

# 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 –Committee of Conference Report**

The bill proposes to tax and regulate the cultivation and sale of cannabis and cannabis containing products. The bill establishes a Cannabis Control Board, excise tax at 14%, and applies the sales and use tax of 6% to the retail sale of cannabis. Thirty percent of the excise tax is allocated to prevention activity. Additional revenue would be generated by state licensing fees and local fees, both of which are to be recommended by the Cannabis Control Board and approved by the General Assembly.

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

The Conference Committee recommends a board structure that consists of three 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 two 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>
3 Member Board	\$650k	\$1.01m	\$940k

The bill requires the Board to report next year on recommended fees for the various licenses established in the bill. The House Appropriations Committee amendment requires the board to provide a fee proposal that would cover the annual operating cost of the board. Since the fee is yet to be determined, JFO has made a preliminary fee estimate based on the experience in other states scaled to the likely Vermont market size resulting an estimate of \$500,000 in FY22 and \$650,000 annually thereafter.

Given these estimates, the Board's special fund could be in deficit up to \$1.8m by the end of FY24. To cover the appropriations by anticipating receipts in this special fund in FY21 through FY23, excise tax receipts are allocated contingently to offset any special fund deficit at the close of FY24. If fees are set at levels higher than this minimum and/or if actual fee collections are

closer to the Colorado experience, then this offset allocation amount may be lower. The amount of FY24 excise tax revenue allocated to offset the deficit will impact the estimated revenue available for both prevention activities and other yet to be determined General Fund uses. In November 2023, the Auditor is asked to review and report on the structure of the Board after the startup period. The bill sunsets the Cannabis Board at the end of FY24 requiring the legislature to decide whether to change, extend or sunset the board during the 2024 session.

**Other Administration Costs**

As the first retail sales of cannabis are not expected until late in FY 2022, costs in FY 2021 beyond the funding of the Cannabis Control Board are expected to be minimal.

It is expected that agencies will incur additional costs associated with this bill in fiscal years beyond FY 2021. Section 5 of the bill tasks the Cannabis Control Board with making recommendations for the state resources necessary for agencies in FY 2022 and FY 2023. Assisted by those recommendations, the Legislature will allocate funding to the various agencies at that point.

Even without knowing those recommendations for resources, JFO estimates that the Department of Taxes will incur costs of up to \$920,000 before the first retail sales of cannabis (likely in FY 2022) in order to establish the computer systems and staff needed to implement the excise tax. According the Governor’s Marijuana Commission Report, the Department could also have additional set-ups costs of up to \$1.2 million in FY 2023 and on-going cost of up to \$610,000 annually thereafter.

**Cannabis Excise Tax Estimate**

This bill 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 spring of 2022. All other cannabis retailers could apply for specialized licenses and could begin retail in the fall of 2022.

JFO estimates that this bill will generate the following state revenues, including state licensing fee revenues:

<b>Table 1: S.54 Total Revenues (in millions)</b>					
<b>14% Excise Tax plus 6% Sales Tax plus state licensing fee revenue</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0.0	\$0.5	\$5.3	\$10.3	\$13.3
Mid	\$0.0	\$0.5	\$6.9	\$14.0	\$18.2
High	\$0.0	\$0.5	\$9.0	\$18.7	\$24.2

Notes: State fee revenue totals \$500,000 in FY22, and \$650,000 thereafter

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

<b>Table 2: S.54 Total Excise Revenues (in millions)</b>					
<b>State 14% Excise Tax</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0.0	\$0.0	\$3.2	\$6.8	\$8.9
Mid	\$0.0	\$0.0	\$4.4	\$9.4	\$12.3
High	\$0.0	\$0.0	\$5.9	\$12.6	\$16.5

The revenues from this excise tax are split 30% to Substance Misuse Prevention and 70% to the other General Fund uses, as shown in Tables 3 and 4

<b>Table 3: S.54 General Fund Revenue (in millions)</b>					
<b>70% of Excise Tax Revenue</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0.0	\$0.0	\$2.3	\$4.7	\$6.2
Mid	\$0.0	\$0.0	\$3.1	\$6.5	\$8.6
High	\$0.0	\$0.0	\$4.1	\$8.8	\$11.6

<b>Table 4: S.54 Substance Abuse and Prevention Fund Revenue (in millions)</b>					
<b>30% of Excise Tax Revenue</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0.0	\$0.0	\$1.0	\$2.0	\$2.7
Mid	\$0.0	\$0.0	\$1.3	\$2.8	\$3.7
High	\$0.0	\$0.0	\$1.8	\$3.8	\$5.0

Revenues from the 6% sales and use tax are shown in Table 5. All this new revenue would be dedicated to the Education Fund.

<b>Table 5: S.54 Total Sales Tax Revenues (in millions)</b>					
<b>6% Sales and Use Tax</b>					
	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>
Low	\$0.0	\$0.0	\$1.4	\$2.9	\$3.8
Mid	\$0.0	\$0.0	\$1.9	\$4.0	\$5.3
High	\$0.0	\$0.0	\$2.5	\$5.4	\$7.1

In addition to revenues from the excise and sales tax, the state can expect some amount of licensing fee revenue. The bill does not set fee revenues. Instead, the Cannabis Control Board will recommend a state licensing fee structure to the Legislature in late in FY 2021. The General Assembly will have to approve these fee levels. JFO has made a preliminary fee estimate based on the experience in other states scaled to the likely Vermont market size resulting an estimate of \$500,000 in FY22 and \$650,000 annually thereafter.

In addition to this, the Board will also recommend local fees for municipalities who host any type of licensee. The General Assembly will also approve these fees in late FY 2021.

Municipalities would be entitled to assess those fees on licensees and any generated revenue would go directly to the municipalities. JFO did not estimate the revenues from these local fees.

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 model also includes an analysis of demand from out-of-state travelers from Vermont. JFO estimates that up to 10% of the market demand will come from visitors to the State once the market is fully mature.

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>
- 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.

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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>

<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%20%20Study%20%2082018.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)

This estimate makes the following assumptions (sources found in footnotes below):

- Average cannabis consumption by residents will be between 6 and 8 ounces per year. This was informed by usage rates in Colorado, Washington, and an estimate from an August 2020 report by Vincente Sederberg on the potential Vermont market for retail cannabis.<sup>7</sup>
- 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>8</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.

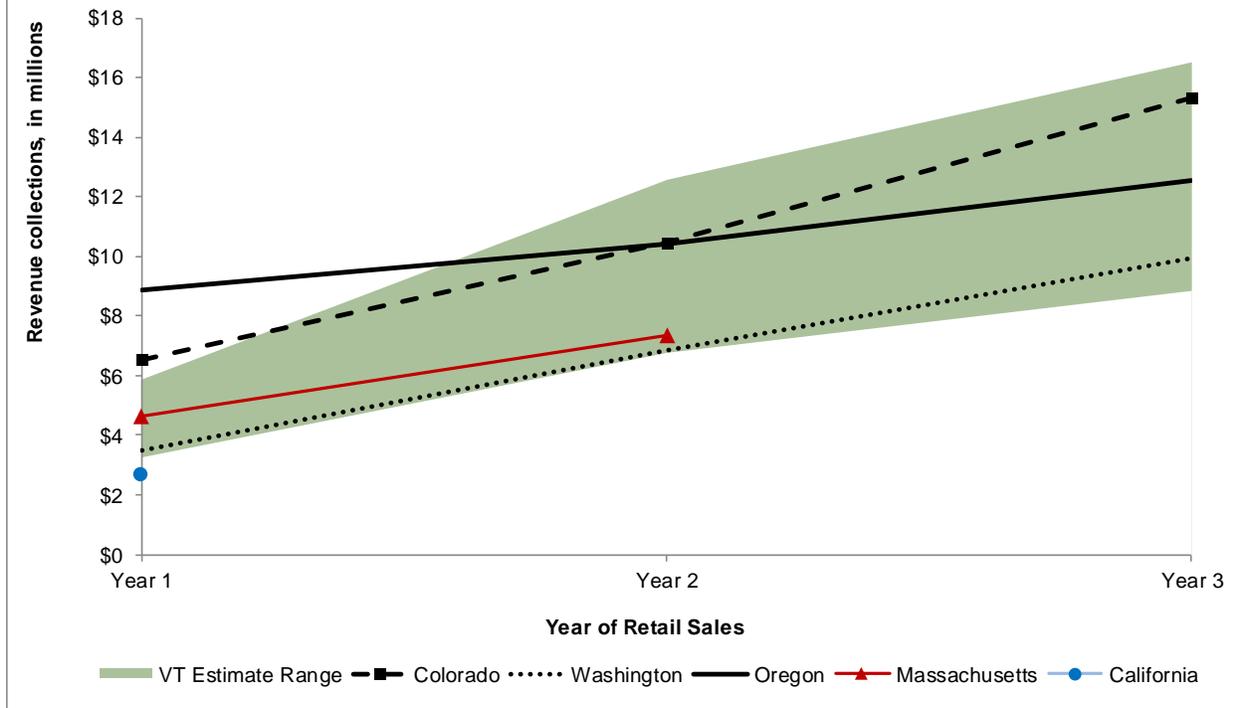
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<sup>7</sup> Andrew Livingston. "Vermont Adult-use Demand, Sales, and Tax Revenue Analysis." Vincente Sederberg LLP. August 2020. [https://www.regulatevermont.org/assets/pdfs/vt\\_economic\\_report-2020.pdf](https://www.regulatevermont.org/assets/pdfs/vt_economic_report-2020.pdf)

<sup>8</sup> BDS Analytics.

# Figure 1: Cannabis Tax Revenue, S.54

(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->