

Case No. 2015-1411

In the
Supreme Court of Ohio

STATE EX REL. RESPONSIBLEOHIO, et al.,
Relators,

v.

OHIO BALLOT BOARD, et al.,
Respondents.

*Original Action Challenging Ballot Language
Under Art. XVI, Sec. 1 and Ballot Title
and Original Action in Mandamus
Expedited Election Case, S.Ct.Prac.R. 12.08*

EVIDENCE OF RELATORS

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Counsel for Relators

EVIDENCE OF RELATORS

Relators hereby file their evidence in the instant case.

Respectfully submitted,

/s/ Donald J. McTigue

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1	<u>FULL TEXT OF PROPOSED AMENDMENT</u>
2	<u>SUMMARY OF FULL TEXT OF PROPOSED AMENDMENT CERTIFIED BY OHIO ATTORNEY GENERAL</u>
3	<u>ATTORNEY GENERAL CERTIFICATION OF BALLOT SUMMARY</u>
4	<u>INITIAL BALLOT LANGUAGE PROPOSED BY RESPONDENT HUSTED</u>
5	<u>SHORT VERSION OF PROPOSED BALLOT LANGUAGE SUBMITTED BY RELATORS</u>
6	<u>LONG VERSION OF PROPOSED BALLOT LANGUAGE SUBMITTED BY RELATORS</u>
7	<u>THE APPROVED BALLOT LANGUAGE</u>
8	<u>AFFIDAVIT OF ATTORNEY LARRY JAMES</u>
9	<u>TRANSCRIPT OF AUGUST 18, 2015 OHIO BALLOT BOARD MEETING</u>
10	<u>WRITTEN OBJECTIONS TO INITIAL BALLOT LANGUAGE SUBMITTED BY RELATORS</u>
11	<u>BALLOT TITLE ISSUED BY RESPONDENT HUSTED</u>

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STATE EX REL. RESPONSIBLEOHIO, et al.,
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AFFIDAVIT OF DONALD J. MCTIGUE

Franklin County

State of Ohio

I, Donald J. McTigue, having been duly sworn and cautioned according to law, depose and state that I have read each of the Exhibits contained in Relator's Complaint as well as in the accompanying Evidence of Relators, and that each are true and correct copies of the original documents based on my personal knowledge, and that I am competent to testify to same.

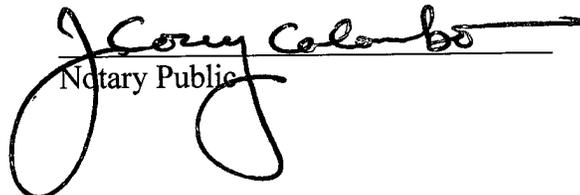
FURTHER AFFIANT SAYETH NAUGHT


Donald J. McTigue

Sworn and subscribed before me, a Notary Public, State of Ohio, on this this 4 day of September, 2015.



JOHN COREY COLOMBO
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.


Notary Public

CERTIFICATE OF SERVICE

Pursuant to S.C.Prac.R. 12.08(C), I hereby certify that Evidence of Relators has been sent via email this 4th day of September to the following:

Honorable Mike DeWine,
Ohio Attorney General
c/o Zachary P. Keller
Jordan S. Berman
Ryan L. Richardson
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/s/ Donald J. McTigue
Donald J. McTigue

Exhibit 1

FULL TEXT OF AMENDMENT

Be it Resolved by the People of the State of Ohio that Article XV of the Ohio Constitution is hereby amended to add the following Section:

§12 Legalization, Regulation and Taxation of Medical and Personal Use of Marijuana

(A) Summary

This section provides for the legalization of medical marijuana for use by persons with debilitating medical conditions and for the legalization of marijuana and marijuana-infused products for personal use by individuals 21 years of age and older. This section establishes the Ohio Marijuana Control Commission ("Commission") to regulate the state's marijuana industry in a manner similar to the state's regulation of alcohol. A patient may obtain medical marijuana only after being issued a medical marijuana certification by an Ohio-licensed physician, and only from state-regulated, not-for-profit medical marijuana dispensaries. Sale of marijuana and marijuana-infused products for personal use is limited to licensed retail marijuana stores, and the location of any such store must receive approval of the voters of the precinct in which the store would be located. It is lawful for persons 21 years of age or older to grow and possess no more than four homegrown marijuana plants for personal, non-commercial use; however, growth, cultivation and extraction of marijuana and medical marijuana to be sold within the state will occur only at site-specific, state-regulated facilities. Marijuana-infused and medical marijuana-infused products may be produced only by state-regulated facilities. No marijuana establishment may be within 1,000 feet of a house of worship, a publicly-owned library, playground, an elementary or secondary school, or a state-licensed child day-care center. Marijuana Growth, Cultivation & Extraction ("MGCE") facilities and Marijuana Product Manufacturing ("MPM") facilities must pay a special flat tax equal to 15% of their gross revenue, and marijuana retail stores must pay a special flat tax equal to 5% of their gross revenue, without any deduction for expenses. Revenue from these special taxes must be allocated as follows: 55% to municipalities and townships on a per capita basis, 30% to counties on a per capita basis, and 15% to a Marijuana Control Commission Fund for the reasonable and necessary costs of operating the Commission, to provide additional funding for mental health and addiction and treatment services, and to fund a marijuana innovation and business incubator to award support to Ohio-based companies, colleges and universities, nonprofit medical centers, and other nonprofit research institutions to engage in research and development, and to create new products, companies and jobs associated with the medical marijuana and marijuana industries in Ohio.

(B) Use of Medical Marijuana for Debilitating Medical Conditions

It is lawful for patients with debilitating medical conditions to acquire, administer, purchase, possess, transport, and use, and for licensed caregivers to acquire, administer, purchase, possess, transport and transfer, medical marijuana pursuant to a valid medical marijuana certification. The state shall regulate the conduct of physicians in issuing medical marijuana certifications in a manner similar to its regulation of medical prescriptions. A treating physician who has examined a patient and determined that he or she has a debilitating medical condition may issue a medical marijuana certification if: (1) a bona fide physician-patient relationship exists; (2) the physician determines the risk of the patient's use of medical marijuana is reasonable in light of the potential benefit; and (3) the physician has explained the risks and benefits of using medical marijuana to the patient. If the patient is younger than 18 years of age, treatment involving medical marijuana may not be provided without consent by at least one custodial parent, guardian, conservator, or other person with lawful authority to consent to the patient's medical treatment.

No agency, including a law enforcement agency, of this state or of a political subdivision of this state may initiate an administrative, civil, or criminal investigation of a physician, nor shall a physician be denied any right or privilege or be subject to any disciplinary action, solely on the ground that the physician: (1) discussed with a patient the use of medical marijuana as a treatment option; or (2) issued a medical marijuana certification under this section, or otherwise made a written or oral statement that, in the physician's professional opinion, the potential benefits of the patient using medical marijuana would likely outweigh any health risks.

(C) Establishment of Medical Marijuana Not-For-Profit Dispensaries

Medical marijuana shall only be dispensed and sold to patients and caregivers by not-for-profit medical marijuana dispensaries licensed under this section, in accordance with a medical marijuana certification issued by the patient's current treating physician, who shall exercise the same professional care, ethics and judgment in doing so as is required in issuing medical prescriptions.

The Commission shall issue licenses to, and shall promulgate and enforce regulations governing the operations of, not-for-profit medical marijuana dispensaries. Such regulations shall include rules regarding the number of licenses within any political subdivision of the state. The Commission shall promulgate the initial regulatory rules for such dispensaries by May 30th of the year following adoption of this section.

MGCE facilities and MPM facilities shall sell to the dispensaries, at their lowest wholesale prices, medical marijuana and medical marijuana-infused products, respectively, sufficient to satisfy patient demand for them in this state.

From the Marijuana Control Commission Fund established herein, the Commission may fund the reasonable and necessary operating costs of the not-for-profit medical marijuana dispensaries and establish a program to provide low-cost medical marijuana to qualifying patients who are unable to afford the full cost. Nothing in this section, however, shall require any health insurance provider or any government agency or authority to reimburse any patient for expenses related to the use of medical marijuana.

(D) Personal Use of Marijuana and Authorization of Homegrown Marijuana

It is lawful for persons 21 years of age or older to purchase, possess, transport, use and share with another person 21 years of age or older one ounce or less of marijuana or its equivalent in marijuana-infused products.

It is lawful for persons 21 years of age or older to grow, cultivate, use, possess and share with another person 21 years of age or older homegrown marijuana in an amount not to exceed four flowering marijuana plants and eight ounces of usable homegrown marijuana at a given time; provided, however, that such person must first obtain a non-transferrable license pursuant to Commission-promulgated rules and regulations, which include, at a minimum, registration requirements and rules ensuring that homegrown marijuana is not grown or consumed within public view and that home-growing takes place in an enclosed, locked space inaccessible to persons under the age of 21.

(E) Taxation of Marijuana Revenue

The state shall levy and collect a special flat tax of 15% on all gross revenue of each MGCE facility and MPM facility, and 5% on all gross revenue of each retail marijuana store. "Gross

revenue” as used in this subdivision means 100% of all revenue received without deduction for any expenses or distribution of any profit. Such facilities and stores shall also pay the state commercial activities tax and all other local taxes, assessments, fees and charges as apply to businesses in general. Such facilities and stores shall not receive any abatement, credit or deduction that is unavailable to other businesses. Dispensaries shall pay the same taxes, assessments, fees and charges that other not-for-profit organizations are required to pay. No additional taxes, assessments, fees or charges shall be levied on the operations, revenue, or distributed income of a marijuana establishment, other than the license fees authorized under this section.

One hundred percent of the revenues generated from the special tax shall be collected and distributed by the state for the following purposes (the “Purposes”):

- (1) 55% to a Municipal and Township Government Stabilization Fund with 100% of such funds being distributed to every municipality and township on a per capita basis, excluding, in the case of a township, population that is also within a municipality. Such funds shall be used for public safety and health, including police, fire and emergency medical services, road and bridge repair, and other infrastructure improvements;
- (2) 30% to a Strong County Fund with 100% of such funds being distributed to each county on a per capita basis. Such funds shall be used for public safety and health, including law enforcement, economic development, road and bridge repair, and other infrastructure improvements; and
- (3) 15% to a Marijuana Control Commission Fund with 100% of such funds being distributed in the following order for: (a) the reasonable and necessary costs of operating the Commission; (b) funding for the marijuana innovation and business incubator established hereunder; (c) to the extent the Commission so elects, the reasonable and necessary operating costs of the not-for-profit medical marijuana dispensaries established under this section, (d) mental health and addiction prevention and treatment programs and services; and (e) to the extent the Commission so elects, a program to provide low-cost medical marijuana to qualifying patients who are unable to afford the full cost.

The above described Funds shall be established in the state treasury and the above described special tax collected and distributed monthly. Funds distributed under this subdivision shall supplement, not supplant, funding obligations of the state and local governments. Accordingly, all such distributions shall be disregarded for purposes of determining whether funding obligations imposed by other sections of this constitution or by the revised code are met. The Funds will be allocated and distributed consistent with the foregoing Purposes by the applicable state or local government entity.

(F) Establishment of Marijuana Growth, Cultivation & Extraction Facilities

The growth and cultivation of marijuana and medical marijuana, and the extraction of cannabinoids from marijuana and medical marijuana, for sale and medical use within this state shall be lawful only at licensed MGCE facilities. Subject to the exceptions set forth herein, there shall be only ten MGCE facilities, which shall operate on the following real properties: (1) Being an approximate 40.44 acre area in Butler County, Ohio, identified by the Butler County Auditor, as of February 2, 2015, as tax parcel numbers Q6542084000008 and Q6542084000041; (2) Being an approximate 13.434 acre area in Clermont County, Ohio, identified by the Clermont County Auditor, as of February 2, 2015, as tax parcel numbers 413103B284 and 373103E301; (3) Being an approximate 19.117 acre area in Franklin County, Ohio, being a portion of a larger parent parcel which is identified by the Franklin County Auditor, as of February 2, 2015, as tax

parcel number 040-004959-00. The approximate 19.117 area is described as follows: all of the real property being described as Franklin County, Ohio, tax parcel number 040-004959-00, less and except the portion of such tax parcel lying south of the centerline of the stream known as Grant Run Tributary No. 3; (4) Being an approximate 24.466 acre area in Hamilton County, Ohio, identified by the Hamilton County Auditor, as of February 2, 2015, as tax parcel number 500-0081-0004; (5) Being an approximate 35.031 acre area in Licking County, Ohio, identified by the Licking County Auditor, as of February 2, 2015, as tax parcel number 063-140952-00.000; (6) Being an approximate 76.83 acre area in Lorain County, Ohio, being a portion of two larger parent parcels which are identified by the Lorain County Auditor, as of February 2, 2015, as tax parcel numbers 03-00-053-108-013 and 03-00-054-102-008. The approximate 76.83 acre area is described as follows: all of the real property being described as Lorain County, Ohio tax parcel numbers 03-00-053-108-013 and 03-00-054-102-008, less and except the portions of such tax parcels lying northerly of a line located 2,100 feet southerly of and parallel with Colorado Avenue (also known as State Route 611); (7) Being an approximate 28.459 acre area in Lucas County, Ohio, identified by the Lucas County Auditor, as of February 2, 2015, as tax parcel number 22-74697; (8) Being an approximate 24.948 acre area in Delaware County, Ohio, identified by the Delaware County Auditor, as of February 13, 2015, as tax parcel number 419-230-01-035-000; (9) Being an approximate 27.18 acre area in Stark County, Ohio, identified by the Stark County Auditor, as of February 2, 2015, as tax parcel number 7701271; and (10) Being an approximate 29.0052 acre area in Summit County, Ohio, identified by the Summit County Auditor, as of February 2, 2015, as tax parcel number 3009928.

No local zoning, land use laws, agricultural regulations, subdivision regulations or similar provisions or governmental consents and approvals applicable to creating transferrable legal descriptions, or to any subsequent assignment of different parcel numbers to the aforesaid real properties shall prohibit the creation of transferrable and recordable legal descriptions or separate tax parcel numbers for any of the aforesaid real properties. In addition, notwithstanding the identification of the real properties by reference to the parcel numbers as set forth above, any MGCE facility may expand its structures and related operations to adjacent real property which may be identified by different parcel numbers so long as all other applicable terms of this section are met.

The Commission shall promulgate the initial regulatory rules for the operation of MGCE facilities by May 30th of the year following adoption of this section; however, the Commission shall issue the application form for a provisional license within 60 days of the adoption of this section. If an owner of one of the above-designated sites chooses not to apply for a provisional license within 90 days of the passage of this section, the Commission may issue a license to operate a MGCE facility at a different site in lieu of that site so long as all other criteria set forth herein are met.

The Commission shall issue one-year provisional licenses within 90 days of the passage of this section to the owners of the above-designated real properties who have applied for licenses to operate MGCE facilities subject to the following conditions: payment of an initial licensing fee of \$100,000 and the filing of affidavits by the chief executive officer and chief financial officer affirming under oath that the facility will: comply with all requirements under this section; comply with all applicable health, safety, prevailing wage, building code, sanitation, environmental, land use, and employment laws and regulations not in conflict with this section; employ industry best practices with respect to the growth, cultivation and extraction of marijuana; comply with generally accepted accounting principles; comply with Commission regulations upon adoption; and subject the facilities and operations to immediate inspection and review by Commission personnel upon demand. Notwithstanding the foregoing, no existing local or state law shall be applied to prohibit the development or operation of such facilities. No later than six months after the facility commences its operations, the Commission shall inspect such

facility and review its operations to confirm that it has complied with the assurances set forth in its officers' affidavits. If the Commission determines it has not, it shall order immediate remedial action as to that facility; and if the facility fails to remediate within 120 days, the Commission may suspend the provisional license until satisfied that all remedial actions have been implemented. The Commission shall issue non-provisional annual licenses to MGCE facilities upon expiration of their provisional licenses so long as such facilities are meeting their obligations under their provisional licenses and demonstrate the ability to comply with all regulations promulgated by the Commission regarding the operation of MGCE facilities.

To ensure that the supply of regulated marijuana is adequate to meet consumer demand in this state, beginning in the fourth year following the adoption of this section, the Commission shall develop and make publicly available annual consumer demand metrics for marijuana and medical marijuana based in substantial part on total gross sales of each within the state in the previous year. If the Commission determines during its annual audits of the MGCE facilities that such facilities collectively failed to produce marijuana and medical marijuana sufficient to substantially meet the published consumer demand metrics for the previous year and cannot demonstrate that they are likely to do so in the ensuing year, the Commission may issue a license for an additional MGCE facility at a site other than what has been designated herein.

If the Commission determines as part of its annual audit that a MGCE facility is in material noncompliance with applicable laws or regulations, the Commission may order remedial action; and, to the extent such MGCE facility fails to materially comply with the Commission's remediation order within the reasonable time period set forth by the order, the Commission may suspend or revoke the MGCE facility's license. If the Commission revokes a MGCE license for failure to remediate material noncompliance, the Commission may issue a license for a MGCE facility at a site other than what has been designated herein. If a MGCE facility terminates or indefinitely suspends its operations, the Commission may relocate that facility or revoke the facility's license and issue a license for a MGCE facility at a site other than what has been designated herein.

(G) Establishment of Marijuana Product Manufacturing Facilities

The manufacturing, processing and packaging of marijuana-infused products, including medical marijuana-infused products, shall be lawful only at licensed MPM facilities pursuant to a licensing and regulatory framework established by the Commission by May 30th of the year following adoption of this section. MPM facilities may also manufacture, process and package marijuana accessories. Such facilities may sell marijuana-infused products made only from marijuana purchased from licensed MGCE facilities.

The Commission shall establish rules regulating the chemical content and/or potency of marijuana-infused products and shall ensure they are prominently displayed on the products' packaging. As part of the regulatory framework governing MPM facilities, the Commission shall create and oversee a special division within the Commission staffed with individuals with extensive experience in food and prescription drug regulation to assist the Commission in promulgating industry-leading standards regulating the manufacture, processing, transportation, packaging and advertising of marijuana-infused products, including ensuring that marijuana-infused products are not manufactured, packaged or advertised in ways that create a substantial risk of attractiveness to children.

(H) Establishment of Retail Marijuana Stores

Marijuana and marijuana-infused products may be sold to individuals 21 years of age and older only by licensed retail marijuana stores. Such stores may sell only marijuana purchased from

licensed MGCE facilities and marijuana-infused products purchased from licensed MPM facilities, and shall sell no other goods or services except for marijuana accessories and related products. No retail marijuana store shall allow to be consumed any marijuana or marijuana-infused product that has been opened on the premises. No retail marijuana store shall sell marijuana or marijuana-infused products at a price less than the store paid for such products.

No later than 60 days following adoption of this section, the Commission shall promulgate the initial regulatory rules for licensing such stores. The Commission may promulgate rules regarding the number of licenses within any precinct of the state; provided, however, that the number of stores statewide shall not exceed the ratio of one to ten thousand based on the state's population as determined by the U.S. Census Bureau's Population Estimates Program (PEP) and revised annually according to either the PEP estimates or the decennial Census, and that no such license shall be issued to a store unless the electors of the precinct where the store will be located have approved the use of the location for such purpose at a local option election. Except for provisions unique to authorization of alcohol sales, including limits on resubmitting an issue to the voters, such elections shall be held and conducted by election authorities in the same manner as local option elections for the approval by the electors of a precinct of the sale of alcohol to the public at a specific location. No later than 60 days following adoption of this section, the secretary of state shall prescribe forms for the petition process and procedures for the conduct of retail marijuana store elections. Such elections shall be held on dates authorized by law for special elections for other ballot questions, including dates for primary and general elections, occurring not less than 90 days after a petition for such election is filed. The petitioner shall reimburse the expense of conducting the special election where there are no candidates or other questions on the precinct ballot. In the calendar year following adoption of this section, special elections for such question may also be held on the first Tuesday after the first Monday of May and the petitioner shall reimburse the cost of conducting such election.

(I) Ohio Marijuana Control Commission

There is hereby established the Ohio Marijuana Control Commission, which shall regulate the acquisition, growth, cultivation, extraction, production, processing, manufacture, testing, distribution, retail sales, licensing and taxation of medical marijuana, marijuana and marijuana-infused products and the operations of marijuana establishments and home growing. The Commission shall have seven members who have not served as elected public officials in the eight years prior to their appointment, and shall be composed of the following: a licensed Ohio physician, a sworn Ohio law enforcement officer, a licensed Ohio attorney experienced in administrative law, an Ohio-based patient advocate, an Ohio resident with demonstrated experience in owning, developing, managing and operating businesses, an Ohio resident with demonstrated experience in the legal marijuana industry, and a public member. The initial seven members shall be appointed no later than 40 days after the adoption of this section for terms commencing upon appointment. The initial Commission members shall hold the first meeting of the Commission no later than 45 days after the adoption of this section. In order to create staggered terms, the initial seven appointees shall be for terms lasting as follows: the attorney, the physician, the industry-experienced member and the Ohio-based patient advocate will serve terms lasting until December 31st of the fourth year following adoption; and the business owner, the public member and the sworn law enforcement officer will serve terms lasting until December 31st of the second year following adoption. All subsequent terms on the Commission shall be for four years ending on December 31st of the fourth year of the term. All Commission members shall be appointed by the governor to full or unexpired terms as defined herein and shall be residents of Ohio.

The Commission shall adopt rules to facilitate this section's implementation and continuing operation. The initial regulatory rules required to be adopted herein by specific dates shall be

adopted by the Commission notwithstanding any other provision of law regarding promulgation of administrative rules, provided that the Commission shall offer an opportunity for public input. Regulatory rules shall not prohibit the operation of marijuana establishments or home growing, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include, but not be limited to: procedures for the application for, and the issuance, renewal, transfer, suspension, and revocation of, a license to operate a marijuana establishment or marijuana testing facility or qualify as a caregiver; a schedule of application, licensing and renewal fees to be deposited into the Marijuana Control Commission Fund, provided such fees shall not exceed \$50,000 for MGCE facilities, save for the \$100,000 provisional license fee required herein, \$25,000 for MPM facilities, \$10,000 for retail marijuana stores and marijuana testing facilities, and registration fees of \$50 for home growing, with this upper limit adjusted annually for inflation; qualifications for licensure that are directly and demonstrably related to marijuana establishment; registration requirements for home growing; regulations regarding debilitating medical conditions, medical marijuana certifications, caregiver qualifications; requirements to prevent the sale and diversion of medical marijuana, marijuana, homegrown marijuana and marijuana-infused products to persons under the age of 21; requirements for testing the safety and potency of medical marijuana, marijuana and marijuana-infused products; labeling requirements for medical marijuana, marijuana and marijuana-infused products sold or distributed by a marijuana establishment; health and safety regulations for the acquisition, growth, cultivation, harvesting, processing, packaging, preparation, extraction, handling, distribution, transportation, manufacture, and production of medical marijuana, marijuana and/or marijuana-infused products; restrictions on the advertising and display of medical marijuana, marijuana and marijuana-infused products to persons under the age of 21; civil penalties for failure to comply with regulations made pursuant to this section, including enhanced civil penalties for repeat violations; and rules governing the allocation of resources from the marijuana innovation and business incubator established hereunder to third parties. The Commission shall also establish and implement a system for real-time tracking and monitoring of all marijuana, medical marijuana, and marijuana-infused products from the initial germination and/or extraction through the final consumer transaction.

Beginning in the second year following the adoption of this section, the Commission shall conduct an annual audit of each marijuana establishment to certify, at a minimum, that such marijuana establishment is in compliance with all applicable rules and regulations. To the extent it determines that a marijuana establishment is in material noncompliance with applicable rules and regulations, the Commission may order remedial action; and, to the extent that establishment fails to comply with the Commission's order within the reasonable time period set forth by that order, the Commission may suspend or revoke the establishment's license.

The Commission shall issue annual licenses to marijuana establishments, and register home growing applicants, no later than 90 days after receipt of the completed application unless the Commission finds the applicant is not eligible for a license or registration under applicable laws and regulations. Thereafter, licensees shall be entitled to have their licenses renewed pursuant to the Commission's rules, unless the Commission determines that the licensee has repeatedly failed to comply with its remedial orders. Such renewal shall be issued or denied prior to expiration of the current license. Ohio's administrative procedure statutes generally applicable to other licensing bodies not in conflict with this section shall apply to rulemaking, license denials, suspensions and revocations by the Commission.

The Commission shall serve as a clearing house for scientific and medical industry research on the use of marijuana, marijuana-infused products and medical marijuana. The Commission shall establish a marijuana innovation and business incubator in Cuyahoga County to award support to Ohio-based public and private business entities, colleges and universities, nonprofit medical centers, and other nonprofit research institutions to engage in research and development, as well

as to create new products, companies and jobs, associated with the medical marijuana and marijuana industries in Ohio. The Commission shall provide the incubator funding and appoint advisors to it who have demonstrated a commitment to the goal of national leadership in job creation and medical, technological, economic, environmental sustainability, product safety, and entrepreneurial innovation in the medical marijuana and marijuana industries.

The Commission shall employ necessary and qualified persons, including enforcement agents, and shall retain services of qualified third parties, including experts, to perform its duties.

(J) General Provisions and Specific Limitations

- 1) No marijuana establishment shall be located within 1,000 feet of the primary building structure used for any of the following: a house of worship exempt from taxation under the revised code; a publicly-owned library; a public or chartered non-public elementary or secondary school; or a state licensed child day-care center, or within 1,000 feet of any public playground or playground adjacent to any of the foregoing primary building structures, so long as such house of worship, library, playground, school or day-care center was in existence within the 1,000-foot zone on or before January 1, 2015 in the case of a MGCE facility or the date of an applicant's first application for a license in the case of a MPM facility, retail marijuana store, or not-for-profit medical marijuana dispensary.
- 2) In no event shall a person consume marijuana, homegrown marijuana or marijuana-infused products in any public place, or in, or on the grounds of, a public or chartered non-public elementary or secondary school, a state licensed child day-care center, a correctional facility or community corrections facility, or in a vehicle, aircraft, train or motorboat. No person shall operate, navigate, or be in actual physical control of any vehicle, aircraft, train or motorboat while under the influence of medical marijuana, marijuana, homegrown marijuana or marijuana-infused products. The foregoing provisions, other than operating or being in physical control of a vehicle, aircraft, train or motorboat, do not prohibit a patient from possessing or using medical marijuana in accordance with a medical marijuana certification. The general assembly shall pass laws for enforcing all of the preceding.
- 3) Other than for medical marijuana transferred or sold by a dispensary to a patient or caregiver, and for transfers between a patient and caregiver consistent with Commission regulations, it shall be unlawful for any person to knowingly sell or transfer marijuana, homegrown marijuana, medical marijuana or marijuana-infused products to a person under the age of 21. The general assembly shall enact laws defining this conduct as child endangerment and shall enact enhanced penalties for violations of such laws.
- 4) Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, or transportation of medical marijuana, marijuana, homegrown marijuana, marijuana-infused products or marijuana accessories in the workplace or to affect employers' ability to restrict the use of such products by employees, except that a patient with a medical marijuana certification may self-administer the medical marijuana subject to the same conditions applied to administration of prescribed medications.
- 5) No person shall have an ownership interest in, or be an officer or director of, a marijuana establishment who is under the age of 21 or who has been convicted of a felony offense within the prior five years. No person shall continue to hold an ownership interest in, or an officer or director position with, a marijuana establishment upon conviction of a felony and exhaustion of any appeals.

- 6) No person under the age of 21 shall be permitted to be on the premises of a marijuana establishment, except that a patient 18 to 20 years of age may be on a dispensary's premises for the purpose of obtaining medical marijuana pursuant to a medical marijuana certification issued for such patient.
- 7) It shall be lawful for persons 21 years of age or older to purchase, possess, transfer, transport, use and share with other persons 21 years of age or older marijuana accessories within the state; however, this age limitation shall not apply to patients with valid medical marijuana certifications.
- 8) It shall not be unlawful for a licensed MGCE facility, or its designated employees or agents, to handle, sell, store, deliver, transport or transfer marijuana to a licensed MPM facility, licensed marijuana testing facility or a licensed retail marijuana store; nor shall it be unlawful for a licensed MGCE facility, or its designated employees or agents, to sell, store, handle, deliver, transport or transfer medical marijuana to a licensed MPM facility, licensed dispensary or licensed marijuana testing facility. It shall not be unlawful for a licensed MPM facility, or its designated employees or agents, to handle, sell, store, receive, deliver, transport or transfer marijuana accessories or marijuana-infused products to another licensed MPM facility, a licensed retail marijuana store or licensed marijuana testing facility; nor shall it be unlawful for a licensed MPM facility, or its designated employees or agents, to sell, handle, store, receive, deliver, transport or transfer medical marijuana-infused products to another licensed MPM facility, a licensed dispensary or a licensed marijuana testing facility; nor shall it be unlawful for a licensed MPM facility, or its designated employees or agents, to sell, handle, store, receive, deliver, transport or transfer marijuana accessories to a licensed dispensary. It shall not be unlawful for licensed retail marijuana stores, licensed medical marijuana dispensaries, and licensed marijuana testing facilities, or their designated employees or agents, to purchase, obtain, handle, store, receive, deliver, transport or transfer marijuana accessories, marijuana, marijuana-infused products or medical marijuana from licensed MGCE and MPM facilities, and other retail marijuana stores, licensed medical marijuana dispensaries, and licensed marijuana testing facilities.
- 9) MGCE facilities and MPM facilities are prohibited from selling, delivering, transporting or transferring marijuana, medical marijuana, marijuana-infused products and marijuana accessories directly to consumers, and no retail marijuana store or dispensary may be located on the premises of a MGCE or MPM facility.
- 10) Marijuana establishments shall be subject to all applicable state and local laws and regulations related to health, safety and building codes, including signage. Notwithstanding the foregoing, no local zoning, land use laws, agricultural regulations, subdivision regulations or similar provisions shall prohibit the development or operation of marijuana establishments, provided that no such marijuana establishment shall be located in a district zoned exclusively residential as of January 1, 2015 for MGCE facilities, or as of the date that an application for a license is first filed by a MPM facility, retail marijuana store or not-for-profit medical marijuana dispensary.

(K) Self-Executing, Severability, Conflicting Provisions, and Enactment of Laws

All provisions of this section are self-executing except as specified herein, are severable, and, except where otherwise indicated in the text, shall supersede all conflicting state and local laws, charters and regulations or other provisions of this constitution. The general assembly may pass laws implementing the provisions of this section that are not in conflict with its provisions. Nothing in this section requires the violation of federal law or purports to give immunity under federal law.

(L) Definitions

As used in this section, unless the context otherwise requires,

- 1) “Adjacent real property” means real property that is within 1,000 feet or less of the existing property line of a licensed MGCE facility.
- 2) “Cannabinoids” means the chemical compounds in marijuana having a variety of pharmacologic properties.
- 3) “Caregiver” means an individual licensed by the Commission, other than the patient and the patient’s physician, who is 21 years of age or older and is the person responsible for managing the well-being of a patient with a debilitating medical condition for whom a medical marijuana certification has been issued under this section. To qualify as a caregiver, this individual’s responsibilities to the patient must include, at a minimum, provision of services in addition to provision of medical marijuana.
- 4) “Debilitating medical condition” means cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, sickle-cell anemia, ulcerative colitis, dementia, Alzheimer’s disease, or treatment for such conditions; a chronic or debilitating disease or medical condition, or treatment for such conditions, which produces, for a specific patient, one or more of the following, and which, in the professional opinion of the patient’s physician, foreseeably may be alleviated by the use of medical marijuana: cachexia, post-traumatic stress disorder, severe pain, severe nausea, seizures, including those that are characteristic of epilepsy, or persistent muscle spasms, including those that are characteristic of multiple sclerosis. The Commission shall establish and update the list of debilitating medical conditions for which medical marijuana certifications may be issued on an annual basis, consistent with current, peer-reviewed medical research.
- 5) “Homegrown marijuana” means marijuana grown by a person 21 years of age or older at that person’s place of residence for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration, including but not limited to trading and bartering. The sale of homegrown marijuana is unlawful.
- 6) “Marijuana” and “marihuana” mean all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, salt derivative, mixture, or preparation of the plant, its seeds, or its resin. “Marijuana” includes hashish, as defined in the revised code, but does not include homegrown marijuana, medical marijuana or industrial hemp, as defined by the general assembly, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.
- 7) “Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended, or designed for vaporizing, ingesting, inhaling, or otherwise introducing, marijuana or medical marijuana into the human body.
- 8) “Marijuana Growth, Cultivation and Extraction Facility” or “MGCE facility” means one or more structures in which, or the real property on which, the growth, cultivation, harvesting, processing, packaging, preparation, and labeling of all marijuana and medical marijuana available for sale or medical use within the state, and the extraction of cannabinoids from

marijuana plants for use in marijuana-infused products or medical marijuana-infused products available for sale or medical use within the state, is lawful.

- 9) "Marijuana-infused products" means concentrated marijuana products that are composed of marijuana or medical marijuana and other lawful ingredients and are intended for use or consumption, such as, but not limited to, edible products, marijuana concentrates, sprays, ointments, and tinctures.
- 10) "Marijuana establishment" means a MGCE facility, a MPM facility, a retail marijuana store, or a not-for-profit medical marijuana dispensary. A marijuana establishment's actions, and the actions of that establishment's employees and agents, are lawful and are not subject to civil or criminal penalties so long as such actions are in compliance with this section, with any laws passed by the general assembly in furtherance of this section, and with any rules and regulations promulgated by the Commission.
- 11) "Marijuana Product Manufacturing Facility" or "MPM facility" means a facility licensed by the Commission to develop, manufacture, prepare, and/or package marijuana-infused products, medical marijuana-infused products and/or marijuana accessories.
- 12) "Marijuana testing facility" means a facility or laboratory licensed by the Commission to acquire, possess, store, transfer, grow, cultivate, harvest, and process medical marijuana, marijuana and marijuana-infused products for the explicit and limited purposes of engaging in research related to, and/or certifying the safety and potency of, medical marijuana, marijuana and marijuana-infused products. At a minimum, such facilities shall be situated near colleges and universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties. Such facilities are prohibited from selling medical marijuana, marijuana and marijuana-infused products to marijuana establishments and consumers, and may transfer medical marijuana, marijuana and marijuana-infused products only to a marijuana establishment that has engaged the facility to perform quality control testing on those products or in connection with a safety and potency certification process developed by the Commission.
- 13) "Medical marijuana" means marijuana used to treat a debilitating medical condition, and includes medical marijuana-infused products used to treat debilitating medical conditions.
- 14) "Medical marijuana certification" means a written certification issued on a form prescribed by the Commission by a patient's treating physician acting in the usual course of his or her professional practice.
- 15) "Not-for-profit medical marijuana dispensary" or "dispensary" means an entity incorporated under Ohio's not-for-profit corporation law licensed to purchase medical marijuana from MGCE facilities, medical marijuana-infused products from MPM facilities and marijuana accessories, and to sell medical marijuana and marijuana accessories to patients and caregivers who present valid medical marijuana certifications pursuant to rules adopted by the Commission.
- 16) "Ohio Marijuana Control Commission" or "Commission" means the agency created herein to regulate the marijuana industry, including, but not limited to, regulating, researching and reporting on the growth, cultivation, production, processing, manufacture, testing, distribution, transportation, retail sales, licensing, and taxation of marijuana, medical marijuana and marijuana-infused products.
- 17) "Patient" means an Ohio resident who has a debilitating medical condition.

- 18) "Physician" means an individual who maintains, in good standing, a license to practice medicine issued by the State of Ohio.
- 19) "Retail marijuana store" means a retail space occupied by an entity licensed to purchase marijuana from MGCE facilities, marijuana-infused products from MPM facilities, and marijuana accessories, and to sell marijuana, marijuana-infused products, and marijuana accessories for personal use to consumers.
- 20) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

Exhibit 2



000064



Belmont 0001

INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

TITLE

Marijuana Legalization Amendment

SUMMARY

RECEIVED

MAR 03 2015

**Ohio Attorney General
Constitutional Offices Section**

This Amendment would add a new section 12 to Article XV of the Ohio Constitution to provide for the legalization of the use of medical marijuana by patients with debilitating medical conditions if a medical marijuana certification has been provided by the patient's treating physician and the use of marijuana and marijuana-infused products for personal use in amounts of one ounce or less by individuals 21 years of age or older, by providing, among other provisions:

1. Establishing the Ohio Marijuana Control Commission ("Commission") to regulate the acquisition, growth, cultivation, extraction, production, processing, manufacture, testing, distribution, retail sales, licensing, and taxation of medical marijuana, marijuana and marijuana-infused products and the operations of marijuana establishments, and the growth and cultivation of homegrown marijuana, as defined in the Amendment. The Commission would be composed of seven members appointed by the governor with varying backgrounds and qualifications and for terms as set forth in the Amendment. All are required to be Ohio residents. The Amendment sets forth specific subject matter for regulations to be promulgated by the Commission and requires the Commission to establish a system for real-time tracking of all medical marijuana, marijuana and marijuana-infused products from initial germination and/or extraction through the final consumer transaction. The Commission would also serve as a clearing house for scientific and medical research on medical marijuana, marijuana and marijuana-infused products. The Commission is required to employ necessary and qualified persons, including enforcement agents, and retain services of qualified third parties, including experts, to perform its duties.

2. Providing ten site specific locations for Commission licensed Marijuana Growth, Cultivation and Extraction ("MGCE") facilities. Setting forth conditions under which the Commission may relocate a MGCE facility or issue a license for a MGCE facility at a site other than the ten designated sites. Providing that marijuana and medical marijuana may be grown, cultivated and extracted for sale and medical use only at these state regulated and licensed facilities. One of each of the ten specified sites is in the following counties: Butler, Clermont, Franklin, Hamilton, Licking, Lorain, Lucas, Delaware, Stark, and Summit.

3. Providing for Commission licensed Marijuana Product Manufacturing ("MPM") facilities to produce marijuana-infused and medical marijuana-infused products and that such products may be produced only at these state regulated and licensed facilities. The Commission would be required to regulate the chemical content and potency of marijuana-infused products and create a special division within the Commission to assist in promulgation of standards regulating the manufacture, packaging and advertising of marijuana-infused products, including ensuring that the products are not manufactured, packaged or advertised in ways that create a substantial risk of attractiveness to children.

4. Providing for Commission licensed not-for-profit medical marijuana dispensaries ("MMD") to dispense medical marijuana to patients with debilitating medical conditions and to their Commission licensed caregivers with a medical marijuana certification issued by the patient's current treating physician in accordance with specific requirements set forth in the Amendment and in accordance with Commission and other state regulations, and providing that medical marijuana may only be sold and dispensed by such state licensed and regulated dispensaries. Both the patient and the patient's physician must be Ohio residents. The Amendment defines "debilitating medical condition," including specific medical conditions, and requires the Commission to establish and annually update, consistent with current, peer-reviewed research, the list of debilitating medical conditions for which medical marijuana certifications may be issued. The number of such state licensed and regulated dispensaries that may be within any subdivision would be determined by the Commission. MMDs must be incorporated under Ohio law. If the patient is under the age of 18, treatment involving medical marijuana may not be provided without the informed consent of a custodial parent, guardian, conservator or other person with lawful authority to consent to medical

treatment. Provide that a physician may not be disciplined or subject to certain other actions based solely on discussing with a patient or providing a professional opinion on the use of medical marijuana as a treatment option or issuing a medical marijuana certification under the Amendment. Require MGCE and MPM facilities to sell medical marijuana and medical marijuana-infused products, respectively, to MMDs at their lowest wholesale prices and in sufficient quantity to satisfy patient demand. Provide that nothing in the Amendment shall require any health insurance provider or government agency to reimburse a patient for expenses for medical marijuana.

5. Providing for Commission licensed retail marijuana stores (“RMS”) to sell marijuana and marijuana-infused products to individuals 21 years of age or older for personal use and that marijuana and marijuana-infused products for personal use may be sold only by such state licensed and regulated stores. The Commission would determine the number of RMSs that may be within any political subdivision. However, the total number of stores statewide would be limited by the ratio of one to ten thousand based on the state’s population, and the location of any such store must first be approved by the electors of the precinct where the store would be located at a special election similar to elections for the sale of alcohol at a particular location in a precinct, except for provisions unique to liquor local option elections. The Amendment also sets forth provisions governing the timing, holding, funding, and conduct of such elections. A RMS could purchase marijuana only from licensed MGCE facilities and marijuana-infused products only from licensed MPM facilities and sell no other goods or services, except for marijuana accessories and related products. No marijuana or marijuana-infused product could be consumed on the store’s premises or be sold at a price below what the store paid for it.

6. Providing for Commission licensed Marijuana Testing Facilities (“MTF”) to engage in research related to and/or certify safety and potency of medical marijuana, marijuana and marijuana-infused products. Such facilities, at a minimum, must be located near colleges and universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties.

7. Imposing a special flat tax of 15% on all gross revenue of each MGCE facility and MPM facility, and 5% on all gross revenue of each retail marijuana store, without any deduction for expenses or distribution of any profit. Such tax would be collected and distributed by the state as follows: 55% to a Municipal and Township Government Stabilization Fund to be distributed to all municipalities and townships on a per capita basis to be used for public safety and health, including police, fire and emergency medical services, road and bridge repair, and other infrastructure improvements; 30% to a Strong County Fund to be distributed to all counties on a per capita basis to be used for public safety and health, including police, fire and emergency medical services, road and bridge repair, and other infrastructure improvements; and 15% to a Marijuana Control Commission Fund to be distributed in the following order for: the reasonable and necessary costs of operating the Commission; funding for the marijuana innovation and business incubator established under the Amendment; to the extent the Commission so elects, the reasonable and necessary operating costs of the not-for-profit medical marijuana dispensaries established under the Amendment; mental health and addiction prevention and treatment programs and services; and to the extent that the Commission so elects, a program to provide low-cost medical marijuana to qualifying patients who are unable to afford the full cost. Distributed funds from the special flat tax are to supplement, not supplant, funding obligations of the state and local governments imposed by other laws.

8. In addition to the special flat tax, each MGCE facility, MPM facility and RMS would be required to pay the state commercial activities tax and all other taxes, assessments, fees and charges as are required to be paid by businesses in general and would be prohibited from receiving any credit, deduction or abatement that is unavailable to other businesses. MMDs would be required to pay the same taxes, assessments, fees and charges that other not-for-profit organizations are required to pay. Additional, taxes, assessments, fees or charges, other than license fees required under the Amendment, could not be imposed on the operations, revenue or distributed income of marijuana establishments.

9. Providing that it is lawful for persons 21 years of age or older to purchase, possess, transport, use and share with another person 21 years of age or older marijuana of one ounce or less or its equivalent in marijuana-infused products, as determined by the Commission, and marijuana accessories.

10. Providing that it is lawful for persons 21 years of age or older to grow, cultivate, use, possess and share with another person 21 years of age or older homegrown marijuana in an amount not to exceed four flowering marijuana plants and eight ounces of usable homegrown marijuana at a given time, so long as they have obtained a non-transferrable license pursuant to Commission-promulgated rules and regulations.

11. Prohibiting a marijuana establishment from being located within 1,000 feet of the primary building structure used for any of the following: a house of worship, a public or chartered non-public elementary or secondary school, a publicly owned library, or a state licensed child day-care facility; or within 1,000 feet of any public playground or a playground adjacent to any of the foregoing primary building structures, if such school, library, playground, day-care facility, or house of worship was located within the 1,000 zone on or before 1/1/15 in the case of a MGCE

facility, or the date of an applicant's first application for a license in the case of a MPM facility, MMD or RMS.

12. Prohibiting knowingly selling or transferring medical marijuana, marijuana, homegrown marijuana or marijuana-infused products to a person under the age of 21, except for transfers or sales by a MMD to a qualifying patient or caregiver in accordance with Commission regulations, and requiring the General Assembly to pass laws defining such conduct as child endangerment and enacting enhanced penalties for violations of such laws.

13. Prohibiting the employment of any person under the age of 21 by any marijuana establishment. Prohibiting any person under the age of 21 from being on the premises of a marijuana establishment, except in the case of a patient 18 to 20 years old at a MMD to obtain medical marijuana under a medical marijuana certification issued for such patient. Providing that a caregiver must be 21 years of age or older, be the person responsible for managing the well-being of a patient with a debilitating medical condition and that the person's responsibilities to the patient must include more than the provision of medical marijuana.

14. Prohibiting persons from operating or being in physical control of a vehicle, aircraft, train or motorboat while under the influence of medical marijuana, marijuana, homegrown marijuana or marijuana-infused products, and requiring the General Assembly to pass laws imposing criminal penalties for doing so.

15. Prohibiting the use of marijuana, homegrown marijuana, and marijuana-infused products in any public place or on the grounds of a public or chartered non-public elementary or secondary school, state licensed child day-care center, correctional facility or community corrections facility, or in a vehicle, aircraft, train or motorboat, except that a patient may use medical marijuana in accordance with a medical marijuana certification, and requiring the General Assembly to pass laws enforcing these provisions.

16. Providing that nothing in the Amendment is intended to require an employer to permit or accommodate the possession or use of medical marijuana, marijuana, homegrown marijuana or marijuana-infused products in the workplace, except that a patient with a medical marijuana certification may self-administer the medical marijuana subject to the same conditions applied to prescribed medications.

17. Prohibiting a person from having an ownership interest in or being an officer or director of a marijuana establishment who is under the age of 21 or has been convicted of a felony within the prior five years and from continuing to hold an ownership interest or officer or director position upon conviction of a felony and exhaustion of any appeals

18. Providing that marijuana establishments shall be subject to all applicable state and local laws and regulations related to health, safety and building codes, including signage, but providing that no zoning, land use law, or subdivision or agricultural regulation shall prohibit the development or operation of marijuana establishments, provided that no such establishment shall be located in a district zoned exclusively residential as of 1/1/15 for MGCE facilities or the date that a license application is first filed for a MPM facility, MMD, or RMS.

19. Prohibiting MGCE and MPM facilities from selling or transferring medical marijuana, marijuana or marijuana-infused products directly to consumers and prohibiting a RMS from being located on the premises of a MGCE or MPM facility.

20. Providing a timeline for initial implementation of the Amendment, including for appointment of the members of the Commission, the issuance of initial provisional licenses to MGCE facilities at the 10 designated sites based on required affidavits and payment of a \$100,000 license fee, inspection of such MGCE facilities within six months of issuance of such initial licenses, promulgation of initial regulations for MGCE facilities, MPM facilities, MMDs and RMSs, issuance of forms and procedures for precinct special elections, and the holding of a special election in May of the year following adoption of the Amendment for submission to voters of a precinct the question of approval of a location of a RMS. Initial regulations required to be adopted by specific dates are to be promulgated notwithstanding other provisions of law regarding promulgation of administrative rules, but the Commission must provide an opportunity for public input.

21. Requiring annual license fees of \$50,000 for MGCE facilities, \$25,000 for MPM facilities and \$10,000 for RMSs and marijuana testing facilities, and registration fees of \$50 for home growing, and that such fees be adjusted upward annually for inflation.

22. Requiring the Commission beginning in the second year following adoption of the Amendment to annually audit each marijuana establishment to certify that each establishment is in compliance with applicable rules and regulations, and if it determines that there is material non-compliance, authorizing the Commission to order remedial action and suspend or revoke the facility's license for failure to comply with such order within a reasonable time. Marijuana establishments may have their licenses renewed annually unless the Commission determines that a

licensee has repeatedly failed to comply with the Commission's remedial orders. Ohio's administrative procedure statutes generally applicable to other licensing bodies would apply to the extent not in conflict with the Amendment. The Commission shall set forth by rule civil penalties for failure to comply with Commission regulations, including enhanced penalties for repeat violations.

23. Requiring in the fourth year following adoption of the Amendment, the Commission to develop annual consumer demand metrics for medical marijuana and marijuana, which may be used by the Commission in conjunction with other findings to issue a license for an additional MGCE facility.

24. Providing that the Commission shall serve as a clearing house for scientific and medical industry research on the use of marijuana, marijuana-infused products and medical marijuana and shall establish a marijuana innovation and business incubator in Cuyahoga County to award support to Ohio-based public and private business entities, colleges and universities, nonprofit medical centers, and other nonprofit research institutions to engage in research and development, as well as to create new products, companies and jobs, associated with the medical marijuana and marijuana industries in Ohio.

25. Authorizing MPM facilities to manufacture and RMSs and MMDs to sell marijuana accessories and legalize possession and use of marijuana accessories, as defined in the Amendment.

26. Providing that the actions of marijuana establishments and their employees and agents are lawful and not subject to civil or criminal penalties so long as the actions are in compliance with the Amendment, laws enacted by the General Assembly and the rules of the Commission.

27. Define various terms used in the Amendment, including, but not limited to, marijuana, homegrown marijuana, medical marijuana, marijuana-infused products, caregiver, physician, and debilitating medical condition.

28. Providing that the provisions of the Amendment are self-executing except as specified in the Amendment, and that they supersede conflicting state and local laws, charters, regulations, and state constitutional provisions, except where otherwise indicated in the text. The General Assembly is authorized to enact laws implementing the provisions of the Amendment that are not in conflict with those provisions. Provide that the Amendment's provisions do not require the violation of federal law or purport to give immunity under federal law.

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Taylor Deutsche
903 Clayton Dr.
Worthington, OH 43085

Rosemary Robinson
16608 Walden Ave
Cleveland, OH 44128

Robert J Letourneau
7461 Fitzroy Ct.
Cincinnati, OH 45241

Patrick T McHenry
317 N Main St.
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Barbara Gould
8525 Camargo Club Drive
Cincinnati, OH 45243

Exhibit 3



Administration
30 E. Broad St., 17th Floor
Columbus, OH 43215
614-728-5458
614-466-5087 Fax

www.OhioAttorneyGeneral.gov

March 13, 2015

Via regular mail and email to dmctigue@electionlawgroup.com

Donald J. McTigue
McTigue McGinnis & Colombo LLC
545 East Town Street
Columbus, Ohio 43215

Re: Submitted Petition for Initiated Constitutional Amendment to add Section 12 to Article XV of the Ohio Constitution – Marijuana Legalization Amendment

Dear Mr. McTigue,

On March 3, 2015, in accordance with Ohio Revised Code (“ORC”) Section 3519.01(A), I received a written petition containing (1) a copy of a proposed initiated constitutional amendment to add Section 12 to Article XV of the Ohio Constitution, and (2) a summary of the same measure.

It is my statutory duty to determine whether the submitted summary “is a fair and truthful statement of the proposed law or constitutional amendment.” ORC 3519.01(A). If I conclude that the summary is fair and truthful, I am to certify it as such within ten days of receipt of the petition. In this instance, the tenth day falls on Friday, March 13, 2015.

Having examined the submission, I conclude that the summary is a fair and truthful statement of the proposed constitutional amendment. I therefore submitted the following certification to the Ohio Secretary of State:

Without passing upon the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon the Attorney General’s Office under Section 3519.01(A) of the Ohio Revised Code, I hereby certify that the summary is a fair and truthful statement of the proposed law.

Very respectfully yours,

Mike DeWine
Ohio Attorney General

cc: Committee to Represent the Petitioners
Taylor Deutschle, 903 Clayton Dr., Worthington, OH 43085
Patrick T. McHenry, 317 N. Main St., Waynesville, OH 45068
Rosemary Robinson, 16608 Walden Ave., Cleveland, OH 44128
Barbara Gould, 8525 Camargo Club Dr., Cincinnati, OH 45243
Robert J. Letourneau, 7461 Fitzroy Ct., Cincinnati, OH 45241

Exhibit 4

Issue 3

TITLE

Proposed Constitutional Amendment

Proposed by Initiative Petition

To add Section 12 of Article XV of the Constitution of the State of Ohio.

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- Endow exclusive rights for marijuana growth, cultivation, and extraction to self-designated corporations who own ten predetermined parcels of land in Butler, Clermont, Franklin, Hamilton, Licking, Lorain, Lucas, Delaware, Stark, and Summit Counties.
- Permit retail sale of recreational marijuana at approximately 1,100 locations statewide.
- Legalize the production of marijuana-infused and medical marijuana-infused products by marijuana product manufacturing facilities.
- Allow each person over the age of 21 to purchase, grow, possess, and share over one-half pound of marijuana or its equivalent in marijuana-infused products at a time (a total of 8 ounces of usable, homegrown marijuana for recreational use, plus 1 ounce of purchased marijuana for recreational use, plus 4 homegrown, flowering marijuana plants). Authorize the use of medical marijuana by any person, regardless of age, who has a certification for a debilitating medical condition.
- After January 1, 2015 or the date of any license application for a marijuana establishment, there is no prohibition against any house of worship, elementary school, library, daycare center, or playground locating next to a licensed marijuana establishment. Marijuana establishments may not locate within 1,000 feet of any existing house of worship, elementary school, library, daycare center, or playground.
- Create a special tax rate limited to 15% on gross revenue of each marijuana growth, cultivation, and extraction facility and marijuana product manufacturing facility and a special tax rate limited to 5% on gross revenue of each retail marijuana store. Revenues from the tax go to a municipal and township government fund, a strong community fund, and the marijuana control commission fund.
- Create a marijuana incubator in Cuyahoga County to promote growth and development of the marijuana industry and locate marijuana testing facilities near colleges and

universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties, at a minimum.

- Create a new state government agency called the marijuana control commission (with limited authority) to regulate the industry, comprised of seven Ohio residents appointed by the Governor, including a physician, a law enforcement officer, an administrative law attorney, a patient advocate, a resident experienced in owning, developing, managing and operating businesses, a resident with experience in the legal marijuana industry, and a member of the public.

	YES	SHALL THE AMENDMENT BE APPROVED?
	NO	

Exhibit 5

RESPONSIBLE OHIO
PROPOSED BALLOT LANGUAGE
(Short Version)

State Issue 3
Marijuana Legalization Amendment

Proposed Constitutional Amendment to add a new section 12 to Article XV to the Constitution of the State of Ohio

The proposed amendment would provide for the legalization of the use of medical marijuana by patients with debilitating medical conditions if a medical marijuana certification has been provided by the patient's treating physician and the use of marijuana and marijuana-infused products for personal use in amounts of one ounce or less by individuals 21 years of age or older.

A majority affirmative vote is necessary for the amendment to pass.

YES

Shall the amendment be approved?

NO

Exhibit 6

RESPONSIBLEOHIO
PROPOSED BALLOT LANGUAGE
(Long Version)

State Issue 3
Marijuana Legalization Amendment

Proposed Constitutional Amendment to add a new section 12 to Article XV to the Constitution of the State of Ohio

The proposed amendment would provide for the legalization of the use of medical marijuana by patients with debilitating medical conditions if a medical marijuana certification has been provided by the patient's treating physician and the use of marijuana and marijuana-infused products for personal use in amounts of one ounce or less by individuals 21 years of age or older by providing, among other provisions:

1. Establishing the Ohio Marijuana Control Commission ("Commission") to regulate the acquisition, growth, cultivation, extraction, production, processing, manufacture, testing, distribution, retail sales, licensing, and taxation of medical marijuana, marijuana and marijuana-infused products and the operations of marijuana establishments, and the growth and cultivation of homegrown marijuana, as defined in the Amendment. The Commission would be composed of seven members appointed by the governor with varying backgrounds and qualifications and for terms as set forth in the Amendment. All are required to be Ohio residents. The Amendment sets forth specific subject matter for regulations to be promulgated by the Commission and requires the Commission to establish a system for real-time tracking of all medical marijuana, marijuana and marijuana-infused products from initial germination and/or extraction through the final consumer transaction. The Commission would also serve as a clearing house for scientific and medical research on medical marijuana, marijuana and marijuana-infused products. The Commission is required to employ necessary and qualified persons, including enforcement agents, and retain services of qualified third parties, including experts, to perform its duties.
2. Providing ten site specific locations for Commission licensed Marijuana Growth, Cultivation and Extraction ("MGCE") facilities. Setting forth conditions under which the Commission may relocate a MGCE facility or issue a license for a MGCE facility at a site other than the ten designated sites. Providing that marijuana and medical marijuana may be grown, cultivated and extracted for sale and medical use only at these state regulated and licensed facilities. One of each of the ten specified sites is in the following counties: Butler, Clermont, Franklin, Hamilton, Licking, Lorain, Lucas, Delaware, Stark, and Summit.
3. Providing for Commission licensed Marijuana Product Manufacturing ("MPM") facilities to produce marijuana-infused and medical marijuana-infused products and that such products may be produced only at these state regulated and licensed facilities. The Commission would be required to regulate the chemical content and potency of marijuana-infused products and create a special division within the Commission to assist in promulgation of standards regulating the manufacture, packaging and advertising of marijuana-infused products, including ensuring that the products are not manufactured, packaged or advertised in ways that create a substantial risk of attractiveness to children.
4. Providing for Commission licensed not-for-profit medical marijuana dispensaries ("MMD") to dispense medical marijuana to patients with debilitating medical conditions and to their Commission licensed caregivers with a medical marijuana certification issued by the patient's current treating physician in accordance with specific requirements set forth in the Amendment and in accordance with Commission and other state regulations, and providing that medical marijuana may only be sold and dispensed by such state licensed and regulated dispensaries. Both the patient and the patient's physician must be Ohio residents. The Amendment defines "debilitating medical condition," including specific medical conditions, and requires the Commission to establish and annually update, consistent with current, peer-reviewed research, the list of debilitating medical conditions for which medical marijuana certifications may be issued. The number of such state licensed and regulated dispensaries that may be within any subdivision would be determined by the Commission. MMDs must be incorporated under Ohio law. If the patient is under the

age of 18, treatment involving medical marijuana may not be provided without the informed consent of a custodial parent, guardian, conservator or other person with lawful authority to consent to medical treatment. Provide that a physician may not be disciplined or subject to certain other actions based solely on discussing with a patient or providing a professional opinion on the use of medical marijuana as a treatment option or issuing a medical marijuana certification under the Amendment. Require MGCE and MPM facilities to sell medical marijuana and medical marijuana-infused products, respectively, to MMDs at their lowest wholesale prices and in sufficient quantity to satisfy patient demand. Provide that nothing in the Amendment shall require any health insurance provider or government agency to reimburse a patient for expenses for medical marijuana.

5. Providing for Commission licensed retail marijuana stores (“RMS”) to sell marijuana and marijuana-infused products to individuals 21 years of age or older for personal use and that marijuana and marijuana-infused products for personal use may be sold only by such state licensed and regulated stores. The Commission would determine the number of RMSs that may be within any political subdivision. However, the total number of stores statewide would be limited by the ratio of one to ten thousand based on the state’s population, and the location of any such store must first be approved by the electors of the precinct where the store would be located at a special election similar to elections for the sale of alcohol at a particular location in a precinct, except for provisions unique to liquor local option elections. The Amendment also sets forth provisions governing the timing, holding, funding, and conduct of such elections. A RMS could purchase marijuana only from licensed MGCE facilities and marijuana-infused products only from licensed MPM facilities and sell no other goods or services, except for marijuana accessories and related products. No marijuana or marijuana-infused product could be consumed on the store’s premises or be sold at a price below what the store paid for it.

6. Providing for Commission licensed Marijuana Testing Facilities (“MTF”) to engage in research related to and/or certify safety and potency of medical marijuana, marijuana and marijuana-infused products. Such facilities, at a minimum, must be located near colleges and universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties.

7. Imposing a special flat tax of 15% on all gross revenue of each MGCE facility and MPM facility, and 5% on all gross revenue of each retail marijuana store, without any deduction for expenses or distribution of any profit. Such tax would be collected and distributed by the state as follows: 55% to a Municipal and Township Government Stabilization Fund to be distributed to all municipalities and townships on a per capita basis to be used for public safety and health, including police, fire and emergency medical services, road and bridge repair, and other infrastructure improvements; 30% to a Strong County Fund to be distributed to all counties on a per capita basis to be used for public safety and health, including police, fire and emergency medical services, road and bridge repair, and other infrastructure improvements; and 15% to a Marijuana Control Commission Fund to be distributed in the following order for: the reasonable and necessary costs of operating the Commission; funding for the marijuana innovation and business incubator established under the Amendment; to the extent the Commission so elects, the reasonable and necessary operating costs of the not-for-profit medical marijuana dispensaries established under the Amendment; mental health and addiction prevention and treatment programs and services; and to the extent that the Commission so elects, a program to provide low-cost medical marijuana to qualifying patients who are unable to afford the full cost. Distributed funds from the special flat tax are to supplement, not supplant, funding obligations of the state and local governments imposed by other laws.

8. In addition to the special flat tax, each MGCE facility, MPM facility and RMS would be required to pay the state commercial activities tax and all other taxes, assessments, fees and charges as are required to be paid by businesses in general and would be prohibited from receiving any credit, deduction or abatement that is unavailable to other businesses. MMDs would be required to pay the same taxes, assessments, fees and charges that other not-for-profit organizations are required to pay. Additional, taxes, assessments, fees or charges, other than license fees required under the Amendment, could not be imposed on the operations, revenue or distributed income of marijuana establishments.

9. Providing that it is lawful for persons 21 years of age or older to purchase, possess, transport, use and share with another person 21 years of age or older marijuana of one ounce or less or its equivalent in marijuana-infused products, as determined by the Commission, and marijuana accessories.

10. Providing that it is lawful for persons 21 years of age or older to grow, cultivate, use, possess and share with another person 21 years of age or older homegrown marijuana in an amount not to exceed four flowering marijuana plants and eight ounces of usable homegrown marijuana at a given time, so long as they have obtained a non-transferrable license pursuant to Commission-promulgated rules and regulations.

11. Prohibiting a marijuana establishment from being located within 1,000 feet of the primary building structure used for any of the following: a house of worship, a public or chartered non-public elementary or secondary school, a publicly owned library, or a state licensed child day-care facility; or within 1,000 feet of any public playground or a playground adjacent to any of the foregoing primary building structures, if such school, library, playground, day-care facility, or house of worship was located within the 1,000 zone on or before 1/1/15 in the case of a MGCE facility, or the date of an applicant's first application for a license in the case of a MPM facility, MMD or RMS.

12. Prohibiting knowingly selling or transferring medical marijuana, marijuana, homegrown marijuana or marijuana-infused products to a person under the age of 21, except for transfers or sales by a MMD to a qualifying patient or caregiver in accordance with Commission regulations, and requiring the General Assembly to pass laws defining such conduct as child endangerment and enacting enhanced penalties for violations of such laws.

13. Prohibiting the employment of any person under the age of 21 by any marijuana establishment. Prohibiting any person under the age of 21 from being on the premises of a marijuana establishment, except in the case of a patient 18 to 20 years old at a MMD to obtain medical marijuana under a medical marijuana certification issued for such patient. Providing that a caregiver must be 21 years of age or older, be the person responsible for managing the well-being of a patient with a debilitating medical condition and that the person's responsibilities to the patient must include more than the provision of medical marijuana.

14. Prohibiting persons from operating or being in physical control of a vehicle, aircraft, train or motorboat while under the influence of medical marijuana, marijuana, homegrown marijuana or marijuana-infused products, and requiring the General Assembly to pass laws imposing criminal penalties for doing so.

15. Prohibiting the use of marijuana, homegrown marijuana, and marijuana-infused products in any public place or on the grounds of a public or chartered non-public elementary or secondary school, state licensed child day-care center, correctional facility or community corrections facility, or in a vehicle, aircraft, train or motorboat, except that a patient may use medical marijuana in accordance with a medical marijuana certification, and requiring the General Assembly to pass laws enforcing these provisions.

16. Providing that nothing in the Amendment is intended to require an employer to permit or accommodate the possession or use of medical marijuana, marijuana, homegrown marijuana or marijuana-infused products in the workplace, except that a patient with a medical marijuana certification may self-administer the medical marijuana subject to the same conditions applied to prescribed medications.

17. Prohibiting a person from having an ownership interest in or being an officer or director of a marijuana establishment who is under the age of 21 or has been convicted of a felony within the prior five years and from continuing to hold an ownership interest or officer or director position upon conviction of a felony and exhaustion of any appeals

18. Providing that marijuana establishments shall be subject to all applicable state and local laws and regulations related to health, safety and building codes, including signage, but providing that no zoning, land use law, or subdivision or agricultural regulation shall prohibit the development or operation of marijuana establishments, provided that no such establishment shall be located in a district zoned exclusively residential as of 1/1/15 for MGCE facilities or the date that a license application is first filed for a MPM facility, MMD, or RMS.

19. Prohibiting MGCE and MPM facilities from selling or transferring medical marijuana, marijuana or marijuana-infused products directly to consumers and prohibiting a RMS from being located on the premises of a MGCE or MPM facility.

20. Providing a timeline for initial implementation of the Amendment, including for appointment of the members of the Commission, the issuance of initial provisional licenses to MGCE facilities at the 10 designated sites based on required affidavits and payment of a \$100,000 license fee, inspection of such MGCE facilities within six months of issuance of such initial licenses, promulgation of initial regulations for MGCE facilities, MPM facilities, MMDs and RMSs, issuance of forms and procedures for precinct special elections, and the holding of a special election in May of the year following adoption of the Amendment for submission to voters of a precinct the question of approval of a location of a RMS. Initial regulations required to be adopted by specific dates are to be promulgated notwithstanding other provisions of law regarding promulgation of administrative rules, but the Commission must provide an opportunity for public input.

21. Requiring annual license fees of \$50,000 for MGCE facilities, \$25,000 for MPM facilities and \$10,000 for RMSs and marijuana testing facilities, and registration fees of \$50 for home growing, and that such fees be adjusted upward annually for inflation.

22. Requiring the Commission beginning in the second year following adoption of the Amendment to annually audit each marijuana establishment to certify that each establishment is in compliance with applicable rules and regulations, and if it determines that there is material non-compliance, authorizing the Commission to order remedial action and suspend or revoke the facility's license for failure to comply with such order within a reasonable time. Marijuana establishments may have their licenses renewed annually unless the Commission determines that a licensee has repeatedly failed to comply with the Commission's remedial orders. Ohio's administrative procedure statutes generally applicable to other licensing bodies would apply to the extent not in conflict with the Amendment. The Commission shall set forth by rule civil penalties for failure to comply with Commission regulations, including enhanced penalties for repeat violations.

23. Requiring in the fourth year following adoption of the Amendment, the Commission to develop annual consumer demand metrics for medical marijuana and marijuana, which may be used by the Commission in conjunction with other findings to issue a license for an additional MGCE facility.

24. Providing that the Commission shall serve as a clearing house for scientific and medical industry research on the use of marijuana, marijuana-infused products and medical marijuana and shall establish a marijuana innovation and business incubator in Cuyahoga County to award support to Ohio-based public and private business entities, colleges and universities, nonprofit medical centers, and other nonprofit research institutions to engage in research and development, as well as to create new products, companies and jobs, associated with the medical marijuana and marijuana industries in Ohio.

25. Authorizing MPM facilities to manufacture and RMSs and MMDs to sell marijuana accessories and legalize possession and use of marijuana accessories, as defined in the Amendment.

26. Providing that the actions of marijuana establishments and their employees and agents are lawful and not subject to civil or criminal penalties so long as the actions are in compliance with the Amendment, laws enacted by the General Assembly and the rules of the Commission.

27. Define various terms used in the Amendment, including, but not limited to, marijuana, homegrown marijuana, medical marijuana, marijuana-infused products, caregiver, physician, and debilitating medical condition.

28. Providing that the provisions of the Amendment are self-executing except as specified in the Amendment, and that they supersede conflicting state and local laws, charters, regulations, and state constitutional provisions, except where otherwise indicated in the text. The General Assembly is authorized

to enact laws implementing the provisions of the Amendment that are not in conflict with those provisions. Provide that the Amendment's provisions do not require the violation of federal law or purport to give immunity under federal law.

A majority affirmative vote is necessary for the amendment to pass.

YES

Shall the amendment be approved?

NO

Exhibit 7

Issue 3

TITLE

Proposed Constitutional Amendment

Proposed by Initiative Petition

To add Section 12 of Article XV of the Constitution of the State of Ohio.

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- Endow exclusive rights for commercial marijuana growth, cultivation, and extraction to self-designated landowners who own ten predetermined parcels of land in Butler, Clermont, Franklin, Hamilton, Licking, Lorain, Lucas, Delaware, Stark, and Summit Counties. One additional location may be allowed for in four years.
- Permit retail sale of recreational marijuana at approximately 1,100 locations statewide.
- Legalize the production of marijuana-infused products, including edible products, concentrates, sprays, ointments and tinctures by marijuana product manufacturing facilities.
- Allow each person, 21 years of age or older, to purchase, grow, possess, use, transport and share over one-half pound of marijuana or its equivalent in marijuana-infused products at a time (a total of 8 ounces of usable, homegrown marijuana for recreational use, plus 1 ounce of purchased marijuana for recreational use), plus 4 homegrown, flowering marijuana plants. Authorize the use of medical marijuana by any person, regardless of age, who has a certification for a debilitating medical condition.
- Permits marijuana growing, cultivation and extraction facilities, product manufacturing facilities, retail marijuana stores and not-for-profit medical marijuana dispensaries to be within 1,000 feet of a house of worship; a publicly owned library; a public or chartered non-public elementary or secondary school; or a child day-care center, or playground that is built after January 1, 2015 or after the date the marijuana operation applies for a license to operate.
- Prohibit any local or state law, including zoning laws, from being applied to prohibit the development or operation of marijuana growth, cultivation, and extraction facilities, retail marijuana stores, and medical marijuana dispensaries unless the area is zoned exclusively residential as of January 1, 2015 or as of the date that an application for a license is first filed for a marijuana establishment.

- Create a special tax rate limited to 15% on gross revenue of each marijuana growth, cultivation, and extraction facility and marijuana product manufacturing facility and a special tax rate limited to 5% on gross revenue of each retail marijuana store. Revenues from the tax go to a municipal and township government fund, a strong county fund, and the marijuana control commission fund.
- Create a marijuana incubator in Cuyahoga County to promote growth and development of the marijuana industry and locate marijuana testing facilities near colleges and universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties, at a minimum.
- Limits the ability of the legislature and local governments from regulating the manufacture, sales, distribution and use of marijuana and marijuana products. Create a new state government agency called the marijuana control commission (with limited authority) to regulate the industry, comprised of seven Ohio residents appointed by the Governor, including a physician, a law enforcement officer, an administrative law attorney, a patient advocate, a resident experienced in owning, developing, managing and operating businesses, a resident with experience in the legal marijuana industry, and a member of the public.

	YES	SHALL THE AMENDMENT BE APPROVED?
	NO	

CERTIFICATION

Acting in my capacity as the secretary of the Ohio Ballot Board, I hereby certify to the Secretary of the State of Ohio that the foregoing text is the ballot language prescribed by the Ohio Ballot Board, acting pursuant to Article II, Section 1g of the Ohio Constitution and section 3505.062 of the Revised Code of Ohio, for this constitutional amendment proposed by petition for submission to the Ohio electorate at the election to be held on November 3, 2015.

In testimony whereof, I have subscribed my name in Columbus, Ohio, this 18th day of August, 2015.

A handwritten signature in cursive script, reading "Carrie Krum", is written over a horizontal line.

Secretary, Ohio Ballot Board

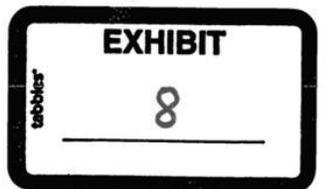
Exhibit 8

A F F I D A V I T

STATE OF OHIO)
) **ss:**
COUNTY OF FRANKLIN)

Now comes Larry H. James and after duly being sworn according to law, deposes and says:

1. That he is an attorney-at-law in good standing and registered in the State of Ohio.
2. That he maintains his office at the law firm of Crabbe, Brown & James, located at 500 S. Front Street, Suite 1200, Columbus, Ohio 43215.
3. That he has been retained by Responsible Ohio as one of its attorneys with regard to a proposed amendment to the Ohio Constitution to legalize marijuana in the State of Ohio.
4. That, in furtherance of this representation, he was called upon to appear before the Ohio Ballot Board ("Board") on August 18, 2015.
5. That the Board met to decide what language should be placed on ballots to be cast at the November 3, 2015 election with regard to the proposed amendment.
6. That during the hearing before the Board, the Chair declared a recess.
7. That at the conclusion of the recess, the Chair called the meeting back to order and immediately recognized to speak another member of the Board.
8. That the recognized member immediately moved to accept certain amendments to the original document, the one that was previously being considered.
9. That in private conversations between certain Board members and staff, further revisions were made resulting in a final draft to be voted on by the members of the Board.
10. That neither affiant nor his co-counsel were given a copy of the final document which, obviously, given the wording of Bullet Points 4 and 5 of Exhibit 7 herein, contained material changes from the original submission to the Board (Exhibit 4).
11. That confusion as to what was happening and what was being voted on is confirmed when, at page 113 of the transcript lines 20-24, a Board member, Representative Clyde, said:



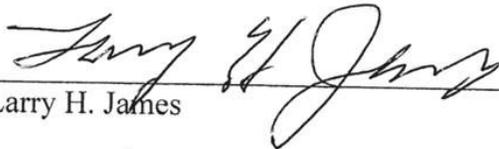
“When we vote, are we voting on the amendment to the language or the full language?”

The Chair responded that:

“We are voting on this document that reflects his motion.”

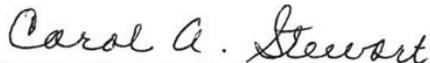
That the document referenced is one that counsel did not see until after the conclusion of the hearing.

Further affiant sayeth naught.


Larry H. James



and subscribed in my presence this 25th day of August, 2015.


Notary Public

CAROL A. STEWART
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 06/28/2019

Exhibit 9

MEETING OF THE OHIO BALLOT BOARD

- - -

EXCERPT OF MEETING

of the Ohio Ballot Board, at the Ohio Statehouse,
Finan Hearing Room/Senate Finance Hearing Room,
1 Capitol Square, Columbus, Ohio, called at 12:38
p.m. on Tuesday, August 18, 2015.

- - -

BALLOT BOARD:

Ohio Secretary of State Jon Husted, Chair
Senate President Keith Faber
Senator Nina Turner
Mr. William N. Morgan
Representative Kathleen Clyde

- - -

Also Present:

Ms. Carrie Kuruc, Elections Counsel

- - -

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Tuesday Afternoon Session,
August 18, 2015.

- - -

*****EXCERPT

CHAIRMAN HUSTED: Motion carries by a
vote of 3 to 2. That concludes the discussion of
Issue 2.

We now move to discussion of Issue 3.
The final issue today is Issue 3 for which the Ballot

1 Board must certify ballot language. The committee
2 for petitioners submitted an argument or explanation
3 for their proposed amendment as permitted by law and
4 it was filed in a timely manner with the Secretary of
5 State's Office.

6 The General Assembly appointed persons
7 to draft the argument and/or explanation against the
8 proposed citizen issued amendment and it was filed
9 timely with the Secretary of State's office. The
10 Ballot Board members will see draft ballot language
11 for Issue 3 in their materials.

12 Without objection, we will proceed with
13 the public comment on the draft ballot language. We
14 have several individuals signed up to offer comment.
15 We will start today with Mr. Don McTigue from
16 ResponsibleOhio, and he is an advocate for the
17 initiative.

18 MR. McTIGUE: Good afternoon,
19 Mr. Secretary, members of the Ohio Ballot Board. I
20 am Don McTigue, and I am counsel for the petition
21 committee or the committee in charge of the petition,
22 and specifically those individuals are Barbara Gould,
23 Robert LeTourneau, Rosemary Robinson and Patrick
24 McHenry and Taylor Deutschle. I'm also counsel for
25 the Ballot Issue Committee that is the proponent of

1 the marijuana legalization amendment, and that is
2 ResponsibleOhio.

3 I filed before the meeting started today
4 written objections to the Staff draft from the
5 Secretary of State's office, and I would like to
6 address those in the order in which I have them
7 listed.

8 The paragraphs in the written objections
9 refer to bullet points, and those are the bullet
10 points that are in the Secretary of State's draft
11 language. With regard to the first bullet point, we
12 believe that the language of the draft falsely states
13 that the amendment gives exclusive rights for
14 marijuana growth, cultivation and extraction to
15 corporations that own ten predetermined parcels of
16 land.

17 The reason that this is not accurate is
18 the amendment actually provides that the Ohio
19 Marijuana Control Commission may designate additional
20 sites. In addition, it is within the ability of the
21 Marijuana Control Commission to actually approve
22 moving a site. One of the ten original sites can be
23 moved to another location.

24 But more importantly, there's express
25 provisions for going above ten sites, and there are

1 provisions in the law that persons who have ownership
2 interests in these marijuana growth, cultivation and
3 extraction sites can only have ownership interest in
4 one.

5 So if additional sites are approved by
6 the Marijuana Control Commission, the existing owners
7 could not have an ownership interest in any new
8 sites. So it is on its face incorrect in that where
9 it says it grants these exclusive rights just to ten
10 sites.

11 It is also false from another
12 perspective, and that is that the amendment expressly
13 provides for individuals age 21 or over in Ohio to
14 have home grow marijuana with limitations where they
15 have to be licensed, they have to pay a license fee,
16 and there are a number of other limitations upon the
17 home grow. But the salient point here is that if you
18 are engaged in home grow of marijuana, then you are
19 also engaged in growth, cultivation and extraction.

20 So the language is inaccurate to say
21 that the right is granted only to ten corporations.
22 And incidentally, the word corporation doesn't appear
23 anywhere in the amendment. It refers to owners of
24 the land. But from these two large perspectives, the
25 attempt to say this is about just ten sites for

1 growth, cultivation and extraction is just dead
2 wrong.

3 I would also object to the word in the
4 first bullet. It starts out with the word endow.
5 Normally I think of the word endow is something from
6 the Lord above, endow in some permanent and alienable
7 rights. This is not an endowment to these ten
8 locations for reasons that I've already mentioned.
9 And the word endow doesn't exist anywhere in the
10 actual text. It's inserted here for prejudicial
11 effect.

12 With regard to the second bullet point,
13 it uses the word recreational. By the way, the word
14 recreational appears nowhere in the text of this
15 proposed amendment. So it begs the question of why
16 this draft -- why did the people who drafted this
17 feel the need to insert the word recreational? Could
18 it have something to do with polling data by people
19 who are opposed to the issue? The word recreational
20 doesn't appear there.

21 When people buy cigarettes and take
22 their cigarettes home and smoke their cigarettes, we
23 don't say they're engaged in recreational smoking of
24 cigarettes. This is here for purely political
25 advantage and should come out.

1 The word personal is used in the
2 amendment, and the reason the word personal is used
3 is because it sets the context for the ability of
4 people to either do home grow for personal use or to
5 go to a retail marijuana store and purchase for
6 personal use. It's essentially a limitation upon the
7 use.

8 The second bullet also, we believe, is
9 somewhat misleading in that it refers to retail sales
10 would be permitted at approximately 1,100 locations,
11 but it fails to explain that this is a cap based on a
12 formula that's in the actual text.

13 And more importantly, it fails to note
14 that any retail store at which people would be able
15 to purchase has to first be -- it has to first be
16 approved by the voters of the precinct where it would
17 be located, and it has to be licensed and meet all
18 the requirements for licensure from the Marijuana
19 Control Commission.

20 So if people in a precinct -- if no
21 precinct's approved, the location of a store in their
22 neighborhood, there wouldn't be 1,100. If only 600
23 precincts in the State of Ohio the voters approved,
24 there would only be 600 stores. So it's very
25 misleading to use this number 1,100 without also

1 including the additional qualifications that are in
2 the amendment.

3 The fourth bullet point -- We're
4 skipping the third. The fourth bullet point, the
5 draft language leaves out the word use. I don't know
6 if that was an oversight or what or if it was
7 intentional, but it talks about purchasing, growing,
8 possessing, sharing, but it uses -- it leaves out the
9 word use. So I believe -- I assume that's some sort
10 of oversight.

11 SENATOR FABER: Where are you at?

12 MR. McTIGUE: I'm on the fourth bullet
13 point. It starts out, it says, "Allow each person
14 over the age of 21 to purchase, grow, possess and
15 share." It leaves -- The amendment actually also
16 provides for use, use, not just purchasing, growing,
17 possessing but also using. We believe that that's
18 important to put that word in there.

19 Having just read that, though, I also
20 want to point out which is --

21 CHAIRMAN HUSTED: It says use later in
22 the process. You're asking for it to be inserted
23 earlier as well?

24 MR. McTIGUE: Yes.

25 CHAIRMAN HUSTED: Okay. Thank you.

1 MR. McTIGUE: Also while we're on the
2 first few words, it is incorrect where it says a
3 person over the age of 21 since it actually is 21 or
4 over.

5 CHAIRMAN HUSTED: Correct.

6 MR. McTIGUE: Now, in terms of this
7 bullet point, we believe there are a couple other
8 really major problems. There's an effort here in
9 this language to conflate the home grow provisions
10 with the provisions on being able to purchase
11 marijuana at a retail store.

12 The way the language currently reads is
13 this: Allow a person over the age of 21 to purchase,
14 grow, possess and share over one half pound of
15 marijuana, okay. That is incorrect because the
16 purchasing of marijuana can only be done at a
17 marijuana retail store.

18 And the amendment specifically limits
19 that to one ounce. One ounce is not half a pound.
20 And this language attempts to basically kind of scare
21 some people, some voters into thinking that people
22 can now go out and buy a half pound of marijuana.
23 That's not what the amendment does.

24 The home grow provision has eight ounces
25 at home grow. And by the way, the amendment

1 prohibits the sale of that. It's home grow. That's
2 eight ounces, and granted, eight ounces is half a
3 pound. But you can't just add the two together
4 because it's very misleading then to the voters to
5 think that they can go out and purchase a half a
6 pound of marijuana.

7 The word recreational appears here
8 again, and we don't believe that it should be in
9 here, and we believe it's here only for political
10 advantage by those who are opposed to this issue.

11 Further, at the end of bullet 4, there
12 is a reference to authorizing medical marijuana. I
13 have a couple points to make about this. The first
14 is, this amendment clearly treats medical marijuana,
15 both the authorizing the use of it and authorizing
16 the production of it, as one of the most important
17 aspects of the amendment.

18 It treats it at the outset, and it
19 contains many, many provisions that treat medical
20 marijuana differently than marijuana for personal
21 use, yet we see here in the ballot language rather
22 than calling attention to the medical marijuana
23 provisions to the voters, it buries it at the end of
24 the fourth bullet point. It certainly at a minimum
25 deserves its own bullet point.

1 Second, we believe that some additional
2 language has to be added to it to more fully inform
3 voters. For example, it says, "Authorize the use of
4 medical marijuana by any person regardless of age,"
5 okay. Well, that's technically true regardless of
6 age; however, the amendment specifically provides
7 that if you are under the age of 21, parental or
8 legal guardian consent is required, okay. Leaving
9 that language out misleads the voters.

10 Likewise, where it goes on to say "who
11 has certification for a debilitating medical
12 condition" is not adequately informing the voters.
13 We're not talking about anybody who just sits at a
14 desk and writes out a certification. It is a medical
15 certification by an Ohio licensed physician who is
16 required to follow all of the usual ethical practices
17 of any -- that any physician in Ohio is required to
18 follow.

19 This should at a minimum also -- also
20 insert the words medical certification, the word
21 medical in front of certification, and the words by a
22 licensed Ohio physician after the word certification.

23 Regarding the fifth bullet point, this
24 language is simply a total distortion of what's in
25 the amendment. The amendment, it takes what's a

1 restriction in the amendment and turns it into saying
2 there is no restriction. It tries to turn things on
3 its head, and it's done clearly for calculated,
4 political reasons.

5 The sixth bullet point, there's a couple
6 technical errors here, refers to a strong community
7 fund; however, the actual language is strong county
8 fund. In addition, and this is not a technical error
9 but this is a more substantive error, while it
10 mentions the funding from these taxes can be or will
11 be used to fund the Marijuana Control Commission, it
12 fails to note what the law -- the proposed law
13 specifically provides to be paid for out of that
14 marijuana control fund.

15 And in particular what I'm referring to
16 is it provides that funding from that account will be
17 for the operating costs of the medical dispensaries
18 where medical marijuana would be sold because these
19 are nonprofit entities that are to sell the marijuana
20 and at affordable costs.

21 And so there may be operating
22 expenditures that are necessary in order to make
23 these enterprises successful enough in achieving the
24 mission of providing medical marijuana under a
25 certification from a licensed Ohio physician to

1 anyone who needs it.

2 In addition, from this account, funds
3 are to be used to pay for mental health and addiction
4 prevention and treatment services. That's not
5 limited, by the way, on addiction to any particular
6 drugs, but it's to -- it's required that spending be
7 done for mental health and addiction prevention and
8 treatment services.

9 And finally, it provides that the funds
10 in this account may be used as authorized by the
11 Commission to provide a program that would provide
12 low cost medical marijuana to qualifying patients who
13 cannot otherwise afford the full cost.

14 And while I do not have it listed in the
15 written objections, I would like to add another
16 objection while we're on this issue about the taxes.
17 The draft language does refer to the special tax
18 rates that apply, but what it fails to mention is
19 that there are express provisions requiring the
20 marijuana establishments, and by that, we're talking
21 about the grow facilities, the production facilities,
22 the retail stores, to pay all other taxes that
23 businesses pay.

24 They're going to pay the sales taxes,
25 they're going to pay property taxes and any other tax

1 that is levied against businesses in general. Now,
2 by only putting in here the special tax, it may lead
3 many readers of the ballot language to wonder if
4 that's the only tax they're going to pay. And this
5 is not a question that people have to wonder about
6 because the amendment expressly requires them to pay
7 these additional taxes. So we believe that that
8 should be added in as well.

9 With regard to the seventh bullet point,
10 it refers to marijuana testing facilities. The
11 actual language is marijuana research and testing
12 facilities. There is a reason that the amendment
13 provides for these to be -- these facilities to be
14 located near public colleges and universities because
15 of the research value that is provided by Ohio's
16 colleges and universities. So the word research
17 should be added here.

18 Now, with regard to the eighth bullet
19 point, the language inserts the phrase with limited
20 authority to regulate the industry. And it puts it
21 in parenthesis so that just in case you missed it the
22 first time, oh, yeah, look at what's in parenthesis,
23 okay. That doesn't diminish that phrase; it actually
24 highlights that phrase.

25 And, again, that is a distortion because

1 the actual amendment provides extraordinarily broad
2 powers to this Commission to regulate this industry
3 and sets forth the -- I'm just going to point to the
4 actual language.

5 It says, "The Commission shall adopt
6 rules to facilitate this section's implementation and
7 continuing operation." It goes on to say, "Such
8 regulation shall include but not be limited to," and
9 then we have a very long paragraph of all the things
10 that it shall include, and I'm not going to spend
11 five minutes reading that. You can take a look at it
12 yourself. It's all there.

13 It tries to set forth as comprehensively
14 as possible all the things that it might have to
15 regulate, and just in case something was missed, the
16 introductory phrase says, "shall include but not be
17 limited to." So it's highly misleading, the language
18 is, as is currently written because it makes voters
19 think that there's going to be limited authority,
20 limited regulation.

21 Those are my comments, my objections. I
22 would add that we believe -- my clients believe that
23 the only way that we can fully inform the voters
24 regarding this issue is by making the ballot language
25 conform to the summary that was approved by Ohio

1 Attorney General Mike DeWine as being a fair and
2 truthful summary.

3 Obviously, the Attorney General in
4 having to determine whether something is fair has to
5 consider whether it contains prejudicial language
6 because if it contained prejudicial language, it
7 would not be fair. He has to consider whether
8 there's material omissions because if there were
9 material omissions, it would not be fair.

10 And in considering whether it's
11 truthful, he considers exactly what the language says
12 and compares -- in the summary and compares that to
13 the actual language in the petition. So we would
14 respectfully ask that the Staff draft submitted be
15 rejected and that new language be adopted using the
16 Attorney General's approved summary. Thank you.

17 CHAIRMAN HUSTED: Thank you, Mr. McTigue.
18 Any questions of the witness? Representative Clyde.

19 REPRESENTATIVE CLYDE: Thank you,
20 Mr. McTigue. Just a question about length. One of
21 the concerns that I've heard in the past and
22 witnessed is lengthy issues tend to be a concern as
23 far as voter friendliness and just access issues with
24 how long the ballot can turn out to be and how user
25 friendly that is.

1 Do you have any concerns about the
2 length that's presented here? I know it's longer
3 than the other issues we considered, or do you not
4 think that we're getting into that territory of it
5 being too lengthy?

6 MR. McTIGUE: Mr. Secretary,
7 Representative Clyde, is your question whether I have
8 concern about the length of the Secretary of State's
9 draft?

10 REPRESENTATIVE CLYDE: Correct.

11 MR. McTIGUE: Yes, I believe it's too
12 short.

13 REPRESENTATIVE CLYDE: Okay.

14 CHAIRMAN HUSTED: Additional questions?
15 Senator Faber.

16 SENATOR FABER: To run through some of
17 this to make sure I'm clear on your objections, I'm
18 going to run through them in the order I marked them
19 on my paper, so if I go off your list, I apologize.
20 You first had issue with the term exclusive; am I
21 right on that? No, you said corporations. So if we
22 were to change that from corporations to landowners,
23 would that not be correct?

24 MR. McTIGUE: Mr. Secretary, Senator
25 Faber, it would be more correct to say landowners,

1 but my main point had to do with the fact -- with the
2 word exclusive.

3 SENATOR FABER: Well, what's if it's
4 exclusive rights for commercial marijuana growth,
5 cultivation or extraction, isn't that true, the only
6 people who could do this commercial is exclusive
7 landowners?

8 MR. McTIGUE: No, that's not true.

9 SENATOR FABER: Who else can do it
10 commercially under your proposal?

11 MR. McTIGUE: The -- Well, let me ask you
12 for a clarification. Are you keeping in the language
13 about the ten predetermined sites?

14 SENATOR FABER: Yes.

15 MR. McTIGUE: Well, that's the problem
16 here, you see.

17 SENATOR FABER: Well, let me get to my
18 language changes. First, my suggestion would be we
19 leave endow exclusive rights for commercial marijuana
20 growth, cultivation, extraction self-designated
21 landowners, although I believe all those landowners
22 are currently incorporated or have created a
23 corporate type structure for ten predetermined
24 parcels listed on -- and one additional parcel that
25 may be allowed for in four years.

1 I believe that is inclusive and totally
2 complete. The language in the constitutional
3 amendment does allow one additional parcel, not
4 parcels as you indicated in your text, but one
5 additional parcel after four years. Am I right on
6 that?

7 MR. McTIGUE: Secretary Husted, Senator
8 Faber, there can be one additional one after four
9 years, but there can be additional ones after that as
10 well based upon the annual audits.

11 SENATOR FABER: I didn't see that. I saw
12 one after four years, and it didn't say -- I didn't
13 see additional after that. So unless I misread it,
14 I'll allow you to direct me to that.

15 Going on to the next issue, you have an
16 issue with the term recreational. What exactly would
17 you consider personal use other than recreational if
18 it's not medical?

19 MR. McTIGUE: Personal use is using a
20 product. We don't say I'm going to the grocery store
21 to buy some pasta for personal use, okay, or for
22 recreational use. You're putting -- You're putting
23 terms in that are only there for argumentative
24 purposes.

25 SENATOR FABER: Well, I disagree with

1 that assessment, Mr. Secretary, I would argue that
2 the whole debate under marijuana has been what type
3 of use are you going to allow for marijuana. Is it
4 medical or is it for recreational? That's the debate
5 that's out there in the community. What if we
6 changed the term recreational to personal use for any
7 purpose, would that not be complete and accurate?

8 MR. McTIGUE: Personal -- Yes, for any
9 lawful personal use.

10 SENATOR FABER: Personal use for any
11 purpose. If I want to get into lawful, I would add a
12 provision here --

13 MR. McTIGUE: It would be better.

14 SENATOR FABER: -- I would add a
15 provision here if we want to get to lawful, I would
16 add a provision that would say despite the existing
17 and continuing federal ban on the use of marijuana
18 and the sale, cultivation of marijuana, people are
19 proposing to do this, but that's another issue that
20 we can go into on lawful.

21 But the next paragraph, you talk about
22 marijuana, that's the third bullet point. If we were
23 to add a provision that described what medical
24 marijuana-infused products would be, would you agree
25 that that would be more complete?

1 MR. McTIGUE: Well, Secretary Husted,
2 Senator Faber, I actually didn't make any comments on
3 the third bullet point.

4 SENATOR FABER: Oh, I'm sorry. That may
5 be my notes.

6 MR. McTIGUE: That's the one I passed on.

7 SENATOR FABER: You skipped on that. You
8 didn't want that.

9 The next would be the fourth bullet
10 part, and I understood your objection on over 21.
11 Did I understand that? You distinguished over the
12 age of 21 not to include somebody who's 21. So if we
13 changed that wording to at least 21, would that take
14 care of your concern there?

15 MR. McTIGUE: Well, yes, that would be
16 accurate then.

17 SENATOR FABER: Okay. Then going on in
18 that sentence, if we take your suggestion and add the
19 word possess, use before the word share, that would
20 take care of your concern on that issue as well?

21 MR. McTIGUE: On that particular issue,
22 yes.

23 SENATOR FABER: Then we could delete the
24 ounces of useable, so we could just say ounces of
25 home grown marijuana, that would eliminate

1 duplication.

2 On the one, two, three, four, five,
3 sixth bullet point, you wanted to add, and I think I
4 got this right, one, you wanted to fix the county,
5 community to county. I think that's an accurate
6 change. I think that fixes that problem. But you
7 wanted to make a reference in addition to other
8 ordinary business taxes; is that what I hear you
9 saying?

10 MR. McTIGUE: Yes, that they're required
11 to pay all other taxes that businesses have to pay.

12 SENATOR FABER: So if you just say these
13 entities would continue to be required to pay
14 additionally all other business taxes, would that not
15 be accurate?

16 MR. McTIGUE: I'm sorry, could you repeat
17 that?

18 SENATOR FABER: If we said such
19 facilities are going to be required to pay all other
20 business taxes, would that not be accurate?

21 MR. McTIGUE: That would be accurate, all
22 other business taxes.

23 SENATOR FABER: If we were to add -- And
24 you get into this great debate on bullet point -- the
25 last bullet point. Wouldn't I be accurate to add as

1 a preference to that, a statement that says limits
2 the ability of the legislature and local governments
3 from regulating the manufacturing, sale, distribution
4 and use of marijuana and marijuana products as a
5 preference to this creating a new governmental
6 agency? Wouldn't that also be accurate?

7 Doesn't your proposal limit the ability
8 of the legislature and local governments from
9 regulating the manufacture, growth, sale,
10 distribution and use of marijuana?

11 MR. McTIGUE: Well, Secretary Husted and
12 Senator Faber, if you were going to include language
13 like that so that people are not confused, you have
14 to specify how or specifically where the General
15 Assembly is limited.

16 For example, if the people approve this
17 amendment, the amendment authorizes the personal use
18 of marijuana, it authorizes medical marijuana. The
19 General Assembly is not above the Constitution, so it
20 would have to follow the Constitution. You would
21 also, I think, have to include language where we
22 specifically direct the General Assembly to pass laws
23 regarding certain issues here.

24 SENATOR FABER: I would argue the term
25 limits, therefore, encompasses. There's something

1 here if people want to go look at the specifics,
2 they're on notice to go look at specifics, but I
3 think the term limits is accurate because both the
4 legislature and the local governments are limited in
5 their ability to do those things. But that's another
6 question beyond your -- Those were --

7 MR. McTIGUE: Well, Mr. Secretary,
8 Senator Faber, I think it would be if you want to get
9 into talking about limits, well, you know, let's do
10 the full story here. When we say that it creates a
11 state government agency called the Marijuana Control
12 Commission with broad regulatory powers over the
13 industry in some limits, if you want to have one
14 side, put the other side in and be fair about it.
15 Sorry.

16 SENATOR FABER: I appreciate your
17 advocacy. I appreciate you coming in and giving us
18 suggestions.

19 MR. McTIGUE: Thank you.

20 SENATOR FABER: It always helps when we
21 have details that we can understand what your
22 concerns are.

23 MR. McTIGUE: Thank you.

24 CHAIRMAN HUSTED: Additional questions?
25 Thank you, Mr. McTigue.

1 MR. McTIGUE: Thank you.

2 CHAIRMAN HUSTED: At this time, we have
3 Mr. Larry James who also is representing
4 ResponsibleOhio. Mr. James, welcome.

5 MR. JAMES: Mr. Secretary, members of the
6 panel, my name is Larry James, and I'm presenting on
7 behalf of Andy Douglas of the law firm Crabbe, Brown
8 and James. I won't beat the horse. I think Don's
9 done an excellent job of detailing the concerns. I
10 would echo his recommendation about going to the
11 summary of the Attorney General. I think that's
12 accurate, I think it's fair, and I think it's the
13 most objective format.

14 You have those written comments before
15 you. I would also direct you to the other memo that
16 Mr. McTigue has put before you, and that is the
17 ballot language standard that I assume and I regret
18 that probably we will be having these arguments with
19 the Supreme Court.

20 The other thing from my observation in
21 order, just an observation is, rather than trying to
22 piecemeal and cut and paste the language, we got this
23 late last night, so we didn't have adequate time to
24 look at it, to look at all the legal implications
25 that have been raised including those that related to

1 the earlier proposal under No. 2, but you have the
2 ballot language standard that's set out by the
3 Constitution.

4 I thank you for your consideration, and
5 I would strongly suggest going back to the Attorney
6 General's summary, and I'll stand for any questions
7 you have.

8 CHAIRMAN HUSTED: Thank you, Mr. James.
9 Any questions for Mr. James?

10 MR. JAMES: Thank you.

11 CHAIRMAN HUSTED: Thank you. We have
12 Elizabeth Smith from Ohio Against -- I can't read....

13 MS. SMITH: Ohioans Against Marijuana
14 Monopolies. Sorry the space is small.

15 CHAIRMAN HUSTED: You're an opponent of
16 the legislation, so thank you for being here and
17 please proceed.

18 MS. SMITH: Thank you very much,
19 Mr. Secretary, members of the Board. I am Elizabeth
20 Smith. I'm with the firm Vorys, Sater, Seymour and
21 Pease, and I am representing Ohioans Against
22 Marijuana Monopolies.

23 Let me first point out that we believe
24 that the ballot language that has been proposed is
25 actually very fair and accurate. While we have some

1 suggestions and some comments about it, I would
2 commend the Staff actually in its very hard work in
3 taking an amendment that is quite long, about 7,000
4 words, and is somewhat confusing and trying to make
5 it as clear as it possibly can be. So I want to
6 start with that premise, moving on to the specifics
7 and attempting to address as well what Mr. McTigue
8 has raised.

9 Mr. McTigue has raised the concern about
10 the exclusive rights for the marijuana growth,
11 cultivation, et cetera. We believe that what this
12 amendment is about is about marijuana monopolies,
13 oligopolies and cartels, and that the exclusive right
14 is being granted as set forth in that amendment to
15 owners of ten specific parcels.

16 Those parcels are delineated. There can
17 be no more purpose than that grand delineation of
18 those parcels, and that that is who the right to
19 grow, cultivate and otherwise commercially develop
20 marijuana. That is the purpose for that language.

21 I agree with President Faber that I do
22 not see anyplace else where there is a grant for
23 additional licenses except for the language about the
24 four years and one additional license.

25 I would point out that there is some

1 language in the amendment that talks about the
2 Commission considering whether or not there is
3 increased demand, but that does not talk about
4 increasing the number of sites and parcels.

5 The second bullet point, permitting the
6 sale of recreational marijuana, we would assert that
7 adding the language of marijuana infused products
8 would be appropriate in that second bullet point and
9 that we do agree with the delineation of 1,100
10 locations statewide.

11 Mr. McTigue deposited that that was cap
12 or a limit. I do not see how that is a cap or a
13 limit as based on one in 10,000 people based on
14 Ohio's current population. I guess he is assuming
15 that Ohio's population is not going to grow. So the
16 1,100 locations, approximate 1,100 locations we
17 deposit is absolutely correct and should be in there
18 in order to allow the voter to have -- the citizen to
19 have accurate information as to what this means.
20 1,100 sites is about three times the amount of
21 Starbuck locations that we have. And we all think
22 that Starbucks is located on every corner as we pass
23 by. It is there to give perspective.

24 Point No. 3, legalizing the production
25 of marijuana-infused and medical marijuana-infused

1 products, let me point back that -- Let me just stop
2 for a minute. Point 2, he raised an objection to the
3 use of the word recreational marijuana, and I think
4 it was correctly pointed out. That is the debate. I
5 don't know what other use there is. It is medical or
6 it is recreational.

7 Cigarettes, not a comparison. We don't
8 smoke cigarettes for medicinal purposes. Quite the
9 opposite. So the use of the word recreational gives
10 a fair depiction to the Ohio citizens as to the other
11 purpose for which this marijuana monopoly is being
12 requested.

13 We would assert that for bullet No. 3,
14 that the addition of the word edibles, including the
15 use of edible products, would be appropriate in order
16 to fairly tell the voters, not all of whom understand
17 what marijuana or marijuana-infused products all
18 encompasses.

19 The use of the word edibles indicates,
20 as has been stated, that marijuana will be put into
21 commercial products, will be put into brownies,
22 cookies, lollipops, candy, et cetera. That is
23 something that the voter needs to know.

24 When we get to bullet point 4, and
25 there's already been a lot of discussion about that,

1 the only thing I would point out is -- and this is
2 grammatical, so excuse me -- but the parenthesis that
3 follows the flowering marijuana plants, we would
4 state that that end paren needs to be moved back
5 right after the word for recreational use because the
6 way the sentence reads now, it looks as if the -- the
7 description of the eight ounces of useable homegrown
8 marijuana for recreational use, plus one ounce of
9 purchased marijuana for recreational use, plus four
10 homegrown flowering marijuana plants, the four
11 homegrown flowering marijuana plants are not part of
12 the one half or the over one half pound of marijuana;
13 otherwise, it looks like it's part of the one half
14 pound.

15 SENATOR FABER: Go through that again.

16 MS. SMITH: Absolutely. Currently the
17 sentence reads that the eight ounces of marijuana and
18 the one ounce of purchased marijuana for recreational
19 use and the four homegrown flowering marijuana plants
20 all modify this over one half pound of marijuana.

21 And that we would say that that
22 parenthesis at the end of flowering marijuana plants
23 needs to be moved back about five words to follow for
24 recreational use paren, plus four home grown
25 flowering marijuana plants. Does that seem clear?

1 CHAIRMAN HUSTED: Yes.

2 MS. SMITH: Okay. Thank you. Bullet
3 point 5, Mr. McTigue stated that he felt that it was
4 inaccurate and then perhaps misleading. We would
5 state that we believe it is confusing and perhaps
6 contains an error. And we do have some proposed new
7 language which we would like to be able to pass out
8 if that is permitted.

9 CHAIRMAN HUSTED: Sure.

10 MS. SMITH: Thank you. What we've put
11 forth here in an attempt to sort of bring it all
12 together, first is your current draft language at the
13 top, the amendment language and then we've
14 highlighted points to the amendment language.

15 We believe that the proposed Staff
16 language changes the emphasis of the proposed
17 amendment provision to state that it allows what we
18 might consider to otherwise be protected places to
19 come to the marijuana establishment. That's the way
20 we believe that the language reads now.

21 We believe that the point of the
22 amendment is to allow the building or establishment
23 of a marijuana facility within a thousand feet of the
24 protected place, that is, the school, the house of
25 worship, the daycare center after January 15, 2015 or

1 after a license is granted.

2 That is, if a new church goes up or a
3 new school is built after those dates, you can put a
4 marijuana establishment next door. That's what this
5 proposed amendment states. We believe that that is
6 material and that a voter, an informed Ohio citizen
7 needs to know that when they go to vote on this
8 proposal.

9 The point of the proposed amendment is
10 clear that the prohibition is intended to apply only
11 if your house of worship or your school or your
12 daycare center was in existence before January 15,
13 2015 or before the license is sought. So we propose
14 that the language at the bottom of our handout would
15 be a better version and would be clearer to the Ohio
16 citizens.

17 We have one addition that we think also
18 would be significant. It is short. And with your
19 permission, I would also like to point -- would like
20 to pass it out if that is appropriate, Mr. Secretary.

21 CHAIRMAN HUSTED: Sure.

22 MS. SMITH: We would propose that this
23 additional paragraph be inserted after bullet point
24 5, and that is, that the proposed language, the
25 proposed amendment would prohibit any local or state

1 law, including zoning laws, from being applied to
2 prohibit the development or operation of marijuana
3 growth, cultivation and extraction facilities, retail
4 marijuana stores and medical marijuana dispensaries
5 unless the area is zoned exclusively residential as
6 of January 1, 2015 or as of the date that the
7 application for a license is first filed.

8 We believe that it's important that Ohio
9 citizens understand that they cannot zone out of
10 existence in their cities or in their counties a
11 marijuana establishment. It is true that precincts
12 are to vote on establishments. They cannot zone out
13 all establishments in their cities or counties or
14 townships.

15 We point out that there is no mention
16 that zoning laws cannot be used to prohibit retail
17 stores or other establishments currently in the
18 draft, and we would offer this for your
19 consideration.

20 Bullet point 6 regarding the special tax
21 rates, Mr. McTigue mentioned that he felt that it
22 also should be included in the -- in the language
23 that all business taxes would also be paid.

24 And while there is language indeed in
25 the proposed amendment, we want to make perfectly

1 clear -- And I would just in correction to something
2 that Mr. McTigue said, Mr. McTigue stated that sales
3 tax would be paid. Sales tax is not paid by
4 businesses; it is collected by businesses. It is
5 paid by the consumer. This proposed constitutional
6 amendment does not talk about sales tax.

7 We would also point out that additional
8 language, if it is deposited that such facilities and
9 stores shall also pay the other state and local
10 taxes, assessment fees and charges that apply to
11 businesses, that it should also be pointed out that
12 no additional taxes shall be levied on the
13 operation's revenue or distributed income of a
14 marijuana establishment.

15 That is, that the owner of the marijuana
16 establishment does not pay tax on his or her
17 distributed income. That is a major change to what
18 is current in Ohio law. Partners, members of LLCs
19 pay taxes on their distributed income. This is
20 something that is -- that the owners of these
21 marijuana establishments are not going to be paid.
22 It is clear in the amendment.

23 And I think, finally, we would agree
24 that with bullet point 8, that the Marijuana Control
25 Commission does have some limited authority. I think

1 when one considers the fact of federal regulations
2 and we consider employment laws and we consider the
3 whole panoply of other things out there, this
4 Commission is only going to be able to do exactly
5 what is set forth in the proposed amendment.

6 In conclusion, I would simply say that
7 Ohio voters have an absolute right to have clear
8 language on their ballot, and that they have an
9 absolute right to know that they will be granting
10 exclusive rights a monopoly for the growth and sale
11 of recreational and medical marijuana and marijuana
12 edibles such as cookies, candies and lollipops; that
13 there is only limited regulation by the state as
14 permitted in the amendment; that they cannot zone the
15 industry out of their towns or counties; that those
16 who own the establishments do receive preferential
17 tax treatment; that there will be 1,100 retail
18 locations, again, more than the Starbucks and
19 probably McDonald's; that an individual can have nine
20 ounces of marijuana at any one time, one ounce of
21 commercial marijuana, eight ounces of homegrown.
22 They need to know that. That's about 500 cigarettes
23 or joints.

24 And that if we build churches, schools
25 and daycares in the future, which we undoubtedly

1 will, that a marijuana establishment can build right
2 next door. That's what the citizens need to know.
3 We believe otherwise that what the Staff has done is
4 fair and accurate. I am willing to entertain
5 questions.

6 CHAIRMAN HUSTED: Thank you. I have a
7 question regarding the first bullet point and
8 something that's been covered by Mr. McTigue. In
9 reference to the issue of exclusive, it is your read
10 of the amendment, is that an accurate term or is it
11 almost exclusive but not totally exclusive, or would
12 another word, say, as preferential be a more accurate
13 word to use in that particular circumstance?

14 MS. SMITH: I think exclusive is
15 accurate. Exclusive doesn't mean ten. It might mean
16 20. Exclusive means a limited set of people,
17 something that is not available to the general
18 public. So from that standpoint, exclusive, we
19 believe, is accurate.

20 CHAIRMAN HUSTED: Okay, thank you.

21 MS. SMITH: I'm sorry, did you also ask
22 me a question about personal? Maybe I didn't --

23 CHAIRMAN HUSTED: I did not, but I'm sure
24 someone else might. So, are there other questions?
25 Senator Turner.

1 SENATOR TURNER: Thank you, Mr. Chairman.
2 I just wanted to emphasize the draft changes that you
3 gave to us. Do you have any objection to the
4 Attorney General's summary being the basis for the
5 language?

6 MS. SMITH: You know, I apologize, I've
7 not read the Attorney General's summary. So I
8 thought I had, but I guess I have not read the right
9 summary, so I'm not even sure how long or how
10 short -- Oh, you did mislead me, let the record
11 reflect. Yes, actually, and I think that probably
12 rather than go through everything, I think, suffice
13 it to say that I think we would have an objection to
14 that. Probably I think essentially for the same
15 reasons that we've just gone through and the use of
16 certain language.

17 SENATOR TURNER: Just one other point.

18 CHAIRMAN HUSTED: Senator Turner.

19 SENATOR TURNER: Even though Mr. McTigue
20 and Mr. James, especially Mr. McTigue, laid out the
21 Attorney General's rationale for that summary in
22 terms of no prejudice, material omissions and
23 truthfulness is what the Attorney General uses for
24 the summary, and that's still not good enough? Maybe
25 good enough is not the right word, but that does not

1 satisfy you?

2 MS. SMITH: Here's the problem with that,
3 and that is that in the proposed amendment itself,
4 there are some inconsistencies. And if the proposed
5 amendment itself includes a summary, not the Attorney
6 General's summary, I'm talking about another summary
7 that's actually in the proposed amendment, and that
8 summary in and of itself is not accurate, it doesn't
9 reflect the same terms as later on in the body of the
10 amendment.

11 So from that standpoint, if I look at
12 what the Attorney General has written and the
13 Attorney General's summary of that, that would be
14 part of the problem, because of the length of it and
15 because of those internal inconsistencies in the
16 amendment itself. Yes.

17 CHAIRMAN HUSTED: Let me just offer one
18 thought on that, Senator Turner. The problem from
19 the practicality point of view is the length of the
20 ballot, and particularly in Cuyahoga and Lorain
21 Counties where they have to be bilingual, the size of
22 the ballot would be enormous.

23 And as a practical matter, I think it
24 would not serve the voters well to use that from an
25 elections administrations point of view, although I

1 have no disagreement with it in terms of its
2 accuracy. Senator Faber.

3 SENATOR FABER: Well, I don't necessarily
4 disagree with its accuracy. I have a disagreement
5 with it's confusing. It was drafted by the people
6 who were putting forth the initiative.

7 And I can just go to Paragraph 2 of the
8 summary and where it says, "...or issue a license",
9 we just heard Mr. McTigue tell us that they could
10 issue multiple licenses. So at a minimum, I must be
11 reading this either confusing or he's incorrect. So
12 that's one example as you go through and read these
13 summaries in Paragraph 2 where it talks about ten
14 specific sites.

15 So, look, they chose the order in their
16 summary as to what to emphasize and deemphasize. And
17 some of the stuff that they didn't like was buried in
18 the back. If you're asking a voter to go into a
19 ballot and read five pages standing at the ballot
20 box, and that looks like about 8-point type, to put
21 it up in normal type, you're probably talking ten
22 pages, I think you're going to impress yourself that
23 the voters, A, are going to have the time to read
24 that through, and two, going to have the ability to
25 understand some of these nuances that apparently

1 Mr. McTigue and I don't agree on when it comes to the
2 summary.

3 So that's why I have a summary that's
4 drafted by the advocates which there's a legal
5 interpretation that the Attorney General may be
6 accurate, but it certainly wasn't in there as
7 confusing. So that be would be my argument about all
8 five pages single spaced, and I'm pretty sure this is
9 pretty close to 8-point type.

10 So let me ask you a couple questions.
11 In one of the provisions, the last bullet point on
12 the Secretary's draft, I would propose that we add
13 the words "limits the ability to the legislature or
14 local governments from regulating the manufacture,
15 growth, sale, distribution and use of marijuana or
16 marijuana products." Would you disagree with that
17 statement as being accurate?

18 MS. SMITH: I would agree that it is
19 accurate.

20 SENATOR FABER: Because then when you
21 talk about the new state government agencies to
22 create for the Marijuana Control Commission to
23 regulate the industry, I think that's accurate. I
24 think that takes into consideration that issue.

25 Do you disagree with Mr. McTigue's

1 statement where it says, "Endow exclusive rights for
2 marijuana growth...", that needs to be limited to
3 commercial? Because I think you used the right, that
4 it does allow private growth.

5 MS. SMITH: I believe that the use and
6 the insertion of the word commercial would be fair
7 because I think because of the additional provision
8 where we talk about the actual -- the second
9 provision, permitting the retail sale of recreational
10 marijuana, I think that takes care of our concerns.

11 SENATOR FABER: Well, there seems to be
12 some disagreement about the one additional location
13 may be allowed in four years, as to what that means.
14 It is in their summary, it says, "Provides ten sites,
15 specific locations for Commission licensed marijuana
16 growth." That's what their summary says, Paragraph
17 2. Now, it does go on to say it prevents relocation
18 or issue an additional license, a license on down
19 there, but my question is, is it not accurate at the
20 time this is passed that it permits 10, not 11, 10?

21 MS. SMITH: Yes, absolutely.

22 SENATOR FABER: Mr. McTigue made a good
23 point, I thought, about the at least 21 versus over
24 21. Do you have any issue with that change?

25 MS. SMITH: No.

1 SENATOR FABER: Do you have any issue
2 with his suggestion that we add the word use?

3 MS. SMITH: No.

4 SENATOR FABER: You proposed language
5 fixing the issue on locations, and I agree with your
6 reading, and I read it the same way. It allows
7 anything after January 1st, 2015 then to be located
8 at anything that was not pre-existing. I think
9 that's an important distinction. I think he is
10 right, that what they were trying to do, I presume --
11 that's always dangerous when I presume -- is allowing
12 them to get located and then not making them move if
13 somebody builds a school next to them, but that's not
14 the way they worded it.

15 What it says, unless it was there on
16 January 1st, 2015, they can go anywhere they want,
17 including into residentially zoned areas. So if a
18 new subdivision is developed now, my read is that
19 they can put a marijuana location in Joe's house in
20 the middle of that subdivision; am I wrong on that
21 read?

22 MS. SMITH: No, you're right. If a
23 license has been granted and somebody wants to build
24 a subdivision, you're correct.

25 SENATOR FABER: Well, since they used

1 January 1st, 2015, if a new subdivision were platted
2 and built today, they can -- Joe's house can now be a
3 marijuana distribution facility in the middle of a
4 residential neighborhood; am I right on that?

5 MS. SMITH: Was built today... The only
6 hesitation I have is because it says if after
7 January 1, 2015 or after a license has been granted,
8 and I'm assuming that that takes into account a later
9 period of time but otherwise --

10 SENATOR FABER: Say January 1st, 2017,
11 somebody's granted a license, Joe's house can then be
12 a marijuana distribution --

13 MS. SMITH: You're right.

14 SENATOR FABER: -- in the middle of a
15 subdivision?

16 And it trumps -- As I read this, am I
17 right, that it trumps all other land use
18 restrictions, deed restrictions, subdivision
19 restrictions, everything else?

20 MS. SMITH: That's correct.

21 SENATOR FABER: I think most homeowners
22 would like to know that. Do you think that's
23 important?

24 MS. SMITH: Absolutely.

25 SENATOR FABER: I would assume somebody

1 buys in New Albany, they would be a little concerned
2 if Joe's Marijuana and Pot Shop opens next door to
3 them because Joe wants to meet his New Albany rent
4 payments.

5 MS. SMITH: Yes.

6 SENATOR FABER: Going on to the next
7 bullet point, you agree that the county fund --
8 community fund needs to be changed?

9 MS. SMITH: Yes.

10 SENATOR FABER: You talked about sales
11 taxes, and Mr. McTigue raised an important point. I
12 think their language does require them to pay
13 ordinary business taxes. How do I word that and deal
14 with your sales tax issue? Do you have a suggestion,
15 or do you think it needs to be worded? If it didn't
16 include all the other things they have to comply with
17 like fire codes and other things.

18 MS. SMITH: The amendment itself doesn't
19 address sales tax. It just simply doesn't address
20 it. And, again, because the amendment talks in terms
21 of what taxes the businesses will pay, and
22 technically businesses don't pay the sales tax; the
23 consumer does.

24 SENATOR FABER: No, I understand that
25 argument and I agree, but as I look at Mr. McTigue's

1 argument, his argument is if you're gonna mention the
2 15 percent tax, you need to also mention that
3 businesses pay other taxes as well. Do we need to do
4 that or not?

5 And I'm trying to wrestle with this
6 distinction. We don't also say that they're going to
7 have to pay property taxes, we don't also say that
8 they're going to have to do other things. I guess my
9 question is, we don't say they have to comply with
10 the fire code either, and we don't say they have to
11 comply with the wage and hour laws. I assume they
12 do. I didn't see any exemption in there. Maybe
13 there's one that I missed. I didn't see one that
14 they have to comply with the labor laws and all the
15 other things that are state laws. We don't say that
16 they comply with everything else other than they get
17 this tax rate in addition.

18 MS. SMITH: No, I agree, I don't think
19 that that additional detail is something that is
20 necessary to a complete understanding of what this
21 amendment is going to do.

22 SENATOR FABER: And then my last
23 question, Mr. Secretary, there was a question about
24 marijuana testing facilities, and he said research
25 and testing facilities near colleges and

1 universities. Do I need to put the word research in
2 there or does it matter? I don't know that it
3 matters one way or another.

4 MS. SMITH: I don't know if it matters
5 one way or the other, but I would not have a problem
6 with that.

7 SENATOR FABER: I think I picked up on
8 most of his highlights. I just want to make sure
9 that stuff that he brought up that I thought were
10 helpful, that we make sure there was no objection to
11 them.

12 MS. SMITH: Mr. Secretary, could I add
13 one very quick point?

14 CHAIRMAN HUSTED: Sure.

15 MS. SMITH: And that is the use of the
16 word personal which I forgot that I wanted to say
17 something about. We believe that personal is not the
18 correct word to use here because the proposed
19 amendment specifically allows that marijuana can be
20 shared with another adult over the age of 21,
21 assuming in the household. The fact that it can be
22 shared frankly vitiates the use of the word share --
23 personal because personal means one person, that's
24 it. It doesn't include sharing, so we would object
25 to that word. And, again, we think the use of the

1 word recreational is much more appropriate.

2 CHAIRMAN HUSTED: Okay, thank you. Are
3 there any additional questions?

4 (No response.)

5 CHAIRMAN HUSTED: Thank you for your
6 testimony.

7 MS. SMITH: Thank you.

8 CHAIRMAN HUSTED: At this point in time,
9 we are going to take a 15-minute recess without
10 objection.

11 (Recess taken.)

12 CHAIRMAN HUSTED: We're calling the
13 Ballot Board back to order. At this time, I would
14 like to call on Senator Faber to review some
15 revisions to the initial petition language that was
16 being -- ballot language that was being considered.
17 Senator Faber.

18 SENATOR FABER: Thank you, Mr. Secretary.
19 I would move the amendments to the Secretary's
20 proposed constitutional amendment language, and I'll
21 go through them in turn. They are in front of the
22 members.

23 One should read, "Endow exclusive rights
24 for commercial," add the word commercial, change the
25 word "corporations" to "landowners" and add the term

1 "one additional location may be allowed in four
2 years." Again, these changes are in response to
3 testimony we received that we thought helped clarify
4 and make this more accurate and inclusive.

5 On bullet point No. 3, add the term
6 "legalized production of marijuana-infused products
7 including edible products constitutes sprays,
8 ointments and tinctures and medical marijuana-infused
9 products by marijuana product manufacturing
10 facilities." This takes language directly out of the
11 definitional section of the amendment.

12 I would argue that as an amendment,
13 maybe you could then eliminate the whole concept of
14 medical marijuana infused because I don't think
15 there's any difference between marijuana infused and
16 medical marijuana infused as it being duplicative.
17 So I would propose that we eliminate the term medical
18 marijuana infused as well and products by. I think
19 it would make it read, "Products including edible
20 products concentrates, sprays, ointments and
21 tinctures by marijuana product manufacturing
22 facilities." Leave the word by.

23 Next bullet point, I would propose we
24 change the term, "allow each person 21 years of age
25 or older." That fixes the age thing identified by

1 Mr. McTigue which was a correct. I would think we
2 would add the word use that Mr. McTigue suggested,
3 but when you look at the definition, you then need to
4 add transport to that as well because it is also in
5 their definition.

6 The suggestion was to move the
7 parenthesis bracket, and that was also included here,
8 moving it back five words.

9 The next bullet point is a completely
10 new bullet point that was suggested. It reads,
11 "Permits marijuana growing, cultivation and
12 extraction facilities, product manufacturing
13 facilities, retail marijuana stores and not for
14 profit medical marijuana dispensaries to be within
15 one thousand feet of a house of worship, a publicly
16 owned library, a public or chartered nonpublic
17 elementary or secondary school or child daycare
18 center, playground that is built after January 1st,
19 2015 or after the date the marijuana operation
20 applies for a license to operate." I think that is
21 completely correct and it fixes the incorrect
22 provisions of the prior statute.

23 Next is also a new paragraph that says
24 prohibit any local or state law, including zoning
25 laws from being applied to prohibit the development

1 or operation of marijuana growth, cultivation or
2 extraction facilities, retail marijuana stores,
3 medical marijuana dispensaries unless the area is
4 zoned exclusively residential as of January 1st, 2015
5 or as of the date the application for license to file
6 for the first marijuana amendment. That again takes
7 directly out of the language and deals with the
8 Mr. Jones pot shop inside a residential neighborhood.

9 Next is the last paragraph where we
10 address the issue limits the ability of the
11 legislature and local governments from regulating --
12 of the legislature from regulating the manufacturing,
13 sales, distribution of marijuana and marijuana
14 products period. That clarifies that provision.

15 Those are the proposed changes that I
16 would offer as an amendment. We need a second.

17 MR. MORGAN: Second.

18 CHAIRMAN HUSTED: We have a motion and a
19 second. And in your explanation -- I will clarify
20 that I believe that in your explanation that you had
21 asked for additional language to be deleted in the
22 draft that we have here. And so instead of working
23 from an amended document, I've asked legal counsel to
24 go in and redraft this reflective of your comments so
25 that every member has the actual language that will

1 be used in front of them so that we are not operating
2 from an amended piece of paper.

3 SENATOR FABER: Always one step ahead of
4 me, Mr. Secretary.

5 CHAIRMAN HUSTED: We'll get that done so
6 that every member has the accurate information.

7 At this point in time, I have -- I first
8 had a request from Mr. McTigue to offer some
9 comments, and so I will give him the opportunity to
10 do so at this time if he still wishes.

11 MR. McTIGUE: Thank you, Mr. Secretary.
12 I just had a couple comments in rebuttal to some
13 points raised by Miss Smith. One, she spent
14 considerable time and even proffered some language
15 regarding the language -- about the location of
16 marijuana facilities within a thousand feet of
17 churches, schools, et cetera. The problem here with
18 the language -- and I'm looking to see how you have
19 it now in this amended version....

20 CHAIRMAN HUSTED: Take your time.

21 MR. McTIGUE: Yeah, I see it. Here's the
22 problem, okay, you're talking here in your new
23 version says permits the facilities to be within one
24 thousand feet of a house of worship, et cetera, that
25 is built after January 1, 2015. The amendment

1 doesn't permit that. The amendment is silent about
2 that. The amendment neither permits it, nor
3 prohibits it.

4 What it does is it has a prohibition
5 with regard to where these facilities could be
6 located with regard to anything that exists as of
7 that date. But after that date, the amendment is
8 silent. It doesn't contain either any express
9 prohibition or express authorization.

10 So I think that if you're going to be
11 fair about this language and if you want to say
12 something about it, then what you should say is that
13 the amendment neither permits nor prohibits because
14 you're going outside of the actual language that's in
15 the amendment to put in some interpretation. And so
16 if you want to be fair, then it should basically --
17 it should say that the amendment neither permits nor
18 prohibits if you feel the necessity to cover that
19 point with regard to locations where we have churches
20 and schools within a thousand feet after January 1,
21 2015.

22 I would also just -- The other thing I
23 wanted to note, too, is I didn't quite understand
24 Miss Smith was objecting to the word personal. I was
25 objecting to the word recreational, and she was

1 objecting to the word personal. I'm not really sure
2 what the basis of her objection is.

3 But I would like to say that we don't --
4 when it comes to, say, liquor laws, you don't see
5 anything in the Revised Code or in the Constitution
6 about recreational use of alcohol. So why are we
7 inserting the word recreational here when it's
8 nowhere in the proposed law?

9 Let me add one more thing that's not in
10 rebuttal but based on the new version of the draft
11 language that I think is a very egregious error, and
12 that's in the fourth bullet. I mentioned this
13 before, so this is not new, but it's so egregious
14 that I feel the need to bring it up again.

15 It basically -- It says, not basically,
16 it says allow each person 20 years -- 21 years of age
17 or older to purchase -- I'm going to skip the rest of
18 the language right now -- it says to purchase over
19 one half ounce of marijuana. That's not true.
20 There's expressed prohibitions on purchasing home
21 grow. It can't be sold. It can't be purchased.

22 All purchasing under this amendment by
23 its expressed terms has to be done at a retail store
24 which is the one ounce. So this problem has not been
25 fixed because this says to the voter I can go and

1 purchase a half a pound of marijuana, and that's just
2 not true.

3 Now, the last thing I would say, I know
4 that some questions were raised maybe about the
5 Attorney General's version being very long. You,
6 yourself, Mr. Secretary, addressed the question about
7 how long the ballot would be.

8 Well, there is another way to resolve
9 this issue, and that is to go to the summary that was
10 approved by the Attorney General and adopt as the
11 ballot language Division A of the proposed amendment
12 which is a summary of the amendment itself. It is a
13 summary of -- It is a summary of the amendment that
14 essentially has been approved by the Attorney General
15 as well when he approved our summary involving
16 detailed provisions.

17 This summary is comprehensive. It's not
18 overly long, and it hits, I think, all of the major
19 points that voters would need -- certainly that
20 voters would need to be fully informed. So I would
21 suggest that as some possible middle ground, if you
22 will, and ask you to take a look at that. Thank you.

23 CHAIRMAN HUSTED: Thank you, Mr. McTigue.
24 Mr. McTigue, there are some questions for you, so if
25 you would please rejoin us. Representative Clyde.

1 REPRESENTATIVE CLYDE: Thank you,
2 Mr. Chair. Mr. McTigue, I'm confused about the
3 addition to the first bullet, the sentence, "One
4 additional location may be allowed for in four
5 years," is that factually correct, and could you
6 help? I'm worried that that's misleading and not
7 correct based on your previous testimony, but I'm
8 uncertain.

9 MR. McTIGUE: Well, Mr. Secretary and
10 Representative Clyde, the language would permit one
11 additional location after four years. There's
12 certain criteria that has to be based upon the Ohio
13 Marijuana Commission through its audits establishing
14 that the existing facilities were not fully meeting
15 consumer demand for marijuana and medical marijuana.

16 The prior discussion, and there was some
17 difference of opinion on this about whether it was
18 just one more after four years or whether there could
19 be more ensuing years, and I think that the language
20 that's in the amendment speaks for itself and
21 requires that the -- It specifically provides that
22 the Marijuana Commission is to make this assessment
23 regarding consumer demand after each annual audit.

24 I mean, so what that says to me is that
25 there could be more than one additional depending on

1 consumer demand down the road but not more than one
2 at a time. Now, there is -- I know Senator Faber
3 doesn't read it that way. I think if you want to
4 resolve that, maybe insert the language that's
5 actually in the amendment. It would also -- By doing
6 so, it would also help explain that this is based on
7 consumer demand.

8 CHAIRMAN HUSTED: Representative Clyde.

9 REPRESENTATIVE CLYDE: Thank you. Could
10 you quickly look at the fifth bullet, the last one on
11 the first page, and just provide some commentary if
12 you -- if this is your understanding of what the law
13 does and if this is factually accurate.

14 MR. McTIGUE: Well, Senator -- or I'm
15 sorry, Secretary Husted and Representative Clyde, I
16 don't believe this is an accurate -- The comment that
17 I was making when I first got up here is that the
18 amendment neither permits it nor prohibits it after
19 January 1, 2015. I think that the -- basically the
20 amendment is silent. So if you're going to be fair,
21 if you're going to go outside the scope of what the
22 amendment says, then you should cover both bases and
23 say that it neither permits it nor prohibits it.

24 But what you should probably also do to
25 fairly inform voters is that the vote that a retail

1 establishment cannot be established in a neighborhood
2 without a vote of the people in that precinct and
3 that the Marijuana Control Commission would have
4 authority regarding the location of the production
5 facilities.

6 REPRESENTATIVE CLYDE: Thank you.

7 CHAIRMAN HUSTED: Additional questions of
8 Mr. McTigue? Senator Faber.

9 SENATOR FABER: I want to follow up on
10 that, but I want to make sure I'm clear. First of
11 all, the amendment limits the ability for any local
12 zoning land use, agriculture, regulations,
13 subdivision or similar provisions with regard to the
14 development or operation of marijuana establishments,
15 that's Paragraph No. 10, unless they were in
16 existence by January 1st, 2015.

17 The last time I checked, the way you
18 limit a commercial establishment under zoning law is
19 through zoning regulations and then you're limited
20 under the Commission from allowing other places. So
21 explain to me how that would be inaccurate when you
22 say the original provision doesn't limit or doesn't
23 allow things after January 1st, 2015, but yet at the
24 same time, under zoning law, if it's not prohibited,
25 it's allowed. Then you go on and say zoning law

1 can't prohibit.

2 So the way I read that, I can't think of
3 another way to read it than to say there aren't any
4 restrictions that would prohibit them from going into
5 residential neighborhoods. Where would I find such a
6 restriction if it's not in a zoning law? You banned
7 the legislature from acting, so the legislature can't
8 act. So tell me how I can somehow be prohibited.
9 So, therefore, the silence here means assent, doesn't
10 it?

11 MR. McTIGUE: Well, Secretary Husted,
12 Senator Faber, my comments a few moments ago were
13 addressing a question regarding bullet point 5. I
14 think you're asking me about bullet point 6.

15 SENATOR FABER: I'm tying 5 and 6
16 together because I think they operate in concert.

17 MR. McTIGUE: Okay. So with regard to
18 zoning regulations, basically what the amendment says
19 is that zoning -- if the amendment is approved by the
20 voters, then zoning regulations cannot be passed to
21 prohibit facilities that are authorized under the
22 Constitution; however, there are other provisions
23 contained in the amendment that limit where these can
24 be.

25 And one of them is the required vote by

1 the voters of the precinct. Another gives authority
2 to the Marijuana Control Commission to determine the
3 location of what would be licensed manufacturing
4 facilities.

5 And, you know, if -- You know, I'm going
6 to raise an additional point here because you're
7 choosing to include language about zoning, and I'm
8 not objecting to including language about zoning if
9 it's an accurate reflection, but think about you're
10 putting that in but what you're leaving out is
11 expressed provisions in the amendment requiring all
12 of these facilities to follow other laws such as
13 labor laws, health laws, sanitation laws,
14 environmental regulations. These are all spelled out
15 as mandatory that they have to follow them.

16 So if you're going to choose to put into
17 an amendment this provision that applies to zoning,
18 then you should be fair and put in the other
19 provisions that require adherence to other laws.

20 SENATOR FABER: Again, just making sure I
21 understand, what you're really arguing is we should
22 include everything they have to do like every other
23 business, but the reality is in your drafting of
24 this, you excluded marijuana facilities from many
25 provisions that are applicable to other businesses.

1 What this language is doing is
2 emphasizing the things you've excluded from, not the
3 other things that you're including because everybody
4 is included in that. And since you're trying to
5 educate voters, the presumption should be you have to
6 act like every other business unless you yourself by
7 constitutional amendment are excluding and giving
8 yourself some special exemption. And what this is
9 highlighting is those special exemptions.

10 So I disagree that you have to by its
11 nature include everything when your amendment does
12 not emphasize everything. You just emphasize giving
13 yourself special treatment from a list of items. And
14 so, again, trying to understand the zoning issue,
15 when I read through it in the context of those two
16 provisions working together, I think you do have a
17 provision that would allow a residential retail
18 establishment to go in a neighborhood that's
19 developed after January 1, 2015 or whenever somebody
20 applies for a license.

21 And I don't know how you could prevent
22 it because the Commission doesn't have authority to
23 do that, it's limited. So unless I'm wrong, tell me
24 why, but you can't zone it out, and that's how you
25 limit what goes in a neighborhood.

1 SENATOR FABER: Well, Mr. Secretary,
2 Senator Faber, I think that you are wrong on that
3 point in that you can't otherwise limit the location.
4 I think you're wrong to say that the Commission --
5 the State Commission would not have authority. It
6 has broad authority to promulgate rules governing the
7 regulation of manufacturing facilities and also
8 retail stores.

9 And in that, in those regulations, the
10 Commission clearly could deal with this particular
11 issue in terms of location within a residential
12 neighborhood. Further, you have the further
13 protection of the fact that with regard to the retail
14 stores, the voters would have to approve that first.

15 CHAIRMAN HUSTED: Thank you, Mr. McTigue.
16 At this point in time, the members have the language
17 in front of them that reflects Senator Faber's motion
18 and Mr. Morgan's second. Are there any questions or
19 comments on the language? Representative Clyde.

20 REPRESENTATIVE CLYDE: When we vote, are
21 we voting on the amendment to the language or the
22 full language?

23 CHAIRMAN HUSTED: We are voting on this
24 document that reflects his motion.

25 REPRESENTATIVE CLYDE: Okay. So the

1 discussion on, is it to be entertained on the whole
2 document?

3 CHAIRMAN HUSTED: It's to be entertained
4 on the whole document, correct.

5 REPRESENTATIVE CLYDE: Okay. I still
6 have concerns about the language. I would like to be
7 able to not have a split vote on ballot language that
8 goes before the voters, but I think that there are
9 factual inaccuracies in the proposed language, and I
10 think that's unfair to Ohio voters to put inaccurate
11 information before them on the ballot, and that is
12 not why we're here today.

13 We are here today, both to give an
14 accurate description for the ballot and also a fair
15 and impartial description. And I also believe along
16 with actual inaccuracies such as the one additional
17 location, the misleading language with the -- within
18 a thousand feet, there are a number of inaccuracies
19 in here.

20 There's also inflammatory language -- I
21 would agree that recreational does not appear in the
22 word of the law, and I think it's a word that crosses
23 over into editorializing about the amendment. So for
24 reasons of both factual inaccuracy and unfair,
25 inflammatory language, I can't support the proposed

1 amendment language.

2 CHAIRMAN HUSTED: Any additional
3 questions or comments? I would just like to say
4 before we vote, that the issue of recreational has
5 come up a couple of times. And in preparation for
6 today, I've done a lot of research and read a lot of
7 issues and looked at the state language in other
8 states, and this is the common term used when you're
9 dealing with two issues.

10 Mr. McTigue used the issue of alcohol,
11 well, we don't have medical use of alcohol and
12 recreational use of alcohol; we have alcohol. If
13 there's a distinction for medical usage, which is
14 common language in looking at this, there's also the
15 distinction of recreational use. And as I have
16 researched the other states, this is a very common
17 way to delineate the two.

18 And then lastly, you know, I thought
19 that the Board in developing this language did listen
20 to what was said at this hearing, that there were
21 changes made that reflected both the points of view
22 of those who oppose the ballot language and there --
23 or oppose the initiative, and there were amendments
24 made that supported the points of view of those who
25 supported the ballot -- or support the initiative.

1 I recognize that this is a difficult --
2 a difficult task to put into place, language that
3 reflects the views of everybody on what certainly
4 will be a highly contentious issue, but I will point
5 out that all of this will be available for the public
6 to consume, that the members of this committee have
7 voted to advertise this.

8 This will be available on our website.
9 You'll be able to get the actual ballot. You'll be
10 able to get the actual constitutional amendment.
11 You'll be able to get the ballot language. You'll be
12 able to get the explanation. You'll be able to get
13 the pros and cons arguments, and we'll do our best to
14 disseminate that out to everybody.

15 And in the end, I'm confident that the
16 voters will know what choice they're making when it
17 comes to deciding on all the issues that we've
18 discussed today. So Secretary, would you please call
19 the roll.

20 MS. KURUC: Secretary Husted.

21 CHAIRMAN HUSTED: Yes.

22 MS. KURUC: Mr. Morgan.

23 MR. MORGAN: Yes.

24 MS. KURUC: Senator Faber.

25 SENATOR FABER: Yes.

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MS. KURUC: Senator Turner.

SENATOR TURNER: No.

MS. KURUC: Representative Clyde.

REPRESENTATIVE CLYDE: No.

CHAIRMAN HUSTED: By a vote of 3 to 2,
the motion passes.

Is there any other issue to be brought
before the Board today?

(No response.)

CHAIRMAN HUSTED: Hearing none, we stand
adjourned.

(The meeting was concluded at 4:22 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct excerpt of the transcript of the proceedings taken by me in this matter on Tuesday, August 18, 2015, and carefully compared with my original stenographic notes.

Cynthia L. Cunningham

- - -

Exhibit 10

MCTIGUE MCGINNIS & COLOMBO LLC

ATTORNEYS AT LAW

545 EAST TOWN STREET
COLUMBUS, OHIO 43215

TEL: (614) 263-7000 | FAX: (614) 263-7078 | WWW.ELECTIONLAWGROUP.COM

To: Ohio Ballot Board

From: Donald J. McTigue, Esq.

Re: Objections by the Committee in Charge of the Marijuana Legalization Amendment and ResponsibleOhio to the Draft Ballot Language of the Ohio Secretary of State

Date: August 18, 2015

The draft ballot language submitted by the Secretary of State for the Marijuana Legalization Amendment fails to comply with constitutional standards and is fatally defective and prejudicial. The Committee in charge of the Marijuana Legalization Amendment Initiative Petition, Barbara Gould, Robert Letourneau, Rosemary Robinson, Patrick McHenry, and Taylor Deutschle and the ballot issue committee in support of the Amendment, ResponsibleOhio, hereby object to the draft language, including, but not limited to, the following:¹

First bullet point: The language falsely states that the amendment gives exclusive rights for marijuana growth, cultivation and extraction to corporations that own ten predetermined parcels of land. The amendment actually provides that the Ohio Marijuana Control Commission (“Commission”) may designate additional sites. The amendment also provides for home grow of marijuana for personal use, which would entail growth, cultivation and extraction. The draft uses the word “endow” in an attempt to insert prejudicial language.

Second bullet point: The language uses the word “recreational,” which appears nowhere in the amendment and is inaccurate. The amendment uses the phrase “personal use” in reference to purchasing marijuana at licensed retail stores to place a legal limitation upon the purchase. The draft states that retail sales would be permitted at approximately 1,100 locations, but fails to explain that that this is a cap and all such stores must be licensed by the Commission and must first receive approval from the voters of the precinct in which the store would be located.

Fourth bullet point: The draft language leaves out the word “use” and incorrectly states “over the age of 21,” which should be “the age of 21 or over.” The amendment again uses the word “recreational,” which is nowhere in the amendment and is incorrect. The draft conflates the purchase of marijuana at retail stores with home grow marijuana to create a distortion as to the limitation on the amount of marijuana. The amendment specifically limits the purchase of marijuana at retail stores to one ounce, not “over one-half pound. The draft gives short shrift to and buries its reference to medical marijuana at the end of the fourth bullet point. The amendment contains extensive provisions governing medical marijuana and should be set apart from language regarding non-medical marijuana. Further, the draft language fails to note that the

¹ The draft language was not provided to counsel McTigue until 8:00 pm, last night, 8/17/15.

certification must be a licensed Ohio physician and that parental consent is required for patients under the age of 21.

Fifth bullet point: The draft language is a total distortion of the provisions in the amendment. It turns a restriction that is in the amendment into a non-restriction.

Sixth bullet point: The draft incorrectly states “community fund” instead of “county fund.” It also fails to include any language regarding the Commission Fund being used to fund the operating costs of not-for-profit medical dispensaries, mental health and addiction prevention and treatment services, and a program to provide low-cost medical marijuana to qualifying patients who can afford the full cost.

Seventh bullet point: The language leaves out the words “research and” before the words “testing facilities.”

Eighth bullet point: The language inserts the phrase “with limited authority” with respect to the Commission and places the phrase within parentheses to draw attention to it. The actual language of the amendment grants the Commission broad regulatory powers.

Given the clear failure of the draft language to comply with constitutional standards, the Ohio Ballot Board should adopt as ballot language the summary of the full text that was approved by Ohio Attorney General Mike DeWine as fair and truthful and which the hundreds of thousands of Ohio electors who signed the petition saw. A copy is attached.

Exhibit 11



Jon Husted
Ohio Secretary of State

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www.OhioSecretaryofState.gov

Print friendly

FOR IMMEDIATE RELEASE

Tuesday, August 25, 2015

Husted Issues Titles for Statewide Ballot Questions

COLUMBUS – Ohio Secretary of State Jon Husted today issued titles for the three statewide ballot initiatives that will appear before voters on November 3, 2015.

The issue titles will read on the ballot as follows:

TITLE for STATE ISSUE 1

Creates a bipartisan, public process for drawing legislative districts

TITLE for STATE ISSUE 2

Anti-monopoly amendment; protects the initiative process from being used for personal economic benefit

TITLE for STATE ISSUE 3

Grants a monopoly for the commercial production and sale of marijuana for recreational and medicinal purposes

Ohio Revised Code Section 3501.05 grants the Secretary of State sole authority to assign titles for statewide ballot initiatives.

Language to describe each initiative was approved by the Ohio Ballot Board on August 18, 2015 and can be located on the Secretary of State's website [here](#), along with the full text of each proposed amendment and arguments for and against each issue.

Secretary Husted also certified the form of the ballot to the 88 county boards of elections in order to begin preparing for the November election.

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For more information, please contact [Joshua Eck](#) at (614) 466-2729