

## FLORIDA FINANCIAL IMPACT ESTIMATING CONFERENCE

### *Adult Personal Use of Marijuana*

*Serial Number 22-05*

*July 13, 2023*

#### **FINANCIAL IMPACT STATEMENT**

The amendment's financial impact primarily comes from expected sales tax collections. If legal today, sales of non-medical marijuana would be subject to sales tax and would remain so if voters approve this amendment. Based on other states' experiences, expected retail sales of non-medical marijuana would generate at least \$195.6 million annually in state and local sales tax revenues once the retail market is fully operational, although the timing of this occurring is unclear. Under current law, the existing statutory framework for medical marijuana is repealed six months after the effective date of this amendment which affects how this amendment will be implemented. A new regulatory structure for both medical and non-medical use of marijuana will be needed. Its design cannot be fully known until the legislature acts; however, regulatory costs will probably be offset by regulatory fees. Other potential costs and savings cannot be predicted.

#### **SUMMARY OF INITIATIVE FINANCIAL INFORMATION STATEMENT**

This amendment will result in legal sales of non-medical marijuana in Florida. Under existing law, marijuana is tangible personal property. Retail sales of tangible personal property are subject to sales tax unless an exemption applies. While sales of medical marijuana are exempt under current law, no such general exemption exists for non-medical marijuana. Because these sales would be taxable under current law, revenue projections using six different potential scenarios were developed based on actual sales experience in other states which have authorized non-medical marijuana. An increase of at least \$195.6 million annually in state and local sales tax revenues represents the minimum experience that states with reliable history have had.

More than half of the reviewed states have a separate excise tax in addition to a sales tax on the sale of non-medical marijuana. Creation of such an excise tax in Florida would require legislative action. Whether the legislature would take such action is unknown and therefore was not addressed in these estimates.

In 2017, the legislature created a regulatory structure and a sales tax exemption for medical marijuana. Under that law, this regulatory framework and the sales tax exemption will be repealed six months after the effective date of this amendment. The legislature would likely act in advance of this repeal date to provide a regulatory structure in law for both medical and non-medical use marijuana. If the legislature does not timely act, statutory authority for both the Department of Health to issue or maintain medical marijuana treatment center licenses and the sales tax exemption for medical marijuana would be eliminated. In that event, the legality and the regulatory environment of both the medical and non-medical marijuana markets become unpredictable, particularly with respect to the timing of a fully operational retail market.

Because the \$195.6 million sales tax estimate represents the lowest suggested level deemed reliable among the six scenarios reviewed (which ranged upward to \$431.3 million), it is probable that future changes, if any, to the tax structure would equal or increase the estimated level of new revenue collections. Such changes would require legislative action.

Added costs to create and maintain a regulatory structure are projected to be \$11.4 million annually, with an additional \$9.0 million needed for initial costs that will occur only one time. In addition to establishing the specific regulatory structure, the legislature must approve these costs in the state budget. It is probable that new regulatory fees will offset these costs. Likewise, all other budgetary impacts are either indeterminate, longer range in nature, or both; the funding source for these impacts is unknown.

## SUBSTANTIVE ANALYSIS

### A. Proposed Amendment

#### Ballot Title:

*Adult Personal Use of Marijuana*

#### Ballot Summary:

Allows adults 21 years or older to possess, purchase, or use marijuana products and marijuana accessories for non-medical personal consumption by smoking, ingestion, or otherwise; allows Medical Marijuana Treatment Centers, and other state licensed entities, to acquire, cultivate, process, manufacture, sell, and distribute such products and accessories. Applies to Florida law; does not change, or immunize violations of, federal law. Establishes possession limits for personal use. Allows consistent legislation. Defines terms. Provides effective date.

#### Article and Section Being Created or Amended:

Article X, Section 29

#### Full Text of the Proposed Amendment:

SECTION 29. ~~Medical m~~ Medical marijuana production, possession and use.—

(a) PUBLIC POLICY.

(1) The medical use of marijuana by a qualifying patient or caregiver in compliance with this section is not subject to criminal or civil liability or sanctions under Florida law.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with this section.

(3) Actions and conduct by a Medical Marijuana Treatment Center registered with the Department, or its agents or employees, and in compliance with this section and Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law.

(4) The non-medical personal use of marijuana products and marijuana accessories by an adult, as defined below, in compliance with this section is not subject to any criminal or civil liability or sanctions under Florida Law.

(5) Medical Marijuana Treatment Centers, and other entities licensed as provided below, are allowed to acquire, cultivate, process, manufacture, sell, and distribute marijuana products and marijuana accessories to adults for personal use upon the Effective Date provided below. A Medical Marijuana Treatment Center, or other state licensed entity, including its agents and employees, acting in accordance with this section as it relates to acquiring, cultivating, processing, manufacturing, selling, and distributing marijuana products and marijuana accessories to adults for personal use shall not be subject to criminal or civil liability or sanctions under Florida law.

(b) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

- (1) “Debilitating Medical Condition” means cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn’s disease, Parkinson’s disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.
- (2) “Department” means the Department of Health or its successor agency.
- (3) “Identification card” means a document issued by the Department that identifies a qualifying patient or a caregiver.
- (4) “Marijuana” has the meaning given cannabis in Section 893.02(3), Florida Statutes (2014), and, in addition, “Low-THC cannabis” as defined in Section 381.986(1)(b), Florida Statutes (2014), shall also be included in the meaning of the term “marijuana.”
- (5) “Medical Marijuana Treatment Center” (MMTC) means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department.
- (6) “Medical use” means the acquisition, possession, use, delivery, transfer, or administration of an amount of marijuana not in conflict with Department rules, or of related supplies by a qualifying patient or caregiver for use by the caregiver’s designated qualifying patient for the treatment of a debilitating medical condition.
- (7) “Caregiver” means a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient’s medical use of marijuana and has qualified for and obtained a caregiver identification card issued by the Department. The Department may limit the number of qualifying patients a caregiver may assist at one time and the number of caregivers that a qualifying patient may have at one time. Caregivers are prohibited from consuming marijuana obtained for medical use by the qualifying patient.
- (8) “Physician” means a person who is licensed to practice medicine in Florida.
- (9) “Physician certification” means a written document signed by a physician, stating that in the physician’s professional opinion, the patient suffers from a debilitating medical condition, that the medical use of marijuana would likely outweigh the potential health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination and a full assessment of the medical history of the patient. In order for a physician certification to be issued to a minor, a parent or legal guardian of the minor must consent in writing.
- (10) “Qualifying patient” means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a “qualifying patient” until the Department begins issuing identification cards.
- (11) “Marijuana accessories” means any equipment, product, or material of any kind that are used for

inhaling, ingesting, topically applying, or otherwise introducing marijuana products into the human body for personal use.

(12) “Marijuana products” means marijuana or goods containing marijuana.

(13) “Personal use” means the possession, purchase, or use of marijuana products or marijuana accessories by an adult 21 years of age or older for non-medical personal consumption by smoking, ingestion, or otherwise. An adult need not be a qualifying patient in order to purchase marijuana products or marijuana accessories for personal use from a Medical Marijuana Treatment Center. An individual’s possession of marijuana for personal use shall not exceed 3.0 ounces of marijuana except that not more than five grams of marijuana may be in the form of concentrate.

(c) LIMITATIONS.

(1) Nothing in this section allows for a violation of any law other than for conduct in compliance with the provisions of this section.

(2) ~~Nothing in this section shall affect or repeal laws relating to non-medical use, possession, production, or sale of marijuana.~~

(2) Nothing in this amendment prohibits the Legislature from enacting laws that are consistent with this amendment.

(3) Nothing in this section authorizes the use of medical marijuana by anyone other than a qualifying patient.

(4) Nothing in this section shall permit the operation of any vehicle, aircraft, train or boat while under the influence of marijuana.

(5) Nothing in this section changes federal law or requires the violation of federal law or purports to give immunity under federal law.

(6) Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any correctional institution or detention facility or place of education or employment, or of smoking medical marijuana in any public place.

(7) Nothing in this section shall require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the medical use of marijuana.

(8) Nothing in this section shall affect or repeal laws relating to negligence or professional malpractice on the part of a qualified patient, caregiver, physician, MMTC, or its agents or employees.

(d) DUTIES OF THE DEPARTMENT. The Department shall issue reasonable regulations necessary for the implementation and enforcement of this section. The purpose of the regulations is to ensure the availability and safe use of medical marijuana by qualifying patients. It is the duty of the Department to promulgate regulations in a timely fashion.

(1) Implementing Regulations. In order to allow the Department sufficient time after passage of this section, the following regulations shall be promulgated no later than six (6) months after the effective date of this section:

a. Procedures for the issuance and annual renewal of qualifying patient identification cards to people

with physician certifications and standards for renewal of such identification cards. Before issuing an identification card to a minor, the Department must receive written consent from the minor's parent or legal guardian, in addition to the physician certification.

b. Procedures establishing qualifications and standards for caregivers, including conducting appropriate background checks, and procedures for the issuance and annual renewal of caregiver identification cards.

c. Procedures for the registration of MMTCs that include procedures for the issuance, renewal, suspension and revocation of registration, and standards to ensure proper security, record keeping, testing, labeling, inspection, and safety.

d. A regulation that defines the amount of marijuana that could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

(2) Identification cards and registrations. The Department shall begin issuing qualifying patient and caregiver identification cards, and registering MMTCs no later than nine (9) months after the effective date of this section.

(3) If the Department does not issue regulations, or if the Department does not begin issuing identification cards and registering MMTCs within the time limits set in this section, any Florida citizen shall have standing to seek judicial relief to compel compliance with the Department's constitutional duties.

(4) The Department shall protect the confidentiality of all qualifying patients. All records containing the identity of qualifying patients shall be confidential and kept from public disclosure other than for valid medical or law enforcement purposes.

(e) **LEGISLATION.** Nothing in this section shall limit the legislature from enacting laws consistent with this section. The legislature may provide for the licensure of entities that are not Medical Marijuana Treatment Centers to acquire, cultivate, possess, process, transfer, transport, sell, and distribute marijuana products and marijuana accessories for personal use by adults.

(f) **SEVERABILITY.** The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by a court of competent jurisdiction other provisions shall continue to be in effect to the fullest extent possible.

(g) **EFFECTIVE DATE.** This amendment shall become effective six (6) months after approval by the voters.

## **B. Effective Date**

Article XI, Section 5(e), Florida Constitution, states: "Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision."

Subsection (g) of the proposed amendment states: “This amendment shall become effective six (6) months after approval by the voters.” Assuming the initiative is on the ballot in 2024, the effective date would be May 5, 2025.

### **C. Formal Communications to and from the Sponsor, Proponents, and Opponents**

The Sponsor, Smart & Safe Florida, designated Glenn Burhans, Jr., Esq., to speak on its behalf at meetings held by the Financial Impact Estimating Conference (FIEC). The FIEC also reached out to several proponents and opponents of the initiative; however, only the Drug Free America Foundation submitted materials.<sup>1</sup>

### **D. Input Received from the Sponsor, Proponents, Opponents, and Interested Parties**

The FIEC allows any proponent, opponent, or interested party to present or provide the conference with materials to consider. The FIEC received input from the Sponsor, Smart & Safe Florida, both in writing and orally (on the phone and in-person). In addition, the public meetings were broadcast live and were also recorded and archived by The Florida Channel. These recordings may be viewed at: <https://thefloridachannel.org>.

The FIEC requested and received input from the following state agencies: Department of Revenue, Department of Health, Department of Children and Families, Department of Corrections, Agency for Health Care Administration, and Department of Law Enforcement. In addition, the Florida Association of Counties, Florida League of Cities, Florida Police Chiefs Association, and Florida Sheriffs Association were contacted regarding the impact to local governments.

Documentation of all written comments and materials received by the FIEC can be found in the EDR Notebook on the website at: <http://edr.state.fl.us/Content/constitutional-amendments/2024Ballot/AdultPersonalUseofMarijuanaAdditionalInformation.cfm>

### **E. Background**

There are federal marijuana laws. As the FIEC completed its analysis, the US Drug Enforcement Administration listed marijuana as a schedule I controlled substance<sup>2</sup>, which is subject to criminal prosecution.

According to a January 4, 2018, memorandum from the Attorney General of the United States:  
*In the Controlled Substances Act, Congress has generally prohibited the cultivation, distribution, and possession of marijuana. 21 U.S.C. § 801 et seq. It has established significant penalties for these crimes. 21 U.S.C. § 841 et seq. These activities also may serve as the basis for the prosecution of other crimes, such as those prohibited by the money laundering statutes, the unlicensed money transmitter statute, and the Bank Secrecy Act. 18 U.S.C. §§ 1956-57, 1960; 31 U.S.C. § 5318. These statutes reflect Congress's determination that marijuana is a dangerous drug and that marijuana activity is a serious crime.*

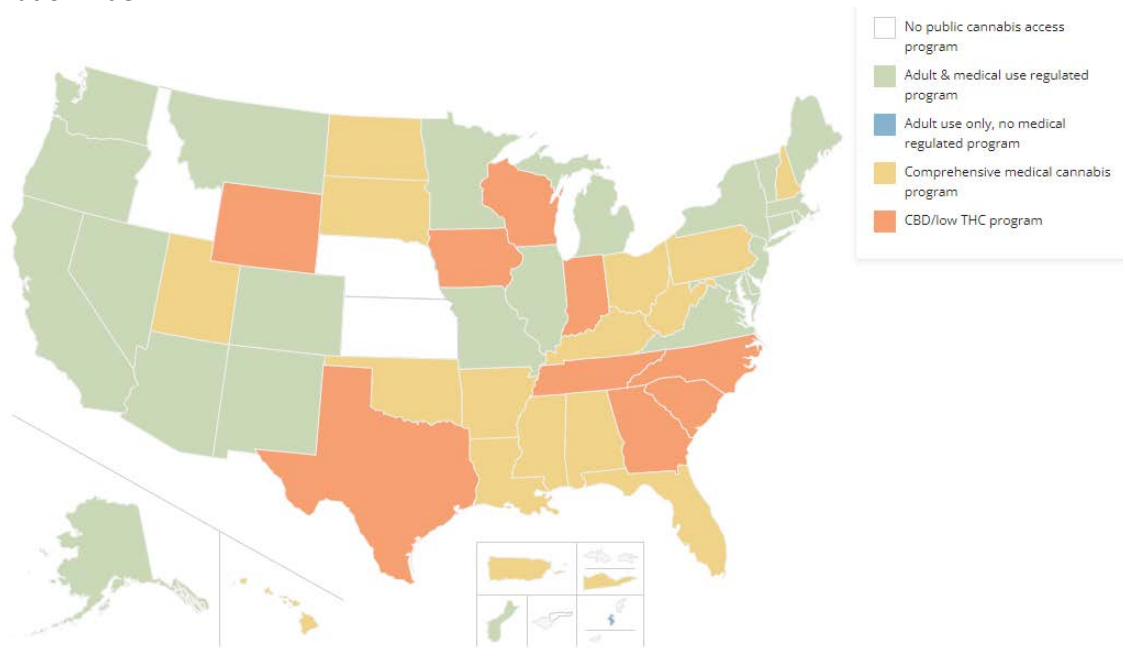
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<sup>1</sup> Mr. Chris Cano, executive director of the Suncoast NORML chapter; the Florida Chamber of Commerce; and The Drug Free America Foundation.

<sup>2</sup> Drug Scheduling, <https://www.dea.gov/drug-information/drug-scheduling>.

Statements and proclamations from the President and the Justice Department in October 2022 were related to “Simple Possession of Marijuana.”<sup>3</sup> At the federal level, these addressed a “full, complete, and unconditional pardon to U.S. citizens and lawful permanent residents who have committed, or been convicted of, the offense of simple possession of marijuana in violation of the Controlled Substances Act, as currently codified at 21 U.S.C. 844 and as previously codified elsewhere in the U.S. Code, or in violation of D.C. Code 48–904.01(d)(1).”<sup>4</sup> In addition, the President’s statement asked the Secretary of Health and Human Services and the Attorney General to review how marijuana is currently scheduled under federal law.

As of April 24, 2023, a total of 38 states, the District of Columbia, Guam, Puerto Rico and the US Virgin Islands have authorized the use of medical marijuana.<sup>5</sup> As of June 1, 2023, 23 states, the District of Columbia, and Guam have further legalized cannabis for adult non-medical use. In addition, Northern Mariana Islands has only legalized recreational marijuana. The graphic below shows the legalization of the market nationwide.



Source: National Conference of State Legislatures

Prior FIECs have reviewed a variety of constitutional authorizations for marijuana and, in some cases, developed analyses showing the impact on the economy and the overall impact on the state budget. These analyses were done for the following constitutional amendments by citizens’ initiative:

- Use of Marijuana for Certain Medical Conditions (13-02)

<sup>3</sup> See: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/06/statement-from-president-biden-on-marijuana-reform/>  
<https://www.whitehouse.gov/briefing-room/presidential-actions/2022/10/06/granting-pardon-for-the-offense-of-simple-possession-of-marijuana/>  
<https://www.justice.gov/opa/pr/justice-department-statement-president-s-announcements-regarding-simple-possession-marijuana/>.

<sup>4</sup> See: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/06/statement-from-president-biden-on-marijuana-reform/>  
<https://www.whitehouse.gov/briefing-room/presidential-actions/2022/10/06/granting-pardon-for-the-offense-of-simple-possession-of-marijuana/>  
<https://www.justice.gov/opa/pr/justice-department-statement-president-s-announcements-regarding-simple-possession-marijuana/>.

<sup>5</sup> See: <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>; viewed July 6, 2023, dated June 22, 2023.

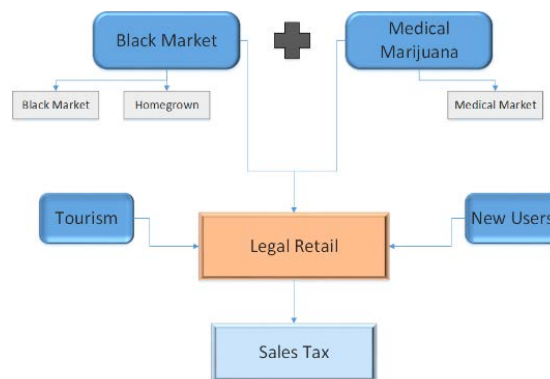
- <http://edr.state.fl.us/Content/constitutional-amendments/2014Ballot/UseofMarijuanaforCertainMedicalConditions/CompleteFinancialInformationStatement.pdf>
- Use of Marijuana for Debilitating Medical Conditions (15-01)
  - [http://edr.state.fl.us/Content/constitutional-amendments/2016Ballot/MedMFIEC\\_Full%20Analysis\\_10-21-2015.pdf](http://edr.state.fl.us/Content/constitutional-amendments/2016Ballot/MedMFIEC_Full%20Analysis_10-21-2015.pdf)
- Regulate Marijuana in a Manner Similar to Alcohol to Establish Age, Licensing, and Other Restrictions (16-02)
  - [http://edr.state.fl.us/Content/constitutional-amendments/2020Ballot/MarijuanaRegulation\\_Report.pdf](http://edr.state.fl.us/Content/constitutional-amendments/2020Ballot/MarijuanaRegulation_Report.pdf)

In addition, a review was initiated for the petition initiative entitled Adult Use of Marijuana (19-11), but the Supreme Court of Florida struck the proposed amendment from the ballot before the FIEC completed its work.

The analysis developed for the citizens’ initiative 16-02 identified the potential user base for Florida’s legal retail marijuana market. As described, future users in the legal retail market would come from:

- Black Market
- Medical Marijuana Market
- Tourists
- New Users and Expanded Use

Further, the FIEC found that the “... vast majority (82.7 percent) of the anticipated sales revenues are estimated to be from black market users moving to the legal retail market (Floridians and tourists). Combining sales revenue from these black market users with the medical marijuana users who also move to the legal retail market, the percentage of legal sales revenue associated with the current use of marijuana in Florida increases to 97.5 percent of total anticipated sales. The remaining 2.5 percent of sales is due to new tourists, new usage associated with returning users, and increased use by existing users.”<sup>6</sup>



An updated review of the literature regarding the black market indicated the following: A “black market” is defined as an underground economy where the transactions involve the exchange of illegal goods or services. The legal retail market authorized by the petition initiative will be directly competing with the existing black market. Ultimately, the number of people who convert is expected to be a function of both the price difference (if any) and the reduction of risk. In 2019, the FIEC principals for the petition initiative entitled Regulate Marijuana in a Manner Similar to Alcohol to Establish Age, Licensing, and Other Restrictions indicated that “the vast majority of the new legal market participants are already

<sup>6</sup> Regulate Marijuana in a Manner Similar to Alcohol to Establish Age, Licensing, and Other Restrictions (16-02) Complete Financial Information Statement [http://edr.state.fl.us/Content/constitutional-amendments/2020Ballot/MarijuanaRegulation\\_Report.pdf](http://edr.state.fl.us/Content/constitutional-amendments/2020Ballot/MarijuanaRegulation_Report.pdf).



using and purchasing the product on the black market.” Further, the principals found that half of Florida’s black market would stay in the black market, while 47.5 percent would move to the legal retail market.<sup>7</sup>

Recent substitutability studies continue to support the earlier assumptions. In a study that came out in 2019, Amlung and MacKillop found that “the availability of legal cannabis substantially decreased demand for illegal cannabis,” but that this finding was conditioned on price.<sup>8</sup> They further found that legal marijuana was a “superior good based on the qualities of regulated products,” implying that even a marginally higher legal price would be acceptable under the right circumstances.

Contemporary academic work suggests that these circumstances will be largely colored by consumer perceptions about the developing legal market. According to a study already considered foundational by Fataar, Goodman, Wadsworth and Hammond:

“Compared to illegal sources, at least one third of respondents perceived legal cannabis to be higher quality (37.6%) and safer to use (40.3%). More than half reported legal cannabis was more convenient to buy (59.2%) and safer to purchase (56.1%), whereas 30.6% of respondents perceived legal cannabis as more expensive. Perceptions varied according to the length of time since legal cannabis sales began: respondents living in more ‘mature’ legal markets were more likely to perceive legal cannabis as higher quality...less expensive...more convenient to buy...and safer to purchase...”<sup>9</sup>

A subsequent study by Robertson and Thyne indicated that a perception of safety (meaning variously: known potency; not laced; no pesticides; no drug dealers) was the main factor (63.1%) for the surveyed university students to switch to a legal market. The next highest factor (42.7%) was price when the legal product price was cheaper than the illegal product price. Conversely, a lower price was perceived to be the main reason (66.4%) to stay in the black market. Because price is the chief barrier to the conversion, it is considered to be the “primary driver of choice between sources.”<sup>10</sup>

A more recent analysis of surveys that were conducted among a broader class of cannabis users living in legal markets found that “higher prices and inconvenience of legal sources were common barriers to purchasing legal cannabis.”<sup>11</sup> The percentage of respondents citing the inconvenience of legal sources seemed to diminish over time as the relevant local legal market matured.

While the new studies are increasingly based on experience rather than theory, they have not fundamentally altered the assumptions that led the FIEC principals in 2019 to conclude that the majority of the new legal market participants will come from the black market—even though about one-half of the black market would continue to exist. This is not inconsistent with the 2021 Cannabis Report for the United States which found that in states where marijuana is legal, consumers purchased 76% of all cannabis products from a legal retail source.<sup>12</sup>

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<sup>7</sup> Ibid.

<sup>8</sup> Amlung, M., & MacKillop, J. (2019). Availability of legalized cannabis reduces demand for illegal cannabis among Canadian cannabis users: evidence from a behavioural economic substitution paradigm. *Canadian Journal of Public Health*, 110, 216–221. <https://doi.org/10.17269/s41997-018-0160-4>.

<sup>9</sup> Fataar, F., Goodman, S., & Wadsworth, E. & Hammond, D. (2021). Consumer perceptions of ‘legal’ and ‘illegal’ cannabis in US states with legal cannabis sales. *Addictive Behaviors*, 112, 106563. <https://doi.org/10.1016/j.addbeh.2020.106563>.

<sup>10</sup> Robertson, K., & Thyne, M. (2021). Legalization of recreational cannabis: facilitators and barriers to switching from an illegal to a legal source. *Preventive Medicine Reports*, Volume 24, 2021, 101639. <https://doi.org/10.1016/j.pmedr.2021.101639>.

<sup>11</sup> Goodman, S., Wadsworth, E., & Hammond, D. (2022). Reasons for purchasing cannabis from illegal sources in legal markets: findings among cannabis consumers in Canada and U.S. States, 2019–2020. *Journal of Studies on Alcohol and Drugs*, 2022, 83:3, 392-401. <https://doi.org/10.15288/jsad.2022.83.392>. The study used data from cannabis users aged 18 to 65, but the respondents from the legal states in the U.S. were limited to the age bracket 21 to 65.

<sup>12</sup> Hammond, D., Corsetti, D., Goodman S., Iraniparast, M., Danh Hong, D., & Burkhalter, R., on behalf of the ICPS Research Team. (September 2022). International Cannabis Policy Study – United States 2021 Summary. <http://cannabisproject.ca/wp-content/uploads/2022/10/2021-ICPS-US-National-Report-Sept-27-1.pdf>.

Florida’s medical marijuana program is now well established and considered mature. It began in 2014 when the state enacted the Compassionate Medical Cannabis Act of 2014<sup>13</sup> that authorized specified physicians to order low-THC cannabis for use by patients for specific conditions, creating s. 381.986, F.S. During the 2016 session, the legislature amended this statute by expanding the act to include medical cannabis that could be ordered for a patient who meets the conditions in s. 499.0295, F.S., relating to experimental treatments for terminal conditions.

In 2016, the voters passed a constitutional amendment “Use of Marijuana for Debilitating Medical Conditions” (petition initiative 15-01) that created Article X, Section 29 of the state constitution. This constitutional amendment legalized marijuana for medical use and identified the Department of Health as the regulator for the implementation and enforcement of the amendment’s provisions. Following the passage of this constitutional amendment, the Florida Legislature met in a Special Session and passed Chapter 2017-232, Laws of Florida, entitled “Medical Use of Marijuana.” This law established a regulatory structure and sales tax exemption for medical marijuana and delivery devices in the state.

## **F. Discussion of Impact of Proposed Amendment**

### *Potential Expiration of Current Law*

The proposed constitutional amendment would amend Article X, Section 29 of the state constitution which originally authorized medical marijuana. As indicated above, the legislature enacted s. 381.986, F.S., to create a regulatory structure for this segment of the market that included medical marijuana treatment centers. The proposed constitutional amendment would authorize the existing medical marijuana treatment centers licensed under the authority of that section to “acquire, cultivate, process, manufacture, sell, and distribute marijuana products and marijuana accessories to adults for personal use” upon the amendment’s effective date.

Under the law created by Chapter 2017-232, Laws of Florida, both the current regulatory framework and the sales tax exemption for medical marijuana are repealed six months after the effective date of any future constitutional amendment related to marijuana. Section 1, Chapter 2017-232, Laws of Florida (Senate Bill No. 8-A from the 2017 Special Session A) provides:

*“It is the intent of the Legislature to implement s. 29, Article X of the State Constitution by creating a unified regulatory structure. If s. 29, Article X of the State Constitution is amended or a constitutional amendment related to cannabis or marijuana is adopted, this act shall expire 6 months after the effective date of such amendment.”*

In addition, a note attached to s. 381.986, F.S., indicates:

If such amendment or adoption takes place, s. 381.986, as amended by s. 1, ch. 2017-232, will read:  
[showing the actual language from the Compassionate Medical Cannabis Act of 2014, as amended.]

A simple reinstatement of the amended 2014 statutory language would not align with the amended language in the constitution for medical and non-medical marijuana if voters approve this petition initiative. For example, the 2014 language does not reference the Medical Marijuana Treatment Centers (MMTCs) or their licensing mechanism. Overall, the statutes in existence prior to passage of Chapter 2017-232, Laws of Florida, were more limiting than Article X, Section 29 of the state constitution would be if the constitutional amendment proposed by the petition initiative is approved by the voters.

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<sup>13</sup> Chapter 2014-157, Laws of Florida.

In addition, Section 2 of the 2017 act created s. 212.08(2)(l), F.S., that provides for the medical marijuana sales tax exemption. This statute has a note that indicates:

If such amendment or adoption takes place, paragraph (2)(l), as created by s. 2, ch. 2017-232, is repealed, and paragraph (2)(m) will be redesignated as paragraph (2)(l).

The legislature would likely act in advance of this repeal date to implement the provisions of Article X, Section 29 of the state constitution, as amended, providing a statutory regulatory structure for both medical and non-medical use of marijuana. In the event the Legislature does not timely act, statutory authority for both the Department of Health to issue or maintain medical marijuana treatment licenses and the statutory sales tax exemption for medical marijuana would be eliminated, at least temporarily, six months after the effective date of the amendment. In that event, the regulatory environment of both the medical marijuana and non-medical markets become unpredictable, particularly with respect to the timing of a fully operational retail market.

### *State and Local Costs and Revenues and State Budget*

#### **State and Local Costs:**

##### **A. Criminal Justice and Law Enforcement by State and Local Governments**

Legalization of non-medical marijuana has the potential to perturb the baseline state of the criminal justice system in a number of ways, with the research mixed as to what direction the final impact will take. For example, research on the relationship between non-medical marijuana legalization and crime at the state level has found no significant impact,<sup>14, 15, 16</sup> even though a study at the county level found a reduction in certain types of crime when comparing Washington and Oregon, which legalized in different years.<sup>17</sup> Conversely, research at the neighborhood level has yielded conflicting results regarding the extent or direction of an impact.<sup>18, 19, 20, 21</sup>

Marijuana-specific crime is one area where a reduction might be expected; however, the reality may be more nuanced. An annual report published by the Colorado Division of Criminal Justice has indicated that while they saw significant decreases in marijuana possession arrests (-71%) and sales arrests (-56%) between 2012 and 2019, production arrests saw a slight increase (+3%).<sup>22</sup> This updated report indicates greater decreases in possession and sales arrests than found during the 2012 to 2017 time period, while the increase in production arrests has slowed considerably (+51% through 2017).<sup>23</sup> Additionally, marijuana-related felony court case filings declined by -55% between 2012 and 2019. One argument is that these declines might actually benefit police clearance rates, since additional resources

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<sup>14</sup> Maier, S, Mannes, S, Koppenhofer, E. 2017. "The Implications of Marijuana Decriminalization and Legalization on Crime in the United States." *Contemporary Drug Problems*, 44(2):125-146.

<sup>15</sup> Ruibin L, Willits, D, Stohr, M., Makin, D, Snyder, J, Lovrich, N, Meize, M, Stanton, D, Wu, G, Hemmens, C. 2019. "The Cannabis Effect on Crime: Time-Series Analysis of Crime in Colorado and Washington State." *Justice Quarterly*.

<sup>16</sup> Sabia J. J., Dave D. M., Alotaibi F., Rees D. I. 2021. "Is recreational marijuana a gateway to harder drug use and crime?" [NBER Working Paper Series]. <http://www.nber.org/papers/w29038>

<sup>17</sup> Dragone, D, Prarolo, G, Vanin, P, Zanella, G. 2019. "Crime and the legalization of recreational marijuana. *Journal of Economic Behavior & Organization*, 159: 488-501.

<sup>18</sup> Freisthler, B, Gaidus, A, Tam, C, Ponicki, W, Gruenewald, P. 2017 "From Medical to Recreational Marijuana Sales: Marijuana Outlets and Crime in an Era of Changing Marijuana Legislation." *The Journal of Primary Prevention*, 38(3):249-263.

<sup>19</sup> Hughes, L, Schaible, L, Jimmerson, K. 2019. "Marijuana Dispensaries and Neighborhood Crime and Disorder in Denver, Colorado." *Justice Quarterly*.

<sup>20</sup> Burkhardt, J, Goemans, C. 2019. "The short-run effects of marijuana dispensary openings on local crime." *The Annals of Regional Science*, 63(1): 163-189.

<sup>21</sup> Brinkman, J, Mok-Lamme, D. 2019. "Not in my backyard? Not so fast. The effect of marijuana legalization on neighborhood crime." *Regional Science and Urban Economics*, 78.

<sup>22</sup> Reed, J. "Impacts of Marijuana Legalization in Colorado: A Report Pursuant to C.R.S. 23-33.4-516." Report, Colorado Division of Criminal Justice, July 2021.

<sup>23</sup> Reed, J. "Impacts of Marijuana Legalization in Colorado: A Report Pursuant to Senate Bill 13-283." Report, Colorado Division of Criminal Justice, October 2018.

could be devoted to other offenses, but research findings have been mixed on whether police clearance rates have actually improved under legalization.<sup>24, 25</sup> Current research has not examined a potential unintended result of an improvement: an increase in clearance rates could lead to more arrests and, therefore, generate increased costs to the criminal justice system.

According to the Florida Department of Corrections, there were 138 inmates in prison with marijuana violations listed as primary offenses as of June 30, 2023. In FY 2022-23, the majority of strictly marijuana-related new commitments were for sale/manufacture/delivery (39), possession of marijuana over 20 grams (36), and trafficking in cannabis between 25 pounds and 2,000 pounds (15). Other crimes may also be related to marijuana, but are not reported as such. For example, it is not known how many new commitments for selling drugs within 1,000 feet of restricted areas were related to marijuana, since multiple drugs are included in that data.

In FY 2022-23, approximately 1.9% of offenders were sentenced to prison for possession of marijuana, while 5.6% were sentenced to prison for sale/manufacture/delivery. Additionally, trafficking in cannabis between 25 pounds and 2,000 pounds sent 16.7% of offenders to prison. It is not known if a reduction in these admissions would actually occur post-legalization. Given the low incarceration rates for possession, it is entirely possible that those receiving prison for such offenses did so because they had committed other offenses which could have been charged, pled down from sale/manufacture/delivery, or committed technical violations under community supervision. Furthermore, Colorado developed a new black market which serviced nearby non-legal states. A similar situation has the potential to develop in Florida, making it unclear how sale/manufacture/delivery or trafficking offenses might be affected. For the vast majority of offenders receiving a sentence other than prison, the Department of Corrections has indicated that there will not be a significant impact on their operations, even with a reduction in the population under supervision for marijuana crimes.

Another area where criminal justice system costs could be impacted relates to driving under the influence (DUI), where a possibility exists that these numbers could increase with the introduction of a new drug into mainstream usage. The Colorado Division of Criminal Justice found that while the number of marijuana-only citations issued remained relatively stable between 2014 and 2020, the prevalence of marijuana and alcohol co-identified as the impairing substances increased from 3.7% of all DUIs in 2014 to 18% in 2020.<sup>26</sup> The report notes that these findings should be interpreted with the understanding that there has been a significant increase in the number of peace officers trained to identify impairment from drugs other than alcohol. Furthermore, the number of fatalities in which a driver tested positive for Delta-9 THC with five or more nanograms in the driver's blood, a possible indicator of impairment, initially decreased from 14% of all fatalities in 2016 to 8% of all fatalities in 2017 before resuming double-digit growth (13%) in 2019. Other research has pointed to increases in the instances of impaired driving in states where recreational marijuana was legalized, while the relationship between legalization and motor vehicle accidents, including those with traumatic injuries

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<sup>24</sup> Makin, D, Willits, D, Wu, G, DuBois, K, Lu, R, Stohr, M, Koslicki, W, Stanton, D, Hemmens, C, Snyder, J, Lovrich, N. 2019. "Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State." *Police Quarterly*, 22(1), 31–55.

<sup>25</sup> Jorgensen, C and Harper, A. 2020. "Examining the effect of marijuana legalization in Colorado and Washington on clearance rates: A quasi-experimental design." *Journal of Experimental Criminology*, 1-22.

<sup>26</sup> Reed, J. "Impacts of Marijuana Legalization in Colorado: A Report Pursuant to C.R.S. 23–33.4-516." Report, Colorado Division of Criminal Justice, July 2021.

or fatalities, continues to be unclear.<sup>27, 28, 29, 30</sup> A recent review of this growing literature continues to find mixed results regarding whether legalization has an impact on traffic fatalities, with some studies finding declines in legalized states, others finding increases, and some finding no effect at all.<sup>31</sup> Based on these mixed results, it is not known what impact legalization will have on the state of Florida, especially given the difficulties inherent in testing THC levels and blood tests that are essentially limited to cases of death or serious bodily injury.<sup>32</sup>

Lastly, there is a possibility that the public availability of marijuana for non-medical purposes could lead to increased underage marijuana use, even though this would still be illegal under the proposed amendment. According to the Colorado Division of Criminal Justice, marijuana arrests declined for both the 10 to 17 age group and the 18 to 20 age group between 2019 and 2020. Early studies of marijuana use among adolescents yielded mixed results when analyzing Washington and Colorado between 2010-2012 and 2013-2015, showing increased use among eighth graders (+2.0%) and tenth graders (+4.1%) in Washington, while no significant differences in use were found in Colorado.<sup>33</sup> However, more recent studies utilizing different datasets have shown small decreases for Washington 8<sup>th</sup> and 10<sup>th</sup> graders following legalization<sup>34</sup>, as well as a decrease in teenage use for legalized states relative to other states.<sup>35</sup> Similar to the findings for traffic fatalities, surveys of the literature note that studies have found variously no effects, increases and decreases in usage by adolescent and young adult marijuana users in legalized states compared to other states.<sup>36, 37</sup>

A joint letter by the Florida Sheriffs Association and Florida Police Chiefs Association brought up similar concerns regarding the potential cost impacts to the criminal justice system, including a new black market that exploits legalization, increased instances of driving while impaired, and a higher number of traffic fatalities.<sup>38</sup> While both associations expected law enforcement to see increased costs, they could not quantify the amounts.

Conclusion: Given the mixed findings in the academic and technical literature and the likelihood that savings and increased costs will both result over time, the net impact is indeterminate with respect to magnitude and direction in any given year.

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<sup>27</sup> Chung, C, Salottolo, K, Tanner II, A, Carrick, M, Madayag, R, Berg, G, Lieser, M, Bar-Or, D. "The impact of recreational marijuana commercialization on traumatic injury." *Injury Epidemiology*, 6.

<sup>28</sup> Lynch, J, McMahon, Lucian. 2019. "A Rocky Road So Far: Recreational Marijuana and Impaired Driving." Report, Insurance Information Institute, March 2019.

<sup>29</sup> Leyton M. 2019. "Cannabis legalization: Did we make a mistake? Update 2019." *Journal of Psychiatry & Neuroscience*, 44(5): 291–293.

<sup>30</sup> Farrelly, K. N., Wardell, J. D., Marsden, E., Scarfe, M. L., Najdzionek, P., Turna, J., & MacKillop, J. 2023. "The impact of recreational cannabis legalization on cannabis use and associated outcomes: a systematic review." *Substance abuse: research and treatment*, 17.

<sup>31</sup> Anderson, D. M., & Rees, D. I. 2023. "The public health effects of legalizing marijuana." *Journal of Economic Literature*, 61(1), 86-143.

<sup>32</sup> S. 316.1933, F.S.

<sup>33</sup> Cerdá M, Wall M, Feng T, Keyes KM, Sarvet A, Schulenberg J, O'Malley PM, Pacula RL, Galea S, Hasin DS. 2017. "Association of State Recreational Marijuana Laws With Adolescent Marijuana Use." *JAMA Pediatr*, 171(2):142-149.

<sup>34</sup> Dilley JA, Richardson SM, Kilmer B, Pacula RL, Segawa MB, Cerdá M. 2019. "Prevalence of cannabis use in youths after legalization in Washington State." *JAMA Pediatr*, 173(2):192-193.

<sup>35</sup> Anderson DM, Hansen B, Rees DI, Sabia JJ. 2019. "Association of Marijuana Laws With Teen Marijuana Use: New Estimates From the Youth Risk Behavior Surveys." *JAMA Pediatr*, 173(9):879–881.

<sup>36</sup> Anderson, D. M., & Rees, D. I. 2023. "The public health effects of legalizing marijuana." *Journal of Economic Literature*, 61(1), 86-143.

<sup>37</sup> O'Grady, M. A., Iverson, M. G., Suleiman, A. O., & Rhee, T. G. 2022. "Is legalization of recreational cannabis associated with levels of use and cannabis use disorder among youth in the United States? A rapid systematic review." *European Child & Adolescent Psychiatry*, 1-23.

<sup>38</sup> RE: *Constitutional Amendment Titled: Adult Personal Use of Marijuana*, Florida Sheriffs Association and Florida Police Chiefs Association.

B. Health and Human Services

Legalizing non-medical marijuana and increasing the availability to the public may introduce opposing health effects, with some producing added costs and others generating potential savings. With respect to this amendment, the public health impact is limited to new and expanding users as well as marijuana-induced tourism. For current users of illicit or medical marijuana, much of the health care impact already exists and is embedded in Florida's public health system.

First, like other controlled substances (i.e. alcohol, tobacco and prescription drugs), misuse and abuse of marijuana has health repercussions. The academic and scientific literature related to these effects suggest an association between marijuana use and potential negative health outcomes; however, there is a paucity of conclusive evidence to indicate causal effects. While there are many factors precluding proof of causality, the negative health outcomes associated with marijuana use exist. The research into the association between marijuana use and potential adverse health outcomes is limited by the changes in legality, potency, consumption methods, and many other factors.

High frequency use (daily or weekly) is also associated with negative cognitive outcomes that can have long-term effects and a variety of mental health issues; however, the research is often equivocal regarding specific interactions and outcomes. In 2017, the National Academy of Sciences concluded that marijuana use is associated with the development of psychotic disorders, although this relationship "may be multidirectional and complex." The relationship between marijuana use and other mental health outcomes, it concluded, is mixed and frequently confounded by alcohol use. It is also important to note that association is not causation and that mental health conditions might drive some people to use marijuana rather than marijuana use causing mental health conditions.<sup>39</sup> A 2022 article in *Substance Use & Misuse* concluded that "overall, the relationship between cannabis use and mental health is complex, disorder specific, and may include a combination of perceived benefits as well as harms".<sup>40</sup>

Similarly, high frequency use of inhaled product is associated with cardiovascular and respiratory issues as well as effects from second-hand exposure (similar to smoked tobacco usage). As with other controlled substances, marijuana usage can cause motor skills to be impaired, which—in turn—could lead to increased numbers of motor vehicle accidents.<sup>41</sup> There is also an association between prenatal exposure and exposure through breast feeding on negative infant health outcomes similar to those of chronic users.<sup>42</sup>

Second, while the potential for an increase in Florida's health care costs exists, there is also evidence of mitigating factors that have the potential to lower costs. Analysis and research regarding the potential benefits of marijuana consumption is sparse due to legal issues and the share of overall funding dedicated to the discovery of negative health effects. Even so, there is some evidence that hospitalizations and death from opioid pain medication overdoses are less prevalent in states with legal or medical marijuana compared to states without. One study found recreational marijuana is associated with a 4% reduction in opioid-related mortality; and recreational sales are associated with a

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<sup>39</sup> National Academies of Sciences, Engineering, and Medicine. "The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research." The National Academies Press: Washington, DC. 2017.

<sup>40</sup> Jennifer Rup, Tom P. Freeman, Chris Perlman & David Hammond (2022): Cannabis and Mental Health: Adverse Outcomes and Self-Reported Impact of Cannabis Use by Mental Health Status, *Substance Use & Misuse*.

<sup>41</sup> Bannigan P, Evans JC, Allen C (2022) Shifting the paradigm on cannabis safety, *Cannabis and Cannabinoid Research* 7:1, 3–10.

<sup>42</sup> Retail Marijuana Public Health Advisory Committee. "Monitoring Health Concerns Related to Marijuana in Colorado: 2020 Summary." 2020.

16% to 21% reduction in opioid-related mortality.<sup>43</sup> Conflicting evidence exists as to whether marijuana use is associated with decreases in opioid use among chronic pain patients or those with chronic drug abuse issues.<sup>44</sup> There is substantial evidence, however, that cannabis or cannabinoids are effective in treating chronic pain, chemotherapy-induced nausea, and spasticity symptoms in multiple sclerosis patients. Moderate evidence exists for improving short-term sleep outcomes.<sup>45</sup> A 2022 long-term study on the effects of cannabis on Post-Traumatic Stress Disorder (PTSD) found evidence that the types of cannabis available in recreational and medical cannabis dispensaries might hold promise as an alternative treatment for PTSD.<sup>46</sup> Another study published in 2022 concluded, “phytocannabinoids derived from Cannabis sativa have therapeutic potential due to its anti-inflammatory, antioxidant, and neuroprotective properties, making the plant a study option to reduce and reverse inflammation and comorbidities associated with obesity.”<sup>47</sup>

Conclusion: Since the legalization of non-medical marijuana will likely have countervailing effects on people’s health, the net effect on Florida’s health care costs is indeterminate with respect to magnitude and direction in any given year. Some impacts may take years to fully develop.

C. Regulatory Administration of Non-Medical Marijuana

The Department of Health prepared an analysis of the expected costs to perform the administrative role suggested by the petition initiative. These costs include: core staffing for licensing and regulation, compliance, and operations; support staffing for legal services and budget and revenue management; facility leasing; fleet acquisition and management; technology equipment; public health laboratory expenses and equipment; and litigation-related expenses for rule development and licensure determinations. In total, added costs to create and maintain a regulatory structure is projected to be \$11.4 million annually, with an additional \$9.0 million needed for startup.

Expense Category	Recurring	Nonrecurring	Total
Program Staffing	\$8,586,852		
Program Expenses	\$1,192,661	\$372,254	
Program HR Outsourcing	\$27,279		
Program Annual Lease Average	\$314,767		
Program Fleet	\$90,000	\$719,700	
Program Technology	\$126,460	\$607,708	
Litigation (2 Years)		\$5,000,000	
Public Health Laboratory	\$739,642		
Laboratory Equipment	\$303,974	\$2,253,740	
Total	\$11,381,635	\$8,953,402	\$20,335,037

Under current law, administrative costs are required to be fully covered by fees. Section 381.986(8)(b), Florida Statutes, states:

*“An applicant for licensure as a medical marijuana treatment center shall apply to the department on a form prescribed by the department and adopted in rule. The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing a procedure for the issuance and biennial*

<sup>43</sup> Chan, Nathan W., Jesse Burkhardt, and Matthew Flyr. 2020. “The Effects of Recreational Marijuana Legalization and Dispensing on Opioid Mortality.” *Economic Inquiry*, 58(2): 589-606.

<sup>44</sup> Retail Marijuana Public Health Advisory Committee. “Monitoring Health Concerns Related to Marijuana in Colorado: 2020 Summary.” 2020.

<sup>45</sup> National Academies of Sciences, Engineering, and Medicine. “The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research.” The National Academies Press: Washington, DC. 2017.

<sup>46</sup> Bonn-Miller MO, Brunstetter M, Simonian A, Loflin MJ, Vandrey R, Babson KA, Wortzel H (2022) The long-term, prospective, therapeutic impact of cannabis on posttraumatic stress disorder, *Cannabis and Cannabinoid Research* 7:2, 214–223.

<sup>47</sup> Cavalheiro EKFF, Costa AB, Salla DH, da Silva MR, Mendes TF, da Silva LE, da Rosa Turatti C, de Bitencourt RM, Rezin GT (2022) *Cannabis sativa* as a treatment for obesity: from anti-inflammatory indirect support to a promising metabolic re-establishment target, *Cannabis and Cannabinoid Research* 7:2, 135–151.

*renewal of licenses, including initial application and biennial renewal fees sufficient to cover the costs of implementing and administering this section, and establishing supplemental licensure fees for payment beginning May 1, 2018, sufficient to cover the costs of administering ss. 381.989 and 1004.4351.”*

As discussed in the previous section entitled “Potential Expiration of Current Law,” while it is probable that a future legislature would act in advance of the statute’s repeal date and that new license fees would continue to offset administrative costs, the legislature will need to approve and appropriate the expenditures in addition to establishing the specific regulatory framework after the repeal takes effect. The nature of that action cannot be predicted with certainty as a different regulatory environment could reasonably be developed that would lead to altered budget assumptions.

Conclusion: While it is probable that new license fees will completely offset the added regulatory costs, the actual regulatory structure and costs cannot be determined until the legislature acts.

**State and Local Revenues:**

**A. Ad Valorem**

Prior to the final retail sale of marijuana, there are several discrete development stages that have potentially different impacts on property taxes. With respect to the cultivation stage, it is unclear whether all land used for the cultivation of non-medical marijuana will be considered agricultural property for tax purposes. Further, it is unknown how the growing process will be regulated and what structures will be used, including any new construction that may occur. If the cultivation of non-medical marijuana qualifies as a bona fide agricultural purpose and the plants are grown in the open air, land for hemp production (which is classified as an agricultural commodity) may be converted to the growth of non-medical marijuana, limiting how much additional agricultural land is needed. Moreover, if the cultivation is conducted entirely indoors, it is possible that no additional agricultural land would be needed. With respect to processing, industrial facilities may be used. Lastly, retail sales would likely occur in commercial establishments. Different tax treatments potentially apply to each of these cases—either generally to a particular class or discretely based on the parcel-specific circumstances. Regardless of whether the land is treated as agricultural, industrial or commercial, taxable value may be unaffected, increase or decrease relative to its current level.

At the FIEC’s request, the Department of Revenue reviewed property tax records to identify parcels that are currently used for either the cultivation or processing of medical marijuana in the state. In total 41 parcels were identified as shown in the table below. The land use codes for these parcels varied from agriculture to light industrial. Sixteen of the forty-one parcels have some land with agricultural classified use, which was generally land underlying cultivation facilities, such as greenhouses or commercial canopies; however, some were identified as mixed agricultural usage.

	Cultivation Only	Cultivation and Processing	Processing only	* Total Value
Number of Real Property Parcels	12	24	5	41
Number of TPP Accounts				25
Just Value	\$ 43,871,762	\$ 90,020,119	\$ 12,882,512	\$ 146,774,393
Assessed Value - Non School	\$ 41,332,570	\$ 79,598,492	\$ 12,882,512	\$ 133,813,574
Assessed Value - School	\$ 41,682,691	\$ 84,013,564	\$ 12,882,512	\$ 138,578,767
Taxable Value - Non School	\$ 41,332,570	\$ 79,598,492	\$ 12,882,512	\$ 133,813,574
Taxable Value -School	\$ 41,682,691	\$ 84,013,564	\$ 12,882,512	\$ 138,578,767
TPP - Taxable Value				\$ 59,326,573
* Total Value may be overstated due to parcels with improvements or land unrelated to cultivation or processing of marijuana				



School Millage Rate	5.9581
Non School Millage Rate	10.5827

Estimated Taxes Levied including TPP	
School	\$ 1,179,140
Non School	\$ 2,043,944
Total	\$ 3,223,084

**Classified Use**

	Cultivation Only	Cultivation and Processing	Processing only	* Total Value
Just Value Classified Use - Agriculture	\$ 4,227,095	\$ 7,271,195	\$ -	\$ 11,498,290
Assessed Value Classified Use Agriculture	\$ 2,038,024	\$ 1,264,640	\$ -	\$ 3,302,664

Conclusion: Given that the proposed amendment does not lead to a particular ad valorem treatment and wide variation already exists in parcel treatment for medical marijuana, any changes in taxable value would be based on individual business decisions on how best to operate and, therefore, indirect to the amendment's purpose.

**B. Alcoholic Beverage and Tobacco Taxes**

Currently a separate excise tax is imposed at the distributor level on each gallon of alcoholic beverage (beer, wine, cider, and spirits) sold in the state. Similarly, excise taxes are imposed on wholesalers of cigarette and other tobacco products. The FIEC has not assumed that this will be the case for legal marijuana. More than one-half of all reviewed states with non-medical sales of marijuana have a separate excise tax in addition to the sales tax. Creation of such an excise tax in Florida would require legislative action. Whether the legislature would take such action is unknown and therefore is not addressed by this analysis.

There may be, however, an interaction with existing alcohol and tobacco taxes. Economic theory would suggest that the legalization and public availability of non-medical marijuana could impact the consumption of alcohol and tobacco, but only to the extent that it induces new usage of marijuana in the state. Much of the impact related to alcohol and tobacco taxes, if any, already exists and is embedded in Florida's current tax collections.

Conclusion: The magnitude and direction of the impact (if any) on Florida's tax collections for alcoholic beverages and tobacco is indeterminate.

**C. Corporate Income Tax**

At least some of the medical marijuana treatment centers (MMTCs) operating in Florida pay state corporate income taxes. While the Department of Revenue cannot confirm that every MMTC is a corporate income tax filer, the Department reviewed the list of approved MMTCs and found twelve that filed Florida corporate income tax returns for tax year 2021. The corporate income tax due was just over \$27.5 million. Since many things affect profitability and liability which are unrelated to the volume of business, the impact on corporate income tax collections cannot be quantified in advance of the proposed amendment's implementation.

Conclusion: While the direction can be assumed to be positive, the impact is indeterminate and because it is based on individual business decisions, is indirect to the amendment's purpose.

**D. Gross Receipts Tax**

Under the proposed amendment, all non-medical marijuana sold in Florida must be produced in Florida. A prior FIEC found that almost half of the adult residents of Florida who currently purchase on

the black market would purchase from the legal market if the amendment passed and that 75 percent of the black market marijuana is imported into the state. Therefore, production of marijuana must shift from outside to inside Florida in order to, at least, serve that subset of users. Further, the FIEC estimated that current users will expand their usage, that there will be residents of Florida who will become users for the first time and that there will be many tourists who engage in the legal market. Overall, the production of marijuana in Florida is expected to substantially increase under the proposed amendment, which would have a positive effect on revenue from the Gross Receipts Tax on electricity. Regardless of whether indoor cultivation is strictly required, it is assumed that at least some of the cultivation would naturally occur indoors. The impact on collections from the existing Gross Receipts Tax on electricity will be positive, but cannot be quantified in advance of the proposed amendment's implementation since electricity use varies under different scenarios.

Conclusion: While the direction can be assumed to be positive, the impact is indeterminate and because it is based on individual business decisions, is indirect to the amendment's purpose.

E. Sales Tax

Under existing law, marijuana is treated as tangible personal property. In Florida, retail sales of tangible personal property are subject to sales tax unless an exemption applies. While sales of medical marijuana are exempt under current law, no such general exemption exists for non-medical marijuana. Sales of non-medical marijuana would be taxable under current law, if they were legal, and would remain so in the event that voters approve the amendment. Because these sales would be taxable without any further action of the legislature, revenue projections using six different potential revenue scenarios to reflect the actual sales experience in other states which have authorized non-medical marijuana.

In this regard, Florida non-medical marijuana retail sales were estimated by using average sales data from eight states (Arizona, California, Colorado, Massachusetts, Michigan, Nevada, Oregon, and Washington).<sup>48</sup> The last two fiscal years of data, 2021-22 and 2022-23, were chosen for the analysis to avoid the varying ramp-up periods in each state, thereby focusing on the more mature stages of the markets. This method allows the analysis of a steady-state level of per capita product expenditures. Due to the timing of the analysis, the last quarter of FY 2022-23 was partially or entirely estimated by the Office of Economic and Demographic Research (EDR) to complete the full fiscal year. The sales for these two fiscal years were then averaged. This resulted in eight unique estimates of the potential Florida market size at a mature stage of development. A separate ramp-up period is not included in this analysis, primarily because the amendment contemplates that existing medical marijuana treatment centers will sell the non-medical products.

A per capita metric for each state was calculated and then applied to Florida's population 21 and over to develop the implied taxable sales estimate for Florida. After considering these results, the conference developed six scenarios that each used a differing number of states. For example, in Scenario II, the conference excluded programs without sufficient history prior to the coronavirus pandemic or those enacted during the pandemic to avoid the period of increased marijuana use observed during the "safer-at-home" periods of the pandemic. As a result, Arizona and Michigan were omitted from that analysis. The six scenarios are:

- I. Average of the estimates based on the complete series of eight states.
- II. Average of the estimates for six unique states, after excluding Arizona and Michigan.
- III. Average of the low and high, California and Colorado respectively, after excluding Arizona.

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<sup>48</sup> New Jersey was excluded from the group due to the nascent state of its program and the lack of even one full fiscal year of reported sales.

- IV. Average of three states, California, Colorado, and Nevada, considered similar to Florida in terms of a high-tourism profile.
- V. Minimum size equivalent to California's realized sales, after Arizona was excluded.
- VI. Maximum size equivalent to Colorado's realized sales.

The average of FY 2021-22 and FY 2022-23 sales from each of the six scenarios above was grown to FY 2025-26 by Florida's growth rate in population 21 and over.<sup>49</sup> Assuming the proposed amendment passes, FY 2025-26 will be the first full year of implementation. For the purposes of this analysis, it is further assumed that a level of sales associated with a mature non-medical market is possible immediately after decriminalization.

Projected sales tax collections for Florida were developed within the existing taxing framework by applying the current state and local sales tax rates on tangible personal property to the sales estimates. No assumption was made about any future legislative action that may impose a different sales tax base, tax rate or new tax structure (i.e., an excise tax). These estimates are also colored by the assumed continued existence of a marijuana black market, as gleaned from the legalized states that have not been able to eliminate the black market despite decriminalizing non-medical marijuana.

These revenue estimates do not take into account the generally observed post-legalization decline in marijuana market prices, nor do they assume any mismatch between supply and demand that affects prices upwards or downwards. On the contrary, it is assumed that the average price of marijuana products observed in 2021 will remain the same in FY 2025-26. [See table on following page.]

Conclusion: Under Florida's existing tax structure, sales of non-medical marijuana would be subject to state and local sales taxes. Based on other states' experiences, expected sales would generate at least \$195.6 million annually in state and local revenues once the legal retail market is fully operational.

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<sup>49</sup> Estimated for this analysis using data consistent with the FDEC 202302.

FLORIDA NON-MEDICAL MARIJUANA STATE AND LOCAL SALES TAX COLLECTIONS						
ESTIMATES FOR A MATURE MARKET STAGE						
Average of FY 2021-22 and FY 2022-23						
Scenarios	I.	II.	III.	IV.	V.	VI.
	Eight-State Average	Six-State Average	Low-High Range	Tourism States	At Least	Maximum
State	FL Resident	FL Resident	FL Resident	FL Resident	FL Resident	FL Resident
Arizona	164,088,208					
California	166,855,936	166,855,936	166,855,936	166,855,936	166,855,936	
Washington	224,260,162	224,260,162				
Michigan	281,696,803					
Massachusetts	283,528,399	283,528,399				
Oregon	296,704,853	296,704,853				
Nevada	364,291,484	364,291,484		364,291,484		
Colorado	367,914,450	367,914,450	367,914,450	367,914,450		367,914,450
<b>STATE Sales Tax</b>	<b>268,667,537</b>	<b>283,925,881</b>	<b>267,385,193</b>	<b>299,687,290</b>	<b>166,855,936</b>	<b>367,914,450</b>
<b>Local Option Sales Tax</b>	<b>32,516,982</b>	<b>34,363,708</b>	<b>32,361,780</b>	<b>36,271,320</b>	<b>20,194,667</b>	<b>44,528,892</b>
<b>TOTAL Sales Tax (State &amp; Local)</b>	<b>301,184,519</b>	<b>318,289,589</b>	<b>299,746,973</b>	<b>335,958,610</b>	<b>187,050,603</b>	<b>412,443,342</b>
<b>FY 2025-26</b>						
<b>Using growth in FL population 21+. Assumes a mature market is likely in the first full FY of implementation.</b>						
<b>STATE Sales Tax</b>	<b>280,944,708</b>	<b>296,900,305</b>	<b>279,603,765</b>	<b>313,381,956</b>	<b>174,480,671</b>	<b>384,726,859</b>
<b>Local Option Sales Tax</b>	<b>34,002,895</b>	<b>35,934,010</b>	<b>33,840,600</b>	<b>37,928,794</b>	<b>21,117,493</b>	<b>46,563,707</b>
<b>TOTAL Sales Tax (State &amp; Local)</b>	<b>314,947,603</b>	<b>332,834,315</b>	<b>313,444,365</b>	<b>351,310,750</b>	<b>195,598,164</b>	<b>431,290,566</b>
		FY 2024	FY 2025	FY 2026		
Growth in Florida Population 21+		1.6%	1.5%	1.4%		

Prepared by Florida Legislature, Office of Economic and Demographic Research, June 28, 2023

**State Budget:**

Appropriations to cover regulatory costs would be included in the budget and likely offset by regulatory fees. It is unclear how the legislature would choose to use any increase in sales tax revenue.