

**Legalization
would generate
tax revenue
of roughly
\$46.7 billion
annually.**

This report therefore considers the following policy change: simultaneous legalization by all states and the federal government. This policy change is not currently on the table, nor is it likely to occur in the near future. But this hypothetical case is analytically tractable because it circumvents the need for assumptions about cross-border effects or about state versus federal impacts of legalization. More importantly, this hypothetical provides an upper bound on the expenditure savings and revenue increases that might occur from legalization.

The policy change considered here—legalization—is more substantial than decriminalization, which means repealing criminal penalties against simple possession but retaining them against drug smuggling and selling. The budgetary implications of legalization exceed those of decriminalization for three reasons.⁵ First, legalization eliminates arrests for drug trafficking in addition to arrests for simple possession. Second, legalization saves prosecutorial, judicial, and incarceration expenses; these savings are minimal in the case of decriminalization. Third, legalization allows taxation of drug production and sale.

The estimates provided here should not be taken as precise estimates of the budgetary implications of a legalized regime for currently illegal drugs. The analysis employs numerous assumptions, some that plausibly bias the estimates downward and some that plausibly bias the estimate upward. Thus, the estimates reported here should be considered “ballpark figures” that indicate what order of magnitude of fiscal benefit policymakers should expect from legalization.

State and Local Expenditure for Drug Prohibition Enforcement

The savings in state and local government expenditure that would result from drug legalization consist of three main components: the reduction of expenditures of police resources from eliminating drug arrests; the reduction

in prosecutorial and judicial resources from eliminating drug prosecutions; and the reduction in correctional resources from eliminating drug incarcerations.⁶ Other savings in government expenditure might result from legalization, but these are minor or extremely difficult to estimate with existing data.⁷

To estimate the state and local savings in criminal justice resources, this report uses the following procedure. It estimates the percentage of state and local arrests for drug violations and multiplies this percentage by the state and local budget for police (subject to one adjustment discussed below). It estimates the percentage of state and local felony convictions for drug violations and multiplies this percentage by the state and local budget for prosecutors and judges (subject to one adjustment described below). It estimates the percentage of state and local incarcerations for drug violations and multiplies this percentage by the state and local budget for prisons. It then sums these components to estimate the overall reduction in state and local government expenditures. Under plausible assumptions, this procedure yields a reasonable estimate of the cost savings from drug legalization.

Portion of State and Local Police Budget Devoted to Drug Prohibition

The first cost of drug prohibition is the portion of state and local police budgets devoted to drug arrests. This report calculates that expenditure in two steps. It first calculates the percentage of drug arrests due to prohibition. It then multiplies this percentage by state and local expenditure on police, adjusted downward by approximately 9.6 percent to account for police activity unrelated to making arrests.⁸

Table 1 calculates the fraction of state and local arrests due to drug prohibition. Line 1 gives the total number of state and local arrests in 2007. Line 2 gives the number of such arrests for drug law violations. Line 3 gives the fraction of arrests due to drug law violations, defined as Line 2 divided by Line 1. Line 4 gives the percentage of drug arrests

Table 1
Percentage of Arrests Due to Drug Prohibition, 2007

	All Drugs	Heroin/ Cocaine	Marijuana	Synthetic	Other
1. Total Arrests	14,209,365				
2. Arrests for Drug Violations	1,841,182				
3. % of Arrests, Drug Violations	12.96				
4. % of Drug Arrests, Sale/Man	17.50	7.90	5.30	1.50	2.80
5. % of Total Arrests, Sale/Man	2.27	1.02	0.69	0.19	0.36
6. % of Drug Arrests, Possession	82.50	21.50	42.10	3.30	15.60
7. % of Total Arrests, Possession	10.69	2.79	5.46	0.43	2.02
8. 0.5 * % of Arrests, Possession	5.34	1.39	2.73	0.21	1.01

Sources: Total arrests and arrests for drug violations: U.S. Department of Justice, *Crime in the United States: Estimated Number of Arrests* (Washington: Federal Bureau of Investigation, Uniform Crime Reporting Program, 2007), http://www.fbi.gov/ucr/cius2007/data/table_29.html. Drug violation and sale/manufacturing percentages: U.S. Department of Justice, *Crime in the United States: Persons Arrested* (Washington: Federal Bureau of Investigation, Uniform Crime Reporting Program, 2007), <http://www.fbi.gov/ucr/cius2007/arrests/index.html>.

due to sale or manufacturing violations. Line 5 gives the percentage of overall arrests due to sale/manufacturing violations, defined as Line 3 times Line 4. Line 6 gives the percentage of drug law violations due to possession violations. Line 7 gives the percentage of overall arrests due to possession violations, defined as Line 6 times Line 3.

The information in Lines 5 and 7 is what is required in subsequent calculations, subject to one modification. Some arrests for drug violations, especially those for possession, occur because the arrestee is under suspicion for a non-drug crime but possesses drugs that are discovered by police during a routine search. This means an arrest for drug possession is recorded, along with, or instead of, an arrest on the other charge. If drug possession were not a criminal offense, the suspects in such cases would still be arrested on the charge that led to the search, and police resources would be used to approximately the same extent as when drug possession is a criminal violation.⁹

In determining which arrests represent a cost of drug prohibition, therefore, it is appropriate to count only those that are “stand-

alone,” meaning those in which a drug violation rather than some other charge is the reason for the arrest. This issue arises mainly for possession rather than trafficking. Few hard data exist on the fraction of “stand-alone” possession arrests, but previous research studies suggest it is between 33 percent and 85 percent.¹⁰ To err on the conservative side, this report assumes that 50 percent of possession arrests are due solely to drug possession rather than being incidental to some other crime. Thus the resources utilized in making these arrests would be available for other purposes if drug possession were legal. Line 8 of Table 1 therefore shows Line 7 divided by 2; this is the fraction of possession arrests attributable to drug prohibition.

Whereas Table 1 presents an overview of the percentages of drug arrests in the United States based on type of violation, Appendix A presents the same data broken down by individual state. Appendices C-G then use these fractions to calculate expenditures attributable to drug prohibition at the state level. Total police expenditure for the U.S. is indicated in the first part of Table 2. Line 1 gives total state and local expenditure on police in

We assume that 50 percent of possession arrests are due solely to drug possession rather than being incidental to some other crime.

Table 2
State and Local Expenditures Attributable to Drug Prohibition, Billions of 2008 dollars

	All Drugs	Heroin/ Cocaine	Marijuana	Synthetic	Other
1. Police Budget	81.03				
2. Police Budget, S/M violations	1.74	0.80	0.52	0.24	0.31
3. Police Budget, Possession violations	4.28	1.13	2.15	0.14	0.86
4. Police Budget, Drug Violations	6.02	1.93	2.67	0.38	1.17
5. Judicial Budget	17.27				
6. % Felony Convictions, Drug Violations	34.00	15.15	9.64	2.85	6.34
7. Judicial Budget, Drug Violations	5.87	2.62	1.66	0.49	1.10
8. Corrections Operating Budget	72.90				
9. % of Prisoners, Drug Charges	19.50	10.05	1.57	5.02	2.86
10. Correct. Budget, Drug Violations	14.22	7.33	1.14	3.66	2.09
11. Gross S/L Expend, Drug Prohibition	26.11	11.88	5.48	4.53	4.35
12. Net S/L Expend, Drug Prohibition*	25.68	11.68	5.39	4.45	4.28

Sources: The data on felony convictions are from Matthew Durose and Patrick A. Langan, *Felony Sentences in State Courts, 2000*, Bureau of Justice Statistics, Office of Justices Programs, U.S. Department of Justice, NCJ 198821 (2003), p. 2. The data on prisoners are from U.S. Department of Justice, *Prisoners in 2007: Estimated Number and Percent Distribution of Prisoners under Jurisdiction of State Correctional Authorities (Bulletin NCJ 219416)* (Washington: Federal Bureau of Investigation, 2008), <http://www.albany.edu/sourcebook/pdf/t600012005.pdf>. The data on budgets are from U.S. Census Bureau, *State and Local Government Finances by Level of Government and by State (2008)*, http://www.census.gov/govs/estimate/0600ussl_1.html. Budgets were originally reported for 2005–2006 and were converted to 2008 dollars with U.S. Department of Labor, “Consumer Price Index—All Urban Consumers” <http://www.bls.gov/cpi/home.htm#data>.

*See Appendix M.

FY 2008, adjusted for non-arrest activities. Line 2 gives police expenditure due to arrests for sales/manufacturing. Line 3 gives police expenditures due to possession. Line 4 gives total police expenditure due to drug violations, defined as Line 2 plus Line 3.

Portion of State and Local Judicial and Legal Budget Devoted to Drug Prohibition

The second main cost of drug prohibition is the portion of the prosecutorial and judicial budget devoted to drug prosecutions. A possible indicator of this percentage is the fraction of felony convictions in state courts for drug offenses. This indicator likely overstates, however, because the judicial and legal budget encompasses domestic relations, civil, and other case types that are unrelated to criminal activity. We therefore use the fraction of felony convictions multiplied by 41.7

percent of the overall judicial and legal budget, to account only for felony and misdemeanor cases. This fraction came from individual state data on judicial workloads for eight states.¹¹

The second portion of Table 2 calculates the judicial and legal budget due to drug prohibition.¹² Line 5 gives 41.7 percent of the state and local judicial and legal budget in 2008, which represents the fraction of that budget that is spent on felony and misdemeanor cases. Line 6 gives the percent of felony convictions in state courts due to drug law violations.¹³ Line 7 gives the state and local judicial and legal budget due to drug prosecutions, equal to the product of Line 5 and Line 6.

Portion of State and Local Corrections Budget Devoted to Drug Prohibition

The third main cost of drug prohibition is

the portion of the corrections budget devoted to incarcerating drug prisoners. A reasonable indicator of this portion is the fraction of prisoners incarcerated for drug offenses.

The third portion of Table 2 calculates the corrections budget due to drug prohibition.¹⁴ Line 8 gives the overall corrections budget. Line 9 gives the percent of state prisoners incarcerated for drug law violations. Line 10 gives the corrections budget devoted to drug prisoners, equal to the product of Line 8 and Line 9.¹⁵

Overall State and Local Expenditure for Enforcement of Drug Prohibition

Line 11 of Table 2 adds Lines 4, 7, and 10 to estimate total state and local government expenditure for enforcement of drug prohibition. The figures in lines 11 are overstatements of the savings in government expenditure that would result from legalization, for two reasons. First, under prohibition the police sometimes seize assets from those

arrested for drug violations (e.g., financial accounts, cars, boats, land, and houses), with the proceeds used to fund police and prosecutors.¹⁶ Second, some drug offenders pay fines, which partially offset the expenditure required to arrest, convict, and incarcerate these offenders. Appendix M shows that this offsetting revenue has been at most \$0.5 billion per year in recent years at the state and local levels.

Line 12 therefore shows the net state and local expenditure on drug prohibition for 2008 after subtracting out revenue from seizures and fines.¹⁷ For all drugs, the estimate is \$25.7 billion; for marijuana, \$5.4 billion; for cocaine and heroin, \$11.7 billion; and for other drugs, \$8.7 billion.¹⁸

State-by-State Estimates

Table 3 provides the state-by-state breakdown of state-and-local expenditure on drug prohibition for the year 2008, net of seizures and fines. Appendixes C–G provide state-by-

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Table 3
State-Level Expenditures Attributable to Drug Prohibition, Thousands of 2008 Dollars

State	All Drugs	Marijuana	Heroin/Cocaine	Other
U.S.	25,684,407	5,386,753	11,682,223	8,733,307
Alabama	235,438	49,854	108,937	76,602
Alaska	83,573	15,493	39,360	28,697
Arizona	577,941	128,252	244,486	205,093
Arkansas	156,452	31,082	66,978	58,368
California	5,378,683	959,755	2,437,665	2,102,697
Colorado	352,303	74,038	157,694	120,514
Connecticut	296,033	66,673	144,355	84,932
Delaware	100,469	22,101	48,661	29,690
Florida	1,488,538	269,324	757,908	461,040
Georgia	767,281	170,553	346,789	249,827
Hawaii	104,975	26,674	45,005	33,257
Idaho	95,534	18,731	41,580	35,204
Illinois	574,901	89,261	282,209	203,287
Indiana	347,104	74,265	157,169	115,613
Iowa	154,664	36,607	66,926	51,095

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