



THE CITY OF NEW YORK
INDEPENDENT BUDGET OFFICE

110 WILLIAM STREET, 14TH FLOOR
NEW YORK, NEW YORK 10038
(212) 442-0632 • FAX (212) 442-0350 • EMAIL: iboenews@ibo.nyc.ny.us
<http://www.ibo.nyc.ny.us>

Invited Testimony of Doug Turetsky
To the Public Forum held by State Senator Liz Krueger and Assembly Member Peoples-Stokes
On Evaluating New York's Marijuana Taxation and Regulation Legislation
In a Changing National Climate
December 17, 2014

Good afternoon State Senator Krueger and Assembly Member Peoples-Stokes. I am Doug Turetsky, chief of staff and communications director for the New York City Independent Budget Office. I am joined by Julie Anna Golebiewski, an IBO senior economist. Thank you for the invitation to address this public forum.

IBO was invited to testify today because our most recent edition of [Budget Options for New York City](#) included for the first time an estimation of potential revenue for the city from the legalization of marijuana. Let me note up front that IBO neither supports nor rejects the idea of legalization of cannabis. This is consistent with our approach to the more than 90 other measures contained in the budget options volume. We outline the pros and cons of implementing each of the initiatives contained in the volume along with our estimate of their fiscal impact.

In determining what to include in the annual budget options volume we do take political feasibility into account. The inclusion in this year's report of our estimate of the potential revenue from marijuana legalization is an acknowledgment of an ongoing change in public perception. The discussion of legalization has shifted from political third rail to real world consideration. This change is clearly reflected in the legalization of marijuana in Colorado and Washington and recent votes for legalization in Alaska; Oregon; and Washington, DC. Locally, the de Blasio Administration's decision to issue summonses rather than arrest individuals found with relatively small amounts of marijuana is another indication of the change.

If marijuana was legalized, regulated, and taxed in New York, we estimate this would initially generate about \$25 million in city sales tax revenue, with the potential to increase in future years. This is considerably less than former City Comptroller Liu estimated last year, so I will explain the basis of our approach and some key differences between our estimates.

The bill introduced in the New York State Legislature would levy a \$50 per ounce state excise tax (about 15 percent of the current average street price) and allow localities to impose an additional 5 percent excise tax along with their regular sales tax on retail sales. We assumed New York City would only levy its existing 4.5 percent sales tax on retail sales. We made this assumption after considering two factors: the experience in Colorado, where recreational sales have been legal since January, and the effect of New York's heavy taxes on the sale of cigarettes.

To date, Colorado's tax revenue from retail sales has been less than expected. Well before legalizing recreational sales Colorado had created a legal medical marijuana market, one that is now well-established and relatively

easy to access, with numerous outlets across much of the state. When Colorado implemented recreational sales, it included an additional 10 percent special retail sales tax on these purchases, pushing the cost to purchase through a recreational outlet well above the cost of purchasing through a medical supplier. As a result, many marijuana users who had a medical card had a substantial price incentive to continue purchasing from medical suppliers rather than from recreational retailers.

New York's nascent system for medical marijuana sales pales in comparison to Colorado's. But what New York does already have is a large and well-entrenched black market for cannabis. If taxes push sale prices to an extreme, many users may decide to continue to buy on the black market rather than switch to the legal and regulated market. This is where the experience with cigarette sales figures into our assumptions.

New York State has the highest cigarette taxes in the nation. According to a Tax Foundation report issued earlier this year, about 56 percent of cigarette sales in the state are under the counter —also the highest rate in the nation. Not surprisingly, there is evidence that the market for illegal cigarette sales has grown with the hike in taxes as smokers sought to evade the higher costs.

After looking at what has occurred in so far in Colorado along with New York's own experience in taxing cigarette sales, we thought it made sense to assume the city would levy only its standard retail sales tax. We also assumed that the city's well-established black market for marijuana sales would not just disappear with legalization and that many consumers would continue to buy from them to evade the additional cost of state and local taxes.

In contrast, the report from the Comptroller's office assumed the city would impose local marijuana excise and sales taxes. The report also appears to assume higher levels of consumption and that more consumers will shift to legal, regulated, and taxed sales than IBO expects.

To its credit, the Comptroller's report also took a broader look at the budget-related effects of legalization than we did. The report presented a preliminary estimate of the fiscal impact statewide from legalization and considered not just potential tax revenue but also savings. The savings derive from avoided police, judicial, and correctional spending from marijuana-related arrests and incarcerations. Indirect revenues also would be realized from taxes on salaries from the jobs created in starting a new retail market.

As the Comptroller's report indicates, the potential fiscal impact from legalization is broader than just the sales tax revenue the city could collect from recreational sales. Our estimate of \$25 million just from sales tax revenue is cautious and may be on the lower end of the probable range. But as with many public policy decisions, revenue alone is not the sole test of whether to move forward. There is a human toll involved with current policies. Consider that over a recent 10-year period more than 350,000 New York City residents were arrested for possession of small amounts of marijuana and that blacks and Latinos are arrested at far greater rates than whites. Such factors may be equally or even more important than any calculations of the fiscal effects of legalizing marijuana.

Thank you for the invitation to be here today and we will gladly answer any questions.