

**Testimony by Ari Hoffnung**  
**Public Forum on Creating a System for the Taxation and Regulation**  
**of Marijuana in New York State (S.6005/A.8341)**  
**Tuesday, April 29th, 2014, 9:30 a.m.**  
**Legislative Office Building - Hearing Room A**  
**Albany, NY**

Thank you New York State Senator Liz Krueger and Assembly Member Crystal D. Peoples-Stokes for introducing the "Marihuana Tax and Regulation Act" in your respective legislative bodies and for convening today's public forum on this important issue.

My name is Ari Hoffnung and I am honored to offer testimony on the fiscal impact of this legislation.

Before I begin, I wanted to share a word or two on my professional background.

I most recently served as New York City's Deputy Comptroller for Budget and Public Affairs. In this capacity, I helped oversee the City's \$70 billion annual budget with the help of a talented team of economists, budget analysts, and financial experts.

Prior to that I was a Managing Director at Bear Stearns where I worked for more than a decade managing the firm's risk reporting and enforcing credit polices across thousands of counterparties with exposure in excess of \$20 billion.

I also hold an MBA in Finance from New York University's Stern School of Business.

The purpose of my testimony today is to provide a fiscal impact estimate of the Marihuana Tax and Regulation Act and to discuss the economic implications of the bill's key tax provisions.

I believe my financial estimates are conservative and my comments objective in nature.

My fiscal impact estimate has been informed, in part, based on research conducted last summer by the New York City Comptroller's Office and can be found in a report titled "Regulating and Taxing Marijuana: The Fiscal Impact on New York City," published by the office in August of 2013.

The report found that legalizing, regulating, and taxing marijuana would have a positive direct fiscal impact of \$431 million annually. Four hundred million would result from increased tax revenues to the City and \$31 million would come from cost savings.

Using a financial model similar to the one developed to estimate the fiscal impact of legalization on the City and making the appropriate adjustments for a statewide analysis, I estimate that the positive fiscal impact of this bill to be approximately \$1.8 billion. My model takes into account the direct benefits totaling \$764 million a year along with the indirect benefits exceeding \$1 billion a year.

The following methodology was used to derive the direct benefits estimate of \$764 million:

- First, the market size was estimated. A recent report by the *Substance Abuse and Mental Health Services Administration* estimated that 12.2 percent of New York State residents used marijuana in the past year. Taking 12.2 percent of the population of approximately 15,000,000 adult New Yorkers, yields an estimate of slightly below 2,000,000 marijuana consumers. The market size was then somewhat increased to account for the effect of commuters, tourists, and out-of-state visitors so that the final market consisted of slightly more than 2,000,000 marijuana consumers.
- The next variable that required estimation was the average annual consumption per marijuana consumer. Here I assumed an annual consumption of 5 ounces per year per consumer which was derived, in part, based on the consumption estimates recently made by the States of Colorado and Washington to project the fiscal impacts of marijuana legalization on their tax revenues.
- Multiplying the market size of approximately 2,000,000 marijuana consumers by 5 ounces per year, yields an annual statewide marijuana consumption of 10,000,000 ounces.
- Levying the bill's proposed tax of \$50 per ounce on marijuana and \$50 per one quarter of an ounce of concentrated cannabis would then generate estimated tax revenues of more than \$651 million a year.
- This number does not account the additional sales tax revenues that the State would realize under this bill. Based on a post-legalization pre-tax price of \$280 per ounce, I estimate the State would collect more than \$112 million of revenues at the current 4 percent sales tax rate.
- Combining these two numbers, yields a \$764 million annual tax revenue estimate.

This amount, however, only represents the direct tax revenue impact on the State. There are other in-direct revenues and cost savings that ought to be considered when assessing the full fiscal impact of this legislation.

The following methodology was used to derive the indirect benefits estimate which exceeds \$1 billion:

- On the revenue side, this bill would allow localities to impose an additional 5 percent sales tax above and beyond their current levels. Assuming an average local tax rate of 4 percent along with this 5 percent 'add-on,' this bill would yield more than \$252 million in local tax revenues.

While these tax revenues would not accrue directly to the State, the finances of localities are deeply intertwined with those of the State and should be taken into account to draw a more accurate picture of the bill's fiscal impact.

- Another revenue generator will be the creation of new jobs throughout New York State as a result of legalizing marijuana. It is reasonable to assume that under this bill a wide array of industries - including construction, agriculture, retail, and hospitality - will experience job growth.

Early estimates from Colorado indicate that more than 10,000 new jobs support their marijuana industry. While New York State has approximately four times the population of Colorado, I chose to conservatively assume 25,000 new jobs would be created in our State.

Using average weekly wage data from the U.S. Bureau of Labor Statistics' New York-New Jersey Information Office, I assumed an average annual salary of \$58,000 per employee.

- Since New York State taxpayers at this income level pay approximately \$3,000 a year in State income taxes, an additional tax benefit of nearly \$75 million could be realized.
- On the cost savings side, a 2005 report by Professor Jeffrey A. Miron, then a visiting professor of Economics at Harvard, estimated that the State of New York could save \$565 million by ending marijuana prohibition. These savings would be realized due to the reduction in police resources from the elimination of marijuana arrests; the reduction in prosecutorial and judicial resources from elimination of marijuana prosecutions; and the reduction in correctional resources from elimination of marijuana incarcerations. It is noteworthy that Professor Miron's report was endorsed by more than 500 leading economists, including three Nobel Laureates.
- A similar report, published last year by the American Civil Liberties Union (ACLU) estimated that New York State's annual spending associated with marijuana possession ranged from a low of \$229 million to a high of more than \$1.1 billion.
- For purposes of my fiscal estimate, I used the mid-point of ACLU's range of \$678 million because it was based on more recent data and largely followed the widely accepted methodology employed by Professor Jeffrey A. Miron.
- Combining the indirect increased revenues and costs savings, yields an annual benefit of approximately \$1 billion.

Adding the direct benefits estimate of \$764 million and the indirect benefit of \$1 billion provides an "all-in" fiscal impact estimate for this bill of approximately \$1.8 billion.

I want to reemphasize the fact that this number is an estimate and that the bill could certainly benefit from a more thorough fiscal analysis. It is therefore my hope that this preliminary estimate will serve as an instructive starting point for other researchers, analysts, and advocates seeking to conduct a more comprehensive and detailed fiscal impact of the bill.

I would also like to suggest one way this already strong and thoughtful bill could be improved upon.

The bill currently proposes a unit-based tax of \$50 per ounce. Ad-valorem, or a value-based tax, is generally preferable to a unit-based tax, as changes in the prices over time risk rendering a unit tax too high or too low.

For example, adding a \$50 tax to an ounce of marijuana with a pre-tax price of \$300, increases the price by nearly 17%. On the other hand, adding a \$50 tax to an ounce that would otherwise retail for \$150, increases the price by more than 33%.

The more the average per-ounce pre-tax price of marijuana decreases, the higher the \$50 per ounce tax would be on a percentage basis. This would create greater economic incentives for an underground market.

I suspect this is one of the reasons the States of Colorado and Washington have chosen value-based taxes, rather than unit-based taxes, for marijuana.

In closing, while I do support this bill, I do not support it solely on fiscal grounds. In fact, I would support this bill even if were revenue neutral because it would eliminate the unnecessary human costs of marijuana prohibition, in the form of arrests that disproportionately impact young Black and Latino men. Moreover, the bill would finally end decades of senseless policies that criminalize the harmless recreational choices of more than 2 million otherwise law-abiding New Yorkers.

Thank you again for all your work on this important issue and for allowing me to share my thoughts on the economic and fiscal impacts of this bill. As I said earlier, I believe the fiscal impact of the bill is in the \$1.8 billion range.

Needless to say, I stand ready to assist you and other members of the New York State Senate and the Assembly in any way possible on this matter.

Thank you.

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