

Vermont Cannabis Control Board

Report to the General Assembly
Pursuant to 7 V.S.A. § 989

January 15, 2022



Overview

- **Background on Social Equity Program**
- **Data on Social Equity in Vermont's Regulated Cannabis Industry**
- **Cannabis Business Development Fund Beneficiary Payments**
- **Barriers to Access the Cannabis Industry**
- **Recommendations**

Background on Social Equity Program

- Requirements of the Report
- CCB Mission Statement on Social Equity
- Social Equity Criteria
- Implementation of the Social Equity Program
- Cannabis Business Development Fund

Requirements of this report

7 V.S.A. § 989 states:

§ 989. Reporting

The Cannabis Control Board, in consultation with the Advisory Committee, the Agency of Commerce and Community Development, and the Executive Director of Racial Equity, shall report to the General Assembly on or before January 15, 2023 and biennially thereafter regarding the implementation and application of this chapter, including data on the number of applicants, the number of recipients, the number and amounts of loans and grants, and the identification of continuing barriers to accessing the cannabis market for social equity applicants. This information shall be presented in a manner that can be quantified and tracked over time.

Social Equity & Economic Empowerment: CCB Mission Statement

Cannabis prohibition has disproportionately harmed Black and Brown people for generations. Central to the Board's vision is creating a cannabis program that provides economic opportunities in the industry for these individuals.

Before developing any rules for this new industry, the CCB created a vision statement that guides all of our work. That mission statement emphasized the importance of building an equitable and accessible program, and states, in part:

Social Equity.

The Board recognizes the disproportionate impact of the historically government-led policies that fueled the economic oppression of Black and Brown people for generations and continues to disadvantage these individuals as well as Indigenous people, people of color, and other historically marginalized groups. The Board aspires to build an equitable and accessible program in order to mitigate the past harm inflicted by the prohibition of cannabis. To this end, the Board will prioritize inclusivity in its process of building the regulatory framework, and endeavor to collect data on the program to inform course corrections.

CCB's Goal is to Reduce Disparities in Cannabis Market Participation

- The CCB has focused on addressing disparities in cannabis market participation at every step of its work to build the adult-use cannabis program. For example, the CCB:
 - Proposed and established comparatively low licensing and application fees to ensure the costs of regulation are not a barrier to entry.
 - Avoided imposing caps on the number of licenses to prevent creating an industry that reflects only the most well capitalized businesses.
 - Prioritized social equity applicants for licensure and for technical assistance.
 - Adopted rules that do not impose broad restrictions for licensing based on criminal history records. Instead, the Board considers applicants with a criminal history record on a case-by-case basis, and limits licensure to only those that would not pose a threat to the safety or proper functioning of the cannabis marketplace.
 - Prohibited considering previous cannabis convictions as justification for denial of a license.
 - Imposed employment and subcontracting requirements on larger cannabis businesses to help ensure that the ancillary business activity the cannabis industry generates benefits BIPOC people.

Social Equity and Economic Empowerment Program Development

- The Board has received extraordinary public involvement in its development of the social equity program. See [January 1, 2022 report to the General Assembly](#).
- The Board has adopted social equity criteria that, if met, entitle a cannabis establishment license applicant to waived or reduced application and licensing fees, access to technical assistance, and additional outreach and educational resources. These applicants are also eligible for disbursements from the Cannabis Business Development fund. See our [October 15 report to the General Assembly](#).
- The Board has also adopted an **economic empowerment** policy to support and encourage the participation of women, veterans, and minorities in the cannabis industry. This policy serves the goal of ensuring a diverse and inclusive cannabis industry that provides economic opportunities to many.

Social Equity Criteria

In order to be eligible for the social equity program, a cannabis establishment license applicant must be a resident of Vermont and meet one or more of the following criteria:

1. Be Black or Hispanic.
2. Have served a sentence of incarceration in a correctional facility as a result of a cannabis-related conviction.
3. Have a family member who has served a sentence of incarceration in a correctional facility as a result of a cannabis-related conviction.
4. Be able to demonstrate that they are from a community that historically has been disproportionately impacted by cannabis prohibition and that they have been personally harmed by that impact.

Social Equity Program

- CCB staff recommends to the Board whether an applicant meets the criteria for SE status or not, and the Board votes to confirm or deny SE status.
- Social equity applicants are prioritized for application review, licensing site visits, and technical support from CCB staff.
- Social equity applicants receive application fee waivers and license fee waivers in the first year, and then license fee reductions by 75%, 50%, and 25% in each of the following three years.
- CCB hosts entrepreneurial outreach, education, and networking sessions for social equity applicants and licensees to encourage participation in the market and foster success among existing licensees.
- Social equity applicants and license holders are eligible for disbursements from the Cannabis Business Development Fund, which is administered by the Agency of Commerce and Community Development.

Economic Empowerment Benefits

- Women, veterans, and minority applicants are given economic empowerment status by the CCB to help foster a diverse and inclusive cannabis industry.
- After social equity applicants, economic empowerment applicants are also prioritized for application review, licensing site visits, and technical support from CCB staff.
- CCB entrepreneurial outreach and education sessions are targeted towards economic empowerment applicants and licensees to foster peer-to-peer networking and support. Each of these sessions has had 30-50 attendees.
- Economic empowerment applicants do not receive application fee waivers and license fee waivers and are not eligible for disbursements from the Cannabis Business Development Fund.

Data on Social Equity Licensees

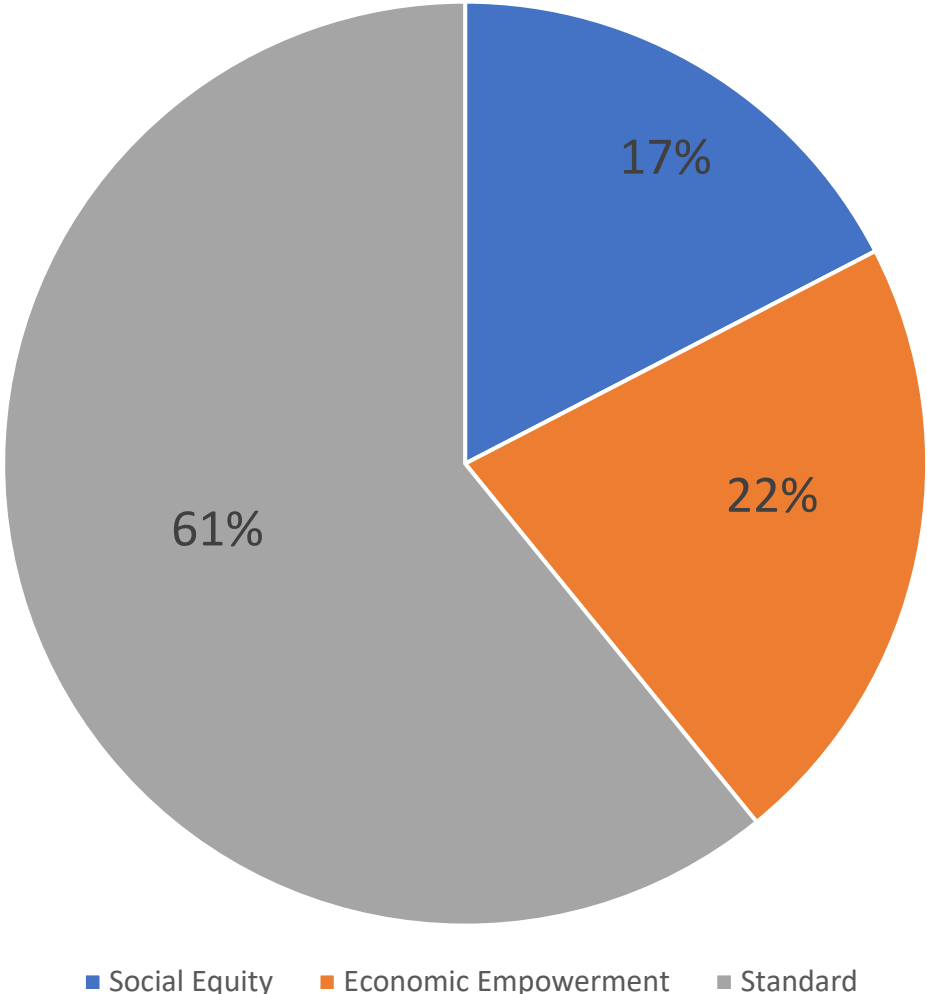
- **Prequalification for a Cannabis Establishment License**
- **Social Equity Licensees by Qualifying Criteria**
- **Social Equity, Economic Empowerment, and Standard Licensees**

Pre-qualification and Social Equity

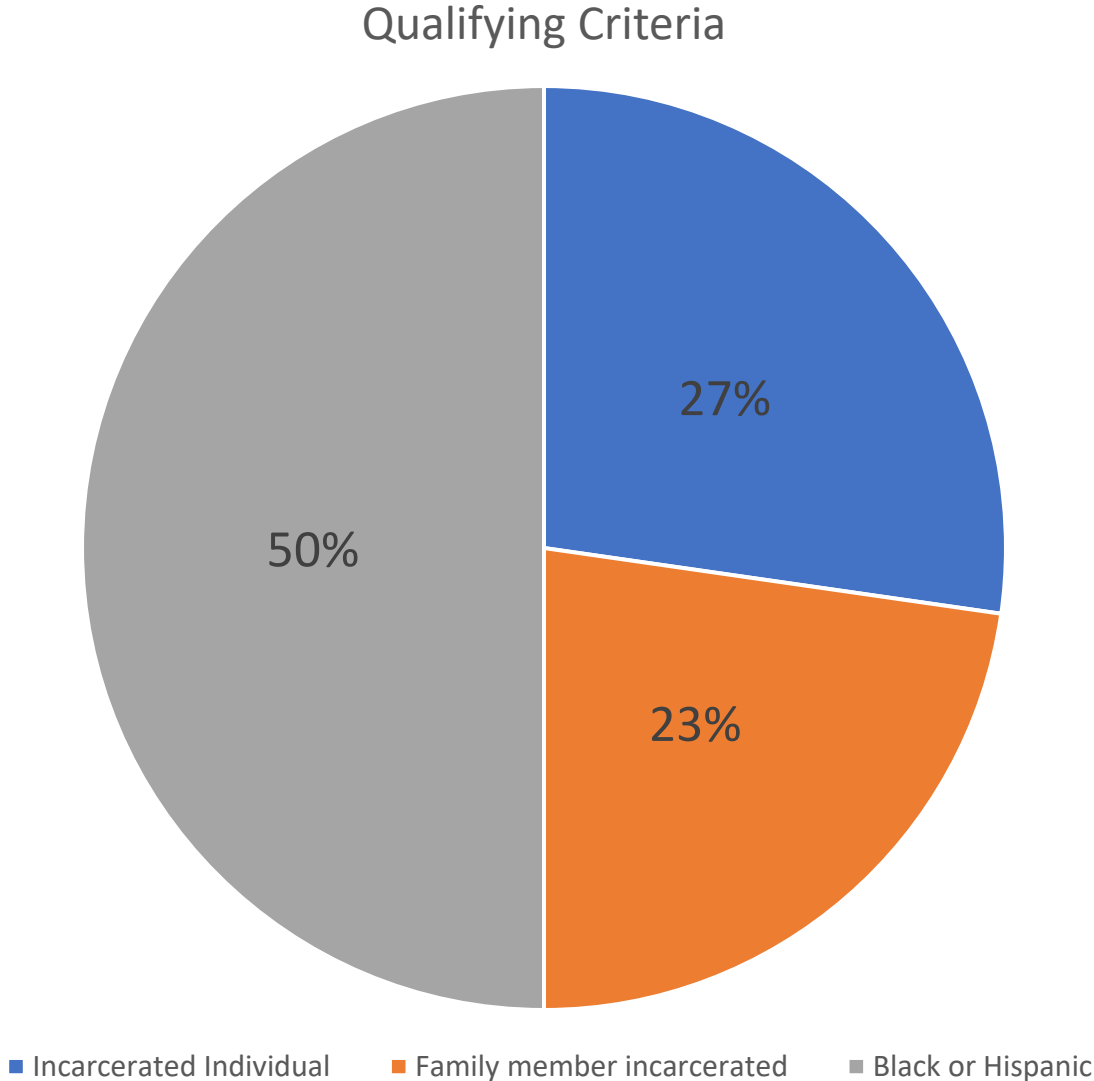
- The CCB provided for a prequalification or pre-licensing process, where potential applicants could apply to be prequalified for a cannabis establishment license early in the process. Prequalification allowed the applicant to meet the background check and other application requirements before procuring real estate and finalizing business plans. The prequalification application fee was subtracted from the license application fee if the applicant later applied for a license.
- This process allowed applicants to get official state approval for their leadership team and initial plans before having to procure real estate. This provided potential entrepreneurs a way to attract financing and evaluate the viability of their business plan before embarking on the full license application process.
- 222 applicants were approved for prequalification, and 202 of these prequalified applicants applied for a license. Of those, 51 were social equity applicants.

Cannabis Establishment Licensees by Priority Status

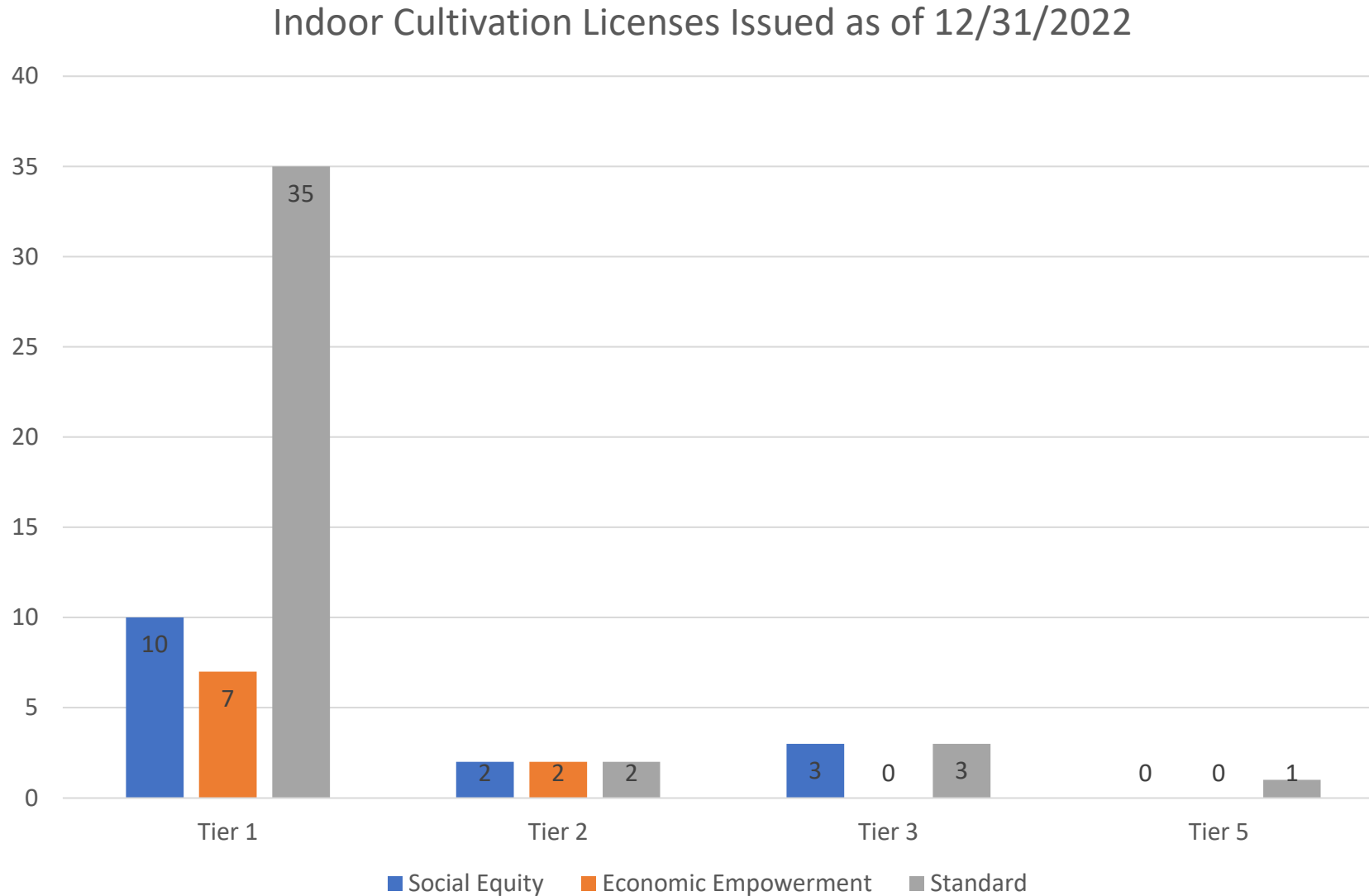
Cannabis Establishment Licenses Issued as of 12/31/22



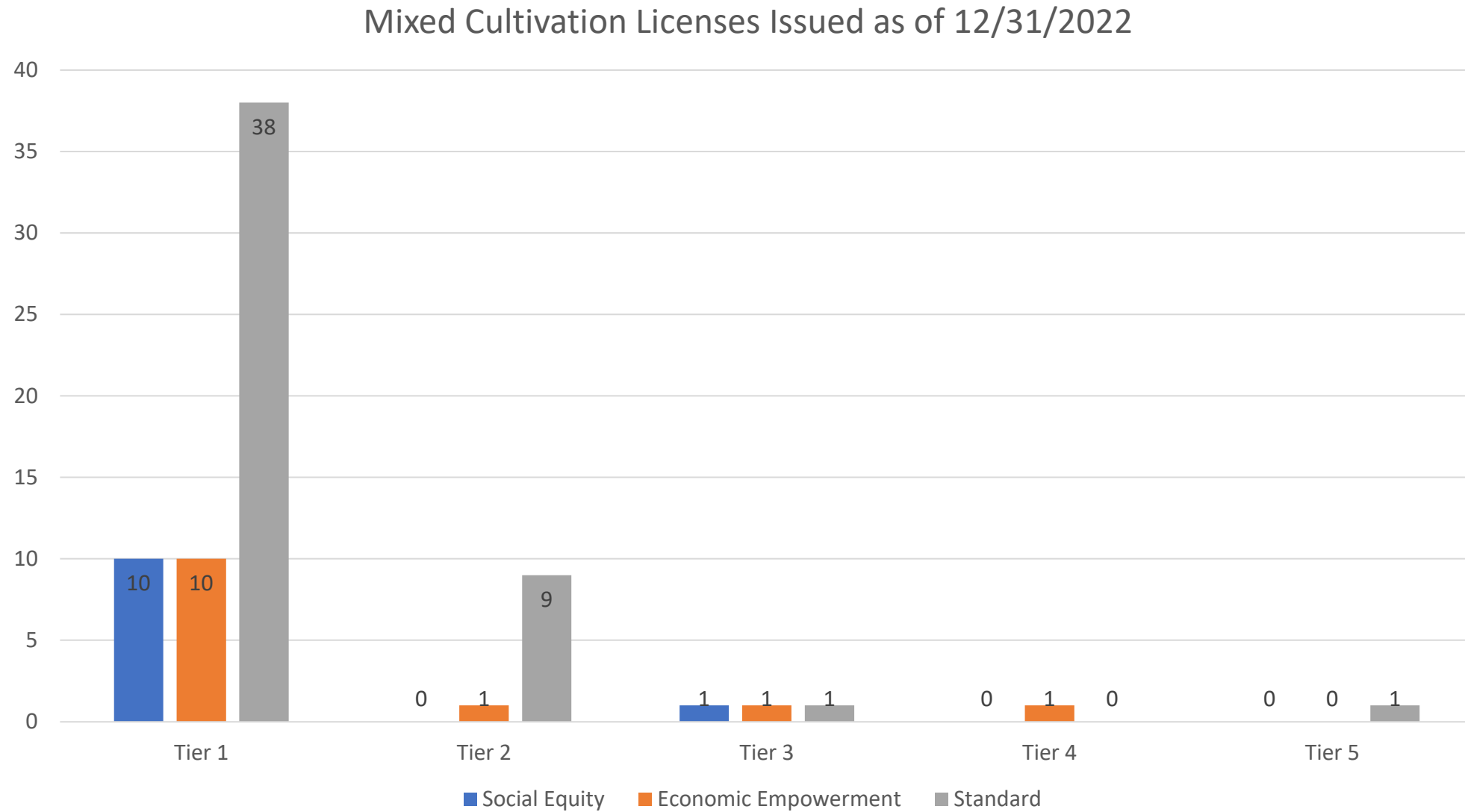
Categories of Social Equity Applicants & Licensees as of 12/31/22



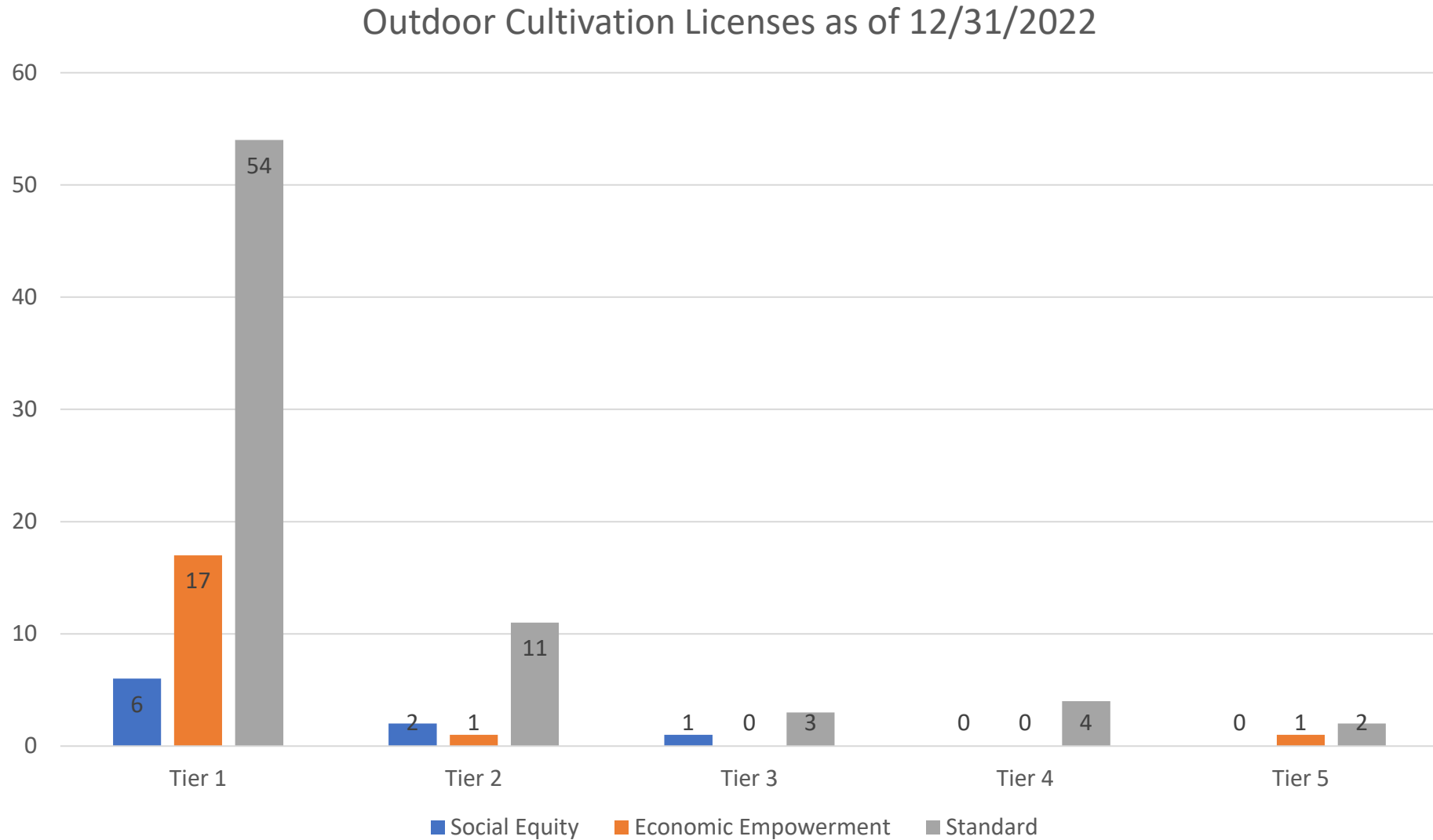
Social Equity & Economic Empowerment Licensees by License Type



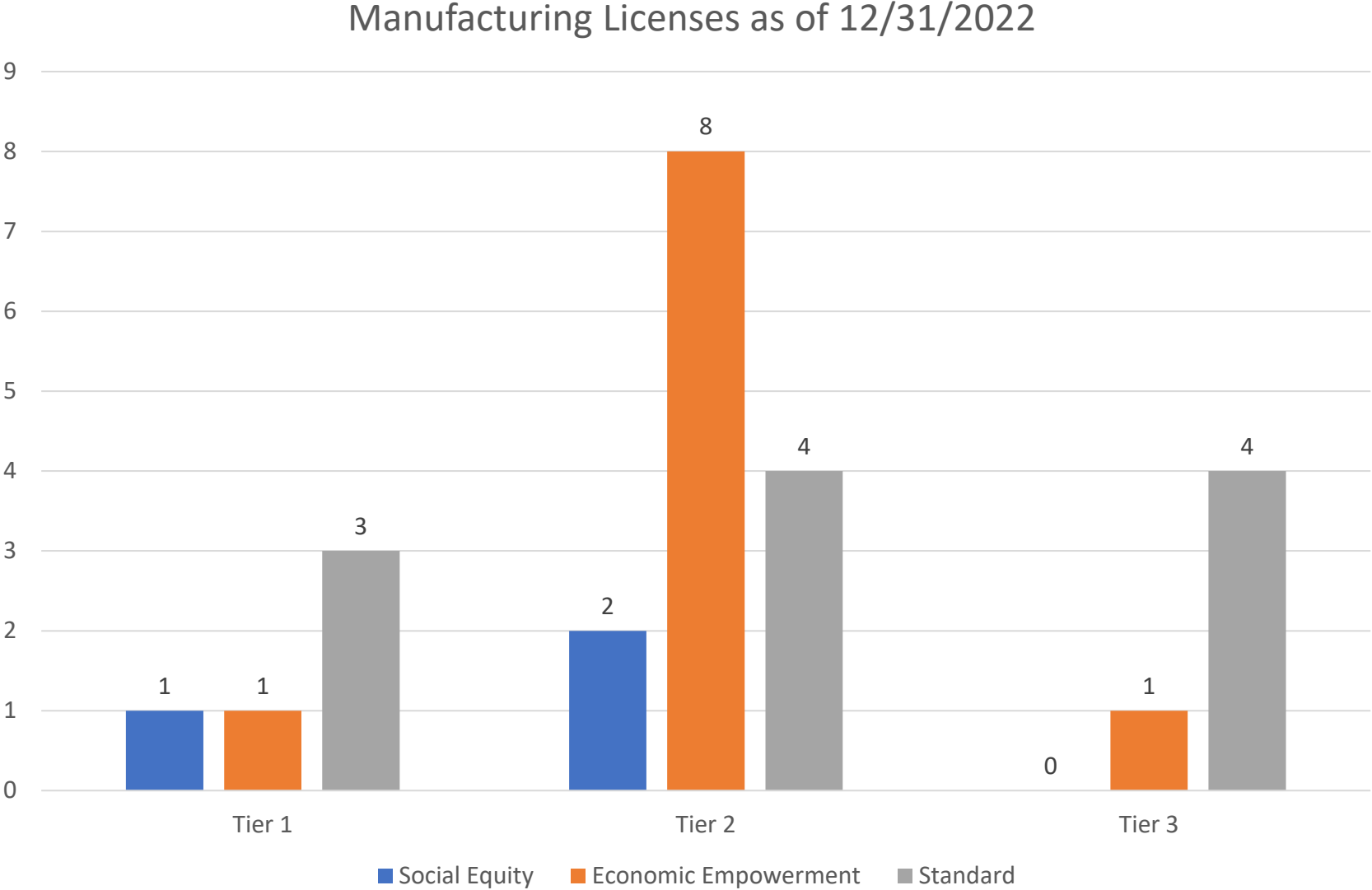
Social Equity & Economic Empowerment Licensees by License Type



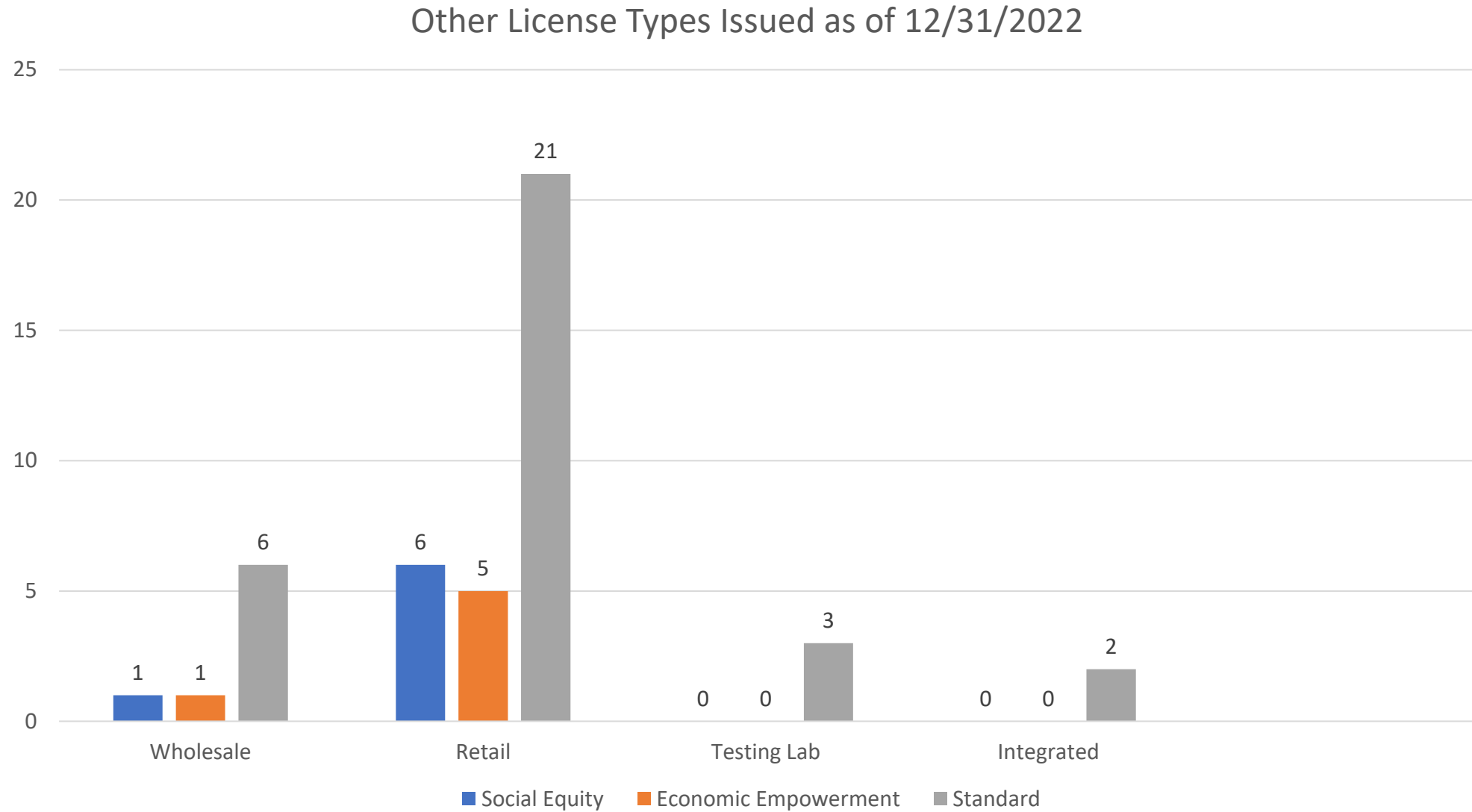
Social Equity and Economic Empowerment Licensees by License Type



Social Equity & Economic Empowerment Licensees by License Type



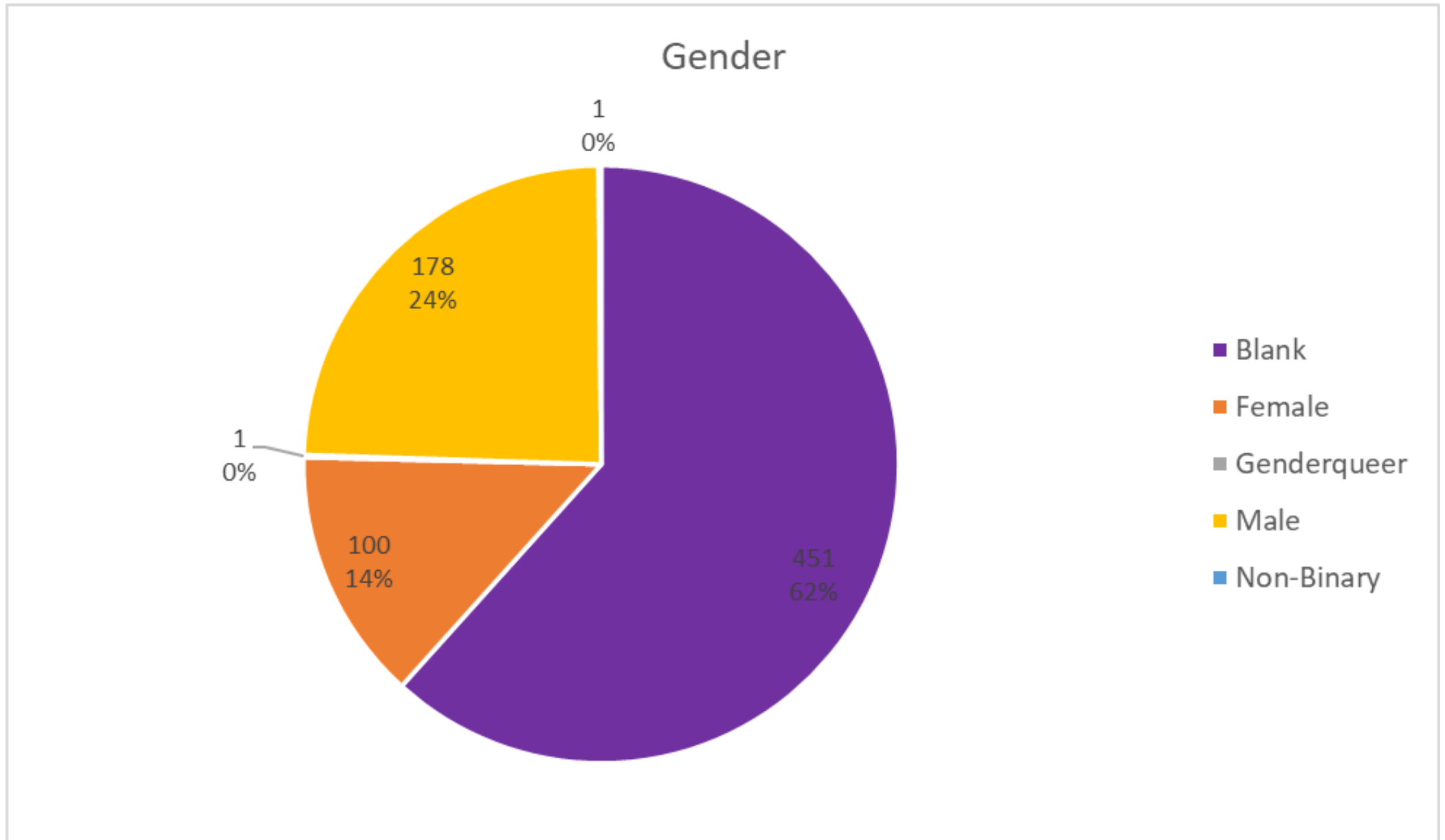
Social Equity and Economic Empowerment Licensees by License Type



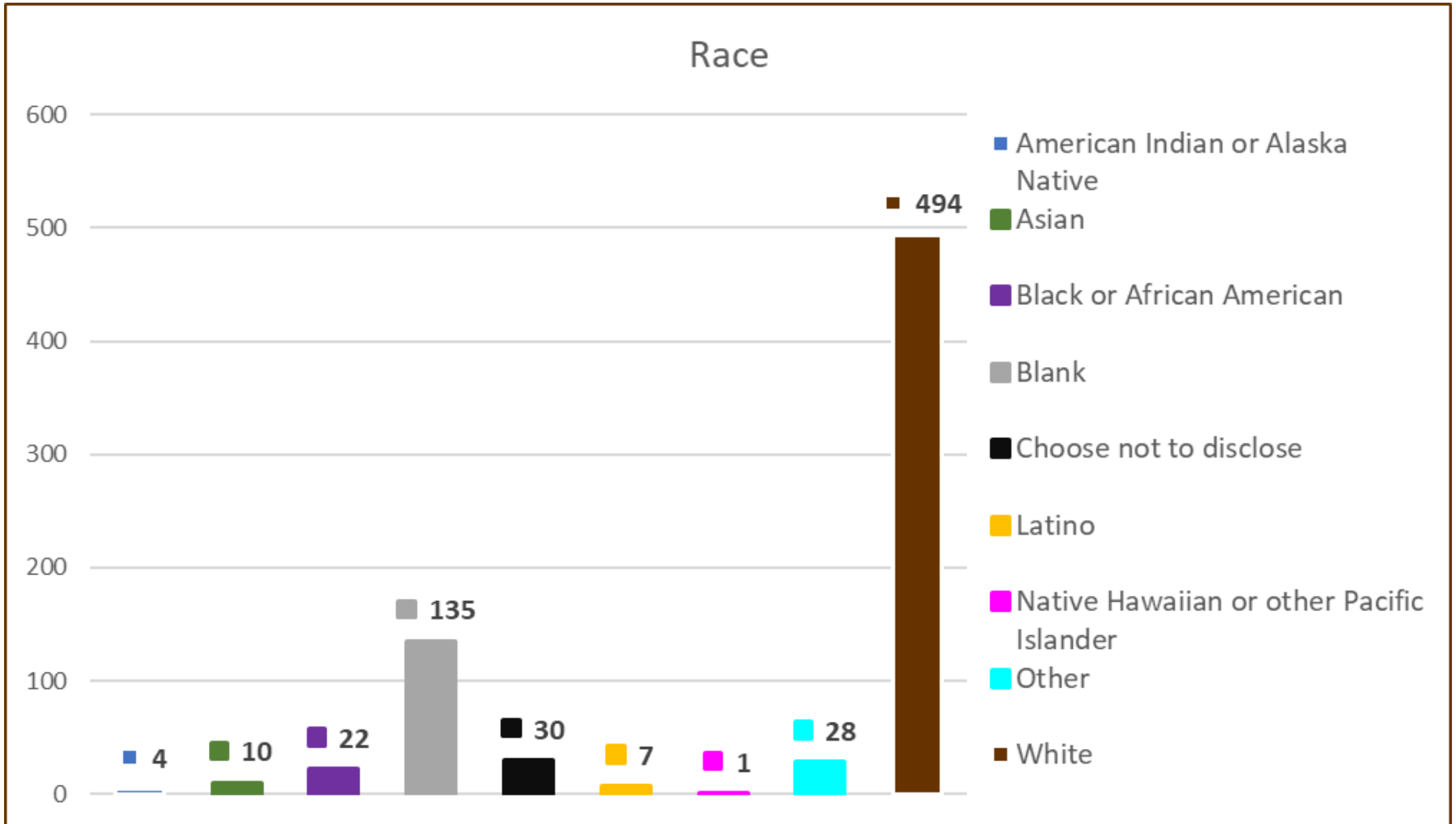
Economic Empowerment: intent and note on the data

- As noted in the background section of this report, the CCB's intent was to provide support for businesses majority-owned by women, veterans, and minorities to foster a diverse and inclusive cannabis industry that provides opportunities for many.
- The following slides provide a picture of economic empowerment in the cannabis industry from an individual level (as opposed to a business level).
- Each cannabis establishment licensee or applicant may have one person or several people that own or control their business. The data on the following slides show demographic information of the individual people who own or control the businesses that are licensed or have applied for a cannabis establishment license.
- The data is collected from the license application, which does not require applicants to disclose this demographic information.
- All data is as of 12/31/22.

Individuals who own or control CE businesses (applicants & licensees)



Individuals who own or control CE businesses (applicants & licensees)



Cannabis Business Development Fund

- Statutory Requirements and Appropriation
- Technical Assistance Consultant
- Payments to Social Equity Licensees and Applicants

Statutory Requirements

§ 987. Cannabis Business Development Fund

- a) There is established the Cannabis Business Development Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.
- b) The Fund shall comprise:
 - 1) a one-time contribution of \$50,000.00 per integrated license to be made on or before October 15, 2022; and
 - 2) monies allocated to the fund by the General Assembly.
- c) The Fund shall be used for the following purposes:
 - 1) to provide low-interest rate loans and grants to social equity applicants to pay for ordinary and necessary expenses to start and operate a licensed cannabis establishment;
 - 2) to pay for outreach that may be provided or targeted to attract and support social equity applicants;
 - 3) to assist with job training and technical assistance for social equity applicants; and
 - 4) to pay for necessary costs incurred in administering the Fund.
- d) Amounts from loans that are repaid shall provide additional funding through the Fund.

Statutory Requirements and Appropriation

§ 988. Social Equity Loans and Grants

The Agency of Commerce and Community Development shall establish a program using funds from the Cannabis Business Development Fund for the purpose of providing financial assistance, loans, grants, and outreach to social equity applicants. The Agency may procure by contract all or part of the necessary underwriting, execution, and administration services required for loans and grants to be made from the Cannabis Business Development Fund to eligible social equity applicants as allowed under this chapter. Should the Agency be unable to do so, the program shall not move forward until the General Assembly appropriates the operational resources necessary for the Agency to make loans and provide financial assistance to social equity applicants.

2021 Act No. 62; Sec. 14. TRANSFER AND APPROPRIATION

- a) In fiscal year 2022, \$500,000.00 is transferred from General Fund to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987.
- b) In fiscal year 2022, \$500,000.00 is appropriated from the Cannabis Business Development Fund to the Agency of Commerce and Community Development to make loans and grants pursuant to 7 V.S.A. § 987.

Technical Assistance Provided to Social Equity Applicants and Licensees

- \$150,000 from the Cannabis Business Development Fund (CBDF) was utilized to contract with [Roads Consulting Group](#) to provide technical assistance to social equity applicants and licensees.
- So far, Roads Consulting has conducted intake assessments with about a quarter of social equity applicants and licensees. These 19 businesses are from 9 counties (Addison, Caledonia, Chittenden, Franklin, Grand Isle, Orange, Orleans, Windham, and Windsor).
- Roads has provided technical support for 8 of those businesses. The support includes over 160 hours of assistance in the following areas:
 - marketing
 - bookkeeping
 - website development
 - financial management
 - branding/logo design
- Outreach and technical support are ongoing to provide this assistance to all existing social equity applicants and licensees.

Beneficiary Payments: Amount

- \$350,000 of the CBDF was reserved to provide financial support to social equity cannabis businesses in the form of beneficiary payments. This covers one \$5,000 payment to each business currently confirmed as having social equity status.
- Providing an equal flat amount to each social equity business does not account for the disparate need among businesses. The decision to treat social equity businesses equally rather than equitably was necessitated by the limited amount available in the fund. Had ACCD offered payments based on need, the fund would have been exhausted before each currently confirmed social equity business had the opportunity to apply for financial support.

Beneficiary Payments: Timeline

- Applications to receive payments from the fund will be live on ACCD's website by February 1, 2023.
- ACCD has reserved approximately \$50,000 in the fund to support future needs.
- It is anticipated that an additional \$50,000 will be deposited into the CBDF in accordance with § 987(b)(1).

Barriers to Accessing the Cannabis Industry

- Barriers to entry and to sustainable success in the industry
- Recommendations

Barriers to accessing the cannabis industry

- The largest barrier to entrepreneurial success in the cannabis industry is lack of access to capital.
- Start-up costs for cannabis businesses can be very high: depending on the business type, the start-up capital required could be between \$250,000 and \$1,000,000. See [Legislative Report for Oregon Cannabis Equity Act, Feb. 2021.](#)
- Cannabis businesses are extremely limited in their options for banking and lending services. Cannabis remains a Schedule 1 controlled substance at the federal level, which means most traditional federally-insured banks will not provide services to these businesses.
- Limited available lending means that most cannabis businesses must be self-funded. This risk is compounded by the lack of bankruptcy protection available for cannabis businesses.

Barriers to accessing the cannabis industry

- Disproportionate enforcement of cannabis prohibition leaves a legacy of racial injustice in the now legal cannabis industry.
- Black and Hispanic people have been historically targeted by discriminatory criminal legal enforcement and sentencing practices, resulting in profound generational collateral consequences, including long-standing economic impacts. *See* [Human Rights Watch / ACLU Joint Submission Regarding the United States' Record Under the International Convention on the Elimination of All Forms of Racial Discrimination](#); August, 2022; and [Reefer Reparations](#), Social Justice & Equity Journal, Willamette University College of Law, 2020.
- Racial disparities in the criminal legal system persist in Vermont. *See* [Justice Reinvestment in Vermont Results of Racial Equity in Sentencing Analysis](#); April 2022.
- Given that businesses owned by people of color are less likely to have their financing needs met than White-owned businesses, the limited access to loans and capital for cannabis businesses is likely to disproportionately impact cannabis entrepreneurs of color. *See* [Federal Reserve Small Business Credit Survey, 2021 Report on Firms Owned by People Of Color](#).
- Significant start-up costs and existing economic disparities between White and minority households results in deeply inequitable access to the cannabis industry. *See* [Legislative Report for Oregon Cannabis Equity Act, Feb. 2021](#).

Barriers to sustaining success in the cannabis industry

- Sustaining a cannabis business can be incredibly costly, especially when the industry is in its nascent stages. Due to the lack of lending services, many entrepreneurs drained their savings to launch their cannabis business.
- Cannabis applicants and licensees grapple with unique costs that businesses in other industries do not face. For example:
 - Banking and insurance services (both requirements of obtaining and maintaining a license) are difficult to obtain and very costly for cannabis related businesses.
 - Some municipalities are imposing local barriers for cannabis businesses, and these barriers may result in undue litigation costs for applicants attempting to navigate newly established zoning restrictions, development review board processes, etc.
 - Testing cannabis is required to ensure product quality. Testing is costly and increases as a business offers additional strains and products to the market.
- The first license issued by the CCB was to a social equity business. That business is now 120 days from renewal and will owe 25% of their licensing fee to maintain their license. Access to ongoing small business investments will help ensure our social equity licensees remain viable in this newly established industry.

Ongoing economic support is needed to achieve social equity goals

- Though new applications for cannabis establishment licenses have slowed down since the CCB initially opened its application windows, there is a higher proportion of social equity applicants applying today than there was when the application windows first opened.
- This may be due to several factors:
 - Given the significant hurdles involved in applying for a license and the lack of financing available for these businesses, most applicants that were able to apply immediately and meet all the requirements of their license were likely also the most well-resourced.
 - Many social equity applicants may have waited to assess how the market matured before committing significant resources to applying for a license.
- Given the sustained interest in social equity applicants to join the industry, access to additional funding is necessary to ensure that Vermont continues to provide economic opportunities to those harmed by cannabis prohibition.

Recommendations: Cannabis Business Development Fund

- The Cannabis Business Development fund is inadequately funded to provide meaningful economic opportunities to social equity applicants and businesses. **The Board recommends that a portion of the excise tax revenue be set aside as financial resources for social equity applicants and licensees to ensure their access to and success in the industry.**
- The CBDF should be sufficiently funded to provide both start-up support to new social equity licensees and ongoing support to existing social equity businesses.
- The CBDF was created to provide economic opportunities to individuals from communities harmed by prohibition. Directing revenue to the CBDF to provide support to new and existing social equity businesses will ensure that:
 - Vermont's regulated cannabis marketplace is representative of the communities that were harmed by cannabis prohibition; and
 - Revenue generated by the legal sale of cannabis flows back to individuals who were harmed to invest in their success in the industry.

Recommendations: community reinvestment

- The General Assembly can also create policies to mitigate the long-standing social and economic inequities fueled by the drug war.
- Not all individuals harmed by prohibition want to participate in the cannabis industry.
- The Board recommends that the legislature create a Cannabis Community Reinvestment Fund to funnel cannabis revenue to communities disproportionately impacted by cannabis prohibition and allocate a percentage of cannabis tax revenue to the fund each year. Reinvesting cannabis revenue into these communities is far-reaching approach to mitigating the harms caused by disproportionate criminal legal enforcement of cannabis laws.

Recommendations: additional license types

- Allowing for a delivery license type would create another point of entry to the market with low economic barriers for small entrepreneurs and social equity applicants.
- Creating an on-site consumption pilot program would help address racial disparities in drug enforcement that persist to this day. Current law prohibits consuming cannabis in all places of public accommodation, public spaces, and federal housing. On-site consumption would offer all adult consumers a safe place to consume and reduce the possibility of fines, arrests, and disproportionate criminal legal enforcement.