

**03/29/14
HEARING ON
MINIMUM WAGE
AND MARIJUANA
INITIATIVES,
JOINT WITH
SENATE
JUDICIARY
COMMITTEE**

<TARGET><BILL></BILL><SUBJECT>01-29-14 HEARING ON
MINIMUM WAGE AND MARIJUANA INITIATIVES, JOINT WITH SENATE
JUDICIARY COMMITTEE</SUBJECT><COMM>HJUD28</COMM></TARGET>

INITIATIVE PETITION BILL LANGUAGE

by Petition Sponsors

A Bill Increasing Alaska's Minimum Wage

Proposed Bill:

FOR AN ACT ENTITLED "An Act increasing the Alaska minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016 and thereafter adjusted annually for inflation."

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA

Section 1. Findings and Declaration

The people of the State of Alaska find and declare that:

- (a) An increase in Alaska's minimum wage will help ensure a minimum standard of living for the health and well being of every Alaskan,
- (b) Alaskans working full-time at the current minimum wage earn far below the federal poverty level for a family of three,
- (c) The U.S. West Coast states of Washington, Oregon, and California already have a higher minimum wage than the State of Alaska,
- (d) A fair minimum wage indexed to the cost of living will help low-income workers keep pace with inflation.

Section 2. Purpose

The purpose and intent of enacting this legislation is to raise Alaska's minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation.

Section 3. AS 23.10.065(a) is repealed and reenacted to read:

(a) Except as otherwise provided for in law, an employer shall pay to each employee a minimum wage, as established herein, for hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise. An employer may not apply tips or gratuities bestowed upon employees as a credit toward payment of the minimum hourly wage required by this section. Tip credit as defined by the Fair Labor Standards Act of 1938 as amended does not apply to the minimum wage established by this section. Beginning with the passage of this Act, the minimum wage shall be \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016 and thereafter adjusted annually for inflation. The adjustment shall be calculated each September 30, for the proceeding January-December calendar year, by the Alaska Department of Labor and Workforce Development, using 100 percent of the rate of inflation based on the Consumer Price Index for all urban consumers for the Anchorage metropolitan area, compiled by the Bureau of Labor Statistics, United States Department of Labor; the department shall round the adjusted minimum hourly wage up to the nearest one cent; the adjusted minimum hourly wage shall apply to work performed beginning on January 1 through December 31 of the year for which it is effective.

Section 4. If the minimum wage determined under Section 3 is less than one dollar over the federal minimum wage, the Alaska minimum wage shall be set at one dollar over the federal minimum wage. This amount shall be adjusted in subsequent years by the method established in Section 3.

**Estimate of Costs to the State of Alaska for the Implementation
of the Minimum Wage Increase Ballot Initiative AS 23.10.065(a)**

Multi-Agency Cost Summary

Agency	Cost
Alaska Department of Labor and Workforce Development	\$2,083
Office of the Lieutenant Governor	\$9,000
Office of the Lieutenant Governor- Division of Elections	\$71,257
TOTAL	\$82,340

Estimate of costs to the Alaska Department of Labor and Workforce Development

As required by AS 15.45.090(a)(4), the Alaska Department of Labor and Workforce Development (DOLWD) has prepared the following statement of costs to implement the proposed minimum wage increase ballot initiative. The minimum cost to the Alaska Department of Labor and Workforce Development, excluding legal costs to the state, is estimated to be \$2,083.

The ballot initiative replaces the current minimum wage, which under AS 23.10.065(a) is set at \$.50 higher than the federal minimum wage. The initiative calls for a minimum wage increase to \$8.75 as of January 1, 2015 and \$9.75 as of January 1, 2016. After 2016, the initiative establishes that the minimum wage shall be adjusted for inflation on an annual basis and that the minimum wage shall remain at least \$1.00 higher than the federal minimum wage.

There is insufficient data to establish certain cost estimates associated with minimum wage increases as a result of the initiative. Currently, there would be no impact on wages paid to employees of the State of Alaska; however, it is unknown what if any effect the minimum wage increase may have on services contracted by the State of Alaska to private entities.

The quantifiable expenses caused by the ballot initiative adjustments to minimum wage are associated with publications produced by the DOLWD to notify employers and employees of legal requirements that include the minimum wage. The estimated yearly cost for all publications associated with annual adjustments to minimum wage is \$2,083. The annual estimated expenses for publications would begin in FY2015.

5,000 posters – “Summary of Wage and Hour Act”:	\$308
5,000 “Know Your Rights” child labor brochures:	\$525
<u>1,500 “Alaska Fishing Industry” brochures:</u>	<u>\$1,250</u>
Total	\$2,083

Estimate of costs to the Office of the Lieutenant Governor and the Division of Elections

As required by AS 15.45.090(a)(4), the Alaska Office of the Lieutenant Governor has prepared the following statement of costs to implement the proposed minimum wage increase ballot initiative.

Office of the Lieutenant Governor

Assuming the initiative is placed on the ballot, the minimum cost to conduct public hearings concerning the initiative in two communities in each of four judicial districts is estimated to be \$9,000.

Lt. Governor's Office estimate by category

<u>Travel</u>	<u>\$ 9,000</u>
Total	\$ 9,000

Estimated travel expenses include round-trip air transportation, per diem and other associated travel costs for the Lieutenant Governor and staff to travel to seven communities in Alaska: It is assumed one of the hearings would be in Anchorage which would not involve travel costs.

Division of Elections

As required by AS 15.45.090(a)(3), the Division of Elections has prepared the following statement of costs to implement the proposed minimum wage increase ballot initiative.

The minimum cost to the Division of Elections associated with certification of the initiative application and review of the initiative petition, excluding legal costs to the state and the costs to the state of any challenge to the validity of the petition, is estimated to be \$71,257.

Elections estimate by category

Personal Services	\$69,957
<u>Services</u>	<u>\$ 1,300</u>
Total	\$71,257

Personal services expenses associated with certification of the initiative application and review of the initiative petition:

Three full-time employees at 522 hours is \$29,200

8 temporary employees at 2,520 hours is \$40,757

Services expenses associated with certification of the initiative application and review of the initiative petition:

Printing of booklets is \$1,300.

“An Act to tax and regulate the production, sale, and use of marijuana.”

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

*Section 1. AS 17 is amended by adding a new chapter to read:

Chapter 38. The regulation of marijuana

Sec. 17.38.010. Purpose and findings.

(a) In the interest of allowing law enforcement to focus on violent and property crimes, and to enhance individual freedom, the people of the state of Alaska find and declare that the use of marijuana should be legal for persons 21 years of age or older.

(b) In the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that:

(1) Individuals will have to show proof of age before purchasing marijuana;

(2) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and

(3) Marijuana sold by regulated businesses will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The people of the state of Alaska further declare that the provisions of this Act are not intended to diminish the right to privacy as interpreted by the Alaska Supreme Court in *Ravin v. State of Alaska*.

(d) Nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, or exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law.

Sec. 17.38.020. Personal use of marijuana.

Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and shall not be a criminal or civil offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law:

(a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

(b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown;

(c) Transferring one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration;

(d) Consumption of marijuana, except that nothing in this chapter shall permit the consumption of marijuana in public; and

(e) Assisting another person who is 21 years of age or older in any of the acts described in paragraphs (a) through (d) of this section.

Sec. 17.38.030. Restrictions on personal cultivation, penalty.

(a) The personal cultivation of marijuana described in AS 17.38.020(b) is subject to the following terms:

(1) Marijuana plants shall be cultivated in a location where the plants are not subject to public view without the use of binoculars, aircraft, or other optical aids.

RECEIVED

APR 16 2013

ABSENTEE

(2) A person who cultivates marijuana must take reasonable precautions to ensure the plants are secure from unauthorized access.

(3) Marijuana cultivation may only occur on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property.

(b) A person who violates this section while otherwise acting in compliance with AS 17.38.020(b) is guilty of a violation punishable by a fine of up to \$750.

Sec. 17.38.040. Public consumption banned, penalty.

It is unlawful to consume marijuana in public. A person who violates this section is guilty of a violation punishable by a fine of up to \$100.

Sec. 17.38.050. False identification, penalty.

(a) A person who is under 21 years of age may not present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent or not actually the person's own, for the purpose of:

(1) Purchasing, attempting to purchase or otherwise procuring or attempting to procure marijuana or marijuana products; or

(2) Gaining access to a marijuana establishment.

(b) A person who violates this section is guilty of a violation punishable by a fine of up to \$400.

Sec. 17.38.060. Marijuana accessories authorized.

Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law for persons 21 years of age or older to manufacture, possess, or purchase marijuana accessories, or to distribute or sell marijuana accessories to a person who is 21 years of age or older.

Sec. 17.38.070. Lawful operation of marijuana-related facilities.

(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a retail marijuana store, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) Possessing, displaying, storing, or transporting marijuana or marijuana products, except that marijuana and marijuana products may not be displayed in a manner that is visible to the general public from a public right-of-way;

(2) Delivering or transferring marijuana or marijuana products to a marijuana testing facility;

(3) Receiving marijuana or marijuana products from a marijuana testing facility;

(4) Purchasing marijuana from a marijuana cultivation facility;

(5) Purchasing marijuana or marijuana products from a marijuana product manufacturing facility; and

(6) Delivering, distributing, or selling marijuana or marijuana products to consumers.

(b) Notwithstanding any other provision of law, the following acts, when performed by a marijuana cultivation facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana cultivation facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Cultivating, manufacturing, harvesting, processing, packaging, transporting, displaying, storing, or possessing marijuana;
- (2) Delivering or transferring marijuana to a marijuana testing facility;
- (3) Receiving marijuana from a marijuana testing facility;
- (4) Delivering, distributing, or selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store;
- (5) Receiving or purchasing marijuana from a marijuana cultivation facility; and
- (6) Receiving marijuana seeds or immature marijuana plants from a person 21 years of age or older.

(c) Notwithstanding any other provision of law, the following acts, when performed by a marijuana product manufacturing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana product manufacturing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products;
- (2) Delivering or transferring marijuana or marijuana products to a marijuana testing facility;
- (3) Receiving marijuana or marijuana products from a marijuana testing facility;
- (4) Delivering or selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility;
- (5) Purchasing marijuana from a marijuana cultivation facility; and
- (6) Purchasing of marijuana or marijuana products from a marijuana product manufacturing facility.

(d) Notwithstanding any other provision of law, the following acts, when performed by a marijuana testing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana testing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering marijuana;
- (2) Receiving marijuana or marijuana products from a marijuana cultivation facility, a marijuana retail store, a marijuana products manufacturer, or a person 21 years of age or older; and
- (3) Returning marijuana or marijuana products to a marijuana cultivation facility, marijuana retail store, marijuana products manufacturer, or a person 21 years of age or older.

(e) Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this section.

(f) Nothing in this section prevents the imposition of penalties upon marijuana establishments for violating this chapter or rules adopted by the board or local governments pursuant to this chapter.

(g) The provisions of AS 17.30.020 do not apply to marijuana establishments.

Sec. 17.38.080. Marijuana Control Board.

At any time, the legislature may create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development or its successor agency to assume the power, duties, and responsibilities delegated to the Alcoholic Beverage Control Board under this chapter.

Sec. 17.38.090. Rulemaking.

(a) Not later than nine months after the effective date of this act, the board shall adopt regulations necessary for implementation of this chapter. Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include:

- (1) Procedures for the issuance, renewal, suspension, and revocation of a registration to operate a marijuana establishment, with such procedures subject to all requirements of AS 44.62, the Administrative Procedure Act;
- (2) A schedule of application, registration and renewal fees, provided, application fees shall not exceed \$5,000, with this upper limit adjusted annually for inflation, unless the board determines a greater fee is necessary to carry out its responsibilities under this chapter;
- (3) Qualifications for registration that are directly and demonstrably related to the operation of a marijuana establishment;
- (4) Security requirements for marijuana establishments, including for the transportation of marijuana by marijuana establishments;
- (5) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21;
- (6) Labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment;
- (7) Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;
- (8) Reasonable restrictions on the advertising and display of marijuana and marijuana products; and
- (9) Civil penalties for the failure to comply with regulations made pursuant to this chapter.

(b) In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.

Sec. 17.38.100. Marijuana establishment registrations.

(a) Each application or renewal application for a registration to operate a marijuana establishment shall be submitted to the board. A renewal application may be submitted up to 90 days prior to the expiration of the marijuana establishment's registration.

(b) The board shall begin accepting and processing applications to operate marijuana establishments one year after the effective date of this act.

(c) Upon receiving an application or renewal application for a marijuana establishment, the board shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the local government in which the applicant desires to operate the marijuana establishment, unless the local government has not designated a local regulatory authority pursuant to AS 17.38.110(c).

(d) Within 45 to 90 days after receiving an application or renewal application, the board shall issue an annual registration to the applicant unless the board finds the applicant is not in compliance with regulations enacted pursuant to AS 17.38.090 or the board is notified by the relevant local government that the applicant is not in compliance with ordinances and regulations made pursuant to AS 17.38.110 and in effect at the time of application.

(e) If a local government has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek registrations, the board shall solicit and consider input from the local regulatory authority as to the local government's preference or preferences for registration.

(f) Upon denial of an application, the board shall notify the applicant in writing of the specific reason for its denial.

(g) Every marijuana establishment registration shall specify the location where the marijuana establishment will operate. A separate registration shall be required for each location at which a marijuana establishment operates.

(h) Marijuana establishments and the books and records maintained and created by marijuana establishments are subject to inspection by the board.

Sec. 17.38.110. Local control.

(a) A local government may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or by a voter initiative.

(b) A local government may enact ordinances or regulations not in conflict with this chapter or with regulations enacted pursuant to this chapter, governing the time, place, manner and number of marijuana establishment operations. A local government may establish civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local government.

(c) A local government may designate a local regulatory authority that is responsible for processing applications submitted for a registration to operate a marijuana establishment within the boundaries of the local government. The local government may provide that the local regulatory authority may issue such registrations should the issuance by the local government become necessary because of a failure by the board to adopt regulations pursuant to AS 17.38.090 or to accept or process applications in accordance with AS 17.38.100.

(d) A local government may establish procedures for the issuance, suspension, and revocation of a registration issued by the local government in accordance with (f) of this section or (g) of this section. These procedures shall be subject to all requirements of AS 44.62, the Administrative Procedure Act.

(e) A local government may establish a schedule of annual operating, registration, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a local government in accordance with (f) of this section and a registration fee shall only be due if a registration is issued by a local government in accordance with (f) of this section or (g) of this section.

(f) If the board does not issue a registration to an applicant within 90 days of receipt of the application filed in accordance with AS 17.38.100 and does not notify the applicant of the specific, permissible reason for its denial, in writing and within such time period, or if the board has adopted regulations pursuant to AS 17.38.090 and has accepted applications pursuant to AS 17.38.100 but has not issued any registrations by 15 months after the effective date of this act, the applicant may resubmit its application directly to the local regulatory authority, pursuant to (c) of this section, and the local regulatory authority may issue an annual registration to the applicant. If an application is submitted to a local regulatory authority under this paragraph, the board shall forward to the local regulatory authority the application fee paid by the applicant to the board upon request by the local regulatory authority.

(g) If the board does not adopt regulations required by AS 17.38.090, an applicant may submit an application directly to a local regulatory authority after one year after the effective date of this act and the local regulatory authority may issue an annual registration to the applicant.

(h) A local regulatory authority issuing a registration to an applicant shall do so within 90 days of receipt of the submitted or resubmitted application unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made

pursuant to (b) of this section in effect at the time the application is submitted to the local regulatory authority. The local government shall notify the board if an annual registration has been issued to the applicant.

(i) A registration issued by a local government in accordance with (f) of this section or (g) of this section shall have the same force and effect as a registration issued by the board in accordance with AS 17.38.100. The holder of such registration shall not be subject to regulation or enforcement by the board during the term of that registration.

(j) A subsequent or renewed registration may be issued under (f) of this section on an annual basis only upon resubmission to the local government of a new application submitted to the board pursuant to AS 17.38.100.

(k) A subsequent or renewed registration may be issued under (g) of this section on an annual basis if the board has not adopted regulations required by AS 17.38.090 at least 90 days prior to the date upon which such subsequent or renewed registration would be effective or if the board has adopted regulations pursuant to AS 17.38.090 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.100.

(l) Nothing in this section shall limit such relief as may be available to an aggrieved party under AS 44.62, the Administrative Procedure Act.

Sec. 17.38.120. Employers, driving, minors and control of property.

(a) Nothing in this chapter is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this chapter is intended to allow driving under the influence of marijuana or to supersede laws related to driving under the influence of marijuana.

(c) Nothing in this chapter is intended to permit the transfer of marijuana, with or without remuneration, to a person under the age of 21.

(d) Nothing in this chapter shall prohibit a person, employer, school, hospital, recreation or youth center, correction facility, corporation or any other entity who occupies, owns or controls private property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

Sec. 17.38.130. Impact on medical marijuana law.

Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient or medical marijuana caregiver under AS 17.37.

Sec. 17.38.900. Definitions.

As used in this chapter unless the context otherwise requires:

(1) "Board" means the Alcoholic Beverage Control Board established by AS 04.06.

(2) "Consumer" means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by persons 21 years of age or older, but not for resale to others.

(3) "Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

(4) "Local government" means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities.

(5) "Local regulatory authority" means the office or entity designated to process marijuana establishment applications by a local government.

(6) "Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(7) "Marijuana accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(8) "Marijuana cultivation facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

(9) "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

(10) "Marijuana product manufacturing facility" means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

(11) "Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(12) "Marijuana testing facility" means an entity registered to analyze and certify the safety and potency of marijuana.

(13) "Retail marijuana store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

(14) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

*Sec. 2. AS 43 is amended by adding a new chapter to read:

Chapter 61. Excise tax on marijuana

Sec. 43.61.010. Marijuana tax.

(a) An excise tax is imposed on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. Every marijuana cultivation facility shall pay an excise tax at the rate of \$50 per ounce, or proportionate part thereof, on marijuana that is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility.

(b) The department may exempt certain parts of the marijuana plant from the excise tax described in (a) of this section or may establish a rate lower than \$50 per ounce for certain parts of the marijuana plant.

Sec. 43.61.020. Monthly Statement and Payments.

(a) Each marijuana cultivation facility shall send a statement by mail or electronically to the department on or before the last day of each calendar month. The statement must contain an account of the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities in the state during the preceding month, setting out

- (1) the total number of ounces, including fractional ounces sold or transferred;
- (2) the names and Alaska address of each buyer and transferee; and
- (3) the weight of marijuana sold or transferred to the respective buyers or transferees.

(b) The marijuana cultivation facility shall pay monthly to the department, all taxes, computed at the rates prescribed in this chapter, on the respective total quantities of the marijuana sold or transferred during the preceding month. The monthly return shall be filed and the tax paid on or before the last day of each month to cover the preceding month.

Sec. 43.61.030. Administration and Enforcement of Tax.

(a) Delinquent payments under this chapter shall subject the marijuana cultivation facility to civil penalties under AS 43.05.220.

(b) If a marijuana cultivation facility fails to pay the tax to the state the marijuana cultivation facility's registration may be revoked in accordance with procedures established under AS 17.38.090(a)(1).

***Sec. 3.** The provisions of this Act are independent and severable, and, except where otherwise indicated in the text, shall supersede conflicting statutes, local charter, ordinance, or resolution, and other state and local provisions. If any provision of this Act, or the application thereof to any person or circumstance, is found to be invalid or unconstitutional, the remainder of this Act shall not be affected and shall be given effect to the fullest extent possible.

**Estimate of Costs to the State of Alaska for the Implementation of the Initiative Proposing
an Act to “tax and regulate the production, sale, and use of marijuana.”**

Summary

As required by AS 15.45.090(a)(4), the State of Alaska has prepared the following statement of costs resulting from the implementation of the proposed ballot initiative to tax and regulate the production, sale, and use of marijuana.

The initiative would legalize the personal use of marijuana for persons age 21 or older. Specifically, the statute would permit: the possession, use, display, purchase, or transportation of marijuana accessories or one ounce or less of marijuana; the possession, growth, processing, or transporting of no more than six marijuana plants (with three or fewer being mature, flowering plants) and possession of the marijuana on the premises where the plants were grown; the transfer of one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration; the consumption of marijuana in a non-public location; and assisting another person who is 21 years of age or older in any of the above activities.

The initiative would also impose certain restrictions and penalties on the personal cultivation and public consumption of marijuana as well as prohibit the use of false identification by a person under the age of 21 to purchase or attempt to purchase marijuana. It would allow for the manufacture, possession, purchase, distribution and sale of marijuana accessories as well as the lawful operation of marijuana-related facilities such as retail stores and cultivation facilities.

The initiative requires the Alcoholic Beverage Control Board (ABC) in the Department of Commerce, Community and Economic Development (DCCED) to adopt regulations to implement the law no later than nine months after the initiative is approved. However the legislature may create a Marijuana Control Board in DCCED to assume the ABC's regulatory role. Marijuana establishments must be registered and local governments could prohibit or limit the existence of and operations of marijuana facilities in their jurisdiction.

The initiative also imposes a \$50 per ounce (or proportionate part) excise tax on the sale and transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. The tax would be paid by the marijuana cultivation facility.

Based on examination of Washington and Colorado, two states that are currently in the process of implementing similar legislation, the Governor, the Legislature, or the ABC Board may choose to establish a Task Force to represent the major stakeholders affected by the implementation of the initiative. An estimate of the potential costs for the Task Force are included under the DCCED cost statement beginning on page 3. This would be an effective method to facilitate an expedient and comprehensive gear-up of the tax and regulatory framework described or established in the initiative.

There are numerous unknowns in the State's implementation of this initiative and as such the cost statement provided here is illustrative. For example, it is unknown whether or not the legislature will create a Marijuana Control Board within DCCED, so the cost estimates do not reflect that potential administrative structure. Using information available from the Colorado and Washington experiences as well as other sources, state agencies have identified a range of potential costs to the

state from \$3.7 to \$7.0 million in the first year. It is likely that costs related to development of the tax and regulatory framework would initially be significant. Over the longer term, it would be expected that more of the state's total costs would become public health and education activities as the extent of the impact on public health becomes more defined.

Below is a summary table of agency costs followed by explanations of the estimates by individual agency. The following represents a potential range of state agency costs. The estimate does not include expenses that the legislature may or may not incur associated with the initiative, or any legal expenses that the state may incur as a result of the initiative.

Summary of estimated costs to implement the Marijuana Initiative by State Agency

Agency	Cost Range - First Year	
Alaska Department of Revenue	\$650,000	\$800,000
Alaska Department of Commerce, Community and Economic Development	\$1,563,960	\$1,563,960
Alaska Department of Health and Social Services	\$0	\$2,987,000
Alaska Department of Public Safety	\$1,434,700	\$1,434,700
Alaska Department of Environmental Conservation	\$0	\$136,900
University of Alaska	indeterminate	--
Office of the Lieutenant Governor	\$9,000	\$9,000
Division of Elections	\$71,257	\$71,257
Total First Year Estimated Cost	\$3,728,917	\$7,002,817

Statement of Cost Estimates by Department

Estimate of costs to the Alaska Department of Revenue to implement the marijuana initiative

\$650,000 - \$800,000

If this initiative is approved by the voters in the August 2014 primary election, it would require DOR to incur additional costs to effectively implement it. If approved, it is presumed that this initiative would take effect thirty days after approval by a majority of qualified voters.

The estimated cost to the state for the implementation of this initiative is between \$650,000 and \$800,000. Recurring annual costs are estimated at approximately \$300,000.

The estimated costs can be broken down into two categories:

Personnel Services:	\$300,000
<u>Contractual Services:</u>	<u>\$350,000-\$500,000</u>
TOTAL	\$650,000-\$800,000

Personnel - DOR estimates that it will need to create at least three new positions to oversee the new excise tax imposed by this initiative at a cost of approximately \$300,000 to assist with the administration and collection of a new excise tax. DOR would need at least one Tax Auditor III position, one Tax Technician II position, and one Investigator III position to fulfill the needs of a

new tax program. This cost is similar to the cost that is currently incurred by DOR to administer other similar types of excise taxes, and would be recurring annual costs for DOR.

Contractual Services - DOR estimates that it will incur a one-time additional expense of approximately \$500,000 for systems configuration. In August 2014, DOR will be complete with configuring the excise tax portion of its new Tax Revenue Management System (TRMS). If this initiative is approved by the voters, it will require DOR and its information system contractors to reconfigure the system to add this new excise tax. Given the limited timeframe to analyze what portions of the system would need to be reconfigured if the initiative passed, DOR's contractors have supplied an estimate of \$350,000 to \$500,000 for this effort.

The above cost estimates represent a minimum cost given the numerous uncertainties around the referendum, and what all of the effects of its passage would be.

**Estimate of costs to the Alaska Department of Commerce, Community and Economic
Development to implement the marijuana initiative \$1,563,960**

The following represents an estimated cost to DCCED given the language of the ballot initiative; the actual costs will likely be different. The estimate does not include expenses the legislature or other departments may incur associated with the initiative. The Washington and Colorado marijuana initiative cost estimates were reviewed in developing this cost analysis.

If the initiative is approved by voters in the August 2014 primary election, the State of Alaska, through the Alcoholic Beverage Control (ABC) Board, shall adopt regulations within nine months following the effective date, as required by AS 17.38.090. It is presumed that the initiative would take effect thirty days after the approval by a majority of qualified voters.

A local government may designate a local regulatory authority that would be responsible for processing applications submitted for the operation of a marijuana establishment within the boundaries of the local government. If the ABC Board fails to adopt regulations as outlined in the initiative, an applicant may submit an application directly to a local regulatory authority one year after the effective date of the law. In accord with AS 17.38.110, a local government may prohibit cultivating, manufacturing, testing, and selling marijuana through an ordinance or voter initiative. Local governments may also enact local ordinances or regulations for the governance of marijuana establishment operations as long as they are not in conflict with the initiative or regulations enacted pursuant to the initiative.

If the initiative passes, the responsibility for controlling marijuana will lie with the ABC Board until or unless a marijuana control board is established by the legislature within DCCED.

As was done in the state of Colorado following the passage of a similar initiative, the department recommends the creation of a Task Force to identify legal, policy, and procedural issues that need to be resolved, and to offer suggestions and proposals for legislative and executive action for the implementation of this initiative. The Task Force would need to complete its initial regulatory framework within four months of the effective date of the initiative to allow for the adoption of regulations within the nine month requirement. The remaining Task Force work would be concluded one year after the effective date of the initiative.

It is assumed that the Task Force would be comprised of a total of 17 uncompensated members representing interest groups affected by the ballot initiative: four Legislators, one each from the majority and minority of both the House and Senate; one Commissioner or their Designee from each agency affected by this initiative (DCCED, Public Safety, Health and Social Services, Environmental Conservation, Revenue, Law, Corrections and the University of Alaska); one member of the initiative campaign; one member of the public who represents the medical industry; and three members of the public at-large, with one representing rural Alaska. Task Force members will receive travel and per diem. The actual composition of the Task Force may be different. The estimated total cost to DCCED for the implementation of this initiative is \$1,563,960 for the first year and \$1,413,140 for the second year.

	<u>First Year</u>	<u>Second Year</u>
Business Registration Examiners, Range 13 C - 2 at \$73,000 each		\$146,000
Investigator IIIs, Range 18 C - 4 at \$99,300 each		\$397,200
Investigator IV, Range 20 C		\$110,000
Administrative Officer I, Range 17 C		\$86,000
Program Coordinator II, Range 20 C	\$107,800	\$107,800
Total Personal Service Costs	\$107,800	\$847,000
Board member/Staff travel and per diem		\$85,900
Informants/underage buyers (compliance check) travel, pay, and per diem		\$34,000
Task Force travel and per diem	\$16,600	
Total Travel and Per Diem Costs	\$16,600	\$119,900
ABC Board Warning/Enforcement Signs	\$2,000	\$2,000
Envelopes	\$800	\$800
Forms	\$1,500	\$1,500
Postage	\$2,000	\$2,000
Office Space 160 sq. ft. per employee at \$3 foot	\$5,760	\$51,840
Ongoing support services for new employees	\$10,000	\$90,000
One-time set up costs for new positions	\$5,000	\$40,000
Total Equipment, Office Space, and Supplies Costs	\$27,060	\$188,140
Task Force recommendations contract funds	\$650,000	
Department of Law Assistant Attorney General Services	\$62,500	\$62,500
Department of Law for expedited regulations	\$200,000	
Database Creation	\$500,000	
Database Maintenance		\$50,000
Vehicles 4 at \$33,500		\$134,000
Vehicle Operating and Maintenance at \$240 per month		\$11,600
Total Contracts and Services Costs:	\$1,412,500	\$258,100
Total Costs:	\$1,563,960	\$1,413,140

Personal Services

All positions within the ABC Board are currently performing at or above capacity. With the passage of the initiative, the workload of the ABC Board has the potential to double or triple. If doubled, the ABC Board would require an additional four investigators, one supervisor, and two business registration examiners to regulate the marijuana industry, similar to the duties of current staff that regulate the liquor industry. The addition of an Administrative Officer I would be necessary to support the added financial requirements. A Program Coordinator II would be necessary for the facilitation, coordination, and documentation of the Task Force and for the long-term program development, planning, coordination, and oversight of this complex program.

Travel and Per Diem

Board

If the ABC Board of Directors takes on the added responsibility of controlling the cultivation, manufacture, barter, possession, and the sale of marijuana, the current board meetings would be extended by one day, adding to the cost of lodging, ground transportation, and per diem.

Investigations

Investigators and underage buyers will travel to communities around the state to provide compliance checks and ensure retailers adhere to the laws and regulations of the program, similar to liquor industry compliance investigations.

Task Force

The Task Force will hold seven two-day meetings, with two face-to-face meetings in Anchorage and the rest conducted either by video or teleconference; this assumes ten members are located outside Anchorage.

Equipment, Office Space, and Supplies

Equipment and supply costs includes new employee set up, warning signs, test kits, paper products, postage, and additional office space.

Contracts and Services

Contract costs are for studies on market demand, effects of marijuana, and the cost of production. Regulations will need to be in place nine months after the effective date of this initiative and will require extensive work with the Department of Law. There will be significant ongoing work required by the Department of Law to meet the demands of this new program, similar to the legal demands of the liquor industry.

A new database would require the analysis and development of business rules, analysis of existing systems for parallel processes or required modifications, new system development, testing, validation, implementation, and documentation.

Vehicles

Additional vehicles are required to perform investigations across the state.

**Estimate of costs to the Alaska Department of Health & Social Services
to implement the marijuana initiative**

\$0 - \$2,987,000

As written, the initiative primarily focuses on the process and procedures necessary to establish taxation and regulation of the production, sale, and use of marijuana; the actions addressed in the initiative will not directly impact or cost the Department of Health and Social Services in the establishment of these procedures and regulation development.

However, there is evidence that downstream health and social service consequences of implementing this initiative could be significant. The department has prepared an estimate based on research, other states' experiences, and an extrapolation of expenses the department incurs providing similar substance related services. The fiscal impact will directly relate to how many additional people begin using marijuana and how many current users increase their use.

To evaluate costs, the department has considered recent studies including Proceedings of the National Academy of Science,¹ and the United Nations Office on Drugs and Crime, *Cannabis: A Short Review*.²

These studies note emerging findings on the harmful effect of cannabis on neuropsychological functioning data indicating cannabis is linked to addiction, cognitive impairment, motor skills deficiency, respiratory, cardiovascular and mental health problems, and has been shown to be particularly damaging to maturing brains.

The consequences and outcomes of marijuana use create a significant potential for increased costs for physical and behavioral health care, child welfare services, educational systems, employers, public safety, criminal justice, community health and other aspects of state and local governments. For instance, legalization of marijuana may create an environment in which young people, in particular, perceive a lower risk of harm from marijuana use, resulting in increased use.³

According to Robert Morrison, Executive Director of the National Association of State Alcohol and Drug Abuse Directors (NASADA), Alaska has one of the highest use rates of marijuana at 11%, along with Vermont. He also highlights that an estimated 4.4 million individuals, nationwide, met criteria for marijuana dependence or abuse.⁴

While actual increases in health and social service programming are unknown, research and data provide a clear picture of the potential for increased problems associated with the legalization of marijuana. In states where medical marijuana is legal, marijuana abuse and dependence rates are almost twice as high as in those states without medical marijuana.⁵ Two states that have recently

¹ Persistent cannabis users show neuropsychological decline from childhood to midlife. Meier, Madeline H., Caspi, Avshalom, et al. Proceedings of the National Academy of Science. Published online August 27, 2012

² Cannabis: A Short Review, Discussion Paper from the United Nations Office on Drugs and Crime. 2012.

³ Trends in Adolescent Substance Use and Perception of Risk from Substance Use. The NSDUH Report; from the Substance Abuse and Mental Health Services Administration (SAMHSA) and the National Survey on Drug Use and Health. January 3, 2013.

⁴ Marijuana Regulation: Considerations from State Substance Abuse Agency Directors. A presentation to the National Conference of State Legislatures (NCSL), Spring Forum. Robert Morrison, Executive Direction, NASADAD. May 3, 2013.

⁵ Toolkit for States Facing "Medical" Marijuana & Marijuana Legalization Initiatives. Community Anti-Drug Coalitions of America (CADCA). Summer 2012.

legalized marijuana, Washington and Colorado, report difficulty determining the potential costs. Results of a recent report to estimate the fiscal impact of marijuana legalization in Colorado were inconclusive and four national marijuana-policy experts wrote that “the future holds more unknowns than knowns.”

The Division of Juvenile Justice has identified several areas in which costs could increase. Making possession of marijuana an offense that can be committed by minors but not adults creates a new status offense that is subject to specific rules governing the secure holding of juveniles. Violation of those rules could jeopardize federal funding currently received through the U.S. Office of Juvenile Justice and Delinquency Prevention. The initiative could also require increased treatment for substance abuse and mental health issues among youth held in detention.

With this very brief overview of concerns about increased marijuana use and legalization, the department anticipates potential costs to DHSS in the following areas, with estimates of per annual cost increases:

- Increased substance use, dependency and addictions treatment: \$200,000 or a 10% increase in treatment services for marijuana dependence;
- Increased mental health treatment services: \$1.1 million or a 5% increase in mental health treatment services;
- Increased physical health services through public health and our primary care providers: \$400,000;
- Increased Medicaid costs to cover treatment and service needs: \$27,000 or a 10% increase in current marijuana treatment services covered by Medicaid;
- Increased enforcement of marijuana access by youth (similar to our current tobacco enforcement efforts). This expenditure will be determined upon the process developed for retail sale of marijuana: \$140,000 or a potential 20% increase;
- Increased prevention, education and early intervention programs for adolescents and young adults: 10% community grant increase and 20% ASAP service increase = \$390,000 + \$250,000;
- Increased child protection services for young children in homes with regular and persistent marijuana users (second hand marijuana smoke, neglect), and training for foster parents and staff: \$250,000;
- Increased juvenile justice services for youth engaged in marijuana use and dependency \$200,000; and
- Potential Human Resource activities related to employee use of marijuana and related policies \$30,000.

Estimated annual potential cost increases to the Department of Health and Social Services resulting from the legalization of marijuana are \$2,987,000. As indicated, these are estimates based on projected impacts; depending on the actual regulations, enforcement, and number of citizens who increase their use of marijuana, actual costs are likely to be different.

**Estimate of Costs to the Alaska Department of Public Safety
to implement the marijuana initiative**

\$1,434,700

The ballot initiative would tax and regulate marijuana sales and allow Alaskans to cultivate marijuana for personal use. Persons 21 years of age or older could legally possess up to one ounce of

marijuana or six marijuana plants (three of which could be mature), and could legally cultivate, sell and purchase marijuana through authorized marijuana-related facilities.

The cost to DPS to implement the law proposed by this initiative is based on the following assumptions regarding the legalization of marijuana in Alaska: it will lead to increased demand and usage and a consequent increase in the number of people driving while under the influence of this drug, and it will increase the illegal diversion and exportation of marijuana lawfully cultivated in Alaska.

Therefore, the costs to DPS are associated with the following:

1. Increasing the number Statewide Drug Enforcement Unit trooper investigators to target the diversion and exportation of marijuana lawfully grown in Alaska;
2. Requiring more troopers to receive Drug Recognition Expert (DRE) certification to enhance their ability to detect drivers impaired by marijuana and address the anticipated increase in DUI offenses;
3. Launching a public education and awareness campaign on the dangers of driving under the influence of marijuana; and
4. Increasing the number of samples being sent out for toxicology analysis to detect the presence of marijuana in blood.

Division of Alaska State Troopers:

Marijuana is identified as a primary substance of abuse in Alaska, along with alcohol, cocaine, heroin, and prescription drugs. These substances are the focus of most drug enforcement efforts in Alaska.

DPS' Division of Alaska State Troopers (AST), Alaska Bureau of Investigation, Statewide Drug Enforcement Unit (SDEU) provides a leadership role in coordinating law enforcement's efforts to reduce the availability of illegal alcohol and controlled substances (including marijuana) throughout Alaska. The SDEU primarily supports six investigative drug task forces throughout Alaska. These teams are broken down by region as follows:

- Alaska Interdiction Task Force/Anchorage Enforcement Group (sponsored by the U.S. Drug Enforcement Administration)
- Fairbanks Area-wide Narcotics Team
- Mat-Su Narcotics Enforcement Team
- South Central Area-wide Narcotics Team
- Southeast Alaska Cities Against Drugs Task Force
- Western Alaska Alcohol and Narcotics Team

SDEU participates with and receives assistance from several federal investigative agencies involved in drug enforcement. These agencies include: the Drug Enforcement Administration (DEA);

Federal Bureau of Investigation (FBI); U.S. Postal Inspection Service; Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE); and U.S. Immigration and Customs Enforcement (ICE).

The DEA awarded \$80,000 in Marijuana Eradication grant funds to the State of Alaska in calendar year 2012. These funds were used to cover some of the costs associated with marijuana eradication in the state. In calendar year 2012, funds were shared with the Anchorage, Craig, and Kenai police departments to cover overtime incurred by officers involved in eradication operations. The following table reports the activities supported through this grant:

2012 Domestic Cannabis Eradication/Suppression Statistical Report for Alaska								
Total Eradicated Outdoor Grow Sites	Total Cultivated Plants Outdoor	Total Eradicated Indoor Grow Sites	Total Cultivated Plants Indoor	Total Cultivated Plants (Outdoor & Indoor)	Bulk Processes Marijuana	Number of Arrest	*Assets Seized (Value)	Weapon Seizure
3	113	62	4,270	4,383	203	76	\$36,077	74

**Assets seized include paraphernalia items such as grow lights and digital scales and does not include marijuana plants.*

Given that marijuana is illegal under federal law, legalization of marijuana in Alaska will have an impact on the collaborative working relationships DPS has with its federal counterparts and could potentially affect federal grant funds DPS and local law enforcement agencies receive for marijuana eradication and suppression efforts.

Should this initiative become law, it is practical to assume that arrests for simple possession will decrease. Even so, drug enforcement efforts are primarily targeted at individuals engaged in commercially cultivating and trafficking marijuana.

It is likely that sales of marijuana will not only be conducted by legitimate, taxpaying business people, but by criminal actors as well. Due to more potent levels of tetrahydrocannabinol (THC) in Alaskan-grown marijuana, the out of state demand for the drug is significant, and legalization could increase opportunities for marijuana export. AST predicts illegal commercial marijuana growing operations will continue to exist to meet this demand, skirting taxes and regulation in order to make the maximum profit. In addition, allowing the operation of marijuana cultivation facilities as proposed by the initiative actually increases the opportunity for Alaska's "legally grown" marijuana to be illegally diverted and exported.

DPS would require at least three additional Alaska State Trooper positions to target the illegal diversion and exportation of marijuana lawfully cultivated in Alaska. These positions would also work with DCCED's Alcoholic Beverage Control (ABC) board investigators on investigations into criminal activity associated with regulation of the marijuana industry.

The first year cost of three new trooper investigator positions is \$827,200; \$594,400 for ongoing funding to cover personal services, travel, training, and supplies (base increment), and \$232,800 to cover training at the academy, IT equipment, portable radios, office equipment, firearms and vehicles (one-time funding).

Though arrests for simple possession may decrease, the greater availability of marijuana will likely increase the number of adults consuming marijuana and the frequency with which it is consumed; consequently, the number of individuals driving under the influence of marijuana is expected to increase. Current practice is to administer standardized field sobriety tests to individuals suspected of driving under the influence (DUI). There is currently no chemical test that can be used in the field to detect marijuana impairment; the taking of a blood sample for purposes of determining the presence of a controlled substance (including marijuana) must be conducted at a medical facility.

To quickly and proficiently recognize the signs of marijuana impairment in drivers who are contacted, DPS proposes that more troopers become certified as drug recognition experts. A drug recognition expert (DRE), sometimes referred to as a drug recognition evaluator, is a police officer trained to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol. Training and certification requirements are established by the International Association of Chiefs of Police and the National Highway Traffic Safety Administration. The cost for this training is approximately \$2,500 per trooper.

Finally, DPS would launch a major public education and awareness media campaign focused on the dangers of driving under the influence of marijuana, similar to its current drunk driving and seat belt use campaigns. Using current media campaign expenditures as a base, the production and advertising costs for a DUI campaign focused on marijuana impairment are estimated to be \$500,000 per year for television, radio, print, and internet advertising.

Scientific Crime Detection Laboratory:

The DPS Scientific Crime Detection Laboratory (SCDL) provides drug identification services to Alaska's law enforcement agencies through its controlled substances section. Forensic scientists in the section analyze evidence items and conclusively identify a controlled substance or perform sufficient analysis to determine that no controlled substances are present.

Drug evidence submitted to the section can be analyzed through a variety of methods that include preliminary testing combined with confirmatory testing. Preliminary testing can include color testing, microcrystalline microscopic analysis, or physical identification of a tablet using a reliable source. The confirmation of the presence of a controlled substance is performed through one of two confirmatory tests, gas chromatography/mass spectrometry (GC/MS) or infrared spectrophotometry.

Following analysis, a forensic scientist interprets the instrumental data and prepares a report of his/her findings. This report is used in criminal court proceedings and often the forensic scientist is asked to provide expert testimony to the courts.

Marijuana, a schedule VIA controlled substance under AS 11.71.190, is commonly submitted by law enforcement agencies to the crime lab. Drug paraphernalia such as pipes and digital scales are also frequently submitted to the crime lab for analysis. Forensic scientists may also be called upon to analyze samples for federal agencies operating within Alaska for substances controlled under the federal Controlled Substances Act, which includes marijuana.

The crime lab seldom analyzes personal use quantities of marijuana. Rather, the evidence being submitted to the crime lab is indicative of distribution (trafficking) level quantities. As AST predicts

that illegal commercial marijuana grow operations will continue despite any legalization of marijuana-related facilities, such as marijuana cultivation facilities and marijuana retail stores, the SCDL does not anticipate a decrease in submissions of evidence.

Alaska does not currently have an in-house drug toxicology program. The SCDL has a contract with the Washington State Patrol Toxicology Laboratory in Seattle for toxicology services and sends samples there for drug analysis. Based on the anticipated increase in marijuana impaired driving, DPS estimates that an average of 150 additional samples will be sent out for analysis each year. At an average cost of \$300 per sample, the increase in contract costs would be \$45,000 per year.

The estimated total cost to DPS for the implementation of this initiative is \$1,434,700 for the first year and \$1,201,900 for the second year. Following is a summary of the estimated costs:

	First Year	Second Year
Three Trooper Investigator Positions	\$594,400	\$594,400
One-time position costs (academy training, IT equipment, office equipment, firearms, and vehicles)	\$232,800	\$0.0
Total Personal Service Costs	\$827,200	\$594,400
Marijuana DUI Media Campaign (production and advertising)	\$500,000	\$500,000
DRE Certification (\$2,500/trooper x 25 troopers annually)	\$62,500	\$62,500
Contractual increase for toxicology services (\$300/sample x 150 additional samples)	\$45,000	\$45,000
Total Contracts and Services Costs	\$607,500	\$607,500
TOTAL COSTS	\$1,434,700	\$1,201,900

Estimate of costs to the Alaska Department of Environmental Conservation to implement the marijuana initiative **\$0 - \$136,900**

The ballot initiative legalizes marijuana for use by persons 21 years of age and older. Section 17.38.080 states that the Department of Commerce, Community, and Economic Development (DCCED) may create a Marijuana Control Board; otherwise, the powers, duties, and responsibilities fall to the Alcoholic Beverage Control Board, located in the DCCED.

Normally, under AS 17.20, the DEC has responsibility to regulate food and food products. Marijuana or its derivatives, if considered a food, would fall under those provisions. However, under 17.38.090 of the proposed law, responsibility for regulating marijuana, including creating labeling requirements and health and safety regulations for the manufacture of marijuana, lies with the Alcoholic Beverage Control Board.

If additional food establishments were opened to create marijuana products (such as marijuana bakeries, etc.) along with additional food facilities opening up in the state, the Food Safety and Sanitation Program within DEC will need an additional Environmental Health Officer III position

in Anchorage to review sanitation plans and conduct sanitation inspections for the increased number of facilities. If there is an increase in facilities, DEC anticipates needing one full time position at a total cost of \$136,900 (includes personal services, travel, contractual and supply expenses).

The estimates are done based on the cost during FY14 and do not reflect inflationary increases that will occur during the years it takes for this legislation to be passed, regulations to be written, and individuals to set up grow operations and potential food establishments. The cost will likely increase in future years.

**Estimate of costs to the University of Alaska
to implement the marijuana initiative**

Indeterminate

The University of Alaska has examined the initiative and due to the uncertainty around the initiative cannot provide a definitive estimate of the costs that it would incur at this time. However, should the initiative become law, it will directly impact the University's primary population – its students.

Areas of potential costs include but are not limited to:

As with Colorado and Washington, education will be needed for students, faculty, and staff about how the initiative would change University policies regarding possession or use of drugs on campus.

The Clery Act includes requirements for education on drug effects. The University would need to adjust its Clery documents, and there would potentially be some production costs associated with that effort. Additionally, there will likely be costs associated with revising University policies and regulations such as housing, employment and discipline.

It is anticipated that there would be additional costs associated with enforcement (the proposed law prohibits consumption in public) by UAA and UAF police departments as well as by administrators

There are potential legal costs associated with analyzing initiative and advising Major Administrative Units (MAUs).

There is likely to be some impact on the health care costs and rates for employees as well as a potential impact on insurance rates for the University.

The University envisions that they would very likely incur some research costs based on requests for information on the social and economic impacts of the initiative.

**Estimate of costs to the Office of the Lieutenant Governor and the
Division of Elections to implement the marijuana initiative**

\$80,257

Office of the Lieutenant Governor

Assuming the initiative is placed on the ballot, the minimum cost to conduct public hearings concerning the initiative in two communities in each of four judicial districts is estimated to be \$9,000. This number may be reduced if hearings are held on more than one initiative at a time.

Lt. Governor's Office estimate by category

<u>Travel</u>	<u>\$ 9,000</u>
Total	\$ 9,000

Estimated travel expenses include round-trip air transportation, per diem and other associated travel costs for the Lieutenant Governor and staff to travel to seven communities in Alaska. It is assumed one of the hearings would be in Anchorage which would not involve travel costs.

Division of Elections

The minimum cost to the Division of Elections associated with certification of the initiative application and review of the initiative petition, excluding legal costs to the state and the costs to the state of any challenge to the validity of the petition, is estimated to be \$71,257.

Elections estimate by category

Personal Services	\$69,957
<u>Services</u>	<u>\$ 1,300</u>
Total	\$71,257

Personal services expenses associated with certification of the initiative application and review of the initiative petition:

Three full-time employees at 522 hours is \$29,200

8 temporary employees at 2,520 hours is \$40,757

Services expenses associated with certification of the initiative application and review of the initiative petition:

Printing of booklets is \$1,300.

June 11, 2013

The Honorable Mead Treadwell
Lieutenant Governor
P.O. Box 110015
Juneau, Alaska 99811-0015

Re: *Review of Initiative Application for "An Act to Tax and Regulate the Production, Sale, and Use of Marijuana."*
A.G. File No. JU2013200236

Dear Lieutenant Governor Treadwell:

You asked us to review an application for an initiative entitled "An Act to tax and regulate the production, sale, and use of marijuana" ("13PSUM"). Because the application complies with the specific constitutional and statutory provisions governing the initiative process, we recommend that you certify the application.

I. Summary of the proposed bill.

A. Brief summary and background.

The bill proposed by this initiative would provide for the taxation and regulation of the production, sale, and use of marijuana. The bill provides for the personal use of marijuana and imposes various restrictions on personal cultivation, public use, and the operation of marijuana-related facilities. The bill also allows the legislature to create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development, provides for the adoption of regulations, and allows for local control of the manufacture and sale of marijuana (but probably not the local prohibition of personal use). Finally, the bill imposes an excise tax on the sale or transfer of marijuana, and provides for the enforcement and administration of that tax.

B. Sectional summary.

The bill proposed by this initiative is eight pages long, single-spaced, and consists of three sections. The first section adds a new chapter to Title 17 of the Alaska Statutes consisting of 14 new statutes. The second section adds a new chapter to Title 43 of the

Alaska Statutes consisting of three new statutes. The third section adds a severability clause to the bill.

Section 1. This section would add a new chapter, AS 17.38, Regulation of Marijuana, to the Alaska Statutes consisting of fourteen provisions:

- **AS 17.38.010. Purpose and findings.** This provision states the Act's intent to legalize marijuana for use by persons age 21 or older, in the interest of allowing law enforcement to focus on violent and property crimes and to promote individual freedom. The statute would provide that the production and sale of marijuana should be regulated such that legitimate businesses—not criminal actors—sell marijuana and that such sale should be conducted in a manner that protects consumers and promotes public health and safety. Finally, the statute would provide that the Act does not intend to abrogate or diminish rights or responsibilities under the Alaska Constitution or federal law.
- **AS 17.38.020. Personal use of marijuana.** This statute would legalize the personal use of marijuana for persons age 21 or older. Specifically, the statute would permit: the possession, use, display, purchase, or transportation of marijuana accessories or one ounce or less of marijuana; the possession, growth, processing, or transporting of no more than six marijuana plants (with three or fewer being mature, flowering plants) and possession of the marijuana on the premises where the plants were grown; the transfer of one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration; the consumption of marijuana in a non-public location; and assisting another person who is 21 years of age or older in any of the above activities.
- **AS 17.38.030. Restrictions on personal cultivation, penalty.** This statute would impose certain restrictions on the personal cultivation of marijuana. Specifically, marijuana plants must be: cultivated in a location where the plants are not subject to naked-eye public view; reasonably secure from unauthorized access; cultivated only on property lawfully possessed by the cultivator or with the property owner's consent. The statute would impose a maximum \$750 fine for a violation.

- **AS 17.38.040. Public consumption banned, penalty.** This statute would ban the public consumption of marijuana and would permit a maximum \$100 fine for a violation.
- **AS 17.38.050. False identification, penalty.** This statute would prohibit a person under 21 years of age from presenting false identification to purchase or attempt to purchase marijuana or marijuana accessories, or access a marijuana establishment. The statute would provide for a \$400 maximum fine for a violation.
- **AS 17.38.060. Marijuana accessories authorized.** This statute would legalize the manufacture, possession, purchase, distribution, and sale of marijuana accessories by and to persons age 21 years of age or older.
- **AS 17.38.070. Lawful operation of marijuana-related facilities.** This statute would legalize certain activities conducted by a validly registered retail marijuana store, marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility, or any such establishment's authorized owner, agent, or employee, as long as that person is 21 years of age or older. Generally, the statute would provide that such an establishment may purchase, possess, display, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products subject to certain restrictions. The statute would provide that such an establishment may be penalized for violations of the Act or duly adopted rules of the Alcoholic Beverage Control (ABC) Board or local governments pursuant to the Act. Finally, the statute would provide that the provisions of AS 17.30.020 (Controlled Substances) do not apply to marijuana establishments.
- **AS 17.38.080. Marijuana Control Board.** This statute would permit the legislature to create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development to assume the duties of the ABC Board under AS 17.38.
- **AS 17.38.090. Rulemaking.** This statute would require the ABC Board to adopt regulations to implement AS 17.38 no later than nine months after the Act's effective date. Generally, such regulations must include regulations governing marijuana establishments and cover such topics as: procedures subject to the Administrative Procedure Act to apply for, receive, and revoke the registration of a marijuana establishment; a

schedule of registration fees; qualifications for registration; security requirements and requirements to prevent the sale of marijuana to persons under 21 years of age; labeling requirements, advertising and display restrictions, and health and safety standards for marijuana and marijuana products; and civil penalties for failure to comply with the regulations. This statute would provide that the ABC board shall not require a consumer to present any personal information other than a government-issued identification to prove age at a retail marijuana store, and that such a store shall not be required to acquire personal information about consumers.

- **AS 17.38.100. Marijuana establishment registrations.** This statute would govern the application process for registering a marijuana establishment. The statute would vest this duty primarily in the ABC Board, acting in conjunction with local governments as applicable. The statute would impose various timeframes for the processing of such applications. The statute would provide that each registration must specify where the establishment would operate, and that books and records of such establishments would be subject to the ABC Board's inspection.
- **AS 17.38.110. Local control.** Generally, this statute would allow a local government to: prohibit the operation of a marijuana cultivation, manufacturing, testing, or retail facility through the enactment of an ordinance or through voter initiative; enact ordinances to govern the time, place, and manner of marijuana establishment operations; designate a local regulatory authority to process applications to register a marijuana establishment and create procedures surrounding this application process subject to the Administrative Procedure Act.
- **AS 17.38.120. Employers, driving, minors and control of property.** This statute provides that the Act is not intended to: require any employer to permit or accommodate the use, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace; allow driving under the influence of marijuana or supersede related laws; permit the transfer of marijuana with or without remuneration to a person under age 21; or prohibit a person, employer, or any other entity who occupies, owns or controls private property from prohibiting or controlling the use, display, transfer, distribution, sale, or growth of marijuana on that property.

- **AS 17.38.130. Impact on medical marijuana law.** This statute would provide that nothing in the Act is intended to limit the privileges or rights of a medical marijuana patient or caregiver under AS 17.37.
- **AS 17.38.900. Definitions.** This statute would define fourteen different terms used throughout the Act.

Section 2. This section adds a new chapter, AS 43.61, Excise Tax on Marijuana, to the Alaska Statutes, consisting of three provisions:

- **AS 43.61.010. Marijuana tax.** This statute would impose a \$50 per ounce (or proportionate part) excise tax on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax. The Department of Revenue could exempt certain parts of the marijuana plant from the tax or could establish a lower rate for certain parts of the plant.
- **AS 43.61.020. Monthly statement and payments.** This statute would require each marijuana cultivation facility to send monthly tax statements and payments to the Department of Revenue based on the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities during the preceding month.
- **AS 43.61.030. Administration and enforcement of tax.** This statute would subject a marijuana cultivation facility to the civil penalties under AS 43.05.220 for delinquent payments under the Act and allow for the revocation of a delinquent facility's registration pursuant to regulations adopted under the Act.

Section 3. This section is a standard severability clause providing that if any portion of the Act is found invalid, the remainder will not be affected.

II. Analysis.

Under AS 15.45.070, the lieutenant governor must review an application for a proposed initiative and within sixty calendar days of receipt either "certify it or notify the initiative committee of the grounds for denial." The application for the 13PSUM initiative was filed on April 16, 2013. The 60th calendar day after the filing date is June 15, 2013. Under AS 15.45.080, certification shall only be denied if: "(1) the

proposed bill to be initiated is not confined to one subject or is otherwise not in the required form; (2) the application is not substantially in the required form; or (3) there is an insufficient number of qualified sponsors.”

A. Form of the proposed bill.

In evaluating an initiative application, you must determine whether the application is in the “proper form.”¹ Specifically, you must decide whether the application complies with “the legal procedures for placing an initiative on the ballot, and whether the initiative contains statutorily or constitutionally prohibited subjects which should not reach the ballot.”²

The form of a proposed initiative bill is prescribed by AS 15.45.040, which requires four things: (1) the bill be confined to one subject; (2) the subject be expressed in the title; (3) the enacting clause state: “Be it enacted by the People of the State of Alaska”; and (4) the bill not include prohibited subjects. The prohibited subjects are the dedication of revenues, the making or repealing of appropriations, the creation of courts, defining the jurisdiction of courts or prescribing their rules, or enacting local or special legislation.³

This initiative bill meets the first three requirements. It is confined to one subject—the production, taxation, sale, and use of marijuana. The subject is expressed in the title, “An act to tax and regulate the production, sale, and use of marijuana.” And the required enacting clause is present.

With respect to the final requirement, in determining whether an initiative bill contains a prohibited subject, the Alaska Supreme Court has adopted a “deferential attitude toward initiatives,”⁴ and has consistently recognized that the constitutional and statutory provisions pertaining to the use of the initiative should be liberally construed in

¹ Alaska Const. art. XI, § 2.

² *McAlpine v. Univ. of Alaska*, 762 P.2d 81, 87 n.7 (Alaska 1988).

³ AS 15.45.010; *see* Alaska Const. art. XI, § 7 (also prohibiting dedication of revenue, the creation of courts, defining the jurisdiction of courts or prescribing their rules).

⁴ *Yute Air Alaska, Inc. v. McAlpine*, 698 P.2d 1173, 1181 (Alaska 1985).

favor of allowing an initiative to reach the ballot.⁵ Indeed, the court has “sought to preserve the people’s right to be heard through the initiative process wherever possible.”⁶ Analyzing the bill with these principles in mind, we conclude that the initiative bill contains no prohibited subject and satisfies the fourth requirement relating to the form of an initiative.

1. Does 13PSUM Contain a Prohibited Subject?

As noted above, an initiative may not be proposed to dedicate revenue, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation.⁷ Proposed initiative 13PSUM does not create a court, define the jurisdiction of a court or prescribe a court rule. The bill applies statewide and therefore is not a local or special act. Nor does the bill dedicate revenue or make or repeal an appropriation.⁸ Accordingly, it contains no prohibited subject.

⁵ *McAlpine*, 762 P.2d at 91; *Yute Air*, 698 P.2d at 1181.

⁶ *Pebble Ltd. P’ship ex rel. Pebble Mines Corp. v. Parnell*, 215 P.3d 1064, 1076 (Alaska 2009).

⁷ AS 15.45.010; Alaska Const. art. XI, § 7.

⁸ The Alaska Supreme Court has approved the imposition and distribution of taxes through ballot initiative. *See, e.g., North West Cruiseship Ass’n of Alaska, Inc. v. State, Office of Lieutenant Governor, Div. of Elections*, 145 P.3d 573 (Alaska 2006) (initiative imposing certain taxes and other requirements on cruise ships allowed on 2006 statewide primary election ballot); *see also City of Fairbanks v. Fairbanks Convention and Visitors Bureau*, 818 P.2d 1153 (Alaska 1991) (placing on the ballot an initiative reallocating hotel bed tax revenues). Further, neither the creation of a Marijuana Control Board nor the imposition of duties on the ABC Board makes an appropriation, because courts have held that laws that “merely create new government programs or liabilities do not constitute appropriations.” *McAlpine*, 762 P.2d at 90. The creation of the Marijuana Control Board is committed to the legislature’s discretion. The Alaska Supreme Court has held that an initiative would make an appropriation where it would “designate the use of state assets in a manner that is executable, mandatory, and reasonably definite with no further legislative action.” *Id.* at 91. Nothing in 13PSUM meets that definition.

2. Does 13PSUM Raise Any Additional Constitutional Concerns?

Initiative 13PSUM includes a statement of purpose and findings, providing that the bill is not intended to diminish the constitutional right to privacy under *Ravin v. State*,⁹ nor “require any individual or entity to engage in any conduct that violates federal law, or exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law.” We briefly address *Ravin* and relevant federal drug control laws in light of these statements.

In 1975, the Alaska Supreme Court held in *Ravin v. State* that the right to privacy under the Alaska Constitution permits an adult to use and possess small amounts of marijuana in the home. Accordingly, *Ravin* sets Alaska’s minimum constitutional standard for such activity. Because 13PSUM expands rather than restricts the personal use of marijuana, we believe the bill is facially consistent with *Ravin*.

The interplay between restrictive federal drug control laws and permissive state laws that allow the medical or personal use of marijuana raises complex, often highly academic questions of federalism, pre-emption, and enforcement.¹⁰ The federal Controlled Substances Act (CSA) strictly prohibits the manufacture, distribution, and possession of marijuana, including for medical use.¹¹ But like many other states, Alaska

⁹ 537 P.2d 494 (Alaska 1975).

¹⁰ Under the doctrine of preemption: “[i]f state law purports to authorize something that federal law forbids or to penalize something that federal law gives people an unqualified right to do, then courts would have to choose between applying the federal rule and applying the state rule, and the Supremacy Clause [U.S. Const. Art. VI, Clause 2] requires them to apply the federal rule.” Caleb Nelson, *Preemption*, 86 Va. L. Rev. 225, 261 (2000). However, there are constraints on Congress’s preemption authority, and at least one scholar has closely examined the CSA, medical marijuana, and “the states’ underappreciated power to legalize activity that Congress bans” in that context. See Robert A. Mikos, *On the Limits of Supremacy: Medical Marijuana and the States’ Overlooked Power to Legalize Federal Crime*, 62 Vand. L. Rev. 1421 (2009).

¹¹ 21 U.S.C. § 801; see *United States v. Oakland Cannabis Buyers’ Coop.*, 532 U.S. 483 (2001) (holding that no implied medical necessity exception exists to prohibitions on manufacturing and distribution of marijuana established by the CSA).

already has laws—namely the medical marijuana statutes in AS 17.37¹² and the *Ravin* case—that are in apparent conflict with the CSA.¹³ So to the extent 13PSUM implicates concerns of pre-emption and enforcement, existing Alaska law already presents these issues.

In any event, a court would almost certainly refuse to entertain these types of substantive challenges at the certification stage, both for jurisdictional reasons related to standing and ripeness,¹⁴ and because pre-election judicial review of a ballot measure is limited and circumscribed, extending only to prohibited subject matter and clearly unconstitutional proposals.¹⁵ Indeed, our office has previously advised the certification of ballot measures that attempted to legalize marijuana for personal use.¹⁶

In short, 13PSUM must be construed in favor of constitutionality.¹⁷ In reviewing an initiative application for certification, our role is not to identify all conceivable constitutional vulnerabilities in the proposed bill. To the contrary, the Alaska Supreme Court has consistently held that absent a clear prohibition on the use of the initiative

¹² Alaska’s medical marijuana laws were enacted by ballot measure in 1998 (1998 Ballot Measure No. 8 (97PSDM)); *see also* AS 11.71.060(a) (Misconduct involving a controlled substance in the sixth degree).

¹³ *See Mikos, supra* note 10, at 1427-32.

¹⁴ *See, e.g., State v. ACLU of Alaska*, 204 P.3d 364, 374-75 (Alaska 2009) (refusing to entertain constitutional challenge to a newly amended statute prohibiting the possession and use of marijuana, because the challenge was pre-enforcement and therefore not ripe for review).

¹⁵ *See State v. Trust the People*, 113 P.3d 613, 624 (Alaska 2005) (“pre-election judicial review may extend only to subject matter restrictions that arise from a provision of Alaska law that expressly addresses and restricts Alaska’s constitutionally-established initiative process or to proposals that are clearly unlawful under controlling authority”).

¹⁶ *See* 2001 Inf. Op. Att’y Gen. (Nov. 9; 663-02-0066) (recommending certification of ballot measure 01MRNA, which proposed to decriminalize and regulate marijuana).

¹⁷ *See, e.g., Whitesides v. State, Dep’t of Pub. Safety, Div. of Motor Vehicles*, 20 P.3d 1130, 1139 (Alaska 2001) (where reasonable to do so, court will construe statute to avoid constitutional problems).

process or controlling authority directly on point, an initiative bill must proceed to the ballot.¹⁸

You have the authority to deny certification only if you determine that the measure violates any of the liberally construed constitutional and statutory restrictions on initiatives.¹⁹ As discussed above, we do not believe such violations exist. With respect to other constitutional challenges “grounded in general contentions that the provisions of an initiative are unconstitutional,” you may deny certification only if “controlling authority leaves *no room for argument* about its unconstitutionality.”²⁰ We find no such controlling authority, and so we cannot say that this initiative bill is clearly unconstitutional on its face, or that the people should be denied access to the initiative process on that basis.

B. Form of the application.

The form of an initiative application is prescribed in AS 15.45.030, which provides as follows:

The application must include the

- (1) proposed bill;
- (2) printed name, the signature, the address, and a numerical identifier of not fewer than 100 qualified voters who will serve as sponsors; each signature page must include a statement that the sponsors are

¹⁸ See, e.g., *Trust the People*, 113 P.3d at 624; see also *Alaska Action Ctr., Inc. v. Municipality of Anchorage*, 84 P.3d 989, 992 (Alaska 2004) (“The executive officer may only reject the measure if controlling authority leaves no room for argument about its unconstitutionality. The initiative's substance must be on the order of a proposal that would mandate local school segregation based on race in violation of *Brown v. Board of Education* before the clerk may reject it on constitutional grounds. And absent controlling authority, the court should not decide this type of challenge until the initiative has been enacted by the voters.”) (internal citations and quotations omitted). (continued)
(continued) The roles of the lieutenant governor and a municipal clerk are analogous in the statewide and municipal initiative certification context, respectively. *Kodiak Island Borough v. Mahoney*, 71 P.3d 896, 898 (Alaska 2003).

¹⁹ *Alaska Action Ctr.*, 84 P.3d at 992.

²⁰ *Id.* (internal citations and quotations omitted) (emphasis added).

qualified voters who signed the application with the proposed bill attached; and

- (3) designation of an initiative committee consisting of three of the sponsors who subscribed to the application and represent all sponsors and subscribers in matters relating to the initiative; the designation must include the name, mailing address, and signature of each committee member.

The application on its face meets the first and third requirements, as well as the latter portion of the second requirement regarding the statement on the signature page. With respect to the first clause of the second requirement, we understand that the Division of Elections has determined that the application contains the signatures and addresses of not fewer than 100 qualified voters.

C. Number of qualified sponsors.

As noted above, we understand that the Division of Elections has determined that the application contains the signatures and addresses of not fewer than 100 qualified voters.

III. Proposed ballot and petition summary.

We prepared a ballot-ready petition title and summary for your consideration. It is our practice to provide you with a title and summary to assist you in compliance with AS 15.45.090(2) and AS 15.45.180. Under AS 15.45.180, the title of an initiative is limited to twenty-five words and the body of the summary is limited to the number of sections in the proposed law multiplied by fifty. "Section" in AS 15.45.180 is defined as "a provision of the proposed law that is distinct from other provisions in purpose or subject matter." Alaska Statute 15.45.180 requires that the ballot proposition "give a true and impartial summary" of an initiative bill, and the Alaska Supreme Court has held that such a summary should provide "an accurate depiction of the scope and substance of the initiative."²¹

Technically this initiative bill has only three "sections," but these three sections create two new chapters of the Alaska Statutes consisting of eighteen new statutory

²¹ *Pebble Ltd.*, 215 P.3d at 1084.

provisions. All of these provisions are distinguishable in purpose, if not subject matter. If the bill were treated as three sections, the summary would be limited to 150 words.

It is not possible to accomplish these mandates by summarizing this initiative bill in 150 or fewer words. Given the extensive statutory changes in multiple chapters, we think the proper approach is to treat these eighteen new statutory provisions as separate sections for purposes of summary preparation. Therefore the maximum number of words for the summary may not exceed 900. We used 523 words in the summary and thirteen words in the title of the following proposed summary, which we submit for your review:²²

**An Act to Tax and Regulate the Production,
Sale, and Use of Marijuana.**

This bill would tax and regulate the production, sale, and use of marijuana in Alaska.

The bill would make the use of marijuana legal for persons 21 years of age or older. The bill would allow a person to possess, use, show, buy, transport, or grow set amounts of marijuana, with the growing subject to certain restrictions. The bill would ban the public use of marijuana. The bill would prohibit a person under 21 years of age from using false identification to buy or try to buy marijuana or marijuana accessories.

The bill would allow validly registered marijuana-related entities and persons 21 years of age or older who own or are employed by these entities to make, possess, buy, distribute, sell, show, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products, subject to certain restrictions. Alaska Statute 17.30.020 (Controlled Substances) would not apply to these entities.

The bill would require the Alcoholic Beverage Control (ABC) Board to implement parts of the bill. But the bill would also let the legislature create a Marijuana Control Board to assume these duties. The bill would require the ABC Board to adopt regulations governing marijuana-related entities. The regulations would need to cover certain topics and be subject to certain restrictions. The bill would also create procedures for registering a marijuana-related entity. The procedures would be managed by the ABC board and local governments.

²² At the request of your office, and consistent with past practice, we worked with the sponsors of the initiative in developing this summary.

The bill would allow a local government to prohibit the operation of marijuana-related entities. A local government could do that by enacting an ordinance or through voter initiative. The ordinances could cover the time, place, manner, and registration of a marijuana entity's operations.

The bill would allow a person 21 years of age or older to possess, use, show, buy, or transport marijuana accessories. Marijuana accessories are products individuals use to grow or consume marijuana. The bill would also allow persons 21 years of age or older to make marijuana accessories and to distribute or sell them to persons who are 21 years of age or older.

The bill states that it is not intended to require an employer to allow marijuana use, transportation, possession, sale, growth, or transfer, or prevent an employer from prohibiting these activities. The bill does not intend to supersede laws prohibiting driving under the influence of marijuana. The bill does not intend to prohibit schools, correction facilities, hospitals, or private persons or entities from restricting marijuana on their property. The bill does not intend to limit the state's existing medical marijuana laws.

The bill would impose a \$50 per ounce (or proportionate) excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax and send monthly tax statements to the Department of Revenue. The Department of Revenue could exempt certain parts of the marijuana plant from the tax. It could also establish a lower tax rate for certain parts of the plant.

The bill defines numerous terms. The bill contains a statement of purpose and findings. The bill would impose civil fines and penalties for violations.

Should this initiative become law?

This summary has a Flesch test score of 39.9. Although this figure falls short of the target readability score of 60 set out in AS 15.80.005, the nature of the bill makes it difficult to provide a summary with a higher readability score. This is likely due to the length and complexity of the bill and the use of long, complicated terms in the bill such as "marijuana cultivation facility" and "marijuana product manufacturing facility." The use of these terms cannot be avoided without compromising the accuracy of the summary. We have otherwise tried to use simple words in the summary.

We note that this office has previously recommended a proposed ballot summary with a Flesch test score of 33.8 for a complicated ballot initiative, and that summary was

upheld verbatim by the Alaska Supreme Court.²³ We therefore believe a court would uphold this summary as well.


IV. Conclusion.

For the foregoing reasons, we find that the proposed bill and application are in the proper form and that the application complies with the constitutional and statutory provisions governing the use of the initiative. We therefore recommend that you certify the initiative application and notify the initiative committee of your decision. You may then begin to prepare petitions in accordance with AS 15.45.090.

Please contact us if we can be of further assistance in this matter.

Sincerely,

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

By: 
Elizabeth M. Bakalar
Assistant Attorney General

²³ See 2007 Op. Att'y Gen. (Oct. 17; 663-07-0179); *Pebble Ltd.*, 215 P.3d at 1082-84.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Law

CIVIL DIVISION
P.O. Box 110300
Juneau, Alaska 99811
Main: 907.465.3600
Fax: 907.465.2520

June 20, 2013

The Honorable Mead Treadwell
Lieutenant Governor
P.O. Box 110015
Juneau, Alaska 99811-0015

Re: *Review of Initiative Application for "An Act increasing the Alaska minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation."*
A.G. File No. JU2013200288

Dear Lieutenant Governor Treadwell:

You asked us to review an application for an initiative entitled "An Act increasing the Alaska minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation" ("13MINW"). Because the application complies with the specific constitutional and statutory provisions governing the initiative process, we recommend that you certify the application.

I. Summary of the Proposed Bill.

A. Brief Summary and Background.

The bill proposed by this initiative would provide for an increase in Alaska's minimum wage. Specifically, the bill would increase Alaska's minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation.

Currently, AS 23.10.065(a) sets Alaska's minimum wage at \$7.25 per hour until December 31, 2009, "and thereafter not less than 50 cents an hour more than the federal minimum wage." Accordingly, since 2010, Alaska's minimum wage has been \$7.75 per

hour. The Fair Minimum Wage Act of 2007¹ amended the Fair Labor Standards Act of 1938 to ultimately increase the federal minimum wage to \$7.25 per hour for employment subject to the Federal Fair Labor Standards Act. For states that have statutory minimum wages, those wages range from \$5.15 per hour in Wyoming and Georgia (for employment exempt from the federal minimum)² to \$9.19 per hour in Washington.³

B. Sectional Summary.

The bill proposed by this initiative is two pages long, single-spaced, and consists of four sections, which are summarized as follows.

- **Section 1.** This section is a statement of findings and a declaration. The section declares that an increase in Alaska's minimum wage would help ensure a minimum standard of living for the health and well-being of Alaskans; that Alaskans working full-time at the current minimum wage earn far below the federal poverty level for a family of three; that several states in the Pacific Northwest have a higher minimum wage; and that a fair minimum wage indexed to the cost of living will help low-income workers keep pace with inflation.
- **Section 2.** This section is a statement of purpose and intent, providing that the bill intends to raise Alaska's minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation.
- **Section 3.** This section would repeal and reenact AS 23.10.065(a). The section would require every employer to pay each employee a minimum wage of \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation. The section provides a method for calculating that adjustment, and provides that the adjustment would apply to work performed from January 1 through December 31 of the year for which it is effective. The section provides that an employer may not use tips or gratuities to offset payment of the

¹ 29 U.S.C. § 206 (2007).

² Wyo. Stat. Ann. § 27-4-202(a); GA. Code. Ann. § 34-4-3.

³ This amount, effective January 1, 2013, was calculated pursuant to the requirements of a 1998 ballot initiative, "Initiative 688." See Perkins Coie, *Washington Minimum Wage Rises to \$6.90*, 8 No.1 1 Wash. Emp. L. Letter 6 (Dec. 2001).

minimum wage, and that Tip Credit as defined by relevant federal law does not apply to the minimum wage.

- **Section 4.** This section provides that if the minimum wage determined under section 3 of the bill is less than one dollar over the federal minimum wage, the Alaska minimum wage shall be set at one dollar over the federal minimum wage, and that the amount shall be adjusted in subsequent years by the method set forth in section 3 of the bill.

II. Analysis.

Under AS 15.45.070, the lieutenant governor must review an application for a proposed initiative and within sixty calendar days of receipt either “certify it or notify the initiative committee of the grounds for denial.” The application for the 13MINW initiative was filed on April 26, 2013. The 60th calendar day after the filing date is June 25, 2013. Under AS 15.45.080, certification shall only be denied if: “(1) the proposed bill to be initiated is not confined to one subject or is otherwise not in the required form; (2) the application is not substantially in the required form; or (3) there is an insufficient number of qualified sponsors.”

A. Form of the proposed bill.

In evaluating an initiative application, you must determine whether the application is in the “proper form.”⁴ Specifically, you must decide whether the application complies with “the legal procedures for placing an initiative on the ballot, and whether the initiative contains statutorily or constitutionally prohibited subjects which should not reach the ballot.”⁵

The form of a proposed initiative bill is prescribed by AS 15.45.040, which requires four things: (1) the bill be confined to one subject; (2) the subject be expressed in the title; (3) the enacting clause state: “Be it enacted by the People of the State of Alaska”; and (4) the bill not include prohibited subjects. The prohibited subjects are the making or repealing of appropriations, the enactment of local or special legislation, the

⁴ Alaska Const. art. XI, § 2.

⁵ *McAlpine v. Univ. of Alaska*, 762 P.2d 81, 87 n.7 (Alaska 1988).

dedication of revenue, and the creation of courts, the definition of their jurisdiction, or prescribing rules of court.⁶

Absent a subject matter restriction under Alaska law on the use of the initiative process or a proposal that is clearly unlawful under controlling authority, the initiative bill must proceed to the ballot.⁷ Specifically, you have the authority to deny certification only if you determine that the measure violates any of the liberally construed constitutional and statutory provisions regulating initiatives.⁸ This initiative does not appear to violate any of these provisions. With respect to other concerns “grounded in general contentions that the provisions of an initiative are unconstitutional,” you may deny certification only if “controlling authority leaves *no room for argument* about its unconstitutionality.”⁹ We find no such controlling authority and therefore recommend that the initiative be certified.

This initiative bill meets the first three requirements. It is confined to one subject—Alaska’s minimum wage. The subject is expressed in the title, “An Act increasing the Alaska minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation.” And the required enacting clause is present.

⁶ AS 15.45.010; *see* Alaska Const. art. XI, § 7 (also prohibiting dedication of revenue, the creation of courts, defining the jurisdiction of courts or prescribing their rules).

⁷ *See, e.g., State v. Trust the People*, 113 P.3d 613, 624 (Alaska 2005); *see also Alaska Action Ctr., Inc. v. Municipality of Anchorage*, 84 P.3d 989, 992 (Alaska 2004) (“The executive officer may only reject the measure if controlling authority leaves no room for argument about its unconstitutionality. The initiative’s substance must be on the order of a proposal that would mandate local school segregation based on race in violation of *Brown v. Board of Education* before the clerk may reject it on constitutional grounds. And absent controlling authority, the court should not decide this type of challenge until the initiative has been enacted by the voters.”) (internal citations and quotations omitted). The roles of the lieutenant governor and a municipal clerk are analogous in the statewide and municipal initiative certification context, respectively. *Kodiak Island Borough v. Mahoney*, 71 P.3d 896, 898 (Alaska 2003).

⁸ *Alaska Action Ctr.*, 84 P.3d at 992.

⁹ *Id.* (internal citations and quotations omitted) (emphasis added).

With respect to the final requirement, in determining whether an initiative bill contains a prohibited subject, the Alaska Supreme Court has adopted a “deferential attitude toward initiatives,”¹⁰ and has consistently recognized that the constitutional and statutory provisions pertaining to the use of the initiative should be liberally construed in favor of allowing an initiative to reach the ballot.¹¹ Indeed, the court has “sought to preserve the people’s right to be heard through the initiative process wherever possible.”¹² We have reviewed the bill with these principles in mind and conclude that the initiative bill contains no prohibited subject. As such, the fourth requirement relating to the form of the bill is satisfied.

This bill is straightforward. It would simply increase Alaska’s minimum wage to \$8.75 per hour effective January 1, 2015, \$9.75 per hour effective January 1, 2016, and thereafter adjusted annually for inflation. Nothing in this bill suggests making or repealing an appropriation, enacting local or special legislation, dedicating revenue, creating courts, defining court jurisdiction or prescribing court rules. Accordingly, the bill contains no prohibited subject.¹³

B. Form of the application.

The form of an initiative application is prescribed in AS 15.45.030, which provides as follows:

The application must include the

- (1) proposed bill;
- (2) printed name, the signature, the address, and a numerical identifier of not fewer than 100 qualified voters who will serve as sponsors; each signature page must include a statement that the sponsors are qualified voters who signed the application with the proposed bill attached; and

¹⁰ *Yute Air Alaska, Inc. v. McAlpine*, 698 P.2d 1173, 1181 (Alaska 1985).

¹¹ *McAlpine*, 762 P.2d at 91; *Yute Air*, 698 P.2d at 1181.

¹² *Pebble Ltd. P’ship ex rel. Pebble Mines Corp. v. Parnell*, 215 P.3d 1064, 1076 (Alaska 2009).

¹³ AS 15.45.010; Alaska Const. art. XI, § 7.

- (3) designation of an initiative committee consisting of three of the sponsors who subscribed to the application and represent all sponsors and subscribers in matters relating to the initiative; the designation must include the name, mailing address, and signature of each committee member.

The application on its face meets the first and third requirements, as well as the latter portion of the second requirement regarding the statement on the signature page. With respect to the first clause of the second requirement, we understand that the Division of Elections has determined that the application contains the signatures and addresses of not fewer than 100 qualified voters.

C. Number of qualified sponsors.

As noted above, we understand that the Division of Elections has determined that the application contains the signatures and addresses of not fewer than 100 qualified voters.

III. Proposed ballot and petition summary.

We prepared a ballot-ready petition title and summary for your consideration. It is our practice to provide you with a title and summary to assist you in compliance with AS 15.45.090(2) and AS 15.45.180. Under AS 15.45.180, the title of an initiative is limited to twenty-five words and the body of the summary is limited to the number of sections in the proposed law multiplied by fifty. "Section" in AS 15.45.180 is defined as "a provision of the proposed law that is distinct from other provisions in purpose or subject matter." Alaska Statute 15.45.180 requires that the ballot proposition "give a true and impartial summary of the proposed law."

This bill has four sections. Therefore the maximum number of words for the summary may not exceed 200. There are seven words in the title and 151 words in the summary of the following proposed ballot proposition, which we submit for your review:¹⁴

¹⁴ At the request of your office, and consistent with past practice, we worked with the sponsors of the initiative in developing this summary.

An Act to Increase Alaska's Minimum Wage

This bill would raise Alaska's minimum wage from \$7.75 per hour to \$8.75 per hour as of January 1, 2015. The bill would raise the minimum wage to \$9.75 per hour as of January 1, 2016. The bill would adjust the minimum wage each year for inflation after 2016. The bill creates a method for this adjustment. Under the bill, if the adjusted minimum wage is less than one dollar over the federal minimum wage, Alaska's minimum wage will be one dollar over the federal minimum. Tips or gratuities would not count toward the minimum wage.

The bill has a statement of findings and declaration. This statement gives reasons for the bill. The reasons pertain to quality of life for low income workers, the effect of increases in the cost of living, the relationship of the Alaska minimum wage to the federal poverty level, and the minimum wage in other states.

Should this initiative become law?

This summary has a Flesch test score of 49.1. We believe the summary satisfies the readability standards of AS 15.60.005.¹⁵

IV. Conclusion.

For the foregoing reasons, we find that the proposed bill and application are in the proper form and that the application complies with the constitutional and statutory provisions governing the use of the initiative. We therefore recommend that you certify the initiative application and notify the initiative committee of your decision. You may then begin to prepare petitions in accordance with AS 15.45.090.

¹⁵ See, e.g., 2007 Op. Att'y Gen. (Nov. 8; 663-08-0036) (advising that ballot summary with Flesch test score of 44.9 satisfied AS 15.60.005). This office has previously recommended a proposed ballot summary with a Flesch test score of 33.8 for a complicated ballot initiative, and that summary was upheld verbatim by the Alaska Supreme Court. See 2007 Op. Att'y Gen. (Oct. 17; 663-07-0179); *Pebble*, 215 P.3d at 1082-84. We therefore believe a court would uphold this summary as well.

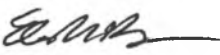
Hon. Mead Treadwell
Re: Review of 13MINW Initiative Application

June 20, 2013
Page 8 of 8

Please contact us if we can be of further assistance in this matter.

Sincerely,

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

By: 
Elizabeth M. Bakalar
Assistant Attorney General

EMB/tjd

TABLE 13

Annual Fiscal Cost of Marijuana Possession Enforcement by State (2010)

State	Fiscal Expenditures by Category (in dollars)		
	Police	Judicial & Legal	Corrections
Alabama	7,102,974	4,923,779	1,260,020
Alaska	3,120,335	4,506,208	839,758
Arizona	39,842,768	32,130,460	13,849,007
Arkansas	6,900,048	4,580,166	1,714,300
California	209,655,536	215,907,232	65,403,300
Colorado	19,667,502	14,307,992	3,731,071
Connecticut	20,631,726	24,825,234	4,369,251
Delaware	6,088,890	5,565,111	1,580,180
D.C.	17,931,502	6,340,831	2,255,385
Florida	125,627,288	71,162,936	31,845,628
Georgia	58,312,112	44,361,480	19,224,558
Hawaii	2,954,338	4,629,526	565,083
Idaho	5,520,933	4,861,350	1,502,169
Illinois	126,770,856	72,313,504	22,347,420
Indiana	19,019,174	13,862,287	5,599,443
Iowa	10,476,821	9,821,206	2,547,612
Kansas	10,312,387	7,521,286	2,349,114
Kentucky	7,621,554	9,503,561	2,374,654
Louisiana	20,820,868	18,037,214	7,592,286
Maine	4,000,067	3,032,438	1,836,459
Maryland	55,304,360	39,281,380	12,117,049
Massachusetts	4,637,007	4,149,921	540,723
Michigan	47,342,472	34,981,716	12,514,604
Minnesota	21,132,200	15,231,101	5,707,988
Mississippi	8,740,758	5,558,722	2,441,293
Missouri	27,934,658	17,447,384	3,737,572
Montana	2,742,488	2,853,947	565,431
Nebraska	10,279,377	8,601,595	3,928,298
Nevada	20,225,352	14,261,103	7,115,149
New Hampshire	2,990,006	2,369,232	1,167,126
New Jersey	59,824,356	50,239,964	17,279,192
New Mexico	4,892,209	4,781,376	1,405,865
New York	312,838,848	261,724,896	103,886,848
North Carolina	29,278,582	17,512,486	8,143,603
North Dakota	1,765,464	1,569,460	387,127
Ohio	58,318,516	54,232,980	7,596,568
Oklahoma	16,548,724	12,085,168	2,196,012
Oregon	22,916,122	16,259,286	11,018,617
Pennsylvania	42,185,656	40,449,756	18,113,114
Rhode Island	6,530,830	4,199,064	1,121,471
South Carolina	25,775,858	16,244,107	7,520,674
South Dakota	2,603,931	2,131,037	816,961
Tennessee	21,680,354	15,870,712	5,397,755
Texas	126,051,984	85,102,288	40,494,536
Utah	6,179,560	5,739,280	2,151,927
Vermont	2,355,988	1,995,941	536,010
Virginia	33,484,050	23,272,156	10,488,655
Washington	14,677,699	14,653,145	5,295,467
West Virginia	8,297,871	8,185,582	891,896
Wisconsin	22,896,670	14,583,442	6,885,944
Wyoming	4,347,580	3,438,789	1,361,657
United States	1,747,157,206	1,371,200,815	495,611,826

Source: FBI/Uniform Crime Reporting Program Data, 2010, and Criminal Justice Expenditure and Employment Extracts Program (CJEE), 2009

TABLE A3
Percentage of Drug Arrests That Were for Marijuana Possession by State
(2010)

State	Number of Arrests		Marijuana Possession
	Marijuana Possession	All Drug Offenses	% of All Drug Arrests
Alabama	5,235	9,077	57.7%
Alaska	2,028	2,517	80.6%
Arizona	18,348	32,628	56.2%
Arkansas	6,310	13,675	46.1%
California	57,262	250,351	22.9%
Colorado	10,343	17,029	60.7%
Connecticut	8,815	17,692	49.8%
D.C.	5,115	10,898	46.9%
Delaware	2,554	5,431	47.0%
Florida	57,951	141,775	40.9%
Georgia	32,473	49,876	65.1%
Hawaii	1,448	2,802	51.7%
Idaho	3,468	6,665	52.0%
Illinois	49,904	110,232	45.3%
Indiana	12,850	29,214	44.0%
Iowa	6,123	9,758	62.8%
Kansas	5,035	11,498	43.8%
Kentucky	6,540	20,560	31.8%
Louisiana	13,435	36,275	37.0%
Maine	2,842	5,933	47.9%
Maryland	23,663	47,409	49.9%
Massachusetts	1,191	12,486	9.5%
Michigan	17,830	35,944	49.6%
Minnesota	7,494	17,501	42.8%
Mississippi	8,166	19,101	42.8%
Missouri	18,416	36,559	50.4%
Montana	1,210	1,723	70.2%
Nebraska	7,437	10,217	72.8%
Nevada	9,139	18,040	50.7%
New Hampshire	2,769	5,172	53.5%
New Jersey	21,659	49,926	43.4%
New Mexico	3,041	9,696	31.4%
New York	103,698	174,493	59.4%
North Carolina	20,983	39,144	53.6%
North Dakota	1,162	2,054	56.6%
Ohio	19,178	39,828	48.2%
Oklahoma	10,478	20,010	52.4%
Oregon	9,849	18,047	54.6%
Pennsylvania	21,287	57,093	37.3%
Rhode Island	2,253	3,809	59.1%
South Carolina	16,669	31,126	53.6%
South Dakota	1,743	3,486	50.0%
Tennessee	18,031	42,696	42.2%
Texas	74,286	138,916	53.5%
Utah	4,001	11,177	35.8%
Vermont	737	1,382	53.3%
Virginia	18,756	34,876	53.8%
Washington	8,365	24,837	33.7%
West Virginia	4,400	7,986	55.1%
Wisconsin	15,950	26,206	60.9%
Wyoming	2,104	3,136	67.1%
United States	784,021	1,717,064	45.7%

Source: FBI/Uniform Crime Reporting Program Data: County-Level Detailed Arrest and Offense Data, 2010

In 38 states and the District of Columbia, the racial disparities in marijuana possession arrests increased between 2001 and 2010. **See Table 7.** The jurisdictions with the greatest percentage increases in racial disparities in marijuana possession arrest rates over the past 10 years were Alaska (384%), Minnesota (231%), Wisconsin (153%), Michigan (149%), and Kentucky (146%).⁴⁰

TABLE 7
States with Largest Percent Increases in Racial Disparities in Marijuana Possession Arrest Rates (2001-2010)

State	Racial Disparity		
	Times More Likely Blacks Arrested (2001)	Times More Likely Blacks Arrested (2010)	% Change in Racial Disparity
Alaska	0.3	1.6	384.1%
Minnesota	2.4	7.8	231.0%
Wisconsin	2.4	6.0	153.0%
Michigan	1.3	3.3	149.3%
Kentucky	2.4	6.0	145.8%
Tennessee	1.8	4.0	121.7%
Ohio	1.9	4.1	118.1%
D.C.	4.6	8.0	76.8%
Massachusetts	2.2	3.9	75.4%
Georgia	2.2	3.7	71.0%
Mississippi	2.3	3.9	68.9%
Alabama	2.6	4.4	67.1%
South Carolina	1.8	2.8	57.4%
Connecticut	2.2	3.3	53.7%
Arkansas	2.0	3.1	53.5%

Source: FBI/Uniform Crime Reporting Program Data: Arrests by Age, Sex, and Race and U.S. Census Data

⁴⁰ The states with the greatest decreases in racial disparities in marijuana arrest rates were Nebraska (-51%), Colorado (-38%), Montana (-34%), California (-11%), and South Dakota (-10%). **See Appendix A, Table A6.** Note that although Massachusetts reduced its overall marijuana possession arrests by 86% after decriminalizing adult marijuana possession of an ounce or less in 2008, the racial disparity in arrest rates still increased: it was 3.42 in 2008 (before decriminalization), went up 56.1% to 5.34 in 2009 (after decriminalization), and then fell to 3.87 in 2010 (though still a 13.1% increase from 2008). Overall, the disparity increased 75% between 2001 and 2010.



Facts and Common Misconceptions

Too Harmful to Allow Adult Use

- **Every objective study on marijuana has concluded that it poses less harm than alcohol to the consumer and to society.** Most adults in the U.S. recognize that adults should have the right to consume alcohol responsibly, and they support laws that regulate its sale and consumption.¹ Adults should not be punished for using a less harmful substance. It is also irrational to prohibit adults from making the safer choice to use marijuana instead of alcohol, if that is what they prefer.

In 2008, research on marijuana's risk to health commissioned by nonpartisan British think tank the Beckley Foundation found: "The public health impact of contemporary patterns of cannabis use are modest by comparison with those of other illicit drugs (such as the opioids) or with alcohol. In the former case this reflects the absence of fatal overdose risk from cannabis. In the latter case, it reflects the much lower risks of death from cannabis than alcohol-impaired driving, fewer adverse effects on health, lower rates of regular use to intoxication for cannabis than for alcohol, and the lower rate of persistence of cannabis use into older adulthood."²

In 2007, a team of experts was formed to conduct an analysis on the relative harms of marijuana, alcohol, and other drugs for the esteemed British medical journal *The Lancet*. It concluded that marijuana posed far fewer health and safety risks than alcohol.³ That same year, research commissioned by the Australian Institute of Health and Welfare arrived at the same conclusion. Specifically, it determined that alcohol was a significant contributor to death and responsible for 3.2% of the total burden of disease and injury in Australia, whereas marijuana was responsible for zero deaths and just 0.2% of the total burden of disease and

¹ Wagenaar AC, Harwood EM, Toomey TL, Denk CE, Zander KM, "Public opinion on alcohol policies in the United States: Results from a national survey," *Journal of Public Health Policy* 21 (2003): 303-27.

² The Beckley Foundation, *Global Cannabis Commission Report — Cannabis Policy: Moving Beyond Stalemate* (Oxford, 2008).

³ Nutt, et al., "Development of a Rational Scale to Assess the Harms of Drugs of Potential Misuse," *Lancet* 369 (2007): 1047-53.

injury.⁴

In 2005, a University of Oxford meta-analysis on marijuana concluded that even long-term marijuana use does not cause “any lasting physical or mental harm. ... Overall, by comparison with other drugs used mainly for ‘recreational’ purposes, cannabis could be rated to be a relatively safe drug.”⁵

In 2002, an exhaustive review of marijuana and health performed by a special Canadian Senate committee found that “scientific evidence overwhelmingly indicates that cannabis is substantially less harmful than alcohol and should be treated not as a criminal issue but as a social and public health issue.”⁶

In the mid 1990s, the World Health Organization commissioned a study on the health and societal consequences of marijuana compared to alcohol, nicotine, and opiates. It concluded: “Overall, most of these risks [associated with marijuana] are small to moderate in size. In aggregate, they are unlikely to produce public health problems comparable in scale to those currently produced by alcohol and tobacco. ... On existing patterns of use, cannabis poses a much less serious public health problem than is currently posed by alcohol and tobacco in Western societies.”⁷

On September 6, 1988, after hearing two years of testimony, Drug Enforcement Administration (DEA) chief administrative law judge Francis Young ruled: “In strict medical terms marijuana is far safer than many foods we commonly consume. For example, eating 10 raw potatoes can result in a toxic response. By comparison, it is physically impossible to eat enough marijuana to induce death. Marijuana, in its natural form, is one of the safest therapeutically active substances known to man.”⁸

Cancer and the Impact of Smoking on the Lungs

- **Extensive research has failed to find a link between marijuana and cancer.** According to research published in the journal *Cancer, Causes, and Control*, marijuana inhalation — unlike tobacco smoking — has not been positively associated with increased incidences of cancers of the lung, mouth, pharynx, larynx, esophagus, breast, colon, skin, or prostate.⁹ This was confirmed in 1999

⁴ Australian Institute of Health and Welfare, *The Burden of Disease and Injury in Australia, 2003* (Canberra: 2007).

⁵ Iverson, Leslie, “Long-term Effects of Exposure to Cannabis,” *Current Opinions in Pharmacology* 5 (2005): 69–72.

⁶ Special Senate Committee on Illegal Drugs, *Final Report: Cannabis: Our Position for a Canadian Public Policy* (Ottawa, 2002).

⁷ Hall, Wayne, *A Comparative Appraisal of the Health and Psychological Consequences of Alcohol, Cannabis, Nicotine, and Opiate Use* (University of New South Wales: National Drug and Alcohol Research Centre, 1995).

⁸ “In the Matter of Marijuana Rescheduling Petition,” DEA Docket No. 86–22, September 6, 1988.

⁹ Sidney, et al., “Marijuana Use and Cancer Incidence,” *Cancer, Causes, and Control* 8 (1997): 722–28.

when the Institute of Medicine reported, “There is no conclusive evidence that marijuana causes cancer in humans, including cancers usually related to tobacco use.”¹⁰ It was also reaffirmed in 2006 by the largest case-controlled study ever conducted to investigate the respiratory effects of marijuana smoking and cigarette smoking. The study, led by Dr. Donald Tashkin at the University of California at Los Angeles, found “no association at all” between marijuana smoking and an increased risk of developing lung cancer, even among subjects who reported smoking more than 22,000 joints over their lifetimes.^{11, 12}

Surprisingly, the UCLA researchers found that people who smoked marijuana actually had *lower* incidences of cancer compared to non-users, leading them to the conclusion that marijuana might have a protective effect against lung cancer. Other studies have shown that marijuana can kill cancer cells and inhibit tumor growth.^{13, 14}

- **The effects of smoking marijuana pale in comparison to those associated with smoking tobacco.** Opponents of marijuana policy reform often talk about the presence of carcinogens in marijuana smoke, oftentimes arguing that there are more cancer-causing chemicals in marijuana than in tobacco. Yet, there has never been a single documented case of a marijuana-only smoker developing lung cancer as a result of his or her marijuana use. Meanwhile, tobacco is responsible for 30% of all cancer deaths in the U.S. and 87% of lung cancer deaths.¹⁵

Inhaling any kind of smoke is unhealthy, but the effects of smoking marijuana are relatively mild and short-term in nature. Typically, they take the form of coughing, wheezing, and bronchitis that dissipate after the cessation of use. A 2012 study published in the *Journal of the American Medical Association* found that moderate lifetime marijuana smoking — defined as at least one joint per day for seven years or one joint per week for 49 years — is not associated with adverse effects on pulmonary function.¹⁶

- **Exposure to secondhand marijuana smoke — unlike tobacco smoke — has little to no effect.** There is no evidence that exposure to secondhand marijuana smoke has any significant long-term health implications, whereas studies have shown secondhand tobacco smoke can.¹⁷ In 1986, the National Institute on Drug

¹⁰ Institute of Medicine, *Marijuana and Medicine: Assessing the Science Base* (Washington, D.C.: National Academy Press, 1999).

¹¹ Hashibe, et al., “Marijuana Use and the Risk of Lung Cancer and Upper Aerodigestive Tract Cancer: Results of a Population-based Case-control Study,” *Cancer Epidemiology Biomarkers and Prevention* 15 (2006): 1829–34.

¹² Mark Kaufman, “Study Finds No Cancer-Marijuana Connection,” *Washington Post*, May 26, 2006.

¹³ Sarfaraz, et al., “Cannabinoids for Cancer Treatment: Progress and Promise,” *Cancer Research* 68 (2008): 339–42.

¹⁴ Manuel Guzman, “Cannabinoids: Potential Anticancer Agents,” *Nature Reviews Cancer* 3 (2003): 745–5

¹⁵ American Cancer Society, *Cancer Facts & Figures 2013*, Atlanta: American Cancer Society (2013).

¹⁶ Pletcher, et al., “Association Between Marijuana Exposure and Pulmonary Function Over 20 Years,” *Journal of the American Medical Association* 37 (2012).

¹⁷ U.S. Department of Health and Human Services, *The Health Consequences of Involuntary*

Abuse (NIDA) conducted a study in which they placed people in an unventilated 8-by-7 room and burned a series of marijuana cigarettes. After being exposed to the smoke of four joints for one continuous hour for six consecutive days, most participants had no trace of marijuana in their systems. Those who did only had THC metabolites detectable in their urine (meaning they were never actually “high”). It took researchers burning 16 joints for one continuous hour each day for six consecutive days to produce the effect of consuming one joint. Obviously, it is pretty rare that anyone would ever find themselves in a small room where 16 joints are smoked continuously for one hour per day for six consecutive days.

- **There are many ways to consume marijuana other than smoking, such as vaporizing, edible products, tinctures, and capsules.** Vaporizers are simple devices that give consumers the fast action of inhaled cannabinoids without most of the unwanted irritants found in smoke.^{18, 19} Essentially, vaporizing entails heating marijuana to the point that it releases the active chemicals in vapor form, so there is no smoke involved.

Addiction and Treatment

Marijuana is significantly less addictive than alcohol and tobacco. According to a 1998 report by Drs. Jack E. Henningfield of the National Institute on Drug Abuse (NIDA) and Neal L. Benowitz of the University of California at San Francisco, marijuana’s addiction potential is no greater than caffeine’s.²⁰ A comprehensive federal study conducted by the National Academy of Sciences Institute of Medicine arrived at a similar conclusion: “Millions of Americans have tried marijuana, but most are not regular users [and] few marijuana users become dependent on it ... [A]lthough [some] marijuana users develop dependence, they appear to be less likely to do so than users of other drugs (including alcohol and nicotine), and marijuana dependence appears to be less severe than dependence on other drugs.” According to the IOM report, only 9% of marijuana users ever meet the clinical criteria for a diagnosis of “dependence” (based on DSM-III-R criteria), compared to 15% of alcohol users and 32% of tobacco users.²¹

It is worth noting that some research has concluded that allowing people to use marijuana could produce a reduction in their consumption of more addictive substances. For example, a study performed by a researcher at the University of California, Berkeley found that “medical marijuana patients have been engaging

Exposure to Tobacco Smoke: A Report of the Surgeon General — Executive Summary, 2006.

¹⁸ Abrams, D.I., et al., “Vaporization as a Smokeless Cannabis Delivery System: A Pilot Study,” *Clinical Pharmacology and Therapeutics*, April 11, 2007. [Epub ahead of print.]

¹⁹ Earleywine, M., Barnwell, S.S., “Decreased Respiratory Symptoms in Cannabis Users Who Vaporize,” *Harm Reduction Journal* 4 (2007): 11.

²⁰ Hilts, Phillip, “Is Nicotine Addictive? It Depends Whose Criteria You Use,” *New York Times*, August 2, 1994.

²¹ U.S. National Academy of Sciences, Institute of Medicine, *Marijuana and Medicine: Assessing the Science Base* (Washington, D.C: National Academy Press, 1999).

in substitution by using cannabis as an alternative to alcohol, prescription and illicit drugs." It also recommended further research to determine whether "substitution might be a viable alternative to abstinence for those who are not able, or do not wish to stop using psychoactive substances completely."²² This hypothesis will surely be explored as states continue to remove legal barriers to adult marijuana consumption.

- **Most people in treatment for marijuana were ordered there by the criminal justice system.** In other words, they didn't actually seek or need treatment, but were arrested and offered treatment as an alternative to jail time or other serious penalties. Up to 70% of people in treatment for marijuana were ordered there by the criminal justice system, and according to 2006 statistics from the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA), more than one-third of those in treatment for marijuana hadn't used the drug in the 30 days prior to admission.^{23, 24}

Essentially, the government arrests people for using marijuana and forces them into treatment, and then it and other opponents of marijuana policy reform use those treatment admissions as "proof" that marijuana is addictive. The real scandal here is that countless needed treatment slots are being wasted on responsible marijuana users whose only problem with the drug was that they got caught with it.

Mental Health

- **The evidence shows no causal relationship between marijuana use and the onset of mental health conditions.** If marijuana causes psychosis, rates of psychosis should rise if marijuana use goes up, but that has not happened. According to a report published by the prestigious British medical journal *The Lancet*, marijuana use skyrocketed in the 1960s and 1970s, but there was no significant increase in rates of psychosis.²⁵ In 2009, researchers at the Keele University Medical School in Britain arrived at a similar conclusion: "[I]ncreases in population cannabis use have not been followed by increases in psychotic incidence."²⁶

In late 2005, the British government's scientific advisors on drug policy reviewed the evidence surrounding marijuana and mental illness and determined that the data do not demonstrate that marijuana causes depression, anxiety, or bipolar

²² Amanda Reiman, "Cannabis as a substitute for alcohol and other drugs," *Harm Reduction Journal* 6 (2009).

²³ Jan Copeland and Jane Maxwell, "Cannabis Treatment Outcomes Among Legally Coerced and Non-coerced Adults," *BMC Public Health* 7 (2007).

²⁴ U.S. Department of Health and Human Services: Substance Abuse and Mental Health Services Administration, *2006 Treatment Episode Data Set (TEDS)*.

²⁵ W. Hall, "Is Cannabis Use Psychotogenic?" *Lancet* 367 (2006): 193-5.

²⁶ Frisher, et al., "Assessing the Impact of Cannabis Use on Trends in Diagnosed Schizophrenia in the United Kingdom from 1996 to 2005," *Schizophrenia Research* 113 (2009): 123-8.

disorder.²⁷ Specifically, the British Advisory Council on the Misuse of Drugs concluded, “The evidence for the existence of an association between frequency of cannabis use and the development of psychosis is, on the available evidence, weak.” A study published in the journal *Addictive Behaviors* in 2006 found lower rates of depression in marijuana users than in non-users.²⁸

There have been a handful of studies that have identified a minor association between chronic marijuana use and increased symptoms of marijuana, but other studies have failed to find such a link.^{29, 30} Confounding factors such as polydrug use, family history, and poverty make it difficult to study marijuana’s potential impact on mental health.

- **Marijuana affects different people differently — like most substances, it can be problematic for some people and beneficial for others.** The relationship between marijuana and schizophrenia is a lot like sugar and diabetes. Both illnesses are primarily genetic in origin. Sugar can set off a diabetic attack in vulnerable individuals, and marijuana can set off or worsen a psychotic reaction in schizophrenics or in people with a genetic predisposition to schizophrenia. That’s not the same thing as causing the illness in the first place. There are some people who shouldn’t use marijuana, just like there are some people who should avoid sugar.

It is worth noting that survey data and anecdotal reports of individuals finding therapeutic relief from depression and other mental conditions are not uncommon. Clinical testing on the use of cannabinoids to treat certain symptoms of mental illness has been recommended.³¹

Decline in IQ

- **There is no conclusive evidence that marijuana use results in lowered IQ.** Opponents of marijuana policy reform frequently tout a 2012 New Zealand study published in the *Proceedings of the National Academy of Sciences (PNAS)* that linked minors’ chronic marijuana use to a long-term reduction in IQ. But later that year, the same journal published an analysis that criticized the study for having flawed methodology.³² In summary, it failed to account for the low

²⁷ Advisory Council on the Misuse of Drugs, “Further Considerations on the Classification of Cannabis Under the Misuse of Drugs Act 1971,” December 2005.

²⁸ T.R. Denson and M. Earleywine, “Decreased Depression in Marijuana Users,” *Addictive Behaviors*, April 2006.

²⁹ Moore, et al., “Cannabis Use and Risk of Psychotic or Affective Mental Health Outcomes: A Systemic Review,” *Lancet* 370 (2007): 319–28.

³⁰ Ferdinand, et al., “Cannabis Use Predicts Future Psychotic Symptoms, and Vice Versa,” *Addiction* 100 (2005): 612–18.

³¹ C.H. Aston, et al., “Cannabinoids in Bipolar Affective Disorder: A Review and Discussion of Their Therapeutic Potential,” *Journal of Psychopharmacology*, Vol. 19, No. 3, 2005.

³² Stromberg, Joseph, “Long-Term Marijuana Use Could Have Zero Effect on IQ,” *SmithsonianMag.com*, January 14, 2013.

socioeconomic status of many of the study's participants, and research has found that adolescents of low socioeconomic status tend to experience declines in IQ regardless of marijuana use. A study published by the *Canadian Medical Association Journal* that included only middle-class participants found that IQ only decreased among current users, and even in heavy users, it rebounded after they stopped using.³³ It is worth noting that one of the researchers who performed the New Zealand study told news sources "[she] is fairly confident that cannabis is safe for over-18 brains ..."³⁴

Motivation and School/Job Performance

- **The claim that marijuana makes people “amotivated” is a myth that has been repeatedly debunked by experts.** In its comprehensive 1999 report on marijuana, the National Academy of Sciences Institute of Medicine concluded, “no convincing data demonstrate a causal relationship between marijuana smoking and these behavioral characteristics.”³⁵ Similarly, an Australian government review produced by several of the world’s leading experts concluded, “There is no compelling evidence for an amotivational syndrome among chronic cannabis users.”³⁶ An analysis released by the World Health Organization in 1995 arrived at a similar conclusion.³⁷ Some studies of college students have found that marijuana consumers actually earn higher grades than non-users.³⁸
- **Any substance or behavior can potentially interfere with an individual’s ability to perform well at work or in school.** Whether it’s marijuana, alcohol, food, or video games, too much of it can be problematic for some people. The vast majority of marijuana users do not encounter such problems.

Gateway Theory

- **The so-called “Gateway Theory” has been debunked.** A White House-commissioned study by the Institute of Medicine in 1999 found that marijuana “does not appear to be a gateway drug to the extent that it is the cause or even that it is the most significant predictor of serious drug abuse; that is, care must be

³³ Fried, et al., “Current and former marijuana use: preliminary findings of a longitudinal study of effects on IQ in young adults,” *Canadian Medical Association Journal* 166 (2002): 887–91.

³⁴ Hughes, Dominic, “Young cannabis smokers run risk of lower IQ, report claims,” BBC News, August 28, 2012.

³⁵ U.S. National Academy of Sciences, Institute of Medicine, *Marijuana and Medicine: Assessing the Science Base* (Washington, D.C: National Academy Press, 1999).

³⁶ W. Hall, L. Degenhardt, and M. Lynskey, “The Health and Psychological Effects of Cannabis Use,” Commonwealth of Australia, National Drug Strategy, Monograph Series No. 25, 2001.

³⁷ W. Hall, R. Room, and S. Bondy, *WHO Project on Health Implications of Cannabis Use: A Comparative Appraisal of the Health and Psychological Consequences of Alcohol, Cannabis, Nicotine and Opiate Use*, Geneva, Switzerland: World Health Organization, August 28, 1995.

³⁸ M. Earleywine, *Understanding Marijuana*, Oxford University Press, 2002.

taken not to attribute cause to association."³⁹

- **If there is a "gateway drug," it is alcohol, which almost always precedes the use of marijuana.**⁴⁰ But just as alcohol use does not cause people to use marijuana, using marijuana does not cause people to use other illicit drugs. In other words, there is correlation but not causation. Given the wide-scale availability and popularity of alcohol and marijuana, it comes as little surprise that people who use other illicit drugs previously tried alcohol and marijuana.
- **The vast majority of people who have used marijuana never try any other drugs.** About half of all Americans have used marijuana at some point in their lives.⁴¹ Yet, only 3.6% have ever tried crack, only 1.6% have ever tried heroin, and fewer than 15% of Americans have ever tried cocaine, the second most popular illegal drug after marijuana.⁴² If using marijuana caused people to use other drugs, there would be far more users of other drugs.
- **By forcing marijuana consumers into the underground market, we are dramatically increasing the possibility that they will be exposed to other more dangerous drugs.** According to a 1997 report published by the Netherlands Institute of Mental Health and Addiction: "There is no physically determined tendency toward switching from marijuana to harder substances. Social factors, however, do appear to play a role. The more users become integrated in an environment ('subculture') where, apart from cannabis, hard drugs can also be obtained, the greater the chance that they may switch to hard drugs. Separation of the drug markets is therefore essential."⁴³

Adding Another Vice ("Alcohol and tobacco are bad enough ...")

- **Making marijuana legal is not "adding another vice" — it is providing a less harmful alternative to alcohol.** In an ideal world, perhaps people would not want to use marijuana or alcohol. But in the real world, these two substances are popular and widely available. It's time to stop driving people to drink and allow them to make the safer choice to use marijuana instead, if that is what they prefer.
- **There is no reason to believe that allowing adults to use marijuana will result in significant societal problems.** The health-related costs associated with alcohol and tobacco use far exceed those for marijuana use. In fact, health-related costs

³⁹ U.S. National Academy of Sciences, Institute of Medicine, *Marijuana and Medicine: Assessing the Science Base* (Washington, D.C: National Academy Press, 1999).

⁴⁰ Kirby, T. and Barry, A. E. (2012), "Alcohol as a Gateway Drug: A Study of U.S. 12th Graders," *Journal of School Health*, 82: 371–379. doi: 10.1111/j.1746-1561.2012.00712.x

⁴¹ CNN/ORC International survey, January 6, 2014.

⁴² U.S. Office of Applied Studies, *2011 National Survey on Drug Use and Health: Detailed Tables*. Accessed online January 11, 2013.

⁴³ Netherlands Institute of Mental Health and Addiction, *Cannabis Policy: An Update* (Utrecht: Trimbos Institute, 1997).

for alcohol consumers are more than eight times greater than those for marijuana consumers, according to an assessment published in *British Columbia's Mental Health and Addictions Journal* in 2009. More specifically, the annual health-related cost of alcohol consumption is \$165 per user compared to just \$20 per user for marijuana. The costs for tobacco consumption are 40 times greater at \$800 per user.⁴⁴ Correspondingly, the Centers for Disease Control and Prevention (CDC) attribute about 40,000 deaths per year to alcohol use alone (not including accidents) and about 440,000 deaths per year to cigarette use.^{45, 46} It attributes zero to marijuana. Clearly, allowing adults to use marijuana would not be on par with adding another alcohol or tobacco to the mix.

Claiming Marijuana is Harmless

- **No drug is entirely harmless, including marijuana, and we've never said it is.** But it's also true that independent scientific and government reviews have concluded that the health risks of marijuana are much lower than those of alcohol and tobacco, and that those risks don't justify arresting and jailing responsible, adult marijuana users. (See other sections regarding relative harms of marijuana compared to other substances.)
- **We need to be honest about the actual harms of all substances, and it would be irresponsible not to discuss the fact that marijuana is objectively less harmful than alcohol.** Do you think people should be aware of the fact that marijuana poses less potential harm to the consumer than heroin or methamphetamine? Why wouldn't we want people to be aware of the fact that marijuana is less harmful than alcohol, too?

Potency and Concentrates (Oils, Hashes, Waxes, Kief, "Dabs")

- **Even the most potent marijuana is far less harmful than alcohol.** The Centers for Disease Control and Prevention (CDC) attributes about 40,000 deaths per year in the U.S. to alcohol use alone, including hundreds from overdoses. It attributes zero to marijuana, and there has never been a fatal marijuana overdose in history.⁴⁷
- **Like alcohol, there are more potent and less potent types of marijuana, and regulating marijuana will ensure consumers know what they are getting.** Some people prefer to have a cocktail instead of a beer, and as a result, they know

⁴⁴ G. Thomas and C. Davis, "Cannabis, Tobacco, and Alcohol Use in Canada: Comparing Risks of Harm and Costs to Society," *Visions: British Columbia's Mental Health and Addictions Journal* 5 (2009).

⁴⁵ Centers for Disease Control and Prevention. Alcohol Related Disease Impact (ARDI) application, 2013. Available at http://apps.nccd.cdc.gov/DACH_ARDI/Default.aspx.

⁴⁶ Centers for Disease Control and Prevention. Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses — United States, 2000–2004.

⁴⁷ Centers for Disease Control and Prevention. Alcohol Related Disease Impact (ARDI) application, 2013. Available at http://apps.nccd.cdc.gov/DACH_ARDI/Default.aspx.

to drink less of it. By regulating marijuana like alcohol, we can ensure it is packaged and labeled properly. It would be crazy to sell beer and tequila side-by-side without having them labeled so people know one is far stronger than the other.

- **If marijuana concentrates are banned, they will end up being produced and sold in the same underground market we are trying to eliminate.** We should ensure these products are being produced safely and responsibly by licensed businesses in appropriate locations.

Teen Use

- **A majority of Americans support making marijuana legal, and they care just as much about protecting young people as those who wish to keep marijuana illegal.** They simply believe regulation would be a more effective way of doing it.
- **Marijuana prohibition has failed miserably at keeping marijuana out of the hands of teens.** For decades, more than 80% of high school seniors have reported that marijuana is "very easy" or "fairly easy" to obtain.⁴⁸ If the goal of our current prohibition policy is to keep marijuana out of the hands of young people, yet more than 80% can get it easily, that is a sign that the policy has failed. It's time for a new approach.
- **By forcing marijuana into an underground market, we are guaranteeing that sales will be entirely uncontrolled.** Illegal marijuana dealers do not ask for ID, they sell a product that is unregulated and possibly impure, and they might expose consumers to other more harmful drugs. In a regulated market, businesses would be required to ask customers for proof of age, and they would face severe penalties for selling marijuana to minors.
- **Strictly regulating alcohol and tobacco products and restricting sales to minors have produced significant decreases in use and availability among teens.** The rate of teen marijuana use has generally remained steady over the past several years, whereas levels of alcohol and cigarette use have decreased.⁴⁹ Over the past several years, cigarette use and availability among teens, which had been sharply increasing in the early 1990s, began steadily declining shortly after the 1995 implementation of the "We Card" program, a renewed commitment to strictly restricting the sale of tobacco to young people, along with a focused effort on public education. Ultimately, we were able to dramatically reduce teen tobacco use without arresting any adults for using tobacco.

⁴⁸ University of Michigan/National Institute on Drug Abuse, *Monitoring the Future National Survey Results on Drug Use, 1975–2012*.

⁴⁹ Ibid.

- **Research has shown that reforming marijuana laws does not increase teen marijuana use.** A 2012 study conducted by researchers at universities in Colorado, Montana, and Oregon found “no statistical evidence that legalization increases the probability of [teen] use,” and noted that “the data often showed a negative relationship between legalization and [teen] marijuana use.”⁵⁰ State surveys of students in several states with medical marijuana laws have consistently reported declines in teen marijuana use since those laws were passed.⁵¹

In 2012, an annual survey conducted by the U.S. Centers for Disease Control and Prevention (CDC) found that marijuana use by Colorado high school students has dropped since the state began regulating medical marijuana in 2010.⁵² California has had a similar experience. According to the state-sponsored California Student Survey (CSS), marijuana use by California teens was on the rise until 1996 — the year California adopted its medical marijuana law — at which point it began dropping dramatically (by nearly half in some age groups).⁵³ As part of the 1997-1998 CSS, the State of California also commissioned an independent study examining the effects of its medical marijuana law, which concluded, “There is no evidence supporting that the passage of Proposition 215 increased marijuana use during this period.”⁵⁴

Sending the Wrong Message to Teens

- **Marijuana is already widely available and widely used — regulating it simply sends the messages that marijuana is for adults and should be handled responsibly.** Our current marijuana prohibition laws, which allow adults to use alcohol but punish them for using a less harmful substance, are intellectually dishonest. Once young people realize that marijuana is not as dangerous as they have been led to believe, they are less likely to trust authorities’ warnings about other more dangerous drugs.
- **Marijuana prohibition laws send the inaccurate and potentially dangerous message that marijuana is more harmful than alcohol.** By allowing adults to use alcohol and making it a crime for them to use marijuana, our laws are steering people toward using the substance that is much more likely to cause harm to them or those around them. Such absurd policies also foster disrespect for the law and

⁵⁰ Anderson, D. Mark, Hansen, Benjamin, and Rees, Daniel I., “Medical Marijuana Laws and Teen Marijuana Use,” Institute for the Study of Labor, May 2012.

⁵¹ O’Keefe, Karen, et al., “Marijuana Use by Young People: The Impact of State Medical Marijuana Laws,” Marijuana Policy Project, June 2011.

⁵² Centers for Disease Control and Prevention, *1991–2011 High School Youth Risk Behavior Survey Data*. Available at <http://apps.nccd.cdc.gov/youthonline>.

⁵³ “Report to Attorney General Bill Lockyer, 11th Biennial California Student Survey, Grades 7, 9 and 11,” WestEd, 2006.

⁵⁴ Skager, Rodney, Austin, Greg, and Wong, Mamie, “Marijuana Use and the Response to Proposition 215 Among California Youth, a Special Study From the California Student Substance Use Survey (Grades 7, 9, and 11), 1997–1998.”

law enforcement officials. Our laws should reflect the facts, and it is a fact that marijuana is less harmful than alcohol.

Legal Age (18 vs. 21 vs. other ages)

- **Like with alcohol, it will be up to lawmakers and/or voters to decide the appropriate legal age for using marijuana.** Some people believe the legal age should be 18 because the individual is legally an adult and marijuana is far less harmful than alcohol and tobacco. Others think it should be 19 or older because 18-year-olds are still in high school and might be tempted to purchase it for their underage friends. Many people think the age limit should be 21 because, like alcohol, marijuana is intoxicating. It could be different from state to state as it used to be for alcohol, or a national legal age could be set at some point.

Crime and Violence

- **Research shows that marijuana — unlike alcohol — is not linked to violent or aggressive behavior.** In fact, it often shows marijuana reduces the likelihood of engaging in acts of violence. A 2008 study published in the journal *Addictive Behaviors* concluded "alcohol is clearly the drug with the most evidence to support a direct intoxication-violence relationship," whereas "cannabis reduces the likelihood of violence during intoxication."⁵⁵ The U.S. Department of Health and Human Services estimates that 25% to 30% of violent crimes and 3% to 4% of property crimes in the U.S. are linked to the use of alcohol.⁵⁶ According to a report from the U.S. Department of Justice, that translates to nearly 5,000,000 alcohol-related violent crimes per year.⁵⁷ By contrast, the government does not even track violent acts specifically related to marijuana use, as the use of marijuana has not been associated with violence. If we truly want to reduce the likelihood of violence in our communities, we should be allowing adults to use marijuana instead of alcohol, if that is what they prefer.

Some opponents of marijuana policy reform claim marijuana users commit crimes to support their use of marijuana. Yet, marijuana is no more addictive than coffee, which is why neither marijuana users nor coffee drinkers commit crimes to support their use.

- **Regulating marijuana will reduce crime, not increase it.** In fact, virtually all the crime associated with marijuana is a direct result of its prohibition. Marijuana prohibition has relegated the sale of marijuana to criminal enterprises and,

⁵⁵ P. Hoaken and S. Stewart, "Drugs of abuse and the elicitation of human aggressive behavior," *Addictive Behaviors* 28 (2003): 1533–54.

⁵⁶ U.S. Department of Health and Human Services, *10th Special Report to the U.S. Congress on Alcohol and Health*, June 2000.

⁵⁷ U.S. Department of Justice Bureau of Justice Statistics, *Alcohol and Crime: Data from 2002 to 2008*. Available at http://www.bjs.gov/content/acf/apt1_crimes_by_type.cfm

increasingly, violent drug cartels. In doing so, it is exposing many consumers to more harmful people. And since marijuana is illegal, these individuals are unable to rely on law enforcement officials to step in when business-related disputes and incidents occur. All too often, this results in violence that affects not just marijuana dealers and consumers, but the broader communities surrounding them.

Marijuana is a significant source of income for individuals and groups involved in other criminal activities. For example, much of the violence escalating on the Mexican border revolves around the actions of Mexican drug cartels fighting over profits from marijuana sales. In fact, former U.S. Drug Czar John Walters told the Associated Press in 2008 that marijuana is the biggest source of income for these ruthless narcoterrorist organizations.⁵⁸ Whether they are large-scale drug cartels or small-town street gangs, the vast supply and demand surrounding marijuana will ensure they have a constant stream of profits to subsidize other illegal activities. Regulating marijuana like alcohol would eliminate this income source and, in turn, eliminate the violence and turf battles associated with the illegal marijuana market.

- **States' experiences with medical marijuana dispensaries have demonstrated that there is no significant link between regulated marijuana businesses and crime — in fact, it might reduce it.** A study published in 2013, which was conducted at the University of California at Los Angeles and funded by the National Institute on Drug Abuse (NIDA), concluded: "[The] results suggest that the density of [medical marijuana dispensaries] may not be associated with increased crime rates or that measures dispensaries take to reduce crime (i.e., doormen, video cameras) may increase guardianship, such that it deters possible motivated offenders."⁵⁹

In Colorado, a Denver Police Department analysis conducted in 2010 at the request of the city council found robbery and burglary rates at dispensaries were lower than area banks and liquor stores, and on par with those of pharmacies.⁶⁰ The Colorado Springs Police Department also found no correlation between medical marijuana businesses and increased crime.⁶¹ That same year, the Los Angeles Police Department found similar results when it produced a report in response to claims that marijuana-related businesses were contributing to crime.⁶²

Driving Under the Influence

⁵⁸ Stevenson, Mark, "Marijuana a big earner for Mexico gangs," *Associated Press*, February 21, 2008.

⁵⁹ Freisthler, B., Kepple, N.J., Sims, R., & Martin, S.E., "Evaluating medical marijuana dispensary policies: Spatial methods for the study of environmentally-based interventions," *American Journal of Community Psychology* 51 (2013): 278–288.

⁶⁰ Ingold, John, "Analysis: Denver pot shops' robbery rate lower than banks," *Denver Post*, January 27, 2010.

⁶¹ Rodgers, Jakob, "Marijuana shops not magnets for crime, police say," *Colorado Springs Gazette*, September 13, 2010.

⁶² Castro, Tony, "LAPD Chief: Pot clinics not plagued by crime," *Los Angeles Daily News*, January 17, 2010.

- **It is currently illegal to drive while impaired by marijuana, and it will remain illegal after marijuana is regulated and legal for adults.** Since law enforcement officials will no longer need to spend time arresting and prosecuting adults for possessing marijuana, they will have more time to spend enforcing laws against driving under the influence of alcohol, marijuana, and other substances.
- **Statistics connecting marijuana use to traffic accidents are generally unreliable.** For example, marijuana can remain detectable in a user's system for several days or even several weeks after he or she consumes marijuana, and the data on traffic accidents usually does not differentiate between whether a driver was actually under the influence at the time of the accident. Oftentimes, the data also does not differentiate between which driver was at fault, meaning drivers who tested positive for marijuana may not have actually caused the accident. It is also worth noting that many fatal accidents don't involve testing for the prevalence of drugs, and in some states it is involved in fewer than half.^{63, 64}
- **Drivers can be tested for marijuana, and it is currently being done throughout the country.** Typically, blood tests and urinalysis are used to determine whether a driver has consumed marijuana. Urinalysis can detect the presence of marijuana even if it was consumed days or weeks earlier, so it is not a good indicator of whether a driver is actually under the influence. Blood tests are far more demonstrative of whether an individual is actually "under the influence," and states have adopted laws that establish a "legal limit" for marijuana.

For example, Washington has established a "per se" limit of five ng/ml of THC in the blood, meaning any person found at or above that level is automatically deemed impaired (just as a person with a 0.08 blood alcohol concentration is automatically deemed impaired). There is evidence that some marijuana consumers maintain levels of five ng/ml of THC or more for several hours or even days after they have consumed, which has led to criticism that such "per se" standards can result in unimpaired drivers being charged for driving while impaired. In light of that evidence, Colorado has established a limit of five ng/ml with "rebuttable presumption," meaning an individual is not automatically deemed impaired and can challenge the charge in court.

Clearly, there is still a need to develop a more refined system for determining whether a driver is truly impaired by marijuana, but it is safe to say there is currently a way to do it. Any standards and penalties that are adopted should reflect existing science and must be based on demonstrating actual driving impairment.

⁶³ "Drug Involvement of Fatally Injured Drivers," NHTSA, *Traffic Safety Facts*, November 2010, DOT HS 811 415, 1.

⁶⁴ Rocky Mountain High Intensity Drug Trafficking Area, *The Legalization of Marijuana in Colorado: The Impact* (August 2013), 5.

Employment Issues and Drug Testing

- **State voters or lawmakers can adopt laws that allow employers to maintain or create employment policies that prohibit the use of marijuana by employees on and off the job.** That was the case with the laws adopted by voters in Colorado and Washington in 2012.
- **There are laws in place that ensure employers have the ability to prohibit the use of marijuana by employees in “high-risk” or “safety-sensitive” positions.** Don’t be fooled by opponents who claim making marijuana legal for adults will result in surgeons, pilots, truck drivers, and electrical line workers performing their jobs under the influence of marijuana.
- **Adults should not be punished for using marijuana outside of the workplace unless there is some sort of extenuating circumstance, just as they should not be punished for consuming alcohol outside of the workplace.** It’s worth noting that alcohol can produce a hangover, which can negatively affect an employee’s performance the day after he or she consumes it, whereas marijuana does not produce hangovers.

Because of how the body metabolizes marijuana, urinalysis can detect it in the body for up to several weeks. The effects of marijuana, however, only last for up to several hours. Any employee drug-testing program should take this into account to ensure employees are not being punished for consuming marijuana outside of the workplace. Since marijuana is detectable for much longer than other substances, testing employees for it could steer them toward drinking or using other less detectable drugs.

- **Adopting a law that regulates marijuana like alcohol would not be a violation of the Federal Drug Free Workplace Act.** The FDFW Act simply requires employers to have a drug policy and to have penalties for violations of that policy. It does not require employers to prohibit the use of marijuana outside of the workplace.

Industry Concerns (“Big Tobacco,” Advertising, Etc.)

- **Why would we want marijuana to be sold by criminals instead of licensed businesses?** Marijuana is widely available, widely used, and objectively less harmful than alcohol. There is no reason why we should be leaving it in the underground market where its cultivation and sale are entirely uncontrolled.
- **This is a new industry, and we have the opportunity to create responsible regulations right off the bat.** State and local governments are able to create broad rules covering advertising, labeling, testing, serving sizes, additives, permissible financial interests, production caps, licensing classes, etc. Marijuana

businesses and business groups are pushing for strong and sensible regulations since they are needed in order to establish and maintain a legitimate marijuana industry. For example, Colorado's largest marijuana industry organization was a vocal supporter of a successful 2012 effort to ban outdoor advertising by marijuana businesses in Denver.⁶⁵ Ultimately, nobody wants to ensure these businesses are following all of the regulations more than the businesses themselves.

- **The tobacco industry was initially poorly regulated, and there was not nearly as much public knowledge about the health effects of tobacco as we currently have for marijuana.** For example, tobacco companies are now notorious for having used additives to make their products more addictive. Such practices have already been banned under the laws approved by voters in Colorado and Washington to regulate marijuana like alcohol (businesses are also prohibited from mixing marijuana with tobacco or alcoholic beverages). The biggest problem with the tobacco industry is that it sells an exceptionally dangerous product. Its use alone kills hundreds of thousands of Americans per year, according to the Centers for Disease Control and Prevention (CDC), whereas zero deaths are attributed to marijuana use. Overall, the health-related costs for tobacco consumers are 40 times greater than those for marijuana consumers. More specifically, the annual health-related costs of tobacco consumption are \$800 per user compared to just \$20 per user for marijuana.⁶⁶

Slippery Slope Toward Legalizing All/Other Drugs

- **Every substance should be treated based on its relative harms and the facts surrounding it — marijuana is far less harmful than alcohol and should be treated that way.** We can have different policies for marijuana, cocaine, and heroin, just as we now have different policies for alcohol, tobacco, and marijuana. Drugs are not all the same, and our laws should reflect that. Marijuana policy reform is being debated because marijuana is widely recognized as a substance that should be made legal and regulated. We are not proposing changes to any laws other than marijuana laws.

Marijuana Use is Wrong/Immoral

- **Americans differ about the morality of many things, but our public policies should be focused on minimizing harm to individuals and to the community.** Some people consider alcohol use immoral, but most recognize that alcohol prohibition was a disaster. Marijuana prohibition has been just as big a failure, and it has caused far more harm than marijuana itself.

⁶⁵ Ingold, John, "Denver medical marijuana advertising ban passes key vote," *Denver Post*, August 13, 2012.

⁶⁶ G. Thomas and C. Davis, "Cannabis, Tobacco, and Alcohol Use in Canada: Comparing Risks of Harm and Costs to Society," *Visions: British Columbia's Mental Health and Addictions Journal* 5 (2009).

Marijuana Possession Laws Are Not Enforced / Nobody Actually Gets Arrested / Nobody Faces Serious Consequences

- **About 750,000 Americans were arrested for marijuana-related offenses in 2012, and more than 87% were for possession alone.⁶⁷ That's one possession arrest every 48 seconds, and it's more arrests than for all violent crimes combined.** It's true that most people arrested for possession do not go to prison, but they all do face potentially life-altering consequences. They will have a drug-related offense on their record. Many people lose their jobs or find it difficult to gain employment. Parents can lose custody of their children. College students can lose their federal financial aid. People lose their public housing benefits. And those who are on parole or probation, or who have past offenses, could very well find themselves in jail or prison. According to leading marijuana policy researchers, "About 40,000 state and federal prison inmates have a current conviction involving marijuana; perhaps half of them are in prison for offenses related to marijuana alone."⁶⁸
- **Approximately 2,000 Alaskans are arrested annually for marijuana possession offenses.** In 2010, 81% of all drug arrests in Alaska were for marijuana *possession*. This is the highest rate in the country. Of the 2,517 arrests made for drug offenses 2,028 of those were for marijuana possession.⁶⁹

Legalization and Prohibition are Both Too Extreme (Project SAM's "third way")

- **The proper balance between incarceration and unrestrained legalization is regulation.** We need a marijuana policy that reflects the realities of marijuana and minimizes the harm surrounding it. Marijuana is relatively safe for responsible adult use, it is widely available and commonly used, and it's not going anywhere anytime soon. As such, its production and distribution should be regulated and controlled, not left to the underground market. Any policy that keeps marijuana illegal for adults is not a "third way," it's the same way we've been treating marijuana for decades.

Federal Law

- **The U.S. Department of Justice (DOJ) made it exceptionally clear that states can regulate the cultivation and sale of marijuana for adult use.** In an August 2013 memo, Deputy Attorney General James Cole said the DOJ would refrain from interfering as long as states are establishing and enforcing regulations that adequately address specific federal interests, such as restricting marijuana sales to

⁶⁷ U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the United States, 2012* (October 2013).

⁶⁸ Jonathan P. Caulkins, Angela Hawken, Beau Kilmer, and Mark A.R. Kleiman, *Marijuana Legalization: What Everyone Needs to Know*, Oxford University Press: 2012.

⁶⁹ American Civil Liberties Union, *The War on Marijuana in Black and White, 2013*

minors and preventing interstate trafficking. In fact, the DOJ memo acknowledges that regulating marijuana might be more effective than prohibition when it comes to addressing those interests. In particular, it notes that the establishment of large for-profit marijuana businesses could be beneficial.⁷⁰

- **Twenty states and the District of Columbia have legalized medical marijuana, and many of them — including our nation's capital — are regulating the cultivation and sale of medical marijuana.** Colorado and Washington have successfully implemented laws approved by voters in 2012 that regulate marijuana similarly to alcohol.

International Drug Control Treaties

- **International drug treaties allow considerable flexibility.** In the U.S., 20 states and Washington, D.C. currently have medical marijuana laws, including many that allow for the regulated cultivation and sale of medical marijuana. Another good example is the Netherlands, which has a quasi-legal system of marijuana regulation in place right now. The U.S. has traditionally been the driving force behind these treaties, and we can renegotiate them anytime if it becomes necessary. It does not appear it will be.

⁷⁰ U.S. Department of Justice, *Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement*, August 29, 2013. Available at <http://www.justice.gov/opa/pr/2013/August/13-opa-974.html>.

Dear Senate and House Judiciary Committee Members

I understand there will be a hearing tomorrow in support of Ballot Measure 2, the issue concerning regulation of marijuana in this state. I wanted to convey to you how important I feel this issue (regulation of marijuana) is to the citizens of the great State of Alaska. I'm a 71 year old , gray-haired grandma, a married female living in Wasilla. Having grown up in the 60's and 70's, I was aware of marijuana use then and now and I've never believed for one moment that it was a "gateway drug". It simply isn't. Marijuana is much less addictive and harmful than alcohol or tobacco to the body. Health related costs for alcohol or tobacco is likewise significantly less. This is substantiated by many polls in this country and the majority of Americans believe marijuana is safer than alcohol including me.

I have known many people over the years who have used marijuana occasionally or on a regular basis. I truly believe this substance does not cause users to be or do anything that they wouldn't be doing anyway. If they are lazy, worthless human beings, I think they would have been that type of person with OR without marijuana. I have known many other people who regularly use this who have always led full and productive lives. Use or non-use of marijuana isn't the determining factor in people's lives. It's just an excuse people who are against it use, regardless of it applying or not.

I am not a current user but as a senior citizen I fully intend to BE a regular user should I end up with some life-altering medical disease or condition that marijuana would help ease the symptoms. If not legal here, I certainly would consider a move to someplace where it WAS legal, it's as simple as that!

I feel it serves no useful purpose to treat users or growers as criminals unless they intentionally sell or provide their product to under-age people. I understand that in 2010, 81% of drug arrests were for people possessing marijuana. As with alcohol use in the state, legalize it and control it. And tax it if you must. We as a state have a lot more important things to concern ourselves with than criminalizing otherwise law-biding citizens.

Legalize marijuana and impose the same restrictions as there are on alcohol, and I believe there will be no significant impact on the way adults in the State of Alaska live their lives. I urge you to carefully consider this from this gray-haired granny in Wasilla.....please!!!

**Sharen Lea Rockefeller
1055 E. Onyx Circle
Wasilla AK 99654
(907) 376-8042 (h)
(907) 715-8314 (cell)**

Hi,

My name is Michael Posciri jr. And I fully support ballot proposal #2. I am a proud Alaskan and a father of three. I have done my research and also have seen with my own two eyes what alcohol does to good people. It kills the body from the inside out has no medicinal property's and is sold and marketed on every corner. Yet, marijuana has science fact medicinal property's doesn't make u want to fight or get aggressive like alcohol. U can get alcohol poisoning, haven't heard of marijuana poisoning. Also I would like to say that if we stopped arresting people for Marijuana possession we would have room in the system for the child molesters,rapist and, the violent criminals. I thank you for your time. Have a good day.

Mike Posciri

I am a user of marijuana both recreationally and for medicinal purposes. For almost 40 years I've bought, sold and cultivated herbs on the black market. The last 15 years I've been a medical marijuana patient, yet still was needlessly incarcerated for marijuana just last year!!~! After seeing how well regulation works elsewhere, it's high time we get current with will of the people....on a cultural note, up here in Nome, and elsewhere in rural Alaska, there are many alcohol related problems, and no marijuana related probs. People out in the bush want safe access to marijuana as an alternative to getting drunk!!!!!!peace John shelp.....

Dear Sirs:

I am writing to voice my opinion regarding the effort here in Alaska to regulate marijuana like alcohol. I believe that marijuana is a relatively benign substance, especially compared to alcohol. I believe that all the money and time spent arresting and incarcerating people regarding marijuana can be better spent really protecting and serving the people of Alaska in other ways. Yes, there will be some people who can't "handle" their marijuana just like there are people who can't "handle" their alcohol, but at the worst these people will be sleeping instead of indulging in road rage or violence in the home like drinkers do. I do believe that regulating marijuana and requiring an ID to purchase it, etc, will make it harder for young people to get access to it, which I also think is a good thing. Making marijuana legally accessible will also remove the unsavory elements that currently traffic in this substance from doing this business in our communities. Marijuana does not incite violent behavior and I do not see the more widespread use of this substance as a problem. In fact, if more people smoked marijuana instead of drinking alcohol we might see a decrease in the very serious violent and often tragic results of alcohol abuse.

Thank you for considering my testimony.

Sincerely,

Hollie Levine
Wrangell, AK

Dear Members of the Legislature,

I am 55 years old and a life-long Alaskan. I have had a serious chronic pain condition for 16 years. Marijuana can help with chronic pain. The marijuana legislation you have passed gives the appearance of making medical marijuana available without ACTUALLY making it available. I cannot legally buy marijuana anywhere. Likewise, I cannot legally buy marijuana seeds anywhere so that I can grow my own medicine. You pass a law that says I can grow it, but I can't legally obtain the seeds to grow it. Which means NO ACTUAL, LEGAL access to this medicine that could make my difficult life easier.

The federal government has lied to us for 60 years by telling us there are no medical benefits from the use for marijuana. It has also blocked research into diseases/conditions that could be helped by marijuana use, instead choosing to fund only research that will prove it is a dangerous. At the same time, the federal government provides marijuana to a few choice people to treat their conditions...with a drug they say has no medical value.

People undergoing cancer treatments are helped by marijuana, as are those with chronic pain, arthritis, epilepsy, migraine, glaucoma, Alzheimers, MS, Tourett's Syndrome, Muscular Distrophy and PTSD.

I'm supporting this measure because I think people like me should have easy access to medical treatment. I have used a pharmacy full of drugs over the years to treat my pain, none of which were effective long term and many which had terrible side effects. I should be able to go to an approved marijuana pharmacy and buy this drug. You shouldn't be asking me to break the law to gain access to treatment that can help me. I shouldn't HAVE to set up a grow room in my basement. We don't ask patients to grow their own antibiotics or blood pressure, asthma or arthritis medication. I shouldn't have to grow my pain medication.

People worry about teen access to marijuana if this law passes. Let me tell you, teens are about the only ones who have access to marijuana now. Look at how we treat alcohol and access. Teens don't go into liquor stores and bars and buy alcohol. It's pretty strictly controlled. And we punish business that sell alcohol to teens. We can control marijuana in the same manner. And if we control the sales of legal marijuana, it takes the profit out of the blackmarket sale of marijuana and our teens will have LESS access to it.

People worry about marijuana overuse if it is legally available to all adults. Marijuana is simply much less harmful than alcohol. You don't hear of women and children being beaten up by the man in their life who was stoned. Marijuana doesn't make you more aggressive. How many stories have we heard like this that were alcohol related? And yet we are willing to tolerate that and keep alcohol available. Because alcohol prohibition didn't work. Neither does marijuana prohibition.

How much of our prison population is in prison due to marijuana? In 2010, 81% of all drug arrests in Alaska were for marijuana possession. That's 8 in 10 arrests. We have had such an increase in our prison population that we ship our prisoners outside. How much would that

prison population and the cost of housing those prisoners shrink if we removed the prohibition on a substance that is LESS harmful than alcohol.

Our current policy and approach to marijuana simply makes no sense. I'm old enough to see the long-range effects of this approach and realize that it has made things worse for our citizens, rather than better. If the government has to intervene in my life, shouldn't that intervention make my life better?

I will be voting in support of this initiative and strongly encouraging all my friends and family members to do the same.

Beverly Frey

Fairbanks, Alaska

I am writing in support of Ballot Measure 2.

I believe marijuana should be legalized because it is not a dangerous drug. If marijuana is used in a responsible manner by adults it does not cause harm. Therefore, I believe it should be legal just as the use of alcohol is legal. Alcohol use has caused much greater harm to society than marijuana ever could. Enforcing laws that prohibit the use of marijuana has been a huge waste of government resources. A better use of our resources would be to regulate the use of marijuana in the same manner as we regulate the use of alcohol and tobacco. Taxes collected from the sale of marijuana could be used for this.

I support Ballot Measure 2.

Thank you.

Linda Jackson
11248 Kalsin Dr.
Kodiak, AK 99615

My name is Adam Berkey. I thank you in advance for taking the time to read my testimony. It is my intention in writing this letter to humanize the people of our state and country who use cannabis on a regular basis.

I am a 5th Grade teacher in Juneau, AK. Every year I work with the Juneau Police Department to teach DARE to elementary school children. I have done this for six years now, sometimes speaking at the graduation to children about the importance of sobriety for young minds. However, there has always been a problem when I speak to parents and children about this topic. Why? Well, besides being a teacher, a husband, a brother, a son, and a community volunteer, I am also a stoner. I smoke cannabis every night to help control my seizures. To put it bluntly, if I didn't use cannabis, I would be flopping around on the floor in front of my students.

Now, the immediate response to my words is "Marijuana is already legal for medical use. What's the problem?" The problem is that as long as marijuana remains illegal, there is a stigma that sticks to marijuana - the stigma being that everyone who uses marijuana is a criminal, therefore people who use marijuana are bad. This idea has caused me to live dual lives as an individual - By day I am Adam Berkey elementary school teacher, by night I a cannabis consumer. The only thing that I am, always, is scared that someday my private life will become exposed and I will lose my public life. While this fear has been constant for six years, I've now come to a point in which I can no longer lie about who or what I am. I am Adam Berkey, an elementary school teacher and a stoner.

My fear does not end with me. It is also my fear that marijuana will continue to be used as a way to imprison certain people who, outside of marijuana use, break no laws and harm no one. This behavior of imprisoning people for personal choices is against the design of our country - Our country is one that boasts freedom; Our state is one that guarantees privacy. It is freedom and privacy that make our state and country great. Why should our ends be any different on the topic of marijuana than they are on alcohol or guns or raising children or any other rights we take for granted? We only legislate the habits of people when harm is involved. We have legislated marijuana for over 80 years, and we have yet to prove the harm of the drug. Meanwhile, we turn our heads and ignore young people in Alaska who drink themselves to death year after year after year. What message rests in that thinking? We find it normal that teenagers experiment with tobacco. We find it normal that teenagers will try alcohol. We arrest teenagers who get caught trying marijuana. We strip the teenagers of the sports they play. We kick them out of school. We make a lesson out of them - don't be a teenager who uses marijuana, or else....

Well, I am an adult who uses marijuana, and I'm a damn fine adult. I'm a good husband. I'm a good son. I'm a good teacher. I'm a good volunteer. Somehow, though I've used marijuana for a decade, I still have managed to be a good and intelligent human being. Somehow, though smoking marijuana throughout my Masters program, I still managed to get my degree. It is my guess that there are many more people like me hiding their lives from their friends and neighbors, fearing that they might be branded a stoner and good-for-nothing. Nobody should have to live that way. Living in fear is counter-intuitive to what it means to be an American.

The laws that govern marijuana have given me nothing more than shame and anguish, and they need to be done away with. If you can't do that for me, do it for every single young person who

will have their lives destroyed, not from using marijuana, but from the punishments that come along with getting caught with marijuana. This draconian way of dealing with certain segments of society needs to end now. There is no more time for deliberation.

Thank you again for your time and thoughts,

Adam Berkey
7099 Sunny Point Way
Juneau, AK 99801
(907)723-0628

LEGISLATIVE INFORMATION OFFICE

Email: Ketchikan_LIO@legis.state.ak.us

50 Front St., Suite 203
Ketchikan, Alaska 99901

Phone: (907) 225-9675
Fax: (907) 225-8546

WRITTEN TESTIMONY

NAME: LYNDA ADAMS

REPRESENTING: SELF

BILL# or SUBJECT: SALE AND USE OF MARIJUANA

COMMITTEE AND HEARING DATE: JJWD 03-29-14

TO: SEN. COGHILL @ FAX 907-465-3258

TO: REP. KELLER @ FAX 907-465-3818

PAGES INCLUDING COVER: 3 (2 PAGES WRITTEN TESTIMONY)

NOTE: MS. LYNDA ADAMS ATTENDED HEARING AT
OUR KETCHIKAN LIO BUT TIME RAN OUT
BEFORE SHE HAD AN OPPORTUNITY TO
TESTIFY.

THANK-YOU,

KATHY LAPINSKI

LIO ASSISTANT

**TESTIMONY AGAINST THE INITIATIVE 13PSUM (production, sale, and use of
MARIJUANA
March 29, 2014**

My name is Lynda Adams and I am from Ketchikan. In 1982 I went to Juneau to testify before Rep. Ramona Barnes Judiciary Committee about marijuana. At that time the marijuana was only a potency of .2 percent THC. At the end of the hearing, it had been quantified as 4 ounces from the previous label of "a small amount."

I learned more about marijuana. I found other parents who were very concerned about marijuana. Over a period of time of 10 years, our non-profit was called "Alaskans for Drug-Free Youth". Two of our projects were to build community groups to provide a safe environment for the kids in our communities, and to defeat having any legal marijuana. At the end of the 10 years that we were in existence we had 8 communities as part of our group that extended to Nome from Ketchikan. We worked on two marijuana initiatives and gathered signatures. This state does not want marijuana to be legal in our communities and backyards!

We did a unique project with dried parsley. We bought a jar of 4 ounces of parsley and had a substance abuse counselor roll the 4 ounces of parsley showing how many joints there are in 4 ounces. There were 392 joints in a tall glass canister. Now we knew that 4 ounces of marijuana was the equivalent to 392 joints. We then were told that each adult in the home could possess 4 ounces of pot translating to 392 joints. I then asked law enforcement if they could send a sample of confiscated marijuana to the Mississippi Lab for potency testing. He was willing to send the sample which came back as 29.86% potency level. In ten years the potency had jumped 29.66%!

I encourage you to keep monitoring the levels and potency.

I say all of this to give you an understanding of how marijuana has changed by potency and quantities.

You must know that money and pressure from the "outside" on this issue are not from the majority of residences in this state. These pot legalizers have been around since this state became one of the 11 states that had imposed "medical marijuana" in the 70's.

I noticed in yesterday's newspaper that the State Legislature's budget that they are working on is \$9.2 Billion dollars. It is clear to me that we want good jobs, a growing economy, good schools and great kids! I'm not willing to corrupt our State and lose money for progress and healthy kids. That sounds like we would be a backward state with no growth for progress and many kids with various problems. That sounds like we would be a backward state with no growth for positive and healthy things. These unhealthy trends do not stop at the "fence" between a 20 year old and a 21 year old. Our younger kids will be negatively affected by this initiative. The ballot language is too wordy and the public will not understand what the outcome will be.

I am advocating that you don't interfere with the plans for the State Budget, and leave all of the costs associated with the initiative alone by not allowing it to happen. Just tell the sponsors that we don't have enough funds to support their initiative!

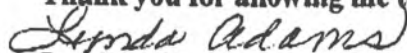
Allowing the operation of marijuana production, sale and use as proposed in the initiative actually increases the opportunity for Alaska's "legally grown" marijuana to be illegally diverted and exported. The potency of Alaska's grown marijuana is coveted by others...that is a cost in itself that we wouldn't have to endure.

This initiative goes farther than any other initiative you have seen before in expanding the definition of what constitutes "marijuana" and in promoting commercialization and industrialization of marijuana. This will ruin our communities everywhere in the State. It will destroy the quality of life in our state with lots of costs to come with it. This initiative could result in attracting a different kind of tourist!

I am concerned that communities and villages cannot restrict people from bringing in high potency marijuana products such as 80-90%THC shatter or marijuana wax. This takes away communities' rights. There is no top threshold for marijuana potency in the initiative.

I have been a resident of Ketchikan for 60 years, and I truly believe that passing this initiative would harm, and certainly would ruin the future of our state and our young people.

Thank you for allowing me to speak.


Lynda Adams

- 1. I strongly encourage you to Google "marijuana wax". You will be shocked!**
- 2. The potency of pot is not stated in the initiative. There is no top threshold for marijuana that is stated in the initiative.**
- 3. My last suggestion is to find out how much usable pot is in 6 plants.**