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HOUSE BILL 2353 & SENATE BILL 316 – AMENDMENT 1

CANNABIS REGULATION AND TAXATION – CANNABIS POSSESSION UNDER 28 GRAMS
720 ILCS 550 (CANNABIS CONTROL ACT) AND 720 ILCS 600 (DRUG PARAPHERNALIA)

TOTAL BENEFITS IN REDUCED COSTS OVER THREE YEARS: between $8.5 and $10.9 million
TOTAL LOST TICKET REVENUE OVER THREE YEARS: between –$4.1 and –$8.2 million
TOTAL NEW TAX REVENUE OVER THREE YEARS: between $169.9 and $299.1 million[1]

TOTAL BENEFITS IN REDUCED COSTS OVER THREE YEARS: between $170 and $306 million

House Bill 2353, House Amendment 1 and Senate Bill 316, Senate Amendment 1 (HB 2353 / SB 316) create the Cannabis Regulation and Taxation Act and amends the Cannabis Control Act. The proposal legalizes possession of under 28 grams of cannabis by Illinois residents; possession of under 14 grams for nonresidents; possession of five or fewer cannabis plants; and possession of cannabis paraphernalia. Other penalties, including for manufacture and delivery, remain the same unless the manufacturer or seller complies with the new regulations. This fiscal analysis focuses solely on the changes to the Cannabis Control Act. Additional impacts from legalization of cannabis on public health and traffic safety, as well as the illegal drug markets are uncertain and not included at this time. Table 1 shows where the benefits and costs occur in the system.

Table 1. Total Change in Costs over Three Years

Change in	Three Year Value of Benefits	
	Low Estimate	High Estimate
Law Enforcement Benefits	$812,840	$3,251,358
Local Detention Benefits	$1,706,373	
Local Probation Benefits	$5,955,461	
Total Local Costs Avoided	**$8,474,673**	**$10,913,192**
Petty Offense Revenue	-$8,173,200	-$4,086,600
General Tax Revenue	$169,869,480	$299,143,020
Total Benefits	**$170,170,953**	**$305,969,612**

Possession of less than 28 grams of cannabis is currently a misdemeanor, therefore the system cost reductions will be at the local level. Local spending may decrease because of less law enforcement time spent on cannabis enforcement and reductions in pretrial detention, jail sentences, and misdemeanor probation sentences. The State prison population could be indirectly

[1] This is a retrospective analysis to allow an apples-to-apples comparison of costs and benefits for purposes of this analysis. The Commission on Government Forecasting and Accountability projects an increase in future tax revenue to the State of approximately $251 million to $579 million per year if this bill becomes law.

either increased or decreased, depending on implementation and changes in cannabis use. For example, the other legalization reforms may shift illegal possession, manufacture, and delivery of cannabis into the new legal market and reduce felony arrests, convictions, and Illinois Department of Corrections (IDOC) sentences.

In theory, all of cannabis offenses could be eliminated by complete adherence to the new Cannabis Regulation and Taxation Act. In practice, other states that have legalized cannabis have not seen illegal cannabis possession and sales eliminated entirely. IDOC could also see an increase in drug related offenses such as driving under the influence if legalization results in more people using cannabis. Table 2 below shows the number of people arrested, convicted and sentenced for cannabis offenses in Illinois over the past three years that would have been effected by legalization.

Table 2. Number of Individuals Impacted by HB 2353 / SB 316 Over Three Years

720 ILCS 550 Section:	Arrested	Convictions	Withheld Judgment	Probation	IDOC Admissions
4(a) - Possession under 10 grams	81,732	3,882	3,882	372	n/a
4(b) - Possession 10 - 30 grams	16,568	2,107	2,107	599	n/a
Other Cannabis Possession under Section 4	8,474	1,766	719	1,039	568
All Cannabis Manufacture or Delivery under Section 5 and 5.2	14,856	4,439	3,451	2,308	1,064
8(a) - 5 or Fewer Cannabis Plants	221	78	28	12	16
All Other Cannabis Offenses All Sections	1,495	227	272	144	26
Total	**123,346**	**12,499**	**10,459**	**4,474**	**1,674**

SPAC[2] analyzed arrests, convictions, and sentences for cannabis offenses using 2013-2015 data from the Criminal History Record Information (CHRI) system. Because these data do not reflect the civil ticket regime enacted by Public Act 99-697, SPAC estimated the size of reduced civil fine revenue. SPAC also reviewed law enforcement data, including from the National Incident-Based Reporting System (NIBRS) and the Chicago Police Department, the National Survey of Drug Use and Health results, Washington and Colorado reports, and data from trade magazines and online sources for information on use, possession, consumption, and pricing for cannabis in Illinois. SPAC conservatively estimated the impact on use, consumption, and revenue.

LIMITATIONS AND ASSUMPTIONS:

- SPAC analyzed HB 2353 / SB 316 as compared to current law, including Public Act 99-697, which became effective July 29, 2016. P.A. 99-697 reconfigured the weights and penalties for cannabis possession offenses and these new civil fine penalties are the point of comparison in this analysis.

[2] The Sentencing Policy Advisory Council (SPAC) is a statutorily created council that does not support or oppose legislation. Data analysis and research is conducted by SPAC's research staff. The analysis presented here is not intended to reflect the opinions or judgments of SPAC's member organizations.

- Because petty offense revenue could not begin until after July 2016, SPAC estimates the benefits from petty offenses based on half of all arrests from 2013-2015 for cannabis possession under 10 grams receiving either $100 or $200 tickets. SPAC assumes all tickets revenue would be collected.
- The impact of this measure on driving under the influence is not included in this analysis due to data limitations. Some research suggests that decreasing penalties may increase use of cannabis or that due to public safety concerns arrests and prosecutions for drugged driving may increase. There is also research showing drug consumption and usage rates are unresponsive to criminal justice sentencing policies. Therefore, this factor may or may not increase criminal justice costs, offsetting other benefits.
- To calculate the total number of offenders with arrests, convictions, probation sentences, or withheld judgments, SPAC counts the number of offenders with at least one charge under each subsection of the Cannabis Control Act. For the total number of offenders admitted to IDOC, SPAC counts offenders only under their most serious offense.
- SPAC uses a dynamic marginal cost (DMC) to determine the costs avoided for local jails. The DMC varies with the size of the proposed legislation's impact on jails, including only variable costs—which vary directly with changes in service no matter the size of the change—up to fixed costs—which include capital construction costs and vary only with large service changes. Because the expected change in the average daily jail population across the State is small under this proposal, the DMC equals $3,044 per jail inmate per year.[3]

IMPACTS OF PROPOSED LEGISLATION:

The impact of this legislation will be determined by how legalization affects cannabis use, the new legal market's supply and demand, and the response from the illegal market. Based on the State Prevalence Estimates from the 2011-2012 National Survey on Drug Use and Health (NSDUH), produced by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA), SPAC estimates that approximately 590,000 adult residents of Illinois per year use cannabis.[4] This is approximately 20% of the 18-25 age group and 5% of the 26 or older Illinois population. The 2011-12 survey data are the most recent available but may undercount use.[5]

[3] For more information about dynamic marginal costs and local criminal justice costs, see SPAC's recent reports. SPAC, Supplement: Dynamic Marginal Costs in Fiscal Impact Analyses, 2017, available at http://www.icjia.state.il.us/spac/pdf/Dynamic_Marginal_Costs.pdf, Quantifying the County Adult Criminal Justice Costs in Illinois, 2016, available at http://www.icjia.state.il.us/spac/pdf/Quantifying_County_Adult_Criminal_Justice_Costs_in_Illinois_120616.pdf.

[4] U.S. Substance Abuse and Mental Health Services Administration, 2011-2012 NSDUH State Estimates of Substance Use and Mental Disorders, available at: http://archive.samhsa.gov/data/NSDUH/2k12State/NSDUHsae2012/index.aspx.

[5] Other research has found the NSDUH survey underestimates both prevalence and the quantity of cannabis consumption. SPAC conservatively uses the data available and does not adjust upward for underreporting. This approach may underestimate potential tax revenue. Other experts have applied a 22% upward adjustment to give a better estimate. *See* Caulkins, Jonathan, Kilmer, Beau, Kleiman, Mark, MacCoun, Robert, et al., Considering Marijuana Legalization: Insights for Vermont and Other Jurisdictions, Rand: 2015, page 17, available at: http://www.rand.org/pubs/research_reports/RR864.html.

Data SPAC reviewed showed cannabis use may increase after legalization.[6] Legalization could also affect prevalence rates for other illegal and legal substances, including heroin, cocaine, alcohol, and tobacco. Because firm trends and causal relationships have not yet been verified in research, these impacts are unknown. The estimate above shows past cannabis use as a starting point for considering future consumption and does not include potential increases or decreases in other controlled substance use. Future analysis of this issue would require that data collected on controlled substance offenses specify the type of drug and the weights involved.

In addition to criminal justice impacts, there are public health and human service impacts that the relevant State agencies should analyze as data becomes available. The following analysis is based on the best available data but is not conclusive regarding each impact category.

IMPACT OF PROPOSED LEGISLATION ON STATE PRISONS:
N/A

This proposal's sentencing changes only affect misdemeanor penalties. Several factors could either increase or decrease the prison population, depending on many factors that SPAC was unable to estimate:

+ **Increase the prison population:**
    - If the frequency of driving under the influence of cannabis increases, or if law enforcement and prosecution significantly expand their attention on cannabis-related DUIs, arrests, convictions, and sentences to IDOC could increase. Colorado and Washington State have seen an increase in DUI-cannabis arrests after legalization.
    - Possession, possession with intent, and manufacture or delivery to individuals under 21 would remain a felony offense for many cannabis weights. If the availability of cannabis increases and becomes more accessible to these under-age individuals, arrests, prosecution, convictions, and sentences may increase for this age group.
    - Cannabis may be used in conjunction with other illegal substances and, if cannabis use increases, the use and consumption of other drugs may also increase. The research on this effect is mixed and SPAC was unable to determine any effect sizes.
- **Decrease the prison population:**
    - Illegal possession offenses decrease as individuals carry legalized amounts of cannabis rather than face criminal penalties. There were over 500 admissions to prison over three years for cannabis possession, some with significant quantities of cannabis. For the smaller amounts, however, current data do not specify the exact weights of drugs involved so SPAC was unable to determine how many of

[6] Washington State saw an increase. *See* Washington State Office of Financial Management, Forecasting and Research Division, Monitoring Impacts of Recreational Marijuana Legalization: 2015 Baseline Report, Feb. 2015, available at http://www.ofm.wa.gov/reports/marijuana_impacts_2015.pdf. Colorado did not see an increase. *See* Colorado Department of Public Health & Environment, Jan. 30, 2017, available at: http://www.colorado.gov/cdphe/marijuana-health-report & Northwest High Impact Drug Trafficking Area, Washington State Marijuana Impact Report, March 2016, page 82.

these cases would have been altered had this proposal been in effect during those years.

- Illegal felony sales decrease as consumers shift to the legal market. This reaction may affect the 1,000 admissions to prison over three years for cannabis possession with intent or delivery. However, law enforcement may increase focus on illegal cannabis sales to assist the transition from illicit to regulated cannabis markets. SPAC was unable to determine the size of these effects.
- Cannabis may be a substitute for other illegal substances and, if cannabis use increases, use of other drugs may decrease. The research on this effect is still emerging and SPAC was unable to determine any effect sizes.
- The additional education campaigns, prevention and treatment services funded by the tax revenue from this proposal may decrease overall drug abuse. If illegal use of cannabis, alcohol, or tobacco decreases because of these programs, some felony offenses may also decline. SPAC was unable to determine the size of this effect, which would depend on the type of treatment and prevention efforts and the quality of implementation.

The number of people on mandatory supervised release (MSR) administered by IDOC's Parole Division, will fluctuate with changes in the prison population.

IMPACT OF PROPOSED LEGISLATION ON COUNTY JAILS:
$1.7 million
Avoided costs over three years.

Jails would see a change in their average daily population due to changes in the number of offenders detained prior to disposition and misdemeanor sentences that include jail time. SPAC uses the estimated dynamic marginal cost of jail detention of $3,044 per inmate per year to calculate costs avoided. The cost of detaining individuals arrested or charged but not convicted is not included. Avoiding these detentions would result in additional costs avoided for jails.

IMPACT OF PROPOSED LEGISLATION ON LOCAL PROBATION:
$6.0 million
Avoided costs over three years.

Probation departments would see a decrease in misdemeanor possession cases which would impact annual caseloads. For this analysis, SPAC used $1,900 per individual per year as the average cost of probation based on information provided by AOIC for FY13, adjusted for inflation to 2016 dollars. This change in caseload does not signify a change in the need for probation officers to adequately supervise all offenders sentenced to probation.

IMPACT OF PROPOSED LEGISLATION ON LAW ENFORCEMENT:
Between $812,840 and $3.3 million
Avoided costs over three years.

Legalized cannabis possession does not require ticketing or, if making an arrest, transporting an offender to a police station for fingerprinting, booking, and finalizing arrest paperwork. This time savings would allow officers to more quickly return to other law enforcement tasks in the

community. To quantify the fiscal value of the time saved, SPAC estimated a high and low scenario for time saved per offense if the measure had been in effect for the past three years:

1. If this change reduced the processing time of a cannabis offense 15 minutes per offense, Illinois law enforcement would have an additional 24,575 hours over three years for police work.
2. If this change reduced the processing time one hour per offense, law enforcement would save 98,300 hours over three years.

Using the average salary of sworn police officers per hour, the possible benefits to law enforcement could be between $813,000 and $3.3 million over three years. SPAC conservatively estimates the time impact would be 15 minutes per offense ticket.

Table 3. Three Years Effect on Law Enforcement

	Cook	Rest of State	Total
Number of Offenses	54,548	43,752	98,300
Hourly Police Cost	$37.50	$27.56	
Save 1 Hour	$2,045,562	$1,205,797	$3,251,358
Save 15 Minutes	**$511,390**	**$301,449**	**$812,840**

For this estimate, SPAC used the most recent data from calendar years 2013 through 2015 for the number of arrests made in Illinois. SPAC's analysis of the State's CHRI data show that, of all arrests during that time, 5% of arrests in Cook County and 1% of arrests outside of Cook County were solely for possession of cannabis under 10 grams offenses. Of all cannabis possession arrests under 30 grams, over half do not include charges other than cannabis and paraphernalia possession.

Previous studies examining the difference in ticketing and arresting for cannabis possession used similar estimates of time, ranging from 1.25 hours to 4 hours.[7] Studies of drug arrests generally have found more time spent per arrest, sometimes ranging from roughly 4 hours to 13.5 hours of total law enforcement time, which includes the time of officers, detectives, and supervisors.[8]

Using a conservative estimate of 15 minutes per incident, eliminating these cannabis offenses would generate about $813,000 over three years. The hourly police cost was obtained from the

[7] Fulton, Michael, Clark, Richard, & Todd Robinson, The Decriminalization of Marijuana and the Maine Criminal Justice System: A Time/Cost Analysis, Maine Office of Alcoholism and Drug Abuse Prevention, Department of Human Services, Nov. 1979, available at: https://www.ncjrs.gov/pdffiles1/Digitization/77452NCJRS.pdf.

[8] Institute of Applied Research, A Cost-Benefit Analysis of the St. Louis City Adult Felony Drug Court. St. Louis, MO: 2004, page 43, available at: http://www.iarstl.org/papers/SLFDCcostbenefit.pdf (estimating drug arrests consume "4 hours of officer time and 1 hour of supervisor time."); Fain, Terry, Turner, Susan, & Greg Ridgeway, Los Angeles County Juvenile Justice Crime Prevention Act: Fiscal Year 2008-2009 Report, RAND Corporation, 2010, available at: http://www.rand.org/content/dam/rand/pubs/technical_reports/2010/RAND_TR832.pdf (estimating an Los Angeles juvenile arrest took roughly four hours of officer time plus additional supervisor and processing time).

Bureau of Labor Statistics Occupational Employment Statistics.[9] Cost for police in Cook County was calculated separately from the rest of the State to reflect the variation in sworn law enforcement costs across the State.

Local law enforcement impacts may be offset by increased attention to drugged and drunk driving patrols. In Washington State and Colorado, motor vehicle stops and arrests increased after the laws changed.[10] Because of the uncertainty around law enforcement responses to this bill, SPAC does not estimate the cost effects of these factors.

IMPACT OF PROPOSED LEGISLATION ON VICTIMS AND COMMUNITIES:

This proposal's impact on victims and communities is unknown. For most fiscal impact analyses, SPAC examines how incapacitation of individuals convicted of crimes changes under the proposal, had it been in effect for the past three years, and then estimates how that change would affect recidivism rates. This proposal, however, affects only misdemeanor sentencing, which would change for individuals possessing less than 28 grams,[11] and few of these individuals are incapacitated in jail. To assess victim and community impacts, SPAC examined four areas for data and reports regarding cannabis legalization: drugged driving, other offenses, illegal use by those under 21, and illegal cannabis markets.

■ Drugged Driving

The frequency of drugged driving will depend on whether legalization changes the prevalence of cannabis use from current consumption.[12] Other states that have legalized recreational use have seen an increase in positive results for cannabis from drivers tested for driving under the influence. Recent data from Colorado, for example, shows that 17% of all DUI arrests involved cannabis.[13] In Illinois, SPAC found criminal history data identified 15% of DUI arrests as either unidentified (which may include alcohol-related DUIs) or identified as drug-related, which includes all drugs. As of July 2016, the new offense under 625 ILCS 501(a)(7) is a DUI-specific cannabis crime that will be reported into the Criminal History Reporting Information system, allowing more detailed analysis of drugged driving in the future.

■ Other Offenses

Determining a causal relationship to either increases or decreases in crime or other drug offenses from the legalization of cannabis is difficult. The tax revenue dedicated to education campaigns, prevention, and treatment programs for cannabis, alcohol, and tobacco abuse could positively

[9] Bureau of Labor Statistics. Occupational Employment Statistics, May 2014, available at: http://www.bls.gov/oes/current/oes333051.htm.
[10] Both Washington and Colorado have a 5 nanogram per milliliter of blood per se standard for drugged driving.
[11] SPAC did not consider nonresident possession for purposes of this analysis.
[12] For example, both Colorado and Washington State saw a decrease in drug-related DUIs. Colorado Department of Public Safety, Office of Research and Statistics, Marijuana Legalization in Colorado: Early Findings: A Report Pursuant to Senate Bill 13-283, March 2016, page 27, available at: http://cdpsdocs.state.co.us/ors/docs/reports/2016-SB13-283-Rpt.pdf & Washington State Office of Financial Management, Forecasting and Research Division, Monitoring Impacts of Recreational Marijuana Legalization: 2015 Baseline Report, Feb. 2015, available at http://www.ofm.wa.gov/reports/marijuana_impacts_2015.pdf.
[13] Colorado Department of Transportation, Drugged Driving, https://www.codot.gov/safety/alcohol-and-impaired-driving/druggeddriving.

impact crimes connected to those substances. However, in order to analyze this impact in the future, more detailed data on the type and amount of substance would have to be collected and connected across a variety of policy areas.

- **Illegal Use by Those Under 21**

The National Survey on Drug Use and Health (NSDUH) reports that the prevalence of cannabis consumption is highest for the 18 to 25 population. For individuals who are 18 to 21 years old, consumption would still be illegal and they would be subject to arrest, conviction, and punishment. Similarly, individuals who supply, deliver, or manufacture cannabis that is purchased or given to individuals under 21 would still be subject to the penalties under the Cannabis Control Act.

- **Illegal Cannabis Markets**

SPAC was unable to determine this proposal's effect on the illegal cannabis market. Ideally, the regulated market would replace all illegal transactions and sales of cannabis. However, other states' legal markets have not replaced the illegal market, possibly because of tax policy and regulatory policies. The magnitude of the replacement of illegal transactions by the legal market is currently unknown.

IMPACT OF PROPOSED LEGISLATION ON PUBLIC REVENUE:
$161.7 to $295.0 million
Additional revenue over three years.

Analysis of the full impact of this legislation requires a reasonable estimate of the tax revenue that could be generated, as well as the local jurisdiction revenue that would be lost by eliminating the civil ticket system recently established by P.A 99-697, effective July 29, 2016. To create an apples-to-apples comparison of costs and benefits of this proposal, SPAC calculated a retrospective amount of both the ticket fines and tax revenue that would have been generated had this bill been in effect for the past three years, from 2014 through 2016.

- **Civil Fine Ticket Revenue Lost:**
  $4.1 to $8.2 million lost revenue over three years

The civil fine under current law can only be applied to those individuals found possessing cannabis by law enforcement. To estimate the potential size of this revenue source, SPAC assumed 50% of the arrests for cannabis possession of 0 to 10 grams would instead be given tickets and pay between $100 and $200. Over the past three years, 98,300 arrests for these offenses occurred. If half of these individuals paid $100, the fines would generate $4.1 million over three years. If the fine imposed were $200, the fines would generate $8.2 million over three years. On average per year, this results in a range between $1.4 and $2.7 million in lost fines per year.

- **Tax Revenue Gained:**
  $169.9 to $299.1 million additional revenue over three years

To determine if the benefits outweigh the costs of this bill, SPAC did a conservative calculation of the tax revenues that likely would have been generated had this bill been in effect for the past three years. **This calculation is not a projection of future revenue.** However, it demonstrates that with conservative assumptions the tax revenue gained exceeds the fine revenue lost from this proposal. **Revenue projections provided by the Illinois Department of Revenue and the**

Commission on Government Forecasting and Accountability (COGFA) should be relied on for analysis of future revenue.

SPAC calculated a possible range of sales and tax revenue from tax revenue in Illinois using Monte Carlo simulations.[14] The technique finds a best case scenario (all the input values are the most desirable), a worst case scenario (all inputs are the least desirable), and many scenarios in the middle. This calculation requires three values as inputs: the number of cannabis users, the average amount of cannabis consumed, and the price of cannabis. SPAC estimated these values using data from the most recent NSDUH survey and from information from Colorado. A full explanation of the Monte Carlo methodology is presented in Appendix B.

The simulation results provided a range of revenue of between $57 and $100 million per year that would have been generated had cannabis been legal, regulated, and taxed during this time period. The estimated revenue includes both the State's 6.25% sales tax and the proposal's per-ounce excise tax. SPAC used conservative assumptions as follows:

1. SPAC did not adjust the data reported in the NSDUHD survey. Many researchers agree that this survey underreports use by as much as 22%.

2. SPAC did not do separate calculations for plant, flower, and consumable categories of cannabis, as COGFA's analysis does. SPAC used the figures for flowers as its basis.

3. SPAC made no adjustments for potential growth of the legal market.[15] For example, total Colorado cannabis sales in 2016 were over $1 billion for both recreational and medical cannabis purchases.[16] Colorado has about half of Illinois' population, so the number of sales in the legal market is most likely higher than SPAC's assumption.

4. SPAC did not account for the costs of developing the regulatory and licensing infrastructure.

SPAC vetted its methodology with COGFA staff and concluded that this result is consistent with the COGFA analysis of future tax revenues. **Differences in the two calculations are primarily due to assumptions regarding prevalence and amount of consumption after legalization. SPAC's analysis is retrospective and not intended to be a prospective revenue calculation.**

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[14] Monte Carlo simulation is a standard tool in risk analysis and permits decision makers to consider plausible outcomes despite uncertainty and variability. Where outcomes depend on multiple factors and those factors are unknown or uncertain, Monte Carlo simulation, a computerized calculation, is used by running thousands of scenarios while each scenario uses random values within a plausible range for the unknown factors. Here, SPAC modeled 10,000 possible tax revenue scenarios based on the uncertain factors of (1) prevalence of use, (2) amount of use, and (3) the price per ounce.

[15] Washington State saw an increase. See Washington State Office of Financial Management, Forecasting and Research Division, Monitoring Impacts of Recreational Marijuana Legalization: 2015 Baseline Report, Feb. 2015, available at http://www.ofm.wa.gov/reports/marijuana_impacts_2015.pdf. Colorado did not see an increase. See Colorado Department of Public Health & Environment, Jan. 30, 2017, available at: http://www.colorado.gov/cdphe/marijuana-health-report & Northwest High Impact Drug Trafficking Area, Washington State Marijuana Impact Report, March 2016, page 82.

[16] Colorado Department of Revenue, Marijuana Tax Data, https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data.

IMPACT OF PROPOSED LEGISLATION ON PUBLIC HEALTH:

Public health impacts are important to an overall assessment of the costs and benefits of this proposal. Four components of public health were referenced in the data and reports from states that legalized cannabis: traffic and vehicular accidents, workplace injuries and employment, emergency visits and hospitalizations, and long-term health effects. Future analysis and monitoring should be conducted by the relevant State and local agencies and organizations, supported by collection of sufficient and reliable data.

Appendix A: Policy Changes in HB 2353 / SB 316:
Sentencing Changes:

Table A.1. Cannabis Possession

		Possession 720 ILCS 550/**4**	
Cannabis Amounts		Current Law	Proposed
Under 10 grams (a)		*$100-$200 fine*	***No crime*** *For 0-28 grams for resident, 0-14 grams for nonresident* ***Class B Misdemeanor*** *for 28-30 grams*
10-30 grams (b)		*Class B*	
30-100 grams (c)	First offense	*Class A*	*Class A*
	Second offense	*Class 4*	*Class 4*
100-500 grams (d)	First offense	*Class 4*	*Class 4*
	Second offense	*Class 3*	*Class 3*
500-2,000 grams (e)		*Class 3*	*Class 3*
2,000-5,000 grams (f)		*Class 2*	*Class 2*
Over 5,000 grams (g)		*Class 1*	*Class 1*
***Drug Paraphernalia* 720 ILCS 600 Connection to possession of cannabis**		*Class A*	*Cannabis paraphernalia removed.*

Table A.2. Cannabis Manufacture and Delivery – ***unchanged*** –

	Manufacture and Delivery 720 ILCS 550/**5**[a]	**Manufacture and Delivery within 1,000 feet** 720 ILCS 550/**5.2**
Cannabis Amounts	Current Law	Current Law
Under 2.5 grams (a)	*Class B*	*Class A* *Location not a factor.*
2.5-10 grams (b)	*Class A*	*Class 4*
10-30 grams (c)	*Class 4*	*Class 3*
30-500 grams (d)	*Class 3*	*Class 2*
500-2,000 grams (e)	*Class 2*	*Class 1*
2,000-5,000 grams (f)	*Class 1*	*Location not a factor.* *Class 1*
Over 5,000 grams (g)	*Class X*	

[a] Manufacture and delivery would not apply if the individual is licensed and in compliance with the Cannabis Regulation and Taxation Act proposed by HB 2353 / SB 316.

Table A.3. Cannabis Plants

	Cannabis Plants 720 ILCS 550/**8**	
Cannabis Amounts	Current Law	Proposed
Not more than 5 plants (a)	*Class A*	*Not a crime*
6 to 20 plants (b)	*Class 4*	*Class 4*
21 to 50 plants (c)	*Class 3*	*Class 3*
51 to 200 plants(d)	*Class 2*	*Class 2*
More than 200 plants (e)	*Class 1*	*Class 1*

***New*: 720 ILCS 550/4.1 and 8.1 – Possession of Cannabis or Cannabis Plants by Individuals Under 21**: provides a civil law penalty, punishable by a uniform cannabis ticket, forfeiture of the cannabis, up to 4 hours of drug awareness education course, and a fee for the class. Provides for penalties for those who fail to take the education course one year from the ticket.

Table A.2. Non-Sentencing Policy Changes in HB 2353 / SB 316

Retail Cannabis Store	On-site Consumption Establishment	Cannabis Cultivation Facility	Cannabis Product Manufacturing Facility	Cannabis Testing Facility
-- all are cannabis establishments --				
Registered to purchase cannabis from cultivation facility/product manufacturing facility	Registered to sell cannabis and products to consumers for on-site consumption (nonsmoking)	Registered to cultivate, prepare, and package cannabis	Registered to purchase cannabis	Registered to test cannabis for potency and contaminants
Registered to sell cannabis and products to consumers		Registered to sell to retail cannabis stores, to product manufacturing facility, to on-site consumption establishments, and other cultivation facilities (*not consumers*)	Registered to manufacturing facility/prepare/package cannabis products	
			Registered to sell cannabis and products to cannabis product manufacturing facilities, on-site consumption establishments, and retail stores (*not consumers*)	
Possess, display, store, transport	Possess, display, store, transport	Cultivate, harvest, process, package, transport, display, store, possess	Package, process, transport, manufacture, display, possess	Possess, cultivate, process, repackage, store, transport, display
Purchase from cultivation facility	Purchase from cultivation facility	Receive or purchase cannabis from a cultivation facility	Purchase from cultivation facility	Receive cannabis or products from a cannabis establishment or another 21+ person
Purchase from manufacturing facility	Purchase from manufacturing facility		Purchase from manufacturing facility	
Deliver or transfer cannabis to testing facility	Deliver or transfer cannabis to testing facility	Deliver or transfer cannabis to testing facility	Deliver or transfer cannabis to testing facility	Return cannabis or products to cannabis establishment or another 21+ person
Deliver, distribute, or sell cannabis or products to consumers or other retail stores	Deliver, distribute, or sell cannabis or products to consumers or on-site consumption establishments	Deliver, distribute, sell cannabis to a cultivation, manufacturing facility, on-site consumption establishment, or a retail store	Deliver or sell cannabis or products to retail store, on-site consumption, or manufacturing facility	
		Receive cannabis seeds or immature cannabis plants from a person 21+ old		

Retail Cannabis Store	On-site Consumption Establishment	Cannabis Cultivation Facility	Cannabis Product Manufacturing Facility	Cannabis Testing Facility
No consumer personal identifiable information may be required to be collected. Applications for establishments accepted and processed after 1 year.				
	Only if local regulatory authority issued permit, license, or registration			
Local gov't may prohibit operation by ordinance or referred measure approved by voters		Local gov't may prohibit operation by ordinance or referred measure approved by voters	Local gov't may prohibit operation by ordinance or referred measure approved by voters	Local gov't may prohibit operation by ordinance or referred measure approved by voters
May be limited by local ordinance re time, place, manner of store	May be limited by local ordinance re time, place, manner of store	May be limited by local ordinance re time, place, manner of store	May be limited by local ordinance re time, place, manner of store	May be limited by local ordinance re time, place, manner of store
May be assessed annual operating and registration fees by local gov't	May be assessed annual operating and registration fees by local gov't	May be assessed annual operating and registration fees by local gov't	May be assessed annual operating and registration fees by local gov't	May be assessed annual operating and registration fees by local gov't
$50 per ounce (flower)	$50 per ounce (flower)		$50 per ounce (flower)	
$15 per 25 grams (non-flowers)	$15 per 25 grams (non-flowers)		$15 per 25 grams (non-flowers)	
$25 per immature plants	$25 per immature plants		$25 per immature plants	
Note: Illinois sales tax would apply.				

HB 2353 / SB 316 also set parameters for rulemaking, product labeling, licensing procedures, and consumer safety requirements. Industrial hemp agriculture and manufacturing is also legalized and regulated. The bill specifically allows for employers to continue prohibitions against cannabis consumption by employees. Further, property owners may prohibit use on their property, except for rental units. Finally, the bill specifies how tax revenue and fines and fees collections are disbursed.

Appendix B: Monte Carlo Simulation Methodology

SPAC used the following assumptions in the Monte Carlo simulations:

1) 590,000 cannabis users in Illinois. From the most recent NSDUH State Prevalence Estimates (2011-12), varied up and down 43,700 users.[17]

2) Average use per year, per user: 1.9 ounces. From Colorado State reports.[18] SPAC found a similar estimate from the national 2014 NSDUH survey, from which SPAC estimated an annual consumption of about 1.94 ounces. This estimate accounts for most consumers purchasing far less cannabis per year and some consumers purchasing far more. In each simulation, the average use is varied up and down 0.45 ounces.[19]

3) Average price: $300 per ounce. From the national 2014 NSDUH survey. While this estimate is in line with other sources of data, states that legalized cannabis have seen the price per ounce fall, sometimes to below $200 per ounce. In each simulation, the average use is varied between $140 and $515 with most scenarios having $300 per ounce.[20]

SPAC reviewed the above inputs with COGFA staff and compared these calculations with the COGFA estimates. Differences in the two calculations are primarily due to assumptions regarding prevalence and amount of consumption after legalization. SPAC used inputs found from available past data to avoid overstating the potential revenue that could be generated by HB 2353 / SB 316, although this conservative approach may understate actual sales and tax collections.

With the assumptions above, SPAC calculated the potential sales and per-ounce taxes that could be collected over 10,000 times, each time varying the inputs as described. From these 10,000 simulations, SPAC estimates that total annual cannabis sales are likely between $231 and $482 million with an average of $356 million. The estimate is highly sensitive to the amount used per person per year: if the average use increases by one ounce per year, the sales would increase by about $525 million, excluding any additional fees or taxes.

Using the total annual sales estimates, SPAC calculated the revenue from both the per-ounce tax and the State sales tax. Because the prevalence and amount consumed varied in each simulation, **the range for per-ounce tax fell between $42 and $70 million per year.** On average, SPAC estimates the per-ounce tax would generate $56 million per year.

The sales taxes would also be applied to the $356 million in cannabis sales. Using the high and low ranges for possible sales, **SPAC estimates that between $14 and $30 million in sales tax revenue could be generated from this proposal.** On average, the 6.25% sales tax would generate an additional $22 million per year from cannabis sales.

[17] Users are distributed normally around a mean of 590,000 users with a standard deviation of 43,700.
[18] Colorado Legislative Council, Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee, 2014, pg. 1, available at: https://www.colorado.gov/pacific/sites/default/files/14%20MarijuanaRevenuesFinalReport.pdf.
[19] Consumption is distributed normally around a mean of 1.9 ounces with a standard deviation of 0.45.
[20] Price is given a triangle distribution between $140 and $515 with a mode of $300.