North Carolina Advisory Council on Cannabis
Public Safety Subcommittee
Co-Chairs:
Anca Grozav, Chief Deputy Budget Director, NC Office of State Budget and Management
Joy Strickland, Senior Deputy Attorney General, Criminal Bureau of the North Carolina Department of Justice

Meeting Minutes

October 30, 2026, 1:00-3:30pm
Virtual via Teams

Attendees

Council Members Present – Anca Grozav, Pat Oglesby; Joy Strickland; Arthur Apolinario; Kris Gardner; Dr. Larry Greenblatt; Lillie Rhodes

Council Members Absent – David Alexander; Rep. Zack Hawkins

Staff Members Present – Kaycee Deen; Anne Doyle; Kindl Shinn-Detar; Paige Worsham

Guest Speakers — Adam Hoffer; Bryce Cook; Patrick McKeage; John Kagia; Clint Kellum; Amber Egbert; Carl Davis; Kate Haggman

Agenda

I. Welcome, Roll Call, and Ethics Statement
II. Presentations
- **a. Presentation 1**: Cannabis Tax Structure in Colorado
  Bryce Cook, Deputy Director, Colorado Office of State Planning and Budget
  Amber Egbert, Director, Colorado Department of Revenue, Research and Legislative Services Division
- **b. Presentation 2:** Cannabis Tax Structure in California
  Clint Kellum, Director of the California Department of Cannabis Control
- **c. Presentation 3**: Cannabis Tax Structure in New York
  John Kagia, Acting Executive Director, New York Office of Cannabis Management
  Patrick McKeage, Chief Operating Officer, New York Office of Cannabis Management
- **d. Presentation 4**: Consumer Protection Laws in Connecticut
  Kate Haggman, Assistant Attorney General, Office of the Attorney General, State of Connecticut
- **e. Cannabis Taxation Expert Panel**
  Adam Hoffer, Director of Excise Tax Policy, Tax Foundation

Carl Davis, Research Director, Institute on Taxation and Economic Policy

III. Other Business and Next Steps

Presentations

Presentation 1: Cannabis Tax Structure in Colorado (Bryce Cook and Amber Egbert)

Legislative History

- 2000: Amendment 20 legalized medical marijuana.
- 2012: Amendment 64 legalized adult use and required an excise tax, with the first $40 million a year going to public school construction.
- A governor's task force (Nov 2012 – spring 2013) drafted recommendations for enabling legislation, passed in 2013. Proposition AA then gave the TABOR-required voter approval for the taxes.
- 2014: retail sales began. 2015: voters approved keeping collections that exceeded original estimates.
- 2017: the special sales tax was raised and adult-use cannabis was exempted from the general sales tax.

Key Early Design Choices

- Retail carried over medical's vertical integration (70% grow-what-you-sell rule). First-year licenses went only to existing medical operators.
- Because internal transfers had no arm's-length price, DOR sets an Average Market Rate (AMR), at least quarterly, as the base for the 15% excise tax.
- Medical was kept at a lower tax rate, which required strict physical or virtual inventory tracking to stop diversion.
- Strong local control: jurisdictions can opt out, limit density, and add fees and taxes.
- A state income tax deduction offsets the federal IRC 280E ban on business deductions.
- Potency-based taxing was considered but rejected because testing infrastructure did not exist at the time.

Current Tax Structure

- **Adult use:** 15% state excise tax on transfer from cultivation (contract price or AMR); 15% state special retail sales tax; exempt from the general sales tax; local sales and excise taxes, typically 7–10% on the Front Range. Combined retail taxes can reach about 25%, before the wholesale excise tax.
- **Medical:** exempt from the excise and special sales taxes; subject to the 2.9% state sales tax plus local sales taxes.

Regulation: DOR's Marijuana Enforcement Division (MED) licenses, inspects and writes most rules. It is funded mostly by license fees plus a share of the special sales tax. MED publishes a public dashboard of sales, prices and licensing.

Revenue and Outlook

- Excise revenue (about $40M a year) funds school construction. The local share of the special sales tax was cut from 10% to 0%.
- The Marijuana Tax Cash Fund receives 61% of all marijuana revenue and is the most flexible source (public and behavioral health, K-12, and later housing, higher education and veterans).
- This fiscal year: about $212M total, including $76M to K-12 and $56M to Human Services. That is a small share of a roughly $47B state budget and about 4% of sales and use tax collections.
- Revenue is forecast at $212–217M a year for the next three years, a stable "new normal" after volatility through FY25.
- The AMR peaked at $1,700 per pound in FY21 and is now about $600.
- Headwinds: falling prices, more vertical integration, licenses down 41% since summer 2022, less cannabis tourism, and intoxicating hemp. A federal hemp ban passed in November 2025 may help if implemented.
- A recent change created separate indoor and outdoor AMRs, adding complexity.

Lessons Offered

- Expect rapid early growth, then a plateau; do not commit spending too quickly.
- Avoid funding programs with current-year revenue. Colorado switched to this in FY21 and is still stuck with it; funding in arrears is safer.

Discussion

- A member said NC law enforcement expects little change from the federal hemp ban because NC has no state hemp rules. Colorado said it is still studying the impact and will follow up. California noted a state definition of cannabis would normally carry enforcement.
- A member asked whether Colorado's tax burden is too high. Colorado said sales volume has been stable since 2023, suggesting fairly inelastic demand, while prices have absorbed most of the pressure. This has not been studied closely.

Presentation 2: Cannabis Tax Structure in California (Clint Kellum)

Background

- Legalized by voter initiative (Prop 64); changes must further the act's intent. One stated goal is taxing in a way that both drives out the illicit market and discourages use, which pull in opposite directions.
- Adult-use sales began January 1, 2018, with a weight-based cultivation tax and a 15% excise tax, both collected by distributors.
- July 2022: the cultivation tax was suspended and retailers began remitting the excise tax with sales tax. Taxing early in the supply chain, before cash arrives, burdened operators who lack normal financing.

- July 2025: a statutory trigger raised the excise tax to 19%. Sales dipped that quarter, suggesting price sensitivity. The trigger was then suspended until July 2028.

Revenue and Spending

- About $600M a year in state cannabis tax revenue, well below original Department of Finance estimates.
- 2021–2025: dollar sales fell 17% while units sold rose 14%, showing price compression.
- Allocation tiers: (1) administration, now including illicit-market enforcement and track-and-trace; (2) fixed amounts, including about $12M for university research and $50M for community reinvestment; (3) the remainder by percentage to youth prevention, environment and public safety. Tier 3 is paid in arrears.
- Enforcement was moved off license fees because raising fees widened the price gap with the illicit market.

Why Revenue Fell Short

- Only about 40% of consumption is in the legal market, eight years in. Illicit supply chains are "sticky" and connected across state lines, so wholesale prices converge.
- 55% of jurisdictions still ban retail. In ban areas, 62% of residents think they can buy legally.
- An illustrative consumer tax load is about 31% (5% local, 15% excise, 8.5% sales), and can approach 40%.

Lessons Offered

- Start with lower taxes to bring consumers into the regulated market, where public health tools apply.
- Keep collection points clear and close to retail.
- Forecast conservatively and expect steep price compression; build in room to adjust.
- Track the legal market's share of consumption as the key metric.
- Taxes are one cost among many: regulatory and local burdens, financing costs and 280E all add to the price gap.

Discussion

- A member asked whether weak penalties strengthen the illicit market. California said some criminal penalties should remain at the right scale to deter organized operators and engage local police, and that law enforcement also needs education on what is legal.

- The chair asked about licensing. California has no license cap; retail is limited in practice by local bans, which has driven competition and price declines. Illinois's caps have led consumers to cross state lines.

Presentation 3: Cannabis Tax Structure in New York (John Kagia and Patrick McKeage)

Market Context

- Total addressable demand is estimated at $6–7 billion; about one in five adults used cannabis in the past 30 days.
- New York has been a destination market where consumers paid premiums ($70–75 per eighth pre-legalization vs. about $35 legal today). The goal was to move existing demand into a regulated market, not create new consumers.
- Two-tier structure: a licensee may hold supply-side or retail licenses, not both. Caps favor small businesses (up to 3 retail licenses; 100,000 sq ft of canopy). Excise tax is collected at an independent distribution tier.
- Scale today: about 2,300 licenses, about 720 stores, roughly $4B in sales since 2023 and about $2B expected in 2026, producing about $350M in tax revenue. The legal market serves a little under one-third of demand in year four.

Tax Considerations

- Do not legalize for tax revenue; price compression makes early projections look like broken promises.
- Revenue stability: per-unit taxes grow as a share of price when prices fall; price-based taxes shrink. Expect to revisit the structure between years 1–5 and 5–15.
- Local revenue sharing can keep municipalities from opting out. About 50% of New York's land area has opted out of retail, letting the illicit market anchor there; only about two dozen have opted back in.
- Revenue use: about $70M funds OCM (about 270 staff). The rest splits 40% community reinvestment, 40% education (state lottery fund) and 20% substance use and mental health. None goes to the general fund.
- Potency taxes offer stability and public health targeting, but steep rates on high-potency products push consumers to a large, sophisticated illicit market.
- Keep the tax scheme simple; complexity raises compliance and enforcement costs.

Potency Tax Experience

- New York launched with a THC-based excise tax at distribution (different per-milligram rates for flower, concentrates and edibles) plus a 9% state and 4% local retail tax.

- Litigation delayed retail openings for about two years, so the potency tax hit distributors when prices were high and illicit competition was stiff.
- It worked for edibles and concentrates but not flower: lab results varied, and some producers "lab shopped" for lower THC results.
- The legislature replaced it with a flat 9% price-based tax at distribution. It is easier to administer, though it likely collects less. The tax department is now conducting its first robust audits.

Closing Advice

- Price compression is real: about 20% last year and about 15% more this year, so far offset by sales growth.
- Minimize the gap between legalization and the first legal stores, and give local police simple, bright-line enforcement authority from day one rather than waiting on a new regulator.
- No state captures 100% of demand; aim to maximize the legal share through easy access and product variety.

Discussion

- A member suggested a potency tax at a low enough rate could compete, and that New York's switch was effectively a tax cut during a crisis. New York agreed in part but said the bigger factors were cross-country oversupply (diversion and "inversion" into legal channels), inconsistent lab results and administrative burden. Any potency rate needs careful calibration.

Presentation 4: Consumer Protection Laws in Connecticut (Kate Haggman)

Enforcement Approach

- The AG's Consumer Protection Department files civil suits against smoke and vape shops selling illicit cannabis. The Department of Consumer Protection (DCP) handles smaller cases and can revoke e-cigarette licenses.
- Cases usually start with multi-agency sweeps led by DCP drug control agents with local police, labor, tax and fire officials. Sweeps often find labor, fire code and tax violations, and occasionally signs of human trafficking.
- Claims are brought under the Connecticut Unfair Trade Practices Act (CUTPA). Originally the state had to prove deception (consumers misled into thinking products were legal) and unfairness (violating testing, labeling and child-appeal rules).

New Legislative Tools

- Selling cannabis without a license is now a per se CUTPA violation.
- Landlords who knowingly lease to unlicensed sellers face civil penalties of up to $10,000 a day. A notice letter from the AG usually prompts eviction; no landlord suit has been needed yet.
- Effective October 1, 2026, towns can seek ex parte court orders to padlock unlicensed shops, modeled on New York's Operation Padlock.

- Civil penalties are up to $5,000 per violation, which can be counted per day or per package.

Results and Funding

- A judgment of almost $5M was entered against one smoke shop (little has been collected); a large distributor settled for $375,000. Total penalties collected are roughly $500,000 to $1M.
- Penalties and legal-market tax revenue feed a Cannabis Enforcement Fund. It pays for three AG attorney positions, some support staff and litigation costs.
- Enforcement remains "whack-a-mole": shops reopen nearby, shuffle ownership, shield assets in LLCs and hide products behind false walls.

Hemp: Hemp-derived products are legal through proper channels. Beverages are sold in dispensaries or liquor stores with a special endorsement. Other hemp THC products are tiered by potency, with the most potent limited to dispensaries.

Discussion

- Three AG positions are funded through the enforcement fund; DCP's number is unknown.
- A member asked about enforcement against individuals, such as public use. Criminal matters belong to the State's Attorney; some cases run civil and criminal tracks together, with close local police coordination.
- A member asked about selling THC beverages with alcohol. No same-transaction restriction exists at liquor stores, but THC beverages may not be consumed in bars or restaurants.

Cannabis Taxation Expert Panel (Adam Hoffer and Carl Davis)

Both panelists favored a non-price tax base and stressed simplicity.

Price, Weight or Potency Base?

- *Tax Foundation:* Not price-based. Tax THC content for edibles, extracts and other processed products. For flower, tax THC if testing and labeling are already required; otherwise tax by weight.
- *ITEP:* A combination. The excise tax exists because cannabis is an intoxicant, so THC is the most principled base. Measurement estimates are normal in tax policy, and clear THC labeling is a public health need anyway.

Isn't adding to the sales tax simpler?

- *Tax Foundation:* Price is simple, but the harm comes from THC, so THC is the better-targeted base, like taxing alcohol by content.
- *ITEP:* Consumers must see both price and THC content regardless, so a THC-based tax is not less simple.

Retail, wholesale or both?

- *Tax Foundation:* As early in the supply chain as possible, to minimize remitters, unless vertical integration creates transfer-pricing problems.
- *ITEP:* Sales tax will apply at retail anyway. Collecting excise early, like motor fuel taxes, eases administration and reduces diversion.

What combined rate keeps legal products competitive?

- *Tax Foundation:* No proven "right" rate. State and local taxes stack; some Colorado areas exceed 40%.
- *ITEP:* Depends on market maturity, enforcement against illicit storefronts, and whether localities can ban sales. Consider phasing the rate in, starting low.

How to protect a price-based tax from falling prices?

- *Tax Foundation:* Keep rates low and plan for revenue to drop as prices fall at 3, 5 and 10 years.
- *ITEP:* Falling prices also erode the deterrent effect. Use scheduled or price-triggered rate increases, as NC already does in its income tax.

Tax design under open, capped or state-run markets?

- *Tax Foundation:* Under a state monopoly, tax design matters least and retail-level collection is simplest. Open licensing brings more storefronts, with pros and cons.
- *ITEP:* State-run systems tend to raise the most revenue. More licenses mean more price decline, so a potency tax matters more to keep a price floor.

Final Advice

- *Tax Foundation:* Keep it simple. Lower THC testing costs now make a THC tax practical.
- *ITEP:* As a "reluctant legalizer," NC may want stronger guardrails and higher taxes. Get it right early, before industry influence grows. Consider letting localities levy an add-on tax.

Other Business and Next Steps

- Determine date and time for final Revenue and Legal Subcommittee meeting
    - Friday, November 13 from 1:00-3:00pm
- Approve September Meeting Minutes
- Approach to tax recommendation: General agreement that the report may present several tax options, with the advantages and disadvantages of each, rather than force a single consensus.

Adjournment

Meeting concluded at 3:39pm.
Next Meeting Date: Friday, November 13, 2026 from 1:00-3:00pm