



January 15, 2020

To: CCIA Members

From: Amy Jenkins, Senior Policy Director
Eddie Franco, Legislative Liaison

Cc: CCIA Board of Directors
Lindsay Robinson, Executive Director

RE: Summary of Governor Gavin Newsom's Spending Plan for the 2020-21 Fiscal Year

Governor Gavin Newsom unveiled his [spending plan](#) for the 2020-21 fiscal year on January 10, surpassing \$222 billion in total spending. The release of the governor's proposed budget is the first step in the budget process. The Legislature will begin its review process later this month, as they work toward the June 15 adoption deadline. Trailer bill language is due from the Administration to the Legislature February 1 which will provide additional details about the governor's proposals. Below is an outline of proposals impacting the cannabis industry.

Regulatory Overhaul

The Administration proposes to consolidate the three licensing entities into a single Department of Cannabis Control by July 2021. While details are forthcoming, the proposal includes centralized enforcement of both licensed and unlicensed entities. In other words, the Division of Investigation within the Department of Consumer Affairs would no longer have enforcement responsibility. Instead, all enforcement would be the responsibility of the new Department of Cannabis Control, under the Business, Consumer Services and Housing Agency.

During his press conference, the governor acknowledged Senators Steve Bradford and Mike McGuire, as well as Assemblymember Reggie Jones-Sawyer for advancing this policy change, which the Administration contends will improve access to licensing and simplify regulatory oversight of commercial cannabis activity.

Consolidating the three licensing entities will require a two-thirds vote of the Legislature. As noted above, the Legislature has until June 15 to approve the state budget, which will take effect on July 1, 2020.

Tax Simplification

The Administration proposes to simplify tax administration for cannabis by changing the point of collection of cannabis taxes, as follows:

Cultivation Tax Collection. The Administration proposes to shift responsibility for collection of the cultivation tax from the final distributor to the first distributor.

Excise Tax Collection. The Administration proposes to shift excise tax collection from the distributor to the retailer. Under this proposal, the California Department of Tax and Fee Administration (CDTFA) would no longer be responsible for biannually estimating the average mark-up price (AMP) and setting the wholesale tax rate. Instead, the 15% excise tax would be calculated on the actual selling price.

The budget summary asserts that these changes will reduce the tax collection burden on the cannabis industry and simplify the tax collection process. The impact from these proposed changes projects a loss of revenue in 2020-21, as the excise tax is collected later in the process, with a small increase in revenue in future budget years related to these changes. The loss of revenue in the 2020-21 assumes an implementation date of July 1, 2020. However, during a briefing held by the Administration on January 13, CDTFA Director Nick Maduros acknowledged that additional time may be required to implement this transition.

Like the Administration's regulatory consolidation proposal, tax simplification will also require a two-thirds vote of the Legislature. The Administration noted that trailer bill language on the tax collection simplification will be released on February 1.

Tax Reduction

The Administration does not include any proposals to reduce the state's cannabis taxes, but the summary of the proposed spending plan includes the following statement:

"The Administration, in consultation with the industry and stakeholders, will consider other changes to the existing cannabis tax structure, including the number of taxes and the tax rates to simplify the system and support a stronger, safer, legal cannabis market." (Governor's Budget Summary – 2020-21, page 172)

When asked whether the Administration had considered any recommendations outlined in the Legislative Analyst's Office (LAO) report, released in December 2019, staff signaled that they were open to considering legislative or budget proposals introduced by the Legislature. A reference was made to efforts by Assemblymember Rob Bonta and others to temporarily suspend the cultivation tax, which was also one of a handful of recommendations proposed in the LAO report. Administration staff responded by reiterating the statement made by the governor in his budget summary.

Tax Projections

The Administration projects the state will collect \$479 million in 2019-20 and \$550 million in 2020-21, while also acknowledging “significant uncertainty” as it relates to tax collection.

The Administration’s forecast assumes continued growth of more than 15% annually, as new cannabis businesses enter the marketplace and additional jurisdictions authorize commercial cannabis activity.

The Budget proposes \$57.8 million to cover administrative costs incurred in 2020-21 by the licensing entities and other state agencies that administer provisions of the MAUCRSA.

\$332.8 million is included in the governor’s budget proposal for budget allocations, as prescribed in Prop. 64 for youth education, prevention and early intervention (60%), environmental protection (20%), and public safety-related activities (20%), as follows:

- Youth education, prevention and early intervention - \$199.7 million¹
- Environmental protection, including clean-up, remediation and enforcement of environmental impacts created by illicit cultivation - \$66.6 million
- Public safety-related activities - \$66.6 million
 - \$21.8 million to the California Highway Patrol for impaired driving research
 - \$44.4 million to the Board of State and Community Corrections for youth diversion support and intervention activities and local government grants

The budget also allocates an additional \$15 million to cannabis equity programming.

During his press conference, the governor expressed frustration over assertions made by the media and others that the state has fallen short of tax projections. He re-emphasized that the newly regulated cannabis market will continue to evolve, and that reform is a multi-year process that will take five years or more.

Nicotine Vaping Tax

The Administration is proposing a new vaping tax based on nicotine content. If approved, the new tax will take effect on January 1, 2021 and will be \$2 for each 40 milligrams of nicotine in the product, equivalent to the tax on a pack of cigarettes.

The new tax will be in addition to all existing taxes on E-Cigarettes, which are presently taxed as tobacco products under state law. Initial revenues are projected at \$32 million in 2020-21.

¹ The current year budget allocates \$50.3 million from the Cannabis Tax Fund to support over 3,000 general child care slots that were previously funded with State General Fund. The Administration proposes to increase that funding by \$10.3 million in cannabis tax revenue, which will fund an additional 621 child care slots.

Funds will be deposited into a new special fund dedicated for administration (\$9.9 million), enforcement against the underground market (\$7 million), youth prevention and health care workforce programs.

In his press conference on the budget, the governor applauded Senator Jerry Hill for his leadership on this issue with the introduction of [SB 793](#), and indicated that he will support a statewide ban of all flavored nicotine products as of January 1, 2021.

