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**Recommendations Framework: Regulation and City Agency Framework**

<b>Licensing</b>	<b>Taxation and Revenue</b>	<b>Agency Oversight</b>
<p><b>1. Licensing</b></p> <p>a. Local Industry Licenses</p> <p>i. Should San Francisco have a licensing system at the local level? If so, what license types should the City have and why?</p> <p>ii. How should this system align with State license types and structure? How should local licensing agencies plan to interact with those at the State level?</p> <p>b. Local workforce licensing</p> <p>i. Should San Francisco consider licensing requirements for the cannabis industry’s workforce that provide uniform performance and service standards across businesses? If so, which segments of the cannabis workforce should be licensed to serve this purpose? What elements of training would lead to these uniform standards?</p> <p>c. Non-profit licenses: Should the City pursue/issue non-profit licenses? If so, what would be the purpose and desired outcome of such an action in San Francisco? [See AUMA table provided and issue brief for non-profit licensing provisions]</p>	<p><b>1. Taxation</b></p> <p>a. Should San Francisco consider establishing local cannabis taxes and fees?</p> <p>b. What are the advantages and disadvantages of local taxation?</p> <p><b>2. Revenue Allocation Priorities</b></p> <p>NOTE: Work group should review all previous recommendations and discuss how existing/new funding streams may support these recommendations.</p> <p>a. What are San Francisco’s regulatory, policy and programmatic goals with respect to cannabis legalization?</p> <p>b. How should revenue generated from state and local taxes be used to support these goals? How should revenue from local taxes and fees complement the State’s tax revenue allocations?</p> <p><b>3. Data Collection</b></p> <p>NOTE: Work group should review all previous recommendations and identify where the Task Force has made data collection recommendations.</p> <p>a. What other data categories should be collected across the City to ensure success? Why? How? By whom?</p> <p style="text-align: center;">-END-</p>	<p><b>1. Local Regulatory Structure</b></p> <p>a. What are the characteristics of a successful local cannabis regulatory structure under Prop. 64 (AUMA)? What are the factors that will determine success for the agency charged with cannabis regulation?</p> <p>b. Should the City consider a new or existing regulatory structure?</p> <p><b>2. Local Regulatory Oversight Structure</b></p> <p>a. What are the characteristics of a successful regulatory oversight structure under Prop. 64 (AUMA)?</p> <p>b. Should the City consider a new or existing regulatory oversight structure?</p> <p><b>3. Local Agency Collaboration</b></p> <p>a. Regulation: Which local agencies, newly created or existing, should have a role in the adult use regulatory process? How should agency roles be defined? Consider the following areas (and others that may come up) for possible local agency involvement:</p> <ul style="list-style-type: none"> <li>• cultivation</li> <li>• manufacturing</li> <li>• testing</li> </ul>

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<p><b>2. Deliveries</b></p> <p>a. The AUMA currently requires that deliveries only be made from licensed brick and mortar retail locations. In light of this, should San Francisco consider an additional local license that would allow for mobile delivery/retail services without the in-person, brick and mortar retail requirement?</p> <p>b. Brick and mortar vs. mobile delivery/retail - what are the differences with respect to the licensing and regulatory processes that would be important for the City to consider?</p> <p><b>3. Medical Cannabis Dispensaries (MCDs) and Adult Use Market Participation</b></p> <p>a. Should San Francisco allow current MCDs to participate in both the medical cannabis and adult use market? If so, should current MCDs have a different licensing process in order to participate in the adult use market?</p> <p>b. Moving forward, should there be differences in the regulatory process for the following models:</p> <ul style="list-style-type: none"> <li>• MCD only business</li> <li>• Adult use only business</li> <li>• Combined adult use and MCD business</li> </ul> <p style="text-align: center;">-END-</p>		<ul style="list-style-type: none"> <li>• distribution</li> <li>• environmental issues: volatile solvents, pesticides, water use, etc.</li> <li>• labor</li> <li>• data collection</li> <li>• track and trace system</li> <li>• criminal justice</li> <li>• social justice</li> <li>• taxation and revenue</li> </ul> <p>b. Licensing: The current licensing process for MCDs requires that other agencies, e.g. Fire Department, Department of Building Inspection, approve a dispensary application before it can begin operation. What agencies should be involved in the licensing/permitting process for adult use cannabis businesses in this way and why?</p> <p><b>4. Track and Trace</b></p> <p>a. What is San Francisco’s role/responsibility with respect to the established State-level track and trace mechanism? Is the State system sufficient for local monitoring of cannabis?</p> <p style="text-align: center;">-END-</p>

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**Adult Use of Marijuana Act (AUMA) Provisions Table:**  
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**Licensing**

Licensing	AUMA – related provisions
<p><b>1. Licensing</b></p> <ul style="list-style-type: none"> <li><b>a. Local Industry Licenses</b></li> <li><b>b. Local Workforce Licensing</b></li> <li><b>c. Non-Profit Licenses</b></li> </ul>	<p>The AUMA does not establish a dual state-local licensing system. It does allow local jurisdictions to develop local business license and permitting requirements in addition to the required State license via the local control provision<sup>1</sup> on pg. 38, Section 26200 of the Business and Professions Code.</p> <p><b>AUMA License Types and General Licensing Provisions</b>                      The AUMA provides the framework for state-level licensing and provides additional guidance that could inform local practice.</p> <p>(a) The [State] license classification shall, at a minimum, be as follows:</p> <ul style="list-style-type: none"> <li>(1) Type I = Cultivation; Specialty outdoor; Small.</li> <li>(2) Type IA == Cultivation; Specialty indoor; Small.</li> <li>(3) Type IB = Cultivation; Specialty mixed-light; Small.</li> <li>(4) Type 2 = Cultivation; Outdoor; Small.</li> <li>(5) Type 2A = Cultivation; Indoor; Small.</li> <li>(6) Type 2B = Cultivation; Mixed-light; Small.</li> <li>(7) Type 3 = Cultivation; Outdoor; Medium.</li> <li>(8) Type 3A = Cultivation; Indoor; Medium.</li> <li>(9) Type 3B = Cultivation; Mixed-light; Medium.</li> <li>(10) Type 4 = Cultivation; Nursery.</li> <li>(11) Type 5 = Cultivation; Outdoor; Large.</li> <li>(12) Type 5A =Cultivation; Indoor; Large.</li> <li>(13) Type 5B = Cultivation; Mixed-light; Large.</li> <li>(14) Type 6 = Manufacturer 1.</li> <li>(15) Type 7 = Manufacturer 2.</li> </ul>

<sup>1</sup> Hereafter referred to as “local control provision.”

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Licensing	AUMA – related provisions
	<p>(16) Type 8 = Testing.                      (17) Type 10 = Retailer.                      (18) Type 11 = Distributor.                      (19) Type 12 =Microbusiness. [i.e. licensed to cultivate in area &lt;10,000sqft and act as distributor, manufacturer and retailer]</p> <p>(b) All [State-issued licenses] shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act]. Examples of such a designation include, but are not limited to, "Type 1 -Nonmedical, "or "Type INM"</p> <p>(c) A [State-issued license] shall be valid for 12 months from the date of issuance. The license may be renewed annually.</p> <p>(d) Each [State] licensing authority shall establish procedures for the issuance and renewal of licenses.</p> <ul style="list-style-type: none"> <li>• Department of Consumer Affairs – retailer, distributor, and microbusiness licenses</li> <li>• Department of Public Health – manufacturing and testing facility licenses</li> <li>• Department of Food and Agriculture – cultivation licenses</li> </ul> <p>(e) Notwithstanding subdivision (c), a State licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operable on January 1, 2019.</p> <p>(See licensing provisions starting on pg. 19 Business and Professions Code Sec. 26050).</p>

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	<p>- [State] licensing authorities shall begin issuing [State] licenses by January 1, 2018. (pg. 14, Business and Professions Code Sec. 26012)</p> <p><b>Vertical and Horizontal Integration</b></p> <p>-Testing: A person or entity that holds a state testing license for [medical marijuana or nonmedical marijuana] is prohibited from licensure for any other activity, except testing. Except as [provided above], a person or entity may apply for and be issued more than one [type of nonmedical marijuana] license. (pg. 21 Business and Professions Code Sec. 26053)</p> <p>Cultivation: (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law. (b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B; Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis. (c) Except as otherwise provided by law:</p> <ol style="list-style-type: none"> <li>(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.</li> <li>(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22, 000 square feet, inclusive, of total canopy size on one premises.</li> <li>(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.</li> </ol>

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	<p>(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023. (e) Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not eligible to apply for or hold a Type 8, Type 11, or Type 12 license.</p> <p>-A licensee shall not also be licensed as a retailer of alcoholic beverages . . . or of tobacco products (pg. 21 Business and Professions Code Sec. 26054).</p> <p><b>Marijuana Control Appeals Panel</b>            There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all the members elected to the Senate. . . . When any person aggrieved thereby appeals from a decision of the bureau or any State licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license, the panel shall review the decision subject to limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the [Bureau of Marijuana Control] or the licensing authority. (pgs. 17-18, Business and Professions Code Sections 26040 – 45).</p> <p><b>State Licensing Fees</b>            Each [State] licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:            (a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and</p>

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	<p>scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.</p> <p>(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.</p> <p>(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.</p> <p>(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division. (pg. 37 Revenue and Taxation Code Sec. 26180)</p> <p><b>Licensing Policy Considerations</b>            In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:</p> <ol style="list-style-type: none"> <li>(1) allow unreasonable restrains on competition by creation or maintenance of unlawful monopoly power;</li> <li>(2) perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;</li> <li>(3) encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;</li> <li>(4) result in an excessive concentration of licensees in a given city, county, or both;</li> </ol>

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	<p>(5) present an unreasonable risk of minors being exposed to marijuana or marijuana products; or</p> <p>(6) result in violations of any environmental protection laws. (pgs. 19-20 Business and Professions Code Sec. 26051)</p> <p><b>Licensing Priority</b></p> <p>(a) A [State] licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority’s satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with the [Medical Cannabis Regulation and Safety Act].</p> <p>(b) The [Bureau of Marijuana Control] shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants’ prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any applicable local laws. The bureau shall make the requested information available to licensing authorities.</p> <p>(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or the [Medical Cannabis Regulation and Safety Act]. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a)</p> <p>(d) This section shall cease to be operable on December 31, 2019 unless otherwise provided by law.                      (pg. 21 Business and Professions Code Sec. 26054.2)</p>



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	<p><b>Residency Requirement</b></p> <p>(a) No [State] licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.</p> <p>(b) [This section] shall cease to be operable on December 31, 2019 unless reenacted prior thereto by the Legislature.                      (pg. 21 Business and Professions Code Sec. 26054.1)</p> <p><b>Local Workforce Licensing</b></p> <p>AUMA does not specifically address this issue, but Task Force may consider the following local control provision to guide development of recommendations:</p> <ul style="list-style-type: none"> <li>• Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code – 26200)</li> </ul> <p><b>Non-Profit Licenses</b></p> <p>(a) The Bureau of Marijuana Control shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the</p>

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	<p>relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?</li> <li>• Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?</li> <li>• Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons?</li> </ul> <p>(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons so long as the local jurisdiction:</p> <ul style="list-style-type: none"> <li>• confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;</li> <li>• licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;</li> <li>• provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;</li> </ul>

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<b>Licensing</b>	<b>AUMA – related provisions</b>
	<ul style="list-style-type: none"> <li>• certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).</li> </ul> <p>(c) Temporary local licenses authorized under subdivision (b) shall expire after twelve months unless renewed by the local jurisdiction.</p> <p>(d) The [Bureau of Marijuana Control] may impose reasonable additional requirements on the local licenses authorized under subdivision (b).</p> <p>(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses. (2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses. (3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b). (pg. 28-29 Business and Professions Code Sec. 26070.5)</p>

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<b>Licensing</b>	<b>AUMA – related provisions</b>
<p><b>2. Deliveries</b></p>	<p>The AUMA defines “delivery” as the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products. (pg. 11 Sec. 26001 - General Provisions and Definitions)</p> <ul style="list-style-type: none"> <li>(a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5</li> <li>(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.</li> <li>(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under [local control provision]. (pg. 29 Business and Professions Code Sec. 26090)</li> </ul> <p>- Bureau of Marijuana Control to establish minimum security and transportation safety requirements for distribution and delivery. Safety standards will include vehicle type standards and minimum qualifications for vehicle operators. (pg. 28 – Business and Professions Code Sec. 26070)</p>

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<b>Licensing</b>	<b>AUMA – related provisions</b>
<b>3. Medical Cannabis Dispensaries (MCDs) and Adult Use Market Participation</b>	AUMA does not specifically address this issue, but Task Force may consider the following local control provision to guide development of recommendations: <ul style="list-style-type: none"><li>• Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code Sec. 26200)</li></ul>

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**Taxation and Revenue**

Taxation and Revenue Issues	AUMA Related Provisions
<b>1. Taxation</b>	<p><b>State Cannabis Excise Tax</b></p> <ul style="list-style-type: none"><li>(a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code or a retailer, microbusiness, 41 nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code [the AUMA] to sell marijuana and marijuana products directly to a purchaser.</li><li>(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.</li><li>(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to [the AUMA] shall be responsible for collecting this tax and remitting it to the [Board of Equalization] in accordance with rules and procedures established under law and any regulations adopted by the [Board of Equalization].</li><li>(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.</li></ul>

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- (e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.
- (f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.
- (g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362. 71 of the Health and Safety Code and a valid government issued identification card. (pg. 41-42 Revenue and Taxation Sec. 34011).

**State Cannabis Cultivation Tax**

- (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to [the Medical Cannabis Regulation and Safety Act] or [the AUMA]. The tax shall be due after the marijuana is harvested.
  - (1) The tax for marijuana flowers shall be nine dollars and twenty five cents (\$9.25) per dry weight ounce.
  - (2) The tax for marijuana leaves shall be set at two dollars and seventy five cents (\$2.75) per dry-weight ounce.
- (b) The [Board of Equalization] may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.
- (c) The [Board of Equalization] may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These

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	<p>categories shall be taxed at their relative value compared with marijuana flowers.</p> <ul style="list-style-type: none"><li>(d) The [Board of Equalization] may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.</li><li>(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the [Board of Equalization] and may be purchased by any licensee under Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code or under Division 10 of the Business and Professions Code [the AUMA].</li><li>(f) Subsequent to the establishment of a tax stamp program, the [Board of Equalization] may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.</li><li>(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.</li><li>(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3. 5 of Division 8 of the Business and Professions Code [Medical Cannabis Regulation and Safety Act] or Division 10 of the Business and Professions Code [the AUMA] shall be responsible for payment of the tax pursuant to regulations adopted by the [Board of Equalization]. No marijuana may be sold unless the tax has been paid as provided in this part.</li><li>(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.</li><li>(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the [Board of Equalization], but shall not apply to marijuana cultivated for personal use under Section 113 62.1 of the Health and Safety Code or cultivated by a</li></ul>
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	<p>qualified patient or primary caregiver in accordance with the Compassionate Use Act.</p> <p>(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the [Board of Equalization] annually thereafter for inflation. (pg. 42-43 Revenue and Taxation Sec. 34012).</p> <p>-The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019. (pg. 45 Revenue and Taxation Code Sec. 34017)</p> <p><b>Local Taxation Authority</b> The taxes imposed by [the State] shall be in addition to any other tax imposed by a city, county, or city and county. (pg. 51 Revenue and Taxation Sec. 24021)</p> <p>(a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3. 5 of Division 8 of the Business and Professions Code [Medical Cannabis Regulation and Safety Act] or Division 10 of the Business and Professions Code [the AUMA]. (2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors. (3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the</p>
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	<p>entire county or within the unincorporated area of the county. (4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken 51 individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.</p> <p>(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.</p> <p>(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.</p> <p>(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code [Bradley-Burns Uniform Local Sales and Use Tax Law]. (pg. 51-52 Revenue and Taxation Sec. 24021.5)</p>
<p><b>2. Revenue Allocation Priorities</b></p>	<p><b>State Revenue Allocation Provisions</b></p> <p>Revenues collected from any marijuana excise tax, as well as certain fines imposed on businesses or individuals who violate regulations established under the AUMA, would be deposited in a new special fund, the California Marijuana Tax Fund. Monies deposited in the fund would first be used to reimburse certain state agencies, such as the Bureau of Marijuana Control, for any costs of regulating the commercial marijuana industry not covered by license fees. After reimbursing state agencies for implementation costs, the AUMA would allocate a portion of the remaining revenues for the following purposes (in order of priority):</p> <ul style="list-style-type: none"> <li>• \$10 million annually from 2018-19 through 2028-29 to public universities in California to research and evaluate the implementation of the AUMA</li> </ul>

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- \$3 million annually from 2018-19 through 2022-23 to the California Highway Patrol (CHP) to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including by marijuana.
- \$10 million in 2018-19, increasing by \$10 million annually until 2022-23, and \$50 million each year thereafter, to the Governor's Office of Business and Economic Development for a grant program to provide services (such as mental health and substance use treatment) in communities disproportionately affected by past federal and state drug policies (Community Reinvestment Grants).
- \$2 million annually to the University of California San Diego Center for Medicinal Cannabis Research to study the efficacy and adverse effects of the use of marijuana for medicinal purposes.

Any funds remaining after the above allocations would be annually allocated as follows:  
(1) 60 percent deposited in the Youth Education, Prevention, Early Intervention and Treatment Account and allocated to the state Department of Health Care Services for substance use disorder education and prevention programs for youth.

- Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need. (pg. 48 Revenue and Taxation Sec. 34019)

(2) 20 percent deposited into the Environmental Restoration and Protection Account and allocated to the state Department of Fish and Wildlife (DFW) and the state Department of Parks and Recreation (DPR) for environmental programs designed to clean up and prevent environmental damage resulting from the illegal cultivation of marijuana

- AUMA requires that funding provided to DFW and DPR from the Marijuana Tax Fund not be used to replace other funds currently used by the departments for the purposes described above. As such, it requires that General Fund

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	<p>appropriations to DFW and DPR not be reduced below the levels provided in the 2014-15 Budget Act.</p> <p>(3) 20 percent deposited into the State and Local Government Law Enforcement Account and allocated to CHP for programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and to the Board of State and Community Corrections for a grant program designed to mitigate any potential negative impacts on public health or safety resulting from the implementation of the AUMA. Local governments could receive a portion of these funds through grant programs established by the Board and/or CHP.</p> <p>-Beginning July 2028, the Legislature could change the above allocations to further the purpose of the AUMA, subject to certain limitations (such as a requirement that any changes further the purpose of the AUMA).</p> <p>(California Legislative Analyst’s Office - Fiscal Impact Assessment Report, pgs. 3-4; <i>see also</i> AUMA pgs. 45-52, Revenue and Tax Code Sections 34018 – 34021.5)<sup>2</sup></p>
<p><b>3. Data Collection</b></p>	<p><b>Research and Evaluation of the Implementation of AUMA</b></p> <p>The [State] shall disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The</p>

<sup>2</sup> Language excerpted from California Legislative Analyst’s Office - <https://www.oag.ca.gov/system/files/initiatives/pdfs/fiscal-impact-estimate-report%2815-0103%29.pdf?>

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	<p>recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:</p> <ol style="list-style-type: none"><li>(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.</li><li>(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.</li><li>(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.</li><li>(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.</li><li>(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.</li><li>(6) Whether additional protections are needed to prevent unlawful monopolies or anticompetitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.</li><li>(7) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.</li><li>(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent</li></ol>
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	<p>with the purposes of the Act, and whether different agencies might do so more effectively.</p> <p>(9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.</p> <p>(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.</p> <p>(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate, and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of upcharging illegal possession of marijuana or marijuana products to a more serious offense. (pg. 47-48 Revenue and Taxation Sec. 34019)</p>
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**Agency Oversight**

Agency Oversight	AUMA Related Provisions
<b>1. Local Regulatory Structure</b>	<p><b>State to Set Minimum Regulatory Standards</b> Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations. (pg. 39 Business and Professions Code Sec. 26201).</p> <p>AUMA adds Division 10 “Marijuana” to the Business and Professions Code, which covers, licensing, regulatory enforcement, etc.</p> <ul style="list-style-type: none"><li>(a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.</li><li>(b) In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] to include the power and duty to control and regulate the commercial nonmedical marijuana industry.</li><li>(c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act. (pg. 11 Business and Professions Code Sec. 26000).</li></ul>

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Agency Oversight	AUMA Related Provisions
	<p>In making recommendations, it may be useful to consider AUMA State-level regulatory framework below:</p> <p><b>State Regulatory Structure</b></p> <ul style="list-style-type: none"><li>• The AUMA creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise<sup>3</sup>.<ul style="list-style-type: none"><li>○ The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018.</li><li>○ The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses.</li><li>○ The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe.</li><li>○ The Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product.</li><li>○ The State [Board of Equalization] of Equalization will collect the special marijuana taxes, and</li><li>○ the Controller will allocate the revenue to administer the new law and provide the funds to critical investments. (pg. 2 Findings and Declarations).</li></ul></li></ul>

<sup>3</sup> AUMA implementation will involve multiple departments, with the agencies referenced in this document playing larger roles within the regulatory structure.



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<b>Agency Oversight</b>	<b>AUMA Related Provisions</b>
	<p><b>AUMA Local Control Provision</b></p> <ul style="list-style-type: none"> <li>• Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code – Sec. 26200)</li> </ul>
<p><b>2. Local Regulatory Oversight Structure</b></p>	<p>The AUMA does not specifically address this issue, but the Task Force may consider the above proposed State regulatory structure and local control provision to guide development of recommendations.</p>
<p><b>3. Local Agency Collaboration</b></p>	<p>The AUMA does not specifically address this issue, but the Task Force may consider the above proposed State regulatory structure and local control provision to guide development of recommendations.</p>

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<b>Agency Oversight</b>	<b>AUMA Related Provisions</b>
<p><b>4. Track and Trace System</b></p>	<p>The AUMA requires the State to develop track and trace management procedures to track nonmedical marijuana from cultivation to sale.</p> <ul style="list-style-type: none"> <li>(a) The Department of Food and Agriculture, in consultation with the [Bureau of Marijuana Control] and the State [Board of Equalization] of Equalization, shall expand the track and trace program to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracing system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.</li> <li>(b) The Department of Food and Agriculture, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.</li> <li>(c) Any software, database or other information technology system utilized by the Department of Food and Agriculture to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or</li> </ul>

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<b>Agency Oversight</b>	<b>AUMA Related Provisions</b>
	comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third party applications to access that mirrors the production environment. (pg. 36-37 Business and Professions Code Sec. 26710)

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**Note 1: Provisions regarding changes to AUMA**

The AUMA allows the Legislature to amend regulations, protect workers, and/or reduce criminal penalties by a majority vote consistent with the purposes of the Adult Use of Marijuana Act, in order to create maximum flexibility within the system. Other amendments may be made with a two-third vote of the Legislature, so long as they are consistent with the purposes of the Act. (pg. 61 – Section 10 “Amendment”).<sup>4</sup>

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<sup>4</sup> Excerpt from Let’s Get it Right California AUMA Executive Summary, available at <http://www.letsgetitrightca.org/news/executive-summary>.