

Article IV, Section VII, Paragraph 13 New Jersey Constitution

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library
(Legalizes recreational cannabis)

New Jersey Constitution: Article IV, Section VII, Paragraph 13

BILL NO: SCR183

SPONSOR: Scutari, Sweeney, Oujano, Holley, Timberlake, McKnight, Lopez

DATE INTRODUCED: 11/18/2019

COMMITTEE: **Assembly:** Oversight, Reform, and Federal Regulations

Senate: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 12/16/2019

SENATE: 12/16/2019

FILED WITH SECRETARY OF STATE: 12/16/2019

DATE OF ADOPTION: 11/3/2020

EFFECTIVE: 1/1/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced bill enacted) Yes

SPONSOR'S STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS:

Yes

974.90 Public hearing before Senate Commerce Committee : the public hearing will be held in accordance with N222 Article IX, paragraph I of the New Jersey Constitution and Rule 24:3 of the New Jersey Senate on the 2019b following Senate Concurrent Resolution: Senate Concurrent Resolution 183 "Proposes constitutional amendment to legalize cannabis for personal, non-medical use by adults who are age 21 years or older, subject to regulation by Cannabis Regulatory Commission" [December 12, 2019, Trenton, New Jersey]

974.90 Public hearing before Assembly Oversight, Reform, and Federal Regulations Committee : the public hearing N222 will be held in accordance with Article IX, paragraph I of the New Jersey Constitution and Rule 19:3 of the 2019a General Assembly on the following Assembly Concurrent Resolution: Assembly Concurrent Resolution 840 "Proposes constitutional amendment to legalize cannabis for personal, non-medical use by adults who are age 21 years or older, subject to regulation by Cannabis Regulatory Commission" [December 12, 2019, Trenton, New Jersey]

NEWSPAPER ARTICLES:

Yes

Catalina, Mike, Associated Press, 'NJ lawmakers planning cannabis question for 2020 ballot', *Associated Press State Wire: New Jersey (NJ)*, 11/18/2019

Johnson, Brent, 'Legalizing weed will be decided by N.J. voters in referendum next year, top lawmaker says', *The Star-Ledger*, 11/18/2019

Brunetti Post, Michelle, 'Sweeney introduces recreational marijuana referendum bill – Recreational marijuana referendum bill introduced', *The Press of Atlantic City*, 11/19/2019, pg 3A

Johnson, Brent, 'Voters to decide on legal pot next year Pot', *The Times*, 11/19/2019, pg 1

Munoz, Daniel J., 'Lawmakers set to vote Monday to put adult-use marijuana ballot question before votes in 2020', *NJBIZ*, 12/12/2019

Amanda Hoover, NJ Advance Media For NJ.com, 'N.J. legal weed question for voters inches closer to 2020 ballot afterday of debate', *Star-Ledger, The: Web Edition Articles* (online), 12 Dec 2019

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David Levinsky; Burlington County Times, 'Burlington County's Democratic freeholders may have been sel...', *Burlington County Times* (online), 29 Dec 2019 A6

Gabrielle Saulsbery, 'Going green, maybe', *NJBIZ* (online), 6 Jan 2020

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MICHELLE BRUNETTI POST; Staff Writer, 'Public push to start on legal pot Public push to start soon on recreational marijuana ballot question', *Press of Atlantic City, The* (online), 8 Sep 2020 1A

MIKE CATALINI, Associated Press, 'NJ voters weigh putting pot legalization in constitution', *Associated Press State Wire: New Jersey* (online), 12 Sep 2020

Letters to the Editor, The Star-Ledger, 'Empathy for - and from - Trump would be nice | Letters', *Star-Ledger, The: Web Edition Articles* (online), 5 Oct 2020

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Amanda Hoover For The Star-Ledger, 'Your voter guide to weed on the ballot Marijuana', *Star-Ledger, The* (online), 6 Oct 2020 015

LEA KAHN, Staff Writer, 'Voters asked to weigh in on legalized marijuana, tax credit for veterans, changing legislative redistricting schedule', *Cranbury Press* (online), 21 Oct 2020

Sam Wood; The Philadelphia Inquirer, 'Still much to do after marijuana yes vote What happens if New Jersey legalizes marijuana: Everything you need to know', *Press of Atlantic City, The* (online), 21 Oct 2020 1A

Amanda Hoover, NJ Advance Media For NJ.com, 'With little worry about marijuana ballot question passing, top lawmakers busy crafting N.J. law', *Star-Ledger, The: Web Edition Articles* (online), 3 Nov 2020

Kevin Coughlin, 'Attorney General: Not so fast, put that weed away', *MorristownGreen.com* (online), 4 Nov 2020

Phil Gianficaro; Burlington County Times USA TODAY NETWORK, 'Guest column New Jersey voters legalize recreational pot', *Burlington County Times* (online), 8 Nov 2020 A4

JD Mullane; Burlington County Times USA TODAY NETWORK, 'Ed Forchion rolled through Trenton in his Weedmobile, a 2007', *Burlington County Times* (online), 8 Nov 2020 A5

Phil Gianficaro; Burlington County Times USA TODAY NETWORK, 'The high school senior put passion and pen to paper. Wise be', *Burlington County Times* (online), 8 Nov 2020 A5

JD Mullane; Burlington County Times USA TODAY NETWORK, 'Guest column "Robinhood of reefer" voted down legalization', *Burlington County Times* (online), 8 Nov 2020 A4

Phil Gianficaro, Burlington County Times, 'Gianficaro: For marijuana advocate Ken Wolski, legalization of drug was long overdue', *Burlington County Times: Web Edition Articles* (online), 8 Nov 2020

Mike Davis and Stacey Barchenger, Asbury Park Press, 'Lawmakers weigh additional tax on legal pot', *New Jersey Herald, The* (online), 12 Nov 2020 B8

Amanda Hoover, NJ Advance Media For NJ.com, 'It soon could be legal to possess up to 6 ounces of weed in N.J. as bill advances', *Star-Ledger, The: Web Edition Articles* (online), 12 Nov 2020

'What's next for state's economy with legal weed?', *New Jersey Herald, The* (online), 15 Nov 2020 B4

Mike Davis and Stacey Barchenger, Asbury Park Press, 'TAXES, REVENUE FOR BLACK COMMUNITIES POSSIBLE ASPOT LEGALIZATION ADVANCES', *Record, The* (online), 15 Nov 2020 B3

'WHAT'S NEXT FOR NJ WITH LEGAL WEED?', *Record, The* (online), 15 Nov 2020 O2

Gabrielle Saulsbery, 'Senate passes decrim bill, held by Assembly over mushroom concerns', *NJBIZ* (online), 16 Nov 2020

Amanda Hoover, NJ Advance Media For NJ.com, 'Legal weed bill advances as N.J. lawmaker says state needs to act quickly after voter referendum', *Star-Ledger, The: Web Edition Articles* (online), 19 Nov 2020

'WHAT'S NEXT FOR NJ ECONOMY WITH LEGAL WEED?', *Suburban News* (online), 19 Nov 2020 A10

Jerry DeMarco, 'Here's How NJ Prosecutors Must Handle Pot Cases For At Least Next Two Months', *Morris County Daily Voice* (online), 25 Nov 2020

Mike Davis, USA TODAY NETWORK - NEW JERSEY, 'GREWAL ORDERS POT CHARGES DISMISSED - STATE ATTORNEYGENERAL ALSO WANTS CASES DELAYED', *Record, The* (online), 27 Nov 2020 A10

Paul Mulshine, Star-Ledger Columnist, 'Happy New Year for New Jersey marijuana smokers? That all depends | Mulshine', *Star-Ledger, The: Web Edition Articles* (online), 3 Dec 2020

Amanda Hoover, NJ Advance Media For NJ.com, 'N.J. lawmakers reach deal on legal weed bill, plan to vote later this month', *Star-Ledger, The: Web Edition Articles* (online), 4 Dec 2020

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Jerry DeMarco, 'NJ Lawmakers OK Legal Pot Under 6 Ounces, Just Needs Murphy's Signature', *Morris County Daily Voice* (online), 17 Dec 2020

Amanda Hoover, NJ Advance Media For NJ.com, 'N.J. lawmakers pass legal weed bill in historic vote. It now goes to Murphy.', *Star-Ledger, The: Web Edition Articles* (online), 17 Dec 2020

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SHAWN MARSH, Associated Press, 'COVID-19, recreational marijuana top New Jersey's stories', *Associated Press State Wire: New Jersey* (online), 24 Dec 2020

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**SENATE CONCURRENT
RESOLUTION No. 183**

**STATE OF NEW JERSEY
218th LEGISLATURE**

INTRODUCED NOVEMBER 18, 2019

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Co-Sponsored by:

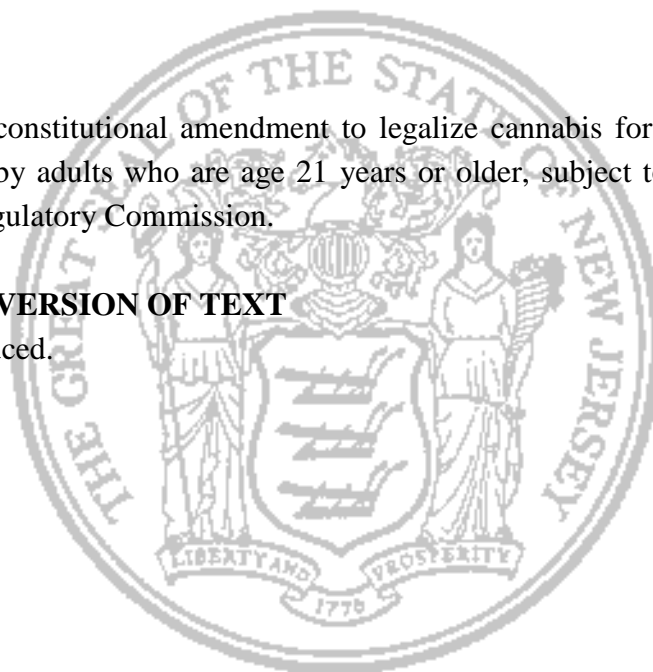
Assemblywoman Lopez

SYNOPSIS

Proposes constitutional amendment to legalize cannabis for personal, non-medical use by adults who are age 21 years or older, subject to regulation by Cannabis Regulatory Commission.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/17/2019)

1 A **CONCURRENT RESOLUTION** proposing to amend Article IV,
2 Section VII of the New Jersey Constitution by adding a new
3 paragraph.

4
5 **BE IT RESOLVED** *by the Senate of the State of New Jersey (the*
6 *General Assembly concurring):*

7
8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is agreed to:

10
11 **PROPOSED AMENDMENT**

12
13 Amend Article IV, Section VII by adding a new paragraph 13 to
14 read as follows:

15 13. The growth, cultivation, processing, manufacturing,
16 preparing, packaging, transferring, and retail purchasing and
17 consumption of cannabis, or products created from or which include
18 cannabis, by persons 21 years of age or older, and not by persons
19 under 21 years of age, shall be lawful and subject to regulation by
20 the Cannabis Regulatory Commission created by P.L.2019, c.153
21 (C.24:6I-5.1 et al.), or any successor to that commission.

22 (1) The commission's or successor's regulatory authority
23 concerning legalized cannabis shall be authorized by law enacted by
24 the Legislature.

25 (2) The receipts from retail purchases of cannabis or products
26 created from or which include cannabis shall only be subject to the
27 tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30
28 (C.54:32B-1 et. seq.), as amended and supplemented, or any other
29 subsequent law of similar effect; provided, however, that a
30 municipality, subject to authorization by law enacted by the
31 Legislature, may adopt an ordinance to impose an additional
32 municipal tax on the sale, or any other form of transfer, of cannabis
33 or products created from or which include cannabis by an
34 authorized party located in a municipality. The municipal tax rate
35 shall not exceed two percent of the receipts from each sale of
36 cannabis or products created from or which include cannabis by an
37 authorized party or the equivalent value from any other form of
38 transfer by an authorized party.

39 As used in this paragraph:

40 "Cannabis" means all parts of the plant Genus Cannabis L.,
41 whether growing or not, the seeds thereof, and every compound,
42 manufacture, salt, derivative, mixture, or preparation of the plant or
43 its seeds. "Cannabis" does not include: cannabis dispensed and
44 consumed for medical purposes pursuant to any law enacted by the
45 Legislature; hemp or hemp products subject to regulation under the
46 "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.),
47 or any successor enactment thereto; or unregulated cannabis,

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1 referred to as marijuana, and products created from or which
2 include marijuana.

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4 2. When this proposed amendment to the Constitution is finally
5 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
6 shall be submitted to the people at the next general election
7 occurring more than three months after the final agreement and
8 shall be published at least once in at least one newspaper of each
9 county designated by the President of the Senate, the Speaker of the
10 General Assembly and the Secretary of State, not less than three
11 months prior to the general election.

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13 3. This proposed amendment to the Constitution shall be
14 submitted to the people at that election in the following manner and
15 form:

16 There shall be printed on each official ballot to be used at the
17 general election, the following:

18 a. In every municipality in which voting machines are not used,
19 a legend which shall immediately precede the question as follows:

20 If you favor the proposition printed below make a cross (X), plus
21 (+), or check (✓) in the square opposite the word "Yes." If you are
22 opposed thereto make a cross (X), plus (+) or check (✓) in the
23 square opposite the word "No."

24 b. In every municipality the following question:

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	YES	<p>CONSTITUTIONAL AMENDMENT TO LEGALIZE MARIJUANA</p> <p>Do you approve amending the Constitution to legalize a controlled form of marijuana called “cannabis”?</p> <p>Only adults at least 21 years of age could use cannabis. The State commission created to oversee the State’s medical cannabis program would also oversee the new, personal use cannabis market.</p> <p>Cannabis products would be subject to the State sales tax. If authorized by the Legislature, a municipality may pass a local ordinance to charge a local tax on cannabis products.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This amendment would legalize a controlled form of marijuana called “cannabis.” Only persons at least 21 years of age could use cannabis products legally.</p> <p>The Cannabis Regulatory Commission would oversee the new adult cannabis market. This commission was created in 2019 to oversee the State’s medical cannabis program. The scope of the commission’s new authority would be detailed in laws enacted by the Legislature.</p> <p>All retail sales of cannabis products in the new adult cannabis market would be subject to the State’s sales tax. If authorized by the Legislature, a municipality may pass a local ordinance to charge a local tax on cannabis products.</p>

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SCHEDULE

This constitutional amendment shall take effect on January 1 next following the general election at which it was approved, and the Legislature may take such anticipatory legislative action as may be necessary to effectuate the provisions of the amendment.

STATEMENT

This concurrent resolution proposes a constitutional amendment to legalize cannabis for personal, non-medical use by adults who are 21 years of age or older. The Cannabis Regulatory Commission,

1 created by P.L.2019, c.153 (C.24:6I-5.1 et al.) to oversee the State’s
2 medical cannabis program, primarily set forth in the “Jake Honig
3 Compassionate Use Medical Cannabis Act,” P.L.2009, c.307
4 (C.24:6I-1 et al.) (or any successor to that commission), would also
5 oversee the new personal use market. The scope of the
6 commission’s regulatory authority would be established in law by
7 the Legislature.

8 As set forth in the proposed amendment, the term “cannabis”
9 would not include: “cannabis dispensed and consumed for medical
10 purposes pursuant to any law enacted by the Legislature; hemp or
11 hemp products subject to regulation under the ‘New Jersey Hemp
12 Farming Act,’ P.L.2019, c.238 (C.4:28-6 et al.), or any successor
13 enactment thereto; or unregulated cannabis, referred to as
14 marijuana, and products created from or which include marijuana.”
15 Passage of the amendment would not affect the State’s regulation of
16 medical cannabis and hemp, and unregulated marijuana would
17 remain illegal under the State’s laws.

18 The amendment provides that all receipts from the retail
19 purchases of cannabis or products created from or which include
20 cannabis would only be subject to the tax imposed under the “Sales
21 and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.) (or a
22 subsequent enactment of similar effect); provided, however, that a
23 municipality, subject to authorization by law enacted by the
24 Legislature, may adopt an ordinance to impose an additional
25 municipal tax on the sale, or any other form of transfer, of cannabis
26 or products created from or which include cannabis by an
27 authorized party located in a municipality. The municipal tax rate
28 could not exceed two percent of the receipts from each sale of
29 cannabis or products created from or which include cannabis by an
30 authorized party or the equivalent value from any other form of
31 transfer by an authorized party.

LEGISLATIVE FISCAL ESTIMATE
SENATE CONCURRENT RESOLUTION No. 183
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 18, 2019

SUMMARY

- Synopsis:** Proposes constitutional amendment to legalize cannabis for personal, non-medical use by adults who are age 21 years or older, subject to regulation by Cannabis Regulatory Commission.
- Type of Impact:** Annual potential net revenue gain for the State and municipalities.
- Agencies Affected:** Cannabis Regulatory Commission; Department of the Treasury; municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2021 and Thereafter</u>
State Revenue Increase	Indeterminate
State Expenditure Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) cannot quantify the fiscal impact of the constitutional amendment because parameters of implementation will have to be determined in subsequent statutory enactments, including the scope of the Cannabis Regulatory Commission’s authority. Absent this information, the OLS lacks crucial details that will affect retail cannabis sales and State and local revenue collections and expenditures, such as the number of retail cannabis establishments that can operate in the State, fees associated with establishing those businesses, price controls for cannabis products, and fines and penalties associated with illicit actions (e.g. selling cannabis products to a person under 21 years of age).
- The constitutional amendment specifies that the sales and use tax and a potential municipal tax would be the only taxes imposed on receipts from retail purchases or transfer of cannabis. Based on the experience of Colorado, which has had a legal recreational cannabis market since 2014, New Jersey could generate revenues up to \$126 million annually from the sales and use tax once the market is established. However, the OLS expects sales to be lower in the early years as the market develops and notes that issues with market saturation and legalization by neighboring states could negatively affect initial and future revenue collections.

BILL DESCRIPTION

The concurrent resolution proposes a constitutional amendment to legalize cannabis for personal, non-medical use by adults who are 21 years of age or older. The Cannabis Regulatory

Commission, created to oversee the State's medical cannabis program, would also oversee the new personal use market. The scope of the commission's regulatory authority would be established by the Legislature.

As set forth in the proposed amendment, the term "cannabis" would not include: cannabis dispensed and consumed for medical purposes; hemp or hemp products; or unregulated cannabis, referred to as marijuana, and products created from or which include marijuana. Passage of the amendment would not affect the State's regulation of medical cannabis and hemp, and unregulated marijuana would remain illegal under the State's laws.

The amendment provides that all receipts from the retail purchases of cannabis or products created from or which include cannabis would only be subject to the sales tax; provided, however, that a municipality, subject to authorization by the Legislature, may adopt an ordinance to impose an additional two percent tax on cannabis products.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot quantify the fiscal impact of the constitutional amendment because multiple components of cannabis legalization are contingent upon future statutory enactments, including the scope of the Cannabis Regulatory Commission's authority. Absent this information, the OLS lacks crucial details that will affect retail cannabis sales and State and local revenue collections and expenditures, such as the number of retail cannabis establishments that can operate in the State, fees associated with establishing those businesses, price controls for cannabis products, and fines and penalties associated with illegal actions (e.g. selling cannabis products to a person under 21 years of age).

If adopted, the constitutional amendment legalizes the growth, cultivation, processing, manufacturing, preparing, packaging, transferring, and retail purchasing and consumption of cannabis, or products created from or which include cannabis, by persons 21 years of age or older. The Cannabis Regulatory Commission, which is in, but not of, the Department of the Treasury, would be the regulatory authority for legalized cannabis, but the scope of the commission's authority is not defined in the constitutional amendment. The OLS cannot speculate on the regulatory authority that would be granted by the Legislature to the commission. Thus, the OLS cannot attempt to quantify future expenditures related to administrative and enforcement efforts of the commission.

The constitutional amendment specifies that receipts from retail purchases of cannabis or products created from cannabis would only be subject to the sales and use tax and to a potential municipal tax up to two percent if authorized by the Legislature. The sales tax would be imposed on cannabis products that are shifting to a legal market, so New Jersey-specific data sets that focus on personal cannabis consumption expenditures are sparse given the fact that those products are currently illegal. Surveys do exist that attempt to identify the number of cannabis users in each state, but it is common for respondents to underreport drug usage since that type of behavior is illegal.

The OLS opted to analyze the experience of Colorado because that state has had a legalized cannabis market established since 2014. According to the Colorado Department of Revenue, retail cannabis sales, excluding medical cannabis, totaled \$1.2 billion in calendar year 2018. Based on the most recent U.S. Census Data, Colorado is estimated to have a population of roughly 5.7 million people. In comparison, New Jersey's population is projected at 8.9 million people. Using Colorado retail cannabis sales data and Colorado population data, the OLS calculated the per person annual expenditure on retail cannabis to be approximately \$213. Assuming New Jersey experiences similar per capita sales of recreational cannabis as Colorado, total retail cannabis sales for New Jersey could reach \$1.9 billion yielding sales tax revenues of up to \$125.6 million annually at the current 6.625 percent sales tax rate.

The OLS expects sales tax revenues to be lower during the early years of implementation as cannabis retailers and cannabis supply chains are established and the market matures. In Colorado, retail cannabis sales during the first year of legalization totaled \$303.2 million, or 25 percent of 2018 retail sales. New Jersey could also face regional market saturation in the future as neighboring states work to legalize cannabis. Any additional competition could have a direct impact on the price of cannabis in the State, which in turn could negatively affect revenue collections. New Jersey does not have a directly neighboring state that has legalized recreational cannabis to date, but Massachusetts is the latest in the region to do so.

From a broader perspective, the legalization of recreational cannabis may lead to increased employment opportunities for New Jerseyans. As these new businesses are established, existing State taxes, such as the corporation business tax and the gross income tax, and local taxes, such as the property tax, could realize indirect growth as a result of this expansion. These indirect benefits would result in additional revenues for the State's General Fund and Property Tax Relief Fund as well as local property taxes.

The OLS notes that this constitutional amendment would not appear before the voters until at least November 2020 if passed by the Legislature in the coming months. Thus, the first fiscal year that could be impacted by this constitutional amendment is FY 2021.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).