

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 85 - SB 168**

April 10, 2023

**SUMMARY OF BILL:** Enacts the *Free All Cannabis for Tennesseans Act* (Act). Authorizes the possession and transport of marijuana or marijuana concentrate, in permitted amounts, for adults who are at least 21 years of age (adults). Authorizes transfer of marijuana or marijuana concentrate between adults, in permitted amounts, without remuneration. Authorizes cultivation of up to 12 marijuana plants for adults. Authorizes the possession, storage, and processing of marijuana on an adult's residence, in permitted amounts. Authorizes a parent, guardian, or conservator to administer a marijuana product, excluding any combustible product, to a minor, over whom the parent, guardian, or conservator has legal authority.

Requires the Department of Health (DOH) to provide on the Department's website a form that, upon execution by a parent, guardian, or conservator, after consultation with a healthcare practitioner, creates a rebuttable presumption that the minor has a medical condition for which the use of marijuana is treatment for any such condition.

Establishes various areas and instances in which possession or consumption of marijuana or marijuana products are prohibited.

Establishes various offenses against possession, consumption, or processing of marijuana, or selling, giving, or causing marijuana to be sold or given to a minor. Establishes that a first, second, or third offense is a Class C misdemeanor, and a fourth or subsequent offense is a Class A misdemeanor. Any offense by a licensee is punishable by a revocation of licensure for a period of two years.

Establishes licenses for growers, processors, dispensaries, transporters, testing facilities, and research facilities. Establishes requirements for applicants to such licenses and for approved licensees.

Requires the Department of Agriculture (TDA) to implement and administer this program. The TDA must promulgate rules to effectuate this Act. Such rules must include establishing application and license fees sufficient to implement this Act; however, such fees are authorized to be adjusted annually for inflation. Requires the TDA, in conjunction with the DOH to promulgate rules regarding the involvement of the state in sanctioning research projects or licensing marijuana research facilities, including a process by which marijuana research facilities may request and receive public money for research projects. Authorizes the DOH to promulgate rules and forms necessary to facilitate a medical use component. Requires the TDA to annually provide report to the Governor and chief clerks of the Senate and the House of Representatives regarding the licensing and regulation under this Act.

Establishes that the sale of marijuana and marijuana products are subject to the state and local sales and use tax, as well as an additional 15 percent marijuana tax. Establishes that local governments can impose a local sales tax on such sales, not to exceed 5 percent of the price of the products sold, of which proceeds shall be distributed identical to the existing local sales and use tax. The proceeds of the 15 percent tax shall be allocated as follows:

- 50 percent to the TDA for:
  - Administration and enforcement of this Act;
  - Education and marketing programs related to the promotion and implementation of this Act, including public safety campaigns; and
  - Grant initiatives focused on economic development and power infrastructure in tier 3 and tier 4 enhancement counties.
- 20 percent to the Department of Safety (DOS), for:
  - Training and education of law enforcement agencies and officers with regard to state cannabis-related laws;
  - The support of law enforcement officers injured in the line of duty; and
  - The support of families of law enforcement officer killed in the line of duty.
- 20 percent to State Employee Legacy Pension Stabilization Reserve Trust.
- 5 percent to the Department of Education (DOE) for education programs for elementary and secondary students regarding age restrictions for marijuana use and potential health and legal risks for improper or underage use of marijuana.
- 5 percent to the Department of Revenue (DOR) for administrative costs incurred pursuant to this Act, including collection and enforcement costs.

Establishes the following state sales and use tax exemptions:

- A marijuana grower is entitled to a refund of 25 percent of the sales and use tax levied on supplies and materials purchased from a business located in this state and used for the cultivation of marijuana;
- A marijuana processor is entitled to a refund of 25 percent of the sales and use tax levied on supplies and materials purchased from a business located in this state and used for the manufacture or processing of marijuana and production of marijuana products; and
- A marijuana dispensary is entitled to a refund of 25 percent of the sales and use tax levied on supplies and materials purchased from a business located in this state and used for the dispensing and retail sale of marijuana and marijuana products.

To receive any of the immediately preceding refunds, a marijuana establishment is required to submit a form prescribed by the DOR, in addition to any documentation the DOR may require.

Prohibits a political subdivision of the state from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation which prohibits or unreasonably restricts the cultivation, production, manufacture, dispensing, transportation, or possession of marijuana or marijuana products or the operation of a licensed grower, processor, dispensary, transporter, research facility, or testing facility.

Authorizes a political subdivision of this state to adopt regulations governing the hours, operation, location, manner of conducting business, and number of marijuana dispensaries; provided, such regulations are prohibited from being more restrictive than those that apply to retail package stores (liquor stores).

Authorizes a county or municipality to ban the sale of marijuana or marijuana products by marijuana establishments within its jurisdiction upon a two-thirds vote of the respective legislative body; however, the initial vote on a local ban must occur no later than September 30, 2023. Any such ban expires one year from the ban’s effective date and must be renewed by another two-thirds vote. Stipulates that any county or municipality who bans the sale, cultivation, or manufacture of marijuana or marijuana products within its jurisdiction is disqualified from receiving any grant funds authorized by this Act while such ban is in effect.

Establishes that a person’s bail, parole, probation, or suspended sentence shall not be revoked based solely on a positive confirmatory urine drug test conducted via a gas chromatography mass spectrum test for delta-9 tetrahydrocannabinol (THC).

Prohibits any person from being required to receive a referral to a treatment resource or be prohibited from receiving public assistance based solely on a positive confirmatory urine drug test conducted via a gas chromatography mass spectrum test for delta-9 THC. “Public assistance,” in this context includes, but is not limited to, assistance from the Special Supplemental Food Program for Women, Infants, and Children (WIC), Temporary Assistance for Needy Families (TANF), Medicaid, the Supplemental Nutrition Assistance Program (SNAP), and other public assistance or welfare programs under Tennessee Code Annotated Title 71.

Requires the Department of Correction (DOC) to review the records of persons who are incarcerated in this state for the cultivation, manufacture, delivery, sale, possession, or transfer of marijuana under Tennessee Code Annotated, § 39-17-417 or § 39-17-418. The department shall identify and list persons incarcerated for such offenses and include information as to whether the person was also convicted of a felony offense involving violence or the use of a firearm or a felony drug offense for a controlled substance other than marijuana. The department shall provide the list to the Governor and the Speakers of the House of Representatives and the Senate by December 31, 2023.

Effective, for the purposes of promulgating rules and forms and initiating local bans and for DOC to review records, identify, and list persons incarcerated, upon becoming a law. Effective, for all other purposes, January 1, 2024.

## **FISCAL IMPACT:**

**Increase State Revenue –**

**Net Impact - \$65,256,000/FY24-25/General Fund**

**\$134,742,400/FY25-26/General Fund**

**\$134,782,400/FY26-27/General Fund**

**\$134,955,200/FY27-28 and Subsequent Years/General Fund**

**\$63,454,600/FY24-25/Department of Agriculture  
\$126,909,200/FY25-26 and Subsequent Years/  
Department of Agriculture**

**\$25,381,800/FY24-25/Department of Safety  
\$50,763,700/FY25-26 and Subsequent Years/  
Department of Safety**

**\$25,381,800/FY24-25/  
State Employee Legacy Pension Stabilization Reserve Trust  
\$50,763,700/FY25-26 and Subsequent Years/  
State Employee Legacy Pension Stabilization Reserve Trust**

**\$6,345,500/FY24-25/Department of Education  
\$12,690,900/FY25-26 and Subsequent Years/  
Department of Education**

**\$6,345,500/FY24-25/Department of Revenue  
\$12,690,900/FY25-26 and Subsequent Years/  
Department of Revenue**

**\$600/Each FY24-25 through FY26-27/Department of State  
\$200/FY27-28 and Subsequent Years/Department of State**

**Increase State Expenditures – \$232,300/FY24-25/Department of Revenue  
\$223,900/FY25-26 and Subsequent Years/  
Department of Revenue**

**\$1,713,900/FY24-25/Department of Agriculture  
\$785,900/FY25-26 and Subsequent Years/  
Department of Agriculture**

**Decrease State Expenditures - \$71,100/FY23-24/Incarceration  
\$143,500/FY24-25/Incarceration  
\$144,900/FY25-26 and Subsequent Years/Incarceration**

**Increase Local Revenue – Net Impact –  
\$65,486,600/FY24-25  
\$131,083,400/Each FY25-26 through FY26-27  
\$131,166,000/FY27-28 and Subsequent Years**

**Decrease Local Expenditures - \$10,525,800/FY23-24  
\$21,051,600/FY24-25 and Subsequent Years**

**Other Fiscal Impact – Decreases in incarceration expenditures will continue through FY32-33. Exact amounts of annual decreases over the next 10 years are included below. Additionally, this legislation could result in reduced expenditures for incarceration at the state and local level, and increased expenditures at the state and local for additional public benefits; however, due to multiple unknown variables, any such impacts cannot be reasonably determined at this time.**

Assumptions:

*A) Licensing Revenue for Marijuana Establishments:*

- Sales of medical cannabis will begin on January 1, 2025.
- Marijuana establishments will include: growers, processors, dispensaries, transporters, testing facilities, and research facilities.
- All such establishments will need to become licensed prior to January 1, 2025. It is assumed that such establishments will become licensed in FY24-25.
- The number of each separate type of establishment which will become licensed is unknown.
- The number of estimated licensed marijuana establishments by fiscal year:
  - FY24-25: 200 marijuana establishments;
  - FY25-26: 400 marijuana establishments (200 existing + 200 new);
  - FY26-27: 600 marijuana establishments (400 existing + 200 new);
  - FY27-28 and subsequent years: 600 marijuana establishments (550 existing + 50 new).
- For purposes of this fiscal note, it is assumed that the total number of licensed marijuana establishments will remain constant in FY27-28 and into perpetuity. Furthermore, in FY27-28 and subsequent years it is assumed that approximately 50 existing locations will cease operation and 50 new marijuana establishments will join the market.
- The TDA is required to set application and licensing fees in amounts sufficient to administer this new program and such fees may be adjusted annually for inflation. For purposes of this note, it is assumed that the amount of tax revenue received by TDA for administration and enforcement plays a factor in the setting of these fees, thereby such fees will not need to solely cover all expenditures incurred by TDA in administering this Act. It is assumed that all application and licensing fee revenue will be allocated to the General Fund and allocated to the TDA for administration and enforcement of this Act.
- It is assumed that marijuana establishments will pay a one-time nonrefundable application fee of \$100 and an annual licensing fee of \$200.
- An increase in state revenue to the General Fund in FY24-25 of \$60,000 [200 x (\$100 + \$200)].
- An increase in state revenue to the General Fund in FY25-26 of \$100,000 {(200 x \$200) + [200 x (\$100 + \$200)]}.
- An increase in state revenue to the General Fund in FY26-27 of \$140,000 {(400 x \$200) + [200 x (\$100 + \$200)]}.
- An increase in state revenue to the General Fund in FY27-28 and subsequent years of \$125,000 {(550 x \$200) + [50 x (\$100 + \$200)]}.

*B) Business Charters:*

- All marijuana establishments will be required to file a business charter with the Secretary of State's Office.
- The business charter fee is one-time at \$100.
- The number of new marijuana establishments by fiscal year:
  - FY24-25: 200 marijuana establishments;
  - FY25-26: 200 marijuana establishments;
  - FY26-27: 200 marijuana establishments;
  - FY27-28 and subsequent years: 50 marijuana establishments.
- The resulting increase in state revenue is estimated to be \$20,000 in FY23-24 through FY26-27 (200 x \$100) and \$5,000 in FY27-28 and subsequent years (50 x \$100).
- Revenue from charter fees is allocated 97 percent to the General Fund, and three percent to the Secretary of State's Office.
- The increase in state revenue to the General Fund is estimated to be \$19,400 in FY24-25 through FY26-27 (\$20,000 x 97%) and \$4,850 in FY27-28 and subsequent years (\$5,000 x 97%).
- The increase in state revenue to the Secretary of State's Office is estimated to be \$600 in FY24-25 through FY26-27 (\$20,000 x 3%) and \$150 in FY27-28 and subsequent years (\$5,000 x 3%).

*C) Tax Revenue:*

*(i) FY24-25 Tax Revenue:*

- The state of Oregon collects a 17 percent tax on recreational sales of marijuana.
- In 2021, Oregon collected \$176,370,910 from this sales tax, thereby total sales were \$1,037,475,941 ( $\$176,370,910 / 17\%$ ).
- Based on the 2020 Census, Oregon had a population of approximately 4,237,256.
- Tennessee had a population of 6,910,840, an approximate increase in population relative to Oregon's population of 63.1 percent ( $(6,910,840 - 4,237,256) / 4,237,256$ ).
- Tennessee is estimated to have annual sales of \$1,692,123,260 ( $\$1,037,475,941 \times 1.631$ ).
- Oregon is a home rule state, allowing local governments authority to enact their own system of governance, unless preempted by state law.
- Many local governments in Oregon ban the sale of marijuana. The above state sales tax figures for Oregon accounts for such bans.
- This legislation will allow local legislative bodies the authority to opt out of allowing marijuana establishments by a two-thirds vote.
- Due to the fact that Oregon has a much lesser population than Tennessee and its land area (98,466 sq. miles) is much greater than that of Tennessee (42,181 sq. miles), it is assumed that the impact of any such ban in Tennessee will be mitigated, as a resident in a banning jurisdiction in Tennessee would likely be within a reasonable proximity to a jurisdiction which allows such sales. Additionally, there will be significant sales in this state to residents of other states, including residents of border states and tourists from outlying states.
- Such recreational sales will be subject to the state and local sales and use tax.

- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- Additionally, this legislation imposes a 15 percent state marijuana tax on such sales and an optional local tax of up to 5 percent.
- It is assumed that cannabis sales will effectively begin on January 1, 2025; therefore, sales of cannabis in FY24-25 are estimated to be equal to one-half of one year of estimated sales.
- Retail sales of medical cannabis in FY24-25 will be \$846,061,630 ( $\$1,692,123,260 \times 50\%$ ).
- An increase in state sales tax revenue to the General Fund in FY24-25 of \$57,082,171 [ $(\$846,061,630 \times 7.0\%) - (\$846,061,630 \times 7.0\% \times 3.617\%)$ ].
- An increase in local sales tax revenue in FY24-25 of \$23,293,684 [ $(\$846,061,630 \times 2.5\%) + (\$846,061,630 \times 7.0\% \times 3.617\%)$ ].
- It is assumed that companies within the industry pay taxes on average net profit of 15 percent. The net profit on which excise tax would be paid is \$126,909,245 ( $\$846,061,630 \times 15\%$ ).
- The state excise tax rate is 6.5 percent. An increase in state revenue attributable to excise tax collections in FY24-25 will be \$8,249,101 to the General Fund ( $\$126,909,245 \times 6.5\%$ ).
- Net worth of these companies is estimated to be equivalent to annual sales ( $\$846,061,630$ ). The franchise tax rate is \$0.25 per \$100 of value, so the increase in state revenue attributable to franchise tax collections in FY24-25 will be \$2,115,154 to the General Fund [ $(\$846,061,630 / \$100) \times \$0.25$ ].
- This legislation establishes state marijuana tax of 15 percent on sales of medical cannabis and authorizes a local option sales tax not to 5 percent.
- Additional tax revenue in FY24-25 of \$126,909,245 ( $\$846,061,630 \times 15\%$ ), allocated as follows:
  - \$63,454,623 to the Department of Agriculture ( $\$126,909,245 \times 50\%$ ).
  - \$25,381,849 to the Department of Safety ( $\$126,909,245 \times 20\%$ );
  - \$25,381,849 to the State Employee Legacy Pension Stabilization Reserve Trust ( $\$126,909,245 \times 20\%$ );
  - \$6,345,462 to the Department of Education ( $\$126,909,245 \times 5\%$ ); and
  - \$6,345,462 to the Department of Revenue ( $\$126,909,245 \times 5\%$ ).
- Local sales tax revenue in FY24-25 of \$42,303,082 ( $\$846,061,630 \times 5\%$ ).
- Total state sales tax revenue to the General Fund in FY24-25 of \$67,446,426 ( $\$57,082,171 + \$8,249,101 + \$2,115,154$ ).
- Total local tax revenue in FY24-25 of \$65,596,766 ( $\$23,293,684 + \$42,303,082$ ).

*(ii) FY25-26 and Subsequent Years Tax Revenue:*

- Retail sales of medical cannabis in FY25-26 and subsequent years will be \$1,692,123,260.
- An increase in state sales tax revenue to the General Fund in FY25-26 and subsequent years of \$114,164,341 [ $(\$1,692,123,260 \times 7.0\%) - (\$1,692,123,260 \times 7.0\% \times 3.617\%)$ ].

- An increase in local sales tax revenue in FY25-26 of \$46,587,369  $[(\$1,692,123,260 \times 2.5\%) + (\$1,692,123,260 \times 7.0\% \times 3.617\%)]$ .
- It is assumed that companies within the industry pay taxes on average net profit of 15 percent; the net profit on which excise tax would be paid is \$253,818,489  $(\$1,692,123,260 \times 15\%)$ . The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections in FY25-26 and subsequent years will be \$16,498,202 to the General Fund  $(\$253,818,489 \times 6.5\%)$ .
- Net worth of these companies is estimated to be equivalent to annual sales  $(\$1,692,123,260)$ . The franchise tax rate is \$0.25 per \$100 of value, so the increase in state revenue attributable to franchise tax collections in FY25-26 and subsequent years will be \$4,230,308 to the General Fund  $[(\$1,692,123,260 / \$100) \times \$0.25]$ .
- This legislation establishes state marijuana tax of 15 percent on sales of medical cannabis and authorizes a local option sales tax not to 5 percent.
- Additional marijuana tax revenue in FY25-26 and subsequent years of \$253,818,489  $(\$1,692,123,260 \times 15\%)$ , allocated as follows:
  - \$126,909,245 to the Department of Agriculture  $(\$253,818,489 \times 50\%)$ .
  - \$50,763,698 to the Department of Safety  $(\$253,818,489 \times 20\%)$ ;
  - \$50,763,698 to the State Employee Legacy Pension Stabilization Reserve Trust  $(\$253,818,489 \times 20\%)$ ;
  - \$12,690,924 to the Department of Education  $(\$253,818,489 \times 5\%)$ ; and
  - \$12,690,924 to the Department of Revenue  $(\$126,909,245 \times 5\%)$ .
- Local sales tax revenue in FY25-26 and subsequent years of \$84,606,163  $(\$1,692,123,260 \times 5\%)$ .
- Total state sales tax revenue to the General Fund in FY25-26 and subsequent years of \$134,892,851  $(\$114,164,341 + \$16,498,202 + \$4,230,308)$ .
- Total local tax revenue in FY25-26 and subsequent years of \$131,193,532  $(\$46,587,369 + \$84,606,163)$ .

*D) State and Local Sales Tax Refunds:*

- This legislation authorizes certain medical marijuana licensees to claim a refund of 25 percent of the sales and use tax levied on supplies and materials purchased from a business located in this state and used for the cultivation, processing, production, dispensing, and retail sale of marijuana.
- The amount of any such refund per business is unknown, but is reasonably assumed to equate to \$20,000 in purchases per each newly licensed marijuana establishment.
- A decrease in state sales tax revenue to the General Fund in FY24-25 through FY26-27, is estimated to be \$269,872  $\{[(\$20,000 \times 200 \text{ establishments}) \times 7.0\%] - [(\$20,000 \times 200 \text{ establishments}) \times 7.0\% \times 3.617\%]\}$ .
- A decrease in local sales tax revenue in FY24-25 through FY26-27, is estimated to be \$110,128  $\{[(\$20,000 \times 200 \text{ establishments}) \times 2.5\%] + [(\$20,000 \times 200 \text{ establishments}) \times 7.0\% \times 3.617\%]\}$ .
- A decrease in state sales tax revenue to the General Fund in FY27-28 and subsequent years is estimated to be \$67,468  $\{[(\$20,000 \times 50 \text{ establishments}) \times 7.0\%] - [(\$20,000 \times 50 \text{ establishments}) \times 7.0\% \times 3.617\%]\}$ .
- A decrease in local sales tax revenue in FY27-28, is estimated to be \$27,532  $\{[(\$20,000 \times 50 \text{ establishments}) \times 2.5\%] + [(\$20,000 \times 50 \text{ establishments}) \times 7.0\% \times 3.617\%]\}$ .



*E) Expenditures:*

*(i) Department of Revenue (DOR):*

- The DOR will require three additional Tax Auditor 3 position to audit tax returns submitted from marijuana establishments.
- It is assumed that this new position will be filled on July 1, 2024.
- There will be a recurring increase in state expenditures of \$231,432 [(\$59,700 salary + \$17,244 benefits + \$200 supplies) x 3 Tax Auditor 3 positions] in FY23-24 and subsequent years.
- There will be a one-time increase in state expenditures in FY23-24 of \$8,400 for computer-related costs and office furniture.
- An increase in state expenditures for the DOR in FY24-25 of \$240,242 (\$231,432 + \$8,400).
- An increase in state expenditures for the DOR in FY25-26 and subsequent years of \$231,432.

*(ii) Department of Agriculture (TDA):*

- It is assumed that the TDA will hire 1 Project Director, 2 Administrative Services Assistant-1 positions, 3 Agricultural Enforcement Officers, 3 Auditor-1 positions, and 1 Information Systems Analyst-2 position.
- There will be a recurring increase in state expenditures of \$651,335 {[((\$100,896 salary + \$24,083 benefits + \$200 supplies) x 1 Project Director position) + [(\$37,800 salary + \$13,609 benefits + \$200 supplies) x 2 Administrative Services Assistant-1 positions] + [(\$47,496 salary + \$15,218 benefits + \$200 supplies) x 3 Agricultural Enforcement Officers positions] + [(\$42,504 salary + \$14,390 benefits + \$200 supplies) x 3 Auditor-1 positions] + [(\$47,496 salary + \$15,218 benefits + \$200 supplies) x 1 Information Systems Analyst-2 position]} in FY23-24 subsequent years.
- A one-time increase in state expenditures in FY24-25 of \$28,000 [10 positions x (\$1,200 computer-related costs + \$1,600 office furniture)].
- In addition, this legislation will require the Commission to procure and utilize a secure, online system for patient registration and seed-to-sale tracking.
- Based on costs of similar tracking software, the cost to procure a system would cost at least \$1,000,000 with a recurring cost of at least \$100,000 per year in the second and subsequent years of use.
- An increase in state expenditures for the TDA in FY24-25 of \$1,679,335 (\$651,335 + \$28,000 + 1,000,000).
- A total increase in state expenditures for the TDA in FY25-26 and subsequent years of \$751,335 (\$651,335 + 100,000).

*F) Impact on Incarceration/State and Local Court Costs:*

- The proposed legislation will reduce convictions for simple possession involving an amount of marijuana less than one-half ounce.
- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 2,411 Class A misdemeanor convictions under Tenn. Code Ann. § 39-17-418 in each of the last five years.

- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 24,110 convictions (2,411 / 10%) per year for Class A misdemeanor violations of Tenn. Code Ann. § 39-17-418.
- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The proposed legislation will lead to a recurring mandatory decrease in local incarceration expenditures estimated to be \$21,051,647 (\$58.21 x 24,110) offenders x 15 days).
- This impact will take effect January 1, 2024; therefore, the first-year impact in FY23-24 will only be half of a full-year impact, or \$10,525,824 (\$21,051,647 x 50%).
- A recurring mandatory decrease in local incarceration expenditures in FY24-25 and subsequent years of \$21,051,647.
- Pursuant to Tenn. Code Ann. § 39-17-417(g)(1), the sale, manufacture, delivery of, and possession with intent to sell, manufacture, or deliver a Schedule VI controlled substance classified as marijuana containing not less than one half ounce nor more than ten pounds, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds of hashish is a Class E felony offense.
- Based on information provided by the Department of Correction (DOC), there has been an average of 137.8 admissions in each of the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-417(g).
- However, these admissions include a Schedule VI controlled substance classified as marijuana containing up to ten pounds and a Schedule VI controlled substance classified as hashish containing up to two pounds.
- It is assumed that 15 percent, or 20.67 (137.8 x 15%) of these admissions involved between one half ounce and one ounce of a Schedule VI controlled substance classified as marijuana.
- After adjusting for pre-trial jail credits, the average time served for a Class E felony offense under 39- 17-417(g) is 0.37 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The proposed legislation will result in 20.67 admissions annually serving 0.37 less years incarcerated.
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- Pursuant to Public Chapter 1007 of 2022, cost decreases are to be estimated on the actual estimated costs to be reduced over the next three-year period; therefore, the decrease in incarceration costs is estimated to be the following over the next three-year period:

| Decrease in State Expenditures |             |
|--------------------------------|-------------|
| Amount                         | Fiscal Year |
| \$71,050*                      | FY23-24     |
| \$143,500                      | FY24-25     |
| \$144,900                      | FY25-26     |

\*1/2-year impact

- Based on the Fiscal Review Committee’s 2008 study and the Administrative Office of the Courts’ 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

*G) Other:*

- The TDOC can review and provide the list required of this legislation to the appropriate recipients, utilizing existing resources.
- This legislation could result in reduced expenditures for incarceration at the state and local level, and increase expenditures at the state and local for additional public benefits; however, due to multiple unknown variables, any such impact cannot be reasonably determined at this time.

*H) Total Impacts to the General Fund, the Secretary of State’s Office, the Department of Agriculture, the Department of Safety, the State Employee Legacy Pension Stabilization Reserve Trust, the Department of Education, the Department of Revenue, Incarceration, and Local Government:*

*(i) General Fund – Revenue:*

- A net increase in state revenue in FY24-25 of \$67,255,954 (\$60,000 + \$67,446,426 + \$19,400 - \$269,872).
- A net increase in state revenue in FY25-26 of \$134,742,379 (\$100,000 + \$134,892,851 + \$19,400 - \$269,872).
- A net increase in state revenue in FY26-27 of \$134,782,379 (\$140,000 + \$134,892,851 + \$19,400 - \$269,872).
- A recurring net increase in state revenue in FY27-28 and subsequent years of \$134,955,233 (\$125,000 + \$134,892,851 + \$4,850 - \$67,468).

*(ii) Secretary of State’s Office:*

- An increase in state revenue in FY24-25 through FY26-27 of \$600.
- A recurring increase in state revenue in FY27-28 and subsequent years of \$150.

*(iii) Department of Agriculture:*

- An increase in state revenue in FY24-25 of \$63,454,623.

- A recurring increase in state revenue in FY25-26 and subsequent years of \$126,909,245.
- An increase in state expenditures in FY24-25 of \$1,713,884.
- A recurring increase in state expenditures in FY25-26 and subsequent years of \$785,884.

*(iv) Department of Safety:*

- An increase in state revenue in FY24-25 of \$25,381,849.
- A recurring increase in state revenue in FY25-26 and subsequent years of \$50,763,698.

*(v) State Employee Legacy Pension Stabilization Reserve Trust:*

- An increase in state revenue in FY24-25 of \$25,381,849.
- A recurring increase in state revenue in FY25-26 and subsequent years of \$50,763,698.

*(vi) Department of Education:*

- An increase in state revenue in FY24-25 of \$6,345,462.
- A recurring increase in state revenue in FY25-26 and subsequent years of \$12,690,924.

*(vii) Department of Revenue:*

- An increase in state revenue in FY24-25 of \$6,345,462.
- A recurring increase in state revenue in FY25-26 and subsequent years of \$12,690,924.
- An increase in state expenditures in FY24-25 of \$232,287.
- A recurring increase in state expenditures in FY25-26 and subsequent years of \$223,887.

*(viii) Incarceration:*

- There will be a decrease in state expenditures in FY23-24 of \$71,050.
- There will be a decrease in state expenditures in FY24-25 of \$143,500.
- There will a decrease in state expenditures in FY25-26 and subsequent years of \$144,900.

*(ix) Local Government:*

- A net increase in local revenue in FY24-25 of \$65,486,638 (\$65,596,766 - \$110,128).
- A mandatory decrease in local expenditures in FY24-25 and subsequent years of \$10,525,824.
- A net increase in local revenue in each FY25-26 through FY26-27 of \$131,083,404 (\$131,193,532 - \$110,128).
- A mandatory decrease in local expenditures in FY25-26 and subsequent years of \$21,051,647.
- A net increase in local revenue in FY27-28 and subsequent years of \$131,166,000 (\$131,193,532 - \$27,532).

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jb