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MEMORANDUM

TO: The Honorable Bill Stoltze, Chair
Senate State Affairs Committee

DATE: February 4, 2015

FROM: Governor's Legislative Office

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SUBJECT: Ballot Measure 2: Implementation Priorities for AS 17.38

The Walker administration is committed to responsible government; it supports the will of the people as it was demonstrated by passage of ballot measure 2. It anticipates that the legislature and the regulatory board will develop laws and with the public's input, regulations, that will:

- Keep marijuana away from underage persons;
- Protect public health and safety;
- Respect privacy and constitutional rights;
- Prevent illegal sales and export of marijuana, and marijuana products.

In keeping with these goals, the administration offers the following suggestions for the legislature and regulatory board to consider, as they move forward in their respective roles implementing ballot measure 2:

Definitions.

The initiative contains several definitions that need careful consideration to ensure that they are consistent with the intent of the voters, are accurate, complete, and consistent with public safety. For example, "Public" could be defined as it is in AS 11.81.900(53), to ensure consistency of application with our criminal enforcement statutes. "Marijuana" should be defined in way that is consistent with the voter's intent as expressed in the initiative. The definition of "marijuana products" could be expanded to include maximum THC content per application or serving, and to address not only products that are made in a marijuana facility, but to exclude products that are augmented with marijuana after they have been manufactured and packaged elsewhere. "Edibles" could be defined to exclude any products that could reasonably be interpreted as appealing to children. Clear statutory definitions would assist the regulatory process and allow other, specific aspects of manufacture and packaging that are properly the subject of regulations to have the benefit of the public notice and comment procedure.

Public Education.

Experience in other states has shown that informing the public about this new industry is critical to ensuring public safety. Colorado has offered to make available to us their "Good to Know" public awareness campaign. The legislature should consider accepting this generous offer, and should consider providing the resources required to implement it as soon as practicable.

Licensing.

The legislature may want to consider setting out with particularity, license types, qualifications for licensing, and applicable limitations and exclusions, as it has done under the Alcoholic Beverages statutes, AS 04.06.010 - 04.21.010. Among the issues it may consider are whether licenses should be awarded based on merit, emphasizing safety and experience, or a lottery or population-based calculation, which could be seen as a fairer system.

Board Structure.

Regulating this new industry will outstrip the resources of the current ABC board. Consideration should be given to creating a separate marijuana control board, which would share a single expanded staff with the ABC board. This structure would capture the economies of a common and highly experienced administrative support staff, while permitting sufficient separation of interest among the board members to ensure attentive regulation of each industry. Maintaining two entirely separate boards with separate staffs and budgets, is not a viable option in the current economic climate, and would leave the marijuana control board without the considerable experience that the ABC Board has, in regulating intoxicating products.

Enforcement.

Consider clarifying the scope of authority that the regulatory board has over marijuana enforcement including authority to assess fines, penalties, and late fees. The alcohol statute sets out the scope of the ABC board's enforcement authority in specific terms, addressing violations by licensees and unlicensed persons, but similar language is lacking in the initiative. The legislature may consider whether the marijuana regulatory board should have dedicated enforcement officers, as well as the scope of their powers to issue citations for enumerated violations.