

TO: Joint Fiscal Office
FROM: James Pepper, Cannabis Control Board Chair
DATE: December 13, 2024
RE: Cannabis Control Board Fee Report for the 2025 Legislative Session

Act 113 of 2024, Section E.127.1, directs the Cannabis Control Board (CCB) to prepare a comprehensive fee report for each fee that is in effect in fiscal year 2025. Below is a listing of the legislative directives under Section E.127.1 and the CCB's responses to each directive. Also attached is a table which provides additional detail.

1. The statutory authorization and termination date if any.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (columns D and F).

2. The current rate or amount the fee was last set or adjusted by the General Assembly or Joint Fiscal Committee.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (columns J and K).

3. The Fund into which the fee revenues are deposited.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (column H)

4. The amount of the revenues derived from the fee in each of the five fiscal years preceding fiscal year 2025.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (columns P, R, and T). Please note that pursuant to 7 V.S.A. § 911, cannabis establishment application and initial licensing fees are waived for social equity applicants as defined in CCB Rule 1.1.3. Further, cannabis establishment licensing renewal fees for social equity applicants increase annually pursuant to a fee schedule found in CCB Guidance on Application and Licensing Fees. As a result, actual receipts each year will not necessarily match the instances of fee payments multiplied by the fee amount.

5. The number of times that the fee was paid in each of the two fiscal years preceding fiscal year 2025.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (columns Q and S).

6. A projection of the fee revenues in fiscal year 2025 and 2026.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (columns U and V). Fiscal year 2025 projections were extrapolated from fiscal year 2024 and the first quarter of fiscal year 2025 fee revenues while taking into account the current moratorium on retail licenses. The CCB believes that the cannabis market is at or near a point of equilibrium with respect to the supply and demand of cannabis and has voted to temporarily paused the issuance of new cultivation licenses, effective February 1, 2025, while it re-evaluates market dynamics in the state. Given these pauses in licensing as well as the number of confounding variables that affect the viability of fee revenue generally (see answer to directive 10 below), it is difficult to project how these revenues will change over time, though we anticipate they will remain relatively static between fiscal years 2025 and 2026.

7. A description of the service or product provided or the regulatory function performed by the Judiciary, agency, department, board or office supported by the fee.

The fee revenue supports the regulatory oversight of licensees as well as the administration of the CCB. Regulatory oversight includes reviewing applications, issuing licenses, site inspections, compliance testing, product registration, advertising review, issuing violations, and adjudicating contested cases. Administrative expenditures include development and maintenance of our IT infrastructure, leased vehicles for compliance agents, rent, supplies, equipment, contracted services, and interagency expenditures.

8. The amount of the fee if adjusted for inflation from the last time the fee amount was modified using an appropriate index chosen in consultation with the Joint Fiscal Office. The inflation adjustment shall be calculated as the percentage change between the value of the index in the July of the year the fee was last adjusted by the General Assembly and July 2024.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (columns W and X).

9. If any portion of the fee revenue is deposited into a special fund, the percentage of the special fund's revenues that the fee represents.

See Cannabis Control Board Fee Report for 2025 Legislative Session table (column I). Pursuant to 7 V.S.A. § 845, all cannabis fees are deposited into the Cannabis Regulation Fund which is composed of fee revenue, civil penalties collected by the CCB, and all cannabis excise tax revenue. Please note, by law cannabis excise tax revenue will no longer be deposited into the Cannabis Regulation Fund starting in fiscal year 2026. The consequence of this change is that the percentage of the special fund that each fee represents will increase dramatically and the fund itself will likely be insufficient to cover the CCB budget at its current level.

10. Any available information regarding comparable fees in other jurisdictions.

State	Retail License	Cultivator License
Alaska	New: \$5,000 Renewal: \$7,000	Limited (≤ 500 sq ft): \$1,000 new, \$1,400 renewal Standard (unlimited sq ft): \$5,000 new, \$7,000 renewal
Maine	\$2,500	Outdoor: \$250–\$15,000 (500–20,000 sq ft) Indoor: \$500–\$30,000 (500–20,000 sq ft)
Massachusetts	\$10,000	Outdoor: \$625–\$25,000 (5,000–100,000 sq ft) Indoor: \$1,250–\$50,000 (5,000–100,000 sq ft)

State	Manufacturing License	Testing License	Employee Registration
Alaska	Concentrates: \$1,000 (new), \$2,000 (renewal) Products: \$5,000 (new), \$7,000 (renewal)	New: \$1,000 Renewal: \$5,000	\$50
Maine	\$2,500	Testing: \$1,000 Sample Collector: \$250	\$50
Massachusetts	\$10,000	\$10,000	\$115

11. Any policies or trends that might affect the viability of the fee amount

The viability of this fee revenue will depend on demand for Vermont-grown regulated cannabis and the number of licenses that are producing it. Given the intensity of the regulation surrounding cannabis and the lack of access to traditional sources of capital or business assistance, state cannabis markets tend to consolidate under a few larger operators over time. Currently, the majority of fee revenue in Vermont is generated by small cultivators who are also the most vulnerable to market dynamics outside of their

control. For instance, a significant portion of the demand for regulated cannabis is driven by non-residents, both tourists and border consumers that live in states or towns that do not have ready access to legal cannabis. When tourism decreases because of extreme weather, or neighboring states implement adult-use programs, the demand for Vermont-grown cannabis decreases and fewer cultivators can survive. Widespread loss of small cultivators and consolidation will negatively impact the viability of these fees.

Further, unlike other regulated products, cannabis is in fierce competition with the illicit market and the intoxicating hemp-derived market, both of which enjoy advantages with respect to price and convenience. Illicit market and hemp-derived products are not subject to regulatory oversight, potency caps, or excise taxes. They can be delivered directly to a consumer's home and consumed openly in places where cannabis consumption is prohibited. The vitality of the illicit and intoxicating hemp markets will negatively impact the viability of these fees. Policy makers can attempt to overcome these structural disadvantages by implementing strategies to reduce costs for smaller cultivators, curtail the proliferation of unregulated intoxicating hemp-derived products, and permit the regulated market to offer some of the same products and services as the unregulated cannabis markets.

12. Any other relevant considerations for setting the fee amount

A primary tension in setting the initial fee amounts centered around the extent to which fee policy should be used to encourage participation by smaller operators on the one hand or maximize revenue on the other. Lower fees allow for greater participation in the market but require more resources at the CCB to regulate a larger universe of licensees. Higher fees limit entrepreneurial interest in seeking a cannabis license and, in turn, reduce the licensing and compliance demands on the CCB. Interestingly, both JFO and the CCB independently concluded that revenue generated by fees alone, whether they were higher, lower, or equal to our neighboring states' licensing fees, would be insufficient to fully fund the statutory duties of the CCB. In its *Cannabis Taxes and Fees: Estimates and Considerations* (Jan. 12, 2022) report to the House Ways and Means Committee, JFO indicated the deterrent effect of higher fees would result in insufficient fee revenue and a less vibrant market overall. While lower fees would also be insufficient to cover the operating expenses of the CCB, they will likely lead to a more thriving craft market. In setting the initial fees, the legislature decided to keep fees low for smaller operators, as compared to neighboring states, higher for larger businesses, and use a portion of the cannabis excise tax to fill the gap between fee revenue and the CCB's budget.

In setting the initial cannabis fee rates, the legislature also considered the relative profitability of the various license types. For instance, the price per square foot of

growing canopy for outdoor cultivators was set lower than indoor cultivators given the differences in harvest frequency and susceptibility of outdoor cultivation to variable environmental factors. In setting or adjusting future fee rates, the legislature may also consider the initial cost of starting a cannabis business in an industry that does not have access to traditional lending services, as well as the cost of regulatory compliance in this unique market. For instance, 7 V.S.A. § 901(f) mandates that each licensee maintain commercial general liability insurance. While this statutory requirement is crucial to protecting both licensees and the public, insurance policies are disproportionately expensive in an industry that is fully reliant on surplus line insurers. The legislature may consider a fee structure that accommodates these dynamics with lower initial rates that increase on a set schedule year over year as a business theoretically becomes more profitable.

The legislature also set an annual local licensing fee of \$100 to accommodate the administrative cost to a municipality for hosting a cannabis establishment. These costs were largely unknown or theoretical when the fee was established prior to the launch of the market. In a recent municipal survey conducted by the CCB in association with the Vermont League of Cities and Towns, 53% of the 147 respondents indicated this \$100 fee does in fact cover the administrative cost of processing a local cannabis application, with 46% responding that it does not. Understanding the costs incurred by municipalities will be important in determining the suitability of the local fee rate.