(Unknown)	(Unknown)
<u>Revenue loss – DOR</u> (§143.2200) – refunds for denied marijuana licenses p. 5	(Unknown)	(Unknown)	(Unknown)	(Unknown)
<u>Reduction in tax collections – DOR</u> (§195.255) – non- disclosure of info to IRS p. 6	(Unknown)	(Unknown)	(Unknown)	(Unknown)

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
<b>GENERAL REVENUE FUND</b> (continued)				
<u>Savings – DOC</u> (§§191.255, 557.059, & 579.015) p. 7-11				
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. 6	Less than \$250,000	Less than \$250,000	Less than \$250,000	Less than \$250,000
<u>Costs – DOR</u> (§196.3021) p. 16-17				
Personal service	(\$101,523)	(\$123,601)	(\$125,403)	(\$129,202)
Fringe benefits	(\$81,042)	(\$97,817)	(\$98,394)	(\$99,615)
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>(\$449,669)</u>	<u>(\$474,016)</u>	<u>(\$482,709)</u>	<u>(\$507,637)</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)
<b>GENERAL REVENUE FUND (continued)</b>				
<u>Loss – DOR</u> (§196.3018) – reduction in asset forfeiture collections p. 13	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>Unknown, greater than (\$87,035,279)</u></b>	<b><u>Unknown, less than \$19,342,075</u></b>	<b><u>Unknown, less than \$19,972,657</u></b>	<b><u>Unknown, less than \$20,172,215</u></b>
Estimated Net FTE Change on the General Revenue Fund	-13 FTE	-9 FTE	-16 FTE	-16 FTE
<b>CANNABIS FREEDOM FUND</b>				
<u>Income – DOR</u> (§196.3021) – 12% recreational cannabis tax p. 14-17	\$31,523,530- \$55,520,512	\$42,031,373- \$74,027,349	\$42,031,373- \$74,027,349	\$42,031,373- \$74,027,349
<u>Income – MDA</u> (§§196.3000 – 196.3048 – Licensing fees, fines and penalties p. 12-13	\$0	Unknown exceeding \$157,689,518	Unknown exceeding \$157,689,518	Unknown exceeding \$157,689,518
<u>Transfer-in – from General Revenue - to cover MDC program costs p. 12-13</u>	\$96,738,882 - \$120,735,864	\$0	\$0	\$0

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
<b>CANNABIS FREEDOM FUND</b> (continued)				
<u>Costs – MDA</u> (§§196.3000 – 196.3048 (Cannabis enforcement authority) p. 12-13)		Likely to exceed...	Likely to exceed...	Likely to exceed...
Personal service	(\$33,898,948)	(\$33,898,948)	(\$33,898,948)	(\$33,898,948)
Fringe benefits	(\$17,893,222)	(\$17,893,222)	(\$17,893,222)	(\$17,893,222)
Professional services (including seed-to-sale contracted IT services)	(\$68,500,000)	(\$68,500,000)	(\$68,500,000)	(\$68,500,000)
Equipment and expense (including rent and vehicle purchases)	(\$31,967,224)	(\$31,967,224)	(\$31,967,224)	(\$31,967,224)
<u>Total Costs – MDA</u>	<u>(\$152,259,394)</u>	<u>Likely to exceed (\$152,259,394)</u>	<u>Likely to exceed (\$152,259,394)</u>	<u>Likely to exceed (\$152,259,394)</u>
FTE Change – MDA	431 FTE	431 FTE	431 FTE	431 FTE
<b>ESTIMATED NET EFFECT ON THE CANNABIS FREEDOM FUND</b>	<b><u>\$0</u></b>	<b><u>Less than \$47,461,497 to \$79,457,473</u></b>	<b><u>Less than \$47,461,497 to \$79,457,473</u></b>	<b><u>Less than \$47,461,497 to \$79,457,473</u></b>
Estimated Net FTE Change on the Cannabis Freedom Fund	431 FTE	431 FTE	431 FTE	431 FTE



<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
<b>PARK, SOIL &amp; WATER FUND</b>				
<u>Income</u> – DOR (§196.3021) – sales tax on recreational cannabis p. 16	\$294,220 to \$462,671	\$392,293 to \$616,895	\$392,293 to \$616,895	\$392,293 to \$616,895
<b>ESTIMATED NET EFFECT ON THE PARK, SOIL &amp; WATER FUND</b>	<b><u>\$294,220 to \$462,671</u></b>	<b><u>\$392,293 to \$616,895</u></b>	<b><u>\$392,293 to \$616,895</u></b>	<b><u>\$392,293 to \$616,895</u></b>
<b>HIGHWAY FUND (0644)</b>				
<u>Costs</u> – DPS, MHP (§§544.186, 577.059 & 610.135)	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	(\$22,318)	(\$5,843)	(\$5,988)	(\$6,448)
<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
<b>ESTIMATED NET EFFECT ON THE HIGHWAY FUND</b>	<b><u>(Up to \$397,549)</u></b>	<b><u>(Up to \$460,624)</u></b>	<b><u>(Up to \$465,315)</u></b>	<b><u>(Up to \$479,694)</u></b>
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)
<b>LOCAL GOVERNMENTS – CITIES AND COUNTIES</b>				
<u>Income</u> – Cities and Counties (\$196.3021) – sales tax on recreational cannabis p. 16	\$11,857,051 to \$18,383,024	\$15,809,401 to \$24,510,699	\$15,809,401 to \$24,510,699	\$15,809,401 to \$24,510,699
<b>ESTIMATED NET EFFECT ON CITIES AND COUNTIES</b>	<b><u>\$11,857,051</u></b> <b>to</b> <b><u>\$18,383,024</u></b>	<b><u>\$15,809,401</u></b> <b>to</b> <b><u>\$24,510,699</u></b>	<b><u>\$15,809,401</u></b> <b>to</b> <b><u>\$24,510,699</u></b>	<b><u>\$15,809,401</u></b> <b>to</b> <b><u>\$24,510,699</u></b>

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).

For all tax years beginning on or after January 1, 2023, in addition to other deductions allowed by law, a qualified taxpayer, as defined under the bill, may deduct from their Missouri adjusted gross income an amount equal to the amount spent in a given year on a license application fee required under medical cannabis provisions of the Constitution of Missouri. The Department of Revenue shall promulgate all necessary rules and regulations for the administration of this section. This deduction shall sunset six years after the effective date of this bill (§ 143.2200).

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 provides that only employees, contractors, owners, and volunteers of medical marijuana facilities or facilities subject to the Cannabis Enforcement Authority shall be subject to such fingerprinting. This bill provides a definition of contractor for purposes of the provisions of this section (§195.815).

This section establishes the "Cannabinoid Product Labeling Act" and provides that the General Assembly occupies and preempts the field of cannabinoid oil products regulation to the full exclusion of any order, ordinance, or regulation of any political subdivision of the state, with any existing or future orders, ordinances, or regulations becoming void. The bill shall not apply to any hemp extract for which a registration card has been issued under §§192.945 to 192.947 or §195.207.

This section requires cannabinoid oil products to be labeled and include necessary information, as described in the section. This section specifies that a dealer must not prepare or sell a cannabinoid oil product that is adulterated with a dangerous substance and a such product must only be sold to a person over the age of 21 (§196.1173).

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 12 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.

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 12%. 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 equally between teachers' salaries, first responders' pensions, and the Missouri Veterans Commission. 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 Agriculture. 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, marijuana retailers, marijuana sellers, and marijuana transporters. Grower, processor, retailer, and transporter prospective licensees must first apply for a temporary marijuana business license prior to issuance of an annual license. Such temporary license shall be valid for 180 days, subject to extension, and shall not obligate the Authority to issue 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.

In addition to these general requirements, these provisions also provide for additional requirements for applicants for temporary licenses or renewal of annual licenses. 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 temporary or annual 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 \$25. 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.

An entity holding a medical marijuana business license issued by the Department of Health and Senior Services may only apply for a marijuana business license under the provisions of this bill after August 28, 2024. Thereafter, an entity may concurrently submit an application to obtain a license for a medical marijuana dispensary facility and license for a marijuana business. The Authority shall by rule create a statewide hospitality business license allowing a business, as described in the bill, to sell marijuana or marijuana products at a private event. The Authority shall maintain a list of businesses licensed under these provisions. Such businesses shall submit an application to the Authority with a fee in a form and manner as determined by the Authority. This license shall be valid for two years. Any business that does not have a hospitality business license that knowingly allows guests to consume marijuana on its premises, or a licensed hospitality business that does not comply with the requirements under these provisions, shall be subject to fines and penalties as provided for in the bill.



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 196.0348).

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).

A family court participant shall not be required to refrain from using marijuana or consuming marijuana in accordance with the provisions of this bill or in accordance with Article XIV, Section 1 of the Constitution of Missouri as a term or condition of successful completion of the family court program. A family court participant who is a qualified patient with a valid medical marijuana certification or who uses or consumes marijuana in accordance with the provisions of this bill shall not be in violation of the terms or conditions of the family court on the basis of his or her participation in Missouri's medical marijuana program (§487.205).

The odor of marijuana alone shall not provide a law enforcement officer with probable cause to conduct a warrantless search of a motor vehicle, home, or other private property (§ 544.186).

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.

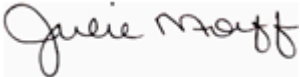
SOURCES OF INFORMATION

Attorney General's Office  
Department of Commerce and Insurance  
Department of Elementary and Secondary Education  
Department of Health and Senior Services  
Department of Mental Health  
Department of Natural Resources  
Department of Labor and Industrial Relations  
Department of Corrections  
Department of Revenue  
Department of Public Safety –  
    Missouri Highway Patrol  
    Missouri Veterans Commission  
Department of Social Services  
Missouri Department of Agriculture  
Missouri Department of Transportation  
Office of the Secretary of State  
Office of the State Public Defender  
University of Missouri System  
City of Claycomo  
City of Kansas City  
Newton 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  
Rock Community Fire Department Retirement Plan  
Sheriff's Retirement System  
Spanish Lake Fire Department Retirement Plan  
St. Joseph Policemen's Pension Fund  
Hermann Area Hospital District  
Missouri State University  
University of Central Missouri  
St. Charles Community College  
Office of the State Treasurer  
Joint Committee on Administrative Rules  
Missouri Office of Prosecution Services  
State Tax Commission


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NOT RESPONDING

Office of Administration - Budget and Planning  
Office of the State Courts Administrator



Julie Morff  
Director  
March 7, 2022



Ross Strobe  
Assistant Director  
March 7, 2022