

State of New Hampshire

GENERAL COURT

CONCORD

MEMORANDUM

DATE: November 1, 2018

TO: Honorable Gene G. Chandler, Speaker of the House
Honorable Chuck W. Morse, President of the Senate
Honorable Paul C. Smith, House Clerk
Honorable Tammy L. Wright, Senate Clerk
Honorable Chris Sununu, Governor
Michael York, State Librarian

FROM: Representative Patrick Abrami, Chairman

SUBJECT: Final Report of the Commission to Study the Legalization,
Regulation, and Taxation of Marijuana.
RSA 318-B:46 (HB 215, Chapter 235, Laws of 2017)

Pursuant to RSA318-B:46 (HB 215, Chapter 235, Laws of 2017), enclosed please find the Final Report of the Commission to Study the Legalization, Regulation, and Taxation of Marijuana.

If you have any questions or comments regarding this report, please do not hesitate to contact me.

I would like to thank those members of the commission who were instrumental in this study. I would also like to acknowledge all those who testified before the commission and assisted the commission in our study.

Enclosures

cc: Members of the Commission

FINAL REPORT

Commission to Study the Legalization, Regulation, and Taxation of Marijuana RSA 318-B:46 (HB 215, Chapter 235, Laws of 2017)

November 1, 2018

Representative Patrick Abrami, Chair
Representative Carl Seidel
Representative David Bates
Representative Peter Leishman
Senator William Gannon
Senator Bette Lasky
James Vara, NH Attorney General Designee
Major John Encarnacao, NH DOS
Abby Shockley, NH DHHS
Carolynn Lear, NH DRA

David Rousseau, NH DAMF
Todd Wells, NH Banking Department
Chief Richard Mello, NH Association of
Chiefs of Police
Stuart Glassman, MD, NH Medical Society
Kate Frey, New Futures
Joe Hannon, Public member appointed by
the Governor
Paul Twomey, New Hampshire Bar
Association

Committee Charge and Study Purpose:

RSA 318-B:43 Commission to Study the Legalization, Regulation, and Taxation of Marijuana Established. –

III. The commission shall examine the possible impacts of changing state policy to treat marijuana in a manner similar to the way the state deals with alcohol and shall study the legalization, regulation, and taxation of marijuana including the specific issues related to growing, selling, taxing, limiting use, advertising, promoting, and otherwise regulating marijuana and marijuana-infused edible products. The commission shall also study the experiences of New Hampshire and other states regarding the use of marijuana for medical purposes and for recreational purposes. The commission shall also study the experiences of states that have or are in the process of legalizing and regulating the recreational use of marijuana by adults, with particular attention to be given to the ways the changes in marijuana laws in Maine and Massachusetts, as well as Canada, impact our state. The commission shall study any other issue that the commission deems relevant to its objective. The commission may solicit the advice or testimony of any organization or individual with information or expertise relevant to its study.

Process and Procedures:

The committee met twenty-six times during the study period. The meeting minutes are attached to this report as Appendix D.

Members of the Commission to Study the Legalization, Regulation, and Taxation of Marijuana agree to the filing of this final report by the Chairman. This action should not be construed in any way as an adoption of any particular position by any commission member or the state agency or organization they represent on the underlying issue of the legalization of recreational use of marijuana. Moreover, this report takes no position on the issue of the legalization of recreational use of marijuana.

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- Appendix E:** Commission to Study the Legalization, Regulation, and Taxation of Marijuana Meeting Minutes

THE COMMISSION TO STUDY THE LEGALIZATION, REGULATION, AND
TAXATION OF MARIJUANA
FINAL REPORT

I. FOREWORD

The Commission to Study the Legalization, Regulation, and Taxation of Marijuana was voted into existence by the General Court of New Hampshire during the 2017 session in response to the accelerating nationwide debate about legalization of marijuana/cannabis at the state level. When formed, there were eight states and the District of Columbia that had legalized. It is important to note that in no state was this initiated by their legislatures. Legalization occurred through an initiative or referendum vote of the people. In Colorado, the initiative vote required a question of modifying their state constitution to allow legalization of this substance. The State of New Hampshire, per our constitution, does not allow referendum or initiative votes. With that said, a recent survey by the UNH Survey Center in February 2018 showed that 57 percent of Granite Staters believe marijuana should be legal for adults over the age of 21 to consume recreationally. These levels of support, or for that matter non-support, are based on the claims of advocacy groups that may or may not be made on true peer-reviewed studies or scientifically-based facts. When the Colorado initiative question was placed on the ballot, all the key legislative and executive branch members in the state were against legalization. The initiative question passed because of the tireless efforts of the pro-marijuana legalization organizations. Those opposed, thinking that the people would not vote yes, did not campaign hard against the measure prior to the vote. When first rolled out, many counties in Colorado opted out of the program, which is a phenomenon which you see on many issues. The public may support something in the abstract, but when asked to have it in their community they vote no. This is something that must be taken into consideration when viewing polling data.

Since the Commission was formed, the State of Vermont passed a legalization bill that did not commercialize or tax marijuana, but simply allowed people to possess marijuana and grow up to six plants at home. To date, the other 41 states, including New Hampshire, have not voted to legalize and many have voted no on this issue over the years. There are several other states who are currently poised to legalize.

The environment for legalization in the states came about because of the Cole Memorandum issued by the Obama-era Justice Department. It recognized that marijuana will still be viewed as an illegal substance at the Federal level, but said in so many words that the federal government would give the states a wide berth on this issue. In the past year, the Trump Justice Department rescinded the Cole Memorandum and replaced it with the Sessions Memorandum which hinted at a reversal of the position of the Justice Department. However, to date there are no signs indicating it would act against states with medical marijuana or states that have out-right legalized the substance. The outcry from all states that have legalized or have medical programs in place was very strong. The true answer at the federal level is for the U.S. Congress to act in a

significant way in either direction on this. There have been bills that have gone nowhere and there are currently bills active at this writing.

The purpose of this Commission was to gather the facts about what legalization means to New Hampshire. As a state, we have already accepted medical marijuana as a fact and recently decriminalized possession of three quarters of an ounce or less by making it akin to a traffic violation and taking away the stigma of a misdemeanor conviction which is on someone's record for life. The next step for consideration as a state is full legalization.

For many, this is a major step given the active compound in marijuana is THC (tetrahydrocannabinol) which has psychoactive properties. Over the past few decades, changes in growing and production techniques have resulted in marijuana/cannabis products with higher levels of THC. The potency or concentration of THC, often expressed as a percent by weight of the substance, has risen from 3% in the 1980's to 15% today. However, these levels are now reaching 30% as big companies become involved that employ botanists who have engineered the cannabis flower to these higher yields of THC. It must be noted that these increases in potency have been occurring for a long period of time during a period and in places where marijuana is not legal and is thus not a result of legalization, which can mitigate the effects of high potency by labeling requirements that allow the consumers to select products of lower potency. Also of note is that resins extracted from the marijuana flower, which concentrates the cannabinoids, can have higher potencies depending upon how they are processed, ranging as high as 94% in a solid concentrate known as "shatter." Such high potency concentrates are often inhaled by heating a small amount on a hot surface, such as a nail, a method known as "dabbing."

Those researching the question of legalization in Canada came to the following conclusion about potency: "Despite studies showing that a typical user does not actually require large amounts of THC to experience the psychoactive effects of cannabis, the demand for, and availability of products with high levels of THC has persisted in jurisdictions that have legalized cannabis."¹ The take away from this is that the public's view of marijuana reflected in polls may be based upon the 1980's version with low THC that is smoked and not today's high potency marijuana in which 50% is not smoked but ingested as an edible, applied as a lotion, or vaped from a concentrate. All of these products are now available in states that have legalized.

The point is that the Commission was charged with focusing a spotlight on today's marijuana, so that the legislators as well as the public can be made aware of the good and the bad so they can make a more informed decision concerning legalization. We were also charged with coming up with a government structure, a regulatory framework, and a taxation framework that would work if New Hampshire were to legalize. Our charge was also to learn from the experiences of the states that have legalized. This study was authorized with a back drop of an opioid crisis still raging in this state.

¹ The Task Force on Cannabis Legalization and Regulation, *A Framework for the Legalization and Regulation of Cannabis in Canada*, The Government of Canada, Task Force on Cannabis Legalization and Regulation (Nov. 30, 2016), <https://www.canada.ca/content/dam/hc-sc/healthy-canadians/migration/task-force-marijuana-groupe-etude/framework-cadre/alt/framework-cadre-eng.pdf>.

Our charge was also to gather as much research through peer-reviewed papers and other research reports from credible organizations as agreed to by the Commissioners. The papers and other research address societal issues, health issues, and addiction issues as well as the impact of “normalization,” brought about by legalization for those over 21 years of age on all those under 21 years of age.

As we interviewed key figures in the states that have legalized, they all mentioned three things. First, they thought it was commendable that we were studying the topic before acting upon legalization legislation. Second, they all commented that baseline data necessary to demonstrate the impacts of legalization in their states were not available. Finally, they said extensive studies on the long-term effects of legalization were not widespread, since still illegal federally, there is little research money available for more extensive studies.

The environment on this topic is quite dynamic. The reader of this report should be aware that these are the facts as of writing of this report.

The Commission, made up of seventeen citizens with differing but relevant backgrounds, worked hard to weed out fact from fiction on this topic. The members were asked to leave their personal beliefs on the topic of legalization behind and to work hard to fact-find. As a Commission, we did not vote on whether legalization should occur. We felt that was the role of the legislature representing the interests of their constituents.

II. EXECUTIVE SUMMARY

The Commission to Study the Legalization, Regulation, and Taxation of Marijuana met biweekly from the middle of October 2017 to the end of October 2018. The seventeen members, with diverse backgrounds and feelings on the topic, came together to assist the State of New Hampshire in understanding the ramifications of legalizing and commercializing marijuana and to develop parameters for the legislature to consider if a bill to legalize and commercialize were introduced. Part of the Commission’s charge was to learn from the eight states that have legalized about what has worked and what has been problematic in the course of implementing a legal marijuana market. In this effort, the Commission took formal testimony from forty-three individuals and allowed informal dialogue at times with members of the public who frequented the Commission’s public meetings. We Skyped or teleconferenced with legislators or commissioners from California, Washington, Oregon, Alaska, Nevada, and Colorado and met in person with officials from Massachusetts and Maine.

The Commission decided early on that no formal up or down vote would be taken on the question of legalization because the Commissioners felt that would establish bias and diminish the credibility of our findings. The NH Legislature, as representatives of the citizens of the state, is best suited to decide whether legalization is right for New Hampshire. The Commission’s role was to fact find from experts representing states that have legalized, others knowledgeable on the issue, institutions like the National Institutes of Health, and from a thorough examination of peer-reviewed studies.

Use of the term cannabis is suggested in any future legislation rather than the slang term, marijuana. However, since the Commission's title uses the word marijuana, it is utilized interchangeably with cannabis throughout this report and often refers to the full range of cannabis and cannabis derived products. There are a wide-range of cannabis infused foods, cooking oils, and drinks typically referred to as "edibles;" oils, tinctures, creams, and concentrates (e.g. butane hash oil, resins, waxes, and "shatter"). The potencies of these products vary but there are some that are now reaching 94% THC, such as the THC concentrate "shatter." This is no longer your grandpa's "weed" containing 3% THC. Today, 15% THC is more the norm with many plants engineered to produce upwards of 30% THC.

The fact that marijuana is still an illegal substance federally means there is a chance that the federal government could choose to prosecute marijuana operations in states that have legalized at any time. This was signaled in federal guidance on marijuana enforcement when the "look the other way" tone set by the Obama-era Cole Memorandum was replaced with the more strident tone of the Trump-era Sessions Memorandum. Nevertheless, in practice nothing has changed in terms of federal interference with legal marijuana sales.

Despite a number of states legalizing cannabis, many important issues remain unresolved as New Hampshire contemplates legalization. New Hampshire banks may still be reluctant to have banking relationships with marijuana businesses because of the federal position, potentially making any commercialization a cash-only industry. Many companies are working on a roadside marijuana sobriety test similar to the breathalyzer, but there is still no certified device to detect marijuana impairment. Workplace issues surrounding marijuana use and impairment are impacting businesses in states that have legalized and states that have not. Revenue is necessary to fund public education campaigns key to safe use and to fund substance misuse prevention and treatment. There is a need to fund and conduct research and data collection to monitor effects on health, driving while impaired, workplace safety, crime rates, usage rates, school performance, and impacts on quality of life and the NH state brand. Vaping marijuana products has become wide-spread among our middle school, high school, and college students and needs to be addressed. All of these facts are indisputable and viewed as such by all Commission members.

If legalization and commercialization were to be approved by the legislature, legislation should include regulation of personal use and possession, home growing, and the commercial market. Because the neighboring states of Maine and Massachusetts are implementing legal marijuana markets, Commissioners agreed that it would be prudent to align certain basic regulations, including possession amounts and age for use. Therefore, the Commission suggests legal use be restricted to individuals age 21 and older, and possession be limited to one ounce of marijuana flower or 5 grams of concentrate. The legislature should also determine the appropriate limit on possession of marijuana edibles.

Most states that have legalized allow limited home grown marijuana. The Commission agreed home grows should be permitted, but be limited to six plants per individual, of which three can be mature or twelve plants per household of two or more, of which six can be mature. All plants should be kept out of sight of the public and grown indoors or outdoors in a secure location. Use

of butane or any other flammable in the home extraction of concentrate process should be prohibited.

Establishing a commercial market is a complex endeavor and is recommended to have an oversight structure made up of a three-member part-time Cannabis Commission with a full-time executive director. The Cannabis Commission would be responsible for licensing marijuana related businesses, enforcing marijuana regulations through desk auditors and sworn field officers, and for the coordination of education, research and data collection, and substance misuse prevention and treatment. It would also work closely with the NH Department of Health and Human Services, the Department of Revenue Administration, the Department of Agriculture, and other state agencies.

The Cannabis Commission would administer four types of marijuana licenses: cultivation, manufacturing, retail, and testing. If internet or other remote sales are allowed, and if retail stores desire the use of delivery companies to deliver from store to home, a potential fifth license for transportation may also come into play, especially considering that the U.S. Postal Service will never deliver marijuana related products as long as they are illegal federally. The Commission recommends that no restrictions be placed on the number of licenses that may be issued, letting the free market dictate that number, and recommends vertical integration be allowed. In addition, the Commission recommends that background checks be required for all licensees and employees, that drug-free school zone statutes apply to the location of marijuana businesses, that there be marijuana business license residency requirements similar to those for liquor licenses, and that annulment of marijuana felony convictions be allowed. The Commission also finds that municipalities should have a say in whether to allow operation of cultivation, manufacturing, or retail facilities through an opt-in provision voted on locally. Finally, all marijuana businesses should be registered with the Secretary of State, be subject to all public health and safety inspections, and comply with all agriculture fertilizer and pesticide statutes and inspections.

There should be an application fee for all four license types in the amount of \$1,000. Initial cultivation, manufacturing, and retail license fees should be set between \$10,000 and \$15,000 and license renewals should be set between \$6,000 and \$9,000. The initial testing license fee should be between \$5,000 and \$7,500 and the renewal fee should be between \$3,000 and \$4,500. All licensees should be required to use a seed to sale tracking system purchased and run by the state.

The Cannabis Commission, for at least the first two years, would be supported by a volunteer Cannabis Commission Advisory Board. For many reasons, initial legalization and commercialization should not allow hotels, lounges, or social clubs that allow the consumption of marijuana; or restaurants that serve food infused with marijuana; and the Commission recommends against allowing the sale of alcohol infused with marijuana or tobacco products infused with marijuana in any initial legalization measure. Concepts such as these require further monitoring and study which should be undertaken by the Cannabis Commission Advisory Board.

The Commission concluded that marijuana taxation should be administered and overseen by the Department of Revenue Administration. Taxing at the wholesale level would be the easier and less expensive approach. If chosen, the Commission recommends a tax rate of between \$23 and \$56 an ounce. A retail sales tax may present challenges in sales tax-free NH. A retail tax could also face a constitutional challenge on the basis of taxing a marijuana cookie differently from other cookies, for example. In addition, with a retail tax, actual revenue can vary significantly with the fluctuations in retail price of the market. However, if the legislature chooses a sales tax, it should be set between 7% and 15% of the sales price. The number of New Hampshire citizens who buy marijuana through the legal market and the amount of marijuana purchased by the average user in a year, along with other market factors, will dictate the amount of tax revenue that will be generated. We estimate a broad range of between \$15.3 million and \$57.8 million, not including revenues from license application fees and license fees, will be generated annually. It is likely that the revenue will come in near the midpoint of \$36.6 million once the market stabilizes, and in time, possibly reaching about \$47.0 million.

Properly licensing, regulating, taxing, educating, researching and collecting data, and implementing substance misuse prevention and treatment is estimated to cost in the range of \$9.9 million and \$13.3 million annually. With the low end of revenue estimates being \$15.3 million and the high end of costs being \$13.3 million, there is a \$2 million cushion if the worst-case revenue estimate was too high and the worst-case cost estimate was too low. The buffer is actually greater because this math does not include the application or license fee revenues which are hard to predict until the program is rolled out. Revenues will be sufficient to cover the costs of legalization and commercialization. The capacity of legalized and commercialized marijuana to be a net-plus contributor to other state-wide programs is not supported by the Commission as a reason to legalize marijuana. It is more important to establish a tax rate that will aid in the elimination of black-market sales. Establishing a legal commercial market will reduce black market sales and allow for proper labeling, reduction of exposure to toxins and pesticides, diversion of money away from criminal cartels, and a possible reduction in drug connected violence.

The Commission recognized that if marijuana is legalized and commercialized, this program must be reconciled with the existing Therapeutic Cannabis Program. We do not recommend changing the government oversight structure or licensing requirements for the Therapeutic Cannabis Program when initially rolled out. However, the therapeutic dispensaries will feel competitive pressures from the recreational retail stores and have expressed an interest in being able to participate in that market as well. For this to happen, any future legislation should include a pathway for the Alternative Treatment Centers (ATCs) to transition from a not-for-profit to a for-profit corporate structure, and to be allowed to partition retail dispensaries with part of a store for therapeutic customers and another for adult use customers.

Finally, speakers from every legalized state warned that for every positive claim about marijuana, there is a negative claim that can be made. We found this to be true and decided to carefully select high quality peer reviewed studies to present in this report rather than draw conclusions. The studies are grouped into four categories; health, relationship to opioid misuse,

youth and young adult use, and public safety. For each topic, multiple studies with abstracts are presented. The Commission thought it important that the executive and legislative branch of NH government as well as all the citizens of NH hear both sides of the marijuana legalization argument. Therefore, the studies are further classified as those in support of legalization and those opposed to legalization.

Many specific regulatory recommendations are made throughout the report, including recommendations for necessary criminal and administrative penalties, and a summary of the Commission's recommendations can be found in section XII.

III. INTRODUCTION

A. THE COMMISSION

House Bill 215 entitled, “Establishing a Commission to study the Legalization, Regulation, and Taxation of Marijuana,” passed the NH House and Senate and was signed into law by the Governor in the Spring of 2017. Table 1 lists the members and who appointed each.

Table 1

Commission Members	
Member Name	Appointing Authority
Representative Patrick Abrami, Chair	Speaker of the House
Representative Peter Leishman	Speaker of the House
Representative David Bates	Speaker of the House
Representative Carl Seidel	Speaker of the House
Senator Bette Lasky	Senate President
Senator William Gannon	Senate President
Assistant Attorney General James Vara	New Hampshire Attorney General
Major John Encarnacao	Commissioner of the Department of Safety
Abby Shockley	Commissioner of the Department of Health and Human Services
Assistant Commissioner Carollynn Lear	Commissioner of the Department of Revenue Administration
David Rousseau	Commissioner of the Department of Agriculture, Markets, and Food
Todd Wells	Banking Commissioner
Attorney Paul Twomey	New Hampshire Bar Association
Chief Richard Mello	New Hampshire Association of Chiefs of Police
Stuart Glassman, MD	New Hampshire Medical Society
Kate Frey	New Futures
Joseph Hannon	Governor Christopher Sununu

At the first meeting on October 17, 2017, Representative Patrick Abrami was elected chairman. The Commission was charged with doing the following:

The commission shall examine the possible impacts of changing state policy to treat marijuana in a manner similar to the way the state deals with alcohol and shall study the legalization, regulation, and taxation of marijuana including the specific issues related to growing, selling, taxing, limiting use, advertising, promoting, and otherwise regulating marijuana and marijuana-infused edible

products. The commission shall also study the experiences of New Hampshire and other states regarding the use of marijuana for medical purposes and for recreational purposes. The commission shall also study the experiences of states that have or are in the process of legalizing and regulating the recreational use of marijuana by adults, with particular attention to be given to the ways the changes in marijuana laws in Maine and Massachusetts, as well as Canada, impact our state. The commission shall study any other issue that the commission deems relevant to its objective. The commission may solicit the advice or testimony of any organization or individual with information or expertise relevant to its study.²

The Commission solicited testimony from all eight states that have legalized and also from a wide-range of individuals representing diverse views on marijuana legalization. Table 2 lists all those who formally testified before the commission. Grey shading indicates individuals who represented in a formal manner the experiences of the eight states that have legalized. Speakers from the states of Colorado, Oregon, Washington, Alaska, California, and Nevada either Skyped or teleconferenced into a Commission meeting. Representatives from Massachusetts and Maine testified in person. All others listed testified in person.

Table 2

Speakers Providing Testimony Before the Commission			
Date	Speaker	Organization	Topic
November 6, 2017	Michael Holt, Policy Administrator for the NH Therapeutic Cannabis Program	NH Department of Health and Human Services	Medical marijuana in New Hampshire
November 6, 2017	Karmen Hanson, Program Director	National Conference of State Legislatures	Overview of marijuana legalization nationwide
November 27, 2017	Todd Wells, Chief Bank Examiner	NH Banking Department	Issues related to commercial marijuana and the banking industry
November 27, 2017	David Rousseau, Director of the Division of Pesticide Control	NH Department of Agriculture, Markets, and Food	Issues related to commercial marijuana and the agriculture industry
November 27, 2017	Matt Simon, New England Political Director and	Marijuana Policy Project	Overview of issues related to marijuana prohibition and

² RSA 318-B:43(III) (2017).

	Legislative Analyst		legalization
December 18, 2017	Carolynn Lear, Tax Policy Analyst	NH Department of Revenue Administration	Issues related to tax policy, tax administration, and commercial marijuana
December 18, 2017	Andrew Freedman, Co-Founder and Senior Director, former Colorado Director of Marijuana Coordination	Freedman & Koski	Marijuana legalization in Colorado
January 8, 2018	Alan J. Budney, PhD, Director of Treatment Development and Evaluation Core	Geisel School of Medicine at Dartmouth College	Issues related to marijuana use, misuse, addiction, and treatment
January 8, 2018	Senator Ginny Burdick, Senate Majority Leader and Co-Chair of the 2017 Joint Committee on Marijuana Regulation	Oregon State Senate	Marijuana legalization and regulation in Oregon
January 8, 2018	Commissioner Ted Ferrioli, Former Senate Republican Leader and Co-Vice Chair of the 2017 Joint Committee on Marijuana Regulation	Oregon State Senate	Marijuana legalization and regulation in Oregon
January 22, 2018	Daniel Vigil, MD, MPH, Program Manager of the Marijuana Health Monitoring and Research Program	Colorado Department of Public Health and Environment	Research and data collection related to marijuana legislation
January 22, 2018	Senator Ann Rivers, Senate Health Care Chair	Washington State Senate	Marijuana legalization and regulation in Washington State
February 12, 2018	Director Erika McConnell	Alaska Alcohol and Marijuana Control Office	Marijuana legalization and regulation in Alaska
February 12, 2018	Paul Morrisette	Private citizen	Issues related to marijuana cultivation
March 5, 2018	Director Daniel St. Hilaire	NH Liquor Commission	Insights on state run liquor stores, liquor commission, possible parallels for regulating

			commercial marijuana
March 5, 2018	Director Mark Armaganian	NH Liquor Commission	Insights on liquor enforcement
March 5, 2018	Senator Tick Segerblom	Nevada State Senate	Marijuana legalization and regulation in Nevada
March 19, 2018	Director Timothy Pifer	NH State Police Forensic Laboratory	Issues related to testing marijuana product, existing state laboratory resources
March 19, 2018	Major John Marasco	NH State Police	Law enforcement issues
April 2, 2018	Jill Burke, Administrator of Prevention and Education Services	Bureau of Drug and Alcohol Services, NH Department of Health and Human Services	DHHS' possible role in marijuana legalization and regulation
April 2, 2018	Tricia Tilley, Deputy Director, NH Division of Public Health Services	NH Department of Health and Human Services	DHHS' possible role in marijuana legalization and regulation
April 2, 2018	Assemblyman Tom Lackey	California State Assembly	Marijuana legalization and regulation in Nevada
April 16, 2018	Christopher McCorkle, A.B. Candidate in Economics and Public Policy	Dartmouth College Policy Research Shop	<i>Investigating Policy Options for Recreational Marijuana in New Hampshire: A Case Study Analysis</i>
April 16, 2018	Public Comment		
	Jim Karwocki	Citizen, Sanbornton, NH	In favor of legalization
	Krystal Kebler	Citizen/ Health Teacher, Raymond, NH	Opposed to legalization
	Bill Alleman	Citizen, Weare, NH	In favor of legalization
	Michael Coughlin	Public Policy Outreach Coordinator for the Diocese of NH	Opposed to legalization
	Diane Vaccarello	Citizen, Bedford, NH	Opposed to legalization
	Molly Rossignal	Family Physician, board certified and fellowship trained in addiction	Opposed to legalization
	William Sparks	Raymond Coalition for Youth	Opposed to legalization
	Lisa Mure	Citizen, Holderness,	Opposed to legalization

		NH	
	Annika Stanley Smith	Substance Mis-use Prevention Coordinator for a public health network	Opposed to legalization
	Kimberly Haley	Drug Prevention and Intervention Specialist Program Director at Second Start in Concord, NH	Opposed to legalization
	Rick Naya	Executive Director of NH NORML	In favor of legalization
April 30, 2018	Ted Rebholz	Temescal Wellness	Role of therapeutic cannabis program/ dispensaries in legal marijuana context in NH
April 30, 2018	Brett Sicklick	Prime Alternative Treatment Centers	Role of therapeutic cannabis program/ dispensaries in legal marijuana context in NH
May 14, 2018	Commissioner Jennifer L. Flanagan	Massachusetts Cannabis Control Commission	Marijuana legalization and regulation in Massachusetts
May 14, 2018	Representative Mark J. Cusack, Chair of the Joint Committee on Marijuana Policy	Massachusetts State House of Representatives	Marijuana legalization and regulation in Massachusetts
May 21, 2018	Senator Roger Katz, Senate Chair of the Joint Select Committee on Marijuana Legalization Implementation	Maine State Senate	Marijuana legalization and regulation in Maine
May 21, 2018	Representative Teresa Pierce, House Chair of the Joint Select Committee on Marijuana Legalization Implementation	Maine State House of Representatives	Marijuana legalization and regulation in Maine
June 4, 2018	Ed Shemelya, National Coordinator	National Marijuana Initiative	Impacts of marijuana legalization
August 6, 2018	Michael Holt, Administrator, Therapeutic Cannabis	NH Department of Health and Human Services	NH Therapeutic Cannabis Program

	Program		
August 6, 2018	Jason Sidman, CEO	Sanctuary Alternative Treatment Center	NH Therapeutic Cannabis Program and Implications of Legalization
August 6, 2018	Dr. David Syrek, Medical Director	Sanctuary Alternative Treatment Center	NH Therapeutic Cannabis Program and Implications of Legalization
August 20, 2018	Tom Donovan, Director of the Charitable Trust Unit	NH Department of Justice	Information about charitable trusts and possible legislative changes to enable nonprofit therapeutic cannabis dispensaries to enter commercial market
September 24, 2018	Michael McGinn	NH Coalition for Responsible Cannabis Legislation, LLC	Effective marijuana legalization legislation

All meetings were open to the public with reasonable sized audiences at each meeting. Occasionally, the Chair would allow audience members knowledgeable on a specific topic to informally answer questions from Commissioners.

B. THE OBJECTIVES

The Commission agreed early on that there would be no up or down vote as to whether marijuana should be legalized in New Hampshire. It was felt that would politicize the mission as fact finders for the legislature and the citizens of New Hampshire. It was concluded that it is the role of the legislature to take such votes. There were two main objectives that were agreed to by the Commissioners. The first was to vote upon a uniquely New Hampshire organizational structure, required regulations, and tax structure that should be adopted in any future legislation. The second objective was to provide to the legislature an exhaustive list of peer-reviewed papers or studies from reputable organizations reporting on societal and medical issues surrounding marijuana and its legalization. The Commission was warned by all other states concerning the lack of consistent factual conclusions on a wide-range of topics related to this subject. The commission found this to be true. The commission viewed many dozens of articles on the subject, many with contradictory conclusions. The Commission worked hard to base its positions on true facts and not speculation. Section XI of this report focuses on facts from peer-reviewed papers and other credible organizations.

C. TERMINOLOGY

When discussing this topic, differing terms are used with the same meaning. The following are listed for the purposes of clarity:

Marijuana vs Cannabis- Marijuana is a slang term for cannabis which gained popularity in the early to mid 1900's. The scientific name is cannabis. The terms may be used interchangeably throughout this report.

Recommendation 1- Any future legislation should refer to marijuana by its scientific name, cannabis.

Term for Legalized Use- The Commission discovered four different terms utilized for the use of legalized marijuana. They are as follows:

- Adult Use Marijuana
- Recreational Marijuana
- Regulated Marijuana
- Non-Medical Marijuana

The commission could not come to a consensus behind any one term. Some thought that adult is too closely aligned with medical marijuana use. Other members felt that recreational use sends a bad message to kids. New York State, in their recent report on the topic, employed the term regulated marijuana which might have potential, but medical marijuana is regulated as well. The term non-medical is starting to appear as well. The most common terms used are recreational use or adult use. The commission, not being able to come to consensus on a term, has no recommendation, however, thought it was important to list the terms that are in use.

THC-Tetrahydrocannabinol is one of at least 113 cannabinoids identified in marijuana. THC is the principal psychoactive constituent of cannabis. The term THC also refers to cannabinoid isomers.

CBD- Cannabidiol is a cannabis compound that has significant medical benefits. CBD is not psychoactive. This makes it an appealing option for medical use.

Cannabis Extracts-This is a term for any oil that concentrates the marijuana plant's chemical compounds such as THC and CBD. This is achieved through a variety of extraction processes and solvents, the most common being butane. Advances in extraction technology have enabled the use of other solvents such as carbon dioxide and pure hydrocarbons in a process that utilizes pressure in a safe closed loop system. The end product is a highly potent oil of varying consistencies most commonly used for vaporizing and dabbing.

Cannabis Extract Names - Shatter, wax, honeycomb, oil, sap, buddle, and pull-and-snap are some of the nicknames given to cannabis extracts.

Shatter- With its flawless amber glass transparency, shatter has a reputation for being the purest and cleanest type of extract with THC concentrations reportedly reaching 94%.

Dab- A small amount of a concentrated cannabis extract.

Dabbing- The process of touching a small amount of cannabis extract against a heat source, a titanium nail in most cases (sometimes glass or quartz) in order to vaporize the extract which is then inhaled.

Edible- All variety of food or drink that is infused with THC extract to be ingested. Examples are cookies, brownies, candies, sodas, and so forth.

D. RANGE OF PRODUCTS

When discussing marijuana/ cannabis it is important to discuss the wide range of products that are available today. Products with THC and/or CBD continue to emerge and continue to evolve. Extending far beyond the dried cannabis that was smoked and popularized in the 1960's and 1970's, today's cannabis is available in a wide range of cannabis-infused foods, cooking oils, and drinks (typically referred to as "edibles"); oils, ointments, tinctures, creams, and concentrates (e.g., butane hash oil, resins, waxes, and "shatter"). These products can be made with different types of cannabis, with varying levels of THC and CBD, resulting in different intensities and effects. It has been reported that the concentrates in "shatter" have now reached 94% THC. The net result is that any discussion about regulating a new cannabis industry quickly leads to an understanding of the complexity of regulating not one but potentially thousands of new cannabis-based products. The latest products being manufactured in some states that have legalized is cannabis-infused beer. The evolution of cannabis-infused liquor products will pose another level of complexity in relation to the NH Liquor Commission.

Most legalization states report that approximately 50% of products sold are cannabis-infused or extracts, with the other 50% being dried cannabis for smoking in the traditional way.

IV. INDISPUTABLE OVERRIDING ISSUES

The Commission has been careful only to report facts that are not in dispute. Section XI of this report will summarize peer-reviewed papers on both sides of the use of marijuana and issues surrounding legalization. However, there are facts that are simply not in dispute which are summarized in this section of the report.

A. MARIJUANA IS ILLEGAL UNDER FEDERAL LAW

Federal law still states that marijuana is an illegal substance. The U.S. Congress has still not acted on making any changes to the federal position on this status. There have been bills that have failed in the past to try to change this and there are currently active bills working their way through the legislative process. In 2014, the Obama-era Justice Department released what is known as the Cole Memorandum which, in effect, gave states wide berth on the issue of legalizing marijuana. However, at the beginning of 2018, the Cole Memorandum was rescinded and replaced by the Trump-era Justice Department in a directive that has become known as the Sessions Memorandum, which basically took a more forceful view that the substance is still illegal at the federal level. This brought an outcry from legislatures in states which have legalized for recreational use as well as states that have medical marijuana programs. In the first

nine months since the Sessions Memorandum was released, the Commission has heard of no U.S. Attorney from any state that has acted to reverse a state's actions to legalize recreational or medical marijuana. More specifics and references to these memorandums are shown below in section B on banking issues. It is important to note as of this writing that no U.S. Attorney has acted, but the important message is that with time and actual evidence of public harm, U.S. Attorneys may act to override state efforts to legalize. For the record, the Chair of this Commission, through a request sent by the Commission member from the NH Attorney General's Office, asked the new U.S. Attorney for NH to testify before the Commission. The response was it was not appropriate for a U.S. Attorney to testify in such a manner. The reality is, without federal legislative action and support of the president, a cloud still hangs over any state action to legalize.

B. BANKING

As of the writing of this report, access to banking products and services is complicated and challenging for cannabis-related businesses, due to the conflict between state and federal laws.

State-chartered banks and credit unions are subject to laws, rules, and guidance of state and federal regulators. The New Hampshire Banking Department regulates New Hampshire-chartered banks and credit unions. Regulatory oversight is also provided by the National Credit Union Administration (NCUA) as primary federal regulator for credit unions, and by either the Federal Deposit Insurance Corporation (FDIC) or the Federal Reserve Bank (FRB) as primary federal regulator for state-chartered banks.

The Financial Crimes Enforcement Network (FinCEN) is an agency of the U.S. Department of the Treasury. FinCEN acts as a link between law enforcement, financial, and regulatory communities. On February 14, 2014, FinCEN issued guidance to clarify expectations for financial institutions seeking to provide services to marijuana-related businesses.³ This guidance, which remains in effect, speaks to the fact that several states have legalized certain marijuana-related activity, while federal law holds that it remains illegal to manufacture, distribute, or dispense marijuana.

Concurrent with the release of the aforementioned FinCEN guidance, other relevant guidance was also released on February 14, 2014: U.S. Department of Justice, Deputy Attorney General James M. Cole issued a memorandum to federal prosecutors.⁴ This document, which came to be known as the "Cole Memo," issued guidance regarding marijuana-related financial crimes, and reiterated eight marijuana enforcement priorities along with the expectation that states that have enacted laws authorizing marijuana-related conduct will implement clear, strong and effective regulatory and enforcement systems.

³ Appendix B. Department of the Treasury Financial Crimes Enforcement Network, Guidance FIN-2014-G001, BSA Expectations Regarding Marijuana-Related Businesses, February 14, 2014, <https://www.fincen.gov/sites/default/files/shared/FIN-2014-G001.pdf>.

⁴ Appendix C. U.S. Department of Justice, Office of the Deputy Attorney General, Memorandum for all United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes, February 14, 2014, <https://dfi.wa.gov/documents/banks/dept-of-justice-memo.pdf>.

On January 4, 2018, the head of the U.S. Department of Justice, Attorney General Jefferson B. Sessions, issued a memorandum to Federal prosecutors, announcing a return to the rule of law and the rescission of previous guidance documents (including the Cole Memo).⁵ In this relatively brief memorandum, Attorney General Sessions stated Congress's determination that marijuana is a dangerous drug and that marijuana activity is a serious crime.

Federal banking regulators have publicly stated that as long as there is a conflict between federal and state law, they remain bound by federal law. Financial institutions that conduct transactions with money generated from cannabis-related activity could face criminal liability under federal law. Representatives from both the FDIC and the NCUA indicate that their agencies have not opined on the topic of whether deposits or shares from a cannabis-related business would be insured.

New Hampshire-chartered banks and credit unions seem hesitant to establish direct banking relationships (maintaining deposit accounts or share accounts) with cannabis-related businesses. Reputation risk is apparently a key consideration. The conflict between state and federal laws (as of this the writing of this report) causes concern within the banking industry because these institutions rely on federal agencies for deposit insurance or share insurance and for access to the electronic payment system. Several other risks may be present from the perspective of the banking industry: litigation risk (RICO is one example); compliance risk; regulatory risk; operational/transaction risk; etc.

There have been some limited instances of indirect banking relationships by New Hampshire-chartered institutions; an example would be a commercial real estate loan secured by a mortgage on a multi-unit shopping complex where a cannabis dispensary, or alternative treatment center, is a tenant. Because some of the revenue which repays the loan sources from the cannabis-related business, this represents the indirect relationship.

The New Hampshire Banking Department has not issued any guidance relative to banking with cannabis-related businesses.

Maine, Massachusetts, and Vermont all have one or more banks or credit unions directly providing banking services to cannabis-related businesses. These surrounding states expect involved institutions to conduct thorough customer due diligence, including following the guidance issued by FinCEN. The account relationships are primarily deposits. Loans to cannabis-related businesses can be complicated by the possibility of asset seizure by federal law enforcement; if the business assets are used as collateral to secure loans, then the credit quality and repayment prospects would be critically compromised in the event of asset seizure. Testimony at Commission meetings also noted that some employees of cannabis-related businesses have difficulty obtaining loans due to their source of employment and income.

In an update published by FinCEN, 411 depository institutions were actively banking marijuana business in the United States (data as of March 31, 2018). For perspective, there were 5,606 FDIC-insured banks as of March 31, 2018 and 5,573 NCUA-insured credit unions as of December 31, 2017.

⁵ Appendix D. U.S. Department of Justice, Office of the Attorney General, Memorandum for all United States Attorneys: Marijuana Enforcement, January 4, 2018, <https://www.justice.gov/opa/press-release/file/1022196/download>.

Michael Holt of New Hampshire's Department of Health and Human Services is the Policy Administrator for the Therapeutic Cannabis Program. Mr. Holt provided testimony at several meetings of this Commission; he has indicated that New Hampshire alternative treatment centers have established banking relationships with Century Bank, Medford, MA.

Testimony at Commission meetings revealed that Century Bank charges a monthly fee of \$5,000 for a New Hampshire alternative treatment center to maintain a deposit account. Financial transactions are generally in cash or debit card transactions. Credit cards are not accepted. Testimony included a summary statement that sales transactions are nearly equivalent between cash and debit cards.

The Massachusetts Division of Banks (DOB) has issued the following position statement:

The DOB recognizes the importance of ensuring public access to banking services within an environment that promotes trust, confidence, and public safety. For those MRBs that cannot get access to depository and transaction services, or that are not willing or able to afford the costly fees frequently associated with such services, the alternative is often the daily handling of large amounts of cash. Not only does this create very serious safety concerns and invite increased criminal activity, but it is also a very expensive and impractical way to conduct business. Operating in cash also makes the tracking of funds and collection of tax payments very difficult.

In its regulatory role, the DOB conducts regular examinations of state-chartered financial institutions for compliance with applicable laws, regulations, and regulatory guidance. This includes examinations for compliance with the Bank Secrecy Act (BSA) and it has incorporated relevant guidance issued by the Financial Crimes Enforcement Network (FinCEN) into our supervisory processes. The DOB's examiners will, as part of its examination processes, review whether financial institutions working with marijuana-related business are following the FinCEN guidance. Adherence to these guidelines and recommendations will satisfy the requirements of the Division of Banks for institutions under its supervisory jurisdiction.⁶

Additional testimony at Commission meetings highlighted the experiences from other states regarding the significant volume of cash transactions, transportation, and processing. Armored transport activity is common. Also relevant is testimony from several individuals discussing how other states have had to prepare for, and make accommodations for, significant cash

⁶ Massachusetts Division of Banks, *Banking for Marijuana-Related Businesses in Massachusetts*, November 16, 2016, <https://www.mass.gov/news/banking-for-marijuana-related-businesses-in-massachusetts>.

transactions from cannabis-related businesses. For example, some state revenue departments have had to prepare for the receipt and processing of tax payments in cash.

C. ROAD SIDE DRIVING WHILE IMPAIRED TESTING

There are many unresolved issues surrounding the ability to accurately identify if someone is driving a motor vehicle while impaired from the use of marijuana. The overriding issue that must first be resolved is what level of intoxication exactly qualifies a driver as being impaired. This issue is still up for debate in the scientific community. There are several companies that are close to developing a breathalyzer test. One reports it can detect THC levels from smoked marijuana. Their research shows that THC only stays in breath during the peak window of impairment of about one to two hours after smoking marijuana. The other unresolved issue is the ability of detecting impairment caused by ingesting edibles.

The Commission feels it important to state that there is no approved breathalyzer device certified as accurate on the market as yet. In addition, there is no device that can detect impairment from ingested marijuana. Without these devices being certified as reliable, it will be difficult for courts to allow their findings to be allowed as evidence. The courts will also need guidance as to what level of THC intoxication constitutes someone being impaired. On the other hand, successful prosecutions of drunk driving occurred long before there were breathalyzers and currently conviction rates for drunk driving are the same whether or not a breathalyzer test is used. The key for the near future is the funding of adequate drug recognition training for police.

D. WORKPLACE ISSUES

In the course of the Commission's work, the issue of workplace and employee/employer issues has come up for discussion. In other states where recreational marijuana has been approved, the laws typically do not allow for employees to use marijuana in the workplace or be under the influence in the workplace. This is similar to workplace regulations governing alcohol use. One difference with marijuana is that because it is federally illegal, employers have to take into consideration the Controlled Substances Act (1970), the Occupational Safety and Health Act (1970), and the Drug Free Work Place Act (1988). Since marijuana is federally illegal, it is covered under the Controlled Substances Act, and therefore employers do not have to condone its use or influence in the workplace. Employers are required to maintain safe workplaces under the Occupational Safety and Health Administration (OSHA). Those workplaces must be drug-free in cases where the business receives federal funding, contracts, or have safety-sensitive positions.

A second consideration for the workplace is the issue of drug testing. Marijuana remains in a person's urine for a few days after just a single use and up to 30 days in cases of chronic use. Positive marijuana test results will likely increase in pre-employment testing, as well as in random workplace testing, if legalization occurs in New Hampshire. Employer workplace policies will need to have appropriate language concerning drug testing and positive results, as there currently is no definitive legal distinction between a positive drug test result and being under the influence for current employer statutes. Some employers may consider not testing for marijuana on pre-employment tests, but this may lead to additional problems if an employee

subsequently has a workplace event and tests positive for marijuana, bringing into question whether the employee was a risk for hiring.

Legalization of marijuana will likely bring up workplace issues for employers and employees, especially concerning drug testing. Discussions about these types of workplace issues should occur as part of any proposed marijuana legalization legislation. Input from the New Hampshire Department of Labor on these topics is encouraged.

The discussion above is for recreational marijuana situations. Employee/ employer cases for medical marijuana use have even more issues that weigh in to the legal discussion.

Here are some helpful articles on the subject to review:

<https://www.bostonglobe.com/metro/2018/06/11/with-marijuana-sales-set-begin-employers-grapple-with-drug-tests/0jnVRZiytNfJGMII3tWltJ/story.html>

<https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/recreational-marijuana-laws-workplace-employment.aspx>

<https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/less-marijuana-testing.aspx>

Recommendation 2- Any future legislation to legalize and commercialize marijuana should include requirements that workplace issues related to the use of marijuana by employees be examined closely. Input from the NH Department of Labor on this topic is encouraged.

E. NEED FOR PUBLIC EDUCATION ON MARIJUANA USE

The Commission heard from other states that have legalized and commercialized, as well as numerous counselors from NH, that addiction to marijuana is a reality now and will remain so, when and if, it is legalized and commercialized. It is in that vein that the Commission discussed the need for very active ongoing education programs warning the public of over-consuming marijuana products. As will be discussed later in the report, the licensing fees and taxation of legal marijuana will generate enough revenue to put an active substance misuse program in place. This education would also point out the negative health effects on all those under 21 years of age, especially children and young adolescents, the unborn child of a pregnant woman, and the children of those mothers who are breast feeding. With the levels of THC in today's flowering plants now reaching 30%, and the extract products such as "shatter" now reaching 94% THC, the potential threat of addictive behavior continues to climb, making education an element that must be funded from marijuana generated licensing and taxation revenues.

In the same light, the Commission also addressed the need for the funding of addiction or substance misuse treatment.

Recommendation 3- Any future legislation to legalize and commercialize marijuana should require funding of public education on safe use of marijuana as well as addiction and substance misuse treatment. Funding in the range of \$4-5 million each year seems to be appropriate, and possibly more, depending upon the revenue generated from licensing and taxing.

F. NEED FOR RESEARCH AND DATA COLLECTION

Every state that testified before the Commission stated that good baseline data on a wide range of metrics required to measure the impact of marijuana legalization were limited or not available at all. They all recommended that if we were to legalize, that we put in place a robust research arm to monitor information being generated from other states, but to also put in place data collection mechanisms to start monitoring the effects of the legalization of marijuana. In broad terms, data collection on health effects, driving while impaired, work place safety, crime rates, usage rates (adults and minors), school performance, impacts on quality of life and the NH state brand, and many other factors is necessary. The state must fund these efforts through marijuana taxation and marijuana license fees, and task various positions within state government with necessary data collection.

***Recommendation 4-** The state should fund and begin the collection of baseline data on the medical and societal effects of marijuana. This information is vital to evaluating any future legal program. Any future legislation to legalize and commercialize marijuana should require funding of positions to be the research arm of the later recommended research and data collection arm of the NH Cannabis Commission. This information would be of great value to future legislatures and to the public at-large.*

G. VAPING

The Commission heard from a variety of sources including persons working in education, substance abuse treatment, and law enforcement about the special dangers inherent in new devices that in essence allow a person to breathe in various substances including tobacco and cannabis without any visible smoke. Vapes, also known as “e-cigarettes,” “Juuls,” and “ENDS” (electronic nicotine delivery systems) are devices that heat up liquid mixtures of nicotine and other ingredients to produce a vapor that is inhaled by the user. These devices can be very deceptive in appearance and can look like harmless thumb drives or writing pens, which has been extremely problematic for schools.

While these devices do reduce the carcinogens from tobacco that are inhaled, they also present their own risk to health that is easily underestimated in that they expose young people to toxic chemicals and greatly increase the risk of starting to smoke regular cigarettes. The liquid used in vapes comes in all kinds of flavors, from blueberry to birthday cake. Some vapes can even be used with THC. Accordingly, no matter what the legislature decides on the question of legalization of marijuana, it should attempt to reduce the availability of such devices to children.

According to the 2017 Youth Risk Behavior Survey, 41.1% of New Hampshire’s youth have tried vaping, and 23.8% of youth vaped within the 30 days before taking the survey. Half of the teens who try vaping continue to vape. The 2017 National Survey Results on Drug Use indicates levels of marijuana vaping nationally are considerable. One in ten 12th grade students vaped marijuana in the past year, and levels were 8% and 3% for 10th and 8th grade students, respectively.

The Commission recommends that the Legislature consult with the Department of Health and Human Services to develop a statutory response including, but not limited to: assessing whether there are appropriate penalties on persons who sell or give such devices to minors, banning flavored liquids, and assessing whether current indoor smoking prohibitions cover these products. The Commission also recommends any future legislation to legalize and commercialize marijuana should authorize the imposition of penalties for the sale of vaping devices, liquid, or accessories to minors.

Here are some helpful articles on the subject to review:

American Academy of Pediatrics—2018 study showed teens using e-cigs to be 3x more likely to be exposed to toxic chemicals. “Adolescent Exposure To Toxic Volatile Organic Chemicals From E-Cigarettes,” <https://doi.org/10.1542/peds.2017-3557>.

Prevalence of Cannabis Use in Electronic Cigarettes Among U.S. Youth
<https://jamanetwork.com/journals/jamapediatrics/article-abstract/2702200>.

The Partnership for a Drug Free New Hampshire, <https://drugfree.org/parent-blog/know-kid-vaping-marijuana/>.

Recommendation 5- *The Legislature should consult with the Department of Health and Human Services to develop a statutory response determining: whether there are appropriate penalties on persons who sell or give vaping devices to minors, whether to ban flavored vaping liquids, and whether current indoor smoking prohibitions cover vaping products.*

Recommendation 6- *Any future legislation to legalize and commercialize marijuana should authorize the imposition of penalties for the sale of vaping devices, liquid, or accessories to minors.*

V. GUIDELINES FOR NH LEGALIZATION

A. OVERSIGHT STRUCTURE

If NH were to legalize, the first issue would be where oversight should reside within state government. The Commission interviewed all eight states that have legalized. Table 3 summarizes where oversight responsibility resides within their state governments. As can be seen, three states set up the structure as a standalone control board or commission. Two states chose to place it under the auspices of their revenue/taxation departments. One state placed it under their department of administrative and financial services. The final two states co-mingled it with their liquor commission or control board.

The important take away is that each state is structured in its own unique way. These structures have evolved over time. The Commission did not discuss why each state did what they did, but instead focused its discussion on what oversight structure would best fit within New Hampshire’s current state government. The Commission debated the merits of basing oversight within one of five locations: Department of Agriculture, Markets, and Food; Department of

Revenue Administration; Liquor Commission; Department of Administrative Services, or in a newly created Cannabis Commission.

Table 3

Agency Responsible for Marijuana Oversight in Commercialized States	
State	Oversight Agency
Alaska	Marijuana Control Board within the Alcohol & Marijuana Control Office
California	Bureau of Marijuana Control, Department of Consumer Affairs
Colorado	Department of Taxation, Marijuana Enforcement Division
Maine	Department of Administrative and Financial Services
Massachusetts	Cannabis Control Commission
Nevada	Department of Taxation
Oregon	Oregon Liquor Control Commission
Washington	Washington State Liquor and Cannabis Board

Table 4 shares the discussion by the commission and the consensus that a separate Cannabis Commission be formed.

Table 4

Oversight Structure Summary of Discussion and Consensus		
Option	Discussion	Consensus
Within the Department of Agriculture	Agriculture has a role with pesticides and weights and measures. This department is not structured to deal with this type of oversight.	No
Within the Department of Revenue Administration	The Department of Revenue Administration has the appropriate skill set and expertise to administer any taxing which would come with marijuana legalization. However, the administration and oversight of this type of program is not this department's mission.	No
Within the Liquor Commission	In NH, our Liquor Commission is in the business of managing our liquor stores and over-seeing all beer and wine sold at grocery stores as well as all alcohol products procured by restaurants. Even though our liquor commission has shown some interest in taking on the oversight of marijuana, it is clear that marijuana sales would be in direct competition with alcohol sales. The mission of the Liquor Commission is to maximize profits from liquor sales. In addition, there is no interest in seeing marijuana being sold in our state liquor stores.	No

Table 4, Continued: Oversight Structure Summary of Discussion and Consensus		
Option	Discussion	Consensus
Within the Department of Administrative Services	This department is not equipped to take on the scope of the oversight of legalized marijuana.	No
Create Cannabis Commission	With the potential scope of responsibility and scale of grow sites, manufacturing sites, and retail sites contemplated based on the other states that have legalized, and the amount of potential revenue that can be generated, it appears that there is enough critical mass for marijuana legalization to be overseen by its own commission. This commission would be in the mold of the Liquor Commission and Lottery Commission. The three major functions under the Cannabis Commission would be licensing, enforcement, and research/education.	Yes

Recommendation 7- Any future legislation to legalize and commercialize marijuana should adopt a standalone Cannabis Commission as the state entity to license, recommend regulations, enforce regulations, and research which will include the data collection on the societal and medical effects of cannabis legalization. Enforcement staff should be split between some auditor-type positions with subpoena power and non-uniformed “sworn” officers with all the powers of any other police officer. The research/data collection staff should work in concert with other state agencies such as the Department of Health and Human Services (DHHS). DHHS should also be responsible for the marijuana education, addiction prevention and addiction treatment programs all in concert with the Cannabis Commission.

The Commission discussed the make-up of the agreed upon structure next. Table 5 shows the consensus surrounding the number of members, who appoints the members, the appointment term for each member, the salary for each member, the removal process, the meeting quorum requirements, and the day-to-day leadership and management overseeing the work of the Cannabis Commission.

Table 5

Makeup of the Cannabis Commission		
Issue	Discussion	Consensus
Number of Members	Discussed structures of Liquor Commission, Lottery Commission, and NH Public Utilities Commission.	3 Commissioners 1 Chair 2 Members
Appointment	Need to be consistent with other commissions	By Governor with approval of Executive Council
Term	Same as Liquor Commission	4 Years
Commissioner Salary	Same as Lottery Commission	RSA 94:1-a Chair \$18,893 Members \$10,635
Commissioner Removal	Same as Lottery Commission	RSA 284:21-a
Commission Meeting Quorum	Same as Lottery Commission	2 Members RSA 284:21-b
Other Staff	The commissioners shall appoint an executive director who shall receive an annual salary. Term Removal	RSA 94:1-a Range: \$86,028-\$108,961 4 Years RSA 284:21-b

The Commission, after much discussion, concluded that a Cannabis Commission Advisory Board would be a helpful body to the Cannabis Commission as legalization is rolled out. This Advisory Board should have a makeup similar to this Marijuana Commission. It was also concluded that over time this Advisory Board will not be needed and thus be dissolved.

Recommendation 8- Any future legislation to legalize and commercialize marijuana should adopt the formation of a Cannabis Commission Advisory Board. This board would need to be re-authorized every two years. The make-up of the board should be similar to this Marijuana Commission.

B. TYPES OF BUSINESSES

As legalization matures in those states that were the first to legalize, so have the types of businesses that have been allowed to exist. Each state that has legalized and commercialized marijuana allows businesses that cultivate marijuana, that manufacture edibles and other products containing THC, that sell cannabis and cannabis related products, and that provide testing services. Some states allow for businesses that transport marijuana or related products or allow wholesale distribution of marijuana or related products. Some states are beginning to

allow three other types of businesses: Marijuana hotels that allow the smoking of marijuana anywhere in the facility; marijuana lounges or social clubs that exist solely for the consumption of marijuana products; and restaurants that serve marijuana-infused foods. The Commission concluded that New Hampshire is a small enough state so that special transportation services or wholesale distribution is not required. These functions can be performed by the cultivation, manufacturing, and retail businesses. The Commission felt strongly that the introduction of the concept of marijuana hotels, lounges, and restaurants should not be embraced as part of any initial discussion of legalization.

Recommendation 9- *Any future legislation to legalize and commercialize marijuana should not include provisions for the legalization of hotels that allow the smoking of marijuana, lounges or social clubs that allow the consumption of marijuana, and restaurants that infuse food with marijuana. These types of establishments should only be considered several years after legalization occurs.*

C. TYPES OF LICENCES

One of the main roles of the Cannabis Commission would be to license all the businesses that would be involved in the supply chain. Table 6 shows some of the types of licenses that the eight states that have legalized utilize.

Table 6

Types of Licenses Permitted in the Supply Chain of the Eight States That Have Legalized and Commercialized Marijuana					
State	Type of License				
	Cultivation	Manufacturer	Retail	Testing	Other
Alaska	Y	Y	Y	Y	None
California	Y	Y	Y	Y	Micro-Business
Colorado	Y	Y	Y	Y	Transporter
Maine	Y	Y	Y	Y	Nursery
Massachusetts	Y	Y	Y	Y	None
Nevada	Y	Y	Y	Y	Distributor
Oregon	Y	Y	Y	Y	Wholesaler
Washington	Y	Y	Y	Y	Transporter

As can be seen, each state requires a license for those who grow marijuana, for those who manufacture products from marijuana, for those who sell cannabis and cannabis products at the retail level, and for those businesses that test marijuana for contaminants as well as potency. The micro-business license is to allow for small scale businesses to develop at a lower fee for doing so. If a business other than one already licensed in the supply chain exists solely for the transportation of marijuana and marijuana products, a special license is required. In some states, there are middle-men between the cultivation and manufacturer businesses, between the cultivator and retail businesses, and between the manufacturer and retail businesses. These wholesalers or distributors are licensed in those states. Maine and California license business for the purpose of growing new plants from seed or propagation. The discussion and consensus reached on the type of licenses that would be appropriate if New Hampshire were to legalize and commercialize cannabis is shown in Table 7.

Table 7

Recommended Business License Types if NH Were to Commercialize Marijuana	
License Type	Recommended?
Cultivation: Yes, as long as the cultivator could transport product to manufacturers and retail stores. No tiers based upon size required. No limit on the number of licenses.	Yes
Manufacturing: Yes, as long as the manufacturer could transport manufactured products to retail stores. No limit on the number of licenses.	Yes
Retail Stores: Yes, as long as the retailer could pick up and transport product from cultivators or manufacturers. No limit on the number of licenses.	Yes
Testing: Agreement that testing not be a State function. Independent outside labs would be contracted and need to be licensed. They would test both plants and manufactured product potency. They would be allowed to transport samples under this license.	Yes
Transportation: It was concluded that this type of license was not needed since those possessing a cultivation, manufacturing, retail, or testing license would be allowed to transport under their licenses. If internet sales are allowed by legislative action then this type of license may be required. If internet sales are allowed and the retail stores decide to use outside courier or delivery services, a transportation license may then be required for those businesses.	No
Distributor (wholesaler): The Commission concluded that since NH is a small state that the wholesale function is not necessary. Cultivators will sell directly to manufacturers and retailers, and manufacturers will sell directly to retailers.	No
Nursery: Only two states that have legalized adult use have a license to allow the growing of plants for sale to cultivators. The growing of new plants would be covered in the cultivation license since this function would reside there.	No

Recommendation 10- Any future legislation to legalize and commercialize marijuana should require four distinct licenses for businesses engaged in the following stages of the supply chain: cultivation, manufacturing, retail stores, and testing.

D. RESTRICTIONS AND REQUIREMENTS FOR LICENSES

Restrictions related to marijuana supply chain licenses vary widely among the states that have legalized, some of these differences are shown in the chart within Appendix A. The Commission had much discussion on restricting licensing. Table 8 shows the issue, the discussion, and the consensus of the Commission on a wide range of issues surrounding licensing restrictions, requirements, and local control issues related to all marijuana businesses.

Table 8

Marijuana Licensing Restrictions, Requirements, and Local Control Issues		
Issue	Discussion	Consensus
Allowing Multiple License Types per Licensee	There was some discussion of preventing vertical integration, but for the most part the Commission saw no problem with a licensee possessing a cultivation, manufacturing, and retail license simultaneously.	Yes
Limits on the Number of Licenses	Some initially felt that the total number of licenses should be limited within a category. Three of the eight legalization states studied have some restrictions. There was some concern expressed that not limiting the number of cultivation licenses could lead to an oversupply. The more this was discussed it was hard to come up with what is a proper number of businesses. At the end, the Commission concluded the best way to handle this was to let the free market dictate how many licensed facilities can be supported. The laws of supply and demand would dictate the number of cultivators, manufacturers, and retail stores that can be viable in this newly-created free market. The other problem with restricting the number is who decides, and on what basis, who is in and who is out.	No
Background Check Requirement	All Commissioners agreed background checks are necessary. Those with a history in organized crime or with felony criminal records should not be allowed to have any role with the owning or running of any of the licensed marijuana businesses. The consensus was that the language in the Liquor Commission Licensing statutes be adopted. RSA 178:3 says “No license shall be issued under this chapter to any person who has been convicted of a felony, or to any partnership, limited liability company or partnership, or corporation when a partner, director, officer, member, or any other person with a controlling interest in the operation of the business has been convicted of a felony”. RSA 287-D:11, relative to games of chance, is also appropriate.	Yes Adopt language similar to: RSA 178:3 or RSA 287-D:11

Table 8, Continued: Marijuana Licensing Restrictions, Requirements, and Local Control Issues		
Issue	Discussion	Consensus
Location Restrictions (schools, etc.)	The discussion surrounding location restrictions started with agreement that such restrictions were necessary to protect our children. That led to a discussion of which locations and the distance from such a restricted location that a cultivation, manufacturing, or retail site may be. It was decided that these facilities would not be allowed within an already defined NH drug-free zone definition. This defines a drug-free zone as an area inclusive of any property used for school purposes by a publicly funded primary school whether or not owned by such school, within a 1,000 feet of any such property and within or immediately adjacent to school buses.	Yes
Municipality Opt-In Provision	Discussion around NH's history of having communities opting-in on many issues like Lottery, alcohol sales, and most recently KENO, led the Commissioners to agree that communities should have a say. After discussion, it was also agreed that a town must opt-in to being a cultivation location, manufacturing location, and a retail location as three separate questions. If legalized, it would be legal to possess in all communities, even those without licensed facilities.	Yes
Local Ordinances Specific to Marijuana Businesses	The Commissioners felt that the opt-in provision gives the communities a voice and that the location restrictions state-wide provide safeguards for children. The over-riding concern is for uniformity across all communities, to eliminate any potential confusion of what is legal in one community versus what is legal in another.	No
Residency Requirement	The Commission felt that a residency requirement to obtain a license was important to give preference to NH residents in obtaining a license. The requirements for residency for obtaining a liquor license say, "Any person applying for a liquor and wine representative license shall have been a resident, or shall have at least one director, officer, or partner who has been a New Hampshire Resident for at least 3 years immediately preceding the date of application." This requirement seemed reasonable to the Commission members. This language would apply to the cultivation, manufacturing, and retail licenses only. This would not apply to the testing license, since there may not be enough qualified labs in the region.	Yes Adopt language similar to RSA 178:1, III
Annulment of any Marijuana Related Convictions	The Commission had a last-minute discussion concerning the annulment of marijuana convictions for anyone applying for a marijuana license. This is something that states like Massachusetts have done as they rolled out their marijuana legalization program. Many of the Commission members said that an annulment mechanism is already in statute that would apply. With no consensus reached, it was suggested that the Cannabis Commission Advisory Board take up this issue once established.	Cannabis Commission Advisory Board should study this issue.

Recommendation 11- Any future legislation to legalize and commercialize marijuana should allow vertical integration. That is, a business may have a cultivation, manufacturing, and retail store license and perform all three functions set out by those licenses. Testing licenses shall be held by certified testing companies not holding any of the three marijuana supply chain licenses.

Recommendation 12- Any future legislation to legalize and commercialize marijuana should not limit the number of licenses that can be issued.

Recommendation 13- Any future legislation to legalize and commercialize marijuana should require criminal background checks of all owners of licensed establishments.

Recommendation 14- Any future legislation to legalize and commercialize marijuana should prohibit marijuana businesses from being located within 1,000 feet of a school.

Recommendation 15- Any future legislation to legalize and commercialize marijuana should include an opt-in provision in which a municipality must have a vote of citizens to allow cultivation, manufacturing, and/or retail sales. This ballot must seek approval for each of the three licensed facilities separately as three separate questions.

Recommendation 16- Any future legislation to legalize and commercialize marijuana should prohibit municipalities from restricting any marijuana business beyond the way any other business is regulated by the ordinances of that community.

Recommendation 17- Any future legislation to legalize and commercialize marijuana should require that any person applying for a marijuana business license shall have been a resident, or have at least one director, officer, or partner who has been a New Hampshire resident for at least three years immediately preceding the date of application.

Recommendation 18- If legalization and commercialization of marijuana should become law, the Cannabis Commission Advisory Board should take up the issue of annulment of marijuana convictions.

E. OTHER OBLIGATIONS OF LICENSEES

Licensees of any marijuana related business must comply with all other state and local laws and ordinances that apply to any other business in general. Those marijuana businesses involved in cultivation must abide by all agriculture-related regulations. Table 9 lists the discussions had on three additional requirements of marijuana related businesses.

Table 9

Other Business Compliance Issues		
Issue	Discussion	Consensus
Registration to do Business with the Secretary of State	The Commission finds that all other entities that do business in NH register with the Secretary of State. Language from our liquor statutes are relevant and read, “No person, shall manufacture for sale, or sell in any method or manner, directly or indirectly, or distribute by selling, transferring, giving, or delivering to another, or leaving, bartering, or exchanging with another, or offering or agreeing to do the same, in any method or manner, directly or indirectly, or keep for sale any liquor or beverage without first registering to do business with the secretary of state and obtaining a license for such activity under the provisions of this title. Any violation of this section shall be a class B felony for each violation.” The Commission felt language to this effect would be appropriate however modifying it to be specific to marijuana licenses.	Adopt similar Language to that of RSA 178:1,I
Requiring Public Health and Safety Inspections	After a brief discussion, it was clear that those facilities holding a cultivation, manufacturing, or retail license would need to comply with all public health and safety statutes and local ordinances that apply to the activity performed under each license.	Yes
Complying with Agriculture Fertilizer and Pesticide Statutes and Inspections	Those in the industry indicated most marijuana growers use biological techniques for pest control. In addition, it was stated that marijuana may fall into its own category of crops under agricultural statutes. With all this said, it is clear that those with a cultivation license will have to comply with fertilizer and pesticide statutes. The representative from the Department of Agriculture, Markets, and Food (DAMF) stated, “In regard to cultivation, individuals that use pesticides to grow a commodity for sale or distribution are required by statute to have a certificate of registration (license or permit). In regard to sales, scales used in the market place where a commodity is weighed or measured in front of a customer are required to be certified. Both the pesticide certificate of registration and the scale certification are subject to inspection by the DAMF.”	Yes

Recommendation 19- Any future legislation to legalize and commercialize marijuana should reinforce that all marijuana businesses be registered with the Secretary of State; comply with all state and local health and safety statutes, ordinances, and regulations; and comply with all fertilizer, pesticide, and weights and measure statutes and regulations.

F. APPLICATION AND LICENSE FEES/ PROCESSING TIME

The Commission had much discussion concerning application and license fees. When discussing these fees, it was clear that they were discussed in light of the potential tax options at the wholesale and retail level of sales. The application fees, annual license fees, and taxes would make up the flow of revenues required to off-set the cost of processing applications and licensing, the cost of monitoring compliance with all marijuana regulations, the cost of research of the societal impacts of marijuana legalization, and the cost of funding addiction prevention and treatment programs.

Another overriding discussion was a desire not to set the fees at a level that would prevent smaller organizations from entering this market, although it was concluded that a single fee structure was the best for New Hampshire. We also looked at the New Hampshire Therapeutic Cannabis Program. Their fees sustain the government oversight of this program. There is no tax based upon wholesale or retail sales. The cost of regulating this program is simply calculated each year by the Department of Health and Human Services and allocated back as an annual fee to the current not-for-profit licensees based upon each entity's market share. The Commission was not interested in this fee structure for what will be a free market for-profit model.

As a starting point of this discussion, we looked at the application and license fees charged by the eight states that have legalized, which are shown in Table 10.

Table 10

Application and License Fees in the Eight States That Have Legalized and Commercialized Marijuana						
	Application Fee		License Fee			
State	Initial	Renewal	Cultivation	Manufacturing	Retail	Testing
Alaska	\$1,000	\$600	\$1,000-5,000	\$1,000-5,000	\$5,000	\$1,000
California	\$1,000	N/A	Varies based on business size: \$4,000-72,000			
Colorado	\$500	\$300	Varies, up to \$4,900			
Maine*	\$100-500		Up to \$30,000+	\$2,500	\$2,500	\$1,000
Mass.	Maximum of \$3,000	N/A	Maximum of \$15,000			Max. of \$10,000
Nevada	\$5,000	N/A	Initial Max \$30,000 Renew Max \$10,000	Initial Max \$10,000 Renew Max \$3,300	Initial Max \$20,000 Renew Max \$6,600	Initial Max \$15,000 Renew Max \$10,000
Oregon	\$250	N/A	\$1,000-5,750	\$4,750	\$4,750	\$4,750
WA State	\$250	N/A	\$1,480	\$1,480	\$1,480	N/A
*Maine statute sets fee maximums. Regulations not drafted as of the writing of this report.						

The Commission concluded that it would be best to set the New Hampshire application and license fees somewhere between the small and large population states. For the license fees, it was concluded that any future legislation set fees within a range. As for the process time, we set the first-year timeframe to process an application at 180 days or less, realizing that there would be an overwhelming number of applications that first year. In subsequent years, that timeframe should be lowered to 90 days or less. All of this discussion and the Commission's conclusions are shown in Table 11.

Table 11

Recommended Licensing Fees and Processing Time		
Issue	Discussion	Consensus
Application Fees	Should not be so restrictive that small owners cannot afford to start a business. Most of the revenues should come from the taxes. Based upon what other states utilize, it appears that an application fee for all four license types should be \$1,000.	\$1,000 for all four license types
License Fees	Should not be so restrictive that small owners cannot afford to start a business. Most of the revenues should come from taxes. Based upon the license fees from the other legalized states utilize it appears that the cultivation, manufacturing, and the retail licenses should be set at \$10,000-\$15,000 for the initial year and \$6,000-\$9,000 for subsequent years. The testing license should be set at \$5,000-\$7,500 for the initial year and \$3,000-\$4,500 for subsequent years.	As Shown
License Application Processing Process Timing	It is important that applications be processed in a timely manner. It is estimated that there will be a significant quantity of applications the initial year. Those should be processed in 180 days or less. After the initial year, applications should be processed in 90 days or less.	180 Days or less the first year; 90 Days or less thereafter

Recommendation 20-Any future legislation to legalize and commercialize marijuana should adopt fees that fall within the ranges shown in Table 11 for cultivation, manufacturing, retail, and testing. In addition, application processing times should take no longer than 180 days or less for the first year of program implementation and no longer than 90 days or less in subsequent years.

G. SEED TO SALE TRACKING

In this environment, where marijuana is still illegal federally and there is the black market to deal with, a great majority of the states that have legalized and commercialized marijuana have implemented a seed to sale tracking system. These systems are used as a means of recording inventory and movement of marijuana through the supply chain. The most popular system on the market seems to be Metrc, however there are other systems on the market. The discussion and consensus reached on the use of such a system by those with cultivation, manufacturing, and retail licenses is shown in Table 12.

Table 12

Seed to Sale Tracking System Discussion and Recommendations		
Issue	Discussion	Consensus
Should it be required?	The sense of the Commission is that it should be required especially in the beginning years and be reassessed in the future. Some felt the system could be a source of research data. Other states report this type of system reinforces to the federal government that the state is handling legalization in a responsible way.	Yes
Software	There should be one software product selected that is purchased and run by the State that must be utilized by all licensee types.	Yes
Licensee Obligation	The licensee must purchase hardware and may be charged a user fee by the state. All RFID tags would be the licensee's responsibility. They must enter data as per rules.	Yes

Recommendation 21-Any future legislation to legalize and commercialize marijuana should require that all businesses in the marijuana supply chain use a seed to sale tracking system chosen and overseen by the State of New Hampshire. All marijuana business licensees must input the specified information and may be charged a fee for use of the system.

VI. OTHER REGULATIONS CONSIDERED AND THOSE RECOMMENDED

In interviewing experts from all the states that have legalized and commercialized marijuana, it became apparent that no two have adopted regulations in the same way. We also had the

opportunity to read through the New York State⁷ and Canadian⁸ assessment reports to understand the direction those governments are going or will be heading in the future on a wide variety of issues. All of this written and verbal testimony provided the Commission with a strong basis for our decision making on all of these issues.

A. AGE LIMITS

All eight states that have legalized and commercialized have the age of legal use set at 21 years of age or older. There was some discussion that studies have shown negative effects of brain development up until the age of 25. It is evident that all these states have set this age limit to be consistent with the legal age for alcohol consumption. The Commission members felt being consistent with the other states on this matter would make things easier for enforcement and thus recommends that 21 years of age or older be the standard as the legal age for use.

Recommendation 22- Any future legislation to legalize marijuana should require that use of the smoking marijuana or extract product, ingesting of any marijuana edible, and the application of any topical ointments should only be allowed by those 21 years of age or older.

B. LEGAL POSSESSION AMOUNTS OF MARIJUANA FLOWER

For all eight states that have legalized and commercialized marijuana, the amount of marijuana flower that may be legally possessed on their person is one ounce. By inference, that means that no retail store can sell more than an ounce to a customer at a time. These states have kept the limit to one ounce in part to ensure the federal government that there are controls on the substance, since it is still an illegal drug federally. The Commission discussed that it might be best to adopt this evolving one-ounce limit standard to eliminate any confusion as users travel between states. Also discussed was that the adoption of a one-ounce limit, if legalization passes, does not match-up with our Therapeutic Cannabis program's two-ounce limit. This program has a two-ounce limit because there are only four dispensaries throughout the state and travel time to these facilities for some patients is great. If marijuana is legalized in NH, the Commission does not see a problem for those Therapeutic Cannabis users who are stopped and possess between one and two ounces, because all they have to do is show their Therapeutic Cannabis identification card which allows them to possess up to two ounces. With all of this, the Commission concluded that if legalization occurs, the possession limit should be set at one ounce. By default, that means the amount that can be purchased in any store will be one ounce.

⁷ New York State Department of Health, *Assessment of the Potential Impact of Regulated Marijuana in New York State*, (July 2018), https://www.health.ny.gov/regulations/regulated_marijuana/docs/marijuana_legalization_impact_assessment.pdf.

⁸ The Task Force on Cannabis Legalization and Regulation, *A Framework for the Legalization and Regulation of Cannabis in Canada*, The Government of Canada, Task Force on Cannabis Legalization and Regulation (Nov. 30, 2016), <https://www.canada.ca/content/dam/hc-sc/healthy-canadians/migration/task-force-marijuana-groupe-etude/framework-cadre/alt/framework-cadre-eng.pdf>.

Recommendation 23-Any future legislation to legalize marijuana should limit the possession of marijuana flower to one ounce which would mean, by default, that no more than one ounce of marijuana flower can be sold at a time at retail store to an individual.

C. LEGAL POSSESSION OF CONCENTRATES

The effects of concentrated THC are still being researched. What all the eight states that have legalized and commercialized marijuana have done is limit the possession of concentrates. The limits of possession of concentrates range from 3.5 grams in Nevada to 8.0 grams in California and Colorado. Table 13 shows the amounts of concentrate that an individual may possess and thus purchase at a retail marijuana store.

Table 13

Possession Limit: Marijuana Concentrate			
State	Possession Limit	State	Possession Limit
Alaska	7.0 grams	Maine	5.0 grams
California	8.0 grams	Nevada	3.5 grams*
Colorado	8.0 grams	Oregon	5.0 grams
Massachusetts	5.0 grams	Washington	7.0 grams
*Nevada law states 1/8 ounce which approximately equals 3.5 grams.			

There was initial discussion by the Commissioners as to what the appropriate measure for concentrates should be. We followed the lead of seven of the eight states that have legalized and commercialized and utilized grams as the measure. The Commission consensus was to recommend 5.0 grams as a reasonable amount that a person can possess to be consistent with our neighbors Maine and Massachusetts. This means by default this is the amount that a person will be allowed to purchase at a retail store in the states that have legalized and commercialized.

Recommendation 24- Any future legislation to legalize and commercialize marijuana should limit possession of concentrates to 5 grams, which would mean, by default, that no more than 5 grams of concentrate may be sold at a retail store to an individual.

D. EDIBLES: POTENCY, SERVING SIZE, AND POSSESSION LIMIT

While it is possible to limit the potency, or THC content, of edibles, there are a number of variables that undermine the effort to limit consumption. The Commission discussed whether it was worthwhile to limit the THC content in products considering there is no way to prevent individuals from shopping at multiple outlets and over-consuming. Some on the Commission still wanted to place a limit as a consumer protection. In addition, if there is ever federal action to legalize marijuana, the FDA will soon be setting standards on such things. In Canada's Final Report of the Task Force on Cannabis Legalization and Regulation, it was clear that they struggled with this issue as well:

Products containing higher levels of THC may trigger psychotic episodes in individuals at risk and may further increase the risk of harms to vulnerable populations, such as those with illness associated with psychosis. Submissions advocating THC limits rarely specified what those limits should be. A few recommended a maximum of 15% THC potency in all products, though it is unclear why this level was chosen; there was also an acknowledgement that there is insufficient evidence to identify a “safe” potency limit. Nevertheless, many saw a THC limit as a necessary precaution. There was also strong opposition from other respondents to the use of THC limits.⁹

Similar to the Canadian Task Force, the Commission members could not reach consensus on this issue.

The Commission strongly recommends, if the legislature approves legalization and commercialization of marijuana, that the issue of potency is one that needs to be followed closely through the research arm of the Cannabis Commission that is recommended to be established to oversee all aspects of legalization.

It was discussed that in Massachusetts, there is a serving size limit of 5 mg THC with a maximum total product dose of 100mg. Colorado and California have a serving size limit of 10mg THC. Alaska and Oregon have a serving size limit of 5 mg THC with a maximum retail product dosage of 50mg THC. Washington State has a serving size limit of 10mg THC with a maximum retail product dosage of 100 mg THC. It appears that many states have acted on the issue of serving size and total product limits for mg of THC.

Recommendation 25- Any future legislation to legalize and commercialize marijuana should establish a limit on the number of milligrams of THC in a serving size and total product dose.

Recommendation 26- Any future legislation to legalize and commercialize marijuana should establish a possession limit for marijuana edibles roughly equivalent to the one ounce marijuana flower possession limit.

E. LIMITS OF THC CONTENT IN DABBING CONCENTRATES

Dabbing of cannabis extracts, such as the most potent product, “shatter,” has gained popularity over the years due to its perceived efficiency in transferring the highest concentration of THC into the user’s system producing a high more quickly. When a dab of shatter is broken off and heated and the vapor inhaled, there is an instant high. It has been reported that some shatter products today can reach as high as 94% THC. There was much discussion within the

⁹ *Id.*

Commission on whether these high concentrate products should be banned. Much more research needs to be conducted on the medical and societal impacts of the availability and use of such high THC concentrates. Just as happened with the discussion of edible THC levels, the Commission could not reach consensus as to whether a cap on the THC levels in concentrates should be established. The Commission does strongly suggest that the framework of any legalization legislation should be flexible to modify regulations to adopt ever changing knowledge on this topic.

F. LIMITS ON MARIJUANA BUSINESS SIGNAGE

It was discussed by the Commission that many states that have legalized and commercialized have restrictions on storefront/ business signage. The discussion ranged from the position that there should be no restrictions to the position that the Commission recommend adoption of restrictions similar to those in Maine and Massachusetts that are very stringent. These include regulations that signs not be misleading, deceptive, or false in their claims; not have a high likelihood of appealing to persons under 21 years of age; and that signs with a company's logo may not contain medical symbols, images of marijuana, related paraphernalia, or colloquial references to cannabis and marijuana. The consensus of the Commission is that all these restrictions will lessen the allure of marijuana products to youth and help enhance acceptance by other businesses that surround the marijuana business.

***Recommendation 27-** Any future legislation to legalize and commercialize marijuana should place restrictions on the signage used by all marijuana related businesses. Signs should not be misleading, deceptive, or false in their claims; not have a high likelihood of appealing to persons under 21 years of age, including animals, cartoon characters, or other images particularly appealing to children; and logos used in signs may not contain medical symbols, images of marijuana, related paraphernalia, or colloquial references to marijuana or cannabis.*

G. LIMITS ON ADVERTISING

A survey of the eight states that have legalized and commercialized marijuana indicated that four of those states have restrictions on TV/Radio/Print advertising as shown in Table 14. In addition, a near majority of these states indicate that ads may not be false or misleading. A majority indicate that they should not promote excessive consumption or depict someone under 21 years of age consuming marijuana. It was concluded by the Commission that these types of restrictions should be adopted in any future legalization legislation. The Commission recommends that advertising on TV/Radio/Print be restricted to audiences whose make up is expected to be at least 75% individuals aged 21 years or older. The Commission also feels strongly that this apply to internet advertisement as well. There was also a discussion of advertising on billboards. The consensus of the Commission was that it may not be in the best interest of the NH state brand to allow marijuana advertising on billboards, and therefore, recommends against billboard advertising. Unlike other forms of advertising, where you can turn the page or click away from TV, radio, or internet advertisements, there is no similar way to avoid billboard messages. The Commission found no problem with a marijuana business having a website. These websites should be able to be found using the various search engines using key

words such as cannabis and marijuana. These websites should not make any claims about health and have statements about these products being only for those 21 years of age or older.

Table 14

Restrictions on Advertising Regulated by States That Have Legalized and Commercialized	
State	Restrictions
Alaska	Yes, various restrictions
California	Yes, various restrictions including limiting advertising to viewers where 71.6% of audience is expected to be 21 or older
Colorado	Yes, various restrictions including limiting advertising to viewers where 70% of audience is 21 or older ; outdoor advertising generally prohibited
Maine	Yes, various restrictions
Massachusetts	Yes, various restrictions including limiting advertising to viewers where 85% of audience is expected to be 21 or older
Nevada	Yes, various restrictions including limiting advertising to viewers where 70% of audience is expected to be 21 or older
Oregon	Yes, various restrictions including limiting advertising when 30% or more of audience is expected to be <u>under</u> the age of 21.
Washington	Yes, various restrictions

***Recommendation 28**-Any future legislation to legalize and commercialize marijuana should include a restriction on the advertising of marijuana establishments and products in TV/Radio/Print/Internet to audiences which can reasonably be expected to consist of at least 75% adults aged 21 years or older; that advertising of marijuana or marijuana related products or establishments not be allowed on billboards; and that marijuana related websites should not make claims about health and include statements that marijuana products are for those 21 years of age or older.*

H. RESTRICTIONS ON PRODUCT DISPLAYS IN RETAIL STORES

In all the testimony heard, there was passing suggestions that there be limits on how products are displayed. Specifically, there were concerns about how high-THC content products are displayed as compared to lesser strength products. After much discussion by the Commissioners, it was concluded that, as adults, purchasers would be discerning enough to not be oversold. The conclusion was that there should be no restrictions on product display within marijuana retail stores when and if legalization and commercialization occur.

I. RESTRICTIONS ON MARIJUANA PRODUCT AND PARAPHERNALIA DISPLAYS IN RETAIL STORE WINDOWS

The Commission quickly came to a consensus that no marijuana products or paraphernalia should be displayed in retail store windows. The Commission thought it would be prudent to keep these items from view of all those under the age of 21.

Recommendation 29- Any future legislation to legalize and commercialize marijuana should mandate that marijuana products and paraphernalia not be displayed in retail store windows.

J. CLOSING A POTENTIAL GIFTING LOOPHOLE

Most of the eight states that have legalized and commercialized marijuana allow a gifting of small amounts to others. However, in many of these states, companies are exploiting this provision through what they see as a gifting loophole to skirt regulation and taxation. An example of this is charging \$325 for a sandwich bag, but giving away the marijuana in it for free. In this way, regulations and taxation are skirted. The consensus of the Commission was that any future marijuana legalization language should eliminate this loophole from day one of the program. It was also agreed that this should be pursued as a tax avoidance issue, with the NH Department of Revenue Administration (DRA) involved in its prevention.

Recommendation 30- Any future legislation to legalize and commercialize marijuana should include a provision that prevents a gifting loophole from being created. In addition, the DRA should be given the enforcement authority over this tax avoidance scheme.

K. LIMITATIONS ON OUTDOOR PUBLIC PLACE USE

All eight states that have legalized have provisions in statute that disallow the smoking of marijuana or the general use of marijuana products that are conspicuous, such as vaping, in outdoor public places. There was a quick consensus reached by the Commissioners that the outdoor smoking of marijuana flower or the vaping of concentrates in any outdoor public space should be illegal. This will protect the rights of all other citizens by not subjecting them to inhalation of marijuana fumes. In addition, when it comes to vaping of concentrates being restricted in public outdoor places, these restrictions will prevent citizens young and old from having to watch as dabbing occurs. However, the Commission concluded that the ingestion of edibles in outdoor public places should be allowed since any restriction would be unenforceable.

Recommendation 31- Any future legislation to legalize and commercialize marijuana should have provisions that ban smoking or vaporizing marijuana or marijuana products in all outdoor public places.

L. LIMITATIONS ON INDOOR PUBLIC USE

There are similar restrictions on smoking marijuana flower or vaping in indoor public places, as there are in outdoor public places, in legal states. All the same arguments were made by the other states as well as the same discussion had by the Commissioners. These limitations certainly mirror restrictions on indoor public place tobacco smoking that have been existence for many years now. The consensus of the Commission on this was reached very quickly, however, once again it was concluded that the ingestion of edibles in indoor public places should be allowed since any restrictions would be unenforceable.

Recommendation 32- Any future legislation to legalize and commercialize marijuana should have provisions that ban smoking or vaporizing marijuana or marijuana products in all indoor public places.

M. LIMITS ON HOURS OF OPERATION FOR RETAIL STORES

It appears that in other states that have legalized, the retail stores are not open 24 hours a day. The actual hours of operation vary state to state and in some cases municipality to municipality. We heard testimony from industry experts that all marijuana retail stores are not interested in being open 24/7. The consensus of the Commission is that there should be restrictions on the hours of operation, but that actual hours of operation limitations should be by local ordinance. However, local ordinance should not restrict the days of week in which the retail stores are open or restrict the hours of operation in a given day to below 12 hours.

Recommendation 33- Any future legislation to legalize and commercialize marijuana should state that retail stores can be open seven days a week and may be open at least 12 hours a day. It should also allow local municipalities to restrict hours beyond 12 hours and also allow stipulation of opening times or closing times via local ordinance.

N. TAMPER PROOF, CHILD PROOF, AND RESEALABLE PACKAGING

Early marijuana legalization and commercialization states such as Colorado experienced many child emergency room visits due to the accidental consumption of marijuana edibles when legalization was first implemented. Since then, their statutes were modified to ensure that all edible products were packaged in tamper proof, child proof, and resealable containers. In addition, there was more education offered via public service announcements on safe storage to prevent child accidental use. There was quick consensus by the Commission that any future legislation should adopt a provision mandating tamper proof, child proof, and resealable packaging.

Recommendation 34- Any future legislation to legalize and commercialize marijuana should have a provision that mandates tamper proof, child proof, and resealable packaging be utilized for all edible products.

O. USE OF A RECOGNIZABLE MARIJUANA WARNING SYMBOL ON PACKAGING

States that have legalized and commercialized marijuana, and even states with just medical marijuana, have come up with a warning symbol indicating that THC or other marijuana compounds are contained within. This symbol is made known to the public through public service announcements. This warning symbol usually appears on all packaging, signage, and advertisements. There was consensus by the Commission that any future legalization and commercialization legislation have a provision that such a symbol be created or adopted and utilized. Some Commissioners suggested exploring the green cross symbol which has begun to gain recognition as the universal symbol for marijuana. Other Commissioners felt that symbol implied there were medical benefits in all these products, which is debatable.

Recommendation 35- Any future legislation to legalize and commercialize marijuana should stipulate that NH adopt a recognizable symbol that indicates that THC or other marijuana compounds are contained within. The legislation should also stipulate that this symbol shall appear on all packaging, signage, and advertisements.

P. RESTRICTIONS ON OPEN CONTAINER OF MARIJUANA OR MARIJUANA PRODUCTS IN A MOTOR VEHICLE

There was much discussion by the Commissioners on the issue concerning how best to enforce laws against open containers of marijuana flower or edibles being kept within a vehicle. To avoid enforcement confusion, the consensus was that all marijuana products in opened or closed containers be kept in the trunk of a car or another secure location of other vehicle types. The consensus was that no marijuana in loose, edible, or concentrate form or related paraphernalia should be allowed within the passenger compartment of any vehicle.

Recommendation 36- Any future legislation to legalize and commercialize marijuana should include a provision that no marijuana in loose, edible, or concentrate form or related paraphernalia should be allowed within the passenger compartment of any motor vehicle. Such items should be stored in a secure location within the vehicle.

Q. LABELING REQUIREMENTS FOR ALL MARIJUANA PRODUCTS

Through the lessons learned from the early states to legalize and commercialize marijuana, including the manufacturing of edible and concentrate products, most states that have legalized have come up with guidelines for labeling edible and concentrate packaging in addition to marijuana flower packaging. The general consensus of the Commission is that the packaging of any edible, concentrate, or marijuana flower should not use characters, symbols, or names similar to those identified by children or adolescents. In addition, packaging should be opaque and identify the levels of THC and CBD that are contained within.

Recommendation 37- Any future legislation to legalize and commercialize marijuana should include a provision that all marijuana products, whether loose, edible, or concentrates, should be sold in opaque packages that do not use characters, symbols, or names similar to those identified by or appealing to children or adolescents. The packaging should also have the THC and CBD levels identified.

R. RESTRICTIONS ON INTERNET SALES

There was discussion that internet sales would lead to sales of product to customers in other states, which would be illegal given the current federal law. However, given we live in an internet sales world, many of the Commissioners did not want to restrict commerce. This led to a discussion of how the marijuana products would be transported once sold. Therefore, it becomes imperative that retailers police themselves in taking orders from customers living in NH only. The enforcement arm of the recommended Cannabis Commission would be the agency responsible for ensuring that internet sales are restricted to NH customers and that the marijuana products are being transported legally. Certainly, the U.S. Postal Service could not be involved because of the federal issues. This would lead to the retailers or another delivery service being

utilized. This sets up the need potentially for a marijuana product transport license for those independent transport companies. If those with a retail license do the deliveries using their vehicles and employees, it is important that the retail license include transportation not only between them and the manufacturer or the cultivator, but also between them and customers within NH. The other issues surrounding internet sales is proof that the customer is 21 years of age or older. A mechanism for proof of age would need to be worked out before internet sales should be allowed.

Recommendation 38- Any future legislation to legalize and commercialize marijuana should not restrict internet sales but should reinforce that those sales need to be restricted to customers that are 21 years of age or older living in NH. In addition, the products being transported from the retailer to the customer must be done by the retailer and allowed by language in the retail license that will allow transportation of this type or by a third-party transporter which may require a fifth type of license be created, namely a transport license. The enforcement division of the recommended Cannabis Commission would need to be responsible for ensuring that internet sales were to those living in NH, that those purchasing these marijuana products are 21 years of age or older, and that the proper transportation license is possessed by those transporting.

S. REQUIRING SECURITY AND VIDEO SURVEILLANCE

Testimony from those individuals interested in establishing a marijuana business in NH all agreed that security and video surveillance is a must to ensure theft of product does not occur at any point in the supply chain. Many members of the Commission argued that this should be a business decision left to the license holders for cultivation, manufacturing, and retail activities. Other members argued that if these businesses want insurance, that video surveillance would be a must. There was also discussion of diversion by owners to avoid taxation by selling to the black market. This was a concern of the NH Department of Revenue Administration. There were counter arguments that any inside job by owners related to diversion would see those tapes being altered by those committing the crime. The Commission concluded that video surveillance need not be mandated in statute. Simply stated, these businesses will be required to track product via a seed to sale system. If this system detects missing product, the licensees know that one key way to identify why product is missing is through video surveillance. Good business practice would dictate that the installation of video surveillance is a must. The Commission did not see the need to mandate something that will be adopted by these businesses on their own as a best practice.

Recommendation 39- Any future legislation to legalize and commercialize marijuana should not mandate security and video surveillance. All license holders along the supply chain would recognize this as a good business practice without a mandate from government.

T. RESTRICTIONS ON FREE SAMPLES

The Commission addressed the issue of free samples in a fairly quick discussion. Some Commissioners brought up that beer or wine tasting is allowed for free and thus why not marijuana sampling for free. The consensus was that allowing free samples to customers was not

a good idea. The logic being, sampling beer or wine is done not to get high, but for the taste of the products. With marijuana samples, it would be solely for potency testing reasons.

Recommendation 40- Any future legislation to legalize and commercialize marijuana should mandate that free samples of any marijuana product not be allowed.

U. REQUIRING PROOF OF AGE

The discussion on proof of age centered on it being a requirement for the purchase of alcohol and tobacco products. A quick consensus was reached that all customers purchasing any marijuana related product must show an acceptable legal identification, as defined under the alcohol statutes, not only to purchase a product but to be allowed in a retail store.

Recommendation 41- Any future legislation to legalize and commercialize marijuana should mandate that before anyone is allowed into a marijuana retail store, that an acceptable form of legal identification be presented proving that the customer is 21 years of age or older.

V. RESTRICTIONS ON PRIZES

The Commission quickly agreed that because marijuana products are potentially addictive, no promotional giveaways should be allowed. There was no dissenting opinion among Commission members.

Recommendation 42- Any future legislation to legalize and commercialize marijuana should mandate that no promotional giveaways of marijuana products or promotional products of any kind be allowed.

W. RESTRICTIONS ON MARIJUANA-INFUSED ALCOHOL

The Commission was informed that marijuana-infused alcohol products were being experimented with in other states that have legalized and commercialized marijuana. It is common knowledge that major beer companies are poised to come out with these types of infused products. In the current federal environment, a major company would have to manufacture the product in the state it is sold. However, with the number of small and micro-breweries operating in NH, some may want to experiment with these types of products. These brewers would have to obtain a marijuana manufacturing license, purchase the ingredient from someone with a NH cultivation license, and sell through a retail store that has a NH marijuana retail store license and appropriate liquor license. These types of products would blur the line between alcohol and marijuana regulation. It should be noted that some states that have legalized and commercialized marijuana have prohibited marijuana licensees from selling alcohol.¹⁰ Some argued that this is not an immediate issue that should be taken up in any legislation that would be proposed in the short-run and will become more of an issue if the federal government changes its stance on the whole legalization question. A definitive

¹⁰ See, e.g., Colo. Rev. Stat. § 44-12-402(7)(b) (2018). “A licensed retail marijuana store may not sell any retail marijuana or retail marijuana products that contain nicotine or alcohol, if the sale of the alcohol would require a license. . . .”

consensus of the Commissioners could not be reached. Therefore, no formal recommendation will be forthcoming. However, this is something the recommended Cannabis Commission Advisory Board should take up as an issue if a legalization and commercialization of marijuana bill were to be passed.

Recommendation 43- *If a marijuana legalization and commercialization bill is passed and signed into law, the recommended Cannabis Commission Advisory Board should take up the issue of marijuana-infused alcohol products.*

X. RESTRICTIONS ON MARIJUANA-INFUSED TOBACCO OR CAFFEINE PRODUCTS

The Commission heard testimony that it is common practice for marijuana users to roll a cigarette using both loose tobacco and marijuana. It was concluded by the Commission that this practice will continue if a legal market is established. However, the Commission is aware that the big tobacco, coffee, and tea companies are poised to enter this market as well. The Commission felt that since we are not a state that cultivates tobacco, coffee beans, or tea leaves, and since marijuana is still illegal federally, the issue of large-scale production of these products infused with marijuana is not an issue that needs to be addressed in any initial legalization and commercialization legislation. It should be noted that some states that have legalized and commercialized marijuana have prohibited marijuana retail licensees from selling tobacco or nicotine products.¹¹ Some Commissioners were concerned that in the long run and if the federal position changes on legalization, that large tobacco companies would enter the market and hurt the many of the local license holders. A definitive consensus was not reached by the Commission on this issue. But like the alcohol issue, the Commission does recommend that if a legalization and commercialization bill were to be passed, that the recommended Cannabis Advisory Board take up this issue.

Recommendation 44- *If a marijuana legalization and commercialization bill is passed and signed into law, the recommended Cannabis Commission Advisory Board should take up the issue of marijuana-infused tobacco and caffeine products.*

VII. TAXATION, EXPENSE OF REGULATION, AND NET CONTRIBUTION TO THE GENERAL FUND

The Commission has done much research and analysis on the topic of taxation. From our discussions with the eight states that have legalized and commercialized marijuana, it is clear that there is a price sensitivity to sales on the legal market versus the black market (illegal sales). The evidence is clear that if the legal products are taxed at too high a level, it will become difficult to remove the black market for marijuana. The State of California was the most vocal on this. They have allowed municipalities to tax marijuana on top of the state tax. As

¹¹ See, e.g., 935 Mass. Code Regs. 500.140(5)(d) (2018). “A retailer is prohibited from selling marijuana products containing nicotine.”

municipalities seek more revenue to pay for local projects and programs it has become an easier action to increase this sin tax rather than increase property taxes to raise additional revenue. Because all politics is local, it is hard to get 80 Assemblymen to agree on marijuana taxation reform. Fortunately, New Hampshire is not a local control state, so this issue of controlling the tax rate will not be a local issue, but one that the State Legislature must be very careful of as it sets the final tax rates.

A. TAX STRUCTURES AND RATES IN OTHER STATES THAT HAVE LEGALIZED AND COMMERCIALIZED

The tax rates set on marijuana by the eight states that have legalized and commercialized are shown in Table 15. States have chosen to tax marijuana at the wholesale level, the retail level, or a combination of the two approaches.

Table 15

Taxation Approach and Rates by States That Have Legalized and Commercialized Marijuana	
State	Description
Alaska	\$50/ounce excise tax on marijuana sold at wholesale
California	A cultivation tax of \$9.25 per ounce for flowers and \$2.75 per ounce for leaves; plus, municipal sales taxes allowed of differing rates
Colorado	A 15% excise tax is levied at the wholesale level and a separate 15% special sales tax applies to retail sales
Maine	10% sales tax
Massachusetts	Overall tax rate can be up to 20%; retail sales tax will be 10.75%; local governments may impose a local sales tax not to exceed 3%
Nevada	15% excise tax on wholesale; 10% retail sales tax
Oregon	There is a 17% state sales tax collected at the point of sale on all marijuana and marijuana related products; Local governments may impose a local sales tax not to exceed 3%
Washington	37% excise tax on all sales of marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products collected by retailers at point of sale

B. NEW HAMPSHIRE MARIJUANA TAX STRUCTURE

The Commission heard much testimony from the NH Department of Revenue Administration (NHDRA) which also helped us with the revenue estimates in the next section. The Commission narrowed the tax structure down to either a wholesale excise tax at the cultivation level and/or a sales tax at the retail level.

The argument given against a wholesale tax at the cultivation level is that it will hurt our growers down the road if the federal government changes its position on legalization, allowing cross-

border sales to occur. If, at that time, a NH grower wishes to sell product in a state that only taxes at the retail level, the New Hampshire grower's price may be higher than the price of marijuana offered by growers from other states without the wholesale excise tax which gets added to the cost of the production. As of the writing of this report, this is not an issue. The NHDRA, however, stated that collecting the tax at the wholesale level would be less resource intensive because it is estimated that there will be fewer cultivation licenses than retail licenses. This means that the NHDRA will require fewer staff to administer the tax. In addition, a wholesale excise tax at the cultivation level would generate revenues not influenced by the fluctuations of the actual retail price of the products. This would be most like the NH road toll, better known as the gasoline tax, which is set at 22.2 cents per gallon and collected at the wholesale level.

The issue for NH is grappling with any type of sales tax from a political standpoint. In addition, the bigger issue with taxing at the retail level with a sales tax is that many edible marijuana-infused products have counterparts. There may be a NH Constitutional issue of taxing a marijuana-infused cookie and not an Oreo cookie, for instance. They are both cookies but with different ingredients. The Commission did not have the time or resource to pursue this question other than through the Chair, who had informal discussions with the NH Supreme Court, which said that even giving guidance before legislation is passed would require briefs to be presented on both sides of the issue.

It appears that a wholesale excise tax at the cultivation level would be the way to proceed in the short-run, while monitoring whether the federal government will allow product sales across state lines in the future and allowing time for those proponents of legalization to get an opinion from the NH Supreme Court on the issue of a sales tax on edible products.

Recommendation 45- Any future legislation to legalize and commercialize marijuana should incorporate a wholesale excise tax at the cultivation level. At the same time, an opinion from the NH Supreme Court should be requested on the Constitutionality of taxing a similar product with different ingredients in a different fashion.

C. MARIJUANA TAX RATE RECOMMENDED RANGES

The Commission determined that it would be best to select a tax rate that would keep NH competitive with other states in the region, to aid in removing the black market, and to generate enough revenue to pay for oversight of the program as well as pay for education as well as marijuana addiction and treatment programs. The Commission thought that the main reason for legalization should not be funding other programs within state government. However, if legalization and commercialization of marijuana is done efficiently and successfully, surplus revenues will more than likely be generated that will flow into the general fund. In seeing what other states have done and reviewing the recently published New York State report on the topic, the commission recommends rates as shown in Table 16.

Table 16

Suggested Marijuana Tax Rate Ranges			
Type of Tax	Low	Mid	High
Retail Sales Tax	7.0%	11.0%	15.0%
Wholesale Excise Tax (Projected to produce revenue approximately equivalent to 7% Sales Tax)	\$23.00/ oz.	\$24.50/ oz.	\$26.00/ oz.
Wholesale Excise Tax Based on 15% Sales Tax (Projected to produce revenue approximately equivalent to 15% Sales Tax)	\$50.00/ oz.	\$53.00/ oz.	\$56.00/ oz.

The Commission concluded that a retail sales tax rate range of 7.0-15.0% would be appropriate. At 7.0%, the basic costs of supporting regulation, education, addiction prevention, and addiction treatment would be met as will be seen in section E. The revenue generated from a sales tax above 7.0% up to 15.0% will be available to support other state budget needs. If a wholesale excise tax is employed, a range of \$23.00-\$56.00 per ounce would be appropriate. At the \$23.00 per ounce level, the basic costs of supporting regulation, education, addiction prevention, and addiction treatment would be met. The revenue generated from a wholesale excise tax above \$23.00 per ounce up to \$56.00 per ounce will be available to support other state budget needs. Where in the range these taxes should fall is up to the legislature, primarily based on how much additional revenue from taxing marijuana they want to raise to support other budget needs.

Recommendation 46- Any future legislation to legalize and commercialize marijuana should incorporate a wholesale excise tax rate between \$23.00 and \$56.00 per ounce. If a sales tax on marijuana edible products is deemed constitutional, that tax rate range should be 7.0-15.0%.

D. ESTIMATED REVENUES FROM MARIJUANA TAXATION

There are many variables at play when it comes to estimating marijuana revenues. Most of these variables are based upon estimates. The key variables are the number of residents who will use marijuana products, the number of ounces per year each user will consume, and the actual price of the products being sold. If a wholesale excise tax is utilized, it does not matter what price the marijuana products are sold for, but revenue would primarily be driven by how many marijuana users purchase products on the legal market and how much they consume.

As part of our work, the Commission examined a recently published New York State report on regulated marijuana. The New York State report included marijuana tax revenue estimates utilizing a unique methodology that considered factors such as the number of expected marijuana users, average yearly consumption, and retail sales price. The estimates and statistics utilized in the New York Study were specific to New York State. However, the methodology utilized in the New York report was replicable utilizing New Hampshire statistics and estimates. The Commission requested that the NHDRA replicate the New York State methodology utilizing New Hampshire statistics and Table 17 shows a summary of the analysis conducted by the NHDRA.

Table 17

Summary of Assumptions & Adjustments for Calculation of First Year Potential NH Marijuana Tax Revenues Based on NY Methodology¹		
<u>Consumers of Marijuana</u>	Low	High
Estimated Number of NH Residents Ages 20+ Using Marijuana ²	130,000	130,000
Tourism Factor ³	1,563	1,563
<i>Total Estimated Consumers of Marijuana (Line 1 + Line 2)</i>	<i>131,563</i>	<i>131,563</i>
<u>Amount and Price of Marijuana</u>		
Ounces Used per Year per Person	5.0	7.9
Estimated Ounces Consumed Annually (Line 3 x Line 4)	657,815	1,039,348
NH Price per an Ounce ⁴	\$ 302	\$ 337
<i>Total Illegal Market Sales (Line 5 x Line 6)</i>	<i>\$ 198,660,130</i>	<i>\$ 350,260,175</i>
<u>Estimated Legal Market Price</u>		
Increase Price by 10% per an Ounce (Line 6 x 110%)	\$ 332	\$ 371
<i>Total Legal Market Sales* (Line 5 x Line 8)</i>	<i>\$ 218,526,143</i>	<i>\$ 385,286,192</i>
<u>Estimated Retail Tax Revenue</u>		
7% Retail Tax (New York Medical Marijuana Tax) (Line 9 x 7%)	\$ 15,296,830	\$ 26,970,033
15% Retail Tax (Estimated New York Tax) (Line 9 x 15%)	\$ 32,778,921	\$ 57,792,929
<u>Converting Retail Tax into a per Ounce Wholesale Tax</u>		
Maintaining Revenue of a 7% Retail Tax (Line 10 / Line 5)	\$ 23	\$ 26
Maintaining Revenue of a 15% Retail Tax (Line 10 / Line 5)	\$ 50	\$ 56

References¹ https://www.health.ny.gov/regulations/regulated_marijuana/docs/marijuana_legalization_impact_assessment.pdf² <https://www.census.gov/quickfacts/fact/table/nh,ny/PST045217#viewtop>² <http://samhda.s3-us-gov-west-1.amazonaws.com/s3fs-public/field-uploads/2k15StateFiles/NSDUHsaeShortTermCHG2015.htm>³ <https://www.ahla.com/statefacts>⁴ <http://www.priceofweed.com/prices/United-States/New-Hampshire.html>

*Total Legal Market Sales does not factor in a 5% increase in non-price effect of legalization, nor does it factor in the price elasticity

Prepared by NH Dept. of Revenue Administration 9/10/18

NHDRA derived the statistics for the analysis from the same sources utilized in the New York State study. Utilizing U.S. Census data and drug use statistics from the 2016 National Survey on Drug Use and Health, NHDRA estimated that there would be 131,563 residents who would use products sold at NH retail marijuana stores. Based upon a variety of studies, it is estimated that between 5.0-7.9 ounces would be consumed per user per year. An estimated retail price of between \$332-371 per ounce was utilized based upon available statistics. At the low end of taxation, the state revenue can range from \$15,296,830 to \$26,970,033; and at the high end of taxation, the state revenue can range from \$32,778,921 to \$57,792,529.

The amount of tax revenue ultimately realized from legalization, regulation, and taxation will depend largely on how the character of the legalized market compares to the estimates and assumptions utilized in arriving at the above estimate. For example, the NH marijuana use statistics were gathered in 2016 when marijuana was illegal and before the legislature decriminalized small quantities of marijuana. The number of individuals in NH using marijuana may vary in a legal and regulated market. Similarly, the ounces utilized by individuals may also vary in a legal and regulated market. Lastly, to the extent NH adopts a tax on marijuana at the retail level, fluctuations in the price of marijuana may materially impact the amount of revenue realized by the state. The experience reported by other states exemplifies the price volatility that can be experienced in the retail marijuana market, with things like quality, surrounding markets, demand, environmental and weather conditions, and supply (or oversupply) materially impacting the retail sales price of legal marijuana.

E. EXPENSE OF LEGALIZING AND COMMERCIALIZING MARIJUANA

The Commission was interested in developing a range of costs associated with the legalization and commercialization of marijuana. To some degree, this is difficult to do until we understand how many licenses for cultivation, manufacturing, and retail stores will be issued. With that said, the Commission wanted to make sure the tax rates stated will cover the cost of administering the licenses, enforcing license requirements, conducting research on the effects of legalization, educating the public on the safe use of marijuana, and substance misuse prevention, education, and treatment services. A rough staffing analysis was conducted, more as a sensitivity analysis, to see if these costs would not exceed the lowest revenue estimates. Table 18 shows a summary of this analysis. With our best estimates, it appears that 75-100 full-time equivalent positions (FTEs) will be required to properly perform the functions listed above. This translates to \$6.4M- \$8.9M in salaries and benefits. The total cost range, when the other indirect costs not estimated as salaries and benefits are included, is estimated at \$9.9M-\$13.3M.

Just like with liquor enforcement, these costs contemplate a fairly good-sized complement of sworn officers within the Cannabis Commission budget. There may be an incremental impact on local police departments' costs due to legalization but most suspicious activities will be forwarded to the enforcement arm of the Cannabis Commission to deal with. However, with legalization of possession of one ounce, there will also be a more limited scope of arrestable offenses.

In testimony, other states noted that it would be important to consider startup costs. There will be costs associated with establishing the Cannabis Commission, commencing the licensing process, establishing a seed to sale system, and other startup needs. The Commission estimates these costs to be in the range of \$2-3 million in the first year. Funding for these costs will need to be appropriated from the general fund because marijuana tax revenues will not be generated during this time.

Recommendation 47: Any future legislation to legalize and commercialize marijuana should tax marijuana and marijuana products at a rate that will cover the costs of administering the program and recognize the additional resources necessary for public education and substance misuse prevention, education, and treatment services.

Recommendation 48: Any future legislation to legalize and commercialize marijuana should include an appropriation for startup costs in the range of \$2-3 million.

Table 18

Estimate of Costs Associated with the Legalization and Commercialization of Marijuana (Shown in Thousands)							
Department	Functions	FTEs		Salary & Benefits		Total Expense	
		Low	High	Low	High	Low	High
Commissioner's Office	Oversight	3	3	\$63	\$63	\$97	\$97
Cannabis Commission	Licensing Enforcement Research Education	28	38	\$2,877	\$3,904	\$4,430	\$6,012
Department of Revenue Administration	Taxation	2	4	\$164	\$327	\$253	\$504
Department of Health and Human Services*	Research Education Prevention Treatment	34	42	\$2,618	\$3,234	\$4,032	\$4,981
Department of Agriculture, Markets and Food	Pesticides Weights and Measures	1	2	\$77	\$154	\$119	\$238
Department of Administrative Services	Payroll Human Resources IT	4	5	\$339	\$424	\$521	\$652
Unknown	Other	3	6	\$264	\$528	\$407	\$813
Totals		75	100	\$6,402	\$8,634	\$9,859	\$13,297
*The estimated costs for DHHS FTEs and related salaries and benefits may be converted to costs for contracted employees and fees or a combination yielding the same total cost range above.							

F. REVENUE VERSUS EXPENSE SENSITIVITY

The revenue analysis does not include any estimates of revenue from application or license fees. Therefore, the Commission understands the revenue estimates are understated. This analysis was done to see if revenues would meet the expense of legalization and commercialization. The high end of the calculated expenses totaled \$13.3 million, \$2 million below the low end revenue estimate of \$15.3 million. This means that there is a \$2 million buffer if revenues were over-estimated or a \$2 million buffer if expenses exceed the estimates. If both those estimates were correct, there will be \$2 million additional that can be added to the general fund or as a source of additional revenue for addiction prevention and treatment.

The maximum revenue estimate is \$57.8 million. This means that there is upwards of \$42.5 million in additional revenue that can be generated. Until the program is actually implemented, it will not be known how much actual revenue will be available for the general fund. From a sensitivity analysis standpoint, even if one were to argue that the high end of the revenue estimate is too high and take 50% of the additional revenue out of the equation, that still leaves \$21.25 million that will be available for the general fund to fund other programs of state government or to reduce tax rates of other revenue streams.

The conclusion of the Commission is that the recommended tax levels will more than meet the needs of all aspects of legalization and commercialization of marijuana, provided the revenue is not diverted.

VIII. HOME CULTIVATION OF MARIJUANA

Most states allow home cultivation as part of legalization and commercialization of marijuana. However, the Commission has been warned by most states to make sure the statutes are very clear and have a cap of not just the number of plants per individual, but also by household to avoid the operation of cooperative grows. Cooperative grows take hold where an experienced grower takes responsibility for growing plants for a number of individuals under the guise of home growing. In some cases, a home is stripped of its interior and, while considered a residence, is actually used primarily or exclusively for growing marijuana. This has evolved in some states into a front for illegal operations run by organized crime and even the drug cartels. Washington State used to allow home grow but no longer does due to abuses early on.

In addition, many states have warned that allowing too many homegrown plants will eat into the commercial market's viability. With this as background, the Commission analyzed other states' approaches to home cultivation and determined what may be the optimal approach for New Hampshire.

A. NUMBER OF PLANTS ALLOWED

As a starting point to this discussion, the Commission conducted a survey of how the eight states that have legalized and commercialized have handled the issue. The results are shown in Table 19.

Table 19

Maximum Number of Total Plants and Mature Plants Allowed per Individual and Household				
State	Individual		Household	
	Total Plants	Mature Plants	Total Plants	Mature Plants
Alaska	6	3	12	6
California	6	N/A	6	N/A
Colorado	6	3	12	N/A
Maine	12*	3	N/A	N/A
Massachusetts	6	N/A	12	N/A
Nevada	6	N/A	12	N/A
Oregon	4	N/A	12	4
Washington	Home Cultivation Prohibited			
*Maine law specifies that an individual may possess an unlimited number of seedlings.				

There was much discussion among the Commission members surrounding a measure of how much home-grown marijuana should be allowed. The discussion revolved around mature plants (flowering) and immature plants (non-flowering). First and foremost, the early consensus was that home grow should be allowed. However, all agreed that the number of plants needed to be limited primarily to ensure that home grows would not harm the commercial market where taxes are generated to fund addiction prevention and treatment. There was a suggestion that a weight standard be utilized, but it became clear after discussion that this would be too hard to enforce. The final consensus was to allow 6 total plants per individual of which 3 could be mature. In addition, it was agreed to allow 12 total plants per household of which 6 can be mature. This is somewhat consistent with the states that have legalized and commercialized.

Recommendation 49- Any future legislation to legalize and commercialize marijuana should allow for home cultivation with a limit per individual of 6 total plants of which 3 can be mature and a limit per household of 12 plants of which 6 can be mature.

B. LIMITS ON SITE OF HOME-GROWN MARIJUANA

The Commission agreed that home-grown marijuana can be cultivated indoors or outdoors. Consistent with what we learned from the other states, two restrictions should be required. The first restriction is that plants should not be visible to the public, especially outdoors. The Commission agreed, in fairness to neighbors who may not agree with the practice, this restriction was necessary. The second restriction is that plants need to be grown in a secure location. This means they should be locked away, so that those under 21 years of age cannot get to them and to protect them from theft. The Commission also agreed for those reasons that this restriction makes sense.

Recommendation 50- Any future legislation to legalize and commercialize marijuana that allows home cultivation should require that all plants not be visible to the public and that all plants be grown in a secure location.

C. BAN ON HOME EXTRACTION OF CONCENTRATES USING BUTANE OR OTHER FLAMMABLES

The Commissioners heard much testimony from other states who reported numerous home explosions caused by the use of butane in the extraction of concentrate process. As a result, many states have included statutes to prohibit the use of butane for extraction. The Commission also heard testimony that a non-flammable carbon dioxide process is now being used which is a much lower risk approach. After further discussion, the Commission agreed to ban the use of not only butane in the home extraction process, but to ban any process that involves flammables.

Recommendation 51- Any future legislation to legalize and commercialize marijuana that allows home cultivation should ban the use of butane or any other flammable in the extraction of concentrate process.

IX. Co-Existence of the Therapeutic Cannabis Program and Legal Adult Use

The New Hampshire legislature authorized the Therapeutic Cannabis Program (TCP) in 2013, and its administration is the responsibility of the NH Department of Health and Human Services (DHHS). As of June 30, 2018, the program had nearly 6,500 registered qualifying patients, more than 400 registered caregivers, and nearly 1,000 participating medical providers. NH law allows for a maximum of four licensed Alternative Treatment Centers (ATCs) for the cultivation, production, and dispensing of therapeutic cannabis. Three not-for-profit entities were awarded the four licenses. This Commission visited one of the ATC's dispensaries and heard testimony from representatives of all three entities. As NH considers the potential legalization and commercialization of marijuana for adult use, it will be important to examine the state's TCP for areas of alignment, conflict, redundancy, and best practice, as well as to ensure that this valuable program remains viable alongside an adult use program in the state. It is recommended that NH consider policies that could potentially lessen negative impacts on the NH TCP resulting from the implementation of an adult use program.

The major concern heard from the ATCs was that legalization and commercialization of marijuana may negatively impact their businesses in the long run. States that have legalized adult use programs have seen participation in their medical programs decline. Representatives from DHHS, Therapeutic Cannabis Program, shared this concern. There are administrative hurdles for patients within the therapeutic program that would likely not be present in an adult use market, thus making it easier and perhaps cheaper to navigate. There continues to be stigma related to cannabis use for medical purposes, and some potential patients may not want to discuss their interest in cannabis as a potential therapy with their doctor and may prefer to self-medicate using products available in the adult use market. Some qualifying patients may choose to avoid being in a "state database." Some current patients may be primarily "recreational users" who happen to have a qualifying medical condition. Other factors like convenience of location, price, and product variety may encourage therapeutic patients to leave the program as well. If this were to happen, the ATC's volume of sales may be reduced, making it difficult for the dispensary, and thus the program at large, to remain viable. Specific policy differences between

the two programs could limit the transition of patients away from the therapeutic program (e.g., higher possession limits, higher potency limits, exemption from sales taxes, access for those younger than 21 years old, new qualifying medical conditions, etc.). In addition, allowing the existing ATCs to enter the adult use market may contribute to their remaining viable. All of the ATCs expressed an interest in participating in the adult use program as well.

A. ORGANIZATION OF THE NH TERAPEUTIC CANNABIS PROGRAM IF AN ADULT USE MODEL IS IMPLEMENTED

The issue of how best to administer the Therapeutic Cannabis Program in the event of full legalization was discussed at length by the Commission. The conclusion was that it would be cleaner to set up the adult use model with its own Cannabis Commission under the Governor and to keep the Therapeutic Cannabis Program under DHHS, organizationally unchanged, at least in the short term. While future consideration of a pathway to move the Therapeutic Cannabis Program organizationally under the Cannabis Commission is not unreasonable, representatives from DHHS, Division of Public Health Services, indicated that there is considerable merit in keeping the program within Public Health so that the state can continue to address therapeutic use within the context of equity, access to care, and product safety. Any future transition considered to address redundancy of administration and operations and alignment requirements would be informed by the evolving development of both programs. In addition, the issues that will be discussed in the next two sections will play a part in the timing of any potential transition.

***Recommendation 52-** Any future legislation to legalize and commercialize marijuana should adopt the adult use structure recommended earlier, which features a Cannabis Commission with a direct report to the Governor, and keep the Therapeutic Cannabis Program separate under the Department of Health and Human Services. The possibility of moving the Therapeutic Cannabis Program under the organizational structure of the Cannabis Commission should be considered at a later time, with the input of both the Cannabis Commission and the Department of Health and Human Services.*

B. THERAPEUTIC CANNABIS LICENCEES APPLYING FOR ADULT USE LICENSES

The Commission heard testimony from the head of the Charitable Trust Division of the NH Attorney General's Office regarding the not-for-profit status of the existing Alternative Treatment Centers for the Therapeutic Cannabis Program. NH law requires that ATCs be not-for-profit entities which are registered as charitable trusts with the NH Attorney General's Office. The Attorney General's Office stated that it would be problematic for these operators to also be licensed to operate in the for-profit adult-use market from a corporate structure standpoint. There would be a comingling of assets, expenses, and revenues that would require extensive oversight. From the conversation with the head of Charitable Trust Division, it became clear to the Commission that if lawmakers want to allow the ATCs to also participate in the adult-use market under the same corporate name, they would need to create a pathway for the ATCs to become for-profit organizations. To dissolve as a not-for-profit organization, assets would have to be sold and debts paid off with any surplus turned over to the state which would

donate it to charities. Other states such as Massachusetts have provided such a pathway. Once the ATCs have relinquished their charitable trust status, they will be permitted to apply for adult use licenses as for-profit entities. If the legislature chooses to remove the requirement for non-profit status for the ATCs, the funding structure of the Therapeutic Cannabis Program will need to be reevaluated. Moving the Therapeutic Cannabis Program to a for-profit model will allow these organizations to raise capital in many different ways.

Recommendation 53- Any future legislation to legalize and commercialize marijuana should consider a pathway for the Alternative Treatment Centers licensed by the Therapeutic Cannabis Program to transition from not-for-profit charitable trusts to for-profit entities able to enter the adult use market.

C. THE CO-LOCATION OF THERAPEUTIC CANNABIS PROGRAM DISPENSARIES WITH ADULT USE RETAIL STORES

The Commission grappled with the concept of a Therapeutic Cannabis Program dispensary being co-located with an adult-use retail store. The regulations for adult-use retail stores will restrict anyone under the age of 21 from even being in the store. In contrast, the Therapeutic Cannabis Program sees patients under the age of 21 who have a therapeutic cannabis card in their dispensaries. Also, the Therapeutic Cannabis Program has strict confidentiality regulations and strict security regulations. The Commission's consensus was, to the extent that the Therapeutic Cannabis Program's dispensaries can enter the adult use market, to allow both operations in the same building, provided that the building be partitioned with one door leading to the Therapeutic Cannabis Program side, requiring a Therapeutic Cannabis card to be shown upon entry, and another door leading to the adult-use side, requiring a valid identification proving the customer is 21 years of age or older, to be shown upon entry. Other requirements contained in the Therapeutic Cannabis law and administrative rules will need to be reviewed, evaluated, and perhaps changed so that co-location is possible.

Recommendation 54- Any future legislation to legalize and commercialize marijuana which has set up a structure permitting both a Therapeutic Cannabis Program dispensary and an adult-use retail store to be co-located should have a requirement that the building be partitioned and have a separate entrance for the Therapeutic Cannabis Program patients to enter and another for the adult-use retail customers to enter, in order for, among other things, the confidentiality of therapeutic patients to be maintained.

X. PENALTIES FOR VIOLATION OF REGULATIONS AND LAWS.

If marijuana is legalized and commercialized, all current marijuana statutes need to be reviewed. Many of these statutes will be modified. The Commission feels that the House and Senate Criminal Justice Committees are better equipped to recommend specific changes to current law that would fit with legalized adult-use marijuana. The Commission stresses that legal possession is for those 21 years of age or older and that possession of more than one ounce of marijuana flower and more than 5 grams of a concentrate will be a violation of the law. Laws related to driving under the influence would remain unchanged. Then there is a wide-range of violations that relate to maintaining a license to cultivate, manufacture, or run a retail store. Table 20

summarizes all of the statutes required, suggests similar related statutory language, and lists some of the issues that may lead to a license revocation if not corrected or in the event of continued violations.

Table 20

Summary of Necessary Criminal and Administrative Penalties Associated with Marijuana Legalization and Commercialization		
Requirement	Criminal (C) or Licensure (L)	Suggestion
Possession of more than 1 ounce of marijuana flower	C	Modify RSA 318-B:2-c
Possession of more than 5 grams of concentrate	C	Modify RSA 318-B:2-c
Driving Under the Influence	C	No Change RSA 265-A:18
Person Misrepresenting Age	C	Adopt language similar to RSA 179:9
Underage Attempt to Purchase	C	Adopt language similar to RSA 179-10-a
Open Container in Motor Vehicle	C	Adopt language similar to RSA 265-A:44, regarding transportation of alcoholic beverages
Home Cultivation-Number of Plants	C	New
Home Cultivation-Public View/Locked Location	C	New
Home Extraction-Use of Butane/ Other Flammables	C	New
Outdoor Public Use of Marijuana	C	New
Indoor Public Use of Marijuana	C	New
<ul style="list-style-type: none"> - Business location and ownership residency requirement - Business signage, limits on advertising, free samples, prizes and product displays; - Gifting; - Retail store hours; - Tamper proof packaging, use of marijuana symbol, and labeling on packaging; - Internet Sales; - Failure to file with SOS; - Failures of public health and safety inspections and pesticide inspections - Sale to minors 	L	Marijuana licenses should enumerate related requirements and penalties and what will constitute a license revocation threshold

XI. Cannabis Studies and Reports

An overarching theme the Commission heard from other states that have legalized marijuana was the difficulty in understanding the true impacts of the policy change due to the lack of benchmark data collected before and after marijuana became legal for recreational use. The Commission feels strongly that if New Hampshire moves in the direction of legalizing marijuana, the state should construct an infrastructure in which it is able to measure the data outcomes in a meaningful, research informed manner.

Over the course of a year, the Commission received and reviewed dozens of reports, studies, and articles both in favor and opposed to the legalization of marijuana. Because it would be unwieldy to include all materials, the Commission decided to highlight significant peer reviewed, state or national studies by topic (health, relationship to opioid misuse, youth and young adult use, and public safety) with a summary statement reflecting both arguments in support of legalization and opposed to legalization.

A. HEALTH

i. *In support of legalization*

Due to the lack of rigorous studies caused by the difficulty of obtaining cannabis for medical research, there are few areas in which there is conclusive evidence on the health effects of cannabis use. While there is no conclusive evidence of adverse effects on either unborn children or children in general, until the possible effects are thoroughly studied, use by pregnant women or children should be discouraged. The most effective manner of reducing use in such groups is exactly what has worked best in discouraging use of other drugs such as alcohol and tobacco---well funded public education and treatment efforts. Such efforts are currently severely underfunded in NH, legalization of cannabis presents an opportunity to fund education and treatment, but care must be taken that such revenue is both dedicated and protected from diversion.

Supporting Studies

- *Cannabis and pulmonary issues—Morris, M.A., et al Original Research Marijuana Associations with Pulmonary Symptoms and Function in Tobacco Smokers...*
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5870739/>
\
Summary: Neither current nor past marijuana use was found to have association with coughs, wheezing or chronic bronchitis; however, current or former users of marijuana had lower rates of emphysema and higher lung capacity measure.
- *Mark, K, and Terplan, M (2017) Cannabis and pregnancy: Maternal Child Health Implications During a period of Drug Liberalization, Preventive Medicine*
<http://dpbh.nv.gov/uploadedFiles/dpbh.nv.gov/content/Programs/MIP/dta/Providers/Cannabis%20and%20Pregnancy-Health%20Implications.pdf>

Summary: There is a theoretical potential for cannabis to interfere with neurodevelopment of the unborn child, however to date, human data have not identified any long-term differences between children exposed in utero to cannabis and those not. Nonetheless,

providers should counsel the stopping of all recreational drugs during pregnancy. “Above all, care for pregnant women who use cannabis should be non punitive and grounded in respect.”

ii. In opposition to legalization

Marijuana is the most commonly used illicit drug in the United States. Its use is widespread among young people. In 2015, more than 11 million young adults ages 18 to 25 used marijuana in the past year. There is conclusive evidence that marijuana is an addictive substance and can have both short-term and long-term health impacts, particularly for youth and young adults as marijuana affects brain development. Marijuana use can have a wide range of health effects, including: hallucinations and paranoia, breathing problems, intense nausea and vomiting, and possible harm to a fetus's brain in pregnant women. It is important to note that the amount of THC in marijuana has increased steadily over the past few decades which continues to be a concern as the health impacts of these high-level THC products have not been studied. While proponents of marijuana legalization have argued that prevention efforts would be funded by revenue from marijuana sales, that has not been past practice in New Hampshire with revenue from alcohol sales.

Supporting Studies

- *National Institute on Drug Abuse- Marijuana Drug Facts (revised June 2018)*
<https://www.drugabuse.gov/publications/drugfacts/marijuana>

Summary: Marijuana has both short-and long-term effects on the brain; including impaired body movement, difficulty with thinking and problems solving, and impaired memory among other effects. Marijuana also affects brain development. When people begin using marijuana as teenagers, the drug can impair thinking, memory, and learning functions and affect how the brain builds connections between the areas necessary for these functions. Long-term marijuana use has been linked to mental illness in some people, such as: temporary hallucinations, temporary paranoia, and worsening symptoms in patients with schizophrenia.

- *JAMA: Perinatal Marijuana Use and the Developing Child (2018)*
https://jamanetwork.com/journals/jama/article-abstract/2688303?utm_source=twitter&utm_campaign=content-shareicons&utm_content=article_engagement&utm_medium=social&utm_term=071818#.W087qx1cBWE.twitter&appId=scweb

Summary: Perceptions of cannabis safety have increased, and the prevalence of marijuana use among pregnant women has expanded. Past-month cannabis use among pregnant U.S. women increased from 2.4% to 3.9% between 2002 and 2014. Further, cannabis potency has been substantially increasing over the past four decades in the United States, and will likely continue to do so as extraction procedures of active components improve. The associated acute and long-term psychoactive effects on brain function of marijuana are known. Expanding use of cannabis among pregnant and lactating women (as likely will occur with legalization) may lead to increased risk from fetal and child exposures.

B. Relationship to Opioid Misuse

i. *In support of legalization*

The most reliable data on the use and misuse of opioids comes from the Medicaid and Medicare programs. Multiple studies have demonstrated that there is a very significant reduction in both the rates of opioid prescription and the rate of individual use of opioids in states where people can legally access either medical or adult cannabis. This is believed to be because people choose to substitute cannabis for opioids because it is less addictive or harmful to health. No deaths have ever been shown to be directly caused by cannabis overdose. While cannabis should not be viewed as a panacea for the opioid epidemic, it can be seen both as a component of a comprehensive response and a source of funding for educational and treatment efforts to combat the opioid epidemic that are currently severely underfunded.

Supporting Studies

- *Association of Medical and Adult-Use Marijuana Laws With Opioid Prescribing for Medicaid Enrollees—Journal of the American Medical Association, Internal Medicine*
<https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2677000?resultClick=1>

Summary: In this population-based, cross-sectional study using the all-capture Medicaid prescription data for 2011 to 2016, medical marijuana laws and adult-use marijuana laws were associated with lower opioid prescribing rates (5.88% and 6.38% lower, respectively). Medical and adult-use marijuana laws have the potential to lower opioid prescribing for Medicaid enrollees, a high-risk population for chronic pain, opioid use disorder, and opioid overdose, and marijuana liberalization may serve as a component of a comprehensive package to tackle the opioid epidemic.

- *Medical Cannabis Use Is Associated With Decreased Opiate Medication Use in a Retrospective Cross-Sectional Survey of Patients With Chronic Pain*
[https://www.jpain.org/article/S1526-5900\(16\)00567-8/fulltext](https://www.jpain.org/article/S1526-5900(16)00567-8/fulltext)

Summary: Previous studies had reported strong associations between the passage of medical cannabis law and decrease in opioid overdose. This study examined whether there was a change in individual patterns of opioid use. The findings showed a 64% decrease in opioid use, decreased use of medications, and a 45% reported increase in quality of life. The study suggests that many chronic pain patients are substituting cannabis for opioids with beneficial results. The study cautioned that it is a preliminary study and that more research is needed.

i. *In opposition to legalization*

Proponents have argued that legalizing marijuana would provide a solution to the state's current opioid epidemic based on studies on state's medical marijuana programs. Researchers have argued that these studies show correlation, not causation and that there could be other factors that the studies are not taking into consideration such as controlling for access to evidence-based

treatment and policies that can affect opioid overdose deaths. A number of recent papers suggest that marijuana may reduce prescription opioid addiction and overdoses by providing an alternate or complementary pain relief option. That suggestion is partly based on comparisons of aggregate data from states that legalized marijuana for medical use vs. those that did not. In contrast, other studies have focused on individual marijuana users versus nonusers and their trajectories, with regard to opioid misuse and disorders. These findings are in-line with previous research demonstrating that people who use marijuana are more likely than non-users to use other drugs and develop problems with drug use. Lastly, even if there was evidence to support the argument that medical marijuana has reduced opioid use, that would be an argument for targeted use for those purposes, not an argument to legalize and commercialize at a broader level.

Supporting studies

- *Medical Marijuana Users are More Likely to Use Prescription Drugs Medically and Nonmedically* (2018)
<https://www.theodorecaputi.com/files/JAM-2018.pdf>

Summary: Previous studies have found a negative population-level correlation between medical marijuana availability in U.S. states, and trends in medical and nonmedical prescription drug use. These studies have been interpreted as evidence that use of medical marijuana reduces medical and nonmedical prescription drug use. This study evaluates whether medical marijuana use is a risk or protective factor for medical and nonmedical prescription drug use. Findings disconfirm the hypothesis that a population-level negative correlation between medical marijuana use and prescription drug harms occurs because medical marijuana users are less likely to use prescription drugs, either medically or nonmedically. Medical marijuana users should be a target population in efforts to combat nonmedical prescription drug use.

- *Cannabis Use and Risk of Prescription Opioid Use Disorder in the United States*,
<https://www.ncbi.nlm.nih.gov/pubmed/28946762>

Summary: The authors sought to determine whether cannabis use is associated with a change in the risk of incident nonmedical prescription opioid use and opioid use disorder at 3-year follow-up. Cannabis use appears to increase rather than decrease the risk of developing nonmedical prescription opioid use and opioid use disorder.

C. YOUTH AND YOUNG ADULT USE

i. In support of legalization

According to the latest data available from the federal Department of Health and Human Services, marijuana use by teenagers declined in four out of the five states (including Washington, DC) that have legalized adult use of marijuana. This occurred while teen use was increasing in states that had not legalized marijuana. This is in stark contrast to the extremely high rates of teen use in NH under the current system where teens often report that marijuana is easier to get than alcohol. This is believed to be due in part to the fact that unlike dealers of illegal drugs who will sell to anyone, legal marijuana outlets have huge incentives to not sell to

minors. A robust education and treatment effort directed at discouraging teen use would likely prove effective if adequately funded through revenue derived from taxation of legalized marijuana. While opponents of legalization argue that teens perception of the risk of marijuana may decrease upon legalization, the perception is clearly not more important the reduction in actual use.

Supporting studies

- *The Substance Abuse and Mental Health Services Administration (SAMSHA) of the Federal Department Health and Human Services*
<https://www.samhsa.gov/data/sites/default/files/NSDUHsaeShortTermCHG2016/NSDUHsaeShortTermCHG2016.htm>

Summary: Marijuana use by teens declined in 4 out of 5 states that had legalized adult use of marijuana. Colorado and Washington showed declines of 2%, DC showed a 3% decline; Oregon showed a smaller decline while Alaska showed a slight increase in teen use. (Note the link is to the raw tables of the federal web site, numerous articles can be found by conducting a web search of the term “teen use of marijuana in states that have legalized”). It is also useful to note the high usage currently in NH under our current system.

- *Has the Legalisation of Medical and Recreational Cannabis Use in the USA Affected the Prevalence of Cannabis Use and Cannabis Use Disorders? Current Addiction Reports, 9/21/18. Leung et al.* <https://link.springer.com/article/10.1007/s40429-018-0224-9>

Summary: While legalization laws have increased usage by adults, to date there is no evidence that they have resulted in increased usage by teens. Studies are currently inconclusive as to whether legalization increases or decreases the prevalence of cannabis use disorders and until more data is available, efforts should be made to enhance education and prevention efforts among teens.

i. In opposition to legalization

The data that proponents of marijuana use to show a decrease in marijuana use by teenagers is from the 2016 National Survey on Drug Use and Health (NSDUH). The 2017 NSDUH results show marijuana use among adolescents edged upward, the first significant increase in seven years. State tables are due out the end of this year and will give a better glimpse into individual state rates. Historically, states that have legalized marijuana have some of the highest rates of use in the country. It is also important to note that while the 2016 data may have shown declines in states that have legalized marijuana for 12-17 year olds, these same states show an increase in use for 18-25 year olds. Colorado showed an increase of over 2%, Washington, DC showed a significant increase of 7.2% increase, Oregon showed a 4.2% increase while Alaska showed a slighter increase of little over 1%. These increases are meaningful because brain development continues through the age of 26 and studies have shown the impact of marijuana use for young adults in terms of a lower likelihood of educational attainment and adverse developmental effects.

Supporting Studies

- *MONITORING THE FUTURE NATIONAL SURVEY RESULTS ON DRUG USE 2017*
Overview Key Findings on Adolescent Drug Use
<http://www.monitoringthefuture.org/pubs/monographs/mtf-overview2017.pdf>

Summary: Marijuana use among adolescents edged upward in 2017, the first significant increase in seven years. Overall, past-year use of marijuana significantly increased by 1.3% to 24% in 2017 for 8th, 10th, and 12th graders combined. Specifically, in 8th, 10th, and 12th grades the respective increases were 0.8% (to 10.1%), 1.6% (to 25.5%) and 1.5% (to 37.1%). The increase is statistically significant when all three grades are combined. Marijuana use has gone up as adolescents see less risk of harm in using it. The risk adolescents see in marijuana use has been steadily going down for years to the point that it is now at the lowest level it's been in four decades. Levels of marijuana vaping are considerable. One in ten 12th grade students vaped marijuana in the past year, and levels were 8% and 3% for 10th and 8th grade students, respectively.

- *Predicting Young Adult Degree Attainment by Late Adolescent Marijuana Use. Journal of Adolescent Health, 57(2), 205-211. (2015)* <https://europepmc.org/abstract/med/26206441>

Summary: The purpose of this study was to assess whether infrequent and frequent marijuana use at age 19/20 years predicts receipt of educational degrees by the mid-20s, independent of confounding age 18 adolescent risk factors. Results support a growing body of work suggesting that frequent marijuana use predicts a lower likelihood of postsecondary educational attainment, and this difference may originate during secondary school.

- *Young adult sequelae of adolescent cannabis use: an integrative analysis, Lancet Psychiatry (2014)* [https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(14\)70307-4/abstract](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(14)70307-4/abstract)

Summary: Adverse consequences of adolescent cannabis use are wide ranging and extend into young adulthood. Prevention or delay of cannabis use in adolescence is likely to have broad health and social benefits. Efforts to reform cannabis legislation should be carefully assessed to ensure they reduce adolescent cannabis use and prevent potentially adverse developmental effects.

D. PUBLIC SAFETY

i. *In support of legalization*

There is evidence that the law enforcement efforts currently being expended in combatting illegal marijuana can successfully be re-deployed to combat other more serious crimes resulting in an increase in the clearing rate of such serious offenses. There is no evidence of statistically significant increases in highway fatalities in the states that have legalized marijuana. The evidence is not conclusive on the effects of marijuana use on driving ability (there are harmful effects such as delayed reactions, but there are also countervailing helpful effects such as an apparent increased adversity to speed and risky driving). The most reliable study to date has shown no increase in the risk of crash involvement for drivers who have used marijuana. There

are significant difficulties in demonstrating a direct link between high THC levels and impairment. It should be noted that there is no reliable breathalyzer for marijuana and blood tests are not currently feasible due to the speed in which the marijuana ceases to be active. In the absence of a great deal more study, driving by persons under the influence of marijuana should be actively discouraged and this can best be accomplished by a combination of prosecution of impaired driving under current statutes as well as robust education efforts aimed at discouraging driving after consuming marijuana which can be funded by revenue from legal sales. Revenue from taxation of legal marijuana can be used to provide for increase drug recognition training for police officers and for research and data collection establish objective ways of measuring impairment from cannabis use.

Supporting Studies

- *Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State*, David Makin et al, *Police Quarterly* 7/4/18
<http://journals.sagepub.com/doi/10.1177/1098611118786255>

Summary: Using 2010 to 2015 Uniform Crime Reports data, the research undertakes interrupted time-series analysis on the offenses known to be cleared by arrest to create monthly counts of violent and property crime clearance rate as well as disaggregated counts by crime type. Findings suggest no negative effects of legalization on crime clearance rates. Moreover, evidence suggests some crime clearance rates have improved. Our findings suggest legalization has resulted in improvements in some clearance rates. “Results. Pre–recreational marijuana legalization annual changes in motor vehicle crash fatality rates for Washington and Colorado were similar to those for the control states. Post–recreational marijuana legalization changes in motor vehicle crash fatality rates for Washington and Colorado also did not significantly differ from those for the control states. Three years after recreational marijuana legalization, changes in motor vehicle crash fatality rates for Washington and Colorado were not statistically different from those in similar states without recreational marijuana legalization.”

- *National Highway Safety Traffic Administration report to Congress.*
<https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812440-marijuana-impaired-driving-report-to-congress.pdf>

Summary: Marijuana uses affects reaction time, tracking ability, and divided attention skills. These effects are to some extent mitigated by the fact that marijuana users drive slower, take fewer risks, and follow at a greater distance than either drivers on alcohol or drug free drivers. Because of these mixed effects, studies have shown only no increased risk or a small amount of increased risk. The most reliable study to date was performed by NHTSA itself and showed that “there was no increased risk of crash involvement found over alcohol or drug free drivers.” There is no evidence that impairment is related to THC levels and there are currently no reliable methods to establish THC levels while driving. Blood tests are of limited value as marijuana levels diminish far quicker than those of alcohol and at a rate too quick to allow for the time needed for blood tests. “(T)here are currently no

evidence-based methods to detect marijuana-impaired driving.” Page 13. Despite the lack of reliable testing methods, well trained police officers can establish evidence of impairment because of drug use. For example, even though there exist reliable methods of establishing alcohol impairment through blood alcohol tests, the conviction rate for drivers who refuse such tests is the same as for those who take the tests. NHTSA has certified three levels of officer training. (page 27). This training costs money which could be provided by taxation of regulated adult cannabis sales.

ii. In opposition to legalization

States that have legalized marijuana continue to struggle with significant public health and safety concerns including, but not limited to, an increase in drugged driving, increase in emergency room visits related to marijuana, and an explosion of highly potent THC products on the legal market. Proponents argue that the black market will go away but that has not been the case for states that have legalized marijuana. Governor Hickenlooper from Colorado has gone on record saying there is still a black market for marijuana of \$50 million to \$75 million annually.¹² Law enforcement authorities in Oregon recently intercepted \$48 million worth of black-market marijuana headed to 37 states over a three-year period, and officers blame the illegal exports on a statewide glut of regulated marijuana and low prices.¹³ Proponents have also argued that revenue can be used for prevention and public safety programs but states that have legalized have seen a decrease in product price. Marijuana tax revenue represents approximately nine tenths of one percent of Colorado’s FY 2017 budget. There is no guarantee that the state will raise enough money in revenue to cover unintended costs related to the legalization and commercialization of marijuana in New Hampshire.

Supporting Studies

- *Prevalence of Marijuana Use Among Drivers in Fatal Crashes: Washington, 2010-2014*
<http://aaafoundation.org/prevalence-marijuana-use-among-drivers-fatal-crashes-washington-2010-2014/>

Summary: The purpose of this study was to quantify the prevalence of marijuana involvement in fatal crashes in the state of Washington in years 2010 – 2014 and to investigate whether the prevalence changed after Washington Initiative 502, which legalized recreational use of marijuana for adults aged 21 years and older, took effect on December 6, 2012. The researchers found the percentage of drivers involved in fatal crashes who recently used marijuana more than doubled from eight to 17 percent between 2013 and 2014. One in six Washington drivers involved in fatal crashes in 2014 had recently used marijuana.

- *The Legalization of Marijuana in Colorado: The Impact Volume 5, September 2018*
<https://rmhidta.org/files/D2DF/FINAL-%20Volume%205%20UPDATE%202018.pdf>

¹² <https://denverite.com/2018/04/24/hickenlooper-marijuana-lobbyist/>

¹³ <https://www.bendbulletin.com/home/6588425-151/oregon-faces-black-market-marijuana-problem>

Summary: The Rocky Mountain HIDTA Strategic Intelligence Unit has published annual reports every year since 2013 tracking the impact of legalizing recreational marijuana in Colorado. The purpose is to provide data and information so that policy makers and citizens can make informed decisions on the issue of marijuana legalization. Among its findings were: continued issues with the black market, an increase in emergency department visits related to marijuana and marijuana related hospitalizations and a steady increase in THC potency in flower and potency of concentrated extract products.

XII. SUMMARY OF RECOMMENDATIONS

Recommendation 1- Any future legislation should refer to marijuana by its scientific name, *cannabis*.

Recommendation 2- Any future legislation to legalize and commercialize marijuana should include requirements that workplace issues related to the use of marijuana by employees be examined closely. Input from the NH Department of Labor on this topic is encouraged.

Recommendation 3- Any future legislation to legalize and commercialize marijuana should require funding of public education on safe use of marijuana as well as addiction and substance misuse treatment. Funding in the range of \$4-5 million each year seems to be appropriate, and possibly more, depending upon the revenue generated from licensing and taxing.

Recommendation 4- The state should fund and begin the collection of baseline data on the medical and societal effects of marijuana. This information is vital to evaluating any future legal program. Any future legislation to legalize and commercialize marijuana should require funding of positions to be the research arm of the later recommended research and data collection arm of the NH Cannabis Commission. This information would be of great value to future legislatures and to the public at-large.

Recommendation 5- The Legislature should consult with the Department of Health and Human Services to develop a statutory response determining: whether there are appropriate penalties on persons who sell or give vaping devices to minors, whether to ban flavored vaping liquids, and whether current indoor smoking prohibitions cover vaping products.

Recommendation 6- Any future legislation to legalize and commercialize marijuana should authorize the imposition of penalties for the sale of vaping devices, liquid, or accessories to minors.

Recommendation 7- Any future legislation to legalize and commercialize marijuana should adopt a standalone Cannabis Commission as the state entity to license, recommend regulations, enforce regulations, and research which will include the data collection on the societal and medical effects of cannabis legalization. Enforcement staff should be split between some auditor-type positions with subpoena power and non-uniformed “sworn” officers with all the powers of any other police officer. The research/data collection staff should work in concert with other state agencies such as the Department of Health and Human Services (DHHS). DHHS should

also be responsible for the marijuana education, addiction prevention and addiction treatment programs all in concert with the Cannabis Commission.

Recommendation 8- Any future legislation to legalize and commercialize marijuana should adopt the formation of a Cannabis Commission Advisory Board. This board would need to be re-authorized every two years. The make-up of the board should be similar to this Marijuana Commission.

Recommendation 9- Any future legislation to legalize and commercialize marijuana should not include provisions for the legalization of hotels that allow the smoking of marijuana, lounges or social clubs that allow the consumption of marijuana, and restaurants that infuse food with marijuana. These types of establishments should only be considered several years after legalization occurs.

Recommendation 10- Any future legislation to legalize and commercialize marijuana should require four distinct licenses for businesses engaged in the following stages of the supply chain: cultivation, manufacturing, retail stores, and testing.

Recommendation 11- Any future legislation to legalize and commercialize marijuana should allow vertical integration. That is, a business may have a cultivation, manufacturing, and retail store license and perform all three functions set out by those licenses. Testing licenses shall be held by certified testing companies not holding any of the three marijuana supply chain licenses.

Recommendation 12- Any future legislation to legalize and commercialize marijuana should not limit the number of licenses that can be issued.

Recommendation 13- Any future legislation to legalize and commercialize marijuana should require criminal background checks of all owners of licensed establishments.

Recommendation 14- Any future legislation to legalize and commercialize marijuana should prohibit marijuana businesses from being located within 1,000 feet of a school.

Recommendation 15- Any future legislation to legalize and commercialize marijuana should include an opt-in provision in which a municipality must have a vote of citizens to allow cultivation, manufacturing, and/or retail sales. This ballot must seek approval for each of the three licensed facilities separately as three separate questions.

Recommendation 16- Any future legislation to legalize and commercialize marijuana should prohibit municipalities from restricting any marijuana business beyond the way any other business is regulated by the ordinances of that community.

Recommendation 17- Any future legislation to legalize and commercialize marijuana should require that any person applying for a marijuana business license shall have been a resident, or have at least one director, officer, or partner who has been a New Hampshire resident for at least three years immediately preceding the date of application.

Recommendation 18- *If legalization and commercialization of marijuana should become law, the Cannabis Commission Advisory Board should take up the issue of annulment of marijuana convictions.*

Recommendation 19- *Any future legislation to legalize and commercialize marijuana should reinforce that all marijuana businesses be registered with the Secretary of State; comply with all state and local health and safety statutes, ordinances, and regulations; and comply with all fertilizer, pesticide, and weights and measure statutes and regulations.*

Recommendation 20- *Any future legislation to legalize and commercialize marijuana should adopt fees that fall within the ranges shown in Table 11 for cultivation, manufacturing, retail, and testing. In addition, application processing times should take no longer than 180 days or less for the first year of program implementation and no longer than 90 days or less in subsequent years.*

Recommendation 21- *Any future legislation to legalize and commercialize marijuana should require that all businesses in the marijuana supply chain use a seed to sale tracking system chosen and overseen by the State of New Hampshire. All marijuana business licensees must input the specified information and may be charged a fee for use of the system.*

Recommendation 22- *Any future legislation to legalize marijuana should require that use of the smoking marijuana or extract product, ingesting of any marijuana edible, and the application of any topical ointments should only be allowed by those 21 years of age or older.*

Recommendation 23- *Any future legislation to legalize marijuana should limit the possession of marijuana flower to one ounce which would mean, by default, that no more than one ounce of marijuana flower can be sold at a time at retail store to an individual.*

Recommendation 24- *Any future legislation to legalize and commercialize marijuana should limit possession of concentrates to 5 grams, which would mean, by default, that no more than 5 grams of concentrate may be sold at a retail store to an individual.*

Recommendation 25- *Any future legislation to legalize and commercialize marijuana should establish a limit on the number of milligrams of THC in a serving size and total product dose.*

Recommendation 26- *Any future legislation to legalize and commercialize marijuana should establish a possession limit for marijuana edibles roughly equivalent to the one ounce marijuana flower possession limit.*

Recommendation 27- *Any future legislation to legalize and commercialize marijuana should place restrictions on the signage used by all marijuana related businesses. Signs should not be misleading, deceptive, or false in their claims; not have a high likelihood of appealing to persons under 21 years of age, including animals, cartoon characters, or other images particularly appealing to children; and logos used in signs may not contain medical symbols, images of marijuana, related paraphernalia, or colloquial references to marijuana or cannabis.*

Recommendation 28- *Any future legislation to legalize and commercialize marijuana should include a restriction on the advertising of marijuana establishments and products in*

TV/Radio/Print/Internet to audiences which can reasonably be expected to consist of at least 75% adults aged 21 years or older; that advertising of marijuana or marijuana related products or establishments not be allowed on billboards; and that marijuana related websites should not make claims about health and include statements that marijuana products are for those 21 years of age or older.

Recommendation 29- Any future legislation to legalize and commercialize marijuana should mandate that marijuana products and paraphernalia not be displayed in retail store windows.

Recommendation 30- Any future legislation to legalize and commercialize marijuana should include a provision that prevents a gifting loophole from being created. In addition, the DRA should be given the enforcement authority over this tax avoidance scheme.

Recommendation 31- Any future legislation to legalize and commercialize marijuana should have provisions that ban smoking or vaporizing marijuana or marijuana products in all outdoor public places.

Recommendation 32- Any future legislation to legalize and commercialize marijuana should have provisions that ban smoking or vaporizing marijuana or marijuana products in all indoor public places.

Recommendation 33- Any future legislation to legalize and commercialize marijuana should state that retail stores can be open seven days a week and may be open at least 12 hours a day. It should also allow local municipalities to restrict hours beyond 12 hours and also allow stipulation of opening times or closing times via local ordinance.

Recommendation 34- Any future legislation to legalize and commercialize marijuana should have a provision that mandates tamper proof, child proof, and resealable packaging be utilized for all edible products.

Recommendation 35- Any future legislation to legalize and commercialize marijuana should stipulate that NH adopt a recognizable symbol that indicates that THC or other marijuana compounds are contained within. The legislation should also stipulate that this symbol shall appear on all packaging, signage, and advertisements.

Recommendation 36- Any future legislation to legalize and commercialize marijuana should include a provision that no marijuana in loose, edible, or concentrate form or related paraphernalia should be allowed within the passenger compartment of any motor vehicle. Such items should be stored in a secure location within the vehicle.

Recommendation 37- Any future legislation to legalize and commercialize marijuana should include a provision that all marijuana products, whether loose, edible, or concentrates, should be sold in opaque packages that do not use characters, symbols, or names similar to those identified by or appealing to children or adolescents. The packaging should also have the THC and CBD levels identified.

Recommendation 38- Any future legislation to legalize and commercialize marijuana should not restrict internet sales but should reinforce that those sales need to be restricted to customers that

are 21 years of age or older living in NH. In addition, the products being transported from the retailer to the customer must be done by the retailer and allowed by language in the retail license that will allow transportation of this type or by a third-party transporter which may require a fifth type of license be created, namely a transport license. The enforcement division of the recommended Cannabis Commission would need to be responsible for ensuring that internet sales were to those living in NH, that those purchasing these marijuana products are 21 years of age or older, and that the proper transportation license is possessed by those transporting.

Recommendation 39- Any future legislation to legalize and commercialize marijuana should not mandate security and video surveillance. All license holders along the supply chain would recognize this as a good business practice without a mandate from government.

Recommendation 40- Any future legislation to legalize and commercialize marijuana should mandate that free samples of any marijuana product not be allowed.

Recommendation 41- Any future legislation to legalize and commercialize marijuana should mandate that before anyone is allowed into a marijuana retail store, that an acceptable form of legal identification be presented proving that the customer is 21 years of age or older.

Recommendation 42- Any future legislation to legalize and commercialize marijuana should mandate that no promotional giveaways of marijuana products or promotional products of any kind be allowed.

Recommendation 43- If a marijuana legalization and commercialization bill is passed and signed into law, the recommended Cannabis Commission Advisory Board should take up the issue of marijuana-infused alcohol products.

Recommendation 44- If a marijuana legalization and commercialization bill is passed and signed into law, the recommended Cannabis Commission Advisory Board should take up the issue of marijuana-infused tobacco and caffeine products.

Recommendation 45- Any future legislation to legalize and commercialize marijuana should incorporate a wholesale excise tax at the cultivation level. At the same time, an opinion from the NH Supreme Court should be requested on the Constitutionality of taxing a similar product with different ingredients in a different fashion.

Recommendation 46- Any future legislation to legalize and commercialize marijuana should incorporate a wholesale excise tax rate between \$23.00 and \$56.00 per ounce. If a sales tax on marijuana edible products is deemed constitutional, that tax rate range should be 7.0-15.0%.

Recommendation 47: Any future legislation to legalize and commercialize marijuana should tax marijuana and marijuana products at a rate that will cover the costs of administering the program and recognize the additional resources necessary for public education and substance misuse prevention, education, and treatment services.

Recommendation 48: Any future legislation to legalize and commercialize marijuana should include an appropriation for startup costs in the range of \$2-3 million.

Recommendation 49- Any future legislation to legalize and commercialize marijuana should allow for home cultivation with a limit per individual of 6 total plants of which 3 can be mature and a limit per household of 12 plants of which 6 can be mature.

Recommendation 50- Any future legislation to legalize and commercialize marijuana that allows home cultivation should require that all plants not be visible to the public and that all plants be grown in a secure location.

Recommendation 51- Any future legislation to legalize and commercialize marijuana that allows home cultivation should ban the use of butane or any other flammable in the extraction of concentrate process.

Recommendation 52- Any future legislation to legalize and commercialize marijuana should adopt the adult use structure recommended earlier, which features a Cannabis Commission with a direct report to the Governor, and keep the Therapeutic Cannabis Program separate under the Department of Health and Human Services. The possibility of moving the Therapeutic Cannabis Program under the organizational structure of the Cannabis Commission should be considered at a later time, with the input of both the Cannabis Commission and the Department of Health and Human Services.

Recommendation 53- Any future legislation to legalize and commercialize marijuana should consider a pathway for the Alternative Treatment Centers licensed by the Therapeutic Cannabis Program to transition from not-for-profit charitable trusts to for-profit entities able to enter the adult use market.

Recommendation 54- Any future legislation to legalize and commercialize marijuana which has set up a structure permitting both a Therapeutic Cannabis Program dispensary and an adult-use retail store to be co-located should have a requirement that the building be partitioned and have a separate entrance for the Therapeutic Cannabis Program patients to enter and another for the adult-use retail customers to enter, in order for, among other things, the confidentiality of therapeutic patients to be maintained.

Appendix A

Excerpt from New York State Department of Health, Assessment of the Potential Impact of Regulated Marijuana in New York State at 56-69, (July 2018),
https://www.health.ny.gov/regulations/regulated_marijuana/docs/marijuana_legalization_impact_assessment.pdf.

Appendix C: Comparative Review of State Laws Legalizing Regulated Marijuana Use

Comparative Review of State Laws Legalizing Recreational Marijuana Use

The information in this grid was adapted from the National Alliance for Model State Drug Laws (NAMSDL) document titled [Marijuana: Comparison of State Laws Legalizing Personal, Non-Medical Use](#). The National Alliance for Model State Drug Laws is funded by congressional appropriations and is the non-profit successor to The President's Commission on Model State Drug Laws. In coordination with the Office of National Drug Control Policy, the NAMSDL drafts model drug and alcohol laws, policies and regulations, and analyzes existing state statutes.

Regulations corresponding with the states of Alaska, California, Colorado, Massachusetts, Nevada, Oregon and Washington were cross-referenced against each state government website and updated accordingly. These states, which have legalized regulated marijuana use and set forth regulations on state government websites, are outlined in this document. Washington D.C., which permits home cultivation only, has been excluded. It should be noted that efforts to legalize marijuana production and use continue in many states, including in Maine, where a ballot initiative legalized marijuana possession but regulations for the retail market have not yet been established.

Note: Information corresponding to a particular state/regulation may have not been available at the time this document was developed. Such instances are indicated with 'NA'.

All information contained in this document is current as of April 30, 2018.

Comparative Review of State Laws Legalizing Regulated Marijuana Use									
Overview		Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
	Effective Date	02/24/2015	11/09/2016	12/10/2012	12/15/2016	01/01/2017	07/01/2015	12/06/2012	All states represented in this document have enacted marijuana legislation into law and developed associated regulation for production, sales and consumption.
	Regulating authority	Marijuana Control Board	Bureau of Marijuana Control; Department of Consumer Affairs; Department of Food and Agriculture; Department of Public Health	Marijuana Enforcement Division; Department of Revenue	Cannabis Control Commission	Nevada Department of Taxation	Oregon Liquor Control Commission; Oregon Health Authority; Oregon Department of Revenue	Washington Liquor and Cannabis Control Board	
	Studies required of or requested by regulating authority	NA	Research/ evaluation of implementation and effect of the law, including determination of impairment by use of marijuana while driving	Examination of law enforcement activity and costs related to marijuana use in 2006-2007 compared to 2014-2015	Cannabis Advisory Board responsible for examining regulation of marijuana/ marijuana products	NA	Investigate influence of marijuana on driving ability	NA	

Supply Chain		Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
	Retail	✓	✓	✓	✓	✓	✓	✓	
	Cultivation	✓	✓	✓	✓	✓	✓	✓	
	Manufacturers/ Processors	✓	✓	✓	✓	✓	✓	✓	
	Testing	✓	✓	✓	✓	✓	✓	✓	
	Other	NA	Micro-businesses	Transporters	NA	Distributors	Wholesalers	Transporters	

Home Cultivation		Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
	Home cultivation permitted	✓	✓	✓	✓	✓	✓	Not permitted	Home cultivation is allowed in all states except Washington. In states where home cultivation is allowed, plants and marijuana cannot be visible from public places with unaided vision and must take place in an enclosed and locked area. Homemade
	Maximum number of plants/mature per individual	6/3	6/NA	6/3	6/NA	6/NA	4/NA		
	Maximum number of plants/mature per household	12/6	6/NA	12/NA	12/NA	12/NA	12/4 (or 10 seeds)		
	Noncommercial transfer limit	1 oz. or 6 plants	1 oz.	1 oz.	1 oz.	NA	NA		
	Excess limits and repercussions	NA	Plants and marijuana produced >28.5 oz. must be secured by a lock; not visible by normal	NA	Failure to keep marijuana > 1 oz. locked up within the home punishable by a \$100 fine/ forfeiture of marijuana.	Unless an agent of a cultivation facility, not allowed to cultivate within 25 miles of a licensed	NA		

			unaided vision from a public space.			retailer. 1st violation misdemeanor fines up to \$600.			products may be transferred (not sold) to another person age 21 or older in some states.
	Maximum amount of residential possession	Possession of marijuana produced by the plants on premises where the plants were grown is permitted.	NA	NA	10 oz. of home cultivated marijuana; > 1 oz. of marijuana must be secured by a lock	NA	8 oz. useable marijuana		

Current State of Market		Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
	Retail licenses	59	NA	529	Retail market was not operational at the time this document was produced.	NA	345	756	The number of licenses granted may be restricted by municipalities.
	Cultivation/producer licenses	128 (includes "standard" and "limited" cultivation facilities)	NA	735		NA	23	1,465	
	Manufacturing/processors	11	NA	284		NA	19	1,572	
	Testing licenses	3	NA	12		NA	104 wholesalers	17	
	Other licenses	201 are currently operational. 508 additional applications are at various stages of the review process.	NA	8 operators; 9 transporters		NA	345	917 producers/processors; 37 transporters	

Amount of Marijuana Permitted for Personal Use		Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
	Flower	1 oz.	28.5 gr.	1 oz.	1 oz.	1 oz.	1 oz. of useable marijuana in a public place	1 oz.	Must be 21 years or older to possess, purchase or consume marijuana.
	Concentrated	7 gr.	8 gr.	8 gr.	5 gr.	12.5% of 1 oz.	5 gr.	7 gr.	
	Liquid	NA	NA	NA	NA	NA	72 oz.	72 oz.	
	Solid	NA	NA	NA	NA	NA	16 oz.	16 oz.	Products permitted: herbal, edible, infused products, tinctures, concentrates.
	Maximum amount in one transaction	5,600 mg. of THC	NA	NA	NA	NA	NA	NA	
	Maximum amount for non-commercial transfer	NA	NA	1 oz	NA	1 oz., or 1/8 oz. if concentrate	NA	NA	

Restrictions on Marijuana Consumption/Personal Use Regulations									
		Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
Overview of general restrictions		Up to \$400 for providing false ID, \$100 for public consumption; consumption permitted on premises of licensed retailer designated for onsite consumption.	Cannot possess or smoke within 1,000 feet of a school, day care or youth center while children are present; on the grounds of, or within, any correctional facility.	Class 2 misdemeanor for an underage person to buy or possess retail marijuana.	Cannot possess or smoke within a public or private school or any correctional facility.	Cannot possess or smoke within a public or private school or any correctional facility.	Cannot give marijuana to anyone who is visibly intoxicated. Cannot import or export marijuana from Oregon.	Illegal to either open a package containing marijuana or consume marijuana "in view of the general public."	Must be 21 years or older to possess, purchase or consumed marijuana; not permitted in public; cannot possess or consume on federal property.
Local control		Local government entities (city/town, county) may prohibit the operation of marijuana establishments or impose restrictions on operations as a result of voter initiatives or local ordinances. The restrictions may impact retailers, manufacturers, and cultivators. This includes limits to the number of establishments permitted and establishment of civil penalties for violations.							
Employer restrictions		Employers may restrict or prohibit use, consumption, possession, and transfer of marijuana in the workplace.							
Driving During/After Use	Specified THC level in blood	NA	NA	>=5.0 ng/ml	NA	>=2 ng/ml	NA	>=5.0 ng/ml	In all listed states, it is illegal to operate a motor vehicle under the influence of any controlled substance,
	Specified THC level in urine	NA	NA	NA	NA	>=10 ng/ml	NA	NA	
	Possession of marijuana while operating	NA	✓	✓	✓	NA	NA	NA	

		vehicle is illegal								including marijuana.
		Open container in vehicle	NA	May not possess an open container of marijuana while driving	Passengers may not possess open containers of marijuana	Possession of open container may result in fine of up to \$500	NA	NA	NA	Law enforcement officers may base DUI arrest on observed impairment.
	Exemption from penalty provided by law		Marijuana and marijuana products possessed and used in accordance with state laws are not subject to seizure and may not be the basis for arrest.							

Marijuana Establishments			Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
	Application Process	Background check	NA	✓	✓	✓	✓	NA	Washington State Liquor and Cannabis Board have no plan to open the window for new retail or producer licenses as of 4/30/18.	
		90-day turnaround on applications	✓	NA	✓	✓	✓	✓		
		Priority to existing medical marijuana establishments	NA	✓	NA	✓	✓	NA		
	Application Fees	New/Initial	\$1,000	\$1,000	\$500	Cannot exceed \$3,000	\$5,000	\$250	\$250	
		Renewal	\$600	NA	\$300	NA	NA	NA	NA	
		Handler/agent permit	\$50	NA	\$75-\$250	NA	\$75	\$100	NA	

Marijuana Establishments			Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
	License Fees	Retail	\$5000	Licensing and renewal fees based upon size of business, \$4,000-\$72,000; \$5,000 surety bond	Up to \$4,900	Cannot exceed \$15,000	Initial, max fee \$20,000; renewal, max fee: \$6,600	\$4,750	\$1,480	Licenses valid for 1 year. Massachusetts began accepting applications from subgroups of prospective licensees on April 17, 2018. All other license types may start the application process between May 1, 2018 and June 1, 2018.
		Cultivation/producer	\$1,000 - \$5,000			Cannot exceed \$15,000	Initial, max fee \$30000; renewal, max fee \$10,000	\$1,000-\$5,750 based on size of production	\$1,480	
		Manufacturing/Processor	\$1,000 - \$5,000			Cannot exceed \$15,000	Initial, max fee \$10000; renewal, max fee \$3,300	\$4,750	\$1,480	
		Testing	\$1,000			Cannot exceed \$10,000	Initial, max fee \$15,000; renewal, max fee \$5,000	\$4,750	NA	
		Distributor	NA			NA	Initial, max fee \$15,000; renewal, max fee \$5,000	NA	NA	

			Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
Marijuana Establishments	Establishment Restrictions	Licensee should be 21 years or older	✓	✓	✓	✓	✓	✓	✓	All states require conduct fingerprint-based background checks prior to granting a license. Most states prohibit previous substance-related commercial convictions with the exception of Massachusetts. Oregon evaluates the relevance of prior criminal records case by case. Some states are working toward expunging previous drug related offenses.
		Joint medical/retail marijuana establishment allowed	NA	NA	✓	✓	✓	NA	✓	
		Criminal conviction restrictions	Convicted of a felony and either (1) less than 5 years have elapsed since conviction or (2) person is on probation or parole for that felony	No prior record of felony/no substance related misdemeanor.	No prior record of controlled substance-related felony in the past 10 years/no felony in the past 5 years.	No prior record of felony (unless it solely involved the distribution of marijuana to adults).	No conviction of any "excluded felony offense", no previous license revocation.	No conviction to state or federal law violations relevant to the business. No specifically set criteria.	NA	
		No record of alcohol sales	✓	✓	NA	NA	NA	NA	NA	
		No record of unauthorized substance sales	✓	✓	✓	NA	✓	NA	NA	
		Other	No alcohol sales within the last 5 years	Cannot be a licensed retailer of alcohol or tobacco	License cannot be granted to law enforcement	NA	NA	License cannot be granted to habitual users of excess alcohol or other drugs	NA	

		Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
Marijuana Establishments	Operational Restrictions and Requirements for Retail Establishments	Distance requirements	School: 500 ft.	School: 600 ft.	School: 1000 ft.	School: 500 ft.	School: 1,000 ft.; community facility 300 ft.	School: 1,000 ft.	School and other community facilities that are not excluded for adults: 1,000 ft.
		Hours of operation	Sales Prohibited between 5:00 am and 8:00 am	Sales prohibited between 10pm and 6am	Varies by municipality	NA	Varies by municipality	Sales allowed between 7:00 am and 10:00 pm	Sales allowed between 8:00 am and 12:00 am
		Customer must show ID	✓	✓	✓	NA	✓	✓	✓
		Insurance	NA	May be available but not required, varies by municipality	NA	NA	NA	Licensee may require an affordable general liability insurance.	Licensee must carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance.
		Store shall <u>not</u> be located in an establishment with liquor license	✓	NA	NA	NA	NA	✓	NA
		Substance shall <u>not</u> be visible to the public	✓	NA	NA	✓	✓	NA	NA

			Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
Marijuana Establishments	Operational restrictions and requirements	Maximum amount of THC per serving size	≤ 5 mg THC	< 10 mg THC	< 10 mg THC	NA	< 10 mg THC	≤ 5 mg THC	< 10 mg THC	
		Maximum Servings per package	50 mg THC	NA	100 mg THC	NA	NA	50 mg THC	100 mg THC	
		Other regulations	Handlers must complete an education course and pass a written test; liquid and solid edibles must be homogenized to ensure uniform disbursement of cannabinoids	NA	All employees shall be residents of Colorado. Online sales not allowed.	NA	Number of retailers is limited by population of county. A county may file a request for additional stores.	May not be located in residential areas; delivery allowed in certain circumstances but only between 8 am and 9pm.	Maximum amount of inventory for retail: up to four months of their average supplies. No vending machine or drive through Food requiring temperature control shall not be infused with marijuana.	

			Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale
Marijuana Establishments	Labelling & Packaging	Cannot label products to be appealing to minors	✓	✓	NA	NA	✓	✓	NA	General consensus on labeling: Identification of the marijuana cultivator/ manufacturer; amount of THC per serving/package; name and logo of cultivator; keep out of reach of children. Some states require disclosure of all pesticides applied during production and processing. Packaging should be certified to be child resistant by a third-party
		Third-party-certified child-resistant packaging required	✓	✓	NA	NA	✓	✓	NA	
		‘Contains marijuana’ symbol/text required on packaging	✓	✓	✓	✓	NA	NA	✓	
		Explanation of warnings required on packaging	1) This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health. 2) There may be health risks associated with the consumption of this product. 3) Should not be used by women who are pregnant or breast feeding. 4) For use only by adults 21 and older. 5) Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.							
	Advertising	May not contain false or misleading information	✓	NA	✓	✓	✓	✓	✓	
		May not promote excessive consumption	✓	NA	NA	NA	✓	✓	✓	
		May not depict someone under 21 consuming marijuana	✓	NA	NA	✓	NA	✓	✓	

		May not promote transport across state lines/target out of state consumers	NA	NA	✓	NA	✓	✓	NA	<p>firm. Package should be resealable in case it includes multiple servings. Packaging should be opaque.</p> <p>Advertising restrictions vary, but many states ban advertising within a certain distance of schools, limit the amount of signage outside an establishment and restrict online marketing and/or marketing to a mobile device.</p>
		Cannot advertise on TV/radio/print unless...	NA	71.6% of audience is expected to be 21 or older	70% of audience is 21 or older; outdoor advertising generally prohibited	85% of audience is 21 or older	70% of audience is 21 or older	NA	NA	
		May not claim curative or therapeutic benefits	✓	NA	✓	NA	NA	✓	✓	

			Alaska	California	Colorado	Massachusetts	Nevada	Oregon	Washington	Shared Rationale	
Marijuana Establishments	Monitoring/inspections	Inspection of physical premises/establishment	✓	✓	✓	✓	✓	✓	✓	The (METRC) System is used as a means to record inventory and movement of marijuana through the supply chain.	
		Inspection by local fire department/code inspector	NA	✓	✓	NA	✓	NA	NA		
		Examination of business and financial records	✓	✓	✓	✓	✓	✓	✓		
		Confirmation of qualifications of personnel	✓	NA	NA	NA	✓	NA	NA		
		Testing	Laboratory testing is required on samples of all marijuana or marijuana products which may include potency testing (THC content), microbial testing, testing for pesticides and other contaminants.								Other “Seed to Sale” databases may be used
		Tracking System: Marijuana Enforcement Tracking Reporting & Compliance (METRC)	✓	✓	✓	NA	✓	✓	NA		
		Tracking System: Other	NA	NA	NA	✓	NA	NA	✓		
		Other	NA	NA	NA	Secret shopper program	NA	NA	NA		

Appendix B

Department of the Treasury Financial Crimes Enforcement Network, Guidance FIN-2014-G001, BSA Expectations Regarding Marijuana-Related Businesses, February 14, 2014,
<https://www.fincen.gov/sites/default/files/shared/FIN-2014-G001.pdf>.



Department of the Treasury Financial Crimes Enforcement Network

Guidance

FIN-2014-G001

Issued: February 14, 2014

Subject: BSA Expectations Regarding Marijuana-Related Businesses

The Financial Crimes Enforcement Network (“FinCEN”) is issuing guidance to clarify Bank Secrecy Act (“BSA”) expectations for financial institutions seeking to provide services to marijuana-related businesses. FinCEN is issuing this guidance in light of recent state initiatives to legalize certain marijuana-related activity and related guidance by the U.S. Department of Justice (“DOJ”) concerning marijuana-related enforcement priorities. This FinCEN guidance clarifies how financial institutions can provide services to marijuana-related businesses consistent with their BSA obligations, and aligns the information provided by financial institutions in BSA reports with federal and state law enforcement priorities. This FinCEN guidance should enhance the availability of financial services for, and the financial transparency of, marijuana-related businesses.

Marijuana Laws and Law Enforcement Priorities

The Controlled Substances Act (“CSA”) makes it illegal under federal law to manufacture, distribute, or dispense marijuana.¹ Many states impose and enforce similar prohibitions. Notwithstanding the federal ban, as of the date of this guidance, 20 states and the District of Columbia have legalized certain marijuana-related activity. In light of these developments, U.S. Department of Justice Deputy Attorney General James M. Cole issued a memorandum (the “Cole Memo”) to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the CSA.² The Cole Memo guidance applies to all of DOJ’s federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

The Cole Memo reiterates Congress’s determination that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Cole Memo notes that DOJ is committed to enforcement of the CSA consistent with those determinations. It also notes that DOJ is committed to using its investigative and prosecutorial resources to address the most

¹ Controlled Substances Act, 21 U.S.C. § 801, *et seq.*

² James M. Cole, Deputy Attorney General, U.S. Department of Justice, *Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement* (August 29, 2013), available at <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.

significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, the Cole Memo provides guidance to DOJ attorneys and law enforcement to focus their enforcement resources on persons or organizations whose conduct interferes with any one or more of the following important priorities (the “Cole Memo priorities”):³

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

Concurrently with this FinCEN guidance, Deputy Attorney General Cole is issuing supplemental guidance directing that prosecutors also consider these enforcement priorities with respect to federal money laundering, unlicensed money transmitter, and BSA offenses predicated on marijuana-related violations of the CSA.⁴

Providing Financial Services to Marijuana-Related Businesses

This FinCEN guidance clarifies how financial institutions can provide services to marijuana-related businesses consistent with their BSA obligations. In general, the decision to open, close, or refuse any particular account or relationship should be made by each financial institution based on a number of factors specific to that institution. These factors may include its particular business objectives, an evaluation of the risks associated with offering a particular product or service, and its capacity to manage those risks effectively. Thorough customer due diligence is a critical aspect of making this assessment.

In assessing the risk of providing services to a marijuana-related business, a financial institution should conduct customer due diligence that includes: (i) verifying with the appropriate state authorities whether the business is duly licensed and registered; (ii) reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business; (iii) requesting from state licensing and enforcement authorities available information about the business and related parties; (iv) developing an understanding of the normal and expected activity for the business, including the types of

³ The Cole Memo notes that these enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA.

⁴ James M. Cole, Deputy Attorney General, U.S. Department of Justice, *Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes* (February 14, 2014).

products to be sold and the type of customers to be served (e.g., medical versus recreational customers); (v) ongoing monitoring of publicly available sources for adverse information about the business and related parties; (vi) ongoing monitoring for suspicious activity, including for any of the red flags described in this guidance; and (vii) refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk. With respect to information regarding state licensure obtained in connection with such customer due diligence, a financial institution may reasonably rely on the accuracy of information provided by state licensing authorities, where states make such information available.

As part of its customer due diligence, a financial institution should consider whether a marijuana-related business implicates one of the Cole Memo priorities or violates state law. This is a particularly important factor for a financial institution to consider when assessing the risk of providing financial services to a marijuana-related business. Considering this factor also enables the financial institution to provide information in BSA reports pertinent to law enforcement's priorities. A financial institution that decides to provide financial services to a marijuana-related business would be required to file suspicious activity reports ("SARs") as described below.

Filing Suspicious Activity Reports on Marijuana-Related Businesses

The obligation to file a SAR is unaffected by any state law that legalizes marijuana-related activity. A financial institution is required to file a SAR if, consistent with FinCEN regulations, the financial institution knows, suspects, or has reason to suspect that a transaction conducted or attempted by, at, or through the financial institution: (i) involves funds derived from illegal activity or is an attempt to disguise funds derived from illegal activity; (ii) is designed to evade regulations promulgated under the BSA, or (iii) lacks a business or apparent lawful purpose.⁵ Because federal law prohibits the distribution and sale of marijuana, financial transactions involving a marijuana-related business would generally involve funds derived from illegal activity. Therefore, a financial institution is required to file a SAR on activity involving a marijuana-related business (including those duly licensed under state law), in accordance with this guidance and FinCEN's suspicious activity reporting requirements and related thresholds.

One of the BSA's purposes is to require financial institutions to file reports that are highly useful in criminal investigations and proceedings. The guidance below furthers this objective by assisting financial institutions in determining how to file a SAR that facilitates law enforcement's access to information pertinent to a priority.

"Marijuana Limited" SAR Filings

A financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the Cole Memo priorities or violate state law should file a "Marijuana Limited" SAR. The content of this

⁵ See, e.g., 31 CFR § 1020.320. Financial institutions shall file with FinCEN, to the extent and in the manner required, a report of any suspicious transaction relevant to a possible violation of law or regulation. A financial institution may also file with FinCEN a SAR with respect to any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by FinCEN regulations.

SAR should be limited to the following information: (i) identifying information of the subject and related parties; (ii) addresses of the subject and related parties; (iii) the fact that the filing institution is filing the SAR solely because the subject is engaged in a marijuana-related business; and (iv) the fact that no additional suspicious activity has been identified. Financial institutions should use the term “MARIJUANA LIMITED” in the narrative section.

A financial institution should follow FinCEN’s existing guidance on the timing of filing continuing activity reports for the same activity initially reported on a “Marijuana Limited” SAR.⁶ The continuing activity report may contain the same limited content as the initial SAR, plus details about the amount of deposits, withdrawals, and transfers in the account since the last SAR. However, if, in the course of conducting customer due diligence (including ongoing monitoring for red flags), the financial institution detects changes in activity that potentially implicate one of the Cole Memo priorities or violate state law, the financial institution should file a “Marijuana Priority” SAR.

“Marijuana Priority” SAR Filings

A financial institution filing a SAR on a marijuana-related business that it reasonably believes, based on its customer due diligence, implicates one of the Cole Memo priorities or violates state law should file a “Marijuana Priority” SAR. The content of this SAR should include comprehensive detail in accordance with existing regulations and guidance. Details particularly relevant to law enforcement in this context include: (i) identifying information of the subject and related parties; (ii) addresses of the subject and related parties; (iii) details regarding the enforcement priorities the financial institution believes have been implicated; and (iv) dates, amounts, and other relevant details of financial transactions involved in the suspicious activity. Financial institutions should use the term “MARIJUANA PRIORITY” in the narrative section to help law enforcement distinguish these SARs.⁷

“Marijuana Termination” SAR Filings

If a financial institution deems it necessary to terminate a relationship with a marijuana-related business in order to maintain an effective anti-money laundering compliance program, it should

⁶ Frequently Asked Questions Regarding the FinCEN Suspicious Activity Report (Question #16), *available at*: http://fincen.gov/whatsnew/html/sar_faqs.html (providing guidance on the filing timeframe for submitting a continuing activity report).

⁷ FinCEN recognizes that a financial institution filing a SAR on a marijuana-related business may not always be well-positioned to determine whether the business implicates one of the Cole Memo priorities or violates state law, and thus which terms would be most appropriate to include (i.e., “Marijuana Limited” or “Marijuana Priority”). For example, a financial institution could be providing services to another domestic financial institution that, in turn, provides financial services to a marijuana-related business. Similarly, a financial institution could be providing services to a non-financial customer that provides goods or services to a marijuana-related business (e.g., a commercial landlord that leases property to a marijuana-related business). In such circumstances where services are being provided indirectly, the financial institution may file SARs based on existing regulations and guidance without distinguishing between “Marijuana Limited” and “Marijuana Priority.” Whether the financial institution decides to provide indirect services to a marijuana-related business is a risk-based decision that depends on a number of factors specific to that institution and the relevant circumstances. In making this decision, the institution should consider the Cole Memo priorities, to the extent applicable.

file a SAR and note in the narrative the basis for the termination. Financial institutions should use the term “MARIJUANA TERMINATION” in the narrative section. To the extent the financial institution becomes aware that the marijuana-related business seeks to move to a second financial institution, FinCEN urges the first institution to use Section 314(b) voluntary information sharing (if it qualifies) to alert the second financial institution of potential illegal activity. See *Section 314(b) Fact Sheet* for more information.⁸

Red Flags to Distinguish Priority SARs

The following red flags indicate that a marijuana-related business may be engaged in activity that implicates one of the Cole Memo priorities or violates state law. These red flags indicate only possible signs of such activity, and also do not constitute an exhaustive list. It is thus important to view any red flag(s) in the context of other indicators and facts, such as the financial institution’s knowledge about the underlying parties obtained through its customer due diligence. Further, the presence of any of these red flags in a given transaction or business arrangement may indicate a need for additional due diligence, which could include seeking information from other involved financial institutions under Section 314(b). These red flags are based primarily upon schemes and typologies described in SARs or identified by our law enforcement and regulatory partners, and may be updated in future guidance.

- A customer appears to be using a state-licensed marijuana-related business as a front or pretext to launder money derived from other criminal activity (i.e., not related to marijuana) or derived from marijuana-related activity not permitted under state law. Relevant indicia could include:
 - The business receives substantially more revenue than may reasonably be expected given the relevant limitations imposed by the state in which it operates.
 - The business receives substantially more revenue than its local competitors or than might be expected given the population demographics.
 - The business is depositing more cash than is commensurate with the amount of marijuana-related revenue it is reporting for federal and state tax purposes.
 - The business is unable to demonstrate that its revenue is derived exclusively from the sale of marijuana in compliance with state law, as opposed to revenue derived from (i) the sale of other illicit drugs, (ii) the sale of marijuana not in compliance with state law, or (iii) other illegal activity.
 - The business makes cash deposits or withdrawals over a short period of time that are excessive relative to local competitors or the expected activity of the business.

⁸ Information Sharing Between Financial Institutions: Section 314(b) Fact Sheet, *available at*: http://fincen.gov/statutes_regs/patriot/pdf/314bfactsheet.pdf.

- Deposits apparently structured to avoid Currency Transaction Report (“CTR”) requirements.
 - Rapid movement of funds, such as cash deposits followed by immediate cash withdrawals.
 - Deposits by third parties with no apparent connection to the accountholder.
 - Excessive commingling of funds with the personal account of the business’s owner(s) or manager(s), or with accounts of seemingly unrelated businesses.
 - Individuals conducting transactions for the business appear to be acting on behalf of other, undisclosed parties of interest.
 - Financial statements provided by the business to the financial institution are inconsistent with actual account activity.
 - A surge in activity by third parties offering goods or services to marijuana-related businesses, such as equipment suppliers or shipping servicers.
- The business is unable to produce satisfactory documentation or evidence to demonstrate that it is duly licensed and operating consistently with state law.
 - The business is unable to demonstrate the legitimate source of significant outside investments.
 - A customer seeks to conceal or disguise involvement in marijuana-related business activity. For example, the customer may be using a business with a non-descript name (e.g., a “consulting,” “holding,” or “management” company) that purports to engage in commercial activity unrelated to marijuana, but is depositing cash that smells like marijuana.
 - Review of publicly available sources and databases about the business, its owner(s), manager(s), or other related parties, reveal negative information, such as a criminal record, involvement in the illegal purchase or sale of drugs, violence, or other potential connections to illicit activity.
 - The business, its owner(s), manager(s), or other related parties are, or have been, subject to an enforcement action by the state or local authorities responsible for administering or enforcing marijuana-related laws or regulations.
 - A marijuana-related business engages in international or interstate activity, including by receiving cash deposits from locations outside the state in which the business operates, making or receiving frequent or large interstate transfers, or otherwise transacting with persons or entities located in different states or countries.

- The owner(s) or manager(s) of a marijuana-related business reside outside the state in which the business is located.
- A marijuana-related business is located on federal property or the marijuana sold by the business was grown on federal property.
- A marijuana-related business's proximity to a school is not compliant with state law.
- A marijuana-related business purporting to be a "non-profit" is engaged in commercial activity inconsistent with that classification, or is making excessive payments to its manager(s) or employee(s).

Currency Transaction Reports and Form 8300's

Financial institutions and other persons subject to FinCEN's regulations must report currency transactions in connection with marijuana-related businesses the same as they would in any other context, consistent with existing regulations and with the same thresholds that apply. For example, banks and money services businesses would need to file CTRs on the receipt or withdrawal by any person of more than \$10,000 in cash per day. Similarly, any person or entity engaged in a non-financial trade or business would need to report transactions in which they receive more than \$10,000 in cash and other monetary instruments for the purchase of goods or services on FinCEN Form 8300 (Report of Cash Payments Over \$10,000 Received in a Trade or Business). A business engaged in marijuana-related activity may not be treated as a non-listed business under 31 C.F.R. § 1020.315(e)(8), and therefore, is not eligible for consideration for an exemption with respect to a bank's CTR obligations under 31 C.F.R. § 1020.315(b)(6).

* * * * *

FinCEN's enforcement priorities in connection with this guidance will focus on matters of systemic or significant failures, and not isolated lapses in technical compliance. Financial institutions with questions about this guidance are encouraged to contact FinCEN's Resource Center at (800) 767-2825, where industry questions can be addressed and monitored for the purpose of providing any necessary additional guidance.

Appendix C

U.S. Department of Justice, Office of the Deputy Attorney General, Memorandum for all United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes, February 14, 2014, <https://dfi.wa.gov/documents/banks/dept-of-justice-memo.pdf>.



U.S. Department of Justice

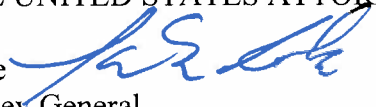
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

February 14, 2014

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Related Financial Crimes

On August 29, 2013, the Department issued guidance (August 29 guidance) to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). The August 29 guidance reiterated the Department's commitment to enforcing the CSA consistent with Congress' determination that marijuana is a dangerous drug that serves as a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. In furtherance of that commitment, the August 29 guidance instructed Department attorneys and law enforcement to focus on the following eight priorities in enforcing the CSA against marijuana-related conduct:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

Under the August 29 guidance, whether marijuana-related conduct implicates one or more of these enforcement priorities should be the primary question in considering prosecution

under the CSA. Although the August 29 guidance was issued in response to recent marijuana legalization initiatives in certain states, it applies to all Department marijuana enforcement nationwide. The guidance, however, did not specifically address what, if any, impact it would have on certain financial crimes for which marijuana-related conduct is a predicate.

The provisions of the money laundering statutes, the unlicensed money remitter statute, and the Bank Secrecy Act (BSA) remain in effect with respect to marijuana-related conduct. Financial transactions involving proceeds generated by marijuana-related conduct can form the basis for prosecution under the money laundering statutes (18 U.S.C. §§ 1956 and 1957), the unlicensed money transmitter statute (18 U.S.C. § 1960), and the BSA. Sections 1956 and 1957 of Title 18 make it a criminal offense to engage in certain financial and monetary transactions with the proceeds of a “specified unlawful activity,” including proceeds from marijuana-related violations of the CSA. Transactions by or through a money transmitting business involving funds “derived from” marijuana-related conduct can also serve as a predicate for prosecution under 18 U.S.C. § 1960. Additionally, financial institutions that conduct transactions with money generated by marijuana-related conduct could face criminal liability under the BSA for, among other things, failing to identify or report financial transactions that involved the proceeds of marijuana-related violations of the CSA. *See, e.g.*, 31 U.S.C. § 5318(g). Notably for these purposes, prosecution under these offenses based on transactions involving marijuana proceeds does not require an underlying marijuana-related conviction under federal or state law.

As noted in the August 29 guidance, the Department is committed to using its limited investigative and prosecutorial resources to address the most significant marijuana-related cases in an effective and consistent way. Investigations and prosecutions of the offenses enumerated above based upon marijuana-related activity should be subject to the same consideration and prioritization. Therefore, in determining whether to charge individuals or institutions with any of these offenses based on marijuana-related violations of the CSA, prosecutors should apply the eight enforcement priorities described in the August 29 guidance and reiterated above.¹ For example, if a financial institution or individual provides banking services to a marijuana-related business knowing that the business is diverting marijuana from a state where marijuana sales are regulated to ones where such sales are illegal under state law, or is being used by a criminal organization to conduct financial transactions for its criminal goals, such as the concealment of funds derived from other illegal activity or the use of marijuana proceeds to support other illegal activity, prosecution for violations of 18 U.S.C. §§ 1956, 1957, 1960 or the BSA might be appropriate. Similarly, if the financial institution or individual is willfully blind to such activity by, for example, failing to conduct appropriate due diligence of the customers’ activities, such prosecution might be appropriate. Conversely, if a financial institution or individual offers

¹ The Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) is issuing concurrent guidance to clarify BSA expectations for financial institutions seeking to provide services to marijuana-related businesses. The FinCEN guidance addresses the filing of Suspicious Activity Reports (SAR) with respect to marijuana-related businesses, and in particular the importance of considering the eight federal enforcement priorities mentioned above, as well as state law. As discussed in FinCEN’s guidance, a financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the federal enforcement priorities or violate state law, would file a “Marijuana Limited” SAR, which would include streamlined information. Conversely, a financial institution filing a SAR on a marijuana-related business it reasonably believes, based on its customer due diligence, implicates one of the federal priorities or violates state law, would label the SAR “Marijuana Priority,” and the content of the SAR would include comprehensive details in accordance with existing regulations and guidance.

services to a marijuana-related business whose activities do not implicate any of the eight priority factors, prosecution for these offenses may not be appropriate.

The August 29 guidance rested on the expectation that states that have enacted laws authorizing marijuana-related conduct will implement clear, strong and effective regulatory and enforcement systems in order to minimize the threat posed to federal enforcement priorities. Consequently, financial institutions and individuals choosing to service marijuana-related businesses that are not compliant with such state regulatory and enforcement systems, or that operate in states lacking a clear and robust regulatory scheme, are more likely to risk entanglement with conduct that implicates the eight federal enforcement priorities.² In addition, because financial institutions are in a position to facilitate transactions by marijuana-related businesses that could implicate one or more of the priority factors, financial institutions must continue to apply appropriate risk-based anti-money laundering policies, procedures, and controls sufficient to address the risks posed by these customers, including by conducting customer due diligence designed to identify conduct that relates to any of the eight priority factors. Moreover, as the Department's and FinCEN's guidance are designed to complement each other, it is essential that financial institutions adhere to FinCEN's guidance.³ Prosecutors should continue to review marijuana-related prosecutions on a case-by-case basis and weigh all available information and evidence in determining whether particular conduct falls within the identified priorities.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA, the money laundering and unlicensed money transmitter statutes, or the BSA, including the obligation of financial institutions to conduct customer due diligence. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct of a person or entity threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

² For example, financial institutions should recognize that a marijuana-related business operating in a state that has not legalized marijuana would likely result in the proceeds going to a criminal organization.

³ Under FinCEN's guidance, for instance, a marijuana-related business that is not appropriately licensed or is operating in violation of state law presents red flags that would justify the filing of a Marijuana Priority SAR.

Appendix D

U.S. Department of Justice, Office of the Attorney General, Memorandum for all United States Attorneys: Marijuana Enforcement, January 4, 2018, <https://www.justice.gov/opa/press-release/file/1022196/download>.



Office of the Attorney General
Washington, D. C. 20530

January 4, 2018

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: Jefferson B. Sessions, III
Attorney General

SUBJECT: Marijuana Enforcement

In the Controlled Substances Act, Congress has generally prohibited the cultivation, distribution, and possession of marijuana. 21 U.S.C. § 801 *et seq.* It has established significant penalties for these crimes. 21 U.S.C. § 841 *et seq.* These activities also may serve as the basis for the prosecution of other crimes, such as those prohibited by the money laundering statutes, the unlicensed money transmitter statute, and the Bank Secrecy Act. 18 U.S.C. §§ 1956-57, 1960; 31 U.S.C. § 5318. These statutes reflect Congress's determination that marijuana is a dangerous drug and that marijuana activity is a serious crime.

In deciding which marijuana activities to prosecute under these laws with the Department's finite resources, prosecutors should follow the well-established principles that govern all federal prosecutions. Attorney General Benjamin Civiletti originally set forth these principles in 1980, and they have been refined over time, as reflected in chapter 9-27.000 of the U.S. Attorneys' Manual. These principles require federal prosecutors deciding which cases to prosecute 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.

Given the Department's well-established general principles, previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately.¹ This memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion in accordance with all applicable laws, regulations, and appropriations. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal.

¹ Previous guidance includes: David W. Ogden, Deputy Att'y Gen., Memorandum for Selected United States Attorneys: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana (Oct. 19, 2009); James M. Cole, Deputy Att'y Gen., Memorandum for United States Attorneys: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use (June 29, 2011); James M. Cole, Deputy Att'y Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement (Aug. 29, 2013); James M. Cole, Deputy Att'y Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes (Feb. 14, 2014); and Monty Wilkinson, Director of the Executive Office for U.S. Att'ys, Policy Statement Regarding Marijuana Issues in Indian Country (Oct. 28, 2014).

Appendix E

Meeting Minutes

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana RSA 318-B:43,
Chapter 235:1, Laws of 2017**

October 17, 2017 9:00AM LOB 201

Organizational Meeting Minutes

Members Present:

- Representative Abrami; Representative Seidel; Representative, Bates; Senator Gannon; Senator Lasky; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Carollynn Ward, NH Dept. of Revenue Admin. (DRA); David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Todd Wells, NH Banking Dept.; Chief Richard Mello, NH Assoc. Of Chiefs of Police; Stuart Glassman, MD, NH Medical Society; Kate Frey, New Futures; Joe Hannon, Appointed by Governor

Members Not Present:

- Representative Leishman; James Vara, NH Attorney General; John Encarnacao, NH Dept. of Safety (DOS)

Others Present: Melissa Rollins, Clerk, DRA; *others from public were present; please refer to voluntary sign in sheet for information.*

Meeting Discussion:

Rep. Abrami called the meeting to order

- Carollynn Ward nominated Rep. Abrami to be the Chair of the Commission, seconded by Rep. Bates
- Rep. Abrami nominated Senator Lasky to be Vice Chair of the Commission
- Rep. Abrami handed out HB 215 "An Act establishing a commission to study the legalization, regulation and taxation of marijuana."

Rep. Abrami gave his general thoughts and guidelines of the commission

- Identify the good, the bad, and the ugly of marijuana legalization
- The Commission is a fact finding body
- Need to look at the issue from all angles
- Information to be utilized for future legalization
- America has 50 experimental labs on a wide-range of issues. Marijuana legalization is one of those. The Commission will seek testimony and facts from all states that have legalized marijuana. The Commission will allow those in distant states to testify via Skype into our hearings

- There are three degrees of marijuana law.
 - Medical- Already in NH law
 - Decriminalization – Already in NH Law
 - Full Legalization- Has been voted “no” in previous years
- Beware of current opinion polls. Let’s get the objective facts out and then see the polls.
- The Commission have all been asked to address one of the top issues facing all states and the country today
- Hopefully the Commission can leave their biases at home and objectively address this issue
- HB215 (authorized this Commission) asks that the Commission to pay special attention to MA, ME, & Canada

Rep. Abrami proceeded to discuss 12 topics that he had brainstormed on the approaches and outcomes in states that have legalized marijuana

1. Addiction
 - Impact on rate from pre-legalization
 - Any increases in other more powerful drug use
 - Any Indication that marijuana is a gateway drug
 - How do these states deal with addiction prevention and treatment
2. Illegal Activity
 - Do illegal sales disappear
 - What is the tax rate point at which illegal dealers return with lower cost product
3. Crime Rates
 - Any appreciable impact on crime rates post legalization
 - Any appreciable impact on gang activity post legalization
 - Any appreciable impact on underage use
4. Driving While Impaired
 - Any appreciable impact on driving while impaired
 - Any progress towards roadside sobriety tests
5. Medical Issues
 - Impact on brain function especially the young
 - Any other medical issues surrounding marijuana use
6. Cultivation and Control of Strength
 - How are growing licenses issued and how many growers allowed
 - How is the potency of plants monitored
 - If personal plant growth allowed what are the parameters
 - In state grown product only and how monitored
7. Manufacturing and distribution
 - How is the potency of edibles monitored

- Who oversees the safety of edibles (no FDA?)
 - Who monitors the packaging and the weighing of the product including bags of loose marijuana
 - How are manufactures licensed
8. Banking Laws
- How do they deal with Federal Drug laws in relation to banking
 - Are credit cards used for purchases and are cash deposits made in banks
9. Taxing
- Is marijuana taxed at the wholesale level or at the retail level
 - Any constitutional issues to deal with as in NH in which a class of goods or services must be taxed in the same way (NH does not tax cookies at the point of sale therefore it can't tax marijuana cookies at the point of sale)
 - Breakpoint of tax rate before price level before illegal operators enter the market at lower pricing
10. State Brand
- Any damage to the state brand after legalization
 - Any appreciable impact on tourism
 - Any restriction on how marijuana products are advertised
11. General Societal Impact
- Impact on families
 - Impact on the messaging that harder drug use is at crisis levels nation-wide
 - Impact on workforce
12. Location of Marijuana Stores
- Any restrictions on where loose marijuana and products can be sold
 - Private stores vs state run stores
 - Do cities and towns have the right to keep stores out of their jurisdiction
 - Does local zoning laws come into play

Rep. Abrami asked the Commission if they had any other thoughts or ideas on the matter.

- Joe Hannon said he thought it was a good start and that they need to look at policy as well.
- Rep. Seidel asked if there should be an education program added and that the Commission should communicate with the public on this idea.
- Rep. Abrami said that the Commission should find out if other states had implemented education programs.
- Rep. Abrami said the fact finding mission would be up to the chair to line up other states to testify about their process.

- Rep. Abrami stated that he could make an attempted to have the 12 bullet points put into a survey for other states and then skype in states as needed to clarify issues, but the commission needed to be aware of time difference between states.
- Rep. Bates suggested developing a list of contact of other states which maybe the first order of business and then to develop a schedule.
- Other committee members chimed in stating they could also get Rep. Abrami contact in other states.
- Rep. Bates suggested all contacts be forwarded to Rep. Abrami.

Rep. Abrami asked if any of the committee members had other suggestions.

- Senator Lasky wanted to know what other departments may have been created to deal with the legalization of marijuana and how the tax was implemented.
- Dr. Glassman stated that the commission needed to look at the medical side and any health concerns. He stated that NH Medical Society had no official policy but they will continue to discuss.
- Carollynn Ward stated the DRA could discuss the fiscal impact or revenue impact and cost to implement and can also send a list of other contacts with states which could be helpful.
- Joe Hannon stated that he could gather treatment recover group contacts.
- David Rousseau stated he could gather State contacts and agencies responsible on how other state regulate marijuana. He stated he would reach out to other people in agriculture.
- Rep. Seidel stated that the commission should hear from activists groups for and against the legalization of marijuana.
- Chief Mello stated that the Commission should be aware of HB 656, a retained bill relative to the legalization and regulation of marijuana which has been brought fourth before the Criminal Justice and Public Safety Committee. He stated that on October 11, 2017 the subcommittee voted 3-2 in favor of the bill and the full Criminal Justice and Public Safety Committee vote will be November 14th at 10:00am.
- Kate Frey stated that it would be helpful to have prevention specialist speak. She also stated it was important to have had healthy balance of outside organization from other states and not just state agencies.
- Todd Wells stated the NH Banking Dept. works closely with other states and will have good opportunities to reach out to them. He has been in contact with Vermont and Massachusetts about the legalization of marijuana and the issues of how to handle the funds. He has not been in contact and does not have a Canadian contact.

- Abby Shockley stated there is a focus on overseeing therapeutic marijuana. She also stated that DHHS is working on aligning research and how to better internally cover these new issues. A. Shockley stated she is happy to reach out to other states.
- Rep. Abrami asked A. Shockley to give an update on medical marijuana dispensaries.
- Abby Shockley stated there are 4 medical marijuana dispensaries opened. She stated that she could bring a colleague back from DHHS for the next meeting to discuss the dispensaries and give additional updates on them.
- The Committee suggested contacting growers and retailers and to invite them in for discussion.
- Senator Lasky suggested looking at Colorado constitutional amendment - researchers get copy of amended law for committee to see.
- Rep. Abrami stated that all others states had referendums and that no states passed legislation of marijuana through legislation. Rep. Abrami pointed out that referendums do not always have the facts - that is what the legislature does and that is what this committee is trying to do, inform the public.

Rep. Abrami pointed out that the Commission is missing someone from BAR association

- The Final report is due November 1, 2018
- The Commission was deciding if there should be monthly meetings or bi-weekly meetings.
- Dr. Glassman recommended a conference call if needed in between meetings.
- The Commission decided on bi weekly meetings.

Next meeting dates:

- November 6, 2017 @ 9:00am
- November 27, 2017 @ 9:00am
- December 18, 2017 @ 9:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana RSA 318-B:43,
Chapter 235:1, Laws of 2017**

November 6, 2017 9:00AM LOB 202

Second Meeting - November 6 ,2017

Members Present:

- Representative Abrami; Senator Lasky; Representative Leishman; Representative Bates; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); James Vara, NH Attorney General; Chief Richard Mello, NH Assoc. Of Chiefs of Police; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Todd Wells, NH Banking Dept.; Stuart Glassman, MD, NH Medical Society

Members Not Present:

- John Encarnacao, NH Dept. of Safety (DOS); Senator Gannon; Representative Seidel

Others Present: Melissa Rollins, Clerk; Jennifer Foor, Researcher, LBA, *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order

- Rep. Abrami introduced Jennifer Foor, researcher for the commission and Melissa Rollins, Clerk for the commission
- Carollynn Ward motioned to accept the prior minutes
- David Rousseau seconded the motion
- Rep. Abrami stated that the commission needs to spend some time on deciding what type of questionnaire they would like to send out to other states. The purpose of the questionnaire should be how they structure and implement their cannabis programs and what were the outcomes
- Rep. Abrami stated that he is still waiting to hear back from the NH Bar Association for the name of who will be on the commission

Rep. Abrami noted that everyone on the commission should have received a copy of:

- “The Politics of Stonework”– Mister Stoneman, Dan Schroth Piermarocchi
- The Agenda for today’s meeting
- Minutes from the last meeting
- State Action on Marijuana Legalization and Decriminalization
- Approaches and Outcomes in States that have Legalized Marijuana – Karmen Hanson, Program Director, NCSL

- Talking Points – New Hampshire Banking Department – Todd Wells, Banking Department
- Representative Abrami’s 14 talking points on the Approaches and Outcomes in States that have Legalized Marijuana
- NH DHHS – Therapeutic Cannabis Program Update – Michael Hold, Therapeutic Cannabis Program Policy Administrator
- Marijuana Policy Overview – Karmen Hanson, MA, Program Director, Health Program, NCSL

Presentation on the Therapeutic Cannabis Program given by Mike Holt, Policy Administrator for the Therapeutic Cannabis Program at DHHS

Follow up questions:

- Senator Lasky asked who is allowed to be a provider. Mike Holt stated that the law provides a definition of provider. Senator Lasky asked if there was any proposed legislation to expand the provider definition and Mike Holt said “No.”
- Rep. Leishman asked what are the fees associated with Alternative Treatment Centers (ATC) and do they cover the cost for DHHS to administer the program. Mike Holt said there was no appropriation or funds given to DHHS for administering the Therapeutic Cannabis Program. There is an established fee of \$80k for three of the ATCs and \$40k for the north country ATC. There are other fees associated with licensing that help supplement the costs to DHHS.
- Joe Hannon asked if there have been any reported overdoses. Mike Holt stated that he had not heard of any. Chief Mello stated that he had not heard of any issues in regards to medical cannabis.
- Rep. Abrami asked who sets the price of the cannabis. Mike Holt stated it is set by the ATC. There is a provision in the law that states ATCs need to have a patient affordability program, which all of them currently do.
- Rep. Abrami stated his concern that if cannabis is priced too high, therapeutic cannabis card holders could go to the illegal market to purchase cannabis while still having a card to protect them.
- Carollynn Ward asked if DHHS sets forth qualification for an ATC. Mike Holt stated that they do not set forth qualification but that they do have job descriptions for every ATC employee.
- Dr. Glassman expressed his concern that a provider can qualify patients for a therapeutic cannabis card even though they are not required to be educated about therapeutic cannabis.

Skyped in Presentation on Marijuana Policy Overview given by Karmen Hanson, MA, Program Director, Health Program, NCSL

Follow up questions:

- Dr. Glassman discussed slide 22 concerning driving while impaired and seeing an increase in injury. He also asked Karmen Hanson if she was familiar with the Rocky Mountain High article. Karmen Hanson said she knew the author of Rocky Mountain High and discussed how it may or may not be accurate based on biases and the difficulty to judge impairment in drivers under the influence of cannabis. She also discussed how this was a difficult and complicated issued to study especially with no way to determine impairment without a blood test. Karmen Hanson stated that an article was published in September in the Denver Post about the issue and how complicated it was. Another tricky thing for law enforcement is the blood test along with additional charges and the longer turn around to get the results. Jurisdictions can't afford it.
- Dr. Glassman asked if the Washington Data was valid. Karmen Hanson said it was, however she stated that she would follow up with her contact.
- Kate Frey stated she was surprised that 22 states have not passed adult use. She also said based on the stats about 70 % of towns do not allow it. She asked Karmen Hanson if she knew how those stats related to Washington or other states with towns that have allowed it. Karmen Hanson said it was roughly the same. About 1/3 allow it within their county.
- Kate Frey asked if Karmen Hanson knew of any trends relative to socioeconomic factors and the location of retail stores. Karmen Hanson stated that economic factors do have an effect, for example the affordability of real estate and where to build dispensaries while satisfying local ordinances.
- Joe Hannon asked if there was information on the effects of the prohibition policy. i.e. the cost of enforcing marijuana laws when it is not legal. Karmen Hanson said she could reach out to her colleagues. She also would reach out to the criminal justice group.
- Rep Abrami said it sounded like every state that legalized marijuana already had medical marijuana legalized and if this is the case why does the medical program stay in place after it is fully legalized? Karmen Hanson stated that medical marijuana was taxed less and unusually it stays in place so medical marijuana patients don't lose access to it. She also stated that products you could get on the medical marijuana side are more diverse and are for medical use rather than adult recreational use. Also, medical marijuana may be stronger than marijuana for adult recreational use.
Rep. Abrami thanked Karmen Hanson and let her know that the commission may be reaching out to her again.
- Rep. Abrami reminded the commission to funnel all question through Jennifer Foor at Jennifer.Foor@leg.state.nh.us

Next meeting dates:

- November 27, 2017 @ 9:00am
- December 18, 2017 @ 9:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana RSA 318-B:43,
Chapter 235:1, Laws of 2017**

November 27, 2017 9:00AM LOB 202

Third Meeting - November 27, 2017

Members Present:

- Representative Abrami; Senator Lasky; Representative Leishman; Representative Bates; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); John Encarnacao, NH Dept. of Safety (DOS); Senator Gannon; Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Todd Wells, NH Banking Dept.; Stuart Glassman, MD, NH Medical Society; Paul Twomey, NH Bar Association

Members Not Present:

- James Vara, NH Attorney General; Chief Richard Mello, NH Assoc. Of Chiefs of Police

Others Present: Melissa Rollins, Clerk; Jennifer Foor, Researcher, LBA; Matt Simon, Marijuana Policy Project; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order

- Todd Wells made a motion to accept the minutes, with a minor edit to the spelling of Michael Holt's name on page two of the meeting minutes.
- David Rousseau seconded the motion.
- Rep. Abrami introduced a new member to the Commission, Paul Twomey who is representing the NH Bar Association.
- Rep. Abrami stated the Carollynn Ward from the DRA would be presenting on December 18th and that the Commission should reach out to her with any questions which they would like answered during her presentation about taxes.
- Rep. Abrami announced that he had been in contact with Andrew Freedman, Colorado's marijuana Czar and that he was a wealth of information.
- Rep. Abrami stated that House Bill 656, an Active Marijuana Bill, was ITL with a 13-7 vote. This Bill will be heard on the House Floor and Rep. Abrami will speak in favor of the ITL. Rep. Abrami would like to say the commission sent him and ask the House floor if they would give the commission more time to study the bill. Rep. Abrami asked if anyone was opposed to him speaking on behalf of the Commission. Paul Twomey was opposed and said that the commission had no position. Rep. Abrami said he would speak as himself and not on behalf of the Commission.

- Another issue Rep. Abrami wanted to bring to the Commission to look at was big tobacco's involvement in legalization of Marijuana. Rep. Abrami's impression so far is Marijuana farms are smaller farms, but that we don't know for sure. He stated that the Commission would ask other states about this information.
- Rep. Seidel wanted to make a recommendation that the Commission discuss programs to education people about Marijuana.
- Rep. Abrami established the next meeting dates after December 18th, with the agreement of the Commission, as January 8th and 22nd.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting
- Minutes from the last meeting
- Basic Outline of Pesticide Regulator Structure prepared by David J. Rousseau, Director of the Division of Pesticide Control, NH DAMF
- Talking Points – New Hampshire Banking Department – Todd Wells, Banking Department
- Several Handouts from the Marijuana Policy Project including
 - Safe, Legal Access to Marijuana Can Help Fight the Opioid Epidemic
 - Breakdown of License Numbers in Adult-Use States
 - Breakdown of Taxes in Adult-Use States
 - Colorado and Washington: Life After legalization and Regulation
 - Colorado Business Outlook Since Marijuana Regulation
 - Marijuana Tax Revenue in States that Regulate Marijuana for Adult Use
 - Replacing Marijuana Prohibition with Sensible Regulations
 - Teen Marijuana Use Does not Increase Following Marijuana Policy Reforms
- Rep. Abrami also noted that Matt Simon, New England Political Director and Legislative Analyst, Marijuana Policy Project presentation would be emailed to the Commission members.

The first presentation was given by Todd Wells, Chief Bank Examiner, New Hampshire Banking Department

Questions:

- Rep. Abrami would like to know why Century Bank decided to participate in handling the money from Marijuana dispensaries.
- Rep. Abrami asked David Wells why other banks have not gotten more involved with Medical Marijuana dispensaries. Todd Wells stated it is probably because the banks want to follow the Cole Memo and the banks do not want to hurt their reputations.
- Paul Twomey asked if NH or other states have guidance on accepting funds associated with marijuana. Todd Wells stated States rely on the Financial Crimes Enforcement Network (FinCEN) Guidance.
- Senator Lasky asked if Mr. Wells knew about any banks located in states that had legalized marijuana that had incurred repercussions for handling "marijuana money."

Mr. Wells stated that he didn't have any fact based data. However, anecdotally he had heard of a credit union in Colorado which had issues wanting to open up and accept marijuana money but due to regulators was not allowed to open.

- Paul Twomey asked if there was a prohibition on enforcing marijuana transactions which applied to banks. Mr. Wells said that the priority for banks would be the Cole Memo and if the bank ran afowl the bank may run a risk of violating the law.
- Dr. Glassman stated the feds won't prosecute but have the right to if they want to.
- Mr. Hannon asked how the marijuana facilities pay taxes and how does the IRS audit. Mr. Wells stated he had heard marijuana facilities were paying their taxes in bags of cash when legalization of marijuana was first implemented, but now these facilities were paying with electronic payments or checks.

The second presentation was given by David J. Rousseau, Director of the Division of Pesticide Control, NH DAMF on the Basic Outline of Pesticide Regulator Structure

Questions:

- Rep. Abrami asked what NH medical marijuana growing standards were. Mr. Rousseau stated they are identified by B Federal methods and organic standards and that all medical marijuana is grown indoors in a greenhouse.
- Rep. Abrami asked if other states grow marijuana outside. Mr. Rousseau said that other states do grow outside.
- Kate Fray asked if Mr. Rousseau had heard anything about people being harmed by illegal pesticides. Mr. Rousseau said no. He stated that random sampling is done on marijuana plants. He stated that other states like Alaska have marijuana recalls like food recalls.
- Rep. Leishman asked if there are any marijuana resistant pests. Mr. Rousseau said mostly spider mites, aphids and mold.
- Senator Lasky asked if marijuana pests are similar to house pest. Mr. Rousseau said yes.
- Rep. Abrami asked if weights and measures were under agriculture. Mr. Rousseau said yes, scales are required to be registered and he will look into enforcement.

The third presentation was given by Matt Simon, New England Political Director and Legislative Analyst at the Marijuana Policy Project on Considering Marijuana Policy Reforms in New Hampshire: The Least you Should Know

Questions:

- Rep. Abrami asked if the Rand Group differentiated between edibles and smoking marijuana. Mr. Simon said no.
- Carollynn Ward asked does your organization take any position on taxation. Mr. Simon stated that yes they do take a position on taxation and that their group does support it. His group was the primary organization behind Colorado and other states taxation legislation.

Next meeting dates:

- Monday, December 18, 2017 @ 9:00am
- Monday, January 8, 2017 @ 9:00am
- Monday, January 22, 2017 @ 9:00am

Rep. Abrami: Where the goal of a tax is to cover the costs of a certain activity or service, does that include the cost of oversight?

Yes.

Rep. Abrami: Does it also include the cost of policing/ protection?

Yes.

Rep. Abrami: Can you address whether it will be a problem for New Hampshire to levy a tax at the retail level considering we do not have a sales tax?

A tax at the retail level is more natural for states that already have a sales tax because they have the infrastructure in place to collect tax at the retail level that we do not.

Attorney Twomey: Can you talk about the administration of the tax on alcohol and tobacco?

Rep. Abrami: There is not a tax per se on alcohol sold at state liquor stores. The profits go to the state.

The DRA has no involvement with alcohol revenues. The tobacco tax is collected through the sale of stamps at the wholesale level. Each package must have a tax stamp to be sold at retail. There is a refund mechanism in the even the package is never sold. Loose tobacco is also taxed at the wholesale level.

Dr. Hannon: Are other retailers of alcohol (beer and wine in grocery stores, for example) responsible for collecting an alcohol tax?

Not sure—the DRA is not involved in alcohol revenues.

Rep. Bates: How does tax policy fit with legalization? For instance, if it is legal to grow marijuana in your back yard, what does tax policy have to do with that?

If marijuana is over-taxed, people who do not want to grow their own but still wish to buy marijuana would likely turn to the illegal market. We continue to see this activity even in the market for tobacco where a black market exists for the sale of un-stamped cigarettes.

Sen. Lasky: Do we tax medical marijuana?

New Hampshire does not tax medical marijuana, but there are fees for licenses.

Dr. Hannon: Are there taxes on any other drugs?

No.

Rep. Abrami: Our constitution is different from many other states. I come back to the idea of the marijuana cookie and an Oreo and whether we could constitutionally tax them differently. It is an issue that would have to be addressed if legalization happens.

The legislature is given a degree of deference on issues like this. It comes down to whether there is a big enough difference in the two products to justify classifying them differently. For example, it is accepted that we tax meals intended to be consumed on premises, but not groceries. The legislature found there was reason enough to treat those classes differently.

Rep. Bates: I suggest we make a report based on the commission's purpose of taxing marijuana. For example, we should state that this is/ is not a sin tax and decide whether it is something that should be taxed. It should also be determined whether to allow home grows at an arbitrary level, etc.

Rep. Abrami: We are charged with deciding what legalization should look like if it happens. Similar to the work on casino gambling, we will suggest a structure for regulation so the debate can be on the merits of legalization. Bills on legalization will continue to come out. I don't even think we should vote on whether to legalize. We should comment on the most reasonable means.

Rep. Bates: I am not comfortable with the premise that we will/ would tax. We allow people to grow tomatoes in their yards without tax, why should we assume we would tax marijuana?

Rep. Abrami: Tax is a big selling point of legalization. The states that allow grows at home do not tax that marijuana either, but the existence of co-ops and other means of manipulating the home grow provisions prove to undermine the regulation of marijuana. Colorado actually legalized marijuana through a constitutional amendment, not a referendum.

Rep. Abrami: In places like Colorado, tourists may visit and use marijuana but can't go back home with it, right?

Yes, but that's true of cigarette sales in New Hampshire, too. The reality is there will be cross border sales that will impact revenue.

Rep. Abrami: When reading the Colorado article, it says the first \$40 million of revenue goes to school building aid. Do other states earmark that way?

I didn't go that deep with the analysis.

Senator Lasky: Is there a way to get tax records under the current law? With a court order perhaps?

Tax records are confidential non-disclosable records.

Rep. Bates: Is the confidentiality provision in statute or rules?

It is in statute, RSA 21-J:14.

Attorney Twomey: Have other states experienced instances of hiding cash? Would they know?

Because they have infrastructure in place for the sales tax, they would have more sophisticated methods of collecting the tax than we have here.

Dr. Hannon: Have any of these marijuana businesses gone bankrupt?

There is at least one example that filed for bankruptcy and was not accepted, thus generating the precedent that marijuana businesses are not eligible to avail themselves of the federal bankruptcy courts.

Ms. Frey: Did you conduct a cost analysis of the cost of startup for the administration?

We only looked at the cost impact to DRA. We've estimated the need for lawyers, clerks, auditors, and other staff. There is more staffing than we would need to implement other taxes, but nothing extraordinary.

Senator Lasky: Would the start up costs be higher than average or no?

Possibly—the rulemaking component would be daunting.

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana RSA 318-B:43,
Chapter 235:1, Laws of 2017**

December 18, 2017 9:00AM LOB 202

Fourth Meeting – December 18, 2017

Members Present:

- Representative Abrami; Senator Lasky; Representative Leishman; Representative Bates; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); John Encarnacao, NH Dept. of Safety (DOS); Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Todd Wells, NH Banking Dept.; Stuart Glassman, MD, NH Medical Society; Paul Twomey, NH Bar Association; James Vara, NH Attorney General

Members Not Present:

- Senator Gannon; Chief Richard Mello, NH Assoc. Of Chiefs of Police

Others Present: Melissa Rollins, Clerk; Jennifer Foor, Researcher, LBA; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order

- Rep. Abrami stated that he has sent out a request to Commission members to establish 7 subcommittees. Commission members are welcome to be a part of other groups as well based on their backgrounds. Commission members can be on two groups and anyone can ask questions.
- Each group should be prepared to ask questions of the people brought in by Skype.
- Rep. Abrami stated that at the next meeting Alan Budney, Ph.D. from Geisel School of Medicine at Dartmouth will be presenting on marijuana treatments. Rep. Abrami also stated there will be a presentation by two senators from Oregon on the legalization of marijuana.
- Todd Wells had a follow up on the FDIC and status of marijuana business deposit accounts. He provided a handout and discussed how the FDIC and the NCUA have not formally opined on whether they can federally insure marijuana deposits.
- Paul Twomey gave an update on the Rohrabacher-Blumenauer Amendment, which he explained has been law since 2014. This amendment prohibits the Justice Department from spending funds to interfere with the implementation of state medical cannabis laws.
- Abby Shockley stated that there was a hand out from Mike Holt with answers to follow up questions from his previous presentation.

- Rep. Abrami stated that Todd Well had suggested visiting an Alternative Treatment Center. Rep. Abrami said that he would send the Commission members dates.
- Carollynn Ward made a motion to accept the minutes.
- David Rousseau seconded the motion.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting
- Minutes from the last meeting
- Article on Banking on the pot industry dated November 28, 2016
- James Cole Memo
- Department of the Treasury Financial Crimes Enforcement Network
- Article from the Marijuana Report dated December 6, 2017
- Article on Following marijuana legalization, teen drug use is down in Colorado dated December 11, 2017
- Carollynn Ward, Tax Policy Analyst and Melissa Rollins, Senior Financial Analyst from NH DRA presentation
- Data on Marijuana Legalization prepared by Andrew Freedman: Former Director of Marijuana Coordination, Partner at Freedman & Koski, Inc.

The first presentation was given by Carollynn Ward, Tax Policy Analyst for the NH DRA on Marijuana Taxation and Policy

Questions:

- Rep. Abrami asked where the goal of a tax is to cover the costs of a certain activity or service; does that include the cost of oversight? Attorney Ward said yes.
- Rep. Abrami asked does it also include the cost of policing/ protection? Attorney Ward said yes.
- Rep. Abrami asked can you address whether it will be a problem for New Hampshire to levy a tax at the retail level considering we do not have a sales tax? Attorney Ward stated a tax at the retail level is more natural for states that already have a sales tax because they have the infrastructure in place to collect tax at the retail level that we do not.
- Attorney Twomey asked can you talk about the administration of the tax on alcohol and tobacco? Rep. Abrami stated there is not a tax per se on alcohol sold at state liquor stores. The profits go to the state. Attorney Ward stated the DRA has no involvement with alcohol revenues. The tobacco tax is collected through the sale of stamps at the wholesale level. Each package must have a tax stamp to be sold at retail. There is a refund mechanism in the event the package is never sold. Loose tobacco is also taxed at the wholesale level.
- Dr. Hannon asked are other retailers of alcohol (beer and wine in grocery stores, for example) responsible for collecting an alcohol tax? Attorney Ward stated she was not sure—the DRA is not involved in alcohol revenues.

- Rep. Bates asked how does tax policy fit with legalization? For instance, if it is legal to grow marijuana in your back yard, what does tax policy have to do with that? Attorney Ward stated if marijuana is over-taxed, people who do not want to grow their own but still wish to buy marijuana would likely turn to the illegal market. We continue to see this activity even in the market for tobacco where a black market exists for the sale of un-stamped cigarettes.
- Sen. Lasky asked do we tax medical marijuana? Attorney Ward stated New Hampshire does not tax medical marijuana, but there are fees for licenses.
- Dr. Hannon asked are there taxes on any other drugs? Attorney Ward stated no.
- Rep. Abrami stated our constitution is different from many other states. I come back to the idea of the marijuana cookie and an Oreo and whether we could constitutionally tax them differently. It is an issue that would have to be addressed if legalization happens. Attorney Ward stated the legislature is given a degree of deference on issues like this. It comes down to whether there is a big enough difference in the two products to justify classifying them differently. For example, it is accepted that we tax meals intended to be consumed on premises, but not groceries. The legislature found there was reason enough to treat those classes differently.
- Rep. Bates suggested we make a report based on the Commission's purpose of taxing marijuana. For example, we should state that this is/ is not a sin tax and decide whether it is something that should be taxed. It should also be determined whether to allow home grows at an arbitrary level, etc. Rep. Abrami said we are charged with deciding what legalization should look like if it happens. Similar to the work on casino gambling, we will suggest a structure for regulation so the debate can be on the merits of legalization. Bills on legalization will continue to come out. I don't even think we should vote on whether to legalize. We should comment on the most reasonable means.
- Rep. Bates said he was not comfortable with the premise that we will/ would tax. We allow people to grow tomatoes in their yards without tax, why should we assume we would tax marijuana? Rep. Abrami said tax is a big selling point of legalization. The states that allow grows at home do not tax that marijuana either, but the existence of co-ops and other means of manipulating the home grow provisions prove to undermine the regulation of marijuana. Colorado actually legalized marijuana through a constitutional amendment, not a referendum.
- Rep. Abrami asked in places like Colorado, tourists may visit and use marijuana but can't go back home with it, right? Attorney Ward stated Yes, but that's true of cigarette sales in New Hampshire, too. The reality is there will be cross border sales that will impact revenue.
- Rep. Abrami stated when reading the Colorado article; it says the first \$40 million of revenue goes to school building aid. Do other states earmark that way? Attorney Ward stated she didn't go that deep with the analysis.
- Senator Lasky asked is there a way to get tax records under the current law? With a court order perhaps? Attorney Ward stated tax records are confidential non-disclosable records.

- Rep. Bates asked if the confidentiality provision in statute or rules? Attorney Ward said it is in statute, RSA 21-J:14.
- Attorney Twomey asked if other states experienced instances of hiding cash? Would they know? Attorney Ward stated because they have infrastructure in place for the sales tax, they would have more sophisticated methods of collecting the tax than we have here.
- Dr. Hannon: Have any of these marijuana businesses gone bankrupt? Attorney Ward stated there is at least one example that filed for bankruptcy and was not accepted, thus generating the precedent that marijuana businesses are not eligible to avail themselves of the federal bankruptcy courts.
- Ms. Frey asked did you conduct a cost analysis of the cost of startup for the administration. Attorney Ward said we only looked at the cost impact to DRA. We've estimated the need for lawyers, clerks, auditors, and other staff. There is more staffing than we would need to implement other taxes, but nothing extraordinary.
- Senator Lasky asked would the startup costs be higher than average or no? Attorney Ward stated possibly—the rulemaking component would be daunting.

Freedman & Koski: Andrew Freedman, Co-Founder and Senior Director, former Colorado Director of Marijuana Coordination presented to the commission via Skype.

- Mr. Freedman stated he was formally director of marijuana coordination in Colorado. He guided the implementation of medical marijuana from regulator to public health to policy. He now runs a no advocacy firm, meaning he is neither for nor against the legalization of marijuana. He just helped implementation of tax. His presentation is the closest to agnostic from data points which are preliminary data from primarily Healthy Kids Colorado survey.
- Mr. Freedman wanted to note that slide 2 is a rolling average for 400 students. He also stated that the Rocky Mount High article talks about an increase of 20% however Mr. Freedman wanted to point out that the stats was based on 400 kids and the actual full statistics show a decrease.
- Mr. Freedman stated that slide 3 showed that high schoolers and middle schoolers are seeing marijuana as less than a risk from 2013 to 2015. He also noted that there was not a huge shift in children's ability to gain access to marijuana.
- Mr. Freedman stated the statistics show that there is a flat rate of marijuana suspension rates as well as total drug suspension rates in schools.
- Dr. Glassman asked if the age range included those aged 18 for the 100,000 students and if this was a high suspension rate. Mr. Freedman said that it did include those aged 18, which is the age when medical marijuana can be prescribed. Mr. Freedman went on to explain that medical marijuana is allowed in schools under limited circumstances and could contribute to the increase. However, there was no code for medical marijuana versus marijuana. Mr. Freedman did state that students are allowed to use medical marijuana in school with a patch and under supervision.

- Dr. Glassman asked if the Department of Education changed the law for schools? Mr. Freedman said that they did for medical marijuana and the state legislation was changed based on paraplegics. Mr. Freedman said the point of the actual change in legislation affected about 40 kids and was enacted 2 years ago.
- Dr. Glassman asked if they identify marijuana from other drugs suspension? Mr. Freeman said yes.
- Rep. Abrami told the Commission that NH should reach out to their Department of Education to start getting trends on marijuana suspensions.
- Mr. Freedman stated that adult use consumption patterns have not seen a significant increase. However, it is missing one component which is tracking the type of usage for example new usage versus daily usage versus problematic usage.
- Mr. Freedman stated that accidental consumption by children had reduced and he attributed this to public education and a change in the laws around packaging and stamping on edibles. This was also the same for marijuana poison control calls.
- Dr. Glassman pointed out to the Commission that in four years, 2010 to 2013, there were 41 emergency visits versus 2014 to September 2015 had been more than doubled based on time frame.
- Mr. Freedman stated general hospitalization and overall trends had increase over time for coding of marijuana. He also wanted to point out that when the person comes into the hospital it doesn't mean marijuana is why they are coming into the hospital it just means it is in their system.
- Rep. Abrami asked if the ICD code has always been in use or is this new due to marijuana law changes? Mr. Freedman wasn't sure. Dr. Glassman said he will look into NH ICD codes on marijuana.
- Rep. Abrami asked what the technologies were for identifying drivers while high on marijuana? Mr. Freedman stated that the primary tool was still a blood test. However, the State of Colorado did invest \$600,000 to look into roadside testing for active THC through saliva tests or breathalyzers.
- Mr. Twomey asked if tests or results discriminate between an active metabolite or an inactive metabolite, which can stay in the system for a long time? Mr. Freedman stated that was a problem they had and it still needed to be looked into.
- Dr. Hannon asked about the fatal accident reporting and if the data was based on only marijuana substances or a combination of both. Mr. Freedman stated that they were everything including alcohol and opioids.
- Mr. Freedman discussed the homegrown market and how Colorado's original laws allowed for very large homegrown operations, which increased organized crime for purposes of selling marijuana out of state. The law has since been changed for only 6 plants and \$6 million has been put into a specific fund for police officers to shut down this "gray market", which is structurally Colorado's biggest problem.
- Rep. Abrami asked if the six plant limit was constitutional or in rules? Mr. Freedman said it was constitutional and it is a self-enacting clause to allow marijuana to continue no matter what government does.

- The last slide Mr. Freedman discussed was revenues. Mr. Freedman stated that the marijuana tax revenue for the last fiscal year was \$210 million. He stated that this is still less than 1% of Colorado's budget.
- Rep. Abrami asked if there were any other earmarks other than the \$40 million for education? Mr. Freedman said no.

Rep. Abrami asked if there were provisions for the local community to employ a tax? Mr. Freedman said yes and that communities have implemented a 1% to 5% tax and that it should also be noted there is a 15% share back where revenue goes back to the original community.

Next meeting dates:

- Monday, January 8, 2017 @ 11:00am
- Monday, January 22, 2017 @ 9:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

January 8, 2018 11:00AM LOB 201

Fifth Meeting – January 8, 2018

Members Present:

- Representative Abrami; Senator Lasky; Representative Leishman; Representative Bates; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); John Encarnacao, NH Dept. of Safety (DOS); Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Todd Wells, NH Banking Dept.; Stuart Glassman, MD, NH Medical Society; Paul Twomey, NH Bar Association; James Vara, NH Attorney General; Chief Richard Mello, NH Assoc. of Chiefs of Police

Members Not Present:

- Senator Gannon

Others Present: Melissa Rollins, Clerk; Jennifer Foor, Researcher, LBA; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order

- Todd Wells requested an adjustment to page one of the meeting minutes reference to the FDIC. Melissa Rollins will adjust the minutes to reflect the change requested.
- Rep. Seidel made a motion to accept the minutes with adjustment.
- Rep. Bates seconded the motion.
- The Commission decided the February meeting dates would be the 5th and the 12th.
- The Commission discussed that they would come up with agenda items before the visit to the dispensary.
- Mike Holt stated that a Monday would be the best time to visit a ATC as they are closed on Monday. He stated that earlier in the morning is better and to work out an agenda before visiting. He also stated that the ATC would need the names of the committee members prior to visiting the ATC for Commissioner approval.
- Todd Wells spoke concerning the Memo put out on January 4, 2018 by Jeff Sessions, US Attorney General, which essentially rescinds the Cole Memorandum. He stated banks were nervous about the Cole memo being rescinded which is why the banks had been hesitant to work with businesses in the Marijuana Industry. Mr. Wells noted one of the elements from the memo referencing illegal money and that this statement may prompt banks to reconsider from a risk management perspective to not handle marijuana money.

- Paul Twomey also talked about Attorney Sessions' Memo. He stated the memo won't have an effect on home grown, but would have a significant effect on states that have legalized marijuana. He said that we may see push back on the budget authorization of the Rohrabacher-Blumenauer Amendment. He stated you may see an amendment in Congress to direct the Dept. of Justice to not expend any money on enforcing or going after legalized marijuana. Mr. Twomey stated there should be more answers on January 19th.
- Rep. Abrami stated that as a Commission we have time to see what happens over the next several months with this memo and how other states handle it.
- Rep. Abrami also stated that at the next meeting the Commission would hear from the State of Washington.
- Joe Hannon stated he thinks the Commission should discuss writing a statement to the Federal Government and possibly State Legislature with a recommendation to de-schedule Marijuana at the national level. Senator Lasky stated it would involve the Congressional Delegation as well and it would important to have their backing as well. Rep. Abrami stated the Commission could discuss it at the next meeting.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting
- Minutes from the last meeting
- House Bill 1768-FN An Act establishing a cannabis control commission
- Senate Bill 338 An Act relative to the growing of cannabis if it becomes legal
- An Article titled "Breaking Down the Regulator Differences Amount West Coast Cannabis Markets" dated December 12, 2017
- An Editorial on "The sad anniversary of Big Commercial Pot in Colorado from The Gazette"
- An Article titled "Cannabis Use and Risk of Prescription Opioid use Disorder in The United States" dated September 26, 2017
- An article titled "Analytical Technology on the Frontline of the War on Synthetic Cannabinoids" by Dominic Andrada from the November/December issue of the American Laboratory
- An article titled "Mom Goes to Pot: Therapeutic cannabis is in the house" by Wendy E. N. Thomas in the August 2017 issue of NH Magazine

The first presentation was given by Alan J. Budney, PhD Director of Treatment Development and Evaluation Core at the Geisel School of Medicine at Dartmouth

- Dr. Alan Budney will email presentation to Jennifer Foor, who will email the slides to the Commission.

Questions:

- Paul Twomey asked aren't there differences in the size of the minority, size of the population, severity of the problem? Dr. Budney answered that there are difference amongst drugs and that

there is a lower % of people using marijuana that go on to use other drugs like they would using cocaine. However, the differences are not as big as you think.

- Rep. Seidel asked would this be the reason people are using for medical purposes and should continue to have routine follow up visits with the doctor to ensure, like pain medication, it is not abused? Dr. Budney stated that lots of things could happen. The person could have legitimate use, but others could abuse it.
- Dr. Glassman stated that about two months ago he sent out information showing that 10 -15% of marijuana users will have marijuana addiction. Dr. Budney agreed and stated that there is a biological plausibility that it interacts with the brain to trigger dopamine. It is also to note that the severity of the disorder is not as bad as a heroin user or an alcohol user however; it is still affecting their lives dramatically.
- Paul Twomey asked how effective is treatment for self-admittance? Dr. Budney answered not much and it is hard to define if not impossible to define self-admittance. People come to treatment when bad things happen. Would you define that as self-admittance or them being pushed by the people that love them?
- Rep. Abrami asked how does marijuana treatment successes compare to alcohol treatment successes? Dr. Budney answered about the same
- Senator Lasky asked how long is marijuana treatment? Dr. Budney stated that at about 3 months you have a 20% success rate and that number gets worse as you go out.
- Dr. Glassman asked what percent of THC is considered high potency? Dr. Budney stated over 15% up to 35%.
- Paul Twomey asked if any jurisdiction with legalized marijuana have limited the potency? Dr. Budney stated he is not aware of any.
- Paul Twomey asked if potency is an important factor and is that an argument for a regulated system? Dr. Budney stated that he wasn't sure you could control as NH is already selling high potency medical marijuana.
- Senator Lasky stated that marketing marijuana is no different than marketing cosmetics or vitamins were both markets are unregulated? Dr. Budney replied with vitamins and cosmetics don't get you high.
- Rep. Seidel asked if Dr. Budney recommended that CBD and THC % should be on label of marijuana products? Dr. Budney stated yes and there should be a warning on label.
- James Vara asked if marijuana should be rescheduled since there is no lethal dose of marijuana? Dr. Budney answered that yes it should be reschedule and no there is no lethal does.
- Paul Twomey asked if there should be limiting of marijuana advertisements like they do with alcohol? Dr. Budney stated yes.
- Kate Frey asked in the states that have legalized marijuana is there a model out there that would address the situation he has talked about? Dr. Budney stated he is not aware of one and it is too difficult to figure out and cover everything. However, maybe the NH Commission would come up with one.

The second presentation was given by Oregon Legislature: Senator Ginny Burdick, Senate Majority Leader and Co-Chair of the 2017 Joint Committee on Marijuana Regulation and the Commissioner Ted Ferrioli, Former Senate Republican Leader and Co-Vice Chair of the 2017 Joint Committee on Marijuana Regulation.

Senator Burdick:

- Explained what happened in Oregon: 1973 first state in the country to decriminalize 1/2 ounces of marijuana, 1997 the legislature recriminalized marijuana, 1998 citizens' initiative decriminalize marijuana and to approve medical marijuana
- 2014 - A really professional group - drafted a ballot measure 30+ pages long to legalize marijuana. It passed in Oregon by a 10 point margin. It was very divided by urban and rural areas.
- As they entered 2015 session, leadership of Legislature would form a joint committee to study issues. Oregon and NH have similar provisions of liquor stores.
- Using dispensaries system as a template (liquor stores) but is administer by commission which has expertise in regulatory .
- House Senate Committee with a Republican leader and Democratic leader
- Decided early on that this was not a partisan issue - Oregon liquor control commission including people from medical marijuana industry and one of the primary recommendations for NH is to really look into the medical marijuana program and find the critical people for technical guidance.
- Key decision - fundamental decision that they wouldn't be bound by the referendum if they felt something was in conflict.
- For example Oregon does not have sales taxes like NH - commission decided early on that the grower tax was unworkable and renamed it a point of sale tax. The tax system is a point of sale tax at the dispensary level.
- Another policy change in the ballot measure that it would have no effect on Medical Marijuana Program. It wasn't long that after this that they realized the Medical Marijuana system was a major conduit into the black market. So they took on the Medical Marijuana system and put as much regulation as they could get done politically and then strengthened in the 2017 legislation.
- Third item that they would allow areas that had voted against initiative to not implement it in those areas.

Commissioner Ted Ferrioli:

- Oregon early on adopted access to medical marijuana which gave them a 20 year jump on regulating it. When initiative was passed a variety of communities voting for and against. This was clearly an urban rural issue. But the majority of counties voted not to legalize marijuana, but to end prohibition.
- Interesting thing was in the initiative there was a deadline of when marijuana would be legalized. But there was no way bureaucracy could catch democracy. The democracy was moving way faster than the bureaucracy, which was taking way too long. Stuck with a situation where citizens believed they had a right to access recreational cannabis but with no license.
- To accommodate this temporality, people who wanted to use recreational marijuana could go to medical marijuana facilities and access it until it was fully legalized.
- Long argument about separating medical from recreational and the only people with the knowledge were located in the medical marijuana side.
- Benefited significantly from the cross over from the medical to recreational.
- Most of dispensaries today are recreational and they are seeing more people move from the illegal side to the recreational retail system. It was happening naturally.
- We still haven't completely stopped the access to black market, but are on the way to doing it based on strict regulations.
- System in Oregon is a success and producing a lot of revenue for local communities.

- Note on communities: some voted themselves dry and some voted themselves wet, not dissimilar to the way rural communities voted against legalization of marijuana and urban communities voted for legalization of marijuana.
- Created in the law an opportunity for cities and counties to opt into or opt out of the recreational licensure process.
- Nothing prohibited people, even in the rural communities, from using or possessing cannabis. The purpose of the “opt in or opt out” was for the store fronts that would be downtown. By opting out the communities could not share in the revenue sales.
- Counties and cities have option to opt out or opt in - express their own community standards and have made transition to a state where cannabis is legal. Those folks who early on have decided to opt out have looked at their neighborhood problem and seeing there are fewer law enforcement and are slowly migrating toward licensure, just like prohibition.
- Now they have a system in place which is heavily regulated, trusted by law enforcement, populated by serious investors and entrepreneurs.

Questions:

- Rep. Abrami asked what are you calling the tax, not a sales tax? Senator Burdick answered it is a point of sales tax levied at dispensary level. From day one you are competing with the black market so you need to set tax at a reasonable to low level, which is what Oregon did by setting the tax at a 17% point of sales tax. Counties can adopt a local sales tax up to 3% which is for their exclusive use only. The state wide tax gets distributed on a formula, 40% goes to education and a portion goes to drug treatment and law enforcement. Commissioner Ferrioli also added a point of sales tax is the simplest way to collect revenue. Sales tax is too difficult and is not good for marketing. The bottom line is this is a great revenue producer. No one is complaining about the point of sales tax. Cannabis users are not reactive because they are happy to have access to marijuana.
- Rep. Bates asked besides money targeted for education is there any of the money targeted to drug education? Senator Burdick said she believes it is 15%. She stated they would be happy to send over the budget and formula.
- Rep. Seidel asked does your licensure procedure include certain standard measurements for products? Commissioner Ferrioli said licensure is really hard. There are several hoops to go through including criminal background check, financial capabilities and retail location. Rep. Seidel followed up with asking if there any potency metrics. Commissioner Ferrioli stated the only metric he can talk to is that every ounce of cannabis is tested for additives, potency, and purity.
- Rep. Abrami asked is there a limit to the strengths and how do you control that? Commissioner Ferrioli stated it is not limited - there are no potency limitations, what there are is serving size limitations. Disclosure rather than a limitation.
- Rep. Leishman asked if there are any regrets or downsides to where you are at? Senator Burdick answered with more access equals more problems. There are no adequate tests of impaired driving. Science needs to catch up to reality and figure out a more user friendly way to see if anyone is impaired. Metabolites remain in system long after you have been impaired. Commissioner Ferrioli added there have been an increase in incidents of minors accessing cannabis, increase incidents of minors ingesting cannabis, and access in home and uncontrolled environment.

- Kate Fray asked what % of communities opted out. Commissioner Ferrioli said at the beginning of process it was about 30 and as time had gone forward there has been a migration to opted in and in 2017, 17 out of 36 counties had opted out.
- Senator Lasky asked if there were any particular issues with banking and payments? Commissioner Ferrioli answered that the Oregon state legislature sent letter to all member of congress to de-schedule cannabis. All of the banks that have tried to work within the Federal regulator system legally have failed. The credit unions of Oregon have stepped in to the void and have banked millions. One major area of public policy that an obstacle to research, development, and banking is the drug schedule. It needs to be taken off the schedule.

Next meeting dates:

- Monday, January 22, 2017 @ 10:00am
- Monday, February 5, 2017 @ 8:30am – ATC in Merrimack with a Commission meeting to follow
- Monday, February 12, 2017 @9:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

January 22, 2018 10:00AM LOB 202

Sixth Meeting – January 22, 2018

Members Present:

- Representative Abrami; Senator Lasky; Representative Bates; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); John Encarnacao, NH Dept. of Safety (DOS); Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Todd Wells, NH Banking Dept.; Stuart Glassman, MD, NH Medical Society; Paul Twomey, NH Bar Association; Senator Gannon; Chief Richard Mello, NH Assoc. of Chiefs of Police

Members Not Present:

- Representative Leishman; James Vara, NH Attorney General

Others Present: Commissioner Jasper, NH Dept. of Agriculture; Melissa Rollins, Clerk; Jennifer Foor, Researcher, LBA; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order

- Rep. Seidel made a motion to accept the minutes with adjustment. David Rousseau seconded the motion.
- Rep. Abrami stated HB 656 passed with an amendment to the original bill, which was a full commercialization and taxation bill. The amendment basically replicates what Vermont did including the legalization of growing 6 plants, allowing certain marijuana infused products and making possession of $\frac{3}{4}$ of an ounce of marijuana legal. This bill doesn't change the mission of the commission. The goal of the commission is to do it right and come up with all of the various regulations that need to be in a bill that may or may not pass.
- Rep. Abrami stated next meeting will start with the tour of a dispensary from 8:30am to 9:30am followed up with a meeting at the LOB from 10:15am to 11:30am. Those who can't make it to the tour of the dispensary may be able to attend on a second date.
- Next meeting expect to start looking at the subgroups.
- Two meetings out the State of Alaska will be presenting.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.

- Amendment to House Bill 656 relative to the home cultivation of marijuana plants and the possession of certain marijuana-infused products.
- An Article titled “Feds Reviewing Marijuana Banking Protection ” from Marijuana Moments dated January 18, 2018.

The first presentation was given by Colorado Department of Public Health and Environment: Daniel Vigil, MD, MPH; Program Manager of the Marijuana Health Monitoring and Research Program

- Dr. Vigil states his program primary focuses are:
 - Review research literature on health of marijuana
 - Monitor data on health impact and health encounters as well as patterns of use
 - Fund 16 research grants in order to better fund areas identified as gaps in research
- The program has put out a report, one in January 2015 and an update in January 2017. You can find the reports by searching monitoring marijuana in Colorado. This is a 300+ page report.
- One point that gets a lot of press in Colorado is that adolescent use has not increased after legalizing and has remained steady over a decade.
- Senator Gannon asked were your rates already high in the country for use compared to other states? Dr. Vigil stated yes, around 20% of high school students have used marijuana in the past 30 days and that is one of the highest rates in the country.
- One particular nuance is using marijuana at school or in school may have increase due to a misguided perception that it is okay to use now that it is legal. Dr. Vigil explained that because there has been an increase in suspension in public schools. As well as resources officers stating it seems like a bigger problem as well as students saying they use now because it is legal now.
- An area that still needs attention and focus is education. The focus of legislation needs to be on public education points. The message needs to be it is still illegal for minors and don't give it to minors. As well as a message that the health effect is different for minors than it is for adults.
- Focus groups need to be develop to help parents educate their youths on marijuana.
- Rep. Abrami asked where are the youths getting the marijuana - dispensary or illegal market? Dr. Vigil stated about 1/2 of youth say they are getting it from a friend and about 4% are getting it from a parent. No youths are getting it at a dispensary - no dispensary wants to get in trouble.
- Senator Lasky asked how does the rate of marijuana use compared to alcohol? Dr. Vigil stated 20% of high school students have used marijuana in the past 30 days, while alcohol is about 30% use rate in the past 30 days. Alcohol and tobacco have been slowly declining over the past decade. Yet, across the board alcohol remains a bigger issue compared to marijuana in terms of rate of use, driving incidents, and admission for addiction treatment.
- Senator Lasky asked does anyone say alcohol is more of a gateway drug than marijuana? Dr. Vigil stated no however using any substance increases using another substance in the future. Also Dr. Vigil stated they don't explicitly say that marijuana is a gateway drug.
- Weekly or more frequent use has a larger effect on adolescents, like impaired learning, memory, failure to graduate high school and psychotic symptoms - and symptoms in adulthood for adults who used in their childhood.
- Rep. Abrami asked are those facts from controlled studies? Dr. Vigil stated those facts come from observational studies.

- Dr. Glassman asked what is the addiction rate in Colorado? Dr. Vigil stated he can't speak to addiction rate. However, he stated the rate for addiction treatment for age 17 and younger in 2016 was under .3% were entering treatment for marijuana addiction. Ages 18-24, highest prevalent of use, were .5%. Ages 18-24 have about a 1 in 4 or 2% use rate amongst those using marijuana in the past month and are getting treatment. Dr. Glassman stated that there may be more addicted but are not getting treatment and those were not included. Dr. Vigil agreed.
- Paul Twomey asked if you could tease out the number of people that were attending addiction treatment programs voluntarily versus the ones who were mandated to attend treatment? Dr. Vigil stated he couldn't tease out that figure. His understating is a smaller portion are mandated and most are referrals. Attorney Twomey stated he has seen other statistics where it is the opposite.
- Sen. Lasky asked if the addiction rates were solely for marijuana? Dr. Vigil stated that was corrected. He also added that about 25% of all addiction treatments were for marijuana.
- Kate Fray asked if the treatment rate has gone up after legalization? Dr. Vigil stated that number has gone up slightly for the 17 and younger age group, steady for the 18-24 and decreased slightly for the over 24 age group.
- Rep. Abrami asked when first legalized where was Colorado compared to where you are now? How has Colorado evolved? Dr. Vigil stated labeling has improved for edibles. Serving sizes have been limited to 10mg and has to be clearly labeled. There is more education for new users and lots more public education.
- Rep. Siegel asked do you have a standard in potency in marijuana and is there a standard way to measure the quality of marijuana. Dr. Vigil stated there is no limitation on THC concentration. He also stated that it is required in Colorado for every bag of marijuana to be tested for concentration.
- Dr. Hannon asked about a 2017 American Association of Poison Control Centers report that about 10,500 cases for exposure for children under age 5 for laundry pods. How do those numbers compare to exposures for marijuana in Colorado? Dr. Vigil stated he didn't have a Colorado number for laundry pods. However, he had stated on ages zero to 8 where calls peaked at 48 in 2015 and decreased slightly in 2016 to 40 calls.
- Kate Fray asked if edible packaging of marijuana in Colorado was packaged by serving size or can you break off pieces of a bar? Dr. Vigil stated that in Colorado they can be breakable portions and not everything has to be separately packaged by portion.
- Dr. Vigil explained that 1 in 14 kids in Colorado or about 8% of homes have marijuana in or around the home.
- Dr. Vigil gave the following adolescent stats:
 - Marijuana use in adolescents is an equal split between males and females. Adult use differs where more males use it than females.
 - Over 80% of adolescents says smoking marijuana is their method of use.
 - Asians least likely to use marijuana compared to Whites, Blacks, and Hispanics.
- Abby Shockley asked have you done research or collected any data in use of pregnant women? Dr. Vigil stated yes, they added question in 2014 – no data prior to legalization. They have received 2014 and 2015 results back. About 11% of new mothers said they used marijuana before pregnancy. This statistic drops to a little under 6% used during pregnancy. The women who used marijuana after pregnancy while breastfeeding was 5%. About 13% used alcohol during pregnancy and over 6% use tobacco during pregnancy.
- Dr. Vigil stated that driving while under the influence of marijuana increases both impairment and crashes, including fatalities. This was measured by using a driving simulator for impairment

and crashes is data based. Alcohol and marijuana combined increases impairment in crashes more than either substance alone.

- For less than weekly users about 10 mg, roughly a 1/10th of a joint, is very likely to lead to impairment. More frequent users are less likely to get impaired using the same amount.
- Paul Twomey asked are people substituting marijuana for other substances? Dr. Vigil stated he has not looked at marijuana substitution for alcohol, but they have looked a lot at substitution of opioid use for marijuana. There is really not good evidence in opioid use relative to marijuana use. More research is needed. Currently it is somewhat mixed.
- Time of impairment - 6 hours after smoking and 8 hours after ingested based on research of moderate doses - no research on high usage. One real challenge is that testing for marijuana is far from clear. Blood is the closest method to identify most recent use - urine captures metabolites that could be present days after use- not helpful for driving impairment.
- Dr. Glassman asked have they looked at opioid deaths/overdose deaths and marijuana use with any correlation of any kind? Dr. Vigil stated prevalence of use at the state level, overdoses hospitalization or hospital deaths at state level and there is some limited evidence there. That is the place where it is the strongest, but is still very limited. At the individual level the evidence is mixed.
- Rep. Abrami asked did your department come about after legalization? Dr. Vigil stated they were formed in 2014 because the funding came out late - it is important to get funding early for programs like his and also establish state funding for lab work.
- Rep. Abrami asked how big is your staff? Dr. Vigil stated there are three of them for data and research focus. The Dept. also has funding for educational services and they have 3 or 4 people that are primarily focused on marijuana.
- Paul Twomey asked about drug recognition training. - more funding or more progress - training of actual officers on the street. Dr. Vigil stated yes, state patrol has had funding to increase training for drug recognition at local levels, varies from no change to, in some localities like Denver, increased drug recognition training
- Rep. Bates asked if there was any data for recognizable savings for law enforcement, the courts or the judicial statements? Dr. Vigil stated no, nothing on cost benefit or savings and research would be challenging. There are some researchers trying to work on those areas, but currently no information.
- Dr. Glassman asked did the state add any funding for any of the treatment issues that have come after legalization of marijuana whether at the youth level or adult level. And if so do you know what the numbers were for the funding for those additional resources? Dr. Vigil stated he doesn't know but can email group about it.
- Dr. Hannon - Can you talk about difference in driving while impaired using marijuana versus alcohol or other substances. Dr. Vigil stated the crash risk is doubled with marijuana use, but a bigger increase, 6 or 8 fold, with alcohol.

The second presentation was given by Washington Legislator: Senator Ann Rivers, Senate Health Care Chair, member of Senate Ways and Means, Early Learning and K-12 education, and rules

Senator Rivers stated:

- Washington had a medical marijuana program 12 years prior to legalized marijuana.

- Washington passed medical marijuana in 2002 and the problem they ran into was it became the wild west - black market - not heavily regulated - allowed to have 24 ounces at a time - you could parse that out and sell it and go back and get another 24 ounce – which created a gray market .
- Words "at a time" very important in writing the statute.
- Cooperatives -were a real issue - cooperative that served 40k people based on 4 people at a time. People will always find a loop hole. Washington passed the legalization of marijuana Referendum in 2012 and had to align medical and legalization. Medical marijuana had no tracking, no regulation. 95% of people claiming to be medical marijuana users where actually not medical patients. Largest difficulties were harmonizing the two systems. Medical and legalization. Price of medical was \$28 a gram to \$6.89 a gram for medical. - price has dropped significantly.
- Key things:
 - Don't have leakage from medical to recreational.
 - Wise to not have homegrown. Colorado officials regret homegrown.
 - Concern is when you allow homegrown - leakage of revenue and the potential of kids getting their hands on it.
- Homegrown not allowed in state. Cooperative, medical marijuana may only be 4 people and a 60 day waiting period to welcome in a new member.
- Recreation- there is no home grow - you may only purchase legal marijuana at a retail marijuana store. 7 1/2 million people and 150 -200 retail marijuana stores.
- Surprising, rural people tend to be more libertarian. Biggest complaint they get from rural is the smell of growing pot - a lot of rural growers.
- Each sort of city center has a location where they can go and buy it - Growers are licensed and licensed at every step of the way
- Rep. Abrami asked how is it taxed? Senator Rivers stated she collapsed the tax systems. She stated the tax is 37% tax and is collected at the point of sale. Medical marijuana is a tax of 27% at point of sale or retail - excise tax. Also have a business and occupancy tax.
- Rep. Abarmi asked if they had always taxed medical marijuana? Senator Rivers stated they added it in later - wanted to make sure patients were truly patients and didn't want to create a disincentive to go to the other market. They are also working on program with the growers to meet needs of oil for patients. They also have a business and occupancy tax.
- Rep. Seidel asked if there are any quality controls on the standards of potency? Senator Rivers stated they do. They have really good standards. They have testing by the batch prior to going to the retail and also do surprise visits and send to lab to get THC and CBC so people know the profile of what they are getting.
- Quality control pretty stringent and continue to tighten it up.
- State must be responsible and have truth in advertising and Dept. of Agriculture is getting involved in organic standards.
- Rep. Abrami asked if the state certifies the labs? Senator Rivers stated yes and then the state does surprise visits.
- Rep. Seidel asked do other states use your process? Senator Rivers stated I do not know - but our system is really reliable.
- Rep. Abrami asked to describe your organizations - which departments handle the marijuana - how is it structured? Senator Rivers stated they have a board - Liquor and Cannabis Board (LCB) - they partner with other departments depending on issues - Dept. of Health for distribution,

compliance, and enforcement of medical marijuana dispensaries. They partner with the State Troopers and local policing for enforcement, spot checks, only. They partner with the Attorney General for court issues and the Dept. of Agriculture for testing.

- Senator Lasky - do you have state liquor stores? Senator Rivers stated they did, but privatized the stores in 2012, same times as passing marijuana.
- Kate Fray - how many staff are on LCB? Senator Rivers stated it has grown to an estimate of 200, but she can get the true number for the commission.
- Kate Fray - do you have cross licensure within those three categories or is it mandated that they all stay separate? Senator Rivers stated it is an interesting question as the LCB is just hearing that there is a movement toward integrating licenses. Currently they have to remain very separate. Lines were very clear and now lines are blurring between categories.
- Rep. Abrami – what about edibles? Senator Rivers said edibles are manufactured in state and in a clean environment, meaning in a commercial kitchen which has been checked by Department of Health and local Departments of Health for safety standards.
- People are careless with the use of edibles -will get us data - their poison control center had to add funding because of the influx of calls.
- The State put in an advertising bill last year which stated packaging can't be creative. Senator Rivers stated she would like to create a new generic market.
- Constantly fighting attitude of parents and caregivers on marijuana that it is "natural". More education for those people.
- Paul Twomey - who oversees the kind of advertising that is done for marijuana? Senator Rivers stated the LCB.
- Rep. Bates - do you require it to be packaged by individual serving size? Senator Rivers stated that it depends on what you want - no limit to edibles, but there are limits to bud.
- Sen. Lasky - it is all regulated or is it by legislation? Senator Rivers said initiative changed by legislation - gave authority to LCB to make rules - always have marijuana bills clarifying or specifying intent.
- Sen. Lasky - speak a little bit about what you have done educating the public and schools? Senator Rivers stated under the initiative there were percentages set for financial responsibility. For example 50% had to go to health care for the poor, 10% or 12% for treatment and 15% to education. A huge pitfall they had were significant dollars (\$80m the first year) were required to be put into an education programs however, there were no programs in place. So people put together poor quality programs. They found that with each demographic to not participate in pot was very different. In order to target each demographic they had to make specific ad campaigns. Still not successful for education for parents concerning edibles.
- Rep. Abrami - have ER visits gone up? Senator Rivers said she would send stats.
- Paul Twomey - who makes the decision about how the educational revenue gets spent? Senator Rivers said it is the Health Dept.
- Kate Fray: has there been diverting of funds from education to general. Senator Rivers said yes and no - every bit of revenue except gas tax goes into the General Fund. They keep track of the percentages of revenue coming in within a year and honor the percentages. Money comes from the State to the County Health District and they are responsible for overseeing the program. The State is taking the Counties word of how they are spending the dollars. Senator Rivers said she knows they are spending the money where they are supposed to spend the money.
- Revenue coming into the state for Marijuana is \$748 million. She did not believe in legalization, but the reality is people who were buying it illegally are now buying it from the State.

- Todd Wells - are you aware of any changes as far as access to banking or credit unions due to rescinding of the Cole memo? Senator Rivers stated only had credit unions handle marijuana money -only 7 or 8 in entire state - has bill to say state would stand with the financial institutions or CPA firms that are taking care of marijuana. She doesn't want it to be a cash business, too dangerous and wants it to be trackable. No credit cards - 100% cash business. When people bring in excise payment they bring it in large duffle bags - cash everywhere - money orders are too expensive.
- Rep. Abrami – can these businesses get insured? Senator Rivers stated great question – not sure.
- Paul Twomey - Medicaid expansion in part funded by marijuana sales? Senator Rivers stated it is kind of a drop in the bucket compared to everything, but still significant. Half of revenue is going to Medicaid - and they have a significant population of Medicaid.
- Kay Fray - breakdown of operational cost and analysis of revenue. Senator Rivers stated she thinks so, but will look into it.
- Rep Abrami - additions, crime rates, social issues? Senator Rivers stated no increase in crime except for one business in particular stole money, but not the types of crime for marijuana as they have seen before and essentially a decrease in marijuana related crimes.
- Developing the technology for ion breathalyzer that can detect a number of things including the amount of THC. State initiative - research is coming out of Washington State University - will get us contact people. It will test for meth, coke, heroine, alcohol and marijuana.
- Significant opioid use in Washington - kids who start smoking pot younger do become addicted, but people who start beyond the age of 18 seem to take it or leave it. There does seem to be a connection of early onset use and addictive behaviors in young people and also especially for young women a much high occurrence of schizophrenia if used at an early age.
- Kate Fray – Washington's latest data showed an increase in youths use in marijuana? Senator Rivers stated healthy kids survey - year over year since 2013 the numbers have been declining - waiting to see this years. - will forward to commission.
- Rep. Abrami - money went into addiction treatment? Senator Rivers said yes and they focused on youth addiction - region by region of buying beds - and outpatient funding as well. Treatment piece is lot higher - middle class takes a hit in their state for mental health and addiction treatment.
- Sen Lasky - you said you were not a proponent of legalizing recreational use, but do you think it overall has worked out or do you feel it has been a mistake? Senator Rivers stated they no longer have the black market they used to have - from that perspective it has worked out. Others feel like it is the beginning of the end, but she feels it is like liquor and that is where they are at with marijuana and they have done a good job and to see the criminal element be removed from it than it has been successful.
- Rep. Abrami. –is there a vote in each county who wants a distribution center? Senator Rivers stated yes it is a complete local share and is distributed based on if they have legalized it. If the county does not vote it in they will not get the discretionary dollars out of the sale of marijuana.

Next meeting dates:

- Monday, February 5, 2017 @ 8:30am – ATC in Merrimack
 - Followed by a Commission meeting @ 10:15am at LOB Room 202
- Monday, February 12, 2017 @ 1:00pm

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

February 5, 2018 8:30AM Merrimack ATC Visit
10:30AM LOB 202

Seventh Meeting – February 5, 2018

Members Present:

- Representative Abrami; Senator Lasky; Representative Bates; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); John Encarnacao, NH Dept. of Safety (DOS); Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Senator Gannon; Representative Leishman

Members Not Present:

- James Vara, NH Attorney General; Chief Richard Mello, NH Assoc. of Chiefs of Police; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Stuart Glassman, MD, NH Medical Society

Others Present: Melissa Rollins, Clerk; Jennifer Foor, Researcher, LBA; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order:

- Debrief Merrimack ATC site visit: Rep. Abrami and the Commission agreed that it was a worthwhile tour - learned a lot, including that they are self-regulated.
- Rep. Abrami asked Merrimack ATC 15 questions and they responded back -Jennifer will email their answers out to the Commission.
- Sen. Gannon made a motion to accept the minutes. Paul Twomey seconded the motion.
- SB 338 bill related to growing cannabis - came out of Judiciary with a motion for a study committee - Senator Carson.
- Legalized Marijuana HB 656 in House Ways and Means - no revenue in bill - however, they will talk about regulation. Bill similar to what VT just passed. Rep. Abrami explained how the bill worked its way to House Ways and Means. He stated it went to floor w/ an ITL motion. ITL got over turned - then there was an OTP motion and an amendment was brought fourth - to grow 6 plants and it was passed. The real vote was on the ITL - amendment never debated on the floor, never had a public hearing - Rep. Abrami will plead the case to give the Commission time to do their work - let us study it properly. Governor said he would veto it.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.

- Proposed Working Sub-Groups
- Letter from the Senate to the Commission to Study the Legalization, Regulation, and Taxation of Marijuana.
- Updated handout on the Approaches and Outcomes in States that have Legalized Marijuana
- An Article titled “Once Pot Friendly N. California County Bans Marijuana” from The Marijuana Report dated January 24, 2018.

Rep. Abrami Discussed Commissions Purpose and Next Steps:

- Rep. Seidel suggested that the Commission look at addiction
- Rep. Abrami stated the Commission needs to think about:
 - What is the commissions role - different opinions
 - What would be good for the state
 - What regulations? - oversight comes with a cost
 - Working with DRA – taxation
 - What is the final report going to look like and what does the commission want to address including the 14 points originally handed out by the Chair - let's form subgroups to discuss issues - how do we want to form subcommittee?
- Rep. Abrami stated now that we have heard from three states, with Alaska being heard next week. Maybe there are other things we want to add this conversation.
- Start with clear cut discrete issues.
- Start with Taxation and add to list cost of government to regulate - Carollynn will drive this with assistance from Rep. Abrami.
- Some have brought up that we may not even want to tax it - Rep. Abrami's goal is to come out with hard recommendations.
- Carollynn has already done work on this front with the estimated impact being \$30-\$40 million of additional revenue - DRA relatively low cost to implement - but has no idea what it would cost other agencies.
- Rep. Abrami stated one group will look at taxation and possibly expenses, coupled with how much regulation is needed.
- Start hearing from NH State Departments - more from DHHS and others - some states have put the regulation of marijuana as part of their liquor commission - will need to hear from NH Liquor Commission to get their thoughts.
- Rep. Leishman stated an article that Merrimack ATC handed out which stated liquor sales decrease as cannabis becomes legal.
- Rep. Abrami - do we wrap insurance under Bank? Todd Wells - willing to reach out to insurance and he is prepared to speak to deposit insurance. One questions he has in reference to more guidance on structure, format and guidelines for the final report.
- Rep. Abrami - it will be coming but he hasn't formalized it yet. Layout specific topic, findings from others states - list how NH would do it and how it would be taxed.
- What we found - maybe scoring of good and bad and then list recommendations
- Maybe some attachments - Rep. Abrami will continue to finalize a format.
- Once done with all states go back as a subgroup and go back and asks additional questions reach out to NCLS for specifics from states - or resources - other states have resources and hired consultants to do this which is why it is such an undertaking for the commission.
- Todd Wells - one suggestion he had when one person is in charge makes it more formalized. Rep. Abrami - will work with Jennifer to help formalize the report and at the end Rep. Abrami will be the editor and chief pulling it together.

- Paul Twomey - different groups will come together will different recommendations and then the final group - is the commission going to weigh in on all of it? Rep. Abrami - yes, the commission will have a say on all of it and along the way we should discuss the points and take a vote. The Commission will vote on the pieces and will vote on the whole.
- The other part is the harder part - listing the negatives, those are the tougher ones and those are the competing ones.
- Commission will be providing information to legislature and the public.
- Abstract written by Rep. Abrami - goal we do our homework first - referendum states are always in a catch up mode.
- Banking issues - will know by the time we publish this report whether Attorney Session's memo will have an impact - we should check in with other states and see what they are doing and how bank's board members and shareholders play a role in effecting the institutions decision. James Vara and Todd Wells for banking will gather this information.
- Agricultural - David Rousseau - growing methods, sampling, weights and measures, placement of sampling and FDA role - some states allow both federal and state regulated products for pesticides. Mass. is leaning toward not using federal regulated product, where Colorado uses them. Cultivation and control of strength - David Rousseau take the lead.
- Rep. Abrami - how do we control the manufacturing of all these products? Rep. Abrami stated that he found interesting that the ATC makes their own products.
- Administration Structure - several states put under liquor - what would we do? Whatever fits best for our culture.
- Todd Wells - previous speakers suggested part of the funding goes toward studies - and there is really a need for true studies. Rep. Abrami - if we do this we will need dollars sent toward research.
- Sen. Lasky - our charge is recreational marijuana - correct? Rep. Abrami. - yes, but we need to know how medical and recreational marijuana exist together.
- Sen. Lasky - we can't assess how medical marijuana is functioning on its own - and we can't pass judgement or disruptions on the medical side. Rep. Abrami - we won't do that we are just seeing if there is an overlap.
- Paul Twomey - base question is setting up recreational whether it destroys the medical marijuana program or whether they co- exist together.
- Rep. Abrami – Merrimack ATC works with their patients and helps with dosing - different from what you would assume recreational stores would be like.
- Rep. Seidel - recreational stores may not even educate their customers.
- Kate. Fray - we need to focus on how those two relate together - also, there may be a shift in patients trying to get on medical and we need to look at that.
- Rep. Abrami - will add to the list the relationship between medical marijuana versus recreational marijuana.
- Dr. Hannon - what do the laws for cannabis look like now? What about prohibition on cannabis? What does it look like on the illicit market and the harmful effect of those laws? We are looking at this in a vacuum - look at it in relation to now - children exposed to marijuana, if it were legalized people may be more apt to bring their children in for help if they didn't think they would get in trouble for having illegal product in their home. Rep. Abrami stated he would add it to the list.
- Rep. Abrami stated he spoke to the Commissioner of Education and asked about school suspensions related to marijuana use. He stated that they do not keep track of reasons for suspensions.

- Rep. Leishman - would it make sense for our attorney for NH to speak to us on his position on marijuana? Rep. Abrami – we will add him to the invite list.
- Rep- Abrami - we need to create some regulations
- Rep. Bates - regulate recreational what about the home grown - how do we regulate it?
- Senator Lasky - other states don't regulate.
- Rep. Abrami - we have to address the upside and downside of homegrown. See if as a Commission we can come to a conclusion on it.
- ATC concerned that homegrown may cut into their business.
- Kate Fray - we need to look into the gray market and "gifting." Especially how it has effected Washington D.C. - also lots of discussion about it in Mass. Paul Twomey - it is a problem in D.C. because it is not a regulated market.
- Dr. Hannon – stated there is a possibility that if you legalize it you remove the black market. Rep. Abrami - exception is if we tax it too much there will still be a black market.
- Todd Wells - how are we doing with Canadian contacts? Rep. Abrami - how much are we really going to learn from them? They are so different. We haven't approached them yet but we could.
- Everyone agreed on the groups. Kate Fray recommended combining 1 and 11.
- Rep. Abrami would like one volunteer as lead person from each group
- Rep. Seidel - we need a timetable of when items are due
- Rep. Abrami. - conversation with our departments - done by spring and plan on two days a month for Commission meetings.
- Societal issues and does it hurt the brand of any other states
- Carollynn Ward - state brand. - Business and Economics come talks to us about it.
- Paul Twomey - we can also ask them about the negative economic impact of not having legalized marijuana.

Next meeting dates:

- Monday, February 12, 2018 @ 1:00pm
- Monday, March 5, 2018
- Monday March 19, 2018

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

February 12, 2018 1:00PM LOB 202

Eighth Meeting – February 12, 2018

Members Present:

- Representative Abrami; Senator Lasky; Representative Bates; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Senator Gannon; Representative Leishman; Chief Richard Mello, NH Assoc. of Chiefs of Police; Abby Shockley, NH Dept. of Health and Human Services (DHHS)

Members Not Present:

- James Vara, NH Attorney General's Office; Stuart Glassman, MD, NH Medical Society; John Encarnacao, NH Dept. of Safety (DOS)

Others Present: Melissa Rollins, Clerk; Jennifer Foor, Researcher, LBA; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order:

- Sen. Gannon made a motion to accept the minutes. Todd Wells seconded the motion.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- "Replacing Marijuana Prohibition with Sensible Regulations: An overview of eight states' frameworks for regulating marijuana similarly to alcohol." Published by Marijuana Policy Project.
- An Article titled "Buy a shirt, get pot 'gift': Companies exploit law loophole" by Philip Marcelo, Associated Press. Published by Fosters.com, dated February 6, 2018.
- An Article titled "Budget Deals Extends Medical Marijuana Protections, but only Temporarily" by David Hodes. Published by Leafly, dated 2/12/2018
- An Article titled "Vt.'s Medical Marijuana Dispensaries Corner The Market. The Biggest Wants Competition." By Emily Corwin. Published by VPR News, dated 10/19/2017

First Speaker: Alaska Alcohol and Marijuana Control Office: Erika McConnell; Director

- Been in position for less than a year - before worked in Anchorage municipality on marijuana issues.
- Rep. Abrami - Do you (Alaska) own your liquor stores? Alaska is not a controlled state.
- Rep. Abrami - Where did they get medical marijuana from? Black market - no legal way to purchase marijuana. State of Alaska has a high privacy threshold – Ravin Decision, 1975 decision by Alaska Supreme Court that held the Alaska Constitution's right to privacy protects an adult's ability to use and possess a small amount of marijuana in the home for personal use.
- Rep. Abrami – Are there any banks that will handle marijuana money? Formally no banks will participate.
- Rep. Abrami - How many dispensaries do you have? Are they clustered around cities? It is very focused on the road system - 53 operating retail stores - Alaskan population 690k
- Rep. Bates – What does the state charge for various licenses? The main license is \$5,000 and the limited license is \$1,000.
- Rep. Seidel - What do you test for in marijuana? We test for potency, E.coli, salmonella, and mold. We test flower, edible products, water and food base concentrates, as well as solid base concentrates.
- Rep. Bates – For the communities that opt out do they forfeit revenue sharing from the taxes that are collected? What they get is 1/2 of application fee and there is no sharing of the taxes if they opt out.
- Rep. Abrami – What are the permit fees and how long does the permit last? The handler permit fee is \$50, every three years.
- Rep. Abrami – Are there any upper limits to the number of marijuana licenses that can be issued? There is no state limit – local governments can set a limit - if you do have a limit how do you pick who the licensees are? Potential for lawsuit.
- Rep. Abrami – Are these mostly mom and pops, national chains, or larger organizations? Because licensees are required to be Alaskan residents, we see mostly small businesses. Some have franchised with out of state companies.
- Rep. Abrami - public smoking outlawed? How about Apartment buildings or neighbors complaining? Public consumption is not allowed. Renter's complaints are not regulated by my office. Landlords can ban marijuana consumption on property they rent.
- Rep. Abrami – Are they private labs and who pays for the labs? Licensee and growers pay them.
- Rep. Bates – Do you know if other states have these same issues with labs? They have more labs to help mitigate the problem.
- Rep. Seidel - Have you coordinated with the State of Washington with their system of testing? We have not.
- Rep. Abrami - Have you had edible problems, if so what have you done? We looked to Colorado for regulation and did not try to reinvent the wheel. We have not heard of reports of any signifcation problems with children or increased hospital visits. Existing

foods cannot be adulterated, meaning you cannot take an existing food and spray it with THC. We haven't had to make any changes to packaging requirements at this time.

- Rep. Seidel - Do you have any facilities to help with marijuana addictions? I will have to get more information and get back to you.
- Chief Mello - What % of revenues are put toward addiction treatment? We are not allowed as a state to dedicate funds. Outside my area of expertise. (Will send additional information (copies of bills) to Jennifer).
- Rep. Abrami – You stated the revenue brought it so far has been \$6.3m. Has the revenue outweighed the cost of oversight? In other words, has this been a net positive in terms of revenue to the state? My office is supposed to be entirely funded by license and application fees. We are not yet self-sufficient. As of right now we are fronted money by the legislature with the intent to be full funded by 2020. The tax monies go directly to the General Fund and the legislature decides how to spend that.
- Rep. Seidel – How about education? Education is run by a different office.
- Kate Fray - Could you say a little bit more about the tax issue and what you are watching in Oregon? Oregon doesn't tax their licenses either. Per the news, they have had so much supply that the price of marijuana has plummeted. The lowest quality of product is selling for \$50 to \$100 a pound, which is unbelievably low given taxes are \$800 a pound. Oregon is deciding how to deal with this? Do they let the market settle out, let businesses fail, set license limits, or set growing limits? If we were to change our tax structure as a retail sales tax, the wholesale price would be allowed to fluctuate with supply and demand.
- Rep. Abrami –Do you know your state addiction rate for marijuana/no baseline? Data collection is really important, but my division hasn't been given the resources to deal with this. We look to other departments for this information.
- Rep. Abrami – How is illegal activity or crime rates? I have heard anecdotally it is stores and cultivation facilities that have been broken into for the marijuana and not the money.
- Rep. Abrami – Do you have any information on increase of driving while impaired, difficulty testing, and an increase of accidents while driving? I have not heard anecdotally that that is the case.
- Dr. Hannon – In Alaska there have been problems with alcohol boot legging, are you having the same problem with marijuana? I have heard of one situation where that has happened.

NEXT SPEAKER: Paul Morrisette to discuss cultivation and farming

- Mr. Morrisette handed out:
 - An article titled “To farmers, cannabis could mean much bigger bucks than tomatoes” by Janna Chattman. Published in The Boston Globe, dated 4/4/2017.
 - Senate Bill 338 An Act relative to the growing of cannabis if it becomes legal (Sent to Interim Study).
 - Two page letter of testimony from Paul Morrisette.

- Mr. Morrisette noted Mass. or VT didn't take into consideration farmers when passing their bills.
- Rep. Leishman – Have you met with NH Farm Bureau? We have talked to NH Farm Bureau. Also, have been contacted by dozen of farms, some for and some against. This bill would make NH farm land more valuable. Also, UNH can't take a position because they are federally funded.
- Rep. Abrami – Can you talk about medical growers? Also include if the ones that were picked are they all in warehouses? I applied to be one of the growers. However, the lobbyists pushed this to grow it under the lights. The lobbyists go state to state to state to write the applications. I hooked up with one of the major industry players and put together a \$150,000 application to come to the state of NH.
- Rep. Abrami – All of the growers picked are all out of state corporations? They are in state, not for profit charitable trusts. But, behind the curtain 3 out of the 4 entities went to out of state corporations. They are waiting for marijuana to become legal and they will get the first licenses.
- Rep. Abrami – Are you also advocating for growing on farms or green houses? They can grow in barns or greenhouses.
- David Rousseau - Why just allow indoor grow and not outdoor grow? Mr. Morrisette stated “I didn't think they would be able to competitively do it. Number 2 it is a security issue - wouldn't be too palatable to the residents to NH. It is much easier to secure and keep track of when grown indoor.”
- David Rousseau – Dept. of agriculture didn't take a position on this bill and deferred to legislature.
- Paul Twomey - How does the bill restrict it to farm property? It doesn't restrict anything. The way it came about is the State of NH is always trying, from a historical standpoint, to preserve farms and not subdivide. There is no way to delineate between a farm structure and a historical farm structure. Wanted to be able to lineate and say even a farm that isn't in business now, but still exists would be allowed to grow cannabis.
- Rep. Abrami - What is better to grow outside or inside? Which one produces higher quality? Three ways to grow – outside, supplemental lights, and inside. When you grow it inside you can control the humidity and produce a higher quality product, but it is infinitely more expensive. As soon as you lose control of environment less quality you are going to have in your results. Hope to be able to group farmers together to sell and make medicine. We would be producing higher end merchandise to be sold recreationally.
- Rep. Abrami – Do you know about the harvest batch? Rick Naya, Executive Director of NH NORML, stated how can we manage a grower, a manufacture, a retailer? They claim you do it from a seed to a sale. That doesn't work with a conventional crop. It is commodity. It fluctuates. When we implement this program we have a requirement to always keep prices lower than surrounding markets. Cannabis is a controlled item. We can put some common sense start up plans for the industry. Set up grows. Our market with fields should be hemp or CBD's. We need to learn to grow the highest grade, best

quality cannabis we can to extract the oils, to make the most money, to make the best medicine.

- Testing – limits the amount of combines - no universal test - Maine has a new one - THC / CBD/ and nine compounds – find the one that benefits NH citizens and New England.
- Mr. Morrisette stated the bill states a farm has to be 20 acres minimum to qualify. He is not trying to oversell the market.
- Senator Gannon - By keeping the three players out who already have the medical distribution rights, aren't they the Budweiser's of the industry, isn't this bill stopping the free market? Aren't they the ones who will produce the cheapest product? Mr. Morrisette stated one of the main problems they had including them in the bill - they had a head start - by the time other people get growing they have captured the market - maybe adjusting bill to give the three players 18 months to 2 years to get them into the market –after the farms get caught up. Mr. Naya stated economic opportunity will not be redeveloped by these three or four companies. There are hundreds of opportunities.
- Rep. Abrami - Where are the big cigarette/tobacco companies in this game? Mr. Morrisette stated Continental Beverages, which owns Corona beer, has just bought one of the biggest stakes in Canada that grows marijuana. They will own one of the biggest grows in Canada - they are all waiting to see. Mr. Naya stated if we don't consider the big corporations - the opportunity lies with allowing a farm to grow and bring to manufacturers.
- Paul Twomey - This bill limits the farming aspect of NH farms. However, it doesn't limit the manufacturing and retailing. Mr. Morrisette stated this bill was put in as a farm bill as a standalone bill. Also, I put in the bill that 51% of the license holder and the farm have to be a NH resident in perpetuity. I was trying to protect us.
- Paul Twomey stated that in the 50's a lot of farms in this state raised chickens for big companies. Just having a farm doesn't mean that you are limiting big companies. Mr. Morrisette stated that is not at all what we are looking to do.
- Paul Twomey – Asked would you sit down and write how you would regulate or not regulate marijuana in our state. Mr. Morrisette stated that wouldn't be a problem.
- Rep. Abrami stated that he wants to make sure they understand that this commission will not pass a law; they will only make recommendations on what the best structures should be for all of these things.
- Senator Lasky –Do you have a vision of what this would do for the hemp farm that legitimately has a product, who I believe we can make money from? Mr. Naya stated cannabis is separate from hemp. One has THC, one does not. One is a basically a textile. Cannabis is different and is recreational like beer. Cannabis and hops is two in the same.
- Senator Lasky - Do you envision it being grown? Do you see it as the same farmer growing both hemp and cannabis? Mr. Naya stated I believe you are right. That is exactly what will happen.
- Senator Lasky - Do you have any figures on what the hemp industry could bring into the state? Mr. Naya stated his estimate would be well over \$100 million in generated business income.

- Dr. Hannon – You talked about how NH would be at a disadvantage because we will be surrounded by people who are growing it. We know we have marijuana in NH now, besides the medical marijuana, and it is getting here illegally. Aren't you concern on the effect it will have on the drug cartels and the people operating illegal operations? Mr. Naya stated it works in opposite. When you make something illegal, for criminal minded people, it makes them want it. When you legalize it you take away the bar that was set. It makes it legal and then we control the price, not them.

Wrap up:

Rep. Abrami -

- Next meeting we will hear from Nevada
- Reaching out to state attorney – to send himself or someone from his office to talk to us.
- Next two weeks Rep. Abrami will be spending time on structure of report
- Continue conversation on sub groups at next meeting.

Next meeting dates:

- Monday, March 5, 2018 @ 10:00am
- Monday March 19, 2018

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

March 5, 2018

10:00AM

LOB 202

Ninth Meeting – March 5, 2018

Members Present:

- Representative Abrami; Representative Bates; Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Representative Leishman; Chief Richard Mello, NH Assoc. of Chiefs of Police; Abby Shockley, NH Dept. of Health and Human Services (DHHS); James Vara, NH Attorney General's Office; Stuart Glassman, MD, NH Medical Society; John Encarnacao, NH Dept. of Safety (DOS)

Members Not Present:

- Senator Lasky; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); Senator Gannon

Others Present:

- Commissioner Jasper, DAMF; Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order:

- Todd Wells made a motion to accept the minutes. David Rousseau seconded the motion.
- Rep. Abrami and Jennifer Foor are working on getting Massachusetts, California, and Maine to present.
- Hoping that Massachusetts and Maine will be in person visits.
- Initial outreach to US Attorney of NH to get opinion on Attorney Sessions Memo has been delayed due to his recent confirmation by the Trump Administration to be US Attorney. James Vara also offered to reach out to him.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- An article titled "Medical marijuana sales tick up But NH lags behind its pro-recreational neighbors" by Bob Sanders. Published by New Hampshire Business Review, dated

2/16/2018. Attached at the end of the article were comments written by Paul Morrisette.

- An Article titled “Police: Daycare staff says cookies delivered by parents made them high” by Callie Ferguson. Published by Bangor Daily News, dated February 14, 2018.

First Speaker: New Hampshire Liquor Commission; Director Dan St. Hilaire, and Director Mark Armaganian.

Director St. Hilaire:

- 17 control states that control alcohol. VT and Maine are providing rules and licensure of legalized marijuana.
- Canada just recently legalized marijuana across the country.
- NH system closely resembles the Ontario Liquor Control Board. Ontario right now is the only province or state that will actually have state run marijuana stores.
- Liquor commission feels they have the appropriate talent to be involved in this, if the state decides to get into the retail sales of marijuana. We are involved in distribution. We have a financial team that already handles a control substance, which is alcohol. We have licensing and enforcing divisions that also handles a control substance (alcohol).

Director Armaganian:

- As an Enforcement Division and Licensing Division, there is an educational piece that we constantly stay up on. The infrastructure is already setup for what we do on a daily basis. We have 22 investigators right now. Those investigators not only regulate our 5,000 licensees, they monitor the 1,100 direct shippers on the alcohol side of the house. We also are regulating 1,485 combination (tobacco and alcohol) licensees.
- There would need to be an increase in man power to take on these new licenses or establishments and warehousing - that is the moving target right now. Saying doubling numbers would be irresponsible, however there would be an increase in man hours.

Questions:

- Rep. Abrami – What do your investigators do? Director Armaganian stated that they are making sure all licensees are license. They are also looking for over service or underage drinking, which is one part of the house the other side is licensing. All licenses are being regulated by their Division.
- Rep. Abrami - You are overseeing all of tobacco? Director Armaganian stated tobacco licensing is regulated through them.
- Rep. Abrami – Down the line we would look at possibly limiting licenses. If we could get you a number of licenses could you give us a cost? Director Armaganian stated he could.
- Rep. Abrami - Is manufacturing an issue in our state? Would you envision the growing being your function? Director Armaganian stated there is no black market in alcohol because our prices are low. He stated their Division would have a man power issue with the black market for marijuana and they would need to take that on.
- Director St. Hilaire stated home grown causes issues in a legal perspective - warrants would need to be involved.
- Rep. Abrami - Who resolves the issue of homegrown? This is an issue we need to figure out. Who is responsible for resolving the complaint? Director Armaganian stated it would be a partnership at that point.

- Dr. Hannon - Do you also regulate home brew in NH? Director St. Hilaire stated if you are a private individual operating out of your home, they are not licensed. However, if they are a private entity or if they do open up on the weekends because they are larger then it becomes an issue. They would need to work with the municipality to resolve any issues.
- Rep. Bate - Have you ever had complaints for people who are brewing too much for personal use? Director St. Hilaire and Director Armaganian stated not that they were aware of.
- Rep. Abrami - Would the Liquor Commission even entertain the thought of selling marijuana in the state liquor stores? Director St. Hilaire stated they would prefer not to sell in the state liquor stores. They would prefer the state separate the stores.
- Ms. Fray - Would you explain and describe the current system for liquor and how you would envision it if marijuana were to be regulated? Director St. Hilaire stated when prohibition was repealed a three tier system was created. The liquor control agency is in the liquor retail system. Massachusetts also has separate tiers so they can separate and no one has all the power. They would prefer separation as it creates integrity in the market. It makes it easier to regulate the warehouse, manufacturer, and then the retailers. If we were involved, the commission would want to monitor the marketing allowing more responsibility and more control on the market.
- Rep. Abrami stated the three tiers in marijuana are growing, manufacturing and retailing.
- Mr. Fray - There are always bills and laws on the book that circumvent the three tier system. How would you control the three tier system? Director St. Hilaire stated because this is a capitalistic society, people are always looking for an opportunity. From their end they are trying to find and create ways to maintain the system and also accommodate the legislature.
- Rep. Abrami - At the moment there is no roadside testing available. Do you have any thoughts on that? Director Armaganian stated ironically this came up a couple weeks ago with the labs. It is a hurdle. Safety is a big concern. Sometimes we don't realize what the unintended consequences are and in this case it is roadway safety. Director Pikeford is looking at it. He can get information from him.
- Mr. Rousseau – How do you determine product authenticity before the product hits the shelf? Director St. Hilaire stated it is self-regulate because Feds are involved in the alcohol area. The state doesn't test it. However, manufacturers have their own laboratory scientists that test it and send the reports to the state to verify.
- Rep. Abrami - The whole issue for labs to monitor and measure potency is a big issue. Would you feel we would need to build up our lab ability? Director Armaganian stated when it comes down to the illegality of any drug out there, you would create an extra burden on the lab. Director St. Hilaire stated they wouldn't be advocates for the state to be the main lab.
- Dr. Hannon - Do you foresee the repeal of cannabis prohibition being the same as alcohol prohibition, being safer for consumption? How has the repeal of prohibition of alcohol worked? Has it been a positive event in NH? Director Armaganian stated he does see the positive, especially being a control state. There is a safety factor due to our control and oversight. Director St. Hilaire stated that the liquor commission makes sure there is regulatory from a marketing side. From a consumer stand point, our control system works well. From a state standpoint, we are looking for revenue. When people get money back and that is a positive. We donate a lot to Easter Seals and lots of organizations and charities. Because we have a monopoly our suppliers work with us and they donate product which allows us to participate in more fundraising initiatives.
- Dr. Hannon - Do you think if the liquor Commission was overseeing the sale of marijuana that you could get more selection and more marijuana out to people with signs on the side of the

highway than what would happen under a different type of system. Director St. Hilaire stated it is all about pricing and supply and demand. He stated he can't answer it because he doesn't know what the supply would be.

- Ms. Fray - The fact that it is illegal at the federal level, how would that affect your business? Director St. Hilaire stated it would be a challenge and would need to be separated out. I would ask the legislation to give us ample time to work this out, but it can be figured out.
- Chief Mellow - What we have been hearing, pretty consistently, when we get the input from other states on the legalization of marijuana when we ask them about revenues and what percentage of revenue is spent on drug rehabilitation is not much. It is an embarrassingly low. On the alcohol side how much money or percentage of revenue does the state spend in alcohol treatment? Director St. Hilaire stated \$3.7 million. That is dictated by the legislature. In the past it has been lower than that. This last year it doubled.
- Chief Mellow stated the point is these other states are making the mistake of not spending the revenues where they need to spend them. If you have legalization and are spending less than 10% of the revenue on funding drug treatment then you're doing it wrong. I am hoping that if we move in this direction as a legislature then I hope we do it right.
- Director St. Hilaire stated one thing he has noticed in Ontario since they have legalized marijuana is you can smell it everywhere. Even if marijuana is legalized some states have decided they are going to treat it like smoking and have banned it from being smoked in public. He would want the state to consider these aspects.
- Dr. Hannon - Some studies have shown a possible decrease in alcohol sales based on legalization of marijuana. Is your business concern on possible loss of revenue? Director St. Hilaire stated yes. He stated he has read some studies where alcohol sales do decline once cannabis is legalized, which is probably why beer distributors want to get involved in this to account for loss of revenue.
- Rep. Abrami stated it seems like the Liquor Commission would like to get involved since you have thought about this. We would like to have you back in the future to discuss this more.

NEXT SPEAKER: Nevada Senate; Senator Tick Segerblom

Sen. Segerblom:

- Stated Nevada legalized by referendum
- In Nevada, the voters passed a medical constitutional amendment back in the 1970. However, the legislature could never follow up with a dispensary program. So it was always a home grown program with 12 plants.
- In 2013 the Senate Judiciary Program passed a bill to create a medical program.
- In 2016 the Marijuana Project put on the ballot a recreational initiative, which the voters approved.
- Starting July 1, 2017 the recreational program took over the medical program and they have been doing recreational since then.

Questions:

- Rep. Abrami - Are your medical and recreational programs together? Sen. Segerblom stated yes. The only difference is there is a 10% extra tax on recreational and THC is higher for medical. They are in the same store and sold at the same counter.

- Rep. Abrami - Medical dispensaries in NH do consulting, does that differ from your program? Sen. Segerblom stated they talk to a budtender about strains and dosages. Budtenders are experts. Budtenders are the people behind the counter for medical and recreational.
- Rep. Bates - What kind of credentials do budtenders have when giving advice or recommending dosages on products? Sen. Segerblom stated there is no standardized background for budtenders. They have had nurses in this industry. People have gained knowledge on their own. Hoping to develop over time an apprenticeship program, standardized testing, and schools for budtenders. Another thing he is trying to do is bring in unions. The unions would have training programs and union halls for dispensaries to come out and would already be trained. There is one unionized dispensary in Las Vegas. It is an area of expertise that would really fit well with a union. Most of them here really love training their own
- Rep. Abrami – Structurally in Nevada where does the oversight of cannabis reside? Sen. Segerblom stated they have 60+ dispensaries around the state. Clark County, where he is, has 75% of population and has 48 dispensaries. The rest of the state has 20. The state gives the license and then the local jurisdiction tells where to locate them. The grower and dispensaries licenses are tied to the jurisdiction where it is base. For example, if you apply for a dispensary license the state would do back ground check and approve you for a specific jurisdiction. The jurisdiction would then allow the dispensary to move within the geographic boundaries of that specific jurisdiction.
- Rep. Abrami – Is there a limit on the number of licenses that can be issued? Sen. Segerblom stated they use the Arizona formula. Right now a dispensary license is worth about \$10 million. The license system is a merit system at the state level. First a background approval, then they are ranked, and then sent to the local jurisdiction, which then finalized and picks them. Once they have been picked the dispensary can sell the location with the license. If they do sell the state would do a background check and the sale would be approved.
- Rep. Abrami - How many grow sites do you have? Sen. Segerblom stated there are no limits in the law for grow sites. About 150 grows in the state. They have not issued any more licenses and they are probably over saturate with grows. There are a certain number; however they can expand their foot print. All grow sites are inside. Nevada is the first state to require heavy testing on products including mold and pesticides.
- Rep. Abrami - Who oversees the testing? Sen. Segerblom stated it is the Health Department. However, in the initiative it stated the Department of Taxation would handle it so everything was moved to them.
- Rep. Abrami - How is the product taxed? Sen. Segerblom stated initially when they passed the medical program it was 2% at sale 2% at production and 2% at retail level. However, in the recreational initiative they put in a tax of 15% at grow facility and the Governor put in 10% excise tax and then 8% sales tax. They couldn't get rid of wholesales tax - so right now 15% wholesale tax which goes to education. Then 8% sales tax and then 10% excise tax for recreational marijuana only. Also allow local jurisdictions to add 3% at each three levels so potentially 9%.
- Rep. Abrami – Was the 10% supposed to go to anything? Sen. Segerblom stated when the Governor proposed it he wanted it to go toward education. However, because it took too long it ended up just being put into the rainy day fund. Although, eventually it will go toward education.
- Rep. Siedel - What specifically does it go toward for education? Sen. Segerblom stated nothing specific. It actually goes to fund secondary education. There is talk to go back and make it for specific education programs.

- Rep. Siedel – Is there anything that goes toward handling addiction? Sen. Segerblom stated no, nothing specific.
- Chief Mello – Was it ever discussed that it might be a good idea that the tax revenue should go toward drug addiction including marijuana? Sen. Segerblom stated absolutely. They couldn't touch 15% because that is what voters approved. The 10% of what the Governor approved occurred on the last day of session and there was no way to change before it was approved. He stated that is certainly something that could have been done. When approved through, as the legislature, you should do something. But in our situation our hands were tied because of the initiative.
- Dr. Glassman - How much money has been spent on medical treatment issues and education? Sen. Segerblom stated nothing from marijuana revenue.
- Rep. Leishman – Are home grows allowed in your state? Sen. Segerblom stated there is still an exception for home grows. If you were an existing home grows with medical card prior to 2013 you can grow 12 plants. Also, if you live 25 miles away from a dispensary you can grow 12 plants.
- Rep. Lieshman - We have heard from other states they are developing a black market with legalization of marijuana. Is that happening in Nevada? Sen. Segerblom stated truthfully it is the other way around. They are trying to slowly get rid of the black market and bring it into the system. However, there is still a black market out there because they are so close to California. The police will tell you the first thing is to get the program up and running and then it is easier to find out where the black market is and eradicate it. The next issue is to convince people why they shouldn't buy from the black market, i.e. pesticides, fertilizers, etc. At least when you buy it legally you know what you are getting it from.
- Rep. Abrami – Is Nevada aware that if you are over taxing something you will bring back the black market. Any thoughts on that? Sen. Segerblom stated absolutely, that is what they focused on. If local jurisdiction does 9% it equals about a 33% tax at the local level. 33% is a good place to start. It wouldn't be that hard to find the cost of the black market and compare it to the legal market. Our grow is still trying to catch up with the demand. Our dispensary prices are probably higher. Our per pound for flower is \$2,000 pound. As product amount increases that will help eliminate the black market.
- Rep. Abrami - In the referendum that happened do communities have to vote-in to allow a dispensary? Sen. Segerblom stated yes, every jurisdiction has the right to opt out. When they had the vote, three counties voted for and 14 counties voted against. The majority of the people voted for it (large counties). Small counties voted against it and local jurisdiction didn't want it. Since that time, those small towns have come forward and want the revenue. They think it is a goldmine. It is a sophisticated operations and not homeless people lying in the street. Over time the cities that said no will change their minds.
- Rep. Abrami - When did the 3% local tax come to be? Sen. Segerblom stated it was after the legalization of recreational. The legislature only meets every other year so last spring, 2017.
- Rep. Abrami – How do you handle the transaction of marijuana money? Are any of the banks touching the money? Sen. Segerblom stated there are lots of bank around the country, but none in Nevada that will handle a marijuana transactions. Most of it is cash based. Especially when it comes to the State. The state takes cash and puts it in the bank and the banks do not say anything. Banking is a huge issue.
- Rep. Abrami – Since the Attorney Sessions Memo came out have you had any discussion of what your US Attorney would do? Sen. Segerblom stated they got a new US Attorney. She has not officially said if she would tackle it or not tackle it.

- Rep. Abrami - How about a lack of a test for driving while impaired on marijuana? Since legalization is there data to support the amount of impair driving has gone up? Sen. Segerblom stated no there is nothing. No evidence in any increase in driving impairment, school issues, or emergency room visits. Truth is, this has already been going on but now it is legal. For testing impaired drivers for marijuana, we have the same issue there is no breathalyzer test. The police are taking courses and being trained to objectively observe and identify marijuana.
- Dr. Glassman - In the last week there have been a number of reports which have come out that showed an increase in the number of fatalities in states where marijuana was legalized. There hasn't been a direct correlation yet, but there is a question of whether the pedestrians walking are under the influence of marijuana or the drivers are under the influence? Has your state been following or looking at that? Sen. Segerblom stated no it literally came out within the week. If you look at the number it is a small number. To his knowledge there is no evidence of this one way or another.
- Rep. Abrami – With your medical marijuana were there edibles as part of that during the earlier years? That was a limited population? Sen. Segerblom stated 25k cards plus reciprocity issued. There were no limits on what edibles could contain and no laws which would control items that looked attractive to kids. In the last session they put in limits and removed anything that would be considered attractive to kids. He urges us to look at their law concerning those things. It is a model law.
- Rep. Abrami – Is there an education program or public awareness to be careful with edibles when it comes to children? Are there package requirements? Sen. Segerblom stated he has not seen anything in public. There is literature in dispensaries. In their laws there is no marketing on tv allowed. There is child proof packaging. Edibles can't look like candy kids could normally buy. He feels they have developed the model law.
- Rep. Abrami – Are there any limits on advertising of dispensaries? Sen. Segerblom stated yes, it has to be approved by the state. It can't be in magazine that would be read by people under 21. You can't talk about the benefits or use certain words. There are heavy rules on advertising. However, there are moving billboards. Number one Uber destination in Nevada is to a dispensary. Tourist can't leave with it in their suitcases. They just installed green drop boxes at airports for tourists to dispose of marijuana.
- Sen. Segerblom stated the irony is if you purchase marijuana you can only use it in your house. We advertise come to Las Vegas to purchase marijuana. Oh by the way, you can't use it anywhere because the hotels are federally regulated and you can't take it home. The dispensaries can't be on the strip or tied to hotels. Smell is pervasive at concerts. Governor has a similar committee to what you are doing on gambling, marijuana, and alcohol.
- Rep. Abrami – Do you have a percentage of edible sales versus loose marijuana sales? Sen. Segerblom stated he doesn't know the answer. However, not allowing public smoking pushes people to use edibles, which is the worse way for people to use it. Sen. Segerblom stated he is pushing for open consumption because they are pushing people to use edibles and that is a scary way to learn about it.
- Dr. Glassman – What is done with the product in the drop boxes at airport? Sen. Segerblom stated he is not sure, but assumes there are provisions,
- Rep. Abrami - Back to original question where does it reside? Sen. Segerblom stated medical was under the Department of Health and Human Services. The referendum put it under the Department of Taxation - took medical program under taxation too. However, it is a separate division within taxation that just deals with marijuana. You do need someone to handle it

because it is a comprehensive program. Sen. Segerblom stated he would like to create a Marijuana Control Board to handle it.

- Mr. Rousseau - You have an emergency regulation relative to licensure? Do you expect significant revision to that emergency regulation as it moves to a firm regulation? What state if any was that modeled after? Sen. Segerblom stated I think what you are referring to is to the existing medical marijuana program and then the move to recreational marijuana, which is a computerized seed to sale model. Governor created a temporary regulation to start earlier and then final regulations started this week. He stated that we should get our medical robust and controlled as much as you can and then copy it to recreational. Use medical program to fine tune everything, so literally it is just a flip of a switch.
- Sen. Segerblom stated their state started 6 months early compared to other state. He believes this is because they kept everything the same as the medical program.
- Rep. Abrami - What I heard earlier it doesn't sound like much of the revenue goes to education and it doesn't sound like there is tracking of addiction prevention? Sen. Segerblom stated that is correct. I would urge you to work with your Department of Health to see what is needed. Then you can see how much of the revenue from each tax is needed for programs and then allocate your funds. When you have different taxes at different levels it makes it more complicated. Try to have one tax and maybe a tax for the local jurisdictions. Then everyone can track what is happening.
- Rep. Abrami – Have you seen any signs or heard from businesses that impairment has gone up at work due to legalization of marijuana? Sen. Segerblom stated no. He stated there have literally been no hiccups with anything from workplace incidents to emergency room visits, to DUI's. You honestly would not know it was even here, which is surprising.
- Rep. Abrami - How do marijuana businesses get insured? Sen. Segerblom stated they do get insured although there are some insurance companies that won't insure. He stated most of the industry has health insurance at a cheaper rate because most people are healthier in this industry. The only issue they have is banking.
- Sen. Segerblom stated he is proud of their legislation and it is a testament to how well they did their medical program.

Wrap up:

- Dr. Glassman stated that he wants to make sure the commission considers a certain percentage of marijuana revenue goes toward addiction.
- Dr. Glassman stated that it is very concerning that budtenders are giving advice to people. Dr. Hannon stated isn't this the same as bartenders. Dr. Glassman stated that they are giving medical advice when they have no requirements or training at all. No one knows where they are getting their basis of recommendations.
- Dr. Glassman visited one of the dispensaries in Colorado they are prohibited from giving any medical advice.

Next meeting dates:

- Monday, March 19 @ 10:00am
- Monday, April 2
- Monday, April 16

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

March 19, 2018 10:00AM LOB 202

Tenth Meeting – March 19, 2018

Members Present:

- Representative Abrami; Representative Bates; Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Representative Leishman; Stuart Glassman, MD, NH Medical Society; Senator Lasky; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); Senator Gannon
-

Members Not Present:

John Encarnacao, NH Dept. of Safety (DOS); James Vara, NH Attorney General's Office; Chief Richard Mello, NH Assoc. of Chiefs of Police; Abby Shockley, NH Dept. of Health and Human Services (DHHS);

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- Sen. Gannon made a motion to accept the minutes and Dr. Hannon seconded the motion.
- The April 2nd meeting will start at 1:00. The State of Californian will be presenting followed by NH DHHS.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- An article titled "Senate Could Vote to Let Marijuana Businesses Use Banks This Week" by Tom Angell. Published by Forbes.com, dated 3/8/2018.
- A packet provided by Senator Rivers from the State of Washington which included:
 - Summary of the poison control incidents since legalization, titled "Summary-Marijuana & Position Control"
 - Summary of the cost from the Liquor & Cannabis Board Program, titled "Summary-Costs of Liquor & Cannabis Board Programs"
 - Full program summary attached, titled "Cannabis Program Summary"

- Summary of the Marijuana Breathalyzer Project, titled “Summary-Marijuana Breathalyzer Project”
- PowerPoint presentation of breathalyzer research, titled “WSU-Pullman Breathalyzer Research PP”
- Summary of the Health Youth Survey Data that shows marijuana use for WA state in 2016 for grades 6th-12th, titled “Summary-Health Youth Survey Data”
- PDF of the full Health Youth Survey Data, titled “Health Youth Survey Data”
- A packet containing:
 - “Bipartisan Support for Marijuana Legislation; Majorities Favor Keeping Current Alcohol & Tobacco Ages” by Andrew E. Smith, PHD. Zachary S. Azem, M.A. Sean P. McKinley, M.A. Published by University of New Hampshire: The Survey Center: The Granite State Poll. Dated Feb 27, 2018.
 - “HB 656 Ways and Means Work Session – Remarks and Responses” Produced by The Marijuana Policy Project.
 - “Alison Holcomb on I-502 and Home Grow” By Vivian McPeak. Published by Blog.settlepi.com. Dated September 21, 2017.

First Speaker: New Hampshire State Police Forensic Laboratory; Director Timothy Pifer

Director Pifer:

- Lab structured – 51 staff members with two sections directly involved in drug testing
 - One section is the Control Drug Section. This section analyzes evidence in connection with criminal investigation i.e. vegetative matter. This section has 10 analysts.
 - The other section is the Toxicology Section. This section analyzes body fluids for alcohol or drugs, mainly for impairment. It also does post mortem testing. This section has 7.5 staff members
- Director Pifer handed out two documents:
 - Controlled Drug Case Information dated March 1, 2018
 - Toxicology Drug Case Information dated March 1, 2018

Questions:

- Attorney Twomey - Are you able to distinguish between different types of THC metabolites? Director Pifer stated they just purchased an instrument to expand the measure of the different type of metabolites. There are different guidelines for marijuana which is based on things like usage factor. There are problems with putting a per say nano limit on marijuana because it can stay in your system for weeks after usage and alter the results of impairment.
- Attorney Twomey- Can you tell the difference from an active or non-active THC metabolite? Director Pifer stated the new instrument should be able to measure it. However, it will come down to the responding officer and individual tolerance levels. These cases will almost always be on a case-by-case basis to determine the level of impairment. States are struggling to determine levels of impairment.
- Rep. Siedel - You use weight to determine impairment factor. Is that appropriate given that it can vary in potency? Director Pifer stated they have seen really potent marijuana now compared to prior marijuana. Director Pifer stated in the Control Drug Substance Section they are a qualitative laboratory. In their Toxicology Section they do qualitative and quantitative testing. It is difficult to test for infused products. To do that you really need a quantitative versus qualitative

lab. They don't measure for the quantitative amount of potency in products. However, they do see a fair amount of edibles in the state already.

- Attorney Twomey – I am interested in the drop in numbers of testing since decriminalize came in the last third of year. Can you talk a little bit about the resources that goes into testing? Does the decrease in marijuana help you? Director Pifer stated the standard marijuana test is a microscopic test and then a chemical test. Depending on residues they due another test. They are seeing a lot more of oils and dabs, highly concentrated marijuana form. A sample test would take about 20 minutes. If they were to quantitate those samples it would take about an hour. Also, they are responsible for testifying in courts of laws in the state. They were seeing more subpoenas in courts of laws on small amounts of marijuana. Now that it is just a violation level they are able to focus more time on large marijuana cases as well as other drugs. When Director Pifer started looking at back logs, six months ago there were about 3,600 cases. They analyze about 600 cases a month, which would take about 7 months to get rid of the back log. Since then they have hired two new chemist and improved processes -with prosecutors. This has dropped the backlog from 3,600 to 1,600.
- Rep. Abrami – Where is the backlog? Is at the machine or the staffing levels? Director Pifer stated it is not an instrument backlog issue, it is an analyst issue. However, they are getting to a more manageable level by reducing the backlog.
- Attorney Twomey - The backlog you are talking about is entirely in the Control Drug Section? Director Pifer stated that yes it is just in the Controlled Drug Section and does not affect other sections.
- Rep. Seidel - Do you have a way of testing the commercial section? Director Pifer stated currently they do not do any commercial or quality assurance checks. They are strictly for criminal investigations. They were approached during the medical marijuana legalization to do the testing. However, with their backlog they were not setup for quantitative testing. Some State do the testing in public health labs, but not in the crime labs.
- Rep. Seidel - Do you have the same standard or procedures as the medical marijuana testing? Director Pifer stated they are looking for just qualitative analysis and they do not do quantitative analysis. Director Pifer stated he doesn't know how the commercialized labs were setup. He thinks when it was setup up the commercial stores were required to send the product out of state. However, he could look into that.
- Rep. Abrami - Would the forensic lab be the place to do the marijuana testing? I am getting the answer not really from you. Director Pifer stated currently we do not have the resources to do that.
- Attorney Twomey - What other State Departments would be equipped with labs to do the testing? Director Pifer stated perhaps the commission could look at the public health labs or environmental services lab. He would lean more toward the public health labs versus forensic labs, where their mission is criminalized activity, not public health.
- Rep. Abrami - Mr. Rousseau has Agriculture looked at testing? Mr. Rousseau stated they rely on third parties for laboratory testing. However, he did talk to the State Health Lab and they stated they would need more resources to be able to do marijuana testing.
- Rep. Abrami - Testing potency of marijuana. It does seem like most states do send this out or have bids on commercial labs to come in to do the testing. This is what we are trying to determine for NH.
- Rep. Abrami - In your position, have you heard about any research that has gone on for marijuana roadside breathalyzer test? Director Pifer stated yes. It is referred to as oral fluid testing. It would be a presumptive test. It would be like an alcohol tester. Several companies are

working on developing one. NH started looking at this a decade ago and it was not ready. However, there are more resources being put into this to get the tester up and running. Still would need blood test to follow up.

- Senator Lasky - You said it is hard to standardize a threshold for impaired driving for marijuana. What in fact are the states using to measure marijuana? Director Pifer stated getting the value using metabolites is easy. It is science based. The difficult part is saying how much marijuana makes you impaired. It is difficult due to other factors such as the weight of person, gender, or usage.
- Senator Lasky - Isn't it the same as liquor? Alcohol affects people differently? Director Pifer stated there still can be functional alcoholics, however they are still impaired. Marijuana is tolerance based upon how much is ingested, which differs from alcohol.
- Attorne Twomey - Would you be able to give the committee a link or information on the breathalyzer potion? Director Pifer stated yes he will send it over to the commission.

NEXT SPEAKER: New Hampshire State Police; Major John Marasco

Major Marasco:

- Prior to his current position in the state police he was a captain overseeing the Office of Highway Safety. During that time he put together a Governor's Highway Safety Luncheon which took place in November of last year. For the luncheon they invited Moses Garcia to speak. He was the keynote speaker. He is a Traffic Safety Resource Prosecutor in Washington State. He came specifically to speak about decriminalization and legalization in Washington and some of the take a ways NH could learn from them.
- Bullets Major Marasco presented from Prosecutor Garcia's Presentations:
 - Since Washington implemented the law of legalization of marijuana in 2012, which allows any one 21 and older to purchase one ounce of marijuana, or 16 ounces of marijuana edibles, or 32 ounces of liquid, or 7 grams of marijuana concentrate. There have been:
 - Increase in marijuana related fatalities
 - Increase in toxicology submissions
 - Increase in marijuana use amongst teenagers. We should compare to teens in NH vaping.
 - 20% increase in motor vehicle fatalities within that region. NHTSA Study
 - Financial aspects – Brings in approximately \$1m a day. However, the resources were misallocated. There was a plan to use those resources to support police, fire, ems and rehabs to offset the increase in suspected use. However, money was not used how it was supposed to be used. Local budgets and state budgets are incurring the cost for those resources that have been increased. They have increase substantially.
 - Street Marijuana is still cheaper than it is to buy legally. That opens the door to more law enforcement activities and a strain on that front. Now the state is losing money to drug dealers. He also reference an article dated 3/16/18 on Marijuana in Colorado.
 - Ten cities and transients that were coming into the state in large numbers to obtain marijuana.
 - Second hand smoke and exposure to children
 - Increase in DUI arrests – which went up drastically
 - Federal Government roles in marijuana in states. States do not have FDA approval.

- FDIC - where do you store the money from proceeds?
 - ER visits increased by 100%
 - You don't have to fall prey to peer pressure from others states
- Has a copy of the power point presentations. He would recommend a conference call with Prosecutor Garcia to drill down into some of the numbers.

Questions:

- Rep. Seidel - Did they do any educational programs? Major Marasco stated you would need to ask Prosecutor Garcia.
- Attorney Twomey – In the presentation you reference there is an increase in marijuana fatalities, what we heard from Washington is that a metabolite of THC was found in the blood stream. All that means is at some point in time before that they would have used marijuana. Do you agree with that? Major Marasco stated you would need to ask Prosecutor Garcia.
- Attorney Twomey - In terms of competition between illegal and legal market? Isn't there a way to handle that by keeping the legal market cheaper than illegal? If you set the pricing lower than the black market you can drive out black market? Major Marasco stated you would need to ask Prosecutor Garcia
- Dr. Hannon - Testing for marijuana in the system, were there any changing in reporting or testing prior to legalization of marijuana in the state? Do you know? Major Marasco stated that is a great question and he will leave it for Prosecutor Garcia to answer.
- Attorney Twomey - Can you help us with roadside testing where the State Police are at with field sobriety testing for marijuana? Major Marasco stated he spoke with Jeff Larason from the Massachusetts Office of Highway Safety. Jeff was just interviewed and did a great job on a piece that will be featured on Channel 5 Chronical. Major Marasco will forward the link. Jeff explained to Major Marasco this morning that in Massachusetts if you stop a car with no signs of alcohol, but signs of marijuana you can put the individual through field sobriety test. If you have enough probable cause to make an arrest you can bring the individual back to the office and offer the person a blood test. If they refuse they can walk out the door with no criminal charges. Major Marasco stated NH model is much better. In NH if a police officer asks you to do a blood test and you refuse that is looked at as a refusal and you lose your license for 6 months.
- Dr. Hannon – In reference to the increase fatalities, is there anything that shows they were charged? It shows that they were involved or were the victim, but not if they were charged. Major Marasco stated he doesn't have the answer.
- Rep. Abrami - What is the process officers go through today to disguising between different impairments? Major Marasco stated the NH Police Standards and Training Council has standardizes field sobriety testing they issue to all new recruits from the police academy.
- Rep. Abrami - Is there a point where they can confirm the impairment is either alcohol or drug? Major Marasco if you thought it was drugs you bring the individual back to the station and you would only call drug recognition officer. Attorney Twomey stated you don't have to prove if it's drugs or alcohol, you just need to prove they are impaired. They may never know what the substance is.
- Rep. Abrami - If they pass the breathalyzer test what happens? Major Marasco stated the general rule if they pass the test they won't be charged, unless they appear to be impaired.
- Attorney Ward – Are we planning on hearing from any prosecutors? The reason I ask is, this whole system of prosecuting folks for impairment is to act as a deterrent. I was wondering, under existing law, if we could hear how successful the existing tools to prosecute someone for

marijuana impairment are. I think we have to assume that if NH legalizes we are going to legalize in a world where there isn't a hard and fast tool to prove marijuana impairment. It would be good to know if prosecutors out there now have the tools to be an effective deterrent to impairment marijuana driving. Attorney Twomey stated that the US Attorney was a court prosecutor for a long time and he could answer all those questions.

Discussion:

- Mr. Rousseau stated Massachusetts has a five member commission and under the commission they have an advisory board of 25 members. Mr. Rousseau stated he didn't know if we should reach out to them. Jennifer Foor stated she has continued to reach out to Massachusetts with no answer. However, if Mr. Rousseau has a contact phone number she would be willing to reach out to that contact number.
- Rep. Abrami – If we over tax marijuana we send it to the black market.
- Rep. Abrami called on Rick Naya, Executive Director of NH NORML from the audience to answer the question. Mr. Naya stated legalizing marijuana stabilizes the industry and doesn't wash it out. We consume more cannabis than the surrounding states which pushes the prices down. This will help us regulate the flow. All the states that allow legalized cannabis have bias studies, new studies, or convoluted studies. As soon as we legalized the market it will drive down the black market. The black market has a way of signaling what we should be doing. We should allow a legal market and allow home grow to push back on the black market. We should allow our industry to unfold with a board. None of us are truly qualified to understand the market and what is happening in NH. We should re-evaluate HB 656, which shouldn't have been at W&M, but would have allowed us to open the market. Revenue estimate will probably double once transients came to NH. We need to approve SB 338 to get the process started. Mr. Naya stated he believes lab shouldn't be with the state, it should be done in an independent way. It is time to allow our state this opportunity and time to grow. Mr. Naya stated this is how we push back the black market. Gifting also pushes away black market. What we are doing is great. Other states were started as Wild West and are now normalizing. He was asked a few weeks ago by Attorney Twomey to put together a list and he and Attorney Twomey are working on it.
- Rep. Abrami – When we talked to Washington State, they don't allow home grown anymore, correct? Director Matt Simon from the Marijuana policy project stated he passed out a handout titled "Alison Holcomb on I-502 and Home Grow." Washington has home grow as part of it's medical program. What made it the Wild West is that the people could join together and do a coop and grow hundreds of plants with no regulations, which created illegal dispensaries? They are not talking about adults using home grown for personal use. Washington has since revised it's medical home grown and brought it under control.
- Rep. Abrami – Why doesn't Washington have home grown for home use? Director Simon stated it was a ballot initiative sponsor for I-502. We left it out because we were afraid we were going to lose. Of course we are for it. It is a civil liberty for people to enjoy.
- Rep. Abrami - Ballot initiative are the voice of people and clearly they were saying they do not want it. Director Simon stated if they would have kept the home grow on the ballot initiative if it would pass, is not clear. Attorney Twomey stated home grow was never put on the initiative, which means people never voted on it. Attorney Twomey stated the sponsor thought it might hinder the passage, which is why they didn't put it on the initiative.
- Rep. Abrami – You have home grow, some people can't use it all, do they sell it? Mr. Naya stated typically they consume it or some gift it. Director Simon stated if they do sell it, it is a felony. Director Simon stated in 2010 Colorado passed a regulated system. They took their hundreds of

unregulated system and shut them down. Washington State at the same time had the same problem, but left everything unregulated, which is what began a Wild West system. Until the summer of 2017 a patient in Colorado could grow 99 plants. Some which probably abused it. They just resolved that issue this summer.

- Rep. Seidel - Do you have any regulation for homegrown plants? Any tests or study as to help if they use too much as whether they are addicted or not? Do you have a level of potency? Director Simon stated it is a plant. They are allowed to grow it. People are expected to self-govern if they don't there are consequences, there are enforcements.
- Rep. Abrami called on a Reverend from Connecticut. She explained her daughter is on the legal program in Connecticut and there is no home grow program there. She stated her daughter runs out of marijuana and has no way to get anymore and suffers through pain until it can be replenished. She stated this is about giving people what they really need. This is a justice.
- Rep. Abrami stated we have been hearing all side of these issues. Unfortunately, from his perspective there is stuff going on on the house side that shouldn't be. We decided to have a commission to do it the right way. Despite all that we still have activity on the house floor side. He doesn't know why they have formed a commission.
- Attorney Twomey – Asked are the subgroups supposed to be actively meeting? Rep. Abrami stated not yet.
- Attorney Twomey stated that there should be more public meetings. Rep. Abrami stated he was planning on having more public meetings. He was just trying to get through all the states first. He opened it up to the public today because we had time.
- Attorney Twomey - In regards to HB 656, they are looking at small amounts of marijuana and the criminal justice side of that. What this commission is looking at is what a regulated and a tax system would be and all the choices that need to be made. HB 656 is not deciding the base question of legalization or taking the criminal justice system out of the marijuana system. Rep. Abrami stated this commission is coming up with the framework and structure for legalization, which we will vote on and it is going to be a legislative thing. He stated why couldn't they wait another 6 months and then look at home grow stuff. It is right in the middle of our work. It puts us in a funny position. This Commission may have a different view on home grown and the number of plants allowed to be grown. Why have a commission if we are going to move forward? Rep. Abrami stated this totally undermines our commission. Rep. Abrami stated this is not reflective of all the other commission members. This is just his opinion.

Next meeting dates:

- Monday, April 2 at 1:00pm
- Monday, April 16

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

April 2, 2018 1:00PM LOB 202

Eleventh Meeting – April 2, 2018

Members Present:

- Representative Abrami; Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Representative Leishman; Stuart Glassman, MD, NH Medical Society; Senator Lasky; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); Senator Gannon; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Lieutenant Chris Roblee, NH Dept. of Safety (DOS) sitting in for John Encarnacao.
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Members Not Present:

John Encarnacao, NH Dept. of Safety (DOS); James Vara, NH Attorney General's Office; Chief Richard Mello, NH Assoc. of Chiefs of Police; Representative Bates

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- Sen. Lasky made a motion to accept the minutes and David Rousseau seconded the motion.
- The April 16th meeting will start at 9:00am. Students from Dartmouth College who have done research will be speaking as well as an open forum.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- Letter from Timothy J. Pifer
- Handout from Attorney Twomey on Oral Fluid Testing

First Speaker: New Hampshire Department of Health and Human Services; Jill Burke, Administrator of Prevention and Education Services, Bureau of Drug and Alcohol Services; Tricia Tilley, Deputy Director, New Hampshire Division of Public Health Services.

Questions:

- Rep. Abrami – Are JUUL products being sold with THC on the internet?
 - A: Yes, JUUL products are the size of a thumb drive and the products sold online which can go into the device can contain THC.
- Dr. Hannon - Is it illegal to buy the THC products or JUUL devices on the internet?
 - A: It is illegal for anyone under 18 years old. However, 18 and over is legal.
- Attorney Twomey - Everything you stated is in reference to marijuana being illegal now. At some point do you talk about what, if any, effects legalizing marijuana would have on the rates of use?
 - A: Lessons learned from the states that have legalized marijuana, like Colorado and Alaska, are all pointing to the fact that disciplinary rates are extremely high for the use of marijuana as well as high rates of admission because of acute intoxication of marijuana. As well as increase in rates of admission to marijuana treatment centers for young adults.
- Sen. Lasky: Have they had any comparison studies done on the use of marijuana compared to the use of alcohol in that age range?
 - A: We can get the NH rates for alcohol use, marijuana use and non-prescribed medication use for youths.
- Sen. Lasky - Have they followed any of the youths for long term effects?
 - A: No, that is a known research flaw that they need to look into.
- Senator Lasky - Are they doing it in the states that have legalized marijuana? Are they doing it in NH?
 - A: Yes, they have done it in the states they have legalized. For NH we just have the trend data from 2011 to current.
- Attorney Twomey - You see these trends and dangerous outcomes in both marijuana, which is an illegal substance, as well as tobacco and alcohol. In fact isn't the use of tobacco going down?
 - A: We have seen and made some gains in the use of alcohol among youth between the ages of 12-20 and that is the direct result of prevention programs the state has put in place. The prevention program in the State is almost at full capacity and we are constantly trying to meet the needs of new drugs. We would need, if there is legalization, we just need to make sure there is a solid and supportive effort to increase prevention capacity in the state. In terms of tobacco, combustible tobacco rates are declining for youth use. However, e-cigs are filling that void. What we are seeing is that up to 50% of high school seniors have used e-cigarettes or JUULs. Part of it is that they market the product to younger audiences with the flavors and smells.
- Rep. Abrami - Can you supply the backup information and notes and any papers on what you are saying?
 - A: Yes, we can supply it for you.
- Rep. Abrami – We did hear from one state which was monitoring children detention rates. However, the history isn't there to break out marijuana from opioids or anything else. And we have heard from other states it is hard to say if it has gone up or down.
 - A: There is always the alcohol use and the youth perception of how they use is not always a true indicator. What are good indicators are the disciplinary rates, hospitalization and emergency room admission as well as any juvenile rates that are tied to a use of a substance.
- Attorney Twomey - What would you see as a way to get ahead of the problem? What do you suggest in terms of what you setup in terms of legislation and who is going to come up with what is going to be done?

- A: This commission is headed down the right path. This commission is addressing those considerations and thinking about the policies and how to support those policies ahead of time. I don't think we, as a Department, would have a suggestion of how you would pre-allocate funds. These are things for you to think about so that when you turn it on July 1st, are the systems ready to handle that?
- Rep. Abrami –The point of what we are going to do, if this were to happen, would setup a structure and that would include education as well as your department. We will probably hear from you folks again on what is the cost aspect. We have to estimate what we can bring in for revenue versus what the cost estimate is and part of education.
- Rep. Seidel – Have you communicated with other states?
 - A: This is a new area for us. The prevention team has worked with other states. We are slowly building up the knowledge. There are several good papers based on other states.
- Rep. Abrami - We just heard from out state forensic lab. However, they don't want to touch the testing of marijuana. Do you have a lab for public testing?
 - A: Currently we have a couple of models. We have our public health lab that already does food and chemistry testing. They do not do cannabis testing and do not have the capacity for the testing. In order to do cannabis testing they would need additional resources. In the Therapeutic cannabis market they use one private lab which is doing all the testing. The public health lab is interested in where they could fit in the picture.
- Rep. Seidel - Are you using the same standards as the states that have developed a workable program?
 - A: Again this is the trouble without any federal guidance the states were all different. Now they are starting to build some set standards. The NH therapeutic program is more protective than many of those other standards. I would think we would continue that.
- Attorney Twomey - Would it be possible for the public health lab to give us some sense of what types of resources they would need to lead this job, in terms of personnel and equipment?
 - A: We would need to know what you wanted and then we would develop the resources. However, it does fit within the model; they would just need the resources. As you get further to your proposals those estimates could be finalized.
- Rep. Leishman – Do you see the legalization of marijuana being problematic for your department with your other resource issues?
 - A: There will be challenges involved. However, it is too early to tell. This commission will develop the appropriate policies. We already have experience in tobacco and alcohol and understand how to address those things. We are already addressing marijuana now.
- Kate Frey - What has been difficult in the past is that the fiscal notes have addressed the revenue aspect and the costs to the Department of Revenue. However, there have been indeterminable statements from other state agencies. It would be helpful to get a full understanding of what are the department's needs. An exhausted outline of what is needed from all agencies.
- Rep. Abrami stated his goal is to develop a structure and find the means to support that structure.
- Dr. Glassman stated the Alcohol Prevention and Treatment Fund never gets fully funded. Part of the funding ends up in the General Fund and doesn't get used for any treatment or prevention of use. He stated they are concerned the same thing would happen with the legalization of cannabis.

- Attorney Twomey stated he shares the same concern and what he was thinking if legalization occurred that there also could be an amendment of the State Constitution that states funds can't be transferred out. Funds would be restricted.
- Dr. Hannon stated there was a proposal to do it with the Alcohol fund. He wrote it and it didn't even make it to the House Floor because it was a late amendment.
- Dr. Hannon –You talked a lot about messaging for youth and how so many young mothers were using before pregnancy and how that compared to alcohol and tobacco. We have two extremes in this debate. One that says it is totally safe with no consequence and the other side that says it is the devil's lettuce. Kids are very malleable and distrustful of adults. If we are not able to have an honest debate of benefits and the negatives how do we fit that into the discussion and how do we fit that into the messaging?
 - A: Part of the issue is to continue to talk about moving away from flawed thinking and finding out perceptions and term of what you think and what your peers think and back it up with research and data. If substances are how you cope, what are you going to do if everything goes away and you have nothing else to cope? That is the normalize part of growing up and we need to change that. In terms of packaging for youth, we are seeing that in vaping. This is another area to move the messaging. This does not have to be a normal part to growing up. You can have a healthy adaptive lifestyle. As for pregnant woman and substances, among the entire population, tobacco usage is declining among the general population. This is due to messaging of tobacco is bad as well as policies set forth.
- Dr. Hannon – Marijuana is common and prevalent even before decriminalization. Do you think making it legal and opening it up for an honest discussion, like we did with tobacco, would maybe be helpful for kids.
 - A: Yes, those conversations are already happening with regards with: What are kid's perceptions? What does it do for them? What are some other helpful alternatives? Also, a website called Smart approaches to Marijuana or SAM, which is helpful to teens.
- Todd Wells - NH DHHS to what extent do you have mission overlap with the federal agency?
 - A: Marijuana is interesting in this place for other products we have overlap with our Public Health Lab and the FDA. However, because cannabis is not federally regulated it is off the table with no guidelines and no regulations, which makes it very difficult.
- Todd Wells – Looked at some of the statistics through DHHS Therapeutic Cannabis Program. Some of the statistics are the ages of patients and some there were some as young as two years old. Earlier in portions of your presentation you talked about high risk and vulnerable populations and you specifically named adolescents. I was hoping you could reconcile that and give us some thoughts.
 - A: If you look at our Therapeutic Cannabis Program the vast majority are older individuals. However, we do have a handful of younger patients. There really are appropriate conditions and there is promising evidence, specifically not the THC, but the CBD properties. There are two required sign offs. These are very sick kids. Also, we wish the Commission could think about how to continue the therapeutic program which really does have a number of stronger protections than a recreational market would ever have.
- Attorney Twomey – Earlier you talked e about JUULs and vaping, can the tools be sold to children under 18?
 - A: No, you have to be 18 to purchase the devices
- Attorney Twomey - Are minors under 18 able to possess these devices?

- A: No, they are not allowed to possess them. However it doesn't prevent them from having them. JUULs are designed to look like a flash drive and are easy to get into schools.
- Dr. Glassman stated schools and hospitals are not required to administer any of the cannabis that has been certified for pediatric patients.

NEXT SPEAKER: California State Assembly; Assemblyman Tom Lackey, Vice Chair of the Committee on Public Safety and the Committee on Communications and Conveyance; Member of the Committee on Accountability and Administrative Review, Committee on Budget, and Committee on Local Government.

Assemblyman Tom Lackey:

- There's a serious circumstance that they have here in California, with almost 40 million people in the State.
- What makes them unique is they have had medicinal marijuana in the state since 1996.
- Their black market is very experienced in cannabis and had been quite successful before they had a regulatory scheme. They didn't regulate the medical marijuana or make any rules.
- When he got elected back in 2014. He is the sole republican in a group of five of them who are from all different parts of the State. However, they have one common goal to bring the industry to be a more reputable model. Just as they were doing that with the medical marijuana, the referendum passed to legalize adult marijuana.
- They haven't had enough time to setup things properly. The black market is their foe and sometimes public policy ignores that. However, we have quite a bit of experience and a lot of research by coordinating with other states - both Oregon and Washington.
- Suggested that we designate one agency to be in charge of all of this. They did not and it takes forever to coordinate and is very difficult.
- Designated office should be Governor's level office, high level where someone can make decisions that can impact the whole state.
- We made a huge mistake without having one agency that has the authority to manage the entire system.

Questions:

- Rep. Abrami - Where is your medical marijuana program at this point?
 - A: Unfortunately we made too broad of statements as to how to qualify medical marijuana. It was basically a back door legalized marijuana operation. Now we have players in the industries that want to be regulated. The problem is we empowered the wrong people for many years.
- Rep. Abrami – Sticking with medical marijuana, what systems do you have?
 - A: We have growing licenses. There are all circumstances and regulatory rules for each level of the model from distribution, cultivation, to dispensary system; they are all being regulated by different sets of rules. They didn't have a statewide medical system until the beginning of this year. Before it was a locally overseen system.
- Rep. Abrami – What does the structure look like now?
 - A: Adult use marijuana started this year by a referendum and medical marijuana has a statewide system.
- Dr. Glassman - Only about three or four days after the legalization took effect in California that Attorney Sessions went through and repealed the Cole Memo. Does that sound right to you?

- A: Our biggest obstacle is that banks do not allow the industry to utilize the services. It makes documentation difficult and record keeping suspect. It makes the industry unsafe. Strong resistance from federal government - we need government understanding to help regulate.
- Attorney Twomey – I was wondering if you have thoughts or advice to control or eliminate the black market? What kinds of things work?
 - A: I would suggest that you come out and make public statements. Statements that say you are going to fight the black market. We were totally unprepared to take on the market. Everyone's interested has to do with imposing taxes. But, if you over tax the substance you drive it into the black market. Studies show for every % you tax it the demand grows exponentially. Don't compete with the black market, you won't survive.
- Sen. Lasky - What is the legislature doing now to regulate this? What agency is taking care of it?
 - A: We have multiple agencies involved depending on what level of the industry. For example: we have Food and Agriculture that regulates the cultivation. We have Public Health that oversees manufacturing and we have designated bureaus that kind of regulate dispensaries. That is not a good plan. What you need is a bureau at Governor's level that oversees the entire industry and then you break it down in different compartments within that bureau.
- Sen. Lasky – Are there any bills in the legislature to bring it down to one bureau?
 - A: No, because that is not a shared view. You are getting the Tom Lackey point of view. The Governor's office is hesitant to make any changes because it is the will of the people. The answer is to set it up right from the beginning.
- Rep. Abrami – Who is the group that discusses it every month?
 - A: There are five of us legislators that are the authors of trying to bring the regulator scheme to medicinal marijuana.
- Attorney Twomey – It looks like you have a law enforcement background - testing at the University of Irvine computer roadside testing -
 - A: Cannabis - identify impairment - there is technology to identify it. You need good science and good data. San Diego study - develop specific field sobriety test. Pay attention to study.
- Attorney Twomey - when will this study come out?
 - A: Next spring is the targeted date.
- Assemblyman Tom Lackey stated other things he would suggest such as drug recognition experts - you need as much expertise as you can. He stated you need to make sure you hold people accountable by training more law enforcement. Basically a week to two week long training, not every officer is capable of doing training. This is not a roadside evaluation, this is done after the person has been put under arrest.
- Dr. Glassman - The issue of employers and employees being fired if they test positive on drug test?
 - A: Should employers be able to make the demand that employees not have cannabis in their system? The Supreme Court has weighed in and said that employers can make those decisions. Employers only test if they need too.
- Rep. Abrami –Is there friction between localities versus state?
 - A: Localities like what they have and the state gets push back from localities.
- Rep. Abrami - is there any tax money?

- A: Very little. People expected a windfall however; substance is not being sold through the proper channels. It is about a 45% tax. He is trying to get rid of the cultivation tax and drop the excise tax to 15%.
- Rep. Abrami - local tax?
 - A: Yes, the counties wanted some of the tax revenue.
- Dr. Glassman - As a percentage of state project revenue, what is the percentage of legalized marijuana?
 - The projection was around \$600M. Not anywhere close to that. It is less than one percent of our budget.
- Sen. Lasky – You had medicinal for 20 years and did you ever think recreational might not be far behind?
 - A: Recreational had been attempted several times and was unsuccessful.
- Rep. Abrami - Who is the black market?
 - A: Cartels are very active as well as small time criminals. There is so much money to be had; you have all levels of entrepreneurship.
- Rep. Abrami – Is there oversight on edibles?
 - A: Education is where it has to begin on the prevention side. Industry is very cooperative on that, but once the tragedy occurs you have to be able to hold people accountable. States are trying to adopt per say limits. This is not the right pathway for this substance. A confirmation of usage is not a sign of impairment.
 - Cannabis Control Bureau has limited oversight. They can't tell the other agencies what they are supposed to do as they have no authority. Though they can watch and collect data. The bureau reports up to the Governor's office.
- Rep. Abrami - any statistics coming out of your state?
 - A: It is too early. Colorado had a report that indicated that there was not an increase in youth use.
- Rep. Leishman - Curious about black market? Do they have any political influence?
 - A: They don't have to be politically active. They have supply and demand that can serve them quite well.
- Rep. Abrami –With medical dispensaries, do you know if your medical folks give counseling to patients?
 - A: Dispensaries vary between quality due to the gray market. There are some professional ones. There are no training standards. Not to that level yet. They need to build the confidence.
- Rep. Abrami – For the legal cultivations is it indoors or outdoors?
 - A: We use a seed to sale tracking system. There are both indoor and outdoor grows. The commission should make sure seed to sale is ready to use on day one. Law enforcement is the one that uses this to track for transportation.
- Rep. Abrami - What is the vision of the seed to sale?
 - A: It is used to track at every stage and other states have it by using bar codes. By running skew numbers they can find out who grew it and where it was transported. It is quite remarkable. If it doesn't have a traceable sticker than it is from the black market.
- Dr. Glassman - If your state was legally able to match the price of the black market, how would the black market respond to that?
 - A: They would move elsewhere.
- Rep. Abrami - Public opinion shows the average person out there doesn't think that the situation is problematic.

- A: General public is not aware of the crisis that we are facing. We don't want to create a panic. If you are in the industry you are panicking. Your income is in jeopardy.
- Rep. Abrami – Tell me about taxes.
 - A: Every municipality has the ability to impose a tax at every level - at all three levels and the state is guilty of that also. Supply and demand will control. Some people are pushing the state to cap how much localities are taxing.
- Rep. Seidel – In terms of medical use, do your patients have to get checked out regularly to refill their prescription?
 - A: Once a year and it has to be a licensed physician.
- Do you think some of these taxes and overregulation is contributing because they can't compete more than the local market?

Discussion:

- Rep. Abrami called on Rick Naya, Executive Director of NH NORML from the audience to answer the question. Most of the dispensaries over grow and sell to the black market. It is impossible to battle the black market in California.
- Rep. Abrami allowed Paul Morrisette from the audience to speak. Mr. Morrisette stated in regards to cost it is not just about expenditures it is also the cost to grow it and the strain it puts on the electrical grid.

Next meeting dates:

- Monday, April 16th at 9:00am
- Monday, April 30th
- Monday, May 14th at 1:00 pm
- Monday, May 21st

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

April 16, 2018 9:00AM

LOB 202

Twelfth Meeting – April 16, 2018

Members Present:

- Representative Abrami; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Sarah Ward sitting in for Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Representative Leishman; Shaun Thomas, sitting in for Carollynn Ward, NH Dept. of Revenue Admin. (DRA); Senator Gannon; Abby Shockley, NH Dept. of Health and Human Services (DHHS); John Encarnacao, NH Dept. of Safety (DOS)
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Members Not Present:

Representative Seidel; Stuart Glassman, MD, NH Medical Society; Senator Lasky; Carollynn Ward, NH Dept. of Revenue Admin. (DRA); James Vara, NH Attorney General's Office; Chief Richard Mello, NH Assoc. of Chiefs of Police; Representative Bates; Kate Frey, New Futures

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- D. Rousseau made a motion to accept the minutes and T. Wells seconded the motion.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- DHHS Talking Points 4/2/2018
- An article titled "New Hampshire Marijuana Use Trends" Compiled by the Center for Excellence: April 2, 2018
- An article titled "Two new studies show how marijuana can help fight the opioid epidemic" by Christopher Ingraham. Published in The Washington Post, dated April 2, 2018
- An article titled "Association of Medical and Adult-Use Marijuana Laws With Opioid Prescribing for Medicaid Enrollees" by Hefei Wen, PhD; Jason M. Hockenberry, PhD. Published in JAMA Internal Medicine, dated April 2, 2018

- An article titled “Californians Not So Keen on Marijuana Industry” Published in The Marijuana Report, dated April 11, 2018

First Speaker: Policy Research Shop, Dartmouth College; Christopher McCorkle, Class of 2020
A.B. Candidate in Economics and Public Policy: *Investigating Policy Options for Recreational Marijuana in New Hampshire: A Case Study Analysis.*

- Mr. McCorkle gave a presentation on “Investigating Policy Options for Recreational Marijuana in New Hampshire”

Public Comments:

- Jim Karwocki, an 18 year coach for youths, from Sanbornton NH, spoke in favor of the legalization of marijuana. He explained cannabis is a medical product for adults and youths. He discussed how cannabis can be used to rid alcohol, opioids, and tobacco addiction. He stated he has been researching cannabis for years.
- Krystal Kebler, a health teacher from Raymond, spoke on behalf of her health class opposing the legalization of marijuana. She discussed how legalizing and commercializing of marijuana in NH is concerning. She also discussed the effects on children and the increasing adolescent usage of marijuana in Raymond. She stated she has witnessed first-hand the direct impact of marijuana on children. She showed pictures of marijuana products which are targeted toward kids.
 - Rep. Abrami asked Ms. Kebler if desensitizing of marijuana seems to be one of the problems. Ms. Kebler stated she has heard this from kids.
 - Attorney Twomey stated everyone wants to find a way to reduce youth access. Right now we live in a state that has one of the highest amounts of alcohol, tobacco, and marijuana use in the country. Kids are saying it is okay while it is still illegal. You stated you have heard from some people it is illegal, yet still readily accessible to them now. Just curious if you think regulation for adult use with a lot of control and public health campaigns would change this message. Do you think there are ways to explore those efforts? Ms. Kebler stated she was concerned with the attitudes that if it is legalized it is okay.
- Bill Alleman, from Weare, spoke in favor of legalization of marijuana. He stated if you want a prohibition of anything you a required to pass an amendment. He stated he objects to rogue government overstepping their boundaries.
- Michael Coughlin, Public Policy Outreach Coordinator for Dioceses of NH, from Nashua, spoke on behalf of Bishop Libasci of the Roman Catholic Church of NH against the legalization of marijuana. He discussed how marijuana poses a threat to the citizens of NH. He discussed edibles and the dangers as well as increased access in the home and to children. He discussed poverty and the effects of marijuana. He talked about an increased risk of driving and fatalities. He stated there is a conflicting message of drug use while the state and the nation battle the drug and opioid crisis. He also provided written testimony from Bishop Libasci.
 - Rep. Abrami asked if this was the official position of the Manchester Diocese or the Catholic Church across the country? Mr. Alleman stated he was speaking on behalf of the Dioceses of Manchester, which is the Catholic Church of NH.
 - Dr. Hannon asked what the Bishop’s stance on recreational alcohol consumption? Mr. Alleman stated speaking on a common sense perspective these are all at different points

because alcohol and tobacco are legal. Obviously the misuse of any drug does not make people freer.

- Dr. Hannon asked if the main difference between alcohol and marijuana was that one is legal and one is not? Mr. Alleman stated that is one point that he was raising and should not be glossed over.
- Diane Vaccarello, from Bedford, spoke in opposition of the legalization of marijuana. Ms. Vaccarello stated she is the current chairperson for the mental health practice in NH. However, she is not here representing them, she is here representing BE BOLD (Bedford building our lives drug free). She also practices in Bedford, NH working with individuals and families providing mental health services. She discussed Rat Park Study, which was a drug addiction study conducted in the 1970s by American psychologist Bruce K. Alexander at Simon Fraser University in British Columbia, Canada. She also discussed a Colombia University study published in November 2017 show rats exposed to “gateway” drugs like nicotine, alcohol, and marijuana. It discussed a common liability theory as well as a gateway theory. She talked about why people are using drugs, especially marijuana. She discussed underlying mental health issues for youths especially anxiety and ADHD. She talked about the many risk factors as well as a youth risk behavior survey. She explained that if marijuana is legalized there needs to be efforts put into education. She stated 2/3 of substance users suffer from mental health. If parents are using or saying it is okay kids will more likely use. She also discussed if parents are overly protective or overly aggressive there is an increase in the child using marijuana. She talked about the marijuana cycle as well as the vaping epidemic in schools. She stated low level use of marijuana leads to dependency, regular use starts to crave, then they try to quit and there are withdrawal symptoms as well. Discussed teen suicides and substance abuse causing it.
 - Rep. Abrami - How long have you been practicing and have you seen a trend? Ms. Vaccarello stated she has been practicing for 19 years and yes, there is a trend. There is an epidemic with teens as well as 20 to almost 30, using marijuana more commonly than alcohol, lately, or in conjunction and use as early as 13.
 - Attorney Twomey - Do you have any other thought on things that could be done to help reduce youth use? Ms. Vaccarello stated that the question makes her think about vaping. There is a misconception that vaping is safe. She believes this is because it is new. There is a blurry line where marijuana is legalized for medication sends confusing message for kids that it is healthy. We need to speak to kid’s brain with a more scientific message. For instance, talking about the effects on sleep. Kids need more information. As well as more youth to youth conversation.
 - Dr. Hannon – Do you think that having it being illegal and adults still continue to use it is having a deleterious effect on children? Ms. Vaccarello stated absolutely if there is adult use kids believe it is safe. It sends a message to kids that it is okay to use.
 - Dr. Hannon - Do you think kids have a problem getting cannabis now? Ms. Vaccarello stated no. It is everywhere. NH is a gate way from Massachusetts based on our location.
 - Dr. Hannon – Following up on the Gateway Theory, what are the chances of buying another illegal drug from your drug dealer? In a sense you are more likely to buy more or have the option to buy harder drugs if you are getting marijuana from a drug dealer? Ms. Vaccarello stated that is correct. There is clear conscious of that from the person selling the drug. There hope is it will lead to another more expensive drug.
 - Ms. Ward – Can you speak to the treatment options for youths who suffer from marijuana dependencies? Ms. Vaccarello said what would help is supporting HB 487, a fast track option for licensing. We need to keep qualified clinicians in our state and retain them. We need quality and accessibility for consumers.

- Attorney Twomey – Do you have any thoughts on why in NH all substance use rates are high? Ms. Vaccarello said there are lots of layers including, regional location, isolation, weather cycles, a seasonal aspect, those struggling to make a living, not enough providers, reimbursement rates for providers, and so many factors.
- Molly Rossignal, a family physician also board certified and fellowship trained in addiction, spoke in opposition of the legalization of marijuana. She stated she just attended an American Society Addiction Medicine Conference where this was the topic of the last lecture she attended. She stated currently the Society of Addiction Medicine does not support the legalization of marijuana. Primarily because the risk associated with the use of marijuana. She discussed the most vulnerable patients she sees, which include youth (as young as 19), merging adults, patients with mental health issues, pregnant woman and unborn children. She is seeing a significant rising of pregnant woman using marijuana, which has led to an increase number of effects on newborns. She talked about how marijuana is not an effective treatment for opioid disorder or for someone with addiction tendencies. She discussed the difficulty of finding treatment place for patients. She stated that NH rank 49th for access to addiction treatment centers across the states. She discussed youth risk, using JUL products as well as dabs, which are a concentrated form of marijuana. Dabs are an oily, sticky, material that can be put in JUL devices. She stated 9% of those who use will become addicted to marijuana and twice that for those who use prior to 20. She also talked about Colorado statistics on marijuana use.
 - Attorney Twomey - Do you have any thoughts on the viability of the criminal justice system as a tool to respond to the addiction problem versus the health care system? Dr. Rossignal stated we can't arrest our way out of this problem.
 - Dr. Hannon - How is keeping marijuana illegal going to help? Dr. Rossignal stated she was here to speak to the addiction portion and how incredibly difficult it is to stop.
- William Sparks, member of the Raymond Coalition for Youth, spoke in opposition of the legalization of marijuana. Mr. Sparks stated he is a retired project manager and business man. He handed out a letter he wrote, as well as some statistics from the Youth Risk Behavior Survey from students at Raymond High School over the past ten years. Mr. Sparks discussed misinformation going out to kids on marijuana and how they are confused. He discussed their preventive measures for kids at school. He also discussed Colorado and the expense side of legalization of marijuana.
 - Rep. Abrami - Do you know why the jump in 2017 stats for Raymond? Mr. Sparks stated he believes it is a change in the kid's perspective and how they think about it has changed.
 - Dr. Hannon – Has the participation rates for the survey changed? Mr. Sparks stated there has been no change and they think the increase risk is due to the shift in focus to opioid usage versus the prevention of focus being on marijuana.
 - Dr. Hannon - Do you think youth have any trouble getting marijuana? Mr. Sparks stated he only has antidotal evidence that they do not have a problem getting marijuana.
- Lisa Mure, a resident from Holderness, spoke in opposition of the legalization of marijuana. She passed out a hand out. She stated she was formally a public high school teacher in the North Country and stated that is what drove her passion around substance abuse. She stated she has also worked in public health. She discussed the statics in her handout.
 - Rep. Abrami – Any comments on edibles from the ER doctor you discussed? Ms. Mure stated she did not talk about an increase in ER visits from edibles. The focus was more on the transient population which had moved into Colorado. Ms. Mure asked why would we bring another mind altering drug into our state? What NH really needs to focus on is a young smart work force.

- Annika Stanley Smith, a substance mis-youth preventions coordinator for an area public health network, spoke in opposition of the legalization of marijuana. She handed out a Dover Youth-to-Youth document completed by Dover children on their feelings on legalization of marijuana. Ms. Smith discussed how she helps communities and schools find tools and resources needed to help combat drugs and alcohol in NH. She discussed the accessibility of alcohol and marijuana to youths. She discusses youth usage as well as marijuana usage in Colorado and the detriments of it in Colorado. She has had discussions with families on the images of what legalized marijuana would look like to youths every day. She stated she has traveled to Portland, OR and the first thing you experience is the smell; now imagine your hometown smelling like that every day. She stated you need qualified people to treat these addictions. She also handed out her written testimony.
 - Attorney Twomey – It seems like what you are saying is not just in reference to the accessibility of alcohol, it also seems to be the lack of access to treatment. Do you agree? Ms. Smith stated it is not just the lack of access to treatment it is the perfect storm in NH and how all things come together. Not just one thing causes an increase in use.
 - Attorney Twomey – We have a very high rate of alcohol use and it is legal, and we also have a very high rate of marijuana use and it is illegal, to me that means the legality of the substance doesn't play a part? Ms. Smith stated she thinks if marijuana was legalized you would see an even larger increase in marijuana usage. Attorney Twomey reference Colorado and the decrease of marijuana usage after it was legalized.
 - Twomey - What steps would you take to increase the prevention in NH? Ms. Smith said she would echo anything the Alcohol and Drug Commission recommends. She stated an increase in funding for prevention in younger age groups would be very helpful.
 - Dr. Hannon - Some studies have shown alcohol usage decreases while marijuana usage increases. If alcohol is such an issue in NH, wouldn't a slightly decreased use of alcohol be a better thing in NH? Ms. Smith stated it is not about one being better than the other. She wants people to have access to treatment and to not use substance as a way out.
 - Rep. Leishman – Shouldn't there be more advertisements on television to help prevention, like they had in the 90's? Ms. Smith stated those messages don't work for youths because their brains are not developed enough to process those kinds of messages. Also, there is not a lot of funding for prevention. To do a TV commercial is very expensive. In prevention we look at data to find what is effective and where we see behavioral changes.
 - Rep. Leishman – Do you know the reason why we have such a large opioid epidemic? Ms. Smith stated we don't have the capacity to meet the higher amount of use for treatment for recovery and prevention takes time.
- Kimberly Haley, from Laconia, oversees the Drug Prevention and Intervention Specialist Program at Second Start in Concord spoke in opposition of the legalization of marijuana. Ms. Haley stated Second Start serves 6 school districts which represents about 5,600 students. She discussed how the program works including screening, crisis consultations, support groups, and environmental initiatives. She works with a lot of children who live with substance abuse problems as well as kids who misuse substance between ages of 13 -18. She discussed concerns of using marijuana and how people who have a substance abuse problem don't have distress tolerance. They struggle with self-avocation and expressing emotions. They are not fully functioning adults. Her biggest concerns are the people making the decisions about legalizing

marijuana will not come up with a solution to deal with the potential fallout, including prevention and intervention.

- Rep. Abrami - If we were to pass legalization and we said that 10% of the revenue would go to prevention would you believe us? Ms. Haley stated no.
 - Attorney Twomey - If by some miracle the legislature allocated 10% of the revenue where would the biggest need be? Ms. Haley stated it should be allocated to more prevention services. She stated right now they are doing “band aid” fixes.
 - Senator Gannon - Is this a generational thing? Ms. Haley stated more than half of the people using had parents who used. 1 in 4 kids will use, including alcohol, if they had a parent or guardian that used in the home.
- Rick Naya, Executive Director of NH NORML, spoke in favor of the legalization of marijuana. Mr. Naya talked about if you are going to legalize marijuana you need to do it in a common sense manner because this industry is growing exponentially. Mr. Naya discussed his four children and how none of them use any drugs. He also stated he is a medical marijuana patient. He discussed how we cannot forget about people’s liberty and rights. He discussed what the people want and how they have shown it through votes. He talked about how cannabis will bring in the revenue and help with deficits, as long as there is no mismanagement of funds. He discussed the medical marijuana program and the benefits. He talked about how it is the parent’s responsibility to educate their children about drugs and it has nothing to do with government. NH NORML shows NH wants cannabis legalized. He discussed what the marijuana industries will do for NH with the revenue it will bring in. He stated we need to legalize the right way and start at the top.
 - Ms. Ward - Can you clarify the references to individual liberties, family responsibly, and the public health responsibilities? Can you speak more to which one of those would represent the prevention side of things? Mr. Naya stated it starts at home with education. We teach our children right and wrong. Individual liberties are in our constitution. Where are our constitutional rights?
 - Senator Gannon - You said that no one had died from using marijuana. However, there have been fatalities due to impaired drivers. Mr. Naya agreed.
 - Senator Gannon - How did you discuss this with your children? Mr. Naya stated he was on the news for it and then explained sat down with his children and discussed it.
 - Rep. Leishman – Do you think providing reasonable access increases use? Mr. Naya stated you are right. It will be a fad in the beginning. Things come and go. However, it can decrease with regulation.

Next meeting dates:

- Monday, April 30th at 10:00 am
- Monday, May 14th at 1:00 pm
- Monday, May 21st

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana RSA 318-B:43,
Chapter 235:1, Laws of 2017**

April 30, 2018 10:00AM LOB 202

Meeting Minutes – April 30, 2018

Members Present:

- Representative Abrami; Senator Gannon; Senator Lasky; Representative Bates; Representative Seidel Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Chief Richard Mello, NH Assoc. Of Chiefs of Police; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Krista Morris, NH Dept. of Health and Human Services (DHHS); Chris Robley, NH Dept. of Safety (DOS); James Vara, NH Attorney General; Stuart Glassman, MD, NH Medical Society

Members Not Present:

- Todd Wells, NH Banking Dept.
- Representative Leishman

Others Present: *Others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order:

- Page 6 notes marijuana is a gateway drug in studies. Studies circulated don't support. Minutes are accurate, speaker was inaccurate.
- Motion to approve minutes made by Senator Gannon approved Kate Fray. Approved.
- Copies of all legislation on marijuana in NH circulated.

Speakers representing medical marijuana dispensaries in New Hampshire

Ted Rebholz, Temescal Wellness:

- Ted Rebholz founder and CEO Temescal, President of Board of Director, Temescal represents 2 of 4 centers in NH.
- Temescal has capacity to serve recreational adult use.
- Getting a marijuana business built up is difficult due to stigma and lack of education about marijuana.
- CA had no oversight. Regulations assure public and operators. Certainty is good for business. Regulations are in the best interest of the public.
- Dispensaries in Dover and Lebanon. 2000 plus patients. Extensive patient and employee education. Participate in medical research.

- Under existing statute, medical dispensaries are required to be non-profits. Existing statutes should be amended to allow dispensaries to be for profit. Restricts ability to raise equity investment. Non-profits can only raise debt. High interest rates (18%) due to nature of the industry.
- Temescal's existing physical assets can be scaled up to meet a legal adult use market.
- Rep. Abrami: We did invite the 4th dispensary and they elected not to appear.
- Rep. Abrami: Vertically integrated? One License? Answer: Yes.
- Sen. Gannon: Where are you growing? Answer: Manchester.
- Sen. Gannon: Fair to switch to non-profit? Answer: Would improve statute. Sen. Gannon: But why originally? Answer: Don't know. Sen. Gannon: Does staff have adequate medical expertise? Answer: Some staff already have medical training (mental health, nursing). Train staff from the ground up. It's bad business if consumers have a bad experience. Healthcare providers may or may not have level of qualifications either.
- Rep. Seidel: Procedures modelled after other state? Answer: All other states that legalized previously. Maryland, Massachusetts. Rep. Seidel: Recognized standards? How developed? Answer: Arm's length with testing labs. Potency is from an independent third party. Child resistant packaging is standard. NH statute has potency standards. Brett Sicklick- NH has similar checks and balances.
- Sen Laskey: Medical research? Elaborate? Answer: In concert w/ researchers. Contact patients to ask if they want to opt in to medical research.
- Attorney Twomey: Effect of adult recreational on medical? Price medical out w/ recreational? Studies in AMA establishing link between opioid treatment best achieved w/ medical? Impacted by pricing and taxing? Answer: Taxes impact price regardless of level imposed. Taxing too much preserves the black market. CA reconsidering level of taxation. MA: No tax on medical, 6.25% and local option 3% and 10.75% excise on recreational. Attorney Twomey: Do other states exempt medical? Brett: Yes and this should be same in NH. Attorney Twomey: Same license costs? Answer: Yes, license is more expensive in MA for recreational because no vertical integration.

Brett Sicklick, Prime Alternative Treatment Centers

- Merrimack COO.
- Believes there are health benefits to adult use even if they don't qualify for a medical use card. Not just an intoxicant. In other adult use states, "recreational users" consider it a treatment for various symptoms (sleep, anxiety).
- Gradual introduction will apply to recreational and medical equally. Consumer education. Educate patients about driving under the influence. Bad experiences are bad for the consumer and bad for the industry.
- ATCs already in existence will be recreational as well if legalized.
- Rep. Abrami: Growing site? Answer: Peterborough.
- Rep. Abrami: How do other states do it? Does side by side work? Answer: It seems to work. Other states maybe want to minimize medical in favor of recreational due to tax revenue. That is unfortunate. Separate rooms for medical and recreational. Separate counters. Ted Rebholz: Many of the same concepts apply to both: education, seed to

sale tracking, physical security. Does not make sense to have facilities completely separate. Tax implications should really be the only difference.

- Rep. Abrami: Vertical integration for recreational? Ted Rebolz: Yes for medical in MA. Adult use is different. Abrami: How do you distinguish? Brett Sicklick: Seed to sale would allow for tracking product and where it came from.
- Dr. Glassman: Denver dispensaries. Separate entrance for medical b/c medical might be under 21, accompanied by a caregiver, patients may need extra assistance.
- Rep. Abrami: Prefer side by side? Both: yes.
- Attorney Twomey: Any danger that recreational will reduce medical options? Ted Rebolz: The opposite. Maybe some operators make a different business decision. Economy of scale will allow diversity of strains. Greatest challenge is federal law- can't move product across state lines. No economy of scale. Capital investments in every state. Brett Sicklick: Even in recreational states, non-psychoactive strains are popular with adult use consumers. Some consumers purchase therapeutic delivery methods that are not psychoactive.
- Rep. Abrami: Level of consumer education was eye opening in medical dispensaries.
- Rep. Abrami: Recreational store might not do consumer education? Is that the case in other states? Answer: It depends on the consumer. Some consumers think they know what they want. For most people, this is new. They want education. Ability to educate is a competitive advantage. The cost to educate and train is worth it.
- Attorney Twomey: Do other states have minimum training for medical and recreational. Both: Some do. Ted Rebolz: No state requires more than 10 hours. We require 75 hours per year. Brett Sicklick: Training will become more robust because of new consumers. Consumers will choose a facility that is more knowledgeable.
- Rep. Abrami: Recreational stores in other states are for profit? Answer: Yes (both).
- Rep. Abrami: Need to sync up with other states? Ted Rebolz: Recreational should be for profit. Brett Sicklick: This is what happened in MA. Both became for profit w/ recreational. Ted Rebolz: The cost to pay taxes is far less than the cost of debt service.

Dan Stockwell, Advocate for medicinal and therapeutic use

- Public wants legal acceptance.
- Current status of federal system and global policies. Should focus on compliance and access.
- Tim Gunther, FL. Compliance consultant in cannabis industry. Provides professional advice to start-ups, both medical and recreational. Advises law enforcement and legislatures. Attorney Eric Daigel, partner. "Marijuana Madness" presentation. Gave presentation to International Association of Chiefs of Police. Tuftonboro Chief attended. May give presentation to NH chiefs of police. Would like to give presentation to Commission. Available for video conference.
- CA has longest medical program, 1996. Most robust program. Have funded research. In past few months, recreational was legalized. Medical program is suffering due to recreational legalization. Need to make a policy that works for NH.

- Recreational use could be considered a recommended use from a doctor. Recreation is important to wellbeing. Could then maintain recreational system within the medical system.
- Rep. Abrami: We heard from CA and we heard that they can't get rid of the black market. Tax structure, every municipality can have their own rate, can't control rate, which perpetuates the black market.
- Attorney Twomey: More detail about failure of medical in CA? Answer: The economics don't work now. Too expensive.

Committee Discussion:

- Attorney Vara: Reached out to Attorney Murray. No U.S. Attorney is permitted to testify on marijuana.
- Sen. Lasky: Anyone else on the federal level? Attorney Vara: I'll inquire. Maybe federal law enforcement.
- Ted Rebolz: FINCEN, Treasury, may speak with us.
- Rick Naya: Can't just allow existing medical dispensaries to participate in recreational. It should be open to competition. Rep. Abrami: That is not the intent of this presentation, we just wanted industry insight.
- Rick Naya: All dispensaries have the best interest of the consumer in mind.
- Rep. Abrami: A lot of decisions to make. Agency responsible for marijuana oversight. Marijuana Tax Structure Sheet distributed. Some states place regulation with liquor, some create new board, some with Dept. of Revenue. Our Liquor Commission had an interest. They have enforcement built in.
- Attorney Twomey: For new board, how are they composed? Required to have certain expertise by statute? Rep. Abrami: We can reach out to them.
- David Rousseau: MA is a good model. 25 member advisory board to advise the Commission.
- Rep. Abrami: Medical is under HHS.
- Rep. Abrami: Revenue? Lear: Discussion of how NH DRA operates w/ respect to tobacco versus other states.
- Dr. Glassman: Medical community will be against legalization if treatment funds don't materialize. Rep. Abrami: Natural distrust due to raiding the NH alcohol fund. One legislature can always override the next.
- Joe Hannon: Liquor Commission is a business. Marijuana sales can hurt liquor sales. Liquor Commission might have a conflict of interest. Maybe they could just do enforcement. Liquor Commission should not sell. Separate entity could retain the revenue for treatment. Need to meet costs and treatment needs before ever earmarking for general fund. Could be self-funded board.
- Attorney Twomey: Marijuana revenue is the first thing that the Legislature will look for when money is needed. Could have a Constitutional amendment to take it out of the hands of the Legislature so they can't raid the fund.
- Rick Naya: How are we going to protect that revenue? Rep. Abrami: We will try. Short of a Constitutional amendment we may not be able to do it.

- Hannon: Let the Commission set fees and taxation. Give them broad authority.
- Abrami: We have 300 special funds in the state. Every once in a while those funds get swept. No guarantee it won't happen here.
- Chief Mello: Do we have ground rules? Taking questions from the gallery is out of order.
- Frey: Liquor Commission has budget for marketing. We don't want to replicate that with marijuana. Interested in separate board but need more info about make up.
- Frey: Are we going to make our recommendation with pros and cons? Abrami: Many votes on aspects of legalization if state does it. Should also include pros and cons. We need substantiated data on pros and cons for inclusion.
- Twomey: Report will have two parts: recommended structuring w/ choices we have voted on and then a list of pros and cons for presentation to the legislature w/ reliance on data. Talk about challenges of keeping it out of the hands of youth.
- Glassman: We should incorporate all the critical data into the report so legislators will have that information when they make the policy decision.
- Bates: We should avoid the up or down vote to avoid delegitimizing the work of the Commission. Provide info w/o information about what to do with it.
- Chief Mello: Charge in the legislation was to suggest recommendations and findings.
- Abrami: The recommendation will be the structure of a program the findings will be the data and pros and cons.
- Abrami: Any update on bills at the federal level? Twomey: No. Senator Gardner met w/ Trump and got guarantee that federal government would back off. Attorney Sessions seems to have backed off and moderated.
- Abrami: Schumer's bill? Twomey: The fate of that bill lies w/ the leadership and they will probably take their guidance from the Whitehouse. Bill won't come to the floor unless the leadership lets it.
- Glassman: Until its rescheduled to schedule II there won't be any research and thus you can't know the long-term positive or negative effects.
- Frey: Future speakers? We haven't heard about impact to the business community. Drug testing? Abrami: Thinking about the BIA?
- Twomey: Tom Fahey is having a presentation from a national banking group.
- Glassman: May 23rd Concord Hospital is having a presentation on drug testing and employment. Comes from Maine, where there is no drug testing for non federal employees.
- Hannon: Need info on the effects of prohibition. How effective are the laws now? Would like to hear from law enforcement, recovery community, to know how prohibition has impacted the state.
- Frey: We already have decriminalization so a discussion of the impact of criminal laws isn't relevant. Hannon: Discussion of how it might be relevant to hear from them anyway.
- Twomey: ACLU report on impact of marijuana laws.
- Abrami: Discussion of revenue and taxation. We need the money for the regulation so we need to tax. We also need to protect that revenue.

- Chief Mello: There is no keeping the black market out. There is no state that has figured that out. Must evaluate how you continue to combat the black market.
- Brett Sicklick: Also need to define the black market. Because in most of these states there are home growing operations.
- Rep. Abrami: Position on home grown? Brett Sicklick: See it as a personal choice issue.
- Joe Hannon: There was a black market in alcohol after prohibition ended. It took time and now there is none.
- Rep. Abrami: The advantage of regulation is that the consumer knows what they are getting.
- Attorney Twomey: People don't want to go out of their way to buy marijuana from the black market to avoid a small amount of tax. Comparison to alcohol and tobacco. There may be a residual black market but you can minimize.
- Rep. Seidel: Would like a clarification between weight and potency. Rep. Abrami: We need to set the standard. Ted Rebolz: You could do it by milligram of cannabinoid.
- Rep. Abrami: Do we want to put a ceiling on the strength? Will buyers go elsewhere?
- Sen. Lasky: Is there a standard in growing an optimum or maximum strength? Brett Sicklick: Every consumer is different. Patient finds optimal level.
- Sen. Lasky: No one has ever died of overdose of marijuana: Answer: Correct.
- Carollynn Lear: Discussion of 4 decisions points for taxes: identify taxpayer, define tax base, discuss tax rate, reporting frequency. Uncertainty of revenue estimates.

Next meeting dates:

Next Meeting on May 14th @ 1:00.

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

May 14, 2018 1:00pm

Department of Transportation

Thirteenth Meeting – May 14, 2018

Members Present:

Representative Abrami; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Representative Leishman; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Abby Shockley, NH Dept. of Health and Human Services (DHHS); Sergeant Christopher Roblee sitting for John Encarnacao, NH Dept. of Safety (DOS); Stuart Glassman, MD, NH Medical Society; Senator Lasky;) James Vara, NH Attorney General's Office; Chief Richard Mello, NH Assoc. of Chiefs of Police; Representative Bates; Kate Frey, New Futures

Members Not Present:

- Senator Gannon; Representative Seidel;
- John Encarnacao, NH Dept. of Safety (DOS)

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- D. Rousseau made a motion to accept the minutes and Rep. Bates seconded the motion. T. Wells abstained from voting as he was absent from the prior meeting.
- Reminder that the next Meeting is next Monday, May 21, 2018. The meeting will be with two people from Maine.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- An article titled "Medical marijuana may help combat the opioid crisis. But there are better solutions." Published online at vox.com, dated April 30, 2018.
- An article titled "Study: 69% of Colorado dispensaries recommended marijuana for expectant moms with morning sickness" Published online at thedenverchannel.com, dated May 9, 2018.

First Speaker: Massachusetts Cannabis Control Commission: Jennifer L. Flanagan, Commissioner

- Discussed how the Massachusetts Cannabis Control Commission (CCC) is made up of 5 commissioners with different expertise and is separate and distinct from alcohol.
- Commissioners are allowed to serve two 3-5 year terms.
- Spoke about residency - one thing question 4 did not account for was 351 cities and towns that operate differently. 189 communities are considering bans on retail marijuana stores, cultivation facilities and other cannabis operations. Decisions need to be made in December, when the moratorium expires.
- Discussed using the term “adult use” versus recreational use, as recreational implies fun.
- Roll out appropriately - other states have been great partners.
- Public awareness campaign written into law. They are conducting focus groups to get slogan. Governor has been partner in the process. Awareness campaign supposed to be funded by revenue. However, they don't have revenue yet, so they were given funds in advance because they didn't want to start campaign too late. They are also implementing a drug driving campaign.
- The CCC is working with the MA Department of Revenue (DOR) to deal with banking issues.
- Rep. Abrami - Century Bank is covering medical marijuana for NH? What do you think? Answer: It is risky.
- Rep. Abrami - Is your Dept. of Revenue getting ready for a cash business? Answer: Yes, security is the upmost important. Significant security requirements for the retail and farm industries as well. Public is concerned with cost for security requirement.
- Rep. Abrami – Explain the tax. Answer: It is taxed at retail level - cities and towns can opt into an additional 3% local option tax.
- Marijuana funds - appropriation - staffing - get ready for 7/1/18 - licensing enforcement, security, press, researchers, press team (digital director), press secretary , director of communications, director of outreach (not hired yet).
- Rep. Abrami - Discuss enforcement. Answer: Will have 11 inspectors, which are not yet hired. They will inspect, do secret shopper program, minor checks, etc.
- Discussed separate registers for medicinal and adult use in same store.
- Rep. Abrami - How many medical marijuana facilities? Answer: Unsure, currently under Department of Public Health (DPH) on December 1 the CCC will absorb them.
- Licensing – Setup April 2nd, April 17th began to accept, May 1st opened for some license types and June 1st will open up for retail and manufacturers. Different licenses:
 - Cultivation
 - Transport testing
 - Manufacturing
 - Craft cooperative - mini farmers
 - Product manufacture
 - Retailer
 - Transporter
 - Research facility
 - Two labs - independent and standard
 - Micro business - limited to 2,000 lbs. for manufactures
- Two licenses not acted on are social consumptions and delivery. Have not taken action. Will go back in February to discuss.

- Discussed how the law does not prevent them from having public smoking cafes, but it also doesn't say they have to have them. The discussion is where can people utilize this? Is something to be said to have cafes where people can smoke marijuana. However, they are concern with the contact high others may receive if the smoke is around them.
- Discussed mixed use license and gave an example of yoga with creams and lotions.
- Delivery licenses, do we want to have delivery? California has it. Does delivery happen in places banned? And then limit where it was being delivered. Lots of research still needs to be done.
- Seed to sale tracking - very distinct process - every state will do it.
- C. Lear – Did MA select a vendor? If so were costs incurred? Answer: Yes, we selected a vendor with a 3-5 year contract. There is an upfront cost.
- Quality control and testing to ensure people are getting a safe product. Making sure it is safe - working on making concession on islands.
- Edibles - under MA Regulations, edibles will be allowed at 5mg per serving size. All of the conversations and meeting minutes are online. 5 mg is low enough for everyone especially new ones - 20 servings in a package. Edibles has got to be distinct - i.e. Hersey bar (scored). If it can't be scored it has to be in individual packaging.
- Rep. Abrami - Childproof packaging? Answer: Yes, first and foremost make sure there is safe and straight forward packaging and labeling requirements as follows:
 - Type
 - Name of who crated
 - Cannabinoid profile
 - Ingredients
 - Warning signs - DPH as well as allergy information
 - Graphic symbols - they have one and she showed it. (Two symbols) on website.
 - Servings size
 - Batch and serial number
 - Testing info
 - Direction for use
 - Market and banding - what they are not allowed to do started with Alcohol limitation.
 - Are allowed - logo - with restrictions
 - All market "please consume responsibility"
 - Children's sporting events
 - Public or private vehicles - where children are going to be
 - Can't market products on appeal, ECT.
 - No novelty items
 - Signs have to be displayed where marijuana is sold
 - List only prices at store or on website, which is restricted to those 21 and older.
 - No radio or loud speakers for marketing
 - Population has to be over 21 for soliciting adult events
 - Can't use pop up advertisement on internet
 - No push notification to cell phones.
 - Can't do give away coupons or free marijuana
 - No statements or promises that it is a safe product
 - Neon signs have to follow local requirements
 - Only illuminated 30 minutes before sundown
 - No deceptive marketing
 - No advertisement targeting minors

- No false or misleading statements of competitors.
- Rep. Abrami –Do you mind sending your power point? Answer: Yes
- Edibles - can't look like gummies or anything interesting to minors.
- Distributors have to come to commission for approval, if they want to create a new product.
- Liquids single servings - some push back.
- Rep. Leishman - Towns ability to opt out - how many? Answer: 189 out of 351 municipalities considering opting out.
- Rep. Leishman - Who is going to enforce rules above? Answer: Commission will enforce unless local enforcement issues. The State will enforce state laws.
- Home grow - 6 plants per Person - no opt out on home grow.
- Attorney Twomey - Dedicated fund setup to public awareness health campaigns and something else. How do you plan on protecting those funds? Answer: Under law there are multiple places marijuana revenue will go. Legislations should make sure the revenue gets to those places. Projected revenue \$63 million, estimated \$60m to \$70m.
- Will not flood market will take time to grow it. Will not be robust in the beginning - sales tax with marijuana tax will be 20%. Rep. Abrami – How will the revenue be dispersed? Answer:
 - Public and behavioral health
 - Public safety
 - Municipal police training
 - Municipal trust funds
 - Correctional resources
 - Social justice piece
- Still looking at research. Substance and treatment very important to them.
- MA leading the way with early public awareness. Also, inclusion of the little guy who is a farmer. Residency requirement - also be responsible.
- Rep. Abrami – Are you trying to prevent big tobacco? Answer: Not trying to prevent, want people from MA to have the benefits of this.
- A. Shockley – Can you clarify regulations on edibles? Answer: Labeling, proactive checks or complaints based checks. State will enforce state rules, town enforce town rules. There will be before, during, and after checks.
- K. Fray - Advertising - they can't use Facebook? Answer: Algorithm used on website in order to prevent solicitation to minors. Only can regulate people licensed within Massachusetts.
- Dr. Hannon – How are you going to print warnings on single serving size? Does it have to be any minor or enticing minor? Answer: Yes - will have pull tab with warnings/information. -No minor on packaging and no enticing minor packaging.
- Dr. Hannon - Who determines? Answer: The commission - eliminate the diversion to minors
- A. Shockley – Will there be warning labels for pregnant women? Answer: Yes, those are on the warnings.
- Rep. Leishman – Is the \$2m appropriation for staffing? Answer: No, it jump starts the public awareness campaign. \$2m to start then asked for an additional \$7m. Appropriation going through process now. Supplemental appropriations.
- Rep. Leishman - Do you know when you will have enough money that you won't have to ask for supplemental funding? Answer: We will always need to ask. It will take a long time to get enough money.
- Rep. Abrami – Is there a limit to licenses? Answer: One person can get three licenses of different types. Municipalities can't have more than 20% of package stores locations for

marijuana retail stores. If there's a fraction round up. Municipalities can't use zoning laws to ban retail stores.

- State law Chapter 55, CMR 935, CMR 500

Second Speaker: Massachusetts Legislature: Representative Mark J. Cusack, Chairperson of the Joint Committee on Marijuana Policy.

- 2016 ballot question had 1.8 million in favor 1.45 million against - first thing Legislature did was implement a six month delay. Second thing was to create a joint committee to rewrite the law. I was named chair by the speaker and given 4 months to handle the issues - 30 hours of testimony - meeting with stakeholders - hits almost all public policies areas. Ballot question written by marijuana industry - basically put in a lottery system - very problematic.
- First issue was to look at how we are going to govern new industry - needed to broaden out authorities - from 3 to 5.
- Went through issues - public safety was the first one - created a blue ribbon commission of all stakeholders - due to legislature by end of the year.
- Drug recognition experts - because there is no breathalyzer.
- Rep. Abrami - Have you heard of any movement on the breathalyzer? Answer: Race for billion \$ industry. Should be developed quickly.
- Tax issue - called for 12%. Sweet spot is 18% to 22% after that you lead people to black market - negotiated to 28% then entered into a 10.75% excise tax, 6.25% sales tax and 3% municipal levy.
- Other eight states - Massachusetts is the lowest, part of the problem is trying to get revenue projections - how quickly will people move in from black market to legal market, tourism dollars - couple years out hard to predict what revenue will be from new industry.
- Discussed baseline research. Hard part finding truly independent analysis and reports that are unbiased. Have to cut through to find true facts – MA took a lesson learned approach – UMass study to get base line of usage before legalized. Trying to base on the best facts.
- Banking - MA DOR - open up two locations - added armed guards due to cash on hand.
-
- Legalization never kills the black market - where does it go? Lots of work around marketing restrictions, etc. Gave CCC good regulations.
- Had to have a new vote in town to get out - rest of communities have to go back to ballot. Voter turnout off years less voters. About half the towns have bans or have moratoriums. November warrant article.
- Menu item opt in and out of some provisions - pick and choose.
- Another big issue - testing of product. National leading testing standards - working on now will be implemented soon. Testing is big for the public health. Real public health concern. Making sure free - testing goes toward consumer confidence. Making sure it is safe as possible -
- Farms - how to include farms - with marijuana - security and testing requirements will eat up a farm's profits. Hemp is hardier. Used to be MA number one export.
- Outside two grow cycle indoor six cycles. Hard to grow in an uncontrolled environment. They will cross pollinate and become cross gender plants and then no good. Extracts a lot of heavy metal from the soil, which wouldn't pass the testing.
- Mirror as much as possible with liquor laws. Slow ramp up -
- 200 applicants. Large industry.
- Ballot initiative removed some of the initiatives to make a product.
- Three per company - prevent Wal-Mart of weed.
- The CCC has all the departments contained within them.

- Agriculture will only have a role with the hemp. Keep under one umbrella. Dept. of Agriculture was worried about federal funding being removed - you have to separate everything and this is very difficult.
- Rep. Abrami – scales weights and measures? Answer: In MA it is the municipality level or small town.
- Attorney Twomey - Who controls the independent labs? Answer: They have to be licensed with the CCC and make sure they are truly independent.
- D. Rousseau – What is the Cannabis Advisory Board's make up and major role? Answer: The ballot didn't include the major stake holders. We wanted to make sure this committee is effectively used. It consists of 25 members with multiple expertise. They are charged with studying and making recommendations to the CCC on the regulation and taxation of marijuana in Massachusetts.
 - Ten members are ex officio
 - Five members are appointed by the Treasurer and Receiver-General
 - Five members are appointed by the Governor
 - Five members are appointed by the Attorney General
- They have the authority to create subcommittees as well. Energy subcommittee meeting now to make recommendations.
- Rep. Abrami – Would you be willing to share your notes? Answer: Yes.
- Senator Lasky - edibles - separate departments? Answer: Commission handles everything, municipal board of health will inspect like they do with other food.
- Rep. Abrami - Businesses have a hard time getting insurance? Answer: Major problem - Cole memo being rescinded. Rico - conspiracy to violate federal conspiracy act. Steve Hoffman set up bank within the government. Accountants didn't want to be caught up in. Hands tied at what we can do at the state level.
- Home grow - ballot questions - adults over 21 can grow six individual plants, maximum 12 plants combined in a household with more than one person living in it. It is expensive, unless grown outside, i.e. smell, energy costs. Issue with how to extract the oils. Highly flammable substance is needed.
- Sen. Lasky – Can we get a copy of Question 4 of ballot question? Answer: Will get a copy to Jennifer.
- Rep. Abrami discussed how and why the Marijuana Commission in NH was established.
- Rep. Abrami - Would you do it all over again? Answer: This issue would never come up unless forced by the public. Ballot forced hand of politics.
- Marijuana is not the real gateway. It is someone's wiring. The real gateway is the corporate structure. When getting marijuana from a drug dealer, the drug dealer wants them to move onto something stronger and more expensive creating a larger profit. Marijuana is not the profit maker; the harder drugs are the profit maker for drug dealers.
- Rep. Abrami - Tax revenue? Answer: First thing will be to implement new programs around substance abuse and treatment as well as youth prevention.
- Rep. Abrami asked a question for Rep. Seidel, since he was unable to attend. Do you have testing standards? Answer: Industry is trying to get some standardization across the country. Testing is crucial across state lines. The goal is to make it as safe as possible.
- Dr. Hannon – You talked about the letter from your Attorney General about relaxing federal regulation. Do you think there is a possible will of the MA Legislature to have a resolution asking for the federal government to reschedule the drug or allow banking or research? Answer: I

doubt we would do a whole resolution unless the whole legislation is on board with it. One thing that could be changed is the classification of hemp.

- Dr. Glassman - Substance abuse component, any other medical people besides them on the Advisory Board? Answer: We have a registered qualifying patient appointed by the President of the Massachusetts Patient Advocacy Alliance, Inc. to make sure we are preserving medical marijuana market place. Medical marijuana remains tax free.

Next meeting dates:

- Monday, May 21st @ 10:00 am
- Monday, June 4th

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

May 21, 2018 10:00am

LOB 202

Fourteenth Meeting – May 21, 2018

Members Present:

- Representative Abrami; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Shaun Thomas sitting in for Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Abby Shockley, NH Dept. of Health and Human Services (DHHS), NH Dept. of Safety (DOS); Senator Lasky; Representative Bates; Kate Frey, New Futures; Senator Gannon; Representative Seidel; John Encarnacao, NH Dept. of Safety (DOS); Stuart Glassman, MD, NH Medical Society

Members Not Present:

- Representative Leishman; James Vara, NH Attorney General's Office; Chief Richard Mello, NH Assoc. of Chiefs of Police

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- T. Wells made a motion to accept the minutes and Major Encarnacao seconded the motion.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- An article titled "Neighborhood dispute over Cambridge dispensary could upend Massachusetts' marijuana industry" By Shira Schoenberg. Published online at masslive.com, dated April 19, 2018.
- An article titled "Marijuana Tax Revenue Falls Short in California" By Tribune News Services. Published online at governing.com, dated May 11, 2018.
- An email from Paul Morrisette to Representative Abrami and Jennifer Foor with attached articles.

Speakers from Maine:

***Senator Roger Katz*, Senate Chair of the Joint Select Committee on Marijuana Legalization Implementation, Chair of the Government Oversight Committee, and member of the Appropriations and Financial Affairs Committee and Health and Human Services Committee Representative.**

***Representative Teresa Pierce*, House Chair of the Joint Select Committee on Marijuana Legalization Implementation and member of the Joint Standing Committee on Education and Cultural Affairs.**

- Senator Katz and Representative Pierce spoke to a handout they provided to the Commission.
- Representative Pierce stated Maine is a referendum state. She stated that in November of 2016 the people of Maine, in a vote of 50% to 49%, passed the legalization of adult use of marijuana in the state of Maine. However, the referendum needed a lot of work because it didn't encompass all the aspects that were needed, so in February 2017 the Joint Select Committee on Marijuana Legalization Implementation was formed.

Questions:

- Rep. Abrami - When did medical marijuana get passed? Sen. Katz stated medical marijuana passed in 1999. He stated there are 8 dispensaries, limited by law. He stated that Maine has a care giver system, which has a lot of issues and problems.
- Rep. Abrami – Do communities have to opt in for every aspect of legalization of marijuana? Rep. Pierce stated yes, they do for everything. This will help define the best fit for communities.
- Rep. Abrami – Is a Nursery Facility License unique to Maine? Answer: California has a Nursery Facility License. Nursery Facilities only sell immature marijuana plants. Farmers on committee pushed to have this license.
- Rep. Abrami - Did you legalize homegrown? Could they go to a nursery to buy seeds? Rep. Pierce stated yes we legalized homegrown and yes they could go to a nursery.
- Rep. Bates - Are there limits to the number of each of the facilities statewide? Sen. Katz stated no there is not. They are hoping the system, as designed, will be self-limiting.
- Sen. Lasky – Is a Maine residency requirement applicable for all license types? Rep. Pierce said yes, except for testing facilities. She stated that it also sunsets after two or three years giving Maine residents a chance to get started.
- Dr. Hannon – You stated that a license application will be disqualified if they have qualifying drug offenses. What are those qualifying drug offenses? Sen. Katz stated he didn't know off the top of his head. Trafficking marijuana would be, but not possession.
- Rep. Abrami - Are communities allowed to charge a tax? Rep. Pierce stated no. Sen. Katz stated it was a political divide.
- Attorney Twomey - Do the locals need to vote to have legalized marijuana? Rep. Pierce stated it depends on the town. Some towns are local ordinances or one meeting every year - whatever the legislative body it is.
- Rep. Bates - What is the cost of the licenses that are on page 5 and some range of ideas of what it would cost for local permits? Sen. Katz stated they would have no idea on local permits. Rep. Pierce stated they will send a list to Jennifer Foor.
- Sen. Lasky – Are there noncompliance penalties? Sen. Katz stated they will get the commission the specifics - revocation of license and penalty up to \$25k in penalties.

- Attorney Twomey – Have any concerns been raised whether the marijuana revenue dedicated funds will be in jeopardy? Sen. Pierce stated it hasn't been setup yet. Most legislatures are respectful. Easier to setup in the beginning rather than dedicating afterward.
- Rep. Seidel – Is there anything spelled out for addiction treatments? Rep. Pierce stated they are trying to give good information to public, but nothing specifically for addiction treatment in the bill.
- Rep. Seidel – Are there quality controls setup or waiting for rules? Rep. Pierce stated there is a standalone testing bill. Rules have not been started yet. However, there are standards in the bill.
- Kate Fray - Do you have limits in the amount of THC in edibles and do you have individuals packing requirements? Rep. Pierce stated 10% and yes.
- Rep. Bates – Can we get a list of all data points that you plan on collecting for a reference point? Rep. Pierce stated it is not in their statutes, it will be in their rules.
- Attorney Twomey – Is the training identification of marijuana usage taking place on a local level or is police training and standard doing it? Sen. Katz stated there is a local police training, which is a shorter one and there is a nationwide one.
- Rep. Abrami - Could a town say you can only grow marijuana indoors? Sen. Katz stated yes they could. It could also be buffered or out of sight.
- Rep. Abrami – The home grown is limited per adult not per household, is that corrected? Sen. Katz stated that is correct. Rep. Pierce stated a landlord can prohibit cultivation. They can also prohibit smoking as well.
- Dr. Hannon - What are the penalties for having more than the legal amount of plants? How do you deal with that? Sen. Kats stated they talk about mature plants. Seedlings wouldn't count. Going around and checking to see if there are too many plants isn't efficient. The innocent would get caught up in it. Rep. Pierce stated they could take them away right there and prosecute.
- Rep. Abrami – You talked about growing in communities, so what you're saying is that 10 people could sign an agreement to grow marijuana on a parcel of land? Wouldn't that create a smell? Do you have to have the agreement present? Rep. Pierce stated yes. You have a right to grow on other people's properties. You could limit that if you wanted at the local level. It was part of referendum.
- Rep. Bates: what are the expenses on slide 15? Rep. Pierce stated it is for inspectors, people, seed to sale software expense, etc.
- Rep. Abrami – Our (NH) medical marijuana seems like it is pretty well controlled. Pretty specific list of diagnosis of what can be used to be prescribed. Medical would like to sell Adult use. Something we have to garble with.
- Rep. Pierce highly recommends someone from the commission to go to Colorado to tour dispensary. Encourage you to go to other states that are up and running. Very beneficial.
- Sen. Katz stated that the medical marijuana dispensaries wanted a preference in licensing. Maine decided not to do that. Not good public policy. Also, an issue of separation.
- Rep. Pierce stated that medical and adult use marijuana needed to be completely separate.
- Rep. Pierce stated the bill removes social clubs, which was allowed in the referendum. However, this is not to say a standalone bill won't come up. Hasn't been successful in any other state. Important that they do it right and protected and safe if they don't want it around.
- Kate Fray - Can they do it at the local level? Rep. Pierce stated no they need state approval to do it.
- Rep. Abrami – Stated he had heard there are social clubs allowed because there it would be the only place to smoke marijuana. Rep. Pierce stated that is why there are edibles.

- Attorney Twomey - You mentioned you rejected Colorado model of medical and adult use in the same facility? What went into that? Sen. Katz stated politics. Rep. Pierce stated I think the way Colorado had devised it worked perfectly well. It was literally a political issue
- Mr. Wells - speak to issues in challenges or issues seen in Maine with the banking issues? Sen. Katz stated we thought about it a lot, but did nothing. One bank in Maine has figured out a path of doing business with medical dispensaries. A couple of credit unions have figured out a path. This is a terrible situation. It would be great if things were different in the federal law. Maybe a State marijuana bank set up specifically for marijuana. However, quickly discarded because of federal laws. Until the federal government make this users friendly, you are still going to be stuck with a strictly cash business. Rep. Pierce stated they did meet with banks and credit unions. Banks say it is complicated. Armored trucks have become a large industry. Need for safety.
- T. Wells - facility and security plans – are those maintained secretly or not? Answer: Great questions; great subject for rule making.
- Rep. Pierce stated they call legalized marijuana adult use. Around youth, the term “recreational” normalizes it. Cannabis versus marijuana – haven’t decided yet.
- Sen. Katz discussed other issues including how much language to put in the bill and how much to put into rule making. Another decision you will need to make.
- Rep. Abrami - in terms of packaging, we heard some states say they have come up with their own symbol. Has Maine come up with their own symbol? Rep. Pierce stated Maine may come up where their own, but has not yet.
- Rep. Abrami - Any discussion on how legalization would affect the State brand? Sen. Katz stated there was a great deal of discussion on this topic. There are a lot of people who want to ignore the fact that this passed through a referendum. We are already passed that argument.
- Rep. Abrami - thought about unorganized places you have thought about it?
- P. Some of the counties that act as managers of the towns. Connected to state and connected to county.
- Rep. Abrami - Colorado 1% of energy is the heat required to grow marijuana. Has Maine discussed this? Rep. Pierce stated yes it came up, did not setup plans. Didn't take it on.
- Rep. Abrami - Transportation license in MA. Did you talk about it? Answer: They talked about it and didn’t allow it. They also didn’t allow internet sales or drive thrus.
- Rep. Abrami – Have you heard anything about insuring businesses? Answer: Never heard this complaint during this process.
- Meeting adjourned at 11:35am

Next meeting dates:

- Monday, June 4th @ 10:00 am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

June 4, 2018 10:00am LOB 202

Fifteenth Meeting – June 4, 2018

Members Present:

- Representative Abrami; Senator Lasky; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Shaun Thomas, sitting in for Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Representative Bates; Kate Frey, New Futures; Senator Gannon; Stuart Glassman, MD, NH Medical Society; Representative Leishman; Chief Richard Mello, NH Assoc. of Chiefs of Police

Members Not Present:

- John Encarnacao, NH Dept. of Safety (DOS); James Vara, NH Attorney General's Office; Representative Seidel; Abby Shockley, NH Dept. of Health and Human Services (DHHS)

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- Senator Gannon made a motion to accept the minutes and David Rousseau seconded the motion.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- A letter from David E. Provan; 21 Solace Pointe, Meredith NH 03253
- List of Marijuana Commission Issues to Discuss
- Two spreadsheets, referencing other states Marijuana Commissions and NH's current commissions, put together by Jennifer Foor.

Speaker: National Marijuana Initiative; Ed Shemelya

- Power Point presentation will be emailed to commission members as well as a hard copy received at the next meeting.
- Mr. Shemelya, National Coordinator for the National Marijuana Initiative, discussed how this is not a presentation deeming marijuana. Essentially it is a presentation from the National Marijuana Initiative of what 8 states, which have legalized recreational and medical marijuana, are seeing.

- Mr. Shemelya stated he is a subject matter expert on all things marijuana. He stated he looks at the impacts of medical and recreational marijuana and his primary function is looking at research and data.
- Mr. Shemelya discussed his background including 40 years of law enforcement, with the vast majority in drug enforcement with the State of Kentucky. Marijuana activities have been his sole focus for the last 15 years.
- Mr. Shemelya discussed how one of the biggest issues is the lack of data on marijuana. He discussed that the primary data in his presentation was coming from Colorado. He acknowledged on the front side there is a void of data and that it may be 5 to 10 to 15 years before we get enough data to help make an informed analysis.
- Data is all over the place and you even may be able to argue the validity of the data. He stated one thing that can't be argued is the potency of marijuana and how the THC levels are increasing.
- Attorney Twomey – People say potency can be a function of legality, when it is legal people have choices. Would you agree? Answer: When you look at the potency in this country in respects to marijuana, you will see the potency has exploded since legalization. The reason this has occurred since legalization is because the factors needed to maximize the potency can't be done when grown illicitly because your fear of detection won't allow you to.
- Sen. Lasky – Do you have data on the effects of increasing potency? Answer: Unfortunately, No. The only research done was on the 10% to 15% range. It is just now being done on increased potency. What we do know is that youth brains do not do well at 10% to 15%, so imagine what is done at high potencies.
- Sen. Lasky – Can legislatures legislate the potency of marijuana? Answer: Yes, however, we have no idea what potency level will do to people.
- Sen. Lasky - If nothing else with all this going on the federal government should make research a little easier to do. Mr. Shemelya stated we need marijuana effective drug support. We need to remove some of the burden and have legitimate research done on this drug.
- Sen. Lasky - Do we know if this type of research is being done on other “schedule one” drugs? Answer: I am sure there is. More research needs to be done however, more application through DEA.
- Dr. Hannon - You talked about the lack of data and the data we do have is all over the place. Why have we been fighting with little to no data? Answer: I can't answer that. We have a plethora of data on alcohol and tobacco. Part of the problem with this drug is it has been demonized. No one wants to touch it or go around it. If we would have done this 20 years ago, expand research, the data would have been out there and we would not be having this discussion.
- Attorney Twomey - Are there any states that limit the potency of what is sold legally? Answer: No.
- Attorney Twomey - Does federal or state limit alcohol? Answer: Yes, federally as well as the state.

- Mr. Shemelya discussed how potency has gone through the roof in the states that have legalized marijuana. The crude drug is not driving the sales, it is the other products. In Colorado over 65% of the sales are not from the crude drug.
- Rep. Abrami - What is the potency on the edibles? Answer: Most states limit the amount of THC in edibles and do a good job. The issue is not with the edibles, it is with the oils, waxes, shatters, concentrates, and vapes, which run between 40%-90% potency. Potency is driving profit, and is left up to the particular manufacturer.
- Dr. Hannon – (On the Colorado business comparison slide) Why don't you include all fast food joints, why just include McDonalds and Starbucks? Answer: To show the two most recognized places. However, if you added in all fast food restaurants there would be more fast foods restaurants than recreational marijuana stores.
- Attorney Twomey - Doesn't that slide show what the people want? Answer: Yes
- Dr. Hannon - Why has 2013 to 2016 Colorado usage rate for 12-17 year olds gone down so much? Answer: No idea. Good question.
- Mr. Shemelya discussed 18-25 year olds usage over the past month. He stated this group was the most concerning to him.
- Sen. Lasky - Have you studied the makeup of the top 10 states for marijuana usage. Is there any correlation between the states? Answer: All top 10 states have either medicalized or recreationalized the drug.
- Rep. Leishman - Looking at where NH ranks compared to Colorado, do you know where Colorado stands for opioid deaths? Answer: Colorado has the highest number of opioid deaths. This is still seen regardless of legalization of marijuana. Opioid usage is a completely different problem. It is, in my opinion, the greatest threat to national security. This county for whatever reason is gravitating toward illicit drugs to either not feel or feel. We seem to have an insatiable appetite for illicit drugs and this should be a concern to us.
- Attorney Twomey – With Northern New England making the top ten list for marijuana usage, you would also see NH making the top ten for binge drinking. Is it possible these charts are getting at something different either with the culture or the economy? Answer: It is a valid question and I don't have answers for that. It may very well be a cultural shift. The culture is changing and we are normalizing this. It is prevalent and present.
- Sen. Lasky - Why are we not doing anything about alcohol consumption? Answer: Excellent question, I am not sure why they are not doing anything about it. Socially accepted drugs have been around since the beginning of time. It is about money.
- Kate Fray stated the reason marijuana and alcohol consumption has been so high is because NH does not provide enough funding for alcohol and marijuana treatment.
- Mr. Shemelya stated not only does NH not provide enough funding, but the country as a whole does not provide enough funding. It goes hand and hand as to why we are seeing a come of an increase in addiction. No ability to do harm reduction and then no ability to adequately treat the common problem across the county.
- Mr. Shemelya stated there is an increase in availability in states that have legalized marijuana. There is an unchecked amount of marijuana being used. With an oversupply

of marijuana, low prices, and the perception of risk of harm being reduced, you will see usage rates going up, which is what we are seeing.

- Attorney Twomey - When you look at something like this [incidents of suicides with active THC present] one of the things you have to take into account is how the body stores substances it in different ways, where marijuana would be in the system for 30 days and alcohol in the body for one to two. Answer: Testing, particularly with today's potency, exceeding 30 days. Because the "regular" rate has changed from 3-4 times a week to 3 to 4 times a day, in those individuals marijuana can now be in their system from somewhere between 90-180 days.
- Mr. Shemelya discussed diversion of marijuana. It is leaving the confines of states in record numbers. There was further discussion on the number of states designed to receive marijuana mailed from states that have legalized marijuana. Discussion of large marijuana interdiction seizures. Oregon has over saturation of marijuana - stored in warehouses. Not sure how to keep drugs within the confines of each state.
- Mr. Shemelya discussed Colorado's statistics for alcohol and marijuana being the two most prevalent in operators tested for marijuana in traffic deaths.
- Mr. Shemelya discussed how science is needed to show what impairments looks like with this drug. As well as testing devices.
- Dr. Glassman – Explained where testing for 5 Nano grams came from and the science behind it.
- Dr. Hannon - Did any of the studies look at cell phone usage and how that tied to traffic deaths? Because cell phone usage has drastically increased. Answer: Last year distracted driving deaths outnumbered DUI/DUID deaths.
- Dr. Glassman and Mr. Shemelya discussed ICD codes and reporting issues on the expansion of the ICD codes.
- Mr. Shemelya discussed how potency and high concentrates are driving the ER visits as well as poison control.
- Rep. Abrami stated he talked with the Commissioner of the NH Dept. of Education and he stated they do not keep track of marijuana based suspensions. Not having a base line is a problem. Mr. Shemelya agreed that there is a problem with not having a baseline because no data sets are present to compare to.
- Mr. Shemelya discussed THC Extraction for marijuana buds up to 37% (average 15% to 25%) potency. He discussed home grows and extracts and the dangers of explosions.
- Attorney Twomey - Has any state limited extractions? Answer: There have been limits at the local level, not at state level.
- Attorney Twomey - How would you structure the reduction of butane being sold? Would you reduce the amount people could buy? Answer: One option could be to put it back behind the counter and limited the amount one could buy at a time. If you are buying butane by the case you are extracting. However, a number of solvates can be used to extract but, butane is the cheapest. As long as you allow home grows you are going to run into this problem.
- Attorney Twomey - If you limit the number of plants for home grows, does it reduce the likelihood of extraction happening? Answer: Yes it does. However, it is still the amount

a plant can yield. You can now grow without fear of detection and retaliation. If you're doing indoor grows you are not going to get the size of plant you need for extraction, only outdoor grows can yield that.

- Mr. Shemelya discussed taxes. He stated depending on how you tax it you will get a significant uptick in revenue. In some states, it has revitalized industries that had been dead for years.
- Mr. Shemelya discussed regulatory mechanisms and ongoing cost that the states will incur. He talked about regulation and how it is not working. Still against federal law, none of the state models are doing anything to regulate potency, little to limit harm reduction. Can you effectively regulate marijuana? And if so how do you do it?
- Mr. Shemelya discussed how to mitigate unintended consequences of marijuana use. Discussed how commercialization of marijuana has impacted states. No true fiscal impact on legalization of marijuana positive or negative. He stated there is more we do not know, than we do know about marijuana. He discussed product contamination and who is regulating and controlling products being sold to the consumers.
- Dr. Hannon - How much would full legalization have effects on funding for law enforcement and how much is spent on marijuana compared to other drugs? Answer: Looking at the High Intensity Drug Trafficking Area (HIDTA) program, the return on investment for just the cash taken off the street is for every \$1 spent we get we are turning in \$8 of forfeited cash. The ROI for drugs is \$43. If you talk to law enforcement in legalized states they are devoting as much resources if not more than they did before legalization. Increase in expense and resources. It is all over the place. We are not going away if you legalize this. Fully legalized states will still have to deal with the black market.
- Dr. Glassman - What is your take on drug testing in the work place for states that have legalized marijuana? Answer: It is not as much about drug testing in the work place, but an employer ensuring a safe work place for the employee. Has marijuana changed the complexity of drug testing? Yes. They are now considering not testing post-accident screening for marijuana. As a governing body we provide safe work places for this substance. Where do we draw the line between the employer's rights, the employees' rights, and my rights as an employee to operate in a safe work environment? It is an issue that needs more exploration and more study. We really don't know.
- Attorney Twomey – Can you tell me the difference between the tests for delta 9, active THS, and carboxy. Talk about why they aren't always testing for active metabolites? Answer: The method and the expense. If law enforcement is detecting another source they are going to always go toward it, especially alcohol. It is easier. THC impairments present differently than alcohol impairment. Understanding and recognizing impairment is important.
- Chief Mello – Discussed drug recognition experts (DRE) and the problems presented statewide. He discussed how unsuccessful they have been in prosecuting DUID. The courts are far behind in methods. DREs should be considered a tool. However, it is difficult to use. People don't submit to it. Long process, hand and hand with blood testing.

- Dr. Hannon - You talked about how it can be effectively regulated. How has it effectively been prohibited and what has been the usage rates and what has been done? Is HIDTA looking at what they have been doing and how has it worked? How has the prohibition of marijuana been effective? Answer: If you look at marijuana use in this country, you have 44 million admitted marijuana users. That is less than 10% of the population of this country. Compared to 150 million that admit to regular alcohol use. I think we have done a really good job of limiting access to the substance. If you look at alcohol, for every \$1 generated from alcohol consumption it has cost us \$10 as a society. What if we were to reduce alcohol consumption to the usage of illicit drug consumption? What a cost savings that would be.
- Dr. Hannon – Do you think we should deschedule marijuana? Answer: Mr. Shemelya discussed GW pharmaceuticals and the future of marijuana.
- Sen. Lasky - Vapes and how much is internet sales? Answer: Not sure what % are internet sales. A lot of it is diversion. He suspects it is a large %.

Wrap-Up Discussion:

- Rep. Abrami talked about the list of issues to discuss. Where do we want to be with these issues? Please add to this list for our discussion in two weeks.
- Rep. Abrami stated that in two weeks from now we will go through the list. He said he has asked Kate Frey and Attorney Twomey to start gathering articles and documents. Anyone can help those two if they would like.
- Discussed whether to use referred articles or scientifically validated studies. Attorney Twomey stated hard to get studies. Chief Mello stated he has access to all of them as a college professor.
- Part of next meeting we will firm up what will be in the report.

Next meeting dates:

- June 18th @ 10:00am
- July 9th @ 10:00am
- July 23rd @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

June 18, 2018

10:00am

LOB 202

Sixteenth Meeting – June 18, 2018

Members Present:

- Representative Abrami; Senator Lasky; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Representative Bates; Kate Frey, New Futures; Senator Gannon; Chief Richard Mello, NH Assoc. of Chiefs of Police; Sergeant Christopher Roblee sitting in for John Encarnacao, NH Dept. of Safety (DOS); Jill Burke sitting in for Abby Shockley, NH Dept. of Health and Human Services (DHHS)

Members Not Present:

- James Vara, NH Attorney General's Office; Representative Seidel; Stuart Glassman, MD, NH Medical Society; Representative Leishman

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- Senator Gannon made a motion to accept the minutes and David Rousseau seconded the motion. Minutes accepted.
- Rep. Leishman in Denver, not for research, however he may get some information while he is visiting.
- Michigan is being positioned on the legalization of marijuana.
- The mission for today's meeting is to determine what regulatory structure to use.
- Rep. Abrami noted that a bill will be filed in the senate for legalization of marijuana next session.

Rep. Abrami noted that everyone on the commission should have received a copy of:

- The Agenda for today's meeting.
- Minutes from the last meeting.
- Marijuana Tax Structure.
- An article titled "Trump says he is likely to support ending blanket federal ban on marijuana." by Evan Halper, dated June 8, 2018. Published in latimes.com.
- SIL18725 An act to amend the Controlled Substance Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

- An article titled “Pot legalization battle brewing as government rejects key Senate change.” Published by cbc.ca on June 13, 2018.
- Updated List of Marijuana Commission Issues to Discuss
- Print out of power point from previous meeting titled “New Hampshire Marijuana Study Commission” dated June 4, 2018.

Group Discussion:

- The Commission discussed the decisions they need to make including the list of issues, which has been added to. They discussed the report and the relevance of the report.
- Discussed regulatory structure for marijuana legalization in NH. If NH were to have legalization of marijuana in the state where would it fall?
- Discussed marijuana tax structure hand out.
- Rep. Abarami discussed where we feel the commission structure would be best. He discussed the state of Oregon and the similarities between Oregon and NH in terms of state run liquor stores. However, he discussed how the Liquor Commission did not want to comingle marijuana and liquor under one store. But they wouldn't be opposed to running it separately.
- Sen. Gannon stated wouldn't it be a huge cost saving because they [Liquor commission] have the infrastructure in place? Rep. Abrami stated yes. However, they are in effect one of our for profit entities. Unless we choose to make marijuana a business, I don't think it is a good idea. Their mission is different. Their mission is to make a profit for us.
- Dr. Hannon stated we had heard the Liquor Commission say they do a really good job selling as much alcohol as possible. If we do the same thing with cannabis their job would be to do the same thing as alcohol, including messaging, advertising, and promoting. What message do we want to send and that is a strong message.
- Rep. Abrami stated the Liquor Commission stated they did not want to sell marijuana in the same store as alcohol. No matter what we would need a separate infrastructure. The thing with marijuana is it will still scare people away even if it is legal. He gave a Massachusetts example.
- Discussed if people would want it in their town and a brief discussion on opt in/opt out process.
- K. Fray stated that we heard early on from Washington State had issues and getting away from three tier system. The concern should be about the self-funding design.
- Attoreny Twomey stated he agrees with statements so far. He stated Massachusetts has a volunteer advisory board with stake holders and was wondering what we thought.
- Rep. Abrami - What is the structure of the board in some of the states was discussed. As well as the long sheet that Jennifer Foor completed.
- Rep. Abrami - We have a lot of commissions in our state. However, our commissions are setup differently. He discussed how there are a variety of NH commissions and the differences.
- Rep. Abrami stated he was thinking if we go to a commission, maybe a three person commission, with some kind of executive director underneath and possibly branching

out for licensing, enforcement, and research as the three pieces. He discussed the priorities.

- Dr. Hannon stated there may be a competition with Liquor and there there may be a conflict of interest. Their business model is closely based off the mob. Do we want someone who can keep them out of their business and who can enforcement it.
- Attorney Twomey stated he was wondering if we had to setup this up once in the beginning or stager or phase in these pieces. Rep. Abrami said we could determine that later.
- Rep. Abrami discussed licenses and the different types. Giving examples of the big four: growing, manufacturing, retail, and testing.
- Attorney Twomey stated I think you are going to have someone writing the rules in the beginning.
- Sen. Lasky asked who in turn will this commission answer too? If we setup this commission they will have to answer to someone. Rep. Abrami stated organizationally it will go to the Governor. Anything that is not in rules would go to legislature.
- Rep. Seidel stated this is a very complex situation and a number of different departments within the administration will be contributing somehow. We are going to need to have an oversight committee and a structure that will tie everyone together. What does the Governor's Administration want?
- Rep. Abrami stated somewhere in the report the commission will have to recommend and discuss a timeframe. We could invite someone from the Governor's Office to be a point person for these discussions. The Governor has already stated he is not for marijuana legalization. We also need to discuss how the medical marijuana will tie into this?
- Rep. Seidel asked how does it tie in after the fact? Rep. Abrami stated maybe it doesn't? Rep. Seidel stated you want to make the structure so there is a hierarchy.
- Commission discussed how to move forth. Discussion on our role as a Commission.
- Rep. Abarmi stated we have vetted the process by hearing from all states that have legalized marijuana and also had a hearing from the public.
- Rep. Abrami stated peer-reviewed articles should be provided to the State and legislature discussing the good and the bad. Also, a section on obstacles i.e. Federal government and cash businesses. The Commission has four months, eight to nine meetings to get the report done.
- Dr. Hannon agreed that the goal is to be as objective as possible. The more objective we are the more serious we will be taken. The more facts the better.
- Attorney Twomey asked do we have anything currently where we have a commission that works with different departments? Attorney Lear stated the Current Use Board and the Assessing Standards Board are two examples.
- Rep. Seidel stated maybe it should be housed at Dept. of Revenue. Attorney Lear stated DRA has very little synergies with regulating marijuana currently, from a law enforcement aspect and a technical expertise aspect.
- The commission continued to discussed housing it at the DRA with a final decision that it should not be housed at DRA.

- K. Fray stated she thinks you need an overarching body, Cannabis Commission, which will coordinate with different state departments.
- There was a brief discussion on how to pay, self-funding, and staffing.
- D. Rousseau stated a single commission makes sense because it is separate from each organization. Also it separates what is going on with the state and federal concerns and would cover any federal funding issues. He stated he was most particularly impressed by Massachusetts Commission model.
- Attorney Lear stated one aspect to ensuring it all works out is to make sure all the executive branch agencies are reporting to a single person presumably the Governor. The Governor's office would make ensure each agency would do what they should be doing.
- Rep. Abrami discussed if three commissioners were okay? Discussed the value of having them part time instead of full time commissioners. Rep. Abarmi talked more about the three themes.
- Rep. Abrami discussed research and housing it under HHS? Researching tracking certain stats since HHS is already collecting data, with more funding.
- Attorney Twomey discussed public health education combining them with research. He asked if that would worked or should they be separate. Sen. Lasky noted one more thing to add would be advertising and public awareness.
- The commission discussed edibles and where they fit into the picture.
- Dr. Hannon stated MA hired a Research Director within the Cannabis Control Commission. He discussed their function and responsibility.
- Rep. Abrami discussed three commissioners and who is under them. As well as what is in statute and setting the parameters. We should recommend reasonable parameters. I.e. Child proof packaging.
- Attorney Twomey asked if the lottery commission part time or full time? Rep. Abrami said they are part time. Attorney Twomey asked what about the Public Utilities Commission and what model do we want to follow? What do we think the job is?
- Rep. Abrami discussed commissioner and board's terminology and full time versus part time.
- Attorney Lear stated with any license industry you are going to have a hefty appeals role. Perhaps quantifying the number of licensees we expect to have will help us decide what the needs are and whether they should be full time or part time.
- Rep in office - gave background on liquor commission -executive director full time and commissions part time
- Dr. Hannon stated this position will not be as big as the Liquor Commission because legalization of marijuana will not be State run like alcohol is.
- Rep. Abrami asked if everyone was okay with three commissioners? He stated this is the open question and we need to finalize the structure underneath that. As well as what functions. We have to cover the cost of expanding the government. Rep. Seidel stated that it could be a statement in the report without being specific.
- Rep. Abrami stated the only other concern he has is the price point to keep us completive with other states, as well as keep it out of the black market.

- Rep. Abrami and Rep. Seidel discussed what to put in report and how detailed to get and if to add a price point or not.
- Dr. Hannon stated in the legislature it is not easy to repeal a tax. You should start low and can rise later. Start at equivalent of M&R tax. Start small and we can always change it.
- Attorney Twomey stated there are two approaches. One would be to start with cost and go up for there. The other would be to start with pricing competitively from black market and other states and go down.
- Rep. Abrami briefly discussed potency and dilemmas of regulating potency. As well as the impact of cross boarder sales.
- Attorney Twomey stated it maybe a false statement to say you can regulate potency through edibles because couldn't you eat twice as much?
- K. Frey stated NH can do it differently, as no other states have regulated potency. She discussed how potency can be regulated specifically to the legalization of marijuana.
- An audience member discussed how Florida regulates potency on their medical marijuana.
- Another audience member discussed the potency on legalization. He stated adults can make choice based on recommendations and discussed how concentrate should be the word not potency.
- Dr. Hannon stated we have seen this large increase in potency not just because of the legal market, but also the illegal market. If we do regulate potency we will not only give other states an edge we will give the black market an edge as they will come up with something stronger that is not regulated. He stated he thinks being open and transparent will make it easier to oversee and will be safer.
- Attorney Twomey stated potency is different in medical marijuana than it is in adult use. I don't think we want to touch medical. Due to special needs and illness.
- Rep. Abrami talked about licensing. The big four which are growing, manufacturing, retail, and testing. Maine has a nursery license and one state had a transportation license. Seems like the big four are the ones we should be focusing on. No disagreement from the commission on the issue.
- D. Rousseau asked if a research license was needed. Another topic is the consumption and social clubs, are we going to allow them?
- Rep. Abrami stated let's discuss social clubs. No other states have it. Kate Frey stated Colorado just vetoed it. I think it is something of grave concern.
- Rep. Abrami stated except for if you live in an apartment you can't smoke. Where do they go? No place to smoke it, as well as tourist. Where do they smoke it? In this state we don't have bars, we have restaurants that have bars. You have to serve food, unless it is a private club.
- The commission discussed challenges if they did allow social clubs.
- Attorney Twomey stated this is an issue that we could park and deal with later on.
- Dr. Hannon stated in NH if something is not explicitly illegal it is allowed. Theoretically it would be legal. We could put in an opt in for towns.

- Sen. Gannon stated he has a big problem with allowing marijuana smoking in apartments. Subjecting people to live with marijuana and second hand smoke because of the lack of housing is not okay. Also, subjecting people to work with it and be around it if we allowed it in bars, is not okay either.
- Rep. Abrami stated there is no way to enforce edibles. He discussed tourism and hotels.
- An audience member discussed local ordinances and building a hotel which would allow the smoking of marijuana.
- An audience member discussed smoking lounges and the similarity to cigar smoking lounges. Kate Frey talked about impairment issue and drug driving and how there is no test for impairment. Odor was also discussed.
- An Audience member discussed New York leniency on smoking marijuana, where they are not enforcing smoking in public or outdoors because there is no place to smoke it.
- Sen. Lasky asked that under licensing are we going to separate out marijuana cigarettes and edibles? Are we going to make some parameters on edibles how and where? How do we handle restaurants that want to sell/serve marijuana?
- Rep. Abrami stated that would be on the manufacturer.
- An Audience member referenced a Netflix show featuring foods infused with marijuana. Would this need a specific license?
- The commission discussed audience members and their participation in the conversation the commission members were having and what is appropriate.
- Dr. Hannon stated he is representing the public and if people have comments and questions they can bring them to him. His email is joeHannonforNH@gmail.com
- Attorney Lear discussed how there is a need to license these social club and restaurant. But you have to identify first whether we are going to be regulating how they operate and enforcement for licensing.
- Rep. Abrami asked if we should restrict the number of licenses? Or preferential to locals versus out of state. There are a variety of questions.
- Chief Mello stated if you restrict licenses are setting up a political nightmare. If you restrict it you are just going to open it up to those types of entities, potential out of stated shell companies. It should be an open market.
- Attorney Twomey stated he agrees with the chief and is curious of thoughts on some sort of preference to locals. Value in restriction who get the licenses or is it a constitutional issue.
- Chief Mello stated as representation of NH Chief, I am not sure we have a position on it. But from a personal opinion, it makes sense to keep as much instate as we can. As a resident or taxpayer I think it is great idea, from the NH Chief's side I would really need to think about it.
- Rep. Abrami brought up background checks in reference to licensing. Trying to keep organized crime out of this is important.
- Chief Mello stated along the lines of transportation and logistics there are some concerns of some bad actors getting involved in that process. He is not talking about people with a marijuana conviction. He is talking about convicted felons. There really need to be some restrictions.

- Attorney Twomey stated he read articles on organize crime figure and we need to address it and where the money is coming from who are the actually owners of this.
- Chief Mello stated one of the concerns he has is the revenue and covering the enforcement side. Everything we talk about adds another tick to what enforcement has to keep an eye on. Legalization will increase enforcement responsibilities and it is not cheap.
- Dr. Hannon stated we want to keep the big criminal elements out of it. But is important not to bar people who have been charged with possession or even minor dealing charges. This may be an avenue for people to get into a legitimate business.
- Attorney Twomey stated it could be a tiered system where entities making certain amount of products above a certain level can have one type of background check and a different type for smaller levels.
- Rep. Abrami discussed Testing License requirements and certain skills. Do we need to get into that level of detail?
- Attorney Twomey stated testing blood and alcohol have to be licensed by DHHS.
- The Commission agreed on four licenses.
- There was discussion on enforcement and agencies that currently have enforcement responsibilities. Different levels of enforcements. Envisioning something more akin to what alcohol has.
- Chief Mello discussed how they partner and collaborate with liquor enforcement. Compliance can't survive without each other and would think this would be similar. Need someone at the agency level that would be able to do compliance on this.
- Sergeant Roblee said it was the same at the State level. They partner with liquor enforcement. He stated have also done stuff with liquor on the gambling side of the house. He stated they are good partners. He stated that is what NH is all about, they are not separate entities. They are partnership base.
- Chief Mello stated legalization will exponentially expand their operations, budget, and personnel.
- Rep. Abrami stated the cost depends on how many license and the needs.
- Dr. Hannon stated decriminalization had to have some effect on how much work police had to do on enforcing marijuana laws. Chief Mello stated they are still doing as much enforcement on it. It has just changed it a little bit. They are still dealing with a lot of the trafficking issues and it does seem to be increasing. It does change how we do it. We are not taking as many people into custody. Dr. Hannon stated but legalization might have more of an effect. You may still have black market. Chief Mello stated the vast majority of our contacts come via motor vehicle, very little from street level.
- Dr. Hannon asked Chief Mello if he knew if they track specifically the number of marijuana incidents contacts and have they changed. Chief Mello stated they track ticket issued versus people taken into custody.
- Sergeant Roblee stated the lab would have that for the State.
- Attorney Twomey stated taking someone into custody must be saving a significant amount of time. If your contact is writing a ticket and you don't even have to go to court 90% of the time. Chief Mello stated we actually moved to a model where we far less

people into custody before decriminalization and just issued a hand summons for a misdemeanor. Attorney Twomey stated he has heard differently from other defense attorneys around the state.

- Rep. Bates stated enforcement will not be at street level it would be enforcing licensing requirements. It would be primarily an administrative role.
- Rep. Bates recommended that the commission stop at certain points within a discussion to see if we have consensus. Example would be licensing and free market versus regulating.
- Rep. Abrami stated he would pull together a document of where he thinks the consensus is and we can tick things off the list.
- Rep. Abrami stated it was a good meeting and we will tighten up a bit. One by one grapple with issues. Trying to keep to two hours.
- Start next meeting with a 15 minutes discussion on peer-reviewed papers.

Next meeting dates:

- July 9th @ 10:00am
- July 23rd @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

July 9, 2018 10:00am LOB 202

Seventeenth Meeting – July 9, 2018

Members Present:

- Representative Abrami; Representative Seidel; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Michele Merritt, New Futures; Senator Gannon; John Encarnacao, NH Dept. of Safety (DOS); Abby Shockley, NH Dept. of Health and Human Services (DHHS); Stuart Glassman, MD, NH Medical Society; Senator Lasky

Members Not Present:

- James Vara, NH Attorney General's Office; Representative Leishman; Representative Bates; Chief Richard Mello, NH Assoc. of Chiefs of Police

Others Present:

- Jennifer Foor, Researcher; and *others from public were present*

Meeting Discussion:

- Rep. Abrami discussed the agenda for this meeting and the documents that had been distributed.
- Sen. Gannon motioned to accept minutes, seconded by Todd Wells. Approved.

Discussion of Inclusion of Articles w/ Commission's Report

- Rep. Abrami discussed the selection of reputable peer reviewed papers to attach to the Commission's report as a resource. Some state reports might be valuable but not peer reviewed; still appropriate for inclusion.
- Attorney Twomey indicated both state reports and peer reviewed reports are appropriate for inclusion. The peer review process takes a lot of time, so state reports may be more recent. Should limit to more recent reports/articles. Recommended 2-3 years. Some articles are thousands of pages long, would recommend a way to point legislators and readers to summaries.
- Rep. Abrami suggested that studies provided should represent both sides if there is disagreement over an issue.
- Abby Shockley discussed DHHS's criteria for evaluating the reliability of articles on a tiered system. Abby Shockley will distribute to the Commission.
- Joe Hannon agreed that an abstract and position statement or "pro and con" statement could be included with each article to summarize for legislators.

- Dr. Glassman suggested including federal-level (CDC, NIH) reports and research.
- Abby Shockley will determine whether DHHS subscribes to any resources that can be shared with the Commission.

Marijuana Commission Discussion Document

- Rep. Abrami created document and believes it represents the Commission's discussion of listed issues. Should discuss structure with Charlie Arlinghaus, who is currently studying the overall state government structure.
- The Commission had consensus on creating a Marijuana Commission rather than locating regulation in an existing executive branch agency.
- Number of commissioners and make-up of Marijuana Commission was discussed. Commission generally believed that Marijuana Commission should mirror existing state Commissions (Liquor, Lottery, PUC).
- Rep. Seidel brought up oversight committees and whether they would appropriately oversee the operations of the Marijuana Commission? Or would the Marijuana Commission report to the Governor? Rep. Abrami asked Jennifer Foor to look into other oversight committees in NH.
- Rep. Abrami suggested following the model of the NH Lottery Commission, part-time Commissioners w/ a full-time executive director and staff.
- Commission had previously discussed three segments: licensure, enforcement, and research/testing. Rep. Abrami envisions this as the high-level structure of the Marijuana Commission. The Commission will need to work with other executive branch agencies, such as DHHS on testing.
- Michele Merritt asked if the Commission had already selected a "commercialization" model versus a "home grow" model.
- Rep. Abrami expressed his belief that the scope of the Commission was to evaluate the commercialization model.

Notes from Discussion w/ Dave McKenna, Chief Technology Officer, Massachusetts Cannabis Control Commission

- Rep. Abrami noted that there is one major seed to sale tracker.
- Attorney Twomey suggested that seed to sale is necessary to eliminate the black market. But, should it be sun-setted?
- Dr. Glassman note that seed to sale adds a level of protection to licensees given the federal illegality of cannabis.
- Dr. Hannon asked if there is any evidence that seed to sale has worked to protect licensees or consumers?
- Abby Shockley noted that seed to sale could be a useful research tool.
- C. Lear noted that it might also be helpful to understand how much seed to sale systems cost.

Further Discussion of Enforcement

- C. Lear to provide Tobacco Tax statute that provides compliance officer authority to inspect retail tobacco stores. Abby Shockley noted that DHHS has similar statutory authority to inspect therapeutic cannabis sellers. Todd Wells noted banking has similar authority as well.
- Rep. Abrami asked J. Encarnacao whether he feels enforcement should include armed officers.
- Encarnacao indicated that there are varying levels of enforcement. Some levels may require law enforcement if there is a criminal element.
- Rep. Abrami asked if the seed to sale system tracks who purchases the cannabis?
- Rep. Twomey noted that tracking the purchaser may drive people to the illegal market.
- Attorney Twomey recommended deferring decisions on issues such as marijuana hotels and restaurants for later decisions.
- Rep. Seidel agreed and suggested that better decisions could be made once the state has experience with legalization.
- Sen. Lasky noted a Boston Globe magazine article “Welcome to Grassachusetts.” There are already clubs and restaurants in Massachusetts. The Commission’s report should mention these types of things.

Licensing

- Rep. Abrami asked if the number of licenses will be limited. Noted that the general consensus of the Commission was that there would be no limit.
- Rep. Abrami asked if there should there be tiers of licenses.
- Rep. Abrami asked if there should be a wholesaler license. C. Lear noted that in the tobacco context, the wholesaler receives tobacco from all across the country. Where the supply chain is all native to NH, would we need a wholesaler license? Will growers just sell directly to retailers and manufacturers?
- Rep. Abrami believes that each municipality should have the ability to opt in to allow growing, manufacturing, sales in their jurisdiction.
- Discussion of whether product could be transported between two legal states under federal law.

Advisory Committee

- Rep. Abrami introduced the concept of a volunteer advisory board for conversation.
- C. Lear noted that through the regulatory and rulemaking process, there are many opportunities for public input for interested parties.
- Sen. Lasky noted that perhaps there should be a legislative oversight committee. C. Lear noted the tax expenditure review committee as a possible analog.
- Dr. Glassman noted that an advisory committee would be critical at the early stages.
- Rep. Abrami noted that a compromise might be to time limit the advisory committee.

Fees

- Rep. Abrami noted that most states have application fees and license fees.

- Rep. Abrami noted that the NH therapeutic cannabis program must be revenue neutral. Costs to administer the program are passed back onto the licensees.
- Mike Holt, Administrator of Therapeutic Cannabis Program noted that the self-funded program was a challenge at first because the legislature did not provide any seed money.
- Attorney Twomey noted that the higher the fee is, it creates a barrier to smaller businesses and limits industry to larger businesses.
- Dr. Hannon believes any earmark of marijuana money should be very specific to a particular purpose.
- Dr. Glassman noted the distinction between cannabis and other commodities because of the unique public health risks of cannabis use. Because of the risks, revenue from legalization should cover mitigation of those risks/harms.

Next meeting dates:

- July 23rd @ 10:00am
- August 6th @ 10:00am
- August 20th @ 10:00am
- September 10th @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

July 23, 2018 10:00am LOB 202

Eighteenth Meeting – July 23, 2018

Members Present:

- Representative Abrami; Senator Lasky; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Representative Bates; Kate Frey, New Futures; Senator Gannon; Representative Seidel; Stuart Glassman, MD, NH Medical Society; Representative Leishman

Members Not Present:

- James Vara, NH Attorney General's Office; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Abby Shockley, NH Dept. of Health and Human Services (DHHS); John Encarnacao, NH Dept. of Safety (DOS); Chief Richard Mello, NH Assoc. of Chiefs of Police
- Melissa Rollins, Clerk; and *others from public were present*

Meeting Discussion:

Rep. Abrami called the meeting to order.

- David Rousseau made a motion to accept the minutes and Senator Gannon seconded the motion. Minutes accepted.
- Discussed running list on discussion documents
- Talked to Charlie Arlinghaus, Director of Administrative Services, about a possibility of a fourth model [fish and game model, all unpaid]
- Rep. Leishman discussed his visit to Colorado:
 - He discussed and handout a marijuana cigarette container.
 - He talked about how the security was intense. There is only allowed to be four people at a time in one room. Sales people suggest products.
 - Marijuana Retail facility employees talked about their difficult in getting a car loan and home loans because selling marijuana is federally prohibited and they wouldn't accept their income as income.
 - As soon as you entered some towns there were signs stating "No marijuana usage on side walk" or "No usage of illegal drugs."
 - He talked about how you didn't smell and that he never saw anybody smoking. Even in Denver, no body was smoking. There were signs discouraging smoking. Marijuana retailers stated they were selling it illegally before and now that it is legal they are selling it legally. They said the black market is huge. However, people feel legal product is safer and that is why they buy it legally .

- It seemed very highly regulated. The retail stores don't really stick out and are off the beaten path. They are not very visible
- Attorney Twomey ask if he found out what was supporting the black market, maybe prices? Rep. Leishman responded with he wasn't sure, just knows they said they have seen a downturn in sales due to the black market. Everyone said it was not a problem.
- Rep. Bates asked if he spoke with any law enforcement? Rep. Leishman said he did not.

Discussion on Terminology

Discussion on Adult use vs. recreation use

- Attorney Twomey discussed an AARP article stating the term “recreational” sends a bad message for kids.
- Rep. Abrami suggested the commission use the term “adult use.” Stating “adult use” might be more appropriate than “recreational use.”
- Rep. Bates stated he would have left it as recreational and wouldn't put a lot of thought or energy into it.
- K. Frey stated she thinks the term “recreational use” is better because “adult use” doesn't distinguish between medical marijuana. Adults can use both medical marijuana and recreational marijuana. Seems confusing between the two.
- Dr. Hannon stated when someone says the term “recreation” he thinks of kids playing. It is geared toward. Adults will know the difference between medical and recreational. Don't encourage recreational use. He compared it to alcohol.
- K. Frey stated some states are calling it medical and non-medical marijuana.
- Rep. Abrami stated he will put the commission's discussion in the report.

Discussion on marijuana vs. cannabis

- Rep. Abrami stated there are eight states where they use the term “marijuana” and two states that use the term “cannabis.”
- T. Wells stated the Therapeutic Cannabis Program uses the term “cannabis.”
- Dr. Hannon stated the commission should use the medical name not lingo.
- The Commission will recommend the term “cannabis” be used in the report.

Discussion on Age Limits

- Rep. Abrami stated every other state is 21? Any objections?
- No objections - agreed to 21

Discussion on Legal Possession Amounts

- Rep. Abrami stated that possession in every state was one ounce, except Maine. However, that may have changed with their most recent legislation.
- Dr. Hannon discussed looking at criminal penalties between ages 18 to 21, especially if suggested legal limit is 21. Servers may be in violation of possession law. Thinks we should be consistent. He thinks 18 should be the age.

- Attorney Twomey stated he thinks the commission should suggest making an ounce legal, like all the other states, so we don't confuse people.
- Michael Holt, Administrator of the Therapeutic Cannabis Program, stated for the Therapeutic Cannabis Program 2oz of cannabis is allowed to be dispense. The flower amount is different from concentrates.
- Rep. Abrami discussed different states for legal concentrate amounts.
- Attorney Twomey discussed decriminalization and how that relates to adult use.
- An audience member stated it would be difficult to regulate. Adults should make a choice. If we limit it we are trying to over regulate people.
- An audience member stated that one piece of marijuana infused candy or candy bar is 400mil.
- Dr. Hannon stated he thinks limiting amounts will encourage strong concentrates. Is it enforceable?
- Rep. Abrami asked if in other states could someone buy concentrate and infuse it into something at home. Is it limited?
- An audience member said yes and in other states it is limited to 5 grams of what you can buy.
- Rep. Abrami stated that it seems like purchasing loose marijuana would be limited to one ounce. Probably not enforceable.
- Rep. Abrami talked about edibles and how he hasn't seen limitations on edibles. He stated he thinks legislation put forth this year had some limitations in it.
- Rep. Bates asked how could you restrict how much one person could buy, because they could just go to the next dispensary and buy one ounce at the next one?
- Rep. Bates asked what is the objective of regulating the amount?
- Rep. Abrami stated to help identify if the person was a dealer or if the person bought the marijuana legally. Also, one ounce protects people from having to distinguish this.
- Attorney Twomey stated there is no specified limit to be charged for intent to sell.
- An audience member discussed tourism for alcohol versus marijuana.
- Rep. Abrami stated there seems to be no consensus. We will ignore the issue of possession and let legislature decide and vote on it.
- Dr. Hannon stated the legislature will make it a political decision.
- Rep. Bates explained that he can't think of any other legal product where we limit a person possession.
- Attorney Twomey agrees with Dr. Hannon that it is a political decision. Agrees to punt it to the legislature.
- Sen. Lasky stated there are times when an establishment limits its sales due to supply and demand, so an establishment will decide.
- Rep. Bates recommendation would be to make notes of the discussion and the concerns as well as what other states do.
Rep. Abrami stated the real issue is how much you are impaired.
- Discussion on impairment and amount on hand.
- Rep. Bates: if you set some arbitrary possession, unless you exclude that limit on your property, you would yield more than the amount you are setting.

- Rep. Leishman asked Rep. Abrami if he was hoping to file legislation with basic recommendation. Rep. Abrami stated no, our job is fact finding and a report.
- Rep. Abrami stated there is a bill filed with senate. Some legislature may look at the report and some may not. We are trying to give guidance for people who are writing a bill.
- Discussion on how the report will be used for legislation.
- Rep. Bates stated this is clearly going to be a heavily regulated industry. You could track it at the individual level. Not suggesting it, just saying it is the only way you could track it.
- Discussion on purchasing, consuming, and limits.
- An audience member discussed limiting purchasing amounts per a store and how that would spread the wealth.

Discussion on Medical vs. Adult Use

- Rep. Abrami discussed how most states had medical marijuana evolve first. He talked about three main questions:
 1. Should they be kept separate I the state organization structure?
 2. Can medical licensees also apply for adult use licenses?
 3. Should medical marijuana and adult use marijuana be sold in the same store?
- Rep. Leishman and Sen. Lasky stated the states they had visited, the adult use and medical marijuana were sold in the same store.
- An audience member recommended keeping it separate due to different laws and rules. The audience member also discussed possible issues with not being able to supply the medical marijuana side.
- Rep. Abrami stated there may be bills filed to have medical marijuana sold by for profit organizations [currently medical marijuana can only be sold by not for profit organizations]. The change would be for the ability to raise capital for their operations. These organizations had said there were willing to be taxed. The medical dispensaries are having trouble raising capital.
- Attorney Twomey stated a delay in the initial period when you are setting up an adult dispensary is to keep them separate to protect the medical dispensaries and program.
- Dr. Glassman stated the medical marijuana side has its own advisory council and that is why they are non-profit.
- An audience member said medical dispensaries were setup as non-profits because it made it more politically palatable. It came from the west coast. The audience member discussed how it is advancing, how to grow it, and how to set it up in NH.
- Rep. Abrami discussed structure and how it is currently being operated. He discussed how other states run their programs. His initial thought is to keep it separate.
- Dr. Glassman stated he thinks it is reasonable. He has no issues with the current medical marijuana program currently and that this would allow the focus to be on legalization side.
- Consensus from the committee is to initially keeping them separate.

Do we want to restrict medical licenses from selling adult use?

- Rep. Bates stated he is not in favor of prohibiting any person or organization from having both license unless there is a reason for it.
- Dr. Hannon brought up residency issues. Stating it is going to be very difficult unless you change our residency laws. He stated he agrees with Rep. Bates. He stated it may not even be an issue because the market will decide.
- An audience member discussed why there should be restriction on having both licenses.
- Rep. Abrami discussed how other states used a phased in process to make a level playing field for the new guys versus the established guy.
- Attorney Twomey stated he was in favor of in state licensees and small businesses, but is not sure if it is constitutional. Maybe ask the attorney general. Rep. Abrami will reach out to them.

Should medical marijuana and adult use marijuana be sold in the same store?

- Rep. Seidel stated the financial structure and business sections differ. How would they do this?
- Rep. Abrami stated one is taxed and one is not.
- T. Wells stated he had heard there are separate cash registers in different stores to separate out sales.
- An audience member stated it is important to keep medical side separate. If they are allowed in both markets issues will arise. Keep them completely separate so there is no blurring of the lines. If these two sections were combined you would create a monopoly and medical marijuana aspects would suffer.
- Dr. Glassman stated he visited Native Roots Dispensary in Colorado and explained how you go through separate doors for the adult use versus medical marijuana. Medical marijuana is separated due to its use by under age patients.
- Rep. Abrami stated Dr. Glassman brought up a good point. We do have folks under 21 that do require medical marijuana.
- Rep. Bates stated he was in favor of allowing them to be in the same structure just require them to have a physical separation. Interesting complications from a financial perspective. Let free market work.
- An audience member discussed cannabis issues and impacting medical on both sides.
- An audience member discussed seed to sale, licensing, profit making, and how it doesn't work.
- Rep. Abrami stated we will continue to do research and continue looking into the separation of medical versus adult use.

Discussion Restrictions on Licenses

- Rep. Abrami introduced the two main discussion points:
 1. Allowing multiple license types
 2. Limits on the number of license
- Rep. Abrami discussed what other states had for limits or lack of limits on licensing.
- Rep. Abrami said the commission should push for opt -in for all licenses.

- Attorney Twomey stated the only value he sees in it is to allow a period of time to allow as many people to get in as possible and let the market control what happens. Only reason to think of limit it for a period of time per person/ per organization.
- Sen. Lasky stated initially, at any rate, be limited as a trial.
- K. Frey stated some of those decisions are made at the local level, if you have opt-in.
- Rep. Abrami state we seem to be an opt-in state. This would give communities an option to say whether they want a dispensary in their community.
- Rep. Leishman and Sen. Lasky agree.
- Dr. Hannon stated this contradicts what we mentioned before. He discussed how liquor licenses have a residency requirement. The commission will have someone look into this.
- Rep. Abrami asked the question about having opt-in for three licenses (testing license separate issue)
- An audience member discussed Massachusetts and their requirements.
- Rep. Abrami stated that the testimony from Massachusetts was that they put provision in, but the small business couldn't raise capital
- Attorney Twomey stated he thinks we should have some type of consideration for a minor drug offense. We should not bar people from getting licenses with a minor drug conviction. Dr. Hannon stated he agrees, our constitution will not allow that.
- Dr. Hannon quoted an RSA where a voter could decide if they wanted alcohol in their community. Dr. Hannon stated our recommendation should leave it to a free market and separate zoning issues.
- Rep. Bates stated there is definitely a presidency for doing this, giving a community opt-in rights.
- More discussion on opt –in and requiring in-state licensees, like alcohol statute.

Rep. Bates discussed how the number one topic and recommendation should be to file legislation to implement data collecting. This will allow us to have a baseline down the road. He stated he will bring up again at the next meeting.

Next meeting dates:

- August 6th @ 10:00am
- August 20th @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

August 6, 2018

10:00am

LOB 202

Nineteenth Meeting – August 6, 2018

Members Present:

- Representative Abrami; Senator Lasky; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Paul Twomey, NH Bar Association; Representative Bates; Kate Frey, New Futures; Representative Seidel; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Abby Shockley, NH Dept. of Health and Human Services (DHHS); Sergeant Christopher Roblee sitting in for John Encarnacao, NH Dept. of Safety (DOS); James Vara, NH Attorney General's Office

Members Not Present:

- Chief Richard Mello, NH Assoc. of Chiefs of Police; Representative Leishman; Stuart Glassman, MD, NH Medical Society; Senator Gannon
- Jennifer Foor, Committee Researcher; Dr. Syrek, Sanctuary ATC; Jason Sidman, CEO, Sanctuary ATC; and *others from public were present*

Meeting Discussion:

Rep. Abrami called meeting to order.

- Rep. Bates noted a typo on the last page of the meeting minutes in one of his comments. Moved to accept the minutes with that correction.
- Seconded by Rep. Seidel.
- Approved unanimously.
- Rep. Abrami indicated desire to have another August meeting, August 27th. Decided to add second meeting.

Rep Abrami- NY States report was distributed to the Commission.

- Includes a list of peer reviewed articles.
- Comprehensive chart at end on each state's laws that have legalized and regulated.
- Report concludes that NYS should move forward to legalization and regulate.

Kate Frey- Selection of peer reviewed studies.

- Distributed list of suggested qualifications for peer reviewed studies.
- Studies should be submitted to Kate Frey and Attorney Twomey who will jointly compile a list of studies to be included in the Committee's report.
- Attorney Twomey will look through NYS study's list of peer reviewed articles.

- Dr. Hannon- Why limit to studies no older than 3 years? It may exclude valuable results.
- Attorney Twomey- It is not a hard rule. It is a guideline but if something is older and valuable, it will be included.

Therapeutic Cannabis Program- How does medical fit w/ adult use.

- Rep. Abrami – Medical is vertically integrated. Has asked Mike Holt, DHHS, and Dr. David Syrek and Jason Sidman, CEO (both from Sanctuary ATC) to discuss this subject.
- Rep. Abrami – Medical can be used by adolescents. Recreational will be adults only. Does this cause a problem with selling in same facility?
- Attorney Twomey noted that minor medical recipients will always be accompanied by an adult. Currently under the NH medical program there is no dispensation to a minor, only dispensation to an adult caregiver. Confirmed by Mike Holt.
- Jason Sidman, confirmed vertically integrated and multistate. MA stores will be integrated (both medical and recreational). Facility will have procedures that check in and track each consumer/patient as either medical or recreational throughout the store. Adult use statute makes appropriate carve out for medical use for minors.
- Sen. Lasky – CO stores are physically separated.
- Sidman – MA will not be physically separated. There will be separate check outs. The amounts used/prescribed are much lower for recreational use. Completely separate check out system due to the differences in taxation.
- Paul Twomey – Is software governed by law or regulations? Sidman – Regulations.
- Rep. Seidel – How do you control potency? Sidman – Everything must be tested by an independent lab, even if the analytics are done in house.
- Rep. Seidel – How do you label? Sidman – Can provide examples. Recreational contains additional warnings not present on medical.
- Sen. Lasky – Explain. Sidman – We test first then modify formulation to make sure that it contains the appropriate dose as required by law and for the intended use (medical vs. recreational).
- Sen Lasky – Made in house? Sidman – Yes. All go out for testing.
- Rep. Abrami – 5 mg per serving? Sidman – Yes. If you indicate it is multi servings, each serving must be segregated and individually labelled to indicate the dose.
- Kate Frey- 5 mg of THC? Sidman – Yes.
- Attorney Twomey – Plant types and combination w/ CBD? Sidman – No requirements relative to CBD or plant types. In a medical program, specific plant types and CBD concentrations are necessary in the medical market.
- Attorney Twomey – Is lower potency product no longer available in recreational use states? Sidman – Yes. Likely driven by consumer demand, even though research indicates that highest potency doesn't necessarily equate to the desired result.
- Attorney Twomey – Should states regulate/ensure the availability of lower potency products? Dr. Syrek – Need to continue to ensure availability of high potency products for recreational users who are using product for medical reasons.
- Rep. Abrami – Talk about prices and concentration. Sidman – If a product has a higher concentration of THC it will be higher priced. Generally, a per mg price.

- Rep. Seidel – What educational materials do you provide to consumers? Dr. Syrek – General discussion of successful use of products to treat medical conditions. As a non-profit they take education and safety very seriously. Spend significant time educating medical clients. Will provide the same safety and education training to recreational use consumers. Dispensaries don't want to be responsible for consumers having a bad experience.
- Rep. Abrami – There will be a lot of dispensaries that will be recreational only? Will they do all this education? Sidman – Believes that they will do education. MA requires educational materials for recreational use.
- Sen. Lasky – Company standard or state regulation? Sidman – We are including it as a component of license application. Unsure if the MA Control Commission would refuse a license if a recreational facility did not include education as a component of their service to consumers.
- Rep. Abrami – Impact of being joint medical and recreational and a non-profit. Sidman – In MA they are a non-profit selling both recreational and medical.
- Rep. Abrami – Aren't the laws different in NH? NH doesn't allow a non-profit to own a for profit company. Holt – Would need to ask the other ATC's about their organizational structure directly. Charitable trusts division in the DOJ is the organization that actually evaluates and oversees the structure of the ATC's to ensure compliance w/ NH statute.
- Sidman – Most states have eliminated the requirement that medical dispensaries be non-profit at the same time as legalizing. If NH doesn't do the same, ATC's can create a new entity.
- Rep. Abrami – What about them being co-located in the same store? James Vara – We would need to do a deeper dive into charitable trust law to determine what would be allowed legally.
- Mike Holt – We may need to evaluate the impacts on therapeutic model and whether that statute needs to change to protect the existing therapeutic program. Discussion of handout titled "Considerations Relative to the NH Therapeutic Cannabis Program" prepared by DHHS, Division of Public Health Services, Therapeutic Cannabis Program.
- Rep. Seidel – Will product list unexpected side effects? Holt – State regulations require handouts on side effects. Will distribute literature from ATCs.
- Kate Frey – New administrative rules regarding advertising. Facebook page still lists names of strains. Social media sites are supposed to be managed by age, which doesn't appear to be the case. Mike Holt – Those regulations aren't yet effective and have not been signed by Commissioner.
- Kate Frey – When will regulations go into effect? Mike Holt – Does not have a date. Frey – Does DHHS come up with own timeframe? Mike Holt – That is dictated by RSA 541-A.
- Rep. Abrami – In other recreational states, medical marijuana still exists. Are they collocated? Sidman – Believes most facilities are co-located.
- Sidman – Cultivation rules require that allowable production will be cut down if 75% of product isn't sold in 6 months. This protects prices and thus, tax revenue.
- Rep. Abrami – Won't the free market settle that issue? Sidman – MA has unlimited licenses but max size and max watts per square foot.

- Attorney Twomey – Do any states require renewable energy? Sidman – Not that I am aware of. We use hydro in Rochester.
- Attorney Twomey – What’s the public value of limiting cultivation size? Sidman – More people can get involved in the business. Large producers could eliminate smaller growers from the market due to efficiencies.
- Rep. Abrami – Indoor or outdoor? Sidman – Indoor.
- Todd Wells – Banking experience? Any changes in recent months? Sidman – We bank with Century. Believes New England Bank has taken on one client. Century charges \$5,000 per month per state. This fee covers the cost of complete segregation of cannabis accounts from other banking clients. No credit cards, but can use debit cards. There was a recent 1 week outage with debit. About 50% of sales are completed using debit cards. Has heard that other credit unions will shortly begin servicing the marijuana market.
- Rep. Abrami – What’s the structure of medical oversight at DHHS? Holt – DHHS oversees the entire program even though DHHS does not have expertise in all areas of medical marijuana regulation. Example: inspecting agricultural crops. Relies on other agencies for expertise. There is an Advisory Council that hasn’t met frequently. An oversight board was placed in law last session. With legalization, redundancies might create confusion. There will necessarily be changes to regulations if recreational use becomes law.
- James Vara – Charitable Trusts Unit can come and speak.

Revenues

- C. Lear - General discussion of previous presentation on taxation and revenue.
- Sen. Lasky – Will medical give us an indication of revenue? C. Lear – can look into it.
- Rep. Abrami – Where do we tax it? Discussion of the applicable sales tax on top of the marijuana tax. Black market won’t disappear. But legalized will be safer.
- Dr. Hannon – Is taxing medical and recreational differently constitutional? Attorney Twomey- Rational basis. Probably justified.
- Rep. Bates – We won’t resolve the constitutional issue. Maybe include in report and indicate that an Opinion of the Justices should be sought.
- Discussion of what level of taxation is appropriate. Fewest taxpayers = lowest cost to administer, but not as transparent to taxpayers.
- Attorney Twomey – Should not consider it a sin tax. C. Lear – We don’t treat tobacco as a sin tax.
- Rep. Abrami – Goal: Cover cost to regulate and education. How much do we want to cover other things? If we get greedy we don’t push out the black market.
- Rep. Abrami – Wholesale level seems best because easier compliance costs. Discussion from audience on how to properly tax.
- Rep. Abrami to audience – Would you suggest a tax on the value? Audience – would simply suggest we don’t over tax it. Harm to low-income people.
- Dr. Hannon – We must determine the purpose of the tax. We want predictability. Easier to adjust.

- C. Lear – Will try to come up with data on the cost to administer the tax by comparing the compliance costs associated w/ the Meals & Rentals Tax versus the Tobacco Tax.
- Audience comment that you also have to consider the license fee revenue.
- Rep. Abrami – Pointed to table on license fees in other states in NY report.
- Attorney Twomey – Do states do licensing fees through legislation or regulation and associated w/ the cost to regulate? Mike Holt – In medical, fees are not in statute. They are set to cover the cost to administer. Rep. Bates – MA statutes are actually set “not to exceed.”
- Audience comment that license fee eliminates local farmers and businesses from getting involved.
- Attorney Twomey asked if Attorney Vara could provide information on whether you can limit licenses to residents.

Next meeting dates:

- August 20th @ 10:00am
- August 27th @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

August 20, 2018 10:00am LOB 202

Twentieth Meeting – August 20, 2018

Members Present:

- Representative Abrami; Senator Lasky; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Representative Bates; Kate Frey, New Futures; Senator Gannon; Representative Seidel; James Vara, NH Attorney General's Office; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Abby Shockley, NH Dept. of Health and Human Services (DHHS); John Encarnacao, NH Dept. of Safety (DOS).

Members Not Present:

- Chief Richard Mello, NH Assoc. of Chiefs of Police; Paul Twomey, NH Bar Association; Representative Leishman; Stuart Glassman, MD, NH Medical Society
- Melissa Rollins, Clerk; Director Tom Donovan: Charitable Trust Unit AG's Office; Michael Holt, Administrator of the Therapeutic Cannabis Program; and others from public were present.

Meeting Discussion:

Rep. Abrami called the meeting to order.

- John Encarnacao made a motion to accept the minutes and James Vara seconded the motion.
- Minutes approved unanimously.
- Goal starting in September is to start drafting items and then meet to fill in the gaps.
- Discussed running list on discussion documents
- Discussed how medical marijuana might fit in with adult marijuana - talked about ownership issues. Legalization would be for-profit and medical is charitable trusts.

Director Tom Donovan: Charitable Trust Unit AG's Office

- Oversight responsibilities for over 10k charitable trust across the state. Most charities are 501(c) 3.
- Alternative treatment centers are not allowed to get 501(c) 3 status from IRS. They are required to be setup at non-profits in state of NH.
- Rep. Abrami - they would have to setup a separate structure if they wanted to be a for-profit for legalization of marijuana? Donovan -A non-profit can own a for-profit as long as it is supporting the non-profit mission.
- Mr. Donovan stated he thinks it would be difficult for an ATC to go from a non-profit to a for-profit. Essentially it would be turning it on it's head.

- Mr. Donvoan discussed how the process would work and stated that someone would have to do an analysis.
- Rep. Abrami – It is almost like medical cannabis board needs to work on this. It could be as simple as whoever owns the non-profit would just start up a new business.
- Donaovan - The question is what the non-profit is worth and if it were to go out of business. Sometimes there is nothing and sometimes they turn it over to another non-profit.
- Rep. Abrami – Can the board members of the non-profit open a for- profit legalization business? Donovan - It may be a conflict of interest. The AG’s Office would also insist that there would be enough independent board members to do a review and whether the money is for the organization.
- Rep. Abrami - If the four dispensaries wanted to play in the marijuana legalization market what would they do? Donovan - They would need to meet with us and we would lay out a plan with them. The independent board members would need to do an independent evaluation and the proceeds would need to be turned over to another non-profit. He explained other issues and said he would probably not approve of incorporating a for-profit with a not for profit.
- Rep. Abrami explained there may need to be a note in added in the report because this situation maybe more complicated than expected.
- Dr. Hannon - What would happen if the statute was repealed and they didn't have to be non-profit? Donovan - The net assets would have to go to a charity.
- Dr. Hannon - If they are not required to be non-profit do they need to be a non-profit in absent of the statute. Donovan - We would have to look into it. We wouldn't force them to be a charity if the statue wouldn't' require it.
- A. Shockley – It sounds like it wouldn't be possible, if we don't change the statute, for ATC’s to co-locate with their for-profit marijuana store. Donovan - Probably not. There would be a lot of conflict of interest. They would be competing with each other and that wouldn't work.

Banking report draft - Todd Wells:

- Audience - the Feds (FDA) allowed a 450% increase in studies for marijuana. They should be voting on it very soon. It is in discussion. He believes it is coming.
- Rep. Abrami stated in the report that we will write what is occurring when the report is done.
- T. Wells explained handout. He discussed standardization and early drafts and how he focused on facts. He said the he is flexible and open to changes and that the report is just a demonstration of what the report could look like.
- He has made a record of testimony based on meeting minutes and he noted this is an early draft.

Discussion

Roadside Sobriety Testing

- Rep. Abrami discussed roadside sobriety testing. He asked J. Encarnacao if there is any way to come up with words as to where we are with roadside sobriety testing. J. Encarnacao said he could take a look.
- Rep. Abrami – Currently we don't have a breathalyzer to detect marijuana. He discussed training certain officers to visibly detect and the challenges of bring the information in front of a judge. All of this needs to be noted in report.
- J. Encarnacao stated certain courts and certain judges are particular to what they want. He explained the training and the cost effectiveness of it. It is a challenge right now.
- Audience - Two devices are very close to being released, within the next year. One is a breathalyzer. One is a retina scan.
- Rep. Abrami – J. Encarnacao will you look into this information? Encarnacao – Yes.

Potency of Edibles

- Rep. Abrami noted that Jennifer Foor, researcher, produced two “Restrictions on State Marijuana Business Licenses” documents. Which contain a side by side comparison of four states: Maine, Colorado, Massachusetts, and Washington, who have all legalized marijuana.
- Rep. Abrami discussed his “Marijuana Commission Discussion Document.”
- Rep. Abrami discussed potency of edibles on page 9 of discussion document, as well as the Canadian Report, emailed out to the group. He stated the Commission is faced with whether we recommend restricting the potency of edibles in the report or not.
- Audience - They don't restrict buying tobacco or alcohol. Why restrict marijuana? Typical 5mg to 10mg is what is in edibles. Some products as high as 500mg or 1000mg. The audience member made a comparison of a six pack of beer to a package of edibles. The audience member stated the restriction really should be about children's safety and the packaging and labeling of edibles.
- Rep. Abrami – We as a commission can't be silent on potency.
- Audience member discussed how it can be individually served and packaged.
- Rep. Seidel – We need to leave this conversation open as the understanding of potency increases.
- Audience Member discussed potency and labeling and how it works for his company, as well as patenting a product.
- Dr. Hannon - We have to be careful as to why we are doing this. Is it because of safety? Dr. Hannon compared edibles to Tide Pods and discussed poison control.
- Dr. Hannon - Nobody has died from a marijuana exposure. We haven't heard any negative information from ER visits.
- Rep. Abrami - This is an evolving issue. We have to be aware of it.
- K. Fray - We have an opportunity to set a standard that other states can follow. We really don't know the long term effects of marijuana. We heard from an ATC owner who has heard that there could be a CBD created that gets you high. We have an opportunity to set limits. We should set the limit at 16% THC.

- Rep. Abrami talked about how the commission received copies of a tape from Idaho that discussed what is going on in Pablo Colorado. In Europe 34% THC was a problem.
- Audience Member noted that the closest thing you can compare marijuana to is alcohol.
- Josh from Sanctuary ATC stated the average dose for edibles is 5mg to 10mg. He thinks there should be more limits and lower limits based on the information.
- Audience - Limit amount of THC in one bar, but you can't regulate the amount people use.
- C. Lear - I don't know if we have heard much evidence based research when it comes to choosing a limit on edibles and how much is enough.
- C. Lear talked about child packaging and adequately labeling products. She stated there are two thoughts, one you could try to hear evidence on limiting edibles, or two simply suggest the concerns of having unlimited potency available.
- K. Frey – We could look at taxing at different potency levels, like in the Canada Report. We could put a higher tax on higher potency products.
- Rep. Abrami - Canadian report punted on potency. Not a lot of information.
- Sen. Lasky – Was there anything in the Canada Report on regulating the making of edibles. Would we only accept NH made products?
- Rep. Abrami - Canadian report talks about controlling edibles and discourages homemade edibles. It seems like we are grappling with controlling edibles.
- Audience - The Commission should focus on packaging. The rest is an adult's choice.
- Rep. Abrami discussed shatter and concentrates. Concentrates same as edible %, similar argument. Something to be aware of.
- C. Lear - Is there a similar indication of serving size and dosage for concentrates as there is for edibles? Rep. Abrami - I didn't find anything stating there was.
- Audience Member discussed how shatter works versus a marijuana joint.
- Rep. Abrami – I will do the same write up of shatter versus edibles.

Dispensaries - Limits of Signage

- Referenced Jennifer's handout for the four states
- First conversation - signage in front of store.
- Rep. Abrami - MA did a lot of work on this.
- C. Lear - I don't know if I heard about this in the existing medical statute.
- Michael Holt, Administrator of the Therapeutic Cannabis Program - NH State law gives the department rule making authority on this issue. ATC's can have a sign. We do not allow cultivation locations to have a sign. ATC's signs cannot be illuminated outside their business hours, very similar to MA laws. We only permit one sign outside and one on door.
- The Commission agreed that Rep. Abrami would take a stab at the writing the language based on MA.
- Sen. Gannon - Are you going to leave out location requirements? Rep. Abrami - We discussed that earlier on. We didn't finish discussion. He noted page four on bottom of the Discussion Document. Will follow federal regulation. However, other states had it more broadly described.

- Kate Fray - Maybe incorporate Maine language with MA language.
- Rep. Abrami will work on language for including both Maine and MA.

Limits on Advertising

- M. Holt - NH severely limits the advertising. They are only allowed to have a website, social media site, listing in phone book and education.
- Dr. Hannon - If you are going to have an adult purchase marijuana, how are they going to find it? State liquor stores say liquor and wine outlet on their sign, but marijuana stores won't be allowed to.
- Audience Member recommended using an advertising symbol to represent marijuana.
- Audience Member also noted alcohol sales are on the radio and television.
- C. Lear – The commission might consider certain messages for marijuana similarly like what accompany alcohol and tobacco. "Used responsibly," "no one under the age of x."
- Rep. Abrami - How about billboards? Not a lot of discussion from the commission.
- Sen. Lasky – Shouldn't this be up to the localities to make their own sign ordinances?
- Rep. Abrami referenced Jennifer's sheets for states and signage and advertising.

Limits on Product Display

- Sen. Lasky – We need to decide if we are going to treat it like any other product in the state, or if we are going to restrict it. A lot of this should be left up to individual business, and cities and town.
- Audience - In other states everything is locked and sealed like a jewelry store.
- Audience - Display windows should be regulated or not allowed.
- Sen. Lasky – Make the restrictions based on safety of children.

Gifting Loophole

- K. Frey - We heard testimony on gifting loop holes. Industries where you may sell a product or get a pizza and get "free" marijuana. Thinks NH should have languages to prevent a loophole.
- C. Lear – This seems to also be a taxing issue. We should prevent tax loop holes that create an uneven playing field.
- Audience member reference Portland, Maine and how people they created a divisive work around.

Limitation Outdoor Smoking Use:

- Audience member referenced Bank of NH Pavilion and how their smoking policy works.
- C. Lear - We heard about the issue for apartment complexes and hotel. Not sure if there is a way to address this.
- Rep. Abrami - We may have to look into this more. He gave an example hiking and smoking in the White Mountains.
- Audience member talked about leases and how it works with smoking marijuana.
- J. Encarnacao agrees it is a public versus private issue.
- K. Frey stated there may be some issues with federal housing.

- Dr. Hannon – We should explore private property and see if there have been issues. The recourse should be a civil issue not a criminal issue.
- Rep. Abrami - General consensus, public smoking is out.

Limits On Hours Of Operation For Retail Sites:

- Currently one ATC's operating hours are 11am to 7pm Monday through Saturday. 12pm to 4pm on Sunday.
- M. Holt – medical marijuana statute and rules do not restrict the hours of operation.
- C. Lear - Before setting a limitation, what are we protecting against?
- J. Encarnacao - I agree. This falls on the town and their ordinance for businesses.
- Audience - Protection people and their rights is what is important
- Audience - What about when someone who is having trouble sleeping shouldn't they be able to go to the store all hours of the night?
- Senator Gannon recommended 9am to 9pm.
- Audience – I am concerned with people leaving the bar at late hours and their judgment at the time of purchasing marijuana. That should be avoided. It is a serious thing.
- J. Encarnacao - Is that something we want to regulate, or is this something for the cities and towns to regulate.
- Dr. Hannon - If you're buying the product it shouldn't be limited. Not limiting it would give 2nd and 3rd shift workers an option to go to a marijuana store after work.
- Rep. Abrami - Perhaps we let the towns pick their own hours.

Child Proof Packaging

- Rep. Abrami – We should make it like medication. Safe and difficult for children to get into it.
- Dr. Hannon - Tamper proof and resealable. Use Colorado's rules, they are at the fore front of it.

Use of a Unique Marijuana Warning Symbol

- Rep. Abrami - Certain states use symbols, potentially use on a signs and packaging.
- Audience - green cross is used across the country to represent marijuana.
- Rep. Abrami - will write up that the green cross is evolving as the national symbol.

Limitation on Indoor Public Space Consumption

- M. Holt - NH has, on books, an indoor smoking act. It is important to align the indoor smoking act with marijuana.
- K. Fray - Vaping should be added to the indoor smoking act as well.
- C.Lear - Is it smoking or smoking and consumption? Rep. Abrami - This is just for smoking. We will align it with the smoking statutes.

Restriction on Open Container of Marijuana or Edible Products in Motor Vehicles

- Rep Abrami – If you get pulled over and have a bag of loose marijuana closed, is that considered an open container? We may need to define this or do we even want to even look at this?
- Rep. Abrami asked J. Encarnacao how it is defined or identified? Can the police assume that person was just consuming the marijuana? Encarnacao – if we pulled over someone and there was a visible bag of loose marijuana, it would allow the officer to do certain things and ask certain question to start the process, but it won't be cause to arrest someone. You would have to build the case on the side of road.
- Scenarios discussed for “open containers.”
- Dr. Hannon talked about Washington's open contain law for marijuana.
- J. Encarnacao - You could come up with transportation of marijuana laws with certain specifications.
- Audience - The policy used for medical marijuana seems to be working.
- C. Lear - For purposes of law enforcement, it would probably be easier if there was one law for them to follow. Encarnacao - agrees.

Next meeting dates:

- August 27th @ 10:00am
- September 10th @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

August 27, 2018 10:00am LOB 202

Twenty First Meeting – August 27, 2018

Members Present:

- Representative Abrami; Senator Lasky; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Representative Bates; Representative Seidel; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Chief Richard Mello, NH Assoc. of Chiefs of Police; Sergeant Christopher Roblee sitting in for John Encarnacao, NH Dept. of Safety (DOS).

Members Not Present:

- Paul Twomey, NH Bar Association; Representative Leishman; Stuart Glassman, MD, NH Medical Society; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Senator Gannon; James Vara, NH Attorney General's Office

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; Michael Holt, Administrator of the Therapeutic Cannabis Program; Representative Cushing; and others from public were present.

Meeting Discussion:

Rep. Abrami called the meeting to order.

- Dr. Hannon requested that a word on page six be updated from resalable to resealable. Rep. Bates made a motion to accept the minutes and Chief Mello seconded the motion.
- Minutes approved unanimously with correction.
- Rep. Abrami stated he wants to come up with a revenue estimate range or a rate. Apply NY methodology and see what the number would be.
- Rep. Abrami spoke to an Associate Justice of Supreme Court concerning taxing marijuana edibles. The Associate Justice stated he would need a formal request or brief to get an opinion.
- Jennifer handed out a comparison table of states from the NY report. It was noted that Maine was not included in the report/table.
- Rep. Abrami – The plan is to have a similar table by issue by state by our recommendation in the report.

Home Cultivation - Number of Plants per Household or Individual Flowering Vs. Non-Flowering Plants:

- Rep. Abrami - If you say you can't grow at home it might be problematic. We do need oversight so home grow doesn't get out of control. We need to make sure home grow doesn't get sold on the black market. We need to decide if we want home grow at all?
- Dr. Hannon – There was a bill proposed this year, which included home grow, that was tabled, I believe, for the purpose of this commission to look at it.
- Rep. Abrami – There was a bill however, House W&M killed the bill because it had no revenue attributed it.
- Dr. Hannon – The Liquor commission people, when presenting in front of the commission, talked about how they regulate home brew. This should be a similar to home grow. Having a number of plants is an arbitrary number. It is not a problem unless people are not paying taxes or putting it into the black market. I don't know what the number should be. Also, is it enforceable, I don't know if it is?
- Rep. Abrami – We need to give some guidelines, especially for the police. There has to be a reason why all the other states have a limit.
- Dr. Hannon read the liquor statute pertaining to how much can be produced for home brew. He also asked if that could be equated to home grow.
- Audience - What you have to figure out is how it is going to be used. If people are using it for infusions then they would need more versus if they were smoking it.
- Sen. Lasky - Is there any danger involved in the infusion? Audience member - If you can boil water you can infuse.
- Sen. Lasky - Should we limit where it is going to be kept? An outdoor garden might be offensive to your neighbor (odor)?
- Rep. Bates - Could you clarify not visible to the public? Rep. Abrami - possibly a fence around it so it can't be seen.
- C. Lear - It seems like a limit to the home grow is to help prevent tax evasion. The Department, as a tax enforcement agency, is never going to be the one that uncovers the black market sales of home grown marijuana. Our people are auditors. They are equipped to go into retail locations, not homes. I was wondering how do we find out about the growing and how we back into the number?
- Sen. Lasky - Unless it is your neighbor, you would not know it is being grown and our goal would be you wouldn't know.
- Rep. Abrami - There is a plant and there is a "plant". They produce different levels and amounts. How much marijuana does one plant produce?
- Audience member - The range could be a very little amount, a gram to three pounds. For the three pound plant the grower would need to be an experienced grower and perfect circumstances would need to be obtained. A non-experienced grower will not produce much from multiple plants. You will have people with needs having small gardens for themselves.
- Rep. Abrami – Rep. Cushing was there a home grow bill this year? Rep. Cushing - HB 1476 was a home grow bill for medical marijuana because currently under statute it is not allowed to be grown at home. Rep. Cushing quoted what was in HB 1476.

- Audience member - All cannabis does not produce the same amount. Cannabis in this day in age is producing more. Different varieties are available.
- Rep. Abrami - Is it true that people up here would grow cannabis under lights?
- Audience member - We are seasonal, so the process would start indoors and end outdoors. Average plant produces between 3/4 of an ounce to approximately 2 ounces per plant. Discussed oils and flower.
- C. Lear - One option could be to set the threshold for the number of plants high and set the threshold for penalties imposed similarly high. If we are concerned with potentially not setting the number of plants at the right number. You could focus on the penalty and make it a severe penalty for the sale.
- Rep. Abrami – When comparing states they all say 6 plants. I am not sure why they specified that number. One ounce produces how many joints? Audience Member – 20 joints per an ounce.
- Rep. Abrami - I still feel we need to have some limitation in here. Law enforcement needs some guidance.
- Chief Mello - One of the issues we look at from a law enforcement perspective is avoiding loop holes. If you don't put some sort of definitive number you are going to create a loop hole. It is also available for them to purchase on the commercial market. If we don't establish a limit we are inviting more of a black market. Even if arbitrarily, it helps avoid the loop hole.
- Sen. Lasky - How long does it take to be full grown? Audience Member - From 65 up to 120 days, or four to six months. Seed to completion.
- Rep. Abrami - If we say it is unlimited, there will be temptation for someone to grow 100 plants in their home. You are inviting people to create their own home market. I know 6 plants is an arbitrary number. For those that want a bill passed it is easy to point to the limitation set by other states. As a recommendation, I would say 6 plants is enough. In some states maximum number of mature plants is 12 per household, 6 per person.
- Audience member - In Maine it is required to be held in separate locked rooms and the marijuana plants being tagged.
- Audience member - When Colorado started their program they did not have limitation. They were finding that there were drug cartels doing home grows in entire houses. That is where they came up with 12 per household.
- Rep. Abrami - The Major sent a video of what happened in Pablo, Colorado where houses were stripped of everything for the purpose of growing marijuana.
- Rep. Abrami – Do we agree to six per person, 12 per household.
- Dr. Hannon - Is it going to be a criminal issue or taxation issue if selling over the limit. We will need to come up with that as well.
- Rep. Cushing talked about HB 1476 and the renters provisions put in that bill in terms of home grow. Rep. Abrami said he would take a look.

Grown in a Secure Location:

- Rep. Abrami - There are concerns about the outdoor grow.

- Audience member - It is a slippery slope. Currently we don't lock our medicine cabinet or lock alcohol up so why would we have to lock up our marijuana. Should be able to do what they want at home.
- Discussion on visibility, trespassing on property, and going on property.
- Commission voted on 12 plants per household and 6 per person as well as not visible from the road and locked in a secure area.

Ban Home Extraction of Concentrates Using Butane:

- Rep. Abrami – We heard from states of the dangers of extractions and the process using butane. We heard testimony to stay away from butane. Seems like it is still worthy of putting in the report. .
- Audience member's discussion on different ways of extraction.
- C. Lear – Does it make sense to have a catch all that include any other hazardous chemicals? Audience member - It should state flammables, not hazardous.
- There was discussion on size and how marijuana plants work. Specifics on how a mature plant is described and growing specification as well as growing cycle.
- Dr. Hannon talked about output and quantity and talked about statute. He discussed quantity amounts by stake holders.
- Audience member suggested 12 plants per person and 24 per household. 24 plants maximum. This would help keep the growing cycle going.
- Commission agreed on 12 mature plants per individual and 24 per household maximum. Most people would start by seed.

Public Health Inspections:

- Growing, manufacturers, retail sites would be required to public health inspection.
- Commission agreed

Agriculture Fertilizer and Pesticide Inspections:

- Rep. Abrami talked about putting a statement in the report about NH Dept. of Agriculture being involved in the report.
- D. Rousseau – By statute an individual growing a commodity for sale or distribution and uses pesticides would have to have a pesticides license and would be subject to inspection. The challenge becomes the available products. Some of the products are registered with the federal government and those products are not really available to the use of material that are federally illegal. The products that are available we hear are working. They are referred to as 25b. The individual using that would still need to hold a license with the State of NH if they are selling the product or distributing the product.
- D. Rousseau – For purposes of this report, if you just want to identify that individuals using pesticide, by state definition, would be subject to hold a pesticide license if that product was being sold or distributed. Also, the label has to support the use.
- Commission agreed.

Restrictions on Internet Sales:

- Rep. Abrami - If it is still federally illegal, how would you have internet sales?
- Rep. Bates - A seller could sell to someone in their own state. Not sure how it would be shipped. I am trying to be intellectually consistent. If it is a legal product, why not sell it on the internet?
- Rep. Abrami – there is no transportation over state lines.
- Sen. Lasky - I don't think we need to weigh in on this.
- Audience member – I don't think we would want to restrict it. We want to have them have the ability to sell over state lines once this becomes federally legal.
- Audience member - You're going to have Amazon get into the mix. Everyone has their own opinion. Referenced Canada legalization.
- Rep. Abrami - Consensus seems to be that we mention that other states have restricted it but we don't see the reason to restrict internet sales.
- Rep. Seidel discussed a marijuana convention run by the State of Oregon which they are going to this week.

Security and Video Surveillance Requirements in Facilities:

- Rep. Abrami discussed charity gaming halls having video surveillance and how stores have video surveillance. Is there any need to have the state mandate this?
- Commission stayed quite.
- Rep. Abrami asked Mike Holt if they have surveillance. Mike Holt – The Therapeutic Cannabis Program has great restriction and surveillance, it reduces diversion.
- Dr. Hannon - Diversion won't be as much of an issue once legalization occurs.
- Audience member discussed his business and how he does his process.
- C. Lear - From a tax avoidance perspective, what level do we want to apply the tax? In the tobacco tax context. The tobacco is taxed way before it gets to the retail space. So it is irrelevant whether the product is stolen at the retail level because the tax was already collected. If we are going to apply the tax at a wholesale or manufacture level, from a diversion standpoint, it would be a moot point.
- Rep. Abrami – It is sort of a theft prevention move and it is up to the individual business. There seems to be no need for it.
- Dr. Hannon - C. Lear had a very good point. If it is taxed at the growing level it is not diversion or tax evasion.
- Audience member – I want the state to have security and video surveillance.
- Dr. Hannon - Nothing else that we sell is required to be monitored by surveillance by the State.
- Rep. Cushing talked about his NCLS tour in Washington State and what their stores looked like in terms of surveillance.
- Chief Mello - If they want to divert they will just adjust the camera. If a grower is going to protect their items with video from theft from the outside. It is not mandated it any other way.

- Rep. Bates - Everything you are hearing is the industry is going to do it, because it is in their own best interest. Which means the state doesn't need to mandate it. I don't like opening the door for more and more regulations.
- Commission agreed no surveillance requirements.

Restriction on Free Samples:

- Rep. Abrami - We just state no free samples.
- Rep. Bates - Closely related to this free sample is the gifting loop hole.
- Commission agreed on no free samples.

Proof of Age Requirement for Retail:

- Dr. Hannon referenced the alcohol restriction statute and will get a copy to Rep. Abrami.
- Commission agrees proof of age should be required.

Restrictions on Marijuana Infused Alcohol Products Being Produced or Sold:

- Audience member discussed MA Can brew a low alcohol content of 1 1/2% alcohol content.
- Rep. Abrami - Some jurisdictions don't want the products to be mixed.
- Audience member - All beer companies have already produced infused beverages with THC, with exceptions of Anheuser-Busch. They have not gone public because they do not want to jeopardize their federal alcohol license. There have been press releases concerning this out West.
- Rep. Abrami - Do we even touch on this or do we let the market do what it is going to do? If it is allowed, I don't think our liquor stores would be allowed to sell it. We are different because we own the liquor stores. Should it just be sold in the marijuana retail shop or sold at a grocery store? This may be too much for the general public.
- Audience member – This is not a short term problem. Long term you are not going to see this be a huge issue until the Feds lift the ban.
- Rep. Abrami - We need to mention it, but we don't really need to take a position on it.
- Commission agreed

Restrictions on Marijuana Infused Tobacco, Nicotine, or Caffeine Products:

- Audience member - tobacco is not infused with cannabis. They may sprinkle it in when rolling a cigarette or joint.
- Rep. Abrami - I will look into what state has it and try to find out why, maybe MA.
- Rep. Abrami - we will make mention of it and let the market take care of itself.

Creation of Marijuana Education Fund:

- Rep. Abrami - I will touch base with Carollynn Lear and Melissa Rollins, with the Dept. of Revenue, offline about taxing marijuana and how to protect the education fund.

Edibles:

- Rep. Abrami and Sen. Lasky went through what the commission had decided on edibles and recommendations.

- Rep. Abrami – I will start the report with some general truths about where we are at in the world of marijuana. There is nothing that will go in this report that isn't backed up by facts. There will be a section in the report on peer-reviewed reports. Kate Fray will show the negative, and Attorney Twomey will show the positive. Papers will need to come from reputable organizations. New York State had a good list in their report on peer reviewed papers. Will reference others states and their statutes. We will want members of the commission to review and see if there are degrees of consensus.
- The commission further discussed how the report will be laid out and the purpose of the report. What will be in the report? Including road sobriety, federal issues, structure, consensus and recommendations.
- Dr. Hannon - Might be good to have a disclaimer in the beginning that the commission members are not necessarily signifying their support for or against marijuana. They are just stating if this is done this is how it should be done. Rep. Abrami - will be done in introduction of the report.
- Discussed how Major Encarnacao and Chief Mellow will write something up concerning road sobriety testing. Where we are at in this world today.
- Rep. Bates stated he hopes you will add data collection requirement to make it on the list. We should consider MA's list which is pretty detailed. We need to get baselines as soon as possible. We need the data now. We have heard from other states how important it is to get baseline data and how they wished they had done this earlier.
- Rep. Abrami - So it wouldn't be lost, I will call it out specifically in the report. I would think that there would be someone who would be on the cannabis board who would lead the research and coordinate with the agencies. We can escalate it on the report. We do lack in baseline data. We will make it its own section.
- Rep. Cushing – Concerns and considerations should be heard for whether conviction of people who have had been convicted of a marijuana offense should have their records expunged.
- Rep. Abrami - we can look into it. Will talk about it next week.

Next meeting dates:

- September 10th @ 10:00am
- September 24th @ 10:00am
- October 8th @ 10:00am
- October 22nd @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

September 10, 2018 10:00am LOB 202

Twenty Second Meeting – September 10, 2018

Members Present:

- Representative Abrami; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Todd Wells, NH Banking Dept.; Representative Seidel; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); John Encarnacao, NH Dept. of Safety (DOS); Stuart Glassman, MD, NH Medical Society; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Senator Gannon;.

Members Not Present:

- Paul Twomey, NH Bar Association; Representative Leishman; James Vara, NH Attorney General's Office; Representative Bates; Chief Richard Mello, NH Assoc. of Chiefs of Police; Senator Lasky.

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and others from public were present.

Meeting Discussion:

Rep. Abrami called the meeting to order.

- Senator Gannon made a motion to accept the minutes and Todd Wells seconded the motion.
- Minutes approved unanimously.
- After discussion the commission members agreed to move the October 8, 2018, Columbus Day, meeting to October 10, 2018.
- Rep. Abrami stated he started writing the report based on conclusions of the Commission so far. He is working on the report in conjunction with Jennifer Foor.
- Rep. Abrami noted that Sen. Lasky asked to be excused for today's meeting due to the celebration of Rash Hashanah.

Penalties for violation of regulations:

- J. Foor produced existing penalties for marijuana and alcohol penalties.
- Rep. Abrami discussed the decriminalization of $\frac{3}{4}$ of an ounce of marijuana and the penalties. The commission is suggesting one ounce for legalization, so decrim. statute would need to be changed if a law is proposed.
- Rep. Abrami noted that there are three groupings of penalties in the statute for alcohol:
 - Under 18 - subject to delinquency petition

- Ages 18-21
- 21 and older these have different penalties
- There needs to be modification in regards to possession and for it to be noted in the report that there should be differences based on age class groups.
- No change in DUI statutes. Issues are still out there in terms of legalization of marijuana for: breathalyzer and roadside testing. In the report we are still left with research still going on.
- Rep. Abrami noted that at the next meeting the members will get a copy of the draft report.
- Rep. Abrami discussed the alcohol statute on false id's and believes this would still be legitimate if marijuana is legalized.
- Rep. Abrami also noted that the alcohol statute has administrative fines for administrative violations and that it still seems appropriate for legalization of marijuana. He noted that the language could be similar to that of alcohol and tobacco.

Background Check Requirements:

- Rep. Abrami read the Liquor Commission statute language for background checks.
- Dr. Hannon – The only issue there is that other states have talked about expunging minor marijuana records. Should we do this for felony marijuana charges as well?
- Rep. Abrami - We could put it in the report saying it is a recommendation that should be looked at.
- Dr. Hannon will get a list of states that have expunged criminal records for marijuana charges.
- Rep. Abrami - Alcohol commission - same for cannabis commission - read statute language. Essentially what he read is trying to keep unsavory characters out of the marijuana businesses.
- Commission members did not disagree that it should be added to the report.

Tax Structure/ Revenue Estimate/ Cost of Regulation:

- Melissa Rollins, Senior Financial Analyst, from the NH. Dept. of Revenue presented on her handout, which used NY's marijuana retail tax estimate methodologies to estimate NH tax revenue. Also, included was an analysis on the retail tax revenue to create a per-ounce of marijuana wholesale tax.
- C. Lear noted before questions were asked that the analysis was based on a request to mirror NY's analysis and that we, the Dept. of Revenue, have not done any sort of analysis to say if these are good numbers. It is just a way to compare NH to the NY study.
- Rep. Abrami stated that he thinks as a commission it is our job to come up with a methodology. In the report he will state there will be some guidelines.
- Rep. Abrami stated he will do a rough write up on what he thinks staffing should be. He will work on the cost associated with administering this. Cost of prevention and cost of treatment and any additional revenue that the state would want to generate to go into the general fund to fund other stuff. Rep. Abrami will work backward to figure out what

the cost per ounce should be. With the acknowledgment that we don't know how many people will leave the illegal market and come into the legal market. Estimate of cost will say what ballpark we will be in. What the tax will be is a legislative decision, a roadmap.

- C. Lear stated one thing that stands out to me is the price per ounce may go down in a world where we might want to note that other states around us are legal and may effect price.
- Rep. Abrami - per meeting we said we wanted a free market where it would.
- C. Lear - Not sure what legalized price would look like.
- Rep. Abrami - good source of pricing from audience.
- Audience Member - have it evaluated in the New England market. Evaluate the prices in the region so we can get the market we have lost. Indoor grow seasons are quite good. Our market share is high. With prices you are not going to have that right now. There isn't a state price per ounce.
- Audience member – I will tell you in the beer world capacity drives pricing. When you have excess product the price drops significantly.
- Audience member stated in the legal market the per-ounce ranges from \$325 to \$350. The black market per-ounce ranges from \$200 to \$250.
- Rep. Abrami noted that he would think the current black market comes from other states.
- Audience member - Cannabis has gone main stream. The market has settled. If you want to curb the black market then we, NH, always need to be a little cheaper.
- Rep. Abrami – This is a dynamic problem, the market is going to change and the conditions are going to change. Compared it to casino gambling when more competition occurs. Understating how to cover our base cost. Advisory committee to be reappointed every two years. As well as a commission to give guidance to commission.
- Glassman - Is there an economist hired by the state that could do the dynamic analysis on estimated tax revenues?
- C. Lear - No there is not.
- Rep. Abrami - It is about supply and demand. We tax at the wholesale level - at the cultivation level- that wouldn't be necessarily price sensitive. Beer tax is price per gallon and not necessarily price of product. However, liquor is per the price. Maybe we need to have a tiered system.
- Audience member – The tax should be per-pound.
- Audience member – If you are going to tax the wholesale level you have to tax it by a % because when the price drops the tax will be reduced to make the product affordable.
- Audience member discussed different types of marijuana and their types based on potency as well as how to tax based on potency.
- C. Lear – It sounds like what we are hearing is a counter argument in favor of a retail sales tax. I think many of those differences in the products will be captured in what is paid by the consumer and will probably cost more on the market. Attorney Twomey had asked me if we could compare a tax at the wholesale level versus a retail tax. I didn't think we could because it would be very hypothetical because we didn't know how many license and retail shops there would be. What I did do was take a look at the

number of people functionally administering the tobacco tax at the wholesale level versus the M&R tax, which is a retail tax. Just to give you a sense of scale and scope. The tobacco tax has 200 licensees and essentially 2 full time auditors that are responsible for administering the tax and supported partially by the Collections Division. For the M&R tax there are approximately 9,500 licenses, so significantly more. Our Collections Division administering this tax which includes 11 employees with the addition of 1 to 1.5 auditors. There is an upscale to administer a retail tax from a wholesale. However, I don't think it is as high as one would think. Also to note our administrative resources have little to do with revenue generating and more to do with the number of licenses, more auditing and compliance.

- Audience member - In the NH beer world it operates similar to tobacco. It is a wholesale tax that is done monthly and fairly accurately. I do believe a wholesale model is a better model than the retail model.
- Dr. Hannon - If we are trying to compete with the black market one thing to do would be to keep the retail price down. If we require all retailers to file monthly then that will be an added expense that will flow into the price. We need to keep it as simple as possible at the wholesale level. As far as keeping it to a set price per pound you know your revenue is consistent versus having a % per pound you revenue will fluctuate. I am not sure which one we should do. If revenue is such a big concern and we have certain things the legislature wants to do with this revenue then they need to have consistency. We need some consistency and reality based numbers.
- C. Lear – I suspect that is why some states have a retail and wholesale tax, to capture the market fluctuation while maintaining some stability.
- Rep. Abrami - Not 100% consensus either way. We still have to remember the retail tax could be a constitutionality issue. I will write both sides in the report.
- Dr. Hannon - You could avoid the constitutionality issue by taxing at wholesale level.

Misc. Discussion:

- K. Frey discussed how there will be different studies showing different sides in the report. She will have a summary on each side with pros and cons.
- K. Fray requested they review a handout on SUD Treatment Demographics across the System from DHHS.
- A. Shockley discussed the document and stated that the data is ¾ of a fiscal year and is based only on the treatment admissions of the primary substance of use choice. The caveat is this does not capture multiple substances where marijuana is used and the data is only for NH state funded programs, where only two of the programs reported on the specific substance.
- K. Fray – I think this would be useful in the report.
- D. Hannon - It doesn't count the private facility numbers. The marijuana numbers only have two youth places. The number, percentage wise is high. However, if you compared to the State Youth survey you would see that the figures in the report are not significant numbers and doesn't show the true picture or even the whole picture.

- A. Shockley discussed that because there aren't a lot of treatment facilities for youth, most of the kids get sent out of state and the data may not be captured. However, she will look into getting more data and bring back to the commission.
- Dr. Hannon - We have some of this data for other states. We should gather it and keep in the same section of the report.
- Rep. Abrami asked A. Shockley if she would compile it, and she confirmed that she would.
- Re. Abrami - The way it works is you are going to have to sign off on the report. We are still going to state the issue as an issue even if we don't have consensus.
- D. Hannon - We didn't really talk about the societal cost. The cost of currently having marijuana illegal and the cost of decriminalization. Cost of incarceration due to marijuana or prosecution of marijuana. There are estimates out there for the cost of the drug war, but nothing specifically for NH.
- Rep. Abrami - Since decriminalization, there has defiantly been a reduction in the amount of fine revenue for marijuana. Less court time being involved.
- C. Lear – As an Executive Branch Agency, we get this question a lot. If a tax was to be repealed how much would we save? The answer is normally we may not spend any less; we would just refocus our efforts elsewhere. Interesting to know societal impact.
- D. Hannon referenced a report that calculates the current cost of substance abuse per state of \$2.3 billion annually. May have done it for alcohol versus other illicit drugs. He stated he would be happy to write up something concerning this.
- Dr. Glassman - Where is the revenue going to end up? Are we putting this in the report?
- Rep. Abrami - The commission is going to recommend that we will set up a special fund for those revenues. The only way we can protect that fund is to have a constitutional amendment that says this is a fund that will not be tampered with by the legislature. Discussed dedicated funds already established in the state and how they work. The big argument will be is will we be able to fund these programs?
- Audience - the Massachusetts cannabis came out with a report last week requiring the last of the licenses to be on the NH border.
- Ended meeting at 11:31am

Next meeting dates:

- September 24th @ 10:00am
- October 10th @ 10:00am
- October 22nd @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

September 24, 2018 10:00am LOB 202

Twenty Third Meeting – September 24, 2018

Members Present:

- Representative Abrami; Todd Wells, NH Banking Dept.; Representative Seidel; Shaun Thomas sitting in for Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Stuart Glassman, MD, NH Medical Society; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Senator Gannon; Paul Twomey, NH Bar Association; James Vara, NH Attorney General's Office; Representative Bates; Chief Richard Mello, NH Assoc. of Chiefs of Police

Members Not Present:

- Representative Leishman; Senator Lasky; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; John Encarnacao, NH Dept. of Safety (DOS);

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; and others from public were present.

Meeting Discussion:

Rep. Abrami called the meeting to order.

- Todd Wells made a motion to accept the minutes with a correction to change the word “defiantly” to “definitely” on page five. Senator Gannon seconded the motion. Minutes approved unanimously with change.
- Rep. Abrami went through the draft report discussing what needs to be added. He noted that commission members should let him know if anything needs to be added to the report.
- Rep. Abrami stated that he wants the report to be thorough including all items whether consensus was formed or not on an issue. Rep. Abrami stated that if you feel there are errors in the report please let him know. He also noted that J. Foor has been great and a huge help with editing the report.
- Rep. Seidel - Did we mention anything about education and who is specifically tasked with it. Rep. Abrami responded that he will make sure he specifically calls the education portion out. It will also fall under the structure of the cannabis commission.
- A. Shockley - Section 5F, toward the end under application and license fees, talks about the fees offsetting the cost of the education. I wonder if we might call that out in it's own recommendation.

- Rep. Abrami - If there is something really objectionable in the report then please let me know so we can discuss the issue and come to an agreement. Would love for everyone on the commission to sign off on the report in the end.

Cost of Regulation:

- Rep. Abrami – I took a first pass at coming up with the cost to regulate marijuana. I came up with 23 people under the Cannabis Commission, other than the commission chair and the commissioners (three member), then executive director, research would be smallest department. I imagine they would coordinate with other agencies to gather information. We don't want the focus or the drive to do the research to get lost. The way to focus is to have it under the cannabis commission. Question within the licensing side is how many analysts do we need? First year or two of implementation we will probably need to staff up. There will be a bubble, and then the market will settle down and be self-correcting. We will need enforcement, specifically two kinds of enforcement; field enforcement and desk auditors. Unlike alcohol, which is a much larger operation, cannabis will only be sold in retail stores and not in different types of locations. Cannabis enforcement will basically consist of monitoring sites, it should be much smaller than what the liquor commission has to monitor. We are looking at 4 desk auditors and 5 field enforcement officers with subpoena power. On the research side, I would imagine a working director and one or two researchers. Three clerical people would support the commissioners.
- Rep. Abrami - The other part, I am doing with J. Foor, is to find the remaining salaries ranges. We will be working with DAS to get this information. For the salaries I could find I used the midpoint salary range and then verified benefit structure. I calculated salary and benefits up to \$2m, with a total cost of \$2.5m. Using a reasonable tax rate, we are talking \$50m in revenue and that doesn't include the fees for licensing. Even if we double the cost or have less revenue there is still money for prevention and treatment. We could do ranges on both the costs and the revenues to find out the net effect. No matter how we look at it or even if we force it to the extreme, there seems like there is still enough revenue to cover costs and programs. I am open to any suggestions and comments.
- Attorney Twomey - In regards to programs are we going to make a recommendation to fully fund these programs? In terms of some of the other collateral cost, are we going to have a general recommendation to the legislature on how they split up the revenue or will it be in percentages? Rep. Abrami responded that he thinks what you need to say is that there will be enough revenue to have a reasonably good program. We can put a dollar amount on it and say we should spend at least a certain amount of money on programs.
- K. Frey - It sounds like the estimates are direct impacts of the program. There will be department costs and program costs that may have a direct or indirect cost from this. I was wondering where is that going to fall and how is it going to be funded?
- Rep. Abrami - There are a lot of programs in state government that have multiple programs. Whether or not we want to make a direct statement that is open for

discussion. For example, there is a license for testing this would fall under the Department of Agriculture and I think I heard D. Rousseau say it would be manageable under their existing budget. Also, the actual testing will be contracted through firms and not done through the state. Kate, can you help me out and write some of this down. Maybe a catch all statement? K. Fray responded yes.

- Attorney Twomey - My thoughts on that is there are two types of indirect costs, one is agencies. However, my greater concern is at least x% of the revenue should be designated to that as well as the safety part of things. Rep. Abrami stated as well as education and safe use. Rep. Abrami stated an idea would be to allocate up to a certain percentage of revenue. How much was alcohol supposed to be? Answer: 5%
- Rep. Seidel – In theory we should consider a program cost of that program versus having a %. If you want to get something out, and something out fast, you need to have the appropriate amount of money to accomplish the objective. Rep. Abrami responded that his thinking is there will be enough money available between the license fees as well as the taxes.
- Attorney Twomey - I would really like a strong statement to say we have identified the needs and to make sure it doesn't just last for 8 months and then get raided.
- Rep. Abrami - We can do that. I also forgot to note that there are other positions that I have calculated like the direct cost to the Department of Revenue for general administration cost of \$300k. Other agencies, including the state police, will have a cost. We are going to need an enforcement division that will work with the State Police.
- Chief Mello - If we don't take care of a structure for enforcement it will fail. We would hope that any enforcement would be structured very similar to how the liquor enforcement is done, because we cannot handle that piece.
- Attorney Twomey - The issue is that they have to have sworn status and go through training.
- Chief Mello - Do you need a sworn officer to do these types of operations? If we have other issues that crop up or criminal violations and we don't have an enforcement arm that is sworn in it could trickle down.
- Rep. Abrami - I will work with Chief Mello to get the write up correct.

Language for Marijuana Business Location Restrictions:

- Rep. Abrami - When going through the NY report it uses 1000 ft. from schools, however, I believe we discussed in a prior meeting the federal language used for location restrictions on smoking and drugs. K. Frey will get Rep. Abrami the federal language. It includes schools and school properties.
- Sen. Gannon - It doesn't include parks and playgrounds? K. Frey responded I don't think it does.
- Rep. Abrami - We don't have to follow what other states have done we can be more restrictive. We can put that in the report and let the legislature hash it out.
- Attorney Twomey - I don't understand what these things accomplish besides making people feeling good. Rep. Abrami gave an example of what mothers would think about

marijuana being sold close to schools or playgrounds. Attorney Twomey said he has no problem going along with federal law; he just isn't sure what will be accomplished.

Application and License Fees:

- Rep. Abrami discussed table 10 in the draft report, which lists applicant and license fees in the eight states that have legalized and commercialized marijuana. He stated that J. Foor and he will find out what "n/a" means in the table. The table is from the NY report.
- Rep. Abrami discussed table 11 "Recommended Application and License and Publication Fees/Process Timeframe" in the draft report and how it compared to other states in table 10. Rep. Abrami stated before he has this in the report we need to come to terms with what we want to use. He noted he tried to come in at the middle range of the legalized states. He thought it would be incumbent upon us, the commission, to decide what we think the fees should be. We could set fees high in the first year and then look at reducing after the fees after that. We should think about it and get back to each other on what we think is appropriate and reasonable. The one thing he wants to make sure is in the report is that state government is responsive and not delayed when issuing licenses. That we give the agency responsible 180 days to process the application. After that, it would be 90 days. This includes background checks.
- Attorney Twomey - Should the cost of the background check be added? I don't think it is a big cost, but it is something to address.

Legal Possession Quantity of Concentrates:

- Rep. Abrami discussed section C in the report Legal Possession of concentrates and reference table 13 "Possession Limit: Marijuana Concentrate." Nevada is the lowest and Colorado is the highest. Rep. Abrami suggests six grams, somewhere in the middle.
- Rep. Seidel - How do you address potency? Rep. Abrami responded it is not addressed in any other states. We are just mirroring other states. However, I do mention the potency levels in other parts of the report and how contents will be labeled. The group discussed responsible use and how it is laid out in the foreword. As well as how it helps law enforcement.
- K. Fray - I would argue why we wouldn't be consistent with Massachusetts and Maine on the legal possession limits.
- The commission agreed that it would be 5 grams for the possession limit.
- Dr. Glassman - It brings a question on education; there is a lot of education needed to help educate people and fund this.
- Rep. Abrami discussed alcoholism compared to high use of marijuana.
- Attorney Twomey – We could widen the research director job, on the Cannabis Commission, to include research, health, and education.
- Attorney Vara - The only concern I have with that is if we push too much on too few people the job doesn't get done effectively? Rep. Abrami responded that maybe we have high level staff under the director?
- A. Shockley – This will get difficult to manage if all three are spread too thin.

- Dr. Glassman discussed medical marijuana patients switching to legal marijuana for potential medical use and how to educate them.
- Attorney Twomey - How would you structure the education portion? Would it be a stand alone?
- Dr. Glassman -Some type of program and prevention on under age citizens and come up with some type of information person to get the best knowledge out there.
- A. Shockley - When we do targeted campaigns we have focus groups and then we do a targeted media program. Student assistant programs in multiple school settings, and youths at risk programs. Rep. Abrami responded that this is why it needs to be in conjunction with other agencies. I think I might add another leg to this structure.
- Rep. Abrami - Medical vs. Non-medical is getting press lately we will need to address. Concerns with losing customers to MA and ME.

Peer-Reviewed Papers and Studies:

- Rep. Abrami - K. Fray and P. Twomey are doing the pros and cons.
- K. Fray – We have five or six basic categories. The main topics are health, public safety, and economic.
- The group discussed the NY report and how to disqualify non peer-reviewed topics. Summary of author, background and summary on each side if they disagree. What to be included. Dr. Glassman added national agency reports. K. Frey stated national organization, state studies, peer-reviewed, and CDC reports.
- Rep. Abrami - We received a request by Ari Pollack who is a lobbyist at NH Coalition for Responsible Cannabis Legislation to speak today. Would that be okay with everyone? Everyone agreed it was fine.
- A. Pollack, a lawyer and Mike McGuiness, members of the NH Coalition for Responsible Cannabis Legislation, discussed preparing a letter making sure there is responsible marijuana legislation proposed. They do not take a position either pro or against. They are hoping to help avoid pit falls in the market. They can be a resource for helping with the report.
- Rep. Abrami - Who is the NH Coalition for Responsible Cannabis Legislation. Mr. Pollack stated it was formed this summer. Mike has 40 years in industry and recently retired. This group can help how the distribution can be stabilized.
- K. Fray - Do you have a list of the members? A. Pollack responded not right now, but we can get you one.
- Attorney Twomey - If you have specific ideas could you get them to us within the next couple of weeks? A. Pollack responded yes, we were hoping to have a few minutes at your October 10th meeting.
- Rep. Abrami - The commission has spent a lot of time reviewing the eight states that have legalized, as well as their positives and negatives. I would rather you bullet out a few key items and send it to me, then we can make a judgment whether this is something new and I can put you on the agenda.
- Dr. Glassman - Because this is a business related coalition, it is important to discuss the following: if employees have to be drug tested for marijuana, once it is legal, and if they

test positive, the employees are going to run into the Control Substance Act, which federally says employers do not have to honor anything that is illegal federally. This is going to come up. It is important to understand that this won't come up as much on the medical side because people who participate in the cannabis program are so sick or so ill they may not be working. However, if marijuana is legalized you are going to have employee and employer issues that will occur quite a bit. It is going to put employees and employers on different sides on this program.

- K. Fray stated she has heard the same issues.
- Attorney Twomey - Clearly it is going to be an issue and will be a heightened issue once legalized. I am not sure the commission will figure it out.
- Dr. Glassman - I don't think the commission has to figure it out, but just be aware of it because it will increase once marijuana is legalized.
- Dr. Leishman - I agree with Paul that we don't have a solution, but it should be referenced in the report as one of the consequences of legalizing marijuana.
- Rep. Abrami - We moved the next meeting from the 8th to the 10th. Does anyone have a problem meeting at 8:30am instead of 10:00am?
- The commission agreed to move the meeting to 8:30am.
- Meeting adjourned at 11:36am.

Next meeting dates:

- October 10th @ 8:30am
- October 22nd @ 10:00am

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana RSA 318-B:43,
Chapter 235:1, Laws of 2017**

October 10, 2018 8:30AM LOB 201

Twenty Fourth Meeting – October 10, 2018

Members Present:

- Representative Abrami; Senator Lasky; Representative Bates; Representative Seidel; Carollynn Lear, NH Dept. of Revenue Admin. (DRA); David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; Kate Frey, New Futures; Chris Robley, NH Dept. of Safety (DOS); Stuart Glassman, MD, NH Medical Society James Vara, NH Attorney General; Attorney Paul Twomey, NH Bar Association

Members Not Present:

- Todd Wells, NH Banking Dept.
- Representative Leishman
- Senator Gannon
- Chief Richard Mello, NH Assoc. Of Chiefs of Police
- Abby Shockley, NH Dept. of Health and Human Services (DHHS);

Others Present: *Others from public were present*

Meeting Discussion:

Minutes

Minutes Correction: Last page, 4th bullet, comment was made by Rep. Bates, minutes indicate comment was made by Dr. Leishman.

Motion to approve minutes with correction made by Rep. Bates, seconded by Rep. Seidel.

Discussion of Draft Report

Abrami: David Rousseau e-mailed typo/wording type edits. Todd Wells' section has been added to address banking. Added section on roadside testing. Added section starting on Page 13 addressing workplace issues.

Abrami: Points to handout of article from CO U.S. Attorney indicating it's time to pause on marijuana legalization. Perhaps need section discussing Session's memo supplanting Cole memo and the risk that this will become federally enforced.

Kate Frey: Intends to draft a section on vaping and other infused products.

Abrami: Still to come- executive summary.

Seidel: Thinks executive summary should include statement that it is a constantly changing situation requiring ongoing contact and discussions from those same nationwide contacts initially heard from during this Commission.

Abrami: Believes the Marijuana Commission will take the lead on communicating with other states.

Abrami: Licensing section- With online delivery being a possibility, maybe we need a license to permit couriers to deliver the product. Rep. Bates questioned whether we needed a license. Abrami clarified that the issue is that the shipper is likely carrying more than the 1 oz limit for possession.

Abrami: Mirrored current drug-free zones definition for purposes of restricting marijuana businesses locations. Abrami will have researcher look into the last clause relative to school buses. Audience member indicated it was intended to essentially make an entire city a drug free zone.

Dr. Hannon: With felony discussion, did Commission agree to except felony marijuana possession from the prohibition of felons owning marijuana businesses. C. Lear added that maybe it should be time limited. The Commission felt 5 years was a reasonable duration to count felony marijuana possession as a disqualifying felony.

Abrami: Notes license fees added.

Abrami: Drew Commission's attention to Table 18 estimating costs associated with legalization and regulation. Then noted chart on revenues. Noted that even assuming the lowest revenue estimate, revenues would cover the costs estimated in the report. Noted the need to set a level of tax low enough to minimize the impact of the black market.

Kate Frey: Concerned about projections. Noted that retail price has been dropping. Doesn't believe that numbers are realistic on the upper end.

C. Lear: Offered to draft a section to caveat our numbers and flesh out factors that might impact revenue. Noted it might also be helpful to note other state's actual revenue experiences.

Kate Frey: Costs consideration doesn't consider the costs to Safety. Where does responsibility for testing fall? Does Agriculture really only need 1-2 FTEs?

David Rousseau: Testing would be third party so it wouldn't be DAMF performing the testing. Oversight of testing labs would likely be DHHS or the Cannabis Commission.

Kate Frey: We should make clear that testing falls under DHHS. Does cost figure account for increased local law enforcement costs?

Hannon: Isn't enforcement more likely to be done by the Control Commission's enforcement arm?

Robley: Confirmed that generally, enforcement for alcohol currently is undertaken by the Liquor Commission. Liquor Commission has primary responsibility, local and state law enforcement may assist.

Abrami: Yes, there will probably be some indirect costs to other public safety agencies, but how do you estimate? Frey indicated that should be noted in the report.

Rep. Seidel: Noted there was a local opt out. Asked where education costs would live? Abrami indicated that his intent was to split that between Cannabis Commission and HHS. Seidel mentioned potency problem.

Abrami: Commission discussed the potency issue. Commission felt we couldn't legislate overconsumption.

Rep. Seidel: Maybe we should state a standard for potency to weight limitations. Abrami noted that is all part of education.

C. Lear: Noted that Report does strongly note that the Cannabis Commission should follow the issue of potency closely.

Peer Reviewed Articles

Attorney Twomey: Myself and Kate Frey each selected a study on each issue. It's very clear that there is a lack of data and that you can find a study that says anything in this field. Generally, limited studies to peer reviewed in the last 3-4 years. In summary section we note where certain issued are agreed to be inconclusive and certain issues are agreed to be settled.

Kate Frey: In summary section, for example with respect to use by pregnant women, the summary sections noted that this is an area where there is both minimal data but somewhat universal agreement.

Attorney Twomey: On adolescent use, studies show different things depending on how the data is examined and presented. On this kind of issue, myself and Kate Frey draw differing inferences that are not likely be reconciled.

Abrami: Requested Attorney Twomey and Frey to note instances where there was agreement and any take-away conclusions. Report will include the rules and limitations that the Commission selected for choosing the papers that were included in the report.

Rep. Bates: Feels strongly that report should state that there is a lack of data. Commission should make recommendation that data be collected. Emphasized the difference between “research” and data collection. Need to emphasize data collection in the report.

Sen. Lasky: Should report mandate that research be completed and revenue be provided for that purpose?

Abrami: Drew Commission’s attention to Bob Troyer Opinion piece. Piece lists a lot of negatives of legalization.

Attorney Twomey: Notes that statistics in opinion piece were cherry picked and not presented in context.

Abrami: Could we note that Sessions memo means federal prosecution is more likely?

C. Lear: It probably makes sense to include a section on law enforcement generally and how the changing federal position on this issue might impact the likelihood of federal prosecution. Abrami agreed.

C. Lear: Do we anticipate taking a vote at the next meeting? Abrami noted we could have another meeting if we need it but would anticipate taking a vote.

Next meeting dates:

October 22, 2018 @ 10:00 AM

**Commission to Study the Legalization, Regulation, and Taxation of Marijuana
RSA 318-B:43, Chapter 235:1, Laws of 2017**

October 22, 2018 10:00am LOB 202

Twenty Fifth Meeting – October 22, 2018

Members Present:

- Representative Abrami; Senator Lasky; Senator Gannon; Representative Seidel; Representative Bates; Todd Wells, NH Banking Dept.; Shaun Thomas sitting in for Carollynn Lear, NH Dept. of Revenue Admin. (DRA); Stuart Glassman, MD, NH Medical Society; Kate Frey, New Futures; Abby Shockley, NH Dept. of Health and Human Services (DHHS); Paul Twomey, NH Bar Association; James Vara, NH Attorney General's Office; Chief Richard Mello, NH Assoc. of Chiefs of Police; David Rousseau, NH Dept. of Agriculture, Markets and Food (DAMF); Joe Hannon, Appointed by Governor; John Encarnacao, NH Dept. of Safety (DOS)

Members Not Present:

- Representative Leishman

Others Present:

- Melissa Rollins, Clerk; Jennifer Foor, Researcher; Michael Holt, Administrator of the Therapeutic Cannabis Program; and others from public were present.

Meeting Discussion:

Rep. Abrami called the meeting to order.

- J. Encarnacao made a motion to approve the minutes. Rep. Seidel seconded the motion. Minutes approved unanimously with the exception of T. Wells who wished to abstain from voting because he was not present at the prior meeting.
- Rep. Abrami discussed the final draft of the report and noted that A. Shockley, K. Frey, Attorney Twomey, and Dr. Glassman had forwarded comments for discussion today. He also noted that the report would have a table of contents and would list the NY State Report, the Cole Memo, as well as making sure all items get referenced properly.
- Rep. Abrami went through the report, section by section, allowing the commission members to make any comments or suggestions on items they felt needed to be adjusted.

Report Discussion:

Foreword:

- Attorney Twomey had comments in the Foreword to adjust the reference to the Colorado referendum and to strike certain sentences that he felt were not factual. He

also discussed the potency section in the report and how he didn't feel the causation of the potency increase was due to legalization. He felt like the increase in potency has been happening over the last 60 years. He also noted that he felt that, when reading the beginning of the report, it seemed to accentuate the negative side of legalization. He stated there should be a few sentences added, specifically the benefit of legalization and the labeling requirement, essentially making it a safer product than what is on the black market. These sentences would help to balance the foreword.

- Chief Mello noted that on page 2, the 1st paragraph, last sentence, should say "The next step for consideration is full legalization."
- Dr. Hannon stated that on page 2, the 3rd paragraph, he thinks this is not factually correct for 1980 and does not see the correlation of putting it in the report.

Executive Summary:

- Sen. Lasky asked if there should be a footnote as to where these figures came from. Rep. Abrami stated that we would have to do it for the whole report.
- Sen. Gannon asked, "When talking about home grown, should we mention that the Senate voted against it because it wasn't safe or controlled?" Rep. Abrami noted the House also voted against it. Dr. Hannon asked, "Wasn't it voted against because the commission was studying it?" Rep. Abrami stated that we cover the safe and controlled portion in the report.
- Attorney Twomey discussed adding a sentence to say that medical marijuana should not be taxed. Rep. Abrami noted that the entire medical marijuana section had been rewritten by A. Shockley and M. Holt. He noted that eventually the legislature is going to have to address this issue. He also stated that it is strongly stated in the report that on day one they should not make any changes to the therapeutic program.
- There was further discussion on including language about not taxing therapeutic marijuana. The discussion concluded that a sentence will be added about not taxing therapeutic marijuana if Alternative Treatment Center's (ATC) remain standalone centers.
- A. Shockley noted that any changes in the body of the document will need to be reflected in the Executive Summary.

Terminology:

- T. Wells identified a typo on page 14. The word deink should be drink.

Marijuana Still Viewed as Illegal Federally:

- Attorney Twomey discussed a sentence starting with "However" in the first paragraph on page 15. After this discussion the commission agreed to remove the sentence.
- T. Wells had suggested a couple of edits. On page 14, last paragraph, first sentence, the words "not has" should be switched to say "has not". He also noted that when using the abbreviation "U.S." it switches throughout the document to "US" and that this should be consistent. Lastly, he noted that on page 15, first sentence, the word "with" should be changed to "which."

- Attorney Twomey noted that a sentence needed to be added; that even though states have legalized marijuana the federal government has not taken any action against them. Rep. Abrami stated that he can add a sentence that there has been no action taken by the US attorneys around the country. However, he noted that he thinks putting this in there makes it redundant.

Banking:

- T. Wells explained the banking section. No edits were suggested by the commission.

Road Side Driving While Impaired Testing:

- Attorney Twomey noted there should be two points added to this section. One is the key for the near future in funding for drug recognition officer training. Also, he noted, you can still prove impairment without a breathalyzer. There were no objections on this from the commission. Attorney Twomey will send language to Rep. Abrami.

Workplace Issues:

- Dr. Glassman stated there should be an add-on to “Recommendation 2”. He said to copy the last sentence in paragraph 3 and add it to the end of “Recommendation 2.”

Need For Public Education on Marijuana:

- A. Shockley pointed out that the funding estimates were based on the work being done inside DHHS. However, most of the work is done by contracts, with DHHS managing those contracts. She pointed out that one contract for a program can cost \$5 million. She stated that when we get to the cost section, she will discuss it more in detail. She did note that there is normally a big push in the beginning and then the cost levels off.
- Rep. Bates recommended adding in the words “annual cost” to the recommendation.

Need For Research and Data Collection:

- Rep. Bates noted the recommendation makes research and data collection contingent upon legalization. Rep. Bates stated that this should not be contingent upon legalization and that it should happen right away. Rep. Abrami agreed and will adjust the language.

Type of Businesses:

- Rep. Abrami Discussed transportation and internet sales, and how the legislature may need to adjust/modify to include transportation license if they approve internet sales.

Restrictions and Requirements for License:

- The commission had a long discussion on whether they should modify the “Location Restriction”, which matched the federal definition, in the chart to include recreational areas. After a lengthy discussion they decided it should remain the same.
- The commission also discussed “Local Ordinances Beyond those that Apply To All Other Businesses.” Rep. Abrami noted that we are not a local control state and that we probably don’t want towns creating their own rules and regulations for sales. The commission agreed to no change except to change the word “it” in the last sentence to “is.”
- Rep. Bates noted that he doesn’t agree with “Recommendation 17” relevant to marijuana business license and residency restrictions. He feels it is meaningless. He stated that it gives the appearance that it does something, however, it does nothing. Rep. Abrami stated that we decided we would mirror the liquor statute, but he agrees it does nothing.
- Attorney Twomey had a question on “Recommendation 18” relevant to expunging any marijuana-only related felonies greater than five years old from anyone requiring a background check. He was wondering where the 5 years came from. Dr. Hannon said the 5 years was arbitrary and open for suggestions. The commission discussed the current expunging statute and if there was a need for this recommendation or if it should be adjusted. Sen. Gannon, Rep. Bates and Chief Mello thought this recommendation should go away. After continued discussion the commission agreed Rep. Abrami would “water down” the recommendation and change the language to annulment language.

Application and License Fees/Processing Time:

- Attorney Twomey referenced the timeline and asked if it was referring to the initial year or initial year of the program? Rep. Abrami will make sure this statement is clear.

Legal Possession Amounts of Marijuana Flower:

- Dr. Hannon asked if this section was referring to public possession? Rep. Abrami will clarify it is public possession, one ounce.

Limits on Potency of Edibles:

- Rep. Abrami discussed limits and how to enforce these limits.
- K. Frey stated, “We can do this on serving size recommendation. We have an opportunity in NH to come up with something unique to solve this issue. Not solving this is somewhat of a disservice to the residents of NH.” Rep. Abrami responded, “We had an opportunity to address this and we didn’t do it. I am not sure if there is anything we come up with. We can limit the size of the squares but, there is nothing to stop someone from buying lots of these squares at different stores. We have products that you can vape that are stronger than edibles. That is why I made such a strong foreword. Also, other states have allowed these levels of potencies.”

- K. Frey stated that not having these highly potent products available would allow NH to set a precedence.
- A. Shockley stated the public comment was that serving size limits are important.
- Dr. Glassman stated Colorado and California both have 10mg for serving size. He thinks a serving slice might be helpful.
- Attorney Twomey stated he agreed with the doctor, but he didn't think we would be able to resolve it, so we should just let the legislature decide.
- Rep. Abrami said the State should determine the recommended serving size for potency, and that it will be its own recommendation. K. Frey stated, "it doesn't resolve my concerns, but I appreciate the recommendation."

Use of a Unique Marijuana Warning Symbol on Packaging:

- Attorney Twomey suggested changing the language to say "a recognizable symbol" versus "a unique symbol".

Estimated Revenues From Marijuana Taxation:

- C. Lear explained this section and how there are a lot of assumptions made to estimate the revenue. She stated if any of those assumptions changed the revenue estimate would change.
- Rep. Abrami noted that his biggest concern was if we tax at the retail level and that the price of the product will drive the revenue. He said the most stable way to tax it is at a wholesale price, making the revenue less sensitive to price fluctuation.
- Sen. Gannon noted that he thinks the revenue will be less than stated.

Expense of Legalizing and Commercializing Marijuana:

- Rep. Abrami explained the sensitivity analysis done to see if the revenue estimate would cover the legalization expense.
- A. Shockley stated that with DHHS it is less about the full-time equivalent (FTE) positions and more about the dollars going for prevention services. The dollars that are accounted for would go out to vendors and that is not covered in the cost analysis. Rep. Abrami asked if she knew what the figure would be. A. Shockley gave examples of programming cost and said she would prefer to do fiscal note for this rather than throw out a figure. Rep. Abrami noted that he wanted to make sure that her fiscal note was not a wish list and that it would be a reasonable estimate. A. Shockley ensured it would be and said she would get the estimate to him tomorrow.
- K. Frey stated that the cost analysis is an estimate. She stated, "how can we conclude that everything will be covered?" She said we should be looking for agency input.
- A discussion was had about making sure the funds allocated to education and prevention programs were not diverted to other budget items. Attorney Twomey suggested a recommendation that a constitutional amendment be made to safeguard the funds from taxation of marijuana. K. Frey will work with Attorney Twomey to get Rep. Abrami a statement as soon as possible.

Co-Existence of the Therapeutic Cannabis Program and Legal Adult Use:

- M. Holt discussed the rewrite he did to this section. He also noted he adjusted the therapeutic program write up to not have a point of sale tax. He stated this reduces the incentive for actual patients to stay with the therapeutic program and encourages them to move to adult use.
- Attorney Twomey noted that every pharmacy in the State is a for-profit business, but we don't tax the medicine and neither does other state. So why would we tax therapeutic cannabis.
- After discussion the commission agreed to keep the recommendations the same.
- M. Holt noted the importance of seed money allocated by the legislature to prime the pump to get the program going. It is something that other states said was critical and he didn't see anything in the report concerning this.
- Rep. Abrami stated we will emphasize this in the cost section; that there will be cost before any revenues are generated.

Penalties for Violation of Regulations and Laws:

- Attorney Twomey recommended adding sales to minors. Rep. Abrami agreed to add it in.

Final Discussions:

- Rep. Abrami said he will get the edits made to the report by the end of the week. He stated that the commission could meet on Monday and look at the final report or they could weigh in individually. He discussed how the process of signing off on the report worked. He stated that everyone did a great job. He stated that he will add a general consensus statement that the report will move forward, but that everyone does not agree with every recommendation. The position is to not take a position either way.
- Discussion ensued about how to sign off on the report and if the word consensus was too strong. Some members were okay with signing off on their portion of the report, but abstaining from other portions of the report. The commission was undecided as how to proceed.
- Rep. Abrami stated he would email out the final report with a statement that he hopes everyone is comfortable with and can live with. He will try to smooth the bumps the best he can to make certain individuals feel more comfortable. He noted the report needs to be out by the end of the day next Wednesday, the 31st.
- Rick Naya, Executive Director for New Hampshire NORML, member of the audience, stood up and thanked the commission; on behalf of the great citizens of NH, for their hard work and dedication. He is happy to be able to share the final report with his social media followers.
- Rep. Abrami thanked Melissa Rollins and Jennifer Foor for their hard work for the commission.
- Meeting adjourned at 1:53 pm.