TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 486 - HB 637

May 22, 2020

SUMMARY OF BILL: Enacts the Tennessee Medical Cannabis Act (Act), which legalizes and decriminalizes, licenses and regulates the possession, consumption, cultivation, processing, purchase, transportation and sale of medical cannabis, including the extraction of any part of the plant, and every compound, derivative, mixture, product or preparation of the plant for any qualifying patient who has been assessed by a medical care practitioner as having a qualifying medical condition and has successfully applied for a medical cannabis card. Requires qualifying patients to pay a registry identification card issuance fee of $65 at issuance and every two years thereafter at renewal.

Authorizes the cultivation, processing, and sale of medical cannabis in any county or municipality; however, the appropriate legislative body of any such jurisdiction may ban the cultivation, processing, manufacture, or sale of medical cannabis within its jurisdiction by a two-thirds majority vote of the body.

Establishes the Medical Cannabis Commission (Commission). The Commission shall have nine members. The first meeting must commence no later than September 16, 2019. Within the first twelve months after commencement of meetings, there must be at least two meetings held monthly. After such twelve-month period, meetings must at least be held monthly. Members of the Commission shall receive $700 per meeting attended, and shall be reimbursed for their actual and necessary expenses, including travel expenses. The Commission shall meet in Nashville. Authorizes the Commission to appoint a director, who must be a licensed attorney, and an assistant director. Both the director and assistant director are eligible for reimbursement of travel expenses. Directs the Commission to coordinate with the Department of Agriculture to appoint a chief inspection and enforcement officer who shall serve under the Commissioner of the Department. The chief law enforcement officer shall be eligible for reimbursement of travel expenses. The Commission is required to:

- Publish application forms and procedures for obtaining all patient and caregiver medical cannabis cards;
- Establish an integrated, electronic registry system to track the medical cannabis card application process through issuance or denial;
- Procure and utilize a secure, online system for patient registration and seed-to-sale tracking;
- Provide annual written reports, with the first due no later than July 31, 2020, which must be made publicly available and be posted on the Commission's website.

Establishes two types of provisional licenses, the urban omni license (UOL) and the rural vertically integrated license (RUVI). By no later than April 1, 2020, the Commission is limited to issuing three UOLs in counties having a population greater than 336,400 according to the 2010 federal census or subsequent census. Limits the number of UOLs which the Commission may issue statewide to 12. Authorizes each UOL licensee to own up to three dispensaries in its primary county. Establishes an application fee of $85,000 for a UOL, $15,000 of which is non-refundable; however, should the application be accepted and the entity issued licensure, the entire $85,000 is non-refundable. In the event that a UOL is denied due to either the applying entity failing to provide all necessary information or for failure of the entity to pass the required on-site inspection, the Commission may determine that up to $38,300 is non-refundable, to offset the administrative costs of the Commission. UOLs are prohibited from operating outside its primary county except that transportation of materials or product outside such county is authorized and sales to a RUVI licensee may occur upon receipt of a waiver by the Commission.

By no later than March 1, 2020, the Commission is limited to issuing four RUVIs in each grand division of the state. Limits the number of RUVIs which the Commission may issue statewide to 12. Authorizes each UOL licensee to own up to three dispensaries in its primary county or an adjacent county. Establishes an application fee of $45,000 for a RUVI; however, should the application be accepted and the entity issued licensure, the entire $45,000 is non-refundable. If the application is denied, $40,000 of the application fee is refundable; however, in the event that a RUVI is denied due to either the applying entity failing to provide all necessary information or for failure of the entity to pass the required on-site inspection, the Commission may determine that up to $18,300 is non-refundable, to offset the administrative costs of the Commission. RUVIs are authorized to authorize business activities in its primary county and to aggregate cultivation, processing, and manufacturing of medical cannabis in adjacent counties. Authorizes a RUVI licensee to work cooperatively with up to six additional entities or persons at six physical locations in order to cultivate, process, or manufacture medical cannabis, as long as necessary information is provided to the Commission and such entities reside in a primary or adjacent county.

The Commission is required to issue provisional licenses prior to July 31, 2020; however, the issuance of such provisional licenses is conditional upon a successful on-site inspection. Final decisions to approve or deny either a UOL or RUVI must be made and published no later than November 15, 2020.

Authorizes the Commission to, upon its rulemaking authority and based on market demand, issue additional licenses for dispensaries, cultivation facilities, and stand-alone processing or manufacturing facilities and for similar vertically-integrated operations.

Requires the Department of Agriculture to perform statutory and regulatory inspection and enforcement requirements. Costs incurred by the Department to perform these duties shall be borne by the Commission.

Requires all owners, officers, board members, and managers of an entity applying for a UOL or RUVI to, during the application and operation process, pass a Federal Bureau of Investigation (FBI) level 2 background screening process.

Creates a special account in the State Treasury, to be known as the Medical Cannabis Fund (Fund). All moneys collected from fees and a considerable portion of collections from taxes levied pursuant to this Act shall be transmitted to the Department of Revenue (DOR) and be deposited in the Fund. Money in the Fund may be invested by the State Treasurer. Interest accrued on investments and deposits in Fund, shall not revert to the General Fund, but be carried forward to the subsequent fiscal year.

All sales of cannabis or cannabis products to qualifying patients are subject to a nine percent (9%) state sales tax and a local sales tax not to exceed two and one-tenth percent (2.1%). Proceeds of the state sales tax shall be allocated as follows:

- Forty-five percent (45%) to the Fund.
- Twenty-five percent (25%) to the Department of Agriculture for programs and grants administered by the Department that facilitate agricultural development in the state, including, but not limited to, the Agricultural Enterprise Fund and the Tennessee Agricultural Enhancement Program;
- Twenty percent (20%) to the Department of Economic and Community Development (ECD) for community and rural development program grants administered by the ECD; and
- Ten percent (10%) to the Tennessee Bureau of Investigation for opioid and methamphetamine drug enforcement purposes.

Establishes an excise tax, exclusive to licensed UOLs, equal to ten percent (10%) of net earnings earned in the preceding fiscal year.

Establishes that, upon determination by the General Assembly that the Commission has established sufficient revenues for the administration of this program, the General Assembly may direct the Department of Revenue to transfer any excess balance in the Fund to the General Fund to repay any appropriation made by the General Assembly.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – $2,300/FY20-21/General Fund
$907,000/FY21-22/General Fund
$2,720,700/FY22-23/General Fund
$3,627,600/FY23-24 and Subsequent Years/
General Fund

$1,560,000/FY20-21/Medical Cannabis Fund
$8,502,500/FY21-22/Medical Cannabis Fund

$15,448,900/FY22-23/Medical Cannabis Fund
$23,821,400/FY23-24/Medical Cannabis Fund
$21,861,600/FY24-25 and Subsequent Years/
Medical Cannabis Fund

$2,087,400/FY21-22/Department of Agriculture
$6,262,100/FY22-23/Department of Agriculture
$8,349,400/FY23-24 and Subsequent Years/
Department of Agriculture

$100/FY20-21/Department of State
Not Significant/FY21-22 and Subsequent Years/
Department of State

$3,900/FY20-21/TBI
$835,300/FY21-22/TBI
$2,505,200/FY22-23/TBI
$3,340,100/FY23-24 and Subsequent Years/TBI

Increase State Expenditures - $74,100/FY21-22/General Fund
$71,300/FY22-23 and Subsequent Years/General Fund

$1,349,800/FY20-21/Medical Cannabis Fund
$843,500/FY21-22/Medical Cannabis Fund
$815,000/FY22-23 and Subsequent Years/
Medical Cannabis Fund

$2,500/FY20-21/TBI
$200/FY21-22 and Subsequent Years/TBI

Decrease State Expenditures - $893,700 Incarceration*

Increase Local Revenue - $1,948,200/FY21-22/Permissive
$5,844,600/FY22-23/Permissive
$7,792,800/FY22-23 and Subsequent Years/Permissive

Decrease Local Revenue – $467,300/FY20-21 and Subsequent Years

Decrease Local Expenditures - $1,794,200/FY20-21 and Subsequent Years

Assumptions:

- This bill was filed in 2019 and some dates have already passed. For purposes of this analysis, all dates have been extended by one year.

A) *Licensing Revenue for Urban Omni Licenses (UOLs) and Rural Vertically Integrated Licenses (RUVIs):*

- Sales of medical cannabis will begin on January 1, 2021.

- This legislation limits the number of UOLs that may be issued to 3 per any county having a population of more than 336,400, according to the 2010 federal census; therefore, a statewide limit of 12 UOLs (4 counties x 3 UOLs per county).
- This legislation limits the number of RUVIs to 12 statewide, or no more than 4 in each grand division of the state.
- The Commission is authorized to authorize an increase in the number of licenses issued; however, for the purpose of this fiscal analysis, the limitations initially prescribed in this legislation are assumed to continue into perpetuity.
- This legislation sets an application fee of $85,000 for an UOL and $45,000 for a RUVI.
- Based upon denial and circumstances of any such denial, partial application fee provided by a UOL or RUVI could be refunded; however, for purposes of this fiscal analysis, it is assumed that all UOLs and RUVIs which apply will be issued licenses.
- There will be 12 UOL licenses and 12 RUVI licenses issued statewide. Such licenses will be issued prior to July 1, 2021, or in FY20-21.
- An increase in state revenue in FY20-21 of $1,560,000 [(12 UOLs x $85,000) + (12 RUVIs x $45,000)].
- It is assumed that at least one UOL and one RUVI will cease business operations each year and will each be replaced by a new UOL and RUVI.
- A recurring increase in state revenue, beginning in FY21-22, of $130,000 ($85,000 + $45,000).
- Such application fee revenue shall be allocated to the Fund.

B) Business Charters:

- All UOLs and RUVIs will be required to file a business charter with the Secretary of State's Office.
- Each individual UOL and RUVI will be able to operate multiple cultivation facilities, manufacturing facilities, testing facilities, and dispensaries within the appropriate primary county in which licensed and for RUVIs, counties adjacent to primary counties.
- It is assumed that one business charter will effectively cover all branches owned under any individual UOL or RUVI.
- The business charter fee is one-time at $100.
- It is assumed that in FY20-21, there will be 24 businesses, comprised of 12 UOLs and 12 RUVIS which will file business charters with the Secretary of State's Office.
- For purposes of this fiscal analysis, it is assumed that in FY21-22 and subsequent years, as some businesses are closed and others replace them, there will be approximately 2 new business charters filed with the Secretary of State's office annually, 1 new UOL and one new RUVI.
- The resulting increase in state revenue is estimated to be $2,400 in FY20-21 (24 x $100) and $200 in FY21-22 and subsequent years (2 x $100).
- Revenue from charter fees is allocated 97 percent to the General Fund, and 3 percent to the Secretary of State's Office. The increase in state revenue to the General Fund is estimated to be $2,328 in FY20-21 ($2,400 x 97%) and $194 in FY21-22 and subsequent years ($200 x 97%). The increase in state revenue to the Secretary of State's

Office is estimated to be $72 in FY20-21 ($2,400 x 3%) and $6 in FY21-22 and subsequent years ($200 x 3%).

C) Background Checks:

- Pursuant to Tenn. Code Ann. § 68-7-103(c) of the Act, each application for either an UOL or RUVI license must include a completed background check from each person who is proposed to be an owner, officer, board member, or manager of a proposed UOL or RUVI.
- The TBI charges a fee of $32.65 to collect one sample of fingerprints and perform one criminal background check.
- Of the $32.65, $12.00 is forwarded to the FBI to run a check, $8.65 is forwarded to the vendor that collects the fingerprints, and $12.00 is retained by the TBI to run a check through their system.
- The number of owners and operators applicable to each registered organization is unknown. It is assumed that, on average, there will be 1 owner and 2 managers, 3 board members, or 3 total individuals per registered licensee which will be required to submit to fingerprint testing and criminal background checks.
- In FY20-21, TBI will realize $3,918 (24 licenses x 5 individuals x $32.65) in revenue and expenditures of $2,478 [24 licenses x 5 individuals x ($12 + $8.65)].
- In FY20-21 and subsequent years, TBI will realize $327 (2 licenses x 5 individuals x $32.65) in revenue and expenditures of $207 [2 licenses x 5 individuals x ($12 + $8.65)].

D) Qualifying patients and Nonresident Cardholders:

- For purposes of estimation, it is assumed that the number of jurisdictions which would seek to opt out of the provisions of this Act is few and that any expenditures associated with conducting any such votes will be not significant.
- In determining the amount of individuals who will participate in this program, the Department of Health (DOH) was contacted to determine the number of individuals who will qualify for a registry identification card due to having a qualifying medical condition, as defined in the Act.
- Based on information provided by the DOH, at least 1,200,000 individuals residing in Tennessee have a qualifying medical condition which would entitle such qualifying patients to seek a registry identification card.
- Tennessee will grant reciprocity to nonresident cardholders who have a valid, functional equivalent to the registry identification card established by this Act.
- The number of non-resident nonresident cardholders that will, on average, be in Tennessee at any given time is estimated to be low, as states surrounding Tennessee generally do not have medical marijuana programs at this current time.
- It is assumed that approximately 0.5 percent of the total estimated population of Tennesseans with qualifying medical conditions, or 6,000 individuals (1,200,000 x 0.5 %) will be eligible non-resident cardholders and purchase medical marijuana legally in Tennessee.

- In total, approximately 1,206,000 individuals will be eligible to purchase cannabis in Tennessee (1,200,000 + 6,000).
- After Colorado passed Amendment 20 in 2000, those with certain qualifying medical conditions were able, beginning July 1, 2001, to possess up to 2 ounces of a usable form of marijuana and cultivate not more than 6 marijuana plants.
- In October 2009, federal resources to prosecute medical marijuana patients and caregivers who were in "clear and unambiguous" compliance with state law were decreased, effectively leading to a drastic increase in the number of dispensaries in the state, and thus, the number of registrants also increased drastically.
- The following shows the number of registrants (2009-2013) in Colorado as of January 31 of each year:
    - 2009: 5,051
    - 2010: 53,038
    - 2011: 118,895
    - 2012: 85,124
    - 2013: 108,056
- Due to this legislation's immediate adoption of regulated MCEs, the following figures estimate the number of individuals per fiscal year who either hold registry identification cards or be nonresident cardholders and thus, be eligible to purchase medical cannabis in Tennessee:
    - FY19-20: 60,300 individuals (1,206,000 x 5%);
    - FY20-21: 90,450 individuals (1,206,000 x 7.5%); and
    - FY21-22 and subsequent years: 120,600 individuals (1,206,000 x 10%).
- According to the Colorado Department of Revenue, retail sales of medical cannabis at the close of FY12-13 (12th program year), totaled $328,646,922.
- As of June 30, 2013 (12th Program year), the registry contained approximately 106,817 users possessing valid Registry ID cards.
- The annual revenue realized per average ID holder was $3,077 ($328,646,922 / 106,817 ID holders).

E) Revenue:

FY21-22 Tax Revenue:

- It is assumed that this Act will take effect January 1, 2021.
- It is assumed that cannabis sales will effectively begin on January 1, 2022; therefore, sales of cannabis in FY21-22 are estimated to be equal to one-half of one year of estimated sales.
- Retail sales of medical cannabis in FY21-22 will be $92,771,550 (60,300 x $3,077 x 50%).
- 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 $13,915,733 ($92,771,550 x 15%).
- The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections will be $904,523 ($13,915,733 x 6.5%).
- This legislation establishes a 10 percent excise tax upon the net earnings of all UOLs.

- All proceeds of such excise tax shall be allocated to the Fund.
- For purposes of estimation, it is assumed that the revenue and thus, net profit of all UOLs is equal to approximately half of total revenue and net profit experienced by all licensed UOLs and RUVIs.
- The increase in state revenue attributable to this special excise tax collection will be $695,787 ($13,915,733 x 50% x 10%).
- Net worth of these companies is estimated to be equivalent to annual sales ($92,771,550). The franchise tax rate is 0.25 percent per $100 of value, so the increase in state revenue attributable to franchise tax collections will be $2,319 [($92,771,550 / $100) x 0.25%].
- This legislation establishes state sales tax of nine percent on sales of medical cannabis and authorizes a local option sales tax not to exceed two and one-tenth percent.
- State sales tax revenue in FY21-22of $8,349,440 ($92,771,550 x 9%), allocated as follows:
    - $3,757,248 to the Fund ($8,349,440 x 45%).
    - $2,087,360 to the Department of Agriculture ($8,349,440 x 25%);
    - $1,669,888 to the Department of Economic and Community Development ($8,349,440 x 20%); and
    - $834,944 to the Tennessee Bureau of Investigation ($8,349,440 x 10%).
- Local sales tax revenue in FY21-22 of $1,948,203 ($92,771,550 x 2.10%).

FY22-23 Tax Revenue:

- Retail sales of medical cannabis in FY22-23 will be $278,314,650 (90,450 x $3,077).
- 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 $41,747,197 ($278,314,650 x 15%). The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections will be $2,713,568 ($41,747,197 x 6.5%).
- This legislation establishes a 10 percent excise tax upon the net earnings of all UOLs.
- All proceeds of such excise tax shall be allocated to the Fund.
- For purposes of estimation, it is assumed that the revenue and thus, net profit of all UOLs is equal to approximately half of total revenue and net profit experienced by all licensed UOLs and RUVIs.
- The increase in state revenue attributable to this special excise tax collection will be $2,087,360 ($41,747,197 x 50% x 10%).
- Net worth of these companies is estimated to be equivalent to annual sales ($278,314,650). The franchise tax rate is 0.25 percent per $100 of value, so the increase in state revenue attributable to franchise tax collections will be $6,958 [($278,314,650 / $100) x 0.25%].
- This legislation establishes state sales tax of nine percent on sales of medical cannabis.
- State sales tax revenue in FY22-23 of $25,048,319 ($278,314,650 x 9%), allocated as follows:
    - $11,271,744 to the Fund ($25,048,319 x 45%).
    - $6,262,080 to the Department of Agriculture ($25,048,319 x 25%);

    - $5,009,664 to the Department of Economic and Community Development ($25,048,319 x 20%); and
    - $2,504,832 to the Tennessee Bureau of Investigation ($25,048,319 x 10%).
- Distribution of proceeds from the state sales tax shall be distributed to the General Fund, to be placed in a separate account for the exclusive use of the Commission.
- Local sales tax revenue in FY22-23 of $5,844,608 ($278,314,650 x 2.10%).

FY23-24 and Subsequent Years Tax Revenue:

- Retail sales of medical cannabis in FY23-24 and subsequent years will exceed $371,086,200 (120,600 x $3,077).
- 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 $55,662,930 ($371,086,200 x 15%). The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections will exceed $3,618,090 ($55,662,930 x 6.5%).
- This legislation establishes a 10 percent excise tax upon the net earnings of all UOLs.
- All proceeds of such excise tax shall be allocated to the Fund.
- For purposes of estimation, it is assumed that the revenue and thus, net profit of all UOLs is equal to approximately half of total revenue and net profit experienced by all licensed UOLs and RUVIs.
- The increase in state revenue attributable to this special excise tax collection will be $2,783,147 ($55,662,930 x 50% x 10%).
- Net worth of these companies is estimated to be equivalent to annual sales ($371,086,200). The franchise tax rate is 0.25 percent per $100 of value, so the increase in state revenue attributable to franchise tax collections will exceed $9,277 [($371,086,200 / $100) x 0.25%].
- This legislation establishes state sales tax of nine percent on sales of medical cannabis.
- State sales tax revenue in FY23-24 and subsequent years of $33,397,758 ($371,086,200 x 9%), allocated as follows:
    - $15,028,991 to the Fund ($33,397,758 x 45%).
    - $8,349,440 to the Department of Agriculture ($33,397,758 x 25%);
    - $6,679,552 to the Department of Economic and Community Development ($33,397,758 x 20%); and
    - $3,339,776 to the Tennessee Bureau of Investigation ($33,397,758 x 10%).
- Distribution of proceeds from the state sales tax shall be distributed to the General Fund, to be placed in a separate account for the exclusive use of the Commission.
- Local sales tax revenue in FY23-24 and subsequent years of $7,792,810 ($371,086,200 x 2.10%).

F) Revenue – Medical Cannabis Cards:

- All qualifying patients who register with the Commission must pay $65 for the issuance of a medical cannabis card.
- Such cards expire two years from the date of issuance and can be renewed after payment of the $65 renewal fee.

- It is assumed that the following number of medical cannabis cards will be issued per fiscal year:
  - FY21-22: 60,300 cards;
  - FY22-23: 90,450 cards; and l
  - FY23-24: Exceeds 120,600 cards.
- It is assumed that in FY23-24, the number of issued cards will stay constant into perpetuity; however, new cardholders will replace those who have been issued a card but decide not to renew or no longer have a qualifying condition, as defined by the legislation.
- Registry identification card revenue by fiscal year:
  - FY21-22: $3,919,500 (60,300 initial cards x $65);
  - FY22-23: $1,959,750 [(90,450 total cards issued – 60,300 previously issued cards) x $65].
  - FY23-24: $5,879,250 [(60,300 renewals x $65) + (30,150 initial issuances x $65)].
  - FY24-25 and subsequent years (annualized): $3,919,500 [(120,600 cards issued x $65) / 2 years].
- All fee revenue is required to be allocated to the Fund.
- For purposes of this fiscal note, it is assumed that this revenue stream will remain constant into perpetuity; however, the Commission is authorized to adjust such fee amount.

G) Expenditures:

Department of Revenue (DOR):

- According to the DOR, passage of the Act will require one additional Tax Auditor 3 position to audit tax returns submitted from MCEs.
- It is assumed that this new position will be filled on July 1, 2021.
- A recurring increase in recurring state expenditures of $71,296 (salary $55,000 + benefits $15,696 + supplies $600) and a one-time increase in state expenditures of $2,800 (computer-related costs $1,200 + office furniture $1,600).
- An increase in state expenditures in FY21-22 of $74,096 ($71,296 + $2,800).
- An increase in state expenditures in FY22-23 and subsequent years of $71,296.

Medical Cannabis Commission:

- The Act establishes a 9-member Commission.
- Each member of the Commission will receive $700 for each meeting attended and is authorized to be reimbursed for any necessary and expenses, including travel.
- This legislation requires the Commission to hold a minimum of 2 meetings each month in the first twelve months, commencing no later than September 16, 2020; therefore, it is assumed that the Commission will meet 2 times per month, beginning in September 2020 through August 2021, or 20 meetings in FY20-21.
- In October 2021 and each month forward, the Commission shall meet monthly.
- Meetings will be held over two days.

- The members of the Commission will be reimbursed a total of $350 for travel ($110), meals ($61) and lodging ($179) per meeting.
- The Act requires the Commission to appoint a director and an assistant director.
- It is assumed that the Commission will hire one program director, one assistant director, and one accountant 3 position.
- It is assumed that the program director will earn a salary of $100,000; the assistant director will earn a salary of $80,000; and an accountant 3 position will earn a salary of $60,000.
- An increase in recurring state expenditures of $304,762 (salaries $240,000 + benefits $59,562 + supplies $1,800 + vehicle lease and maintenance $3,400) and one-time expenditures of $8,400 (computer-related expenses $4,800 + office furniture $3,600)
- It is assumed that new positions created within the Commission will be filled around January, 2021, in order to effectively process applications and aid MCEs in following Commission rules and regulations.
- This legislation requires that any costs incurred by the Department of Agriculture (DOA) in the administration of this medical cannabis program be borne by the Commission.
- Based on information provided by the DOA, and in addition to the positions provided exclusively to the Commission, the DOA will require 4 additional positions, consisting of 3 regulatory officers and 1 administrative assistant.
- An increase in recurring state expenditures of $296,867 ($230,000 salaries + $64,467 benefits + $2,400 supplies) and one-time expenditures of $9,600 (computer-related expenses $4,800 + office furniture $4,800).
- It is assumed that new positions created within the Department will be filled around July 1, 2021.
- An increase in state expenditures in FY21-22 of $306,467 ($296,867 + $9,600).
- An increase in state expenditures in FY22-23 and subsequent years of $296,867.
- In addition, this legislation requires 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 year of use.
- An increase in state expenditures in FY20-21 exceeding $1,160,769 [$304,738 x 50.0% for ½ year impact) + $8,400 + $1,000,000].
- A total increase in state expenditures in FY20-21 exceeding $1,349,769 {[9 members x 20 meetings x ($350 + $700)] + $1,160,769}.
- A total increase in state expenditures in FY21-22 exceeding $843,529 [9 members x 14 meetings x ($350 + $700) + $304,762 + $306,467 + $100,000].
- A total increase in state expenditures in FY22-23 and subsequent years exceeding $815,031 [9 members x 12 meetings x ($350 + $700) + $304,762 + $296,869 + $100,000].

H) 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 1,869 Class A misdemeanor convictions under Tenn. Code Ann. § 39-17-418 each year over the past 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 a total of 18,690 convictions (1,869 / 10% = 18,690) per year for misdemeanor violations of Tenn. Code Ann. § 39-17-418.
- The potential punishment for a Class A misdemeanor is up to 11 months, 29 days in jail, a fine up to $2,500, or both.
- This analysis estimates that 10 percent, or 1,869 (18,690 x 10%) offenders, currently pay an average $250 fine for simple possession.
- The proposed legislation will result in a recurring mandatory decrease of local revenue estimated to be $467,250 (1,869 x $250), beginning in FY20-21.
- This analysis assumes 10 percent of offenders are spending an average of 15 days in local jail for Class A misdemeanor convictions of Tenn. Code Ann. § 39-17-418.
- The average cost to local governments to house an inmate in a local jail facility is $64 per day.
- The proposed legislation will lead to a recurring mandatory decrease in local incarceration expenditures estimated to be $1,794,240 ($64 x 1,869 offenders x 15 days), beginning in FY21-22.
- Pursuant to Tenn. Code Ann. § 39-17-417(g)(1), one commits a Class E felony for manufacturing, delivering, selling, or possessing marijuana with intent to manufacture, deliver, or sell in an amount between one-half ounce and 10 pounds. The proposed legislation will result in fewer Class E felony admissions.
- Based on information provided by the Department of Correction (DOC), there has been an average of 239.5 admissions statewide per year for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and 10 pounds.
- This analysis assumes offenders imprisoned for possession of marijuana possessed a substantial amount of marijuana, which likely exceeded one ounce. It is assumed that the proposed legislation will reduce these admissions by 10 percent (239.5 admissions x 10% = 24 admissions).
- The average time served for a Class E felony is 1.35 years (493.09 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2018 is $75.52.
- The proposed legislation will decrease recurring state incarceration costs by $893,716 (24 admissions x 493.09 days x $75.52).
- A decrease in the number of misdemeanor cases for multiple cannabis offenses listed under Tenn. Code Ann. Title 39, Chapter 17, will result in a decrease in state and local court costs. It is assumed that any such decrease will have a nominal impact on employment within such courts. Any decrease in court costs is estimated to be offset by a reduction in fee revenue received from individuals convicted and required to pay court costs and other necessary fees.

- The proposed legislation will not reduce the courts', district attorneys', or public defenders' caseloads enough to require a reduction in workforce.

I) Total Impacts to the General Fund, the Medical Cannabis Fund, the Secretary of State's Office, the Department of Agriculture, the TBI, and Incarceration:

General Fund –Expenditures – Department of Agriculture and Revenue:

- An increase in state expenditures in FY21-22 of $74,096.
- A recurring increase in state expenditures in FY22-23 and subsequent years of $71,296.

General Fund –Revenue:

- An increase in state revenue in FY20-21 of $$2,328.
- An increase in state revenue in FY21-22 of $907,036 ($194 + $904,523 + $2,319).
- An increase in state revenue in FY22-23 of $2,720,720 ($194 + $2,713,568 + $6,958).
- A recurring increase in state revenue in FY23-24 and subsequent years of $3,627,561 ($194 + $3,618,090 + $9,277).

Medical Cannabis Fund:

- An increase in state revenue in FY20-21 of $1,560,000.
- An increase in state expenditures in FY20-21 of $1,349,769.
- An increase in state revenue in FY21-22 of $8,502,535 ($130,000 + $695,787 + $3,757,248 + $3,919,500).
- An increase in state expenditures in FY21-22 of $537,062.
- An increase in state revenue in FY22-23 of $15,448,854 ($130,000 + $2,087,360 + $11,271,744 + $1,959,750).
- A recurring increase in state expenditures in FY22-23 and subsequent years of $518,162.
- An increase in state revenue in FY23-24 of $23,821,388 ($130,000 + $2,783,147 + $15,028,991 + $5,879,250)
- A recurring increase in state revenue in FY24-25 and subsequent years of $21,861,638 ($130,000 + $2,783,147 + $15,028,991 + $3,919,500).

Secretary of State's Office:

- An increase in state revenue in FY20-21 of $72.
- A recurring increase in state revenue in FY21-22 and subsequent years of $6.

Department of Agriculture:

- An increase in state revenue in FY21-22 of $2,087,360.
- An increase in state revenue in FY22-23 of $6,262,080.
- A recurring increase in state revenue in FY23-24 and subsequent years of $8,349,440.

TBI:

- An increase in state revenue in FY20-21 of $3,918.
- An increase in state expenditures in FY20-21 of $2,478.
- An increase in state revenue in FY21-22 and subsequent years of $835,271 ($327 + $834,944).
- A recurring increase in state expenditures in FY21-22 and subsequent years of $207.
- An increase in state revenue in FY22-23 of $2,505,159 ($327 + $2,504,832).
- A recurring increase in state revenue in FY23-24 and subsequent years of $3,340,102 ($327 + $3,339,775).

Incarceration:

- A recurring decrease in state expenditures of $2,536,605.

Local Government:

- A permissive increase in local revenue in FY21-22 of $1,948,203.
- A mandatory decrease in local revenue in FY20-21 and subsequent years of $467,250.
- A decrease in local expenditures in FY21-22 and subsequent years of $1,794,240.
- A permissive increase in local revenue in FY22-23 of $5,844,608.
- A permissive increase in local revenue in FY23-24 and subsequent years of $7,792,810.

*Tennessee Code Annotated, Section 9-4-210, requires that: *For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

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

Krista Lee Carsner

Krista Lee Carsner, Executive Director

/jdb