

## RECREATIONAL MARIJUANA - BACKGROUND MEMORANDUM

Section 6 of House Bill No. 1050 (2019) ([appendix](#)) provides for a study of the implications of the potential adoption of an initiated measure allowing the use of recreational marijuana. The study must consider the potential benefits and detriments of legalizing recreational marijuana.

### BACKGROUND

According to the director of the National Institute on Drug Abuse, changes in marijuana policies across states legalizing marijuana for medical and recreational use suggests marijuana is gaining greater acceptance in society, making it important for people to understand what is known about the adverse health effects and the potential benefits linked to marijuana. In an introductory statement of the *Marijuana Research Report*, the director also states "[m]arijuana impairs short-term memory and judgment and distorts perception, it can impair performance in school or at work and make it dangerous to drive. It also affects brain systems that are still maturing through young adulthood . . . putting them at a competitive disadvantage and possibly interfering with their well-being." The director also suggests marijuana can be addictive and its use during adolescence may make other types of problem use or addiction more likely.

Marijuana is a greenish-gray mixture of the dried flowers of cannabis sativa and can be smoked, brewed in tea, consumed through edible products, or consumed through vaporizers. The main psychoactive chemical in marijuana is delta-9-tetrahydrocannabinol (THC), which is found in resin produced by the leaves and buds primarily of the female cannabis plant. The plant also contains more than 500 other chemicals, including more than 100 compounds that are chemically related to THC, called cannabinoids. (*Marijuana*, Research Report Series, National Institute on Drug Abuse, June 2018.) When marijuana is smoked, the THC and other chemicals in the plant pass from the lungs into the bloodstream, which rapidly carries the chemicals throughout the body to the brain and an individual begins to experience effects almost immediately. If marijuana is consumed in food or beverages, the effects usually appear within 30 minutes to an hour because the drug first must pass through the digestive system. Eating or drinking marijuana delivers significantly less THC into the bloodstream than smoking an equivalent amount. Although detectable amounts of THC may remain in the body for days or even weeks after use, the noticeable effects of smoked marijuana generally last between 1 to 3 hours, and those of marijuana consumed in food or drink may last for many hours.

According to the *2015 National Survey on Drug Use and Health*, marijuana is the most commonly used illicit drug, with 22.2 million people reporting use in the last month. In 2016, 9.4 percent of 8<sup>th</sup> graders reported marijuana use in the past year and 5.4 percent in the past month. Among 10<sup>th</sup> graders, 23.9 percent had used marijuana in the past year and 14 percent in the past month. Rates of use among 12<sup>th</sup> graders were higher still with 35.6 percent using marijuana in the past year and 22.5 percent in the past month. The Drug Abuse Warning Network, a system for monitoring the health impact of drugs, estimated in 2011, there were nearly 456,000 drug-related emergency department visits in the United States in which marijuana use was mentioned in the medical record, a 21 percent increase over 2009.

### State Action

Washington, Colorado, and Oregon have regulatory schemes and tax structures in place for marijuana sales. Colorado and Washington collect tax revenues similarly in that approximately 30 percent of the total revenue is deposited in the general fund; about 35 percent is dedicated to health care services; 10 percent to education and prevention; and the remaining revenue is used for research, local government, and other efforts. Data collected by the National Conference of State Legislatures (NCSL) of Colorado's 2017 revenue report indicated over \$227 million collected in taxes, licenses, and fees related to marijuana in 2017 for a total of nearly \$639 million collected since adult-use sales began in 2014. Colorado's marijuana tax revenue accounts for 2.5 percent of Colorado's total budget and provides for program oversight and enforcement, local community enforcement assistance, school construction grants, substance use disorder and prevention, treatment efforts and public health surveillance, and other public safety education efforts. Washington collected a total of \$319 million in taxes and licensing fees in 2017, which was \$113 million more than the liquor tax revenue in the same period.

Colorado and Washington use a threshold of 5 nanograms or more of THC per milliliter of blood as a measurement for driving under the influence of cannabis. Several states with legalized medical or recreational marijuana use leave testing and employment decisions up to the discretion of the individual employer. According to the NCSL, the trend among states with employment policies is, if an employee is not bringing medical marijuana to work or working in a job where impairment could result in serious harm to others, employers are not authorized to take medical marijuana use or positive drug test results into consideration when making hiring and firing decisions. In 2017, Maine's State Legislature placed a moratorium on an initiative passed by popular vote in 2016, which would have permitted the recreational use, retail sale, and taxation of marijuana and included an employment and

antidiscrimination provision for recreational users. The moratorium delayed parts of the law regarding retail sales and taxation until at least February 2018. In May 2018, the legislature overrode the Governor's veto of the implementation of a regulatory structure for adult-use marijuana and rules may be finalized by early 2020.

### **Federal Oversight**

Under federal law, marijuana is a Schedule I drug, is considered dangerous, has no accepted medical use, and has a high potential for abuse.

In January 2018, Attorney General Jeff Sessions issued a marijuana enforcement memorandum, which rescinded the "Cole Memorandum," and allows federal prosecutors to decide how to prioritize enforcement of federal marijuana laws. Specifically, the Sessions Memorandum directs United States Attorneys to "weigh all relevant considerations, including federal law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community."

### **Marijuana Policy in North Dakota**

Initiated Statutory Measure No. 3 (2018) relating to the legalization of marijuana would have amended North Dakota Century Code Chapter 19-03.1 to remove hashish, marijuana, and tetrahydrocannabinols from the list of Schedule I hallucinogenic controlled substances set forth in the Uniform Controlled Substances Act. The measure would have decriminalized the possession of marijuana by an individual 21 years of age or older and provided for the same penalty as the penalty associated with a minor in possession of alcohol, for the possession of marijuana by an individual under the age of 21. The measure would have made the penalty for the distribution of marijuana to an individual under the age of 21 the same penalty as if an individual sold alcohol to a minor. The measure would have required any individual who has an illegitimate drug conviction have the individual's records expunged and sealed by the court automatically. The measure also would have required the state to pay all legal expenses for both parties and would authorize an individual to sue the state for damages caused by a failure to properly expunge records and would have created Chapter 66-01 to provide a definition for marijuana and marijuana paraphernalia and a general repeal of any conflicting language in Century Code. The measure failed by a vote of 132,199 to 193,837.

House Bill No. 1050 (2019) removed the criminal penalty for a person who is 21 years of age or older and who intentionally ingests, inhales, injects, or otherwise takes into the body marijuana. The bill also amended the criminal penalty associated with the possession of marijuana to an infraction for possession of less than one-half ounce, a Class B misdemeanor for possession of at least one-half ounce but not more than 500 grams, and a Class A misdemeanor for possession of more than 500 grams and reduced the penalty associated with possession of marijuana paraphernalia to an infraction. The bill also authorized a person sentenced to the legal and physical custody of the Department of Corrections and Rehabilitation as the result of an offense relating to the possession of marijuana to be placed in a drug and alcohol treatment program and upon successful completion, to release the person from imprisonment to begin any court-ordered probation.

### **SUGGESTED STUDY APPROACH**

The committee may wish to proceed with the study by inviting representatives from local and state law enforcement, representatives from the State Department of Health's Medical Marijuana Division, and members of the sponsoring committees of potential initiated measures allowing the use of recreational marijuana. The committee also may consider inviting representatives from the National Conference of State Legislatures and representatives of other states that have legalized recreational marijuana to provide information as to best practices and implementation.

ATTACH:1