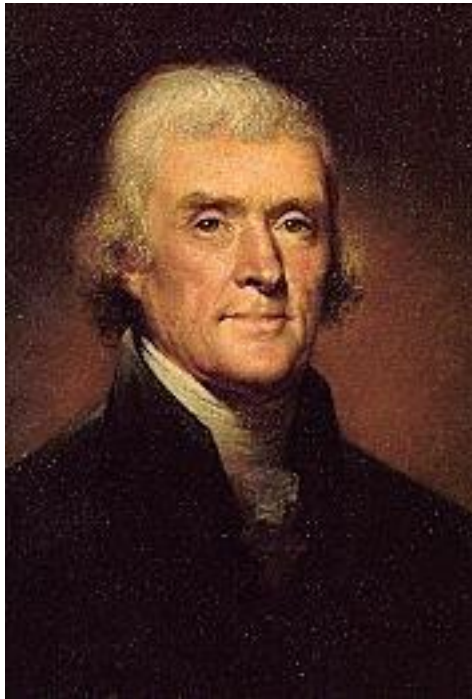


“I know of no safe depository of the ultimate powers of the society but the people



themselves . . .

and if we think them not enlightened enough to exercise their control with wholesome discretion, the remedy is not to take it from them, but to inform their discretion.”

-- Thomas Jefferson



Recreational Marijuana Revenue: From Excise to Property Taxes



kwch.com

Who gets What and How Much?



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Michigan Regulation and Taxation of Marihuana Act Types of Revenue

- Annual Fee
- Provisioning Center Tax
- Sales Tax
- Excise Tax
- Fines
- Property Tax (Real and Personal)



Annual Fee

MCL 333.27956(4)

“A municipality may charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment in the municipality.”



Provisioning Center Tax

MCL 333.27601(1)

A tax is imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts. ...

If a law authorizing the recreational or nonmedical use of marihuana in this state is enacted, this section does not apply beginning 90 days after the effective date of that law.

REPEALED – Effective March 6, 2019.



Sales Tax

Michigan Department of Treasury
Revenue Administrative Bulletin 2018-2
(Updated April 22, 2019)

Six percent (6%) sales tax on the gross proceeds of

“all persons engaged in the business of making sales at retail, by which ownership of tangible personal property is transferred for consideration”



Excise Tax – Ten Percent (10%)

Marihuana Regulation Fund

- 1) All excise taxes and all fees collected.
- 2) State treasurer shall direct the investment of the Marihuana Regulation Fund.
- 3) Treasury Department shall audit the fund.
- 4) Money in the Marihuana Regulation Fund shall not lapse to the general fund.



Excise Tax – Ten Percent (10%)

Marihuana Regulation Fund

- 5) Implementation, Administration, and Enforcement of this act
- 6) \$20 million annually until 2022 or at least two years for Clinical Trials



Excise Tax – Ten Percent (10%)

Marihuana Regulation Fund

Unexpended balances must be allocated as follows:

- a) 15% to municipalities in which a marihuana retail store or microbusiness is located
- b) 15% to counties in which a marihuana retail store or microbusiness is located
- c) 35% to the school aid fund to be used for K-12 education
- d) 35% to the Michigan transportation fund



Fines

Limited amount of revenue to be generated.

Amount depends upon the nature of the offense

\$100

\$500

\$1,000

\$2,000

Michigan Recreational Marihuana Law Penalty Chart

Offense	Penalty
A person who possesses not more than the amount of marihuana allowed, cultivates not more than the amount allowed, delivers without receiving remuneration to a person who is at least 21 years of age not more than the amount allowed, or possesses with intent to deliver not more than the amount allowed by section 5	Civil infraction and may be punished by a fine of not more than \$100 and forfeiture of marihuana
A person who possesses not more than twice the amount of marihuana allowed, cultivates not more than twice the amount of marihuana allowed, delivers without receiving any remuneration to a person who is at least 21 years of age not more than twice the amount of marihuana allowed, or possess with intent to deliver not more than twice the amount of marihuana allowed	<p>First violation: civil infraction and may be punished by a fine of not more than \$1000 and forfeiture of marihuana</p> <p>Second violation: civil infraction and may be punished by a fine of not more than \$1000 and forfeiture of marihuana</p> <p>Third and subsequent violations: misdemeanor and may be punished by a fine of not more than \$2000 and forfeiture of marihuana</p>
A person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants	<p>First violation: civil infraction and may be punished as follows:</p> <ul style="list-style-type: none"> If less than 18 years of age, by a fine of not more than \$100 or community service, forfeiture of marihuana, and 4 hours of drug education or counseling If at least 18 years of age, by a fine of not more than \$100 and forfeiture of marihuana <p>Second violation: civil infraction and may be punished as follows:</p> <ul style="list-style-type: none"> If less than 18 years of age, by a fine of not more than \$500 or community service, forfeiture of marihuana, and completion of 8 hours of drug education or counseling If at least 18 years of age, by a fine of not more than \$500 and forfeiture of marihuana
A person who possess more than twice the amount of marihuana allowed, cultivates more than twice the amount allowed, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marihuana allowed	Misdemeanor but a person shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence



Real Property Taxes

New Construction, Remodel or Rehab

- 1) Land Improvements
- 2) Buildings – Cost less Depreciation
- 3) True Cash Value
- 4) State Equalized Value
- 5) Taxable Value
- 6) Local Millage Rate
- 7) Property Tax Formula:

$$\text{Taxable Value} \times \text{Millage Rate} = \text{Property Tax}$$



Personal Property Taxes

Annual Self Reporting Statement

- 1) Acquisition Cost New of the personal property item in the year in which it was new
- 2) Depreciated Amount – STC Multipliers
- 3) Taxable Value
- 4) Taxable Value x Millage Rate = Property Tax



Personal Property Taxes

The Small Business Taxpayer Exemption (MCL 211.9o)

- 1) Personal property classified as *industrial personal property or commercial personal property* and
- 2) The *combined true cash value* of all industrial personal property and commercial personal property owned by, leased by or in the possession of the owner or a related entity claiming the exemption *is less than \$80,000 in the local tax collecting unit* and
- 3) The property is not leased to or used by a person that previously owned the property or ... under common control with the person that previously owned the property.



Revenue: What to Expect



Marijuana Sales and Revenue Projections

- House Fiscal Agency
- FY 2020 Budget Proposal
- Capital Cannabis Conference (Benzinga)



House Fiscal Agency

- FY 2019-2020
 - \$39 million - excise tax
 - \$23.4 million - sales tax
- FY 2020-21 (First full fiscal year of legal sales)
 - \$81.6 million – excise tax
 - \$49 million – sales tax



House Fiscal Agency

- FY 2021-2022 (“Fully established market”)
 - \$94.9 million excise tax
 - \$57 million sales tax



House Fiscal Agency

- Distribution of revenue (once fully implemented)
 - School Aid Fund: \$74.7 million
 - Transportation Fund: \$33.2 million
 - Counties: \$14.2 million
 - Cities, Villages, Townships: \$19.9 million
 - General Fund (sales tax only): \$9.8 million



FY 2020 Executive Budget Proposal

- \$47.3 million in LARA budget for Marijuana Regulation
 - Includes the \$20 million for Veterans Treatment Research
 - \$22 million for Marijuana Regulatory Agency
 - \$6 million from Marijuana Regulation Fund
- \$20.3 million in distributed to local governments
- \$10 million for general fund reimbursement



Marijuana Program Appropriations, FY 2020

Department	Marihuana Fund	Revenue Source	Purpose/Destination	Legislation	FY 2020 Exec Rec
Attorney General	Marihuana Registry Fund	Fees	Medical Marijuana Program	IL 1 (2008)	\$ 500,000
	Marihuana Regulation Fund	Excise Tax, Fees	Recreational marihuana	IL 1 (2018)	\$ 430,000
Health and Human Services Licensing and Regulatory Affairs	Marihuana Regulatory Fund	Fees, Regulatory Assessments	MMFLTP	PAs 281-283 (2016)	\$ 512,600
	Marihuana Regulatory Fund	Fees, Regulatory Assessments	Substance use disorder services	PAs 281-283 (2016)	\$ 575,000
	Marihuana Registry Fund	Fees	Medical Marijuana Program	IL 1 (2008)	\$ 9,070,800
	Marihuana Regulation Fund	Excise Tax, Fees	Recreational marihuana	IL 1 (2018)	\$ 6,000,000
	Marihuana Regulation Fund	Excise Tax, Fees	Veterans treatment research	IL 1 (2018)	\$ 20,000,000
	Marihuana Regulatory Fund	Fees, Regulatory Assessments	MMFLTP	PAs 281-283 (2016)	\$ 11,690,500
School Aid	Marihuana Regulatory Fund	Fees, Regulatory Assessments	Substance use disorder programs	PAs 281-283 (2016)	\$ 500,000
	Marihuana Regulation Fund	Excise Tax (35%)	K-12 Education	IL 1 (2018)	\$ 23,625,000
	-	Sales Tax (6%)	School Aid Fund	PAs 281-283 (2016)	\$ 13,900,000
	-	Sales Tax (6%)	School Aid Fund	IL 1 (2018)	\$ 43,300,000
State Police	Marihuana Regulation Fund	Excise Tax, Fees	Recreational marihuana	IL 1 (2018)	\$ 3,000,000
	Marihuana Regulatory Fund	Fees, Regulatory Assessments	MMFLTP	PAs 281-283 (2016)	\$ 6,100,000
Transportation	Marihuana Regulation Fund	Excise Tax (35%)	Michigan Transportation Fund	IL 1 (2018)	\$ 23,625,000
Treasury	Marihuana Regulation Fund	Excise Tax (30%)	Distribution to counties and cities	IL 1 (2018)	\$ 20,250,000
	Marihuana Regulation Fund	Excise Tax, Fees	Recreational marihuana	IL 1 (2018)	\$ 3,632,200
Treasury: Revenue Sharing	Marihuana Regulatory Fund	Fees, Regulatory Assessments	MMFLTP	PAs 281-283 (2016)	\$ 310,000
	-	Sales Tax (6%)	Constitutional Revenue Sharing	PAs 281-283 (2016)	\$ 1,900,000
	-	Sales Tax (6%)	Constitutional Revenue Sharing	IL 1 (2018)	\$ 5,900,000
General Fund	-	Sales Tax (6%)	General Fund	IL 1 (2018)	\$ 9,800,000
General Fund	-	Sales Tax (6%)	General Fund	PAs 281-283 (2016)	\$ 3,200,000
General Fund	Marihuana Regulation Fund	Excise Tax	General Fund - Start-up cost reimbursement	IL 1 (2018)	\$ 10,000,000
Total					\$ 217,821,100

MMFLTP = Medical Marijuana Facilities, Licensing, and Tracking Program

Recreational marihuana = Implementation, administration, and enforcement of IL 1 of 2018



FY 2021 Executive Budget

- \$21.9 million for Marijuana Regulatory Agency
- \$20 million for Veterans Treatment Research
- \$36.9 million distributed to local governments



Other Projections

- Benzinga Cannabis Capital Conference
 - Project sales to exceed \$2 billion
 - \$200 million excise tax
 - \$120 million sales tax
- Anderson Economic Group
 - Project sales to reach \$1.4 billion
 - \$140 million excise tax
 - \$84 million sales tax



Timing

- When might communities see revenue?
 - Governor's budget proposal includes \$20.3 million to be distributed to local governments for FY 2019-2020.
 - FY 2020-2021: \$36.9 million
- No detail as of yet on exact timing of distributions
 - Possibly with other revenue sharing disbursements



Recreational Marijuana National Context



Comparing Michigan to Others: 2024

1. California - \$7.23 billion
2. Colorado - \$2.05 billion
3. Florida - \$1.9 billion
4. New York - \$1.66 billion
5. Michigan - \$1.48 billion



Marijuana is tough to forecast

- Huge variability in actual revenue compared to forecasted
 - Nevada: 40% higher than projected revenue in first 6 months following legalization
 - California: 45% lower than projected revenue in first 6 months following legalization



Table 1

Tax Rates on Legalized Recreational Marijuana by State, as of February 2019

State	Cultivator excise tax	Retail excise tax	General sales tax
Alaska*	\$50 per ounce, mature bud and flower \$25 per ounce, immature or abnormal bud \$15 per ounce, remainder of plant \$1 per clone	n/a	n/a
California¹	\$9.25 per ounce on flowers \$2.75 per ounce on leaves \$1.29 per ounce on fresh cannabis plant	15 percent	7.25 percent
Colorado²	15 percent	15 percent	n/a
Maine³	\$335 per pound of flower or mature plant \$94 per pound of trim \$1.50 per immature plant or seedling \$0.30 per seed	10 percent	n/a
Massachusetts¹	n/a	10.75 percent	6.25 percent
Michigan[#]	n/a	10 percent	6 percent
Nevada^{**}	15 percent	10 percent	6.85 percent
Oregon^{††}	n/a	17 percent	n/a
Washington^{††}	n/a	37 percent	6.5 percent

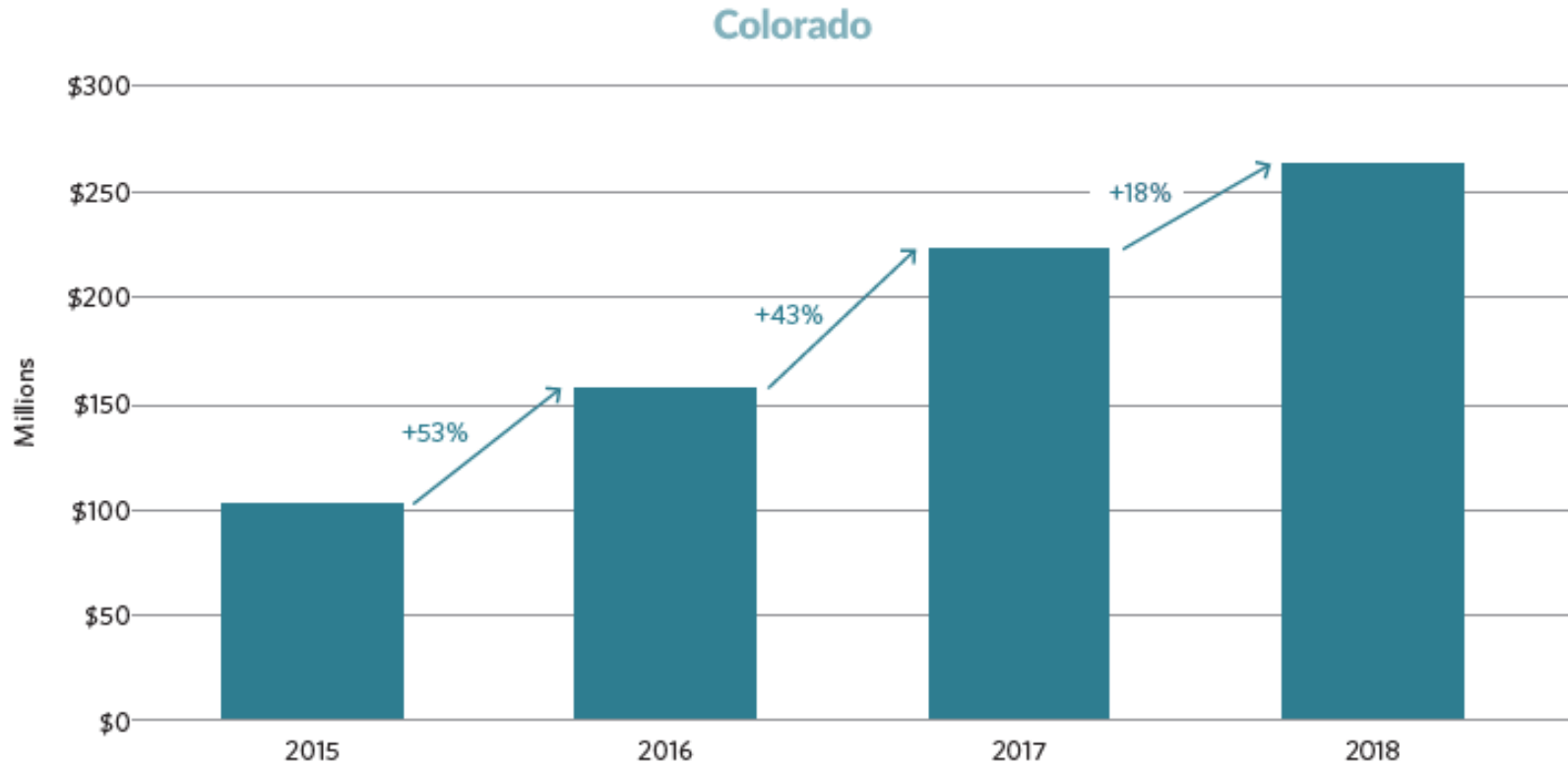


Projection Challenges

- Measuring Marijuana use is difficult to measure accurately
- Estimating demand
- Price fluctuations
- Market friction
- Sales across borders
- Long term growth



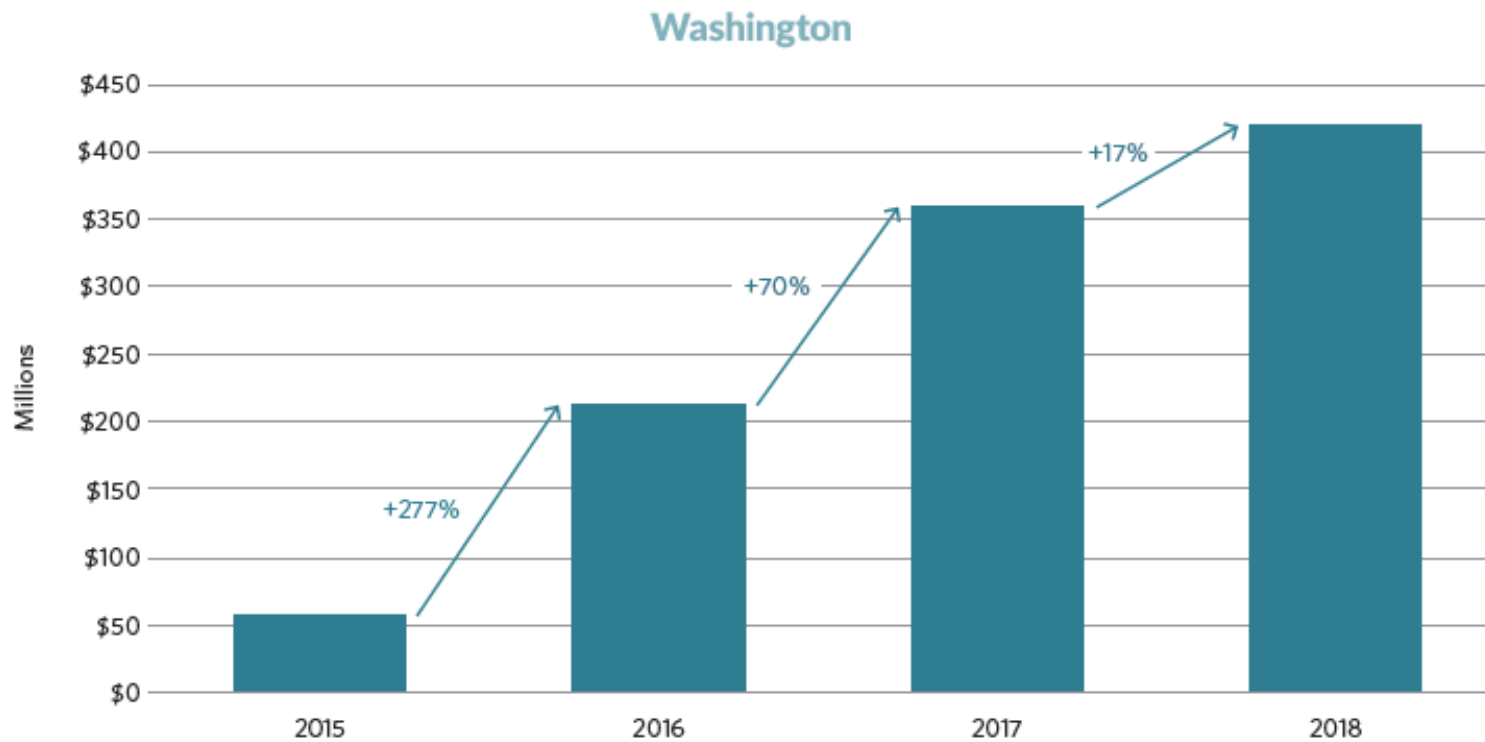
Tax collections from legalized recreational marijuana, FY 2015-2018



Source: Colorado Department of Revenue

© 2019 The Pew Charitable Trusts





Source: Washington Department of Revenue

© 2019 The Pew Charitable Trusts



Dealing with uncertainty

- Don't assume growth will be sustainable
- Don't plan for large, long-term expenditures to be funded by marijuana revenue
- Look at revenue from other “sin taxes”



Costs

- Colorado 2017-2018
 - \$12.8 million on licensing, regulation, and enforcement
- Local costs
 - Unclear due to lack of information
 - Illinois Law Enforcement savings



Marijuana Banking

- Some banks and credit unions in Michigan are banking money from marijuana businesses
 - But they aren't broadcasting this widely
- Treasury Financial Crimes Enforcement Network
 - Cole Memo
- To date, DOJ has not taken any action against a financial institution for marijuana banking activity since the rescission of the Cole Memos.



Marijuana Banking

- July 2019 US Treasury Update
 - 553 Banks providing services to marijuana businesses
 - 162 credit unions
 - https://www.fincen.gov/sites/default/files/shared/287473_3Q_FY2019_Marijuana_Banking_Update_Public.pdf
- SAFE Banking Act
 - Secure and Fair Enforcement Banking Act
 - Awaiting vote in U.S. House
 - House Resolution 101 (Michigan) adopted



Summary

- Excise tax will be primary source of revenue for local governments
- Distribution difficult to predict because of multiple factors
- Most predict a fairly robust marijuana economy in Michigan
- Don't count on revenue to solve budget problems



Questions?

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