



August 9, 2023

Hon. Monae L. Johnson
Secretary of State
500 E Capitol Avenue
Pierre, SD 57501

Filed this 10th day of
August 2023
Monae L. Johnson

RECEIVED
AUG 10 2023
SD Secretary of State

SECRETARY OF STATE

Dear Secretary Johnson,

The Legislative Research Council received an initiated measure to legalize cannabis in small amounts for those twenty-one years of age or older. The initiated measure requires a fiscal note because it was determined it may have an impact on revenues, expenditures, or the fiscal liability of the state or its agencies and subdivisions. SDCL 2-9-30 requires the fiscal note to be no longer than fifty words.

The fiscal note examines the fiscal impact associated with legalizing cannabis through this initiated measure. The measure seeks to legalize the possession, use, ingestion, transportation, processing, and transfer without consideration of 1) two ounces or less of cannabis, 2) sixteen grams or less of concentrated cannabis, and 3) cannabis products containing 1,600 milligrams or less of tetrahydrocannabinol. In addition, the cultivation of six or fewer cannabis plants and the cannabis produced would also be legalized as long as the plants and cannabis grown are kept in a locked place and out of public view. Accessories relating to cannabis and cannabis use would also be legalized.

Based on the language in the initiated measure, the sale of cannabis, and the criminal penalties therefor, would not be affected. Specifically, SDCL 22-42-7 makes distribution of cannabis a crime, including all transfers. While the measure does decriminalize transfers of cannabis without consideration (i.e., for free), it does not decriminalize the sale of cannabis. Accordingly, neither the state nor municipalities could expect to earn additional sales tax revenue through the sale of cannabis. However, the state and municipalities could earn minimally more sales tax revenue with the decriminalization of cannabis accessories.

While the measure would decriminalize several behaviors currently penalized under state law, the largest impact would be to SDCL 22-42-6. Under SDCL 22-42-6, the possession of two ounces or less of cannabis is a Class 1 misdemeanor. According to SDCL 22-6-2, the penalty for such a crime could be up to a maximum of a year in a county jail. With the passage of the measure, such possession could no longer be punished. The average number of days spent in jail by all those who violated SDCL 22-42-6 was 6,039 days in calendar years 2021 and 2022. For those years, the average cost per day to keep a person in jail was \$96.30 per day. Thus, the total cost per year to hold those convicted of a Class 1 misdemeanor per SDCL

22-42-6 is about \$581,556. The counties are responsible for this cost, and the counties would realize the projected savings.

Enclosed is a copy of the initiated measure, 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 measure.

Sincerely,



Reed Holwegner
Director

Cc: Matthew Schweich
Marty Jackley, Attorney General

Enclosures