

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE CONCURRENT RESOLUTION No. 183**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: DECEMBER 18, 2019

**SUMMARY**

- Synopsis:** Proposes constitutional amendment to legalize cannabis for personal, non-medical use by adults who are age 21 years or older, subject to regulation by Cannabis Regulatory Commission.
- Type of Impact:** Annual potential net revenue gain for the State and municipalities.
- Agencies Affected:** Cannabis Regulatory Commission; Department of the Treasury; municipalities.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2021 and Thereafter</u></b>
<b>State Revenue Increase</b>	Indeterminate
<b>State Expenditure Increase</b>	Indeterminate
<b>Local Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) cannot quantify the fiscal impact of the constitutional amendment because parameters of implementation will have to be determined in subsequent statutory enactments, including the scope of the Cannabis Regulatory Commission’s authority. Absent this information, the OLS lacks crucial details that will affect retail cannabis sales and State and local revenue collections and expenditures, such as the number of retail cannabis establishments that can operate in the State, fees associated with establishing those businesses, price controls for cannabis products, and fines and penalties associated with illicit actions (e.g. selling cannabis products to a person under 21 years of age).
- The constitutional amendment specifies that the sales and use tax and a potential municipal tax would be the only taxes imposed on receipts from retail purchases or transfer of cannabis. Based on the experience of Colorado, which has had a legal recreational cannabis market since 2014, New Jersey could generate revenues up to \$126 million annually from the sales and use tax once the market is established. However, the OLS expects sales to be lower in the early years as the market develops and notes that issues with market saturation and legalization by neighboring states could negatively affect initial and future revenue collections.

**BILL DESCRIPTION**

The concurrent resolution proposes a constitutional amendment to legalize cannabis for personal, non-medical use by adults who are 21 years of age or older. The Cannabis Regulatory

Commission, created to oversee the State's medical cannabis program, would also oversee the new personal use market. The scope of the commission's regulatory authority would be established by the Legislature.

As set forth in the proposed amendment, the term "cannabis" would not include: cannabis dispensed and consumed for medical purposes; hemp or hemp products; or unregulated cannabis, referred to as marijuana, and products created from or which include marijuana. Passage of the amendment would not affect the State's regulation of medical cannabis and hemp, and unregulated marijuana would remain illegal under the State's laws.

The amendment provides that all receipts from the retail purchases of cannabis or products created from or which include cannabis would only be subject to the sales tax; provided, however, that a municipality, subject to authorization by the Legislature, may adopt an ordinance to impose an additional two percent tax on cannabis products.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot quantify the fiscal impact of the constitutional amendment because multiple components of cannabis legalization are contingent upon future statutory enactments, including the scope of the Cannabis Regulatory Commission's authority. Absent this information, the OLS lacks crucial details that will affect retail cannabis sales and State and local revenue collections and expenditures, such as the number of retail cannabis establishments that can operate in the State, fees associated with establishing those businesses, price controls for cannabis products, and fines and penalties associated with illegal actions (e.g. selling cannabis products to a person under 21 years of age).

If adopted, the constitutional amendment legalizes the growth, cultivation, processing, manufacturing, preparing, packaging, transferring, and retail purchasing and consumption of cannabis, or products created from or which include cannabis, by persons 21 years of age or older. The Cannabis Regulatory Commission, which is in, but not of, the Department of the Treasury, would be the regulatory authority for legalized cannabis, but the scope of the commission's authority is not defined in the constitutional amendment. The OLS cannot speculate on the regulatory authority that would be granted by the Legislature to the commission. Thus, the OLS cannot attempt to quantify future expenditures related to administrative and enforcement efforts of the commission.

The constitutional amendment specifies that receipts from retail purchases of cannabis or products created from cannabis would only be subject to the sales and use tax and to a potential municipal tax up to two percent if authorized by the Legislature. The sales tax would be imposed on cannabis products that are shifting to a legal market, so New Jersey-specific data sets that focus on personal cannabis consumption expenditures are sparse given the fact that those products are currently illegal. Surveys do exist that attempt to identify the number of cannabis users in each state, but it is common for respondents to underreport drug usage since that type of behavior is illegal.

The OLS opted to analyze the experience of Colorado because that state has had a legalized cannabis market established since 2014. According to the Colorado Department of Revenue, retail cannabis sales, excluding medical cannabis, totaled \$1.2 billion in calendar year 2018. Based on the most recent U.S. Census Data, Colorado is estimated to have a population of roughly 5.7 million people. In comparison, New Jersey's population is projected at 8.9 million people. Using Colorado retail cannabis sales data and Colorado population data, the OLS calculated the per person annual expenditure on retail cannabis to be approximately \$213. Assuming New Jersey experiences similar per capita sales of recreational cannabis as Colorado, total retail cannabis sales for New Jersey could reach \$1.9 billion yielding sales tax revenues of up to \$125.6 million annually at the current 6.625 percent sales tax rate.

The OLS expects sales tax revenues to be lower during the early years of implementation as cannabis retailers and cannabis supply chains are established and the market matures. In Colorado, retail cannabis sales during the first year of legalization totaled \$303.2 million, or 25 percent of 2018 retail sales. New Jersey could also face regional market saturation in the future as neighboring states work to legalize cannabis. Any additional competition could have a direct impact on the price of cannabis in the State, which in turn could negatively affect revenue collections. New Jersey does not have a directly neighboring state that has legalized recreational cannabis to date, but Massachusetts is the latest in the region to do so.

From a broader perspective, the legalization of recreational cannabis may lead to increased employment opportunities for New Jerseyans. As these new businesses are established, existing State taxes, such as the corporation business tax and the gross income tax, and local taxes, such as the property tax, could realize indirect growth as a result of this expansion. These indirect benefits would result in additional revenues for the State's General Fund and Property Tax Relief Fund as well as local property taxes.

The OLS notes that this constitutional amendment would not appear before the voters until at least November 2020 if passed by the Legislature in the coming months. Thus, the first fiscal year that could be impacted by this constitutional amendment is FY 2021.

*Section: Revenue, Finance and Appropriations*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).