



October 5, 2021

Hon. Steve Barnett  
Secretary of State  
500 E Capitol Avenue  
Pierre, SD 57501

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S.D. SEC. OF STATE

Dear Secretary Barnett,

The Legislative Research Council received an initiated amendment to legalize marijuana in small amounts for those twenty-one years of age or older (six paragraphs long). The initiated amendment requires a fiscal note because it was determined it may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. SDCL 2-9-31 requires the fiscal note be no longer than fifty words.

The fiscal note examines the fiscal impacts associated with legalizing marijuana. The initiated amendment seeks to legalize the possession, use, ingestion, transportation, processing, delivering, and distribution of one ounce or less of marijuana. In addition, the cultivation of three or fewer plants and the possession of the marijuana produced would also be legalized as long as the plants and marijuana grown are kept in a locked space and out of public view. The Legislature would be authorized to impose an excise tax of up to fifteen percent on the commercial sale of marijuana and marijuana accessories.

The revenue calculation below uses data on taxable marijuana sales in Colorado, Washington, Oregon, California, and Nevada and assumes 1) South Dakota citizens will buy marijuana at the same rate on average as citizens in the five states above in the first three years after marijuana legalization, 2) South Dakota will start collecting tax revenue from marijuana sales on July 1, 2023, and 3) South Dakota's population will increase at a rate of 0.9% per year through 2026.

South Dakota could expect to earn up to the following from taxing marijuana starting in fiscal year 2024:

- In FY 2024, \$14.8 million;
- In FY 2025, \$21.5 million; and
- In FY 2026, \$27.6 million.

The fiscal impact to the state of decreased incarceration due to the nullification of some marijuana-related laws is projected to be negligible at this time due to 1) the de minimis number of individuals in prison due to crimes involving an ounce or less of marijuana and 2) the unknown but likely minimal effect on incarceration related to the cultivation and possession of marijuana directly from plants. Fines collected from civil penalties created by the initiated amendment are not expected to be significant.

As to the total fiscal impact, through FY 2026, South Dakota could expect up to an estimated \$63.9 million in revenue from marijuana sales if this initiated amendment were to pass. Estimations beyond FY 2026 would not be prudent at this time due to the limited number of states in which marijuana has been legal for more than three years.

Enclosed is a copy of the initiated amendment, in final form, that was submitted to this office. In accordance with SDCL 2-9-31, I hereby submit the Legislative Research Council's fiscal note with respect to this initiated amendment.

Sincerely,



Reed Holwegner  
Director

Enclosures

Cc: Brendan Johnson

**SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL**

**FISCAL NOTE**

**INITIATED AMENDMENT**

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**AN INITIATED AMENDMENT TO THE SOUTH DAKOTA CONSTITUTION TO LEGALIZE  
MARIJUANA (SIX PARAGRAPHS).**

Legalizing marijuana and taxing marijuana sales beginning July 1, 2023, through the state sales tax and an excise tax, could generate estimated additional revenue up to \$14.8 million in FY 2024, \$21.5 million in FY 2025, and \$27.6 million in FY 2026, totaling \$63.9 million over three years.

Approved: Reed Holwegner Date: October 5, 2021

Director, Legislative Research Council