

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5285-04
Bill No.: Perfected HCS for HB 1554
Subject: Medical Procedures and Personnel; Drugs and Controlled Substances
Type: Original
Date: April 26, 2018

Bill Summary: This proposal allows persons with certain serious medical conditions to use medical cannabis.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$2,160,225)	\$1,135,398	\$3,005,553
Total Estimated Net Effect on General Revenue	(\$2,160,225)	\$1,135,398	\$3,005,553

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Conservation Commission	\$0	\$139,425	\$197,383
School District Trust	\$0	\$1,115,400	\$1,579,061
Parks, Water and Soil	\$0	\$92,950	\$131,588
Criminal Records	\$0	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	Greater than \$1,347,775	Greater than \$1,908,032

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 23 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	18	101	101
Total Estimated Net Effect on FTE	18	101	101

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	\$0	Less than \$4,000,000	Less than \$5,700,000

FISCAL ANALYSIS

ASSUMPTION

§191.480 - Misdemeanor charges

Officials from the **Department of Corrections (DOC)** provide the following assumptions related to this proposal:

HB 1554 proposes to legalize cannabis for medical use and regulate the cultivation, manufacturing and distribution of medical cannabis by repealing six current MO statutes on investigational drug research and usage of hemp extract for intractable epilepsy (RSMo 191.480, 192.945, 192.947, 195.207, 261.265, and 263.250). Each section is revised to make cannabis available to persons with a terminal illness. No effective date is established.

Section 191.480 sets the penalty for inhibiting the use of medical cannabis as an investigatory drug as a class A misdemeanor. Since the DOC has no jurisdiction over this type of misdemeanor, this statute has no impact on the DOC.

As of September 14, 2017, twenty-nine states, the District of Columbia, Guam and Puerto Rico have approved medical marijuana usage. The difficulty with, and the research used, in estimating the impact with the legalization of medical marijuana for the DOC is as follows:

Chu (2014) found that similar medical marijuana laws (MML) were related to a 15-20% increase in marijuana arrests in adult males, and Alford (2014) found that allowances for marijuana dispensaries increased property crime rates by 8% and robbery rates by 11%. Conversely, Alford also found that home cultivation allowance may have decreased robbery by 10%. Choi (2014) found that MMLs were associated with a 12% increase in other drug use but allowing home cultivation was related to a 13% decrease in driving under the influence of drugs. Morris et al. (2014) found that MMLs did not exacerbate rates of major or violent crimes. However, Pacula et al. (2014) suggested that some details of MMLs, particularly legal protection of dispensaries and home cultivation, can lead to greater marijuana use and abuse among adults. The authors also found relationships to increased alcohol use and alcohol-related driving fatalities. The link with increased drinking was also found by Wen et al. (2014), but they found no evidence of increased use of other substances.

Results of studies at this time show conflicting results on the criminal impacts of current MMLs. However, with the increased licensing and regulation there are also increased possibilities of secondary crimes through false physician recommendations, non-compliance in registration, illegal possession, vehicular infractions or injury, and theft. While many of these violations may carry only municipal or licensing level penalties, some would ultimately fall under felony charges.

ASSUMPTION (continued)

According to this research, a MML will result in an increase in violations of possession and production/distribution of controlled substances (579.020 and 579.020 and 579.055 RSMo): three new class C offenders (one to incarceration and two admitted to probation) and one additional class B felony offender to incarceration each year. Analysis of FY17 data shows a class C felony for possession of a controlled substance has a sentence of 6.5 years with an average of 3.9 years in prison and 2.6 years on parole; those on probation receive a 3-year term. For a class B felony for distribution and production, the average sentence is 8.3 years with 4.9 years in prison and 3.4 years on parole.

The proposed legislation also creates a new class D felony for distributing medical cannabis to minors in violation of the six proposed statutes (Section 261.625.13). This is a new offense without historical data. Current law provides penalty for distributing marijuana to minors, however, whether it is medical or non-medical cannabis is not indicated (579.020.4 and .5 RSMo enacted August 2016). To estimate the impact of this new class D felony requires figures from the standard impact for non-violent class C felony in FY17. Eight offenders are estimated to be sentenced with this offense; three are incarcerated and five are sent to probation. Incarcerated offenders' average sentence is 5.0 years with 3.8 years in prison and 1.2 years on parole; the term for probation is three years.

The full, yearly impact of FN 5284.01 occurs in FY27 with an additional cost of supervision of 51 offenders, 20 offenders to incarceration and 31 to field supervision.

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

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

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

ASSUMPTION (continued)

The DOC cost of incarceration is \$17,003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

The DOC would assume this legislation will result in the following long term costs to the General Revenue Fund (assumes a 2% annual inflation in costs):

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	5	(\$6,206)	(\$25,858)	7	absorbed	\$0	(\$25,858)
Year 2	10	(\$6,206)	(\$63,301)	14	absorbed	\$0	(\$63,301)
Year 3	15	(\$6,206)	(\$96,851)	21	absorbed	\$0	(\$96,851)
Year 4	19	(\$6,206)	(\$125,131)	22	absorbed	\$0	(\$125,131)
Year 5	20	(\$6,206)	(\$134,351)	26	absorbed	\$0	(\$134,351)
Year 6	20	(\$6,206)	(\$137,039)	27	absorbed	\$0	(\$137,039)
Year 7	20	(\$6,206)	(\$139,779)	29	absorbed	\$0	(\$139,779)
Year 8	20	(\$6,206)	(\$142,575)	30	absorbed	\$0	(\$142,575)
Year 9	20	(\$6,206)	(\$145,426)	31	absorbed	\$0	(\$145,426)
Year 10	20	(\$6,206)	(\$148,335)	31	absorbed	\$0	(\$148,335)

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crimes regarding medical cannabis including distributing medical cannabis to minors, new Class D felonies.

The SPD also states the proposed legislation would allow the medical use of marijuana. This could have some impact on the SPD System. In FY17, the SPD provided representation in an estimated 9,473 possession of a controlled substance cases. If a percentage of these cases were for the proposed appropriate medical use of marijuana, this number could/would be reduced. It is not possible to estimate a number that would have been for “legal” use.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

ASSUMPTION (continued)

The SPD is currently providing legal representation in caseloads in excess of recognized standards. Removing these cases would assist public defenders by reducing their caseloads, but it is not expected to result in significant savings.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Revenue (DOR)** state section 191.480 of the proposed legislation expands the definition of investigational drug, biological product, or device so that it can include medical cannabis. Under this provision, a dispensing organization or manufacturer of an investigational drug, biological product, or device that has successfully completed phase one of a clinical trial but has not been approved for general use by the Food and Drug Administration (FDA) and remains under investigation in a clinical trial can be made available to certain eligible patients who have terminal illnesses and meet all the other requirements of the section. This bill makes it a Class A misdemeanor for any official, employee, or agent of the state to block or attempt to block the access of an eligible patient to an investigational drug, biological product, or device.

§192.945 - Medical cannabis

Officials from the **Department of Health and Senior Services (DHSS), Division of Community and Public Health (DCPH)** state that under section 192.945, RSMo, DHSS is currently issuing hemp extract registration cards for persons suffering from intractable epilepsy. This proposal would expand the current program by also allowing the issuance of medical cannabis registration cards for persons with terminal illness or a debilitating medical condition. The definition of debilitating medical condition under this proposal includes epilepsy.

Applications

Currently, the Missouri Hemp Extract Registration Program is issuing registration cards for adults and minors with intractable epilepsy who have received certification from a neurologist - 136 Missouri Hemp Extract Registration Cards were issued for 2017. Under the proposed legislation, a physician may sign the certification needed to receive the hemp extract registration card. Allowing physicians to sign the certification, Missouri expects the number of Missouri Hemp Extract Registration cards issued to increase by 200 percent. Therefore, for purposes of this fiscal note, DCPH estimates 408 Missouri Hemp Extract Registration Cards to be issued each year ($136 * 200\% = 272$ new cards + 136 current registrants = 408 Hemp Extract Registration Cards).

ASSUMPTION (continued)

In addition to issuing hemp extract registration cards, the proposed legislation requires DHSS to issue medical cannabis registration cards for adults and minors who receive certification from a physician that the patient suffers from a "terminal illness" or a "debilitating medical condition". Terminal illness is defined in the legislation as "a disease that without life-sustaining procedures will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely." Debilitating medical conditions are defined within the legislation and the legislation allows DHSS to add diagnosis to the list of debilitating conditions if ten or more physicians sign a petition requesting such. For purposes of this fiscal note estimate, it is assumed that the majority of individuals with a terminal illness will have a diagnosis that also qualifies as a debilitating medical condition per the conditions specified in the legislation. For estimation of the number of medical cannabis registrations to be issued, the issuance of medical cannabis cards in the state of Oregon is being benchmarked.

A study updated in March 2016 by the nonprofit entity ProCon organization published the rates of patient registration cards issued for each state with a medical marijuana program (<http://medicalmarijuana.procon.org/view.resource.php?resourceID=005889>). This study found that Oregon was issuing qualified patient cards at a ratio of 19.2 per 1,000 patient populations. While the Oregon program was initiated in May 1999 and, therefore, has an established program, the state of Missouri's chronic disease rates are generally higher and the qualifying medical conditions accepted under Missouri's proposal are broader than those of Oregon. Missouri does allow for parents or legal guardians (could be more than one) of minors to be registered. For this fiscal note, DHSS has termed additional parents or guardians as secondary registrants or caregivers.

Calculation of applications:

- Patients: According to the 2016 U.S. Census Bureau information, Missouri's population is at 6,093,000. Applying the rate of 19.2 applications per 1,000 residents, Missouri would estimate issuing 116,986 patient registration cards annually ($6,093,000/1,000 = 6,093 \times 19.2$).
- Caregivers: According to the October 1, 2017 data on Oregon's Medical Marijuana Program Website, the ratio of patient registration cards to caregiver cards is calculated at 2.53. Calculating this same ratio, Missouri would estimate issuing 46,240 caregiver cards (secondary registrants) annually ($116,986/2.53$).

Therefore, the total hemp extract registration cards (patient and caregivers) to be issued each year is estimated at 408 and the total number of medical cannabis registration cards (patient and caregivers) is estimated at 163,226 for an overall total of 163,634 ($408 + 163,226$).

ASSUMPTION (continued)

Staffing

Section 192.945 requires the establishment of the medical cannabis registration program and modifications to the hemp extract registration program through promulgation of rules, including the development of program forms, registration cards, and a system to record the name of each registrant and each minor receiving care from a registrant. As a result, DCPH anticipates the need to hire the following staff beginning on August 28, 2018 (FY19) to begin to develop the Medical Cannabis Registration Program and modify the current Missouri Hemp Extract Registration Program:

One Program Manager Broad Band 2 (\$65,000 annually) to serve as Chief of the Hemp Extract and Medical Cannabis Registration Program. Duties will include overall program management, with activities including, but not limited to:

- rule promulgation,
- development of forms,
- development of program policies and procedures,
- information system development (liaison with ITSD) and maintenance, and
- supervision and training of all staff within the program.

One Environmental Public Health Specialist V position (\$46,056 annually) whose duties will include:

- researching and developing the list of requirements that all manufacturing, storage or testing of medical cannabis or any medical cannabis product shall meet;
- providing technical assistance to the Missouri Department of Agriculture (AGR) in development of administrative rules and continuous revision/updating of administrative rules related to the requirements established by DHSS for manufacturing, storage and testing of medical cannabis, and
- providing technical assistance to AGR regarding problematic inspections related to DHSS requirements, and
- assisting in problematic food sanitation inspections and supervise the EPHS IV positions.

Two (2) Environmental Public Health Specialist IV positions (\$44,352 each, annually). The proposed legislation does not limit the amount of licenses that may be issued by AGR for medical cannabis cultivation and production facilities. If these cannabis care centers manufacture food products with medical cannabis, DHSS would be required by sections 196.010 through 196.298, RSMo, to inspect these facilities to ensure the product is manufactured in a sanitary environment. DHSS assumes for purposes of this fiscal note estimate, that these two positions will perform the inspections necessary to ensure food safety. It is possible that additional staff will need to be acquired based on the number of facilities and products established in order to meet the registrant demand.

ASSUMPTION (continued)

For fiscal note purposes DCPH calculated 45 minutes of processing time per registration application. Based on this assumption, 1.0 FTE will be needed (163,634 applications X 0.75 hours per application/ 2,080 hours per year = 59 FTE). Because of the importance of accuracy and validation to the registration process, the activities related to the registration need to be divided across two positions for cross-checking and quality assurance. Therefore, both the HPR II and AOSA positions will be involved in application processing. The following staff will be hired effective July 1, 2019 (FY 2020) upon completion of the information system development, rule promulgation process, and implementation of the program:

19 Health Program Representatives II (\$35,640 each, annually) whose duties will include:

- checking quality assurance of the application including valid, Missouri licensed practitioners and required documentation of allowed condition(s);
- verifying and approving applications including final approval of application rejects and card issuances;
- drafting correspondence for incomplete, inaccurate, or unapproved applicants;
- generation of renewal notices;
- handling applicant and physician questions, complaints and concerns; and
- exhibiting information about the program at conferences and other public venues.

40 Administrative Office Support Assistants (\$28,668 each, annually) whose duties will include:

- initial processing of paper applications for the medical cannabis and hemp extract registration program, to include opening and date stamping of mail;
- entering application information into the electronic registry;
- verifying applicant and physician/neurologist identification;
- preparing registration cards;
- mailing applicant correspondence, renewal notices, and registration cards; and
- answering and assisting telephone callers.

One Administrative Office Support Assistant (\$28,668 annually) whose duties will include:

- providing administrative assistance to the Bureau Chief and all other positions,
- providing back-up assistance to the processing staff within the Bureau, and
- answering and assisting telephone callers.

Printing

DCPH assumes that 90% of hemp extract registrants will renew each year and renewal cards will also need to be printed for each registrant annually. DCPH also estimates new hemp extract applicants to grow by 10 percent annually. DCPH will purchase a card delivery system with the ability to print the card with the magnetic stripe, attach the card to a personalized letter, and

ASSUMPTION (continued)

secure in an envelope ready for mailing. The initial cost of the card delivery system is estimated at \$318,400. In addition, there will be an annual equipment preventative maintenance fee of \$45,992. The average supply cost to print each card is \$0.40/card.

DCPH will print 100,000 brochures each year the program is operational at a cost of \$.06 per brochure. This brochure will provide the public with information about the hemp extract registration program and assistance in completing a valid registration.

	FY 2019	FY 2020	FY 2021
Cards for New Hemp Extract Applicants	0	163,634	16,363
Cards for Hemp Extract Renewals	0	0	147,271
Total Cards Issued	0	163,634	163,634

FY20

163,634 cards * \$0.40 per card/print supplies = \$65,454
 100,000 brochures (\$0.06 per brochure) = \$6,000

FY21

163,634 cards * \$0.40 per card/print supplies = \$65,454
 100,000 brochures (\$0.06 per brochure) = \$6,000

Mailing costs

Each registrant will receive his/her card in the mail. Renewal cards will also be mailed to each registrant annually. It is also assumed five percent of applications (new and renewal) will be incomplete, requiring written notification of an incomplete application. It is also projected that 25 percent of the printed brochures (25,000) along with paper applications will be mailed to the public upon request. The other printed brochures will be available for distribution at conferences and other public venues.

Projected mailings are as follows:

	FY 2019	FY 2020	FY 2021
Cards mailed to new applicants	0	163,634	16,363
Renewal cards mailed	0	0	147,271
Brochures/app mailed	0	25,000	25,000
Incomplete Application	0	8,182	8,182
Total mailings	0	196,816	196,816

ASSUMPTION (continued)

FY20

196,816 envelopes (\$41 per 1,000) = $197 * \$41 = \$8,077$

Postage (196,816 * \$0.39/postage rate) = \$76,759

FY21

196,816 envelopes (\$41 per 1,000) = $197 * \$41 = \$8,077$

Postage (196,816 * \$0.39/postage rate) = \$76,759

Division of Administration (DA) Staff:

DHSS-DA assumes one Accounting Clerk can process 30,000 receipt transactions per year. An Accounting Generalist I/II would be needed to supervise for every five Account Clerks.

Accounting Clerk (\$26,340 annually, each) duties would include:

- Open and sort mail;
- Process and enter receipts in the department computer system;
- Prepare bank deposits and cash receipts documents;
- Reconcile daily receipts;
- Distribute supporting documentation program.

Accounting Generalist I/II (\$41,184 annually, each) duties would include:

- Supervise and review the work of Accounting Clerks who are processing the fees.

Each application and license would have a fee transaction.

Transaction	FY 2019	FY 2020	FY 2021
Cards for New Applicants	0	163,634	163,634
Accounting Clerk	0	5.50	5.50
Accounting Generalist I/II	0	1.00	1.00

Oversight assumes the DHSS would not hire part-time staff and would assign additional duties to the full-time staff.

DHSS Office of General Counsel

Legal Counsel (\$50,000 annually)

One full-time attorney would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program; and represent the department in legal actions.

ASSUMPTION (continued)

Application Storage Costs

In order to manage the final storage of paper applications submitted, Content Manager for electronic scanning and storage will be utilized. The costs for Content Manager are estimated at \$132 per month for the state data server costs, \$234 for an annual license for each user who needs to view files, and \$828 for an annual license for each position with ability to scan/import documents.

Application Registration Fees

The proposal allows the DHSS to establish a fee for the issuance of a registration cards. For purposes of this fiscal note, it is estimated that DHSS would charge a \$33 registration fee for each registration resulting in additional revenues to the General Revenue (GR) Fund.

It is anticipated that Missouri will receive 163,634 applications in its first year of operation (FY 2020). In subsequent years, new applications for hemp extract registrations and medical cannabis registrations are estimated to grow by 10 percent annually; however, renewals are estimated to decline by 10 percent annually.

Projected fees received for the three years (FY 2019 – FY 2021) are as follows:

	FY 2019	FY 2020	FY 2021
Application & Renewals	0	163,634	163,634
Application Fees	\$0	\$5,399,922	\$5,399,922

DHSS estimates the net impact to the General Revenue Fund to be a cost of \$795,837 for FY19 and a positive impact of \$19,749 and \$545,898 for FY20 and FY 21, respectively.

Oversight notes, based on responses from the **Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC)** for proposals from the current session that result in an agency needing additional rental space, costs include building lease costs, fuel and utilities, and janitorial services. Therefore, Oversight will reduce DHSS' estimated lease expenses for added utilities and janitorial services costs. In addition, Oversight notes the DHSS used a lease cost for the additional rental space needed for 71.5 new FTE of \$21 per square foot. This is an average of the lease rates for the various regions in the state. Oversight reduced the average cost to \$17.50 per square foot (which includes utilities and janitorial services), the amount provided by OA, Facilities Management, Design and Construction for the Jefferson City area.

ASSUMPTION (continued)

DHSS provided the following assumptions from the **Office of Administration (OA), Information Technology Services Division (ITSD)/DHSS**. ITSD states it is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity. Given the number of registration applications and cards estimated to be used each year, the development of an information system to track registrant information and status will be needed.

A 12-month project effort with three contractors has been assumed. It is assumed the application will be hosted in the State Data Center (SDC) on existing web application servers. Disk space has been assumed at 50 GB per environment (DEVO, TEST, and PROD). Funding for ongoing maintenance will come from registration fees established by DHSS.

FY19 costs to the General Revenue Fund are estimated to be \$308,749. On-going support costs for FY20 and FY21 are estimated to be \$63,769 and \$65,363 respectively.

Officials from the **DOR** state this proposed bill changes the law regarding the use of hemp extract to treat intractable epilepsy to authorize the legal use of medical marijuana to treat terminal illnesses and debilitating medical conditions, as described in the bill.

The proposed legislation will allow for the DOR to collect sales tax under Chapter 144. DOR's sales tax number was figured by finding out what the cost per patient would be by utilizing Arizona's sales data divided by the number of their patients/caregivers. This would make the cost per patient ranging from \$2,376 - \$2,628.

The DOR estimates that \$115.7 million worth of medical cannabis sales will occur if the proposed legislation were to be approved in the first year available. These sales would be subject to sales tax at 4.225%. DOR assumes an estimated increase of \$6.6 million to Total State Revenue (TSR) every year, once fully implemented.

	FY19	FY20	FY21	FY22
General Revenue	\$2,749,770	\$3,299,725	\$4,671,389	\$4,671,389
Conservation	\$116,187	\$139,425	\$197,383	\$197,383
Education	\$929,500	\$1,115,400	\$1,579,061	\$1,579,061
Parks and Soils	\$77,458	\$92,950	\$131,588	\$131,588
Total Impact	\$3,872,916	\$4,647,500	\$6,579,421	\$6,579,421

ASSUMPTION (continued)

DOR officials state there will be **OA, Information Technology Services Division (ITSD)/DOR** costs. OA, ITSD assumes that every new IT project/system will be bid out because all ITSD resources are at full capacity. The current contract rate for IT consultants is \$75 per hour.

OA, ITSD/DOR estimates this proposal will require 2000.16 hours of IT consultant work in FY19 as well as on-going costs. FY19 costs to the General Revenue Fund are estimated to be \$150,012 (2000.16 * \$75); on-going costs for FY20 and FY21 are estimated to be \$30,752 and \$31,521 respectively.

Officials from **OA, Budget and Planning (B&P)** state this proposal will increase TSR by less than \$6.6M annually, once fully implemented. This proposal will impact the calculation under Article X, Section 18(e).

This proposal would add medical cannabis for terminal illnesses to the existing law allowing the use of hemp extract as a medical treatment for intractable epilepsy as well as "debilitating medical conditions" as defined in Section 192.945. This proposal would further allow physicians to prescribe both medical cannabis and hemp extract for qualifying treatments, thus expanding the potential number of patients. The proposal allows for the licensing of cannabis care centers as well as cannabis cultivation and production facilities. This proposal also removes the limit on the number of hemp cultivation and production facilities as well as the limit on the number of hemp growers.

B&P notes that the patient and caregiver registration fees are limited to the costs incurred by DHSS, under Section 192.945. B&P further notes that there is no specified application or renewal fee for cannabis care centers or cannabis cultivation and production facilities.

B&P also notes that any sales of medical cannabis as well as any expanded sales of hemp extracts would be subject to sales tax. B&P further notes that based on definition, changes in the 2014 federal farm bill and subsequent court cases; at least a portion of the sales tax is already being collected. Based on historical sales data from Arizona (which has a similar list of qualified conditions) from 2014 through 2016, B&P estimates that this proposal will increase TSR by less than \$3.9M and GR by less than \$2.8M in FY19. Once the medical market has matured, B&P estimates that this proposal will increase TSR by less than \$6.6M and GR by less than \$4.7M. In addition, once fully implemented B&P estimates that this will increase local funds by less than \$5.7M.

Oversight assumes, based on DHSS' response, that sales of medical marijuana would not begin until FY20. In addition, Oversight assumes the Department of Agriculture will begin issuing medical marijuana/hemp cultivation and production facility licenses in FY19. As these facilities will have time to produce a supply of medical marijuana/hemp before DHSS identification cards are issued, Oversight assumes a full year of medical marijuana/hemp sales during FY20.

ASSUMPTION (continued)

§§261.265 - Medical marijuana cultivation

Officials from the **Department of Agriculture (AGR)** state this proposal expands the existing hemp extract program from two (2) facilities licensed/inspected by AGR to an estimated 500 medical marijuana and/or hemp extract facilities licensed/inspected by the department. The bill also requires the designation of laboratories that meet certain standards. The standards will require significant audits performed at an estimated 100 requesting and qualifying laboratories. The AGR is not given authority to collect license fees.

Colorado has approximately 1,000 licensed medical marijuana cultivation and infused product manufacturers. Due to the expansion of qualifying maladies under the amendments to this proposal, it is estimated that Missouri will license approximately 500 medical marijuana and/or hemp extract cultivation and production facilities across the state. It is assumed that each production facility would be inspected four (4) times per year. It is assumed that approximately 200 facilities would be licensed in the first year of implementation and 500 facilities licensed in subsequent years. It is also assumed that an inspection would require 20 hours of inspection-related duties.

500 cultivation/production sites * 4 inspections/year * 20 hours/inspection = 40,000 inspection hours.

Total inspection hours 40,000 / 1,800 hours (actual work hours after taking into consideration vacation/sick leave, etc.) = 22.2 (22 FTEs). The field FTEs are Feed and Seed Inspectors II (\$36,924 each, annually) would be responsible for the inspections of cultivation/production facilities.

There are no existing positions to perform the duties required by this proposal. In addition to the described additional inspection hours, the bill will require 1 Ag Manager (\$57,648 annually), 2 Program Coordinators (\$46,056 each, annually) and 2 Senior Office Support Assistant (\$29,484 annually) to administer the application reviews, license processes, field management, case reviews, legal consultations, outreach and fiscal processes.

Approximately \$25,000 will be needed to update the MOPlants computer system to enable license and inspection capabilities.

The AGR is required to designate laboratories that meet certain standards. The standards will require significant audits performed at an estimated 100 requesting and qualifying laboratories twice (2) per year. It is assumed each audit would require 40 hours of audit-related duties.

ASSUMPTION (continued)

100 laboratories * 2 audits/year * 40 hours/audit = 8,000 audit hours.

Total audit hours 8,000 / 1,800 hours (actual work hours) = 4.44 (4 FTEs). The audit FTEs are Chemists III (\$45,192 each, annually).

The AGR estimates the fiscal impact of this proposal on the General Revenue Fund to be a cost of \$2,444,453 for FY19; \$2,202,034 for FY20; and \$2,255,052 for FY21.

Oversight notes, based on AGR's response, that 200 of 500 (40% of total) medical marijuana and/or hemp extract cultivation and production facilities are expected to be licensed in FY19. Therefore, Oversight assumes the AGR would need 9 Inspectors (22 FTE * 40% = 8.8 rounded up) and 2 Chemists III (4 FTE * 40% = 1.6 rounded up) in FY19. The additional Inspectors and Chemists III would be hired in FY20.

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

Officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** state Section 261.265.9(1) states "The department shall promulgate rules including, but not limited to:

(1) Application requirements for licensing, including requirements for the submission of fingerprints and the completion of a criminal background check;"

The Criminal Justice Information Services (CJIS) Division of the Oregon State Police processed approximately 1,500 fingerprint-based criminal record checks for the Oregon Health Authority associated with medical marijuana. Based on Oregon's figures, the CJIS Division estimates the following fiscal impact:

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

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

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

ASSUMPTION (continued)

Estimated Revenue FY19 and beyond	
1,500 * \$32 (state/federal background check)	\$48,000
Estimated Expense FY19 and beyond	
1,500 * \$10 (federal background check charge)	<u>\$15,000</u>
Net revenue to the Criminal Records Fund	<u>\$33,000</u>

It should be noted that Oregon's population is approximately 20 percent less than the state of Missouri; therefore, the actual fiscal impact may be slightly higher than the estimate.

Oversight will assume an unknown amount of revenue for background checks to the Criminal Records Fund.

Bill as a whole

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, the Joint Committee on Administrative Rules, the Missouri Office of Prosecution Services, the OA, Division of General Services and the Office of State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

In response to the previous version of this proposal, officials from the **Columbia/Boone County Department of Public Health and Human Services, the Springfield Police Department and the St. Louis County Department of Justice Services** each assumed the proposal would not fiscally impact their respective agencies.

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

ASSUMPTION (continued)

review of the finally approved bills signed by the governor.

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

In response to the previous version of this proposal, officials from the following **health departments**: Audrain County Health Unit, Cass County Health Department, Clay County Public Health Department, Cooper County Public Health Department, Harrison County Health Department and Hospice, Henry County Health Center, Hickory County Health Department, Howell County Health Department, City of Independence Health Department, Jefferson County Health Department, Knox County Health Department, Linn County Health Department, Madison County Health Department, Marion County Health Department, McDonald County Health Department, Miller County Health Center, Morgan County Health Center, Nodaway County Health Center, Platte County Health Department, Polk County Health Center, Pulaski County Health Center and Home Health Agency, Randolph County Health Department, Reynolds County Health Center, Ripley County Health Center, Shelby County Health Department, the St. Francois County Health Center and the St. Joseph Health Department did not respond to **Oversight's** request for a statement of fiscal impact.

In response to the previous version of this proposal, officials from the following **law enforcement agencies**: the Ashland Police Chief, Boone County Sheriff's Department, Branson Police Department, Buchanan County Sheriff's Department, Cass County Sheriff's Office, Clark ASSUMPTION (continued)

County Sheriff's Department, Clay County Sheriff's Department, Cole County Sheriff's Department, Columbia Police Department, Greene County Sheriff's Department, Independence Police Department, Jackson County Sheriff's Department, Jasper County Sheriff's Department, Jefferson City Police Department, Jefferson County Sheriff's Department, Joplin Police Department, Lawrence County Sheriff's Department, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Department of Police and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE FUND			
<u>Income - DHSS (§192.945) (p. 12)</u>			
Application fees	\$0	\$5,399,922	\$5,399,922
<u>Income - DOR (p. 13)</u>			
Sales taxes collected (per Chapter 144 and §192.947)	\$0	\$3,299,725	\$4,671,389
<u>Costs - DOR (p. 14)</u>			
System changes/IT consultants	(\$150,012)	(\$30,752)	(\$31,521)
<u>Costs - DOC (§191.480) (p. 5)</u>			
Increase in incarceration expenditures	(\$25,858)	(\$63,301)	(\$96,851)
<u>Costs - DHSS (§192.945) (p. 6 - 12)</u>			
Personal service	(\$92,547)	(\$2,203,893)	(\$2,225,932)
Fringe benefits	(\$45,466)	(\$1,420,504)	(\$1,427,050)
Equipment and expense	(\$346,391)	(\$1,534,206)	(\$982,851)
ITSD costs/on-going support p. 13	<u>(\$308,749)</u>	<u>(\$63,769)</u>	<u>(\$65,363)</u>
Total <u>Costs - DHSS</u>	<u>(\$793,153)</u>	<u>(\$5,222,372)</u>	<u>(\$4,701,196)</u>
FTE Change - DHSS	2 FTE	70 FTE	70 FTE
<u>Costs - AGR (§261.265) (p. 15 - 16)</u>			
Personal service	(\$518,330)	(\$1,199,444)	(\$1,211,438)
Fringe benefits	(\$297,784)	(\$690,663)	(\$694,225)
Equipment and expense	(\$375,088)	(\$357,717)	(\$330,527)
Total <u>Costs - AGR</u>	<u>(\$1,191,202)</u>	<u>(\$2,247,824)</u>	<u>(\$2,236,190)</u>
FTE Change - AGR	16 FTE	31 FTE	31 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$2,160,225)</u>	<u>\$1,135,398</u>	<u>\$3,005,553</u>
Estimated Net FTE Change for the General Revenue Fund	18 FTE	101 FTE	101 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2019 (10 Mo.)	FY 2020	FY 2021
CONSERVATION COMMISSION FUND			
<u>Income - DOR</u>			
Sales taxes collected (per Chapter 144 and §192.947) (p. 13)	<u>\$0</u>	<u>\$139,425</u>	<u>\$197,383</u>
ESTIMATED NET EFFECT ON THE CONSERVATION COMMISSION FUND	<u>\$0</u>	<u>\$139,425</u>	<u>\$197,383</u>
SCHOOL DISTRICT TRUST FUND			
<u>Income - DOR</u>			
Sales taxes collected (per Chapter 144 and §192.947) (p. 13)	<u>\$0</u>	<u>\$1,115,400</u>	<u>\$1,579,061</u>
ESTIMATED NET EFFECT ON THE SCHOOL DISTRICT TRUST FUND	<u>\$0</u>	<u>\$1,115,400</u>	<u>\$1,579,061</u>
PARKS, WATER & SOIL FUND			
<u>Income - DOR</u>			
Sales taxes collected (per Chapter 144 and §192.947) (p. 13)	<u>\$0</u>	<u>\$92,950</u>	<u>\$131,588</u>
ESTIMATED NET EFFECT ON THE PARKS, WATER & SOIL FUND	<u>\$0</u>	<u>\$92,950</u>	<u>\$131,588</u>
CRIMINAL RECORDS FUND			
<u>Income - DPS (§261.265) (p. 16 - 17)</u>			
Increase in background check fees	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS FUND	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
LOCAL POLITICAL SUBDIVISIONS			
<u>Income - DOR)</u>			
Sales taxes collected (per Chapter 144 and §192.947) (p. 14)	<u>\$0</u>	Less than <u>\$4,000,000</u>	Less than <u>\$5,700,000</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>Less than \$4,000,000</u>	<u>Less than \$5,700,000</u>

FISCAL IMPACT - Small Business

§261.265 - The proposed legislation allows the Missouri Department of Agriculture to issue licenses to cultivation and production facilities in the state to grow or cultivate the cannabis plant used to make hemp extract. There could be an unknown impact on small businesses that may serve as these facilities.

FISCAL DESCRIPTION

INVESTIGATIONAL DRUG USE BY TERMINAL PATIENTS

This bill expands the definition of investigational drug, biological product, or device so that it can include medical cannabis. Under this provision a dispensing organization or manufacturer of an investigational drug, biological product, or device that has successfully completed phase one of a clinical trial but has not been approved for general use by the FDA and remains under investigation in a clinical trial can be made available to certain eligible patients who have terminal illnesses and meet all the other requirements of the section. This bill makes it a class A misdemeanor for any official, employee, or agent of the state to block or attempt to block the access of an eligible patient to an investigational drug, biological product, or device. (Section 191.480).

MEDICAL CANNABIS AND HEMP EXTRACT REGISTRATION CARDS

This bill changes the law regarding the use of hemp extract to treat intractable epilepsy to authorize the legal use of medical marijuana to treat terminal illnesses. This bill authorizes the Department of Health and Senior Services to issue medical cannabis registration cards to any Missouri resident, 18 years old or older, who can provide a statement signed by a doctor stating that the individual suffers from a terminal illness and may benefit from treatment with medical cannabis and that the individual has considered all other treatment options currently approved by the FDA and all relevant clinical trials conducted in Missouri.

FISCAL DESCRIPTION (continued)

Parents of minor children suffering from intractable epilepsy or a terminal illness or condition can also obtain medical cannabis cards on behalf of their children. These registration cards will only be valid for one year but can be renewed.

The department will publish a list of debilitating diseases or conditions for which a medical cannabis or hemp extract registration card can be issued. A medical cannabis registration card may only be issued for terminal illnesses and a hemp extract registration card may only be issued for intractable epilepsy.

Any physician who signs a statement for a patient to obtain a medical cannabis registration card must keep a record of his or her evaluation and observation of that patient, including the patient's response to medical cannabis, and transmit such record to the department. The department must maintain a database of these records, which it can share with a higher education institution for the purpose of studying medical cannabis. The department is also required to maintain a record of each person it issues a registration card to. The department can also authorize clinical trials involving medical cannabis. (Section 192.945)

THE USE OF MEDICAL CANNABIS

An individual who has been issued a medical cannabis registration card can only possess or use medical cannabis to treat a terminal illness. An individual who has been issued a medical cannabis registration card may possess up to 20 ounces of medical cannabis.

An individual may be allowed to apply for a waiver of this limit under the rules established by the Department of Health and Senior Services. The individual must also have a certificate of analysis detailing the ingredients of the medical cannabis (Section 195.207).

THE CULTIVATION AND PRODUCTION OF MEDICAL CANNABIS

The Department of Agriculture shall issue cultivation and production facility licenses to grow or cultivate medical cannabis.

The department will maintain a list of all licensed growers. The department is responsible for establishing rules relating to application requirements, including submission of fingerprints and criminal background checks; security requirements for cultivation and production premises; cannabis monitoring systems; the submission of medical cannabis to an approved testing facility; and the manufacture, storage, and transportation of medical cannabis. The department shall designate testing facilities that meet specified criteria. (Section 261.265)

FISCAL DESCRIPTION (continued)

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

SOURCES OF INFORMATION

Department of Health and Senior Services
Department of Agriculture
Department of Revenue
Office of Attorney General
Department of Insurance, Financial Institutions and Professional Registration
Department of Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of Administration -
 Division of Budget & Planning
 Information Technology Services Division/DHSS
 Information Technology Services Division/DOR
 Facilities Management, Design and Construction
 Division of General Services
Office of State Courts Administrator
Office of Secretary of State
Office of State Public Defender
Columbia/Boone County Department of Public Health and Human Services
Springfield Police Department
St. Louis County Department of Justice Services

Ross Strope



Acting Director
April 26, 2018