

Cannabis Tax Policy and Libraries



Opportunities for New
State and Local Revenue
from a Growing Industry

everylibraryinstitute.org

by Megan Blair
with John Chrastka
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Revenue Potentials

An Emerging Opportunity from a Rapidly Expanding Industry

Cannabis taxes are a huge potential source of funding that libraries should not be left out of. Libraries in states with current recreational cannabis should be actively working with state legislatures to allocate funding from tax revenue. In states that have not yet legalized recreational cannabis, libraries have an opportunity to anticipate and influence the future allocation of tax revenue. In states with a local option tax, it is necessary for library leaders to collaborate with municipal officials to see dedicated funding move to the library. Being proactive and establishing a plan before legalization will help ensure libraries receive tax revenue that can help keep libraries sufficiently funded.

As cannabis has become legal for adult use, state governments and municipalities have earned large amounts of tax revenue. The revenue from cannabis sales has helped increase funding to various programs and communities. However, perhaps due to inaction or oversight, libraries have been largely left out of this new revenue stream. This paper aims to explain how state-level cannabis tax policy works in several states, demonstrate the ways in which tax revenue has been utilized historically, and discuss ways that libraries can and should be included in the state and local tax system.

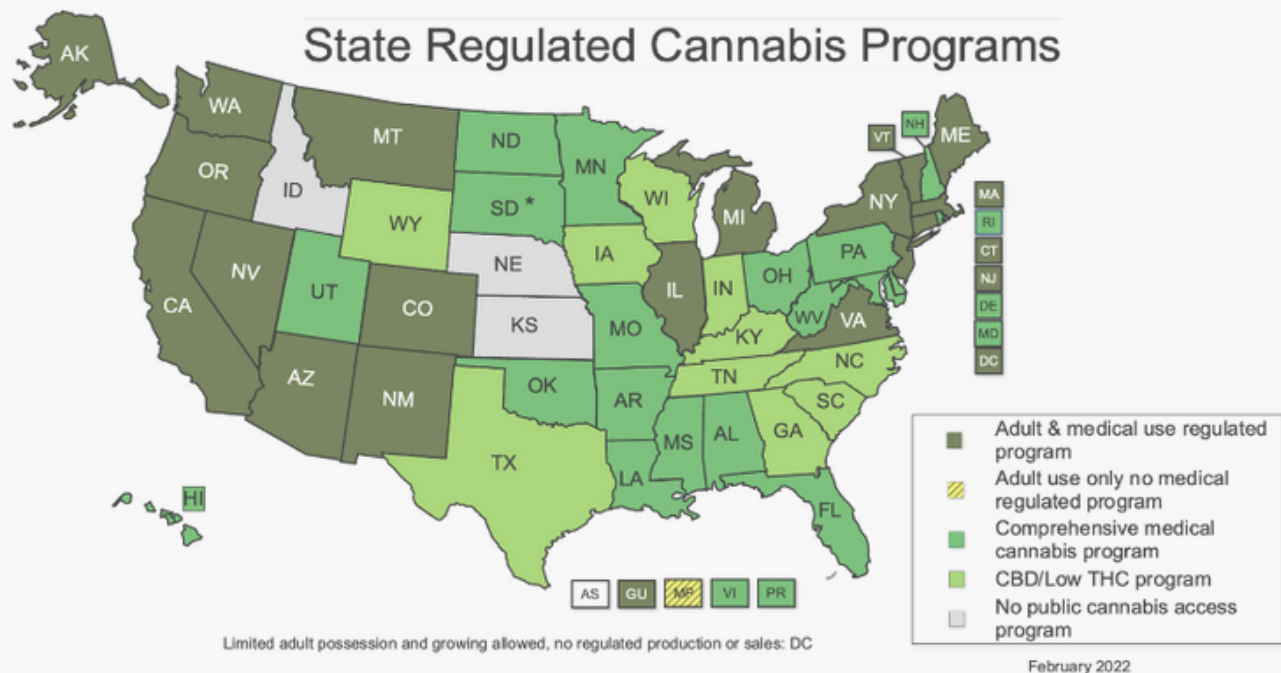
For decades cannabis legalization seemed out of reach because the substance was viewed as illicit and taboo, yet public opinion has changed drastically over recent years. Americans now overwhelmingly support legalization with most supporting both medical and recreational sales. Colorado and Washington became the first two states to legalize recreational cannabis in 2012, and since then many states have followed suit. The states that have legalized cannabis to date have seen little to no impact on crime or any of the other concerns that opponents of cannabis have claimed could cause harm. Young people, including 70% of people under 30, support recreational legalization. Supporters of legalization see this positive attitude as an indicator that the industry will continue to expand. The trend in public opinion will play an important factor for legalization in states that have not yet allowed cannabis sales and for legalization at the federal level.

Legalization and Taxes

As of April 2022, eighteen states have legalized recreational cannabis while many other states have legalized cannabis for medicinal use. Recreational cannabis is taxed at a significantly higher rate than medical cannabis. In those states that do tax medical cannabis, the rate remains relatively low or are on par with the state sales tax rate. Medical cannabis is not taxed in Massachusetts or Connecticut.



Revenue from medical cannabis is either dedicated to the general fund or earmarked in highly prescriptive ways, mostly to fund the regulation of their medical cannabis systems, address public health concerns, support medical cannabis research, or fund law enforcement. Given this historic approach by states, it is very unlikely that libraries would be identified as programmatic beneficiaries of medical cannabis revenues.



* = Measures approved by voters in Mississippi for medical use and South Dakota for non-medical use were overturned in 2021. The Mississippi legislature passed new medical cannabis legislation which the governor signed on Feb. 2, 2022.

Figure 1. State Regulated Cannabis Programs. Adapted from "State Medical Cannabis Laws," 2022, NCSL, <https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

Tax policies on recreational cannabis, however, are generally more discretionary by states and allow more leeway for policymakers to determine how tax revenues are allocated. In every current recreational state, the nominal tax rate for recreational cannabis is significantly higher than for medical. Billions of dollars in tax revenue have been collected by the states that have legalized recreational cannabis. State governments collect revenue from the excise and sales tax while revenue from the local option tax is kept by the cities and towns in which the cannabis business operates. Each state that has legalized cannabis has seen an increase in revenue each year since retail sales began. For example, Washington state has earned more than 25 times its 2014 revenue in fiscal year 2021.

Cannabis Revenue in Washington State

Year	Estimated Washington State Tax Revenue from Adult-Use Cannabis*
June – Dec. 2014	\$22,399,058
2015	\$159,451,910
2016	\$302,976,832
2017	\$397,358,420
2018	\$437,169,560
2019	\$477,310,790
2020	\$614,417,720
2021	\$630,863,570
Total	\$3,041,947,860

*This figure does not include local taxes

Adapted from <https://www.thecentersquare.com/washington/washington-state-s-marijuana-tax-has-raised-more-than-3b> (July 2022)

Tax Schemes in Use by States

States with recreational cannabis have chosen to tax it in several often-simultaneous ways that are “stacked” between state and local schemes. Across eighteen states with recreational cannabis sales, we see both an excise tax and sales tax imposed on recreational cannabis in many places. Local tax options have also been enacted in many states, with most municipalities with cannabis retail locations opting to impose this tax as well.

An excise tax or “sin tax” is levied on certain goods like tobacco and alcohol. There are three major types of cannabis excise taxes: taxes on the price of the product (similar to general sales taxes, but typically at higher rates), taxes on the weight of the product (similar to cigarette taxes), and taxes on the potency (i.e., THC level) of the product (similar to alcohol taxes). According to the National Conference of State Legislatures, “When it comes to setting tax rates, states have attempted to engage in a balancing act. The rationale for imposing an excise tax on cannabis sales is the same as for any other type of “sin” tax. It is intended to dissuade consumption of the product by raising the price as well as offset costs to society that consumption of the product creates. Young or rare users may find high taxes cost prohibitive.”

In addition to state taxes, half of the current states allow municipalities to levy a local option tax on recreational cannabis. This is a way for communities with retail outlets to raise revenue for local programs, projects, and services. The local option tax is collected based on the location where the buyer takes possession of the item or where the product is delivered. Generally, the end-use of the revenue is determined by the local municipal authority.

The following tax data is provided by The Federation of Tax Administrators:

Alaska

- Excise tax of \$50/ounce for flowers
- Excise tax of \$15/ounce for stems and leaves
- Excise tax of \$25/ounce for immature flowers/buds

Arizona

- Proposition 207 would place a 16 percent tax on marijuana sales, in addition to the existing transaction privilege tax and use tax

California

- Cultivation Tax of \$9.25/ounce for flowers [\$9.65 after 1/1/20]; \$2.75/ounce for leaves [\$2.87 after 1/1/20]; Fresh plant material \$1.29/ounce [\$1.35 after 1/1/20]
- Excise tax of 15% of Retail Sales
- State retail sales tax applies (7.25% plus local taxes)

Colorado

- Excise Tax of 15% of Average Market Rate, sales to retail stores
- Retail Tax of 15% (10% before July 2017) – local government receive 10% of this tax.
- (2.9% retail sales tax before July 2017)
- Local Option Retail Tax up to 8%

Connecticut

- Excise Tax of 0.625 cents per milligram of THC for cannabis flower 0.9 cents per milligram for other product types 2.75 cents per milligram for edibles
- 6.35% retail sales tax plus 3% municipal sales tax Local Option sales tax up to 3%

Illinois

- 7% Tax on Sales to Dispensaries
- Retail Excise Taxes 10% on marijuana with THC level of 35% or less, 20% on cannabis-infused products, 25% for marijuana with THC level above 35%
- Local option tax up to 3% [7/1/2020]

Maine

- Excise tax of \$335 per pound – flower
- Excise tax of \$94 per pound – trim
- Excise tax of \$1.50 per seedling
- Excise tax of \$0.35 per seed
- Retail sales tax of 10%

Massachusetts

- 10.75% Excise Tax on Retail sales
- 6.25% Retail Sales Tax applies
- Local Option Excise Tax of up to 3% is permitted

Michigan

- 10% Retail Excise Tax
- 6% State Sales Tax

Montana

- Marijuana and marijuana-infused products would be taxed at 20% of the retail price. Local option up to 3%
- Medical marijuana taxed at 4% of retail price

Nevada

- Wholesale Excise Tax 15% [Fair Market Value determined by DOT]
- Retail Tax 10%
- Sales tax imposed 6.85% plus local option

New Mexico

- Excise tax of 12% of Retail Sales [tax rate will increase annually beginning in 2025 to 18%]
- Retail sales tax applies

New Jersey

- The ballot measure would apply the state sales tax (6.625%) to recreational marijuana but prohibit additional state sales taxes.
- The state Legislature would be authorized to allow local governments to enact an additional 2 percent sales tax on recreational marijuana.

New York

- A tax of 0.5 cent/milligram of THC in Flower, A tax of 0.8 cent/milligram of THC in Concentrate, A tax of 0.3 cent/milligram of THC in Edibles
- A Retail Tax of 9% plus a 4% local tax

Oregon

- 17% Retail Sales Tax
- Local Option sales tax up to 3%

Vermont

- Cannabis Excise Tax 14% of Retail Price
- State Sales Tax

Virginia

- Retail sales tax of 21% for all products sold through Marijuana stores a 3% local options sales tax may also apply

01

02

Washington

- 37% Tax on Retail Sales
- 6.5% Retail Sales Tax, plus local tax



Each of the eighteen states that allow for the sale of recreational cannabis has a different approach to allocating how revenue is used for programs or services. Revenue is allocated to a wide variety of programs in each state with some being used for education, public safety, and drug prevention programs. Washington uses the majority of its cannabis revenue on health care with the state's general fund being the next biggest beneficiary. State general funds consist of all revenue that is not restricted to specific appropriations. A state's general fund is used for things like education, health care, and other operations of the state.

New Mexico also uses a cannabis tax to help stimulate its general fund. The state uses over half of its revenue from the general fund on education. Around 45% of the general fund is used for public education with another 12% being in higher education. Public schools not just in Nevada, New Mexico, and Washington, but across the country are benefiting greatly from cannabis sales.

While some states proscribe by statute where revenue is going, other states have less proscriptive funding plans. For example, recreational cannabis was legalized in Massachusetts through a ballot initiative. The language surrounding the allocation of revenue was vague as originally written. The following is from the 2016 Massachusetts ballot question number 4, "Legalization, Regulation, and Taxation of Marijuana":

Section 5. Application of tax revenue. The commissioner shall deposit revenue collected pursuant to this chapter, other than revenue collected pursuant to section 2 of chapter 64H of the General Laws, in the Marijuana Regulation Fund established by chapter 94G of the General Laws and it shall be subject to appropriation.

The Massachusetts state legislature rewrote the ballot initiative before enacting retail sales of cannabis, but the above language remained the same when the legislation was passed. The law leaves the state legislature with the responsibility to allocate cannabis tax revenue. In a state like Massachusetts, this less-proscriptive language could provide libraries with a pathway to lobby the legislature for funding to support libraries and library programs.



How Revenue is Used by States

01 Alaska

50% Recidivism Reduction Fund (supporting reentry programs for current and formerly incarcerated individuals), 25% drug treatment and education programming, 25% general fund.

02 Arizona

Community colleges, municipal police, fire districts, the Highway User Fund, Justice Reinvestment Fund, and the Attorney General

03 California

Equity programs, childcare services, environmental programs

04 Colorado

Health care, education, substance abuse prevention and treatment programs, and law enforcement

05 Connecticut

General Fund, Social Equity and Innovation Fund, and Prevention and Recovery Services Fund

06 Illinois

General Fund, equity programs, public health, substance abuse and prevention

07 Maine

Public health and public safety

08 Massachusetts

Equity programs, public health, public safety, police training

09 Michigan

Local governments, public schools, transportation

10 Montana

Substance abuse prevention, wildlife and state parks, veterans, general fund

11 Nevada

Education, rainy day fund

13 Washington

General Fund, health programs, local governments

12 Oregon

40% to the state school fund, 20% to mental health, alcoholism, and drug services, 15% to the Oregon state police, 5% to the Oregon Health Authority for drug treatment and prevention, 20% to cities and counties

Local Option Sales Taxes

As noted above, in half the states with recreational cannabis, there is a provision for local option sales taxes. Throughout the country, municipalities with cannabis shops have levied local tax options in order to bring in a new stream of revenue. Most communities in states with a local option have chosen to levy the tax and this revenue remains in the community in which the tax is levied. For example, in Oregon, where there is an option for a 3% local tax, 92 cities and towns voted for the full 3%. This tax gives communities the opportunity to use the revenue in any way they see fit. Municipalities do not have to follow the state cannabis funding plans. Local option taxes provide an opportunity for libraries to obtain funding from their communities. In each community with a local tax on cannabis, libraries have the ability to lobby the local government for revenue.

Public libraries in the United States are usually funded through property taxes and are structured in one of three ways. Libraries are either a department of municipal government (with or without a dedicated revenue line), a non-profit corporation working under contract with a municipality, or an independent district or jurisdiction with the power to levy taxes, generally on property. When state cannabis laws allow, municipal governments are empowered to collect local option sales taxes on recreational cannabis. In some jurisdictions, the tax rate and uses are set by the municipal council. In others, it is set by voters through a ballot measure. Because local option sales taxes are administered and collected by municipal governments, the opportunity to use these revenues to fund libraries is only available to departmental and contract libraries.

Local option sales tax revenue is utilized by municipalities for a wide variety of programs and services. These run the gamut from health programs and public safety to economic development, neighborhood improvements, and social impact projects to rainy-day reserves. Public libraries are eligible be beneficiaries of a local option tax. For example, in 2019, residents of Craig, CO., passed Ballot Measure 2A to help fund the Moffat County Library and Museum with marijuana tax revenue. While local option sales taxes are not available directly to every type of public library, in localities where the library is a department or under contract with local government, the opportunity to use this revenue should be considered. In states considering an expansion of recreational cannabis

Recommendations for Library Leaders

During debates about cannabis legalization, discussions frequently involve how to use tax revenues to improve communities, and we would argue that libraries do just that. Libraries are in a unique position to use their role as community centers to provide resources about the cannabis industry. Libraries can serve as a resource center for those looking to get involved in the industry. This would be especially impactful in states that have not yet legalized recreational cannabis but may do so in the near future. Libraries could also host drug prevention programs because many states are allocating cannabis tax revenue to such programs.

There are several ways in which libraries could get involved with the industry, which would provide incentives for receiving tax revenue.

State Tax Revenues

Library advocates should be lobbying their state legislators. Elected officials in states that have legalized adult-use cannabis have met with advocates from countless organizations and industries seeking cannabis tax revenue. There is no harm in libraries requesting increased funding from states that are using tax revenue in their general fund. A state's general fund can provide funding in any way the legislature sees fit.

It is important in these state-level lobbying activities to connect education funding to libraries. Many states have made education a priority for cannabis revenue. Early literacy programs like those run by libraries are an excellent example of how libraries can become directly linked to cannabis funding. This is also an opportunity to work with education advocates and advocates for social justice. Both groups are currently receiving cannabis revenue funding in several states. Forming coalitions with other revenue and legalization advocacy groups can lead to new opportunities for libraries.

We also recommend that state library associations position libraries as community resources. Many states that have legalized cannabis have added equity initiatives to their legislation. Libraries can help make the industry more equitable by providing a space for community members to learn about the many ways to get involved in the cannabis industry. Libraries in low-income communities and communities with large populations of people of color can serve as education centers.

Many states have also used cannabis tax revenue to fund programs that help people with drug addiction or help prevent drug prevention. Libraries can also contribute resources to these kinds of initiatives, especially in communities that have been greatly impacted by the opioid epidemic and the War on Drugs. If libraries can get more directly involved with the cannabis industry, they can secure funding from tax revenue.

In states that have not yet legalized recreational cannabis, state library associations should meet with cannabis advocates in states as early in the process as possible. Library advocates should meet with cannabis industry stakeholders who are writing ballot initiatives and legislation in order to pre-qualify public library projects or libraries as eligible institutions like education, health, and social welfare. With any “sin tax”, there are significant options for outcomes that positively impact social goods to become beneficiaries of that excise tax. Libraries must actively engage in this process in order to be written directly into the language as eligible for funding from state cannabis tax revenue.

Local Option Taxes

In states where there is a local option tax in place, library leaders at eligible libraries need to lobby local governments to be included in a local tax option plan. This local sales tax provides the perfect opportunity for library advocates to increase funding to libraries. Local taxes give the community complete control over where the revenue goes, whereas state funding is more restrictive. Because libraries are such an important asset to communities it is rational that communities invest cannabis revenue into libraries.

In states where recreational cannabis legislation or ballot measures are being considered, state library associations should consider a policy position that includes a local option sales tax scheme in order to pre-position libraries for future funding opportunities. Again, this work must be done in concert with other legalization stakeholders in order to be successful. While our sector understands that libraries can work with their local government to create programs such as early literacy, substance abuse prevention, and cannabis education, other stakeholders may not see libraries as interested in being a part of the local option system. Early engagement is key to success.

Working with Cannabis Policy Organizations

State library associations that are interested in seeing new revenue opportunities become a reality should research and consider joining policy-focused coalitions in their states. Several national organizations with strong state-level chapters or groups are good examples of the intersection of industry interests and public policy. These include the National Cannabis Industry Association, a leading trade policy group, the National Cannabis Roundtable, which is organized among trade and non-profit groups for “sensible regulation, criminal justice reform, social equity and community reinvestment”, and NORML, the oldest cannabis-focused organization in the United States.

One important national organization that amplifies and supports state-level cannabis legalization and social justice policies is the Marijuana Policy Project (MPP). MPP is composed of two separate organizations: MPP which is organized as a 501(c)4 to focus on lobbying and ballot initiatives, and the MPP Foundation, which is the 501(c)3 educational branch. In addition, MPP has state committees in the states where MPP is running ballot initiatives. Since 2000, MPP has directly supported the voter initiatives to legalize cannabis in Colorado, Alaska, Maine, Massachusetts, Nevada, Michigan, and Montana. MPP also employs lobbyists in a number of states. Any state library association that is interested in tax policies should connect with MPP in strategic ways.

Cannabis remains a Schedule 1 substance under federal law. However, this has had little effect on state legalization, and it is possible that more states might legalize cannabis in 2022 and 2023. The relatively new United States Cannabis Council (USCC – <https://www.uscc.org/>) is organized to lobby Congress about federal policy issues for medical and recreational markets. As public opinion has shifted, it seems likely that most states will move in this direction. There is also potential, although slim, that the federal government may alter its stance on cannabis this year. On April 1, 2022 the U.S. House passed H.R. 3617, legislation that would decriminalize cannabis at the federal level and impose a tax on sales. Although the bill may not pass in the Senate this session, this is an important first step for legalization at the federal level. It seems certain that the legal market of cannabis sales will continue to grow.

Conclusion

While the cannabis industry is still very new and is rapidly expanding, cannabis no longer holds the same stigma that it once held. Now is the time to get involved in markets that have already been established and get ahead in those that will open in the future. Libraries have a singular opportunity to boost their funding and their role in our communities. Library advocates should not be afraid to work with other community groups fighting for cannabis revenue. Now more than ever libraries are under attack, and it is important to build coalitions with groups with similar goals and priorities.

Recreational cannabis taxes have provided substantial revenues to state and municipal budgets. As the market continues to grow, profits continue to rise. Because the industry is so new, states will likely be amending where their revenue is going. Libraries need to take advantage of the newness of the industry to push to receive this revenue. In states that have not yet legalized, but where legislation has already been filed or is currently being written, library advocates should meet with legislatures to discuss funding. There are some states that may legalize cannabis through a ballot initiative and in these states library advocates should meet with the stakeholders writing the ballot question. As state general funds grow, more money can be distributed to libraries, and libraries should be advocating for increased funding from this revenue source. Local tax options provide local leaders with total control over allocation. These taxes have the potential to play a huge role in library funding.

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by Megan Blair with John Chrastka

Megan Blair, Policy and Advocacy Strategist

Megan is an MPA candidate at New York University. Prior to entering graduate school she spent five years as a legislative aide at the Massachusetts State House.

John Chrastka, Executive Director

A long-time library trustee, supporter, and advocate. Mr. Chrastka is co-author of "Before the Ballot; Building Support for Library Funding." and "Winning Elections and Influencing Politicians for Library Funding"



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