

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3999-01  
Bill No.: HB 1348  
Subject: Drugs and Controlled Substances; Health Care; Health Department  
Type: Original  
Date: March 3, 2004

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>       |                    |                   |                   |
|---|--------------------|-------------------|-------------------|
| FUND AFFECTED   | FY 2005            | FY 2006           | FY 2007           |
| General Revenue   | (\$552,600)        | (\$47,007)        | (\$49,148)        |
|   |                    |                   |                   |
| <b>Total Estimated Net Effect on General Revenue Fund</b> | <b>(\$552,600)</b> | <b>(\$47,007)</b> | <b>(\$49,148)</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>            |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2005    | FY 2006    | FY 2007    |
|   |            |            |            |
|   |            |            |            |
| <b>Total Estimated Net Effect on <u>All</u> State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2005</b> | <b>FY 2006</b> | <b>FY 2007</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated Net Effect on <u>All</u> Federal Funds</b> | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2005</b> | <b>FY 2006</b> | <b>FY 2007</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Conservation**, the **Missouri Department of Highway and Transportation**, the **Department of Public Safety - Missouri State Highway Patrol**, and the **Department of Insurance** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Social Services (DOS)** state there is no requirement that Medicaid add marijuana to the Medicaid drug formulary. Therefore, the DOS assumes that there is no fiscal impact.

Officials from the **Missouri Consolidated Health Care Plan** state that there may be some additional costs as a result of this proposal but it is not expected to have any significant fiscal impact.

Officials from the **Secretary of State (SOS)** state statewide newspaper publication of constitutional amendments or referenda costs approximately \$1,228 per column inch based on estimates provided by the Missouri Press Service. The Constitution and state statute require 3 printings. The SOS estimates total number of inches for this amendment to be 150 inches, which

ASSUMPTION (continued)

includes title header and certification paragraph. Therefore, the SOS estimates total costs in FY 06 to be \$552,600 (\$1,228 x 150 x 3).

Officials from the **Office of the Secretary of State (SOS)** state this proposal legalizes the use of marijuana for medical purposes. The DOH may promulgate rules to enact this legislation. Based on experience with other divisions, the rules, regulations and forms issued by the DOH could require as many as 12 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$1,845 in FY 05.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Health and Senior Services (DOH)** state this proposal seems to be based upon a similar program in the State of Oregon. The Oregon program was initiated in May 1999.

Information from Oregon program:

Total patients registered as of the end of February 2003 was 4,775.

Total number of physicians participating = 1,044

Revenue -- \$973,000 (from the \$150 annual fee - which has since been reduced to \$50)

Staffing: one program manager, one supervisor, four clerical staff, and one temporary staff person

Allowed indications for use: Malignant neoplasms, glaucoma, positive HIV/AIDS, agitation of Alzheimers. Other medical condition or treatment including cachexia/wasting, severe pain, severe nausea, anorexia, seizures including epilepsy, persistent muscle spasms.

Based upon the information shown above from the Oregon program, the DOH assumes:

Population of Oregon - 3,559,596 as of July 1, 2003 (US Census Bureau estimate)

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ASSUMPTION (continued)

Population of Missouri - 5,704,484 as of July 1, 2003 (US Census Bureau estimate)

DOH states the proposal allows for use of marijuana for only the following debilitating conditions: cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions. DOH assumes that patients with these diagnoses represents 50% of patients registered under the Oregon Medical Marijuana Program.

DOH assumes a 10% increase in the number of patients from the previous year.

4,775 total patients x 1.10 = 5,253 2004 patients (estimated)

5,253 x 0.5 = 2,626 patients with Missouri covered diagnoses

$\frac{3,559,596}{5,704,484} = \frac{2,626}{X} \times = 4,208$  patients (Utilize rounded number of 4,200)

Number of physicians participating:

$\frac{3,559,596}{5,704,484} = \frac{1,044}{X} \times = 1,673$

Random inspections of patient records of 25% of participating physicians each year to verify diagnoses (post registration).

Assume that there will be no more than ten (10) registered organizations.

Assume that costs of issuing individual cards will be \$5 per card, assume 2 cards per patient, one for the patient and one for the primary caregiver, or 8,400 x \$5 = \$42,000 annually.

DOH estimates net fiscal impact to be \$78,325 in FY 05, \$191,711 in FY 06 and \$195,421 in FY 07 (includes revenue from sale of registration cards and costs of personal service, fringe benefits, and expense and equipment).

**Oversight** assumes a cost of \$25 per card (8,400 x \$25 = \$210,000) which is the maximum that can be charged. **Oversight** assumes a 3% increase in cards issued and cost of cards from FY 06 to FY 07 as more people learn about the program.

**Oversight** has, for fiscal note purposes only, changed the starting salary for DOH positions to correspond to the second step above minimum for comparable positions in the state's merit

ASSUMPTION (continued)

system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

**Oversight** assumes the election will be November, 2004 and the program implemented January, 2005.

| <u>FISCAL IMPACT - State Government</u> | FY 2005 | FY 2006<br>(6 Mo.) | FY 2007 |
|---|---------|--------------------|---------|
|---|---------|--------------------|---------|

**GENERAL REVENUE**

Income - Department of Health and Senior Services

|                              |     |           |           |
|------------------------------|-----|-----------|-----------|
| Registration of participants | \$0 | \$105,000 | \$216,300 |
|------------------------------|-----|-----------|-----------|

Costs - Secretary of State

|                   |             |     |     |
|-------------------|-------------|-----|-----|
| Publication costs | (\$552,600) | \$0 | \$0 |
|-------------------|-------------|-----|-----|

Costs - Department of Health and Senior Services

|                             |     |            |             |
|-----------------------------|-----|------------|-------------|
| Personal Services (5 FTE)   | \$0 | (\$65,408) | (\$134,086) |
| Fringe benefits             | \$0 | (\$27,079) | (\$55,512)  |
| Expense and equipment       | \$0 | (\$38,520) | (\$30,643)  |
| Identification card expense | \$0 | (\$21,000) | (\$45,207)  |

Total Costs - Department of Health and Senior Services

|  |     |             |             |
|--|-----|-------------|-------------|
|  | \$0 | (\$152,007) | (\$265,448) |
|--|-----|-------------|-------------|

**ESTIMATED NET EFFECT ON GENERAL REVENUE**

|  |                    |                   |                   |
|--|--------------------|-------------------|-------------------|
|  | <u>(\$552,600)</u> | <u>(\$47,007)</u> | <u>(\$49,148)</u> |
|--|--------------------|-------------------|-------------------|

FISCAL IMPACT - Local Government

| FY 2005 | FY 2006 | FY 2007 |
|---------|---------|---------|
|---------|---------|---------|

|            |            |            |
|------------|------------|------------|
| <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
|------------|------------|------------|

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### DESCRIPTION

This proposal revises provisions regarding the classification of marijuana as a controlled substance. In its main provisions, the proposal:

- (1) Removes marijuana from the Schedule I classification for controlled substances and re-classifies marijuana under the Schedule II classification for controlled substances;
- (2) Prohibits the arrest or prosecution of a qualifying patient who possesses a written certification for the use of marijuana for medical purposes. A qualifying patient less than 18 years of age is also exempt from arrest or prosecution if a parent or guardian consents to and controls the use of marijuana for medical purposes;
- (3) Prohibits a physician from being subject to arrest, prosecution, penalty, or denial of any right for providing written certification for the medical use of marijuana to a qualifying patient;
- (4) Requires that marijuana, paraphernalia, or other property seized from a qualifying patient or primary caregiver in connection with the claimed medical use of marijuana be returned to the patient or caregiver following a determination by a court or prosecutor that these persons are entitled to protections contained in the bill;
- (5) Prohibits the medical use of marijuana from being certified under certain conditions;
- (6) Exempts insurance companies from providing coverage for the medical uses of marijuana;
- (7) Prohibits the fraudulent representation of the medical use of marijuana to any law enforcement official. Violation of this provision will be subject to criminal and monetary penalties;
- (8) Allows a qualifying patient and a primary caregiver to assert a defense for the medical use of marijuana based on certain conditions. A court must allow a defendant to present evidence that would support a defense for the medical use of marijuana;
- (9) Requires the Department of Health and Senior Services to develop rules for governing the issuance of a registry identification card. A qualifying patient and primary caregiver is required to submit certain information before receiving the card. Possession of the card by a qualifying

DESCRIPTION (continued)

patient and a primary caregiver is required;

(10) Requires the department to maintain a confidential list of persons who have been issued the registry identification card; and

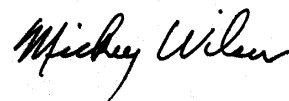
(11) Allows an organization which has registered with the department to lawfully sell, administer, deliver, or possess marijuana or related supplies for medical use.

The proposal has a referendum provision and will be submitted to qualified voters by November 4, 2004.

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

SOURCES OF INFORMATION

Missouri Department of Conservation  
Department of Highways and Transportation  
Department of Public Safety -  
    Missouri State Highway Patrol  
Department of Insurance  
Department of Social Services  
Missouri Consolidated Health Care Plan  
Secretary of State  
Department of Health and Senior Services



Mickey Wilson, CPA  
Director  
March 3, 2004