

## FINANCIAL IMPACT OF THE INITIATIVE TO REGULATE AND TAX MARIJUANA

### FINANCIAL IMPACT – CANNOT BE DETERMINED

#### OVERVIEW

The Initiative to Regulate and Tax Marijuana (Initiative) proposes to amend the *Nevada Revised Statutes* to add several new sections that would require the Department of Taxation to regulate and administer the operation of facilities that cultivate, produce, and dispense marijuana products in the state. The Initiative additionally requires the Department to collect a 15 percent excise tax upon the wholesale value of marijuana sold by a marijuana cultivation facility in Nevada. The proceeds from the excise tax, less costs incurred by the Department of Taxation and counties, cities, and towns to carry out certain provisions of the Initiative, must be deposited in the State Distributive School Account.

The Initiative also decriminalizes the personal use, possession, or cultivation of marijuana under certain circumstances and provides for criminal penalties related to the unlawful cultivation, consumption, manufacture, or distribution of marijuana.

#### FINANCIAL IMPACT OF THE INITIATIVE

Pursuant to Article 19, Section 2 of the *Nevada Constitution*, an initiative proposing to amend the *Nevada Revised Statutes* must be approved by the Legislature and Governor within the first 40 days of the next regular session, which begins on February 2, 2015. If the Legislature and Governor approve the Initiative, it becomes law and may be amended during the next following legislative session. If the Legislature and Governor do not approve the Initiative within the first 40 days of the session, it will be submitted to the voters at the November 2016 General Election. If it is approved by the voters at that election, the Initiative becomes law and may not be amended for a period of three years.

State and local governments will receive additional revenue from the following provisions of the Initiative:

1. The Department of Taxation shall collect a one-time fee of \$5,000 from each applicant for a marijuana establishment license.
2. The Department of Taxation may impose fees for the initial issuance and annual renewal of marijuana establishment licenses for retail stores, cultivation facilities, product manufacturing facilities, distributors, and testing facilities, with the maximum fee that can be imposed for each license specified in the Initiative.
3. An excise tax of 15 percent must be collected on the fair market wholesale value of marijuana sold by a marijuana cultivation facility and remitted to the Department of Taxation. The Department must establish regulations to determine the fair market wholesale value for marijuana in the state.
4. Marijuana, marijuana products, and marijuana paraphernalia sold as tangible personal property by a retail marijuana store would be subject to state and local sales and use taxes under current statute.

The proceeds from the application fee, license fees, and excise tax, less costs incurred by the Department of Taxation and counties, cities, and towns to carry out certain provisions of the Initiative, must be deposited in the State Distributive School Account. The proceeds from the state and local sales and use taxes generated on the retail sales of marijuana, marijuana products, and marijuana paraphernalia would be distributed to the state and local governments, including school districts, in the same manner these taxes are currently distributed.

The Department of Taxation and the Fiscal Analysis Division cannot determine the amount of revenue that will be generated for state and local governments, including school districts and the State Distributive School Account, from the application fee, licensee fees, excise tax, and sales and use taxes, because the following factors cannot be estimated with any reasonable degree of certainty:

1. The number of applications that would be received by the Department for marijuana establishment licenses;
2. The number of initial and annual licenses that would be issued by the Department and the amount of the fee that the Department would charge for each initial and annual license issued, if the Department decides to impose the license fees authorized within the Initiative;
3. The quantity of marijuana that will be sold by marijuana cultivation facilities and the fair market value that will be established by the Department through the regulatory process that will be subject to the excise tax;
4. The quantity of marijuana, marijuana products, and marijuana paraphernalia and the price of these items that will be sold by retail marijuana stores that will be subject to state and local sales and use taxes.

The Fiscal Analysis Division has identified the following areas that may affect expenditures for state and local governments as a result of the Initiative:

1. The Department of Taxation has indicated that it will incur one-time costs for equipment and programming of its computer system totaling approximately \$600,000, and that it will need an additional 13 positions to implement and administer the provisions of the Initiative at a cost of approximately \$1 million per fiscal year. The Department has indicated that some expenditures will be required before revenue from the excise tax and fees authorized in the Initiative are collected; however, the Fiscal Analysis Division cannot determine how the Department will choose to implement the Initiative, the timing of expenditures that will be incurred by the Department, or the method that will be used to fund these initial costs.
2. The Initiative requires the Department of Taxation to conduct a background check of each prospective owner, officer, and board member of a marijuana establishment license applicant. The Initiative also requires the operator of each marijuana establishment to determine the criminal history of each worker or volunteer for suitability of employment as established in the Initiative. The Department of Public Safety has indicated that if it will be required to process the background checks, the caseload increase will require one to two additional positions, which would cost approximately \$50,000 to \$100,000 per fiscal year. However, the Fiscal Analysis Division cannot determine the process that the Department of Taxation will choose to conduct these background checks.

3. The provisions of the Initiative that criminalize and decriminalize certain actions related to marijuana will require changes to the Nevada Offense Codes used in the Central Repository for Nevada Records of Criminal History maintained by the Department of Public Safety. The Department of Public Safety has indicated that an independent contractor may be required to implement the changes to the Nevada Offense Codes, which would result in a financial impact of approximately \$10,000 to \$40,000, based on previous contracts for these types of services. The Fiscal Analysis Division has determined that a financial impact on state government may occur only if an independent contractor is used to make the changes to the Nevada Offense Codes.
4. The provisions of the Initiative that criminalize and decriminalize certain actions related to marijuana may increase or decrease the workload of various state and local government agencies with respect to enforcement, investigation, incarceration, probation, and parole. The Fiscal Analysis Division cannot determine the net effect of these provisions on the workload of these agencies with respect to these functions.

The Fiscal Analysis Division cannot determine what actions may be taken by state and local governments to carry out the provisions of the Initiative, the amount of expenditures that may be incurred, or how those expenditures would be funded. However, the Initiative specifies that excise tax revenues, fees, or penalties collected must first be used to defray certain costs incurred by the Department of Taxation and counties, cities, and towns, with the excess revenue to be deposited in the State Distributive School Account. Additionally, state and local governments, including school districts, will receive sales and use tax revenue from the retail sales of marijuana, marijuana products, and marijuana paraphernalia. Therefore, the Fiscal Analysis Division cannot determine the financial impact upon state or local governments, including school districts and the State Distributive Account, because the revenues and expenditures resulting from the Initiative cannot be estimated with any reasonable degree of certainty.

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