

# Vermont Legislative Joint Fiscal Office

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## *FISCAL NOTE*

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### **S.54 An act relating to the regulation of cannabis –Amendment as Proposed by the Ways and Means Committee**

The bill proposes to tax and regulate the cultivation and sale of cannabis and cannabis containing products. The bill establishes a Cannabis Control Board, a special fund for the board, and an excise tax at 16% with a local option tax at 2% on the retail sale of cannabis. The bill also establishes a new Substance Misuse and Prevention fund, which will be funded with a portion of receipts from the Cannabis Excise Tax.

#### **Cannabis Board Cost Estimate**

The House Government Operations Committee recommends a board structure that consists of five members that would be full-time state employees, in addition to an Executive Director, and an Executive Assistant. The Board Chair salary will be set at approximately \$105,000 per year and the salary of the four other board members will be set at approximately \$80,000 per year.

The assumptions used in each cost estimate include: Executive Director salary at \$106,000; Executive Assistant salary at \$70,000; 40% benefit costs for full-time state employees; operating costs for space, IT, supplies etc. proportioned for the number of full-time state employees; an allowance for consulting costs that decline over the startup period; and capacity for General Counsel also declining over the startup period.

Based on the timeline of activities in the bill, the following chart provides the cost estimates to operate the Cannabis Control Board for 3 years.

<b>Cannabis Control Board Est</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>
5 Member Board	\$1.1m	\$1.25m	\$1.18m

The bill requires the Board to report next year on recommended fees for the various licenses established in the bill. The Senate Appropriations amendment requires a minimum level for the fees similar to those of the Massachusetts Cannabis Control Commission. Based on this minimum level; actual MA fee collection experience to date; and the anticipated timeline of the bill; JFO estimates fees would begin to be collected in FY22 and result in an annualized amount of approximately \$650,000 once this regulatory regime is in full operation.

Given these estimates, the Board's special fund could be in deficit up to \$2.3m by the end of FY23. To cover the appropriations by anticipating receipts in this special fund in FY21 and FY22, excise tax receipts are allocated contingently to offset any special fund deficit at the close of FY23. If fees are set at levels higher than this minimum and/or actual fee collections are

similar to the Colorado experience, then this offset allocation amount may be lower. The amendments also require the Board to include in its report whether any ongoing allocation of excise tax receipts will be needed to balance the special fund in the future. The amount of FY22 excise tax revenue allocated to offset the deficit will impact the estimated revenue actually available for both the new Prevention Fund and the General Fund in the section below. The Auditor is asked to review and report on the structure of the Board after the startup period.

**Cannabis Excise Tax Estimate**

The amendment to S.54 proposes a 14% excise tax on the retail sales of cannabis products plus the 6% sales and use tax for a combined rate of 20%. The bill creates a new integrated license for existing medical dispensaries that would allow them to begin retail sales in February 2022. All other cannabis retailers could apply for specialized licenses and could begin retail in July of 2022.

The bill also establishes a new Substance Misuse and Prevention fund, which will be funded with 30% the receipts from the Cannabis Excise Tax.

JFO estimates that the 14% excise tax will generate the following additional revenues:

<b>Table 1: S.54. W&amp;M Amendment Excise Tax Revenue (14% Excise Tax)</b>					
<b>Retail 14% Excise Tax Revenue (in Millions)</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0	\$0.13	\$3.0	\$5.1	\$6.4
Mid	\$0	\$0.18	\$4.2	\$7.1	\$8.9
High	\$0	\$0.25	\$5.7	\$9.7	\$12.2

The revenues from this excise tax are split 30% to the Substance Misuse and Prevention Fund and 70% to the General Fund, as shown in Tables 2 and 3.

<b>Table 2: S.54 W&amp;M Amendment, Prevention Fund (30% of Excise Tax Revenue)</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0	\$0.04	\$0.9	\$1.5	\$1.9
Mid	\$0	\$0.05	\$1.3	\$2.1	\$2.7
High	\$0	\$0.07	\$1.7	\$2.9	\$3.6

<b>Table 3: S.54 W&amp;M Amendment, General Fund (70% of Excise Tax Revenue)</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0	\$0.09	\$2.1	\$3.6	\$4.5
Mid	\$0	\$0.13	\$3.0	\$5.0	\$6.3
High	\$0	\$0.17	\$4.0	\$6.8	\$8.5

Revenues from the 6% sales and use tax are shown in Table 4. All this new revenue would be dedicated to the Education Fund.

<b>Table 4: S.54 W&amp;M Sales Tax Revenue (Education Fund)</b>					
<b>Sales Tax Revenue (in Millions)</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0	\$0.06	\$1.3	\$2.2	\$2.7
Mid	\$0	\$0.08	\$1.8	\$3.1	\$3.8
High	\$0	\$0.11	\$2.5	\$4.1	\$5.2

Estimates of excise tax revenues originate from a model developed by the Department of Taxes and the Joint Fiscal Office. The methodology for this model was heavily influenced by models used by the state of Colorado prior to their legalization of recreational cannabis sales in 2014. Those models estimated their first-year revenues within 1% of actual receipts.<sup>1</sup> The estimates were also cross referenced with actual data on cannabis receipts from other states including Oregon, Washington, Colorado, Nevada, Massachusetts and California.

The methodologies in this model were also reviewed by both the Legislative and Administration economists.

These estimates are based on a variety of data sources, including:

- Estimates and forecasts of Vermont’s population from the Legislative Economist and the U.S. Census Bureau
- Estimates of Vermont’s medical marijuana user population, provided by the Public Service Department
- Estimates of the price of cannabis, provided by [www.priceofweed.com](http://www.priceofweed.com), where users report prices. This source was used by the state of Colorado during their estimation cannabis revenues in 2012.
- The Agency of Commerce and Community Development’s 2019 Tourism Benchmark Report<sup>2</sup>
- The National Survey on Drug Use and Health, which surveys individuals on cannabis usage in the past month.<sup>3</sup>

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<sup>1</sup> Colorado’s Legislative Council staff estimated \$67 million in revenue for FY2014-2015. See [https://newtax.files.wordpress.com/2014/02/revenue-estimate-for-aa-retail-marijuana-taxes\\_fn.pdf](https://newtax.files.wordpress.com/2014/02/revenue-estimate-for-aa-retail-marijuana-taxes_fn.pdf)  
Actual Revenues for FY2014 were \$67.5 million. See: <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>

<sup>2</sup> <https://accd.vermont.gov/sites/accdnew/files/documents/VDTM/BenchmarkStudy/VDTM-Research-2017BenchmarkStudyFullReport.pdf>

<sup>3</sup><https://pdas.samhsa.gov/saes/state>

- Information on marijuana consumption in Colorado,<sup>4</sup> Oregon,<sup>5</sup> and Washington<sup>6</sup>
- Data on actual revenue collections from Colorado, Washington, Oregon, Nevada, and Massachusetts.

This estimate makes the following assumptions (sources found in footnotes 4,5 and 6):

- Average cannabis consumption by residents will be between 5 and 6 ounces per year. This was informed by usage rates in both Colorado and Washington.
- Cannabis prices will fall precipitously upon legalization.
  - Between 2014 and 2017, Colorado observed a 62 percent decline in average annual flower prices and a 48 percent decrease in concentrate prices.
  - Upon legalization, Oregon saw the average price per ounce of cannabis decrease from roughly \$275 per ounce to \$180 per ounce over the first year of legalization.
- 40% of the cannabis market will remain in the black market. Other states' black markets vary significantly. Estimates have ranged from beyond 70% in California, to 34% in Colorado.<sup>7</sup>
- 10% of total marijuana users will home grow and rarely use retail stores. Oregon estimates their home grow rate at 8%.
- While the percentage of Vermonters reporting cannabis use is one of the highest in the country, JFO assumes that overall consumption rates will be modestly lower due to an older population.

JFO's estimates fall within the reasonable range of what other states have collected within their first 2 to 3 years of legalization. Figure 1 shows JFO's estimate range compared to other states, normalized to population and excise tax rates, based upon actual revenue collections. In other words, it shows what the other legal states would have collected in excise tax revenue if they had the same population as Vermont and the same 14% excise tax as being proposed in this bill.

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<sup>4</sup> Marijuana Policy Group and University of Colorado Boulder Leeds School of Business, "Market Size and Demand for Marijuana in Colorado 2017 Market Update" (Aug. 2018), available online: <https://www.colorado.gov/pacific/sites/default/files/MED%20Demand%20and%20Market%20Study%202018.pdf>

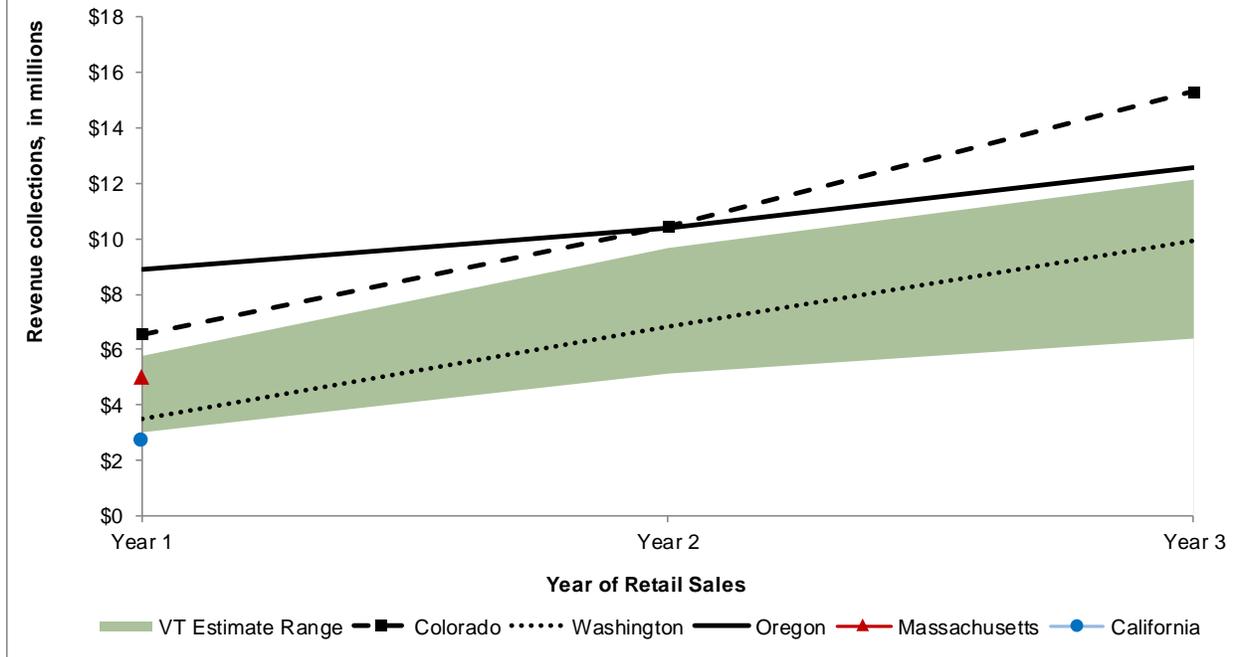
<sup>5</sup> Oregon Legislative Revenue Office, Mazen Malik, "Legal Marijuana in Oregon Taxation and Revenue" (Oct. 11, 2018), NCSL Presentation. [http://www.ncsl.org/Portals/1/Documents/fiscal/Mazen\\_Malik.pdf](http://www.ncsl.org/Portals/1/Documents/fiscal/Mazen_Malik.pdf)

<sup>6</sup> Washington State Economic and Revenue Forecast Council. Steve Lerch. "Cannabis Forecasting in Washington State. NCSL Presentation. [http://www.ncsl.org/Portals/1/Documents/fiscal/Steve\\_Lerch.pdf](http://www.ncsl.org/Portals/1/Documents/fiscal/Steve_Lerch.pdf)

<sup>7</sup> BDS Analytics.

# Figure 1: Cannabis Tax Revenue

(Normalized by Population and 14% Excise Tax Rate  
Other states based upon actual revenue collections )



Sources:

Colorado: <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>

Oregon: <https://www.oregon.gov/DOR/programs/gov-research/Pages/research-marijuana.aspx>

Washington: <https://dor.wa.gov/about/statistics-reports/recreational-and-medical-marijuana-taxes>

Massachusetts: <https://opendata.mass-cannabis-control.com/dataset/Gross-Sales/3thb-jgxb>

California: <https://www.benzinga.com/markets/cannabis/19/03/13251843/california-marks-1-year-of-recreational-marijuana-how-much-cannabis->