## **Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee**

### **Members of the Committee**

Representative Dan Pabon, Chair Senator Cheri Jahn, Vice-Chair

Senator Irene Aguilar Representative Tim Dore Senator Randy Baumgardner Representative Jonathan Singer

### **Legislative Council Staff**

Bill Zepernick, Senior Fiscal Analyst Lauren Schreier, Fiscal Analyst Matt Kiszka, Research Analyst

## Office of Legislative Legal Services

Jeremiah Barry, Senior Attorney Michael Dohr, Senior Attorney Nicole Myers, Senior Attorney

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# Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee Report

### **Committee Charge**

The Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee, as requested by Interim Committee Letter 2014-6, was charged with evaluating and making recommendations regarding appropriate uses of sales tax revenue generated by recreational marijuana sales in Colorado. The committee, at a minimum, was required to examine:

- the appropriation and prioritization of recreational marijuana sales tax revenue;
- the impact of the sale of retail marijuana on underage use, substance abuse, and abuse prevention measures; and
- best practices and evidence-based programs for addressing marijuana-related impacts.

#### **Committee Activities**

The Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee met four times in the 2014 interim. The committee discussed numerous topics relating to marijuana tax revenues, the regulation of medical and recreational marijuana, programs funded with marijuana revenues, and the impact of marijuana legalization on the state and local communities.

Marijuana tax revenues. The committee received an update on actual and projected marijuana tax revenues from the Department of Revenue and Legislative Council Staff. The committee heard about the potential reasons why revenue was below previous estimates, including slower than anticipated roll-out of retail marijuana stores and difficulty in predicting the size of a brand new market for a previously illegal product. The committee also discussed the exemption to the state excise tax that allowed a medical marijuana business to transfer its inventory one time without tax when transitioning to operations as a retail marijuana business. This exemption lowered excise tax collections in the first year since all retail marijuana businesses were initially required to be a licensed medical marijuana business. The committee also discussed the share of marijuana tax revenues transferred to local governments and the feasibility of a local excise tax, which county representatives said would be beneficial to jurisdictions with relatively low retail marijuana sales, but large cultivation operations. Bill B addresses local government taxation of retail marijuana.

Regulation of medical and recreational marijuana. The Department of Revenue and the Department of Public Health and Environment provided information to the committee concerning the regulation and taxation of both the recreational and medical marijuana markets. Among other things, the committee discussed the interaction between the recreational and medical marijuana markets, the role of medical marijuana caregivers, diversion of marijuana from the medical market, and other regulatory issues affecting recreational marijuana tax collections. The committee expressed concerns that some persons buying medical marijuana are doing so to avoid higher taxes in the recreational market. The committee also discussed the large number of marijuana plants grown by some patients and caregivers under the medical necessity exemption to the six-plant limit, how this exemption may lead to the diversion of marijuana, and the impact of large, unregulated grow operations by caregivers on local communities. Bill A addresses several of these concerns.

**Programs funded with marijuana tax revenues.** Representatives from various state agencies, including the Department of Public Health and Environment, the Department of Human Services, the Department of Health Care Policy and Financing, and the Colorado Department of Education presented to the committee on programs and initiatives funded by marijuana revenue through Senate Bill 14-215. The programs examined include public awareness campaigns and youth prevention activities.

Impact of marijuana legalization. The committee also received testimony from local law enforcement and substance abuse service providers on a range of topics. Committee discussion of in these areas focused on the impacts of marijuana legalization in Colorado in terms of public safety, youth access to marijuana, and substance use and abuse. The law enforcement representatives expressed concern about diversion of marijuana to other states and to the black market, and the difficulty in knowing whether large residential grow operations are legal under medical marijuana law. Substance abuse service providers discussed the scope of the substance abuse problem in Colorado, the need for additional funding for existing programs, and the need for an expanded Medicaid substance abuse treatment benefit.

**Public comment.** The committee heard testimony from the public at each of its meetings. Among others, representatives of the marijuana industry and medical marijuana patient advocates spoke to the committee about their concerns.

### **Committee Recommendations**

As a result of committee discussion and deliberation, the Use of Recreational Marijuana Sales Tax Revenues Interim Study Committee recommends the following two bills for consideration in the 2015 legislative session.

Bill A — Marijuana Issues Not Regulated by DOR. This bill makes several changes concerning medical marijuana and caregivers. The bill requires caregivers to register with the Department of Public Health and Environment in addition to the Department of Revenue, as required under current law. Caregivers who fail to register with either agency are prohibited from acting as a caregiver in the future and may be subject to prosecution under existing criminal offenses. The bill also requires the State Board of Medical Examiners to issue guidelines on medical marijuana recommendations by physicians for severe pain and informed consent for patients receiving marijuana from caregivers. The bill requires the Department of Revenue and the Department of Public Health and Environment to share the minimum amount of information necessary to ensure that a medical marijuana patient only has one caregiver and is not using both a caregiver and a medical marijuana center. Any costs under the bill will be paid from the Marijuana Tax Cash Fund.

**Bill B** — **Local Government Retail Marijuana Taxes**. The bill clarifies that counties and municipalities are authorized, subject to voter approval, to levy, collect, and enforce a sales tax on all sales of retail marijuana and retail marijuana products by retailers. In addition, the bill gives counties and municipalities the authority, subject to voter approval, to levy, collect, and enforce a local excise tax on the first transfer of unprocessed marijuana from a retail marijuana cultivation facility.