



COUNTY OF HUMBOLDT

For the meeting of: 10/28/2025

File #: 25-1233

To: Board of Supervisors

From: County Administrative Office

Agenda Section: Departmental

Vote Requirement: Majority

SUBJECT:

Direction on Future of Measure S Cannabis Cultivation Tax

RECOMMENDATION(S):

That the Board of Supervisors:

1. Receive the staff report on the history and current status of Measure S; and
2. Provide direction to staff on one of the following options:
 - a. Repeal Measure S and direct staff to return with an agenda item effectuating the Board's direction; or
 - b. Authorize the CAO to contract with HdL Companies (HdL) to conduct a fiscal analysis of the county's cannabis cultivation tax and develop a new tax ordinance to replace Measure S for placement on the November 2026 ballot, at a cost not to exceed \$48,000, and return with a supplemental budget to fund HdL's services;
 - c. If your Board chooses to contract with HdL, direct whether County Counsel should develop the ordinance or if it should be done in coordination with HdL.
3. Provide direction on cannabis excise taxes for cultivation year 2026/tax year 2027.

STRATEGIC PLAN:

This action supports the following areas of your Board's Strategic Plan.

Area of Focus: A Diverse, Equitable & Robust Economy

Strategic Plan Category: 2001 - Promote strong economic resiliency and growth

DISCUSSION:

Executive summary

This report seeks Board direction on the future of Measure S, the county's cannabis cultivation excise tax. Since its passage in November 2016, Measure S has proven difficult to administer and has not generated the anticipated revenue due to significant changes in the cannabis marketplace. The Board has two primary options for consideration: repeal the tax entirely or engage a consultant to conduct a fiscal analysis and develop a replacement tax measure for the November 2026 ballot. If your Board wishes to pursue a replacement measure, you could also decide whether to direct County Counsel to create an ordinance alone or with HdL, and have that direction reflected in the contract. Staff recommends the Board provide direction on which path to pursue.

Background and History

Humboldt County has long been recognized as the epicenter of cannabis cultivation in the United States. Prior to legalization, it was estimated that over 10,000 cannabis cultivation sites existed in Humboldt County, and a 2011 study projected that one out of every four dollars in the local economy originated in the underground cannabis industry.

In September 2016, the Board of Supervisors approved a Commercial Medical Marijuana Land Use Ordinance (CMMLUO), followed by voter approval of Measure S in November 2016, and the Commercial Cannabis Land Use Ordinance (CCLUO) in 2018. Measure S established tiered cultivation tax rates of \$1 per square foot for outdoor cultivation, \$2 per square foot for mixed-light, and \$3 per square foot for indoor cultivation. The county does not currently tax other commercial cannabis activities besides cultivation, other than regular retail taxes and the county's transactions and use taxes (Measures Z and O). The revenue generated from Measure S has declined significantly to the point where staff are not budgeting for revenues each year.

Below are prior actions the Board has taken regarding Measure S taxes:

June 21, 2016: Placed Measure S on the ballot at rates from \$1 to \$6 per square foot.

June 28, 2016: Reduced rates to \$1 per square foot for outdoor cultivation, \$2 for mixed light, \$3 for indoor.

March 27, 2018: Adopted administrative regulations for collection, and modified the Measure S ordinance to:

- Collect the tax on the calendar year,
- Reduced penalties for unpaid taxes,
- Authorized the Treasurer-Tax Collector to waive or cancel penalties resulting from nonpayment where circumstances were beyond the tax payer's control.

March 15, 2019:

- Modified the billing cycle so bills would be sent out in January and the first installment due on March 15 and second installment due October 15; the tax effective date is when plants are on site.
- Flexibility was given to Planning & Building to determine requests for reduction in square footage.

Feb. 7, 2022:

- Reduced bills by 85% for cultivation year 2021, collected in tax year 2022.
- Modified the billing cycle so bills would be sent in April, the first installment due in May and second in October.

Nov. 1, 2022

- Suspended tax payment for cultivation years 2022 (due in 2023) and 2023 (due in 2024).
- Deferred outstanding payments until October 2023.
- Waived the penalty on installments due in October 2022.

Jan. 24, 2023

- Held informational meeting regarding the Treasurer-Tax Collector's Office allowing partial payments for cultivation taxes.

Nov. 12, 2024:

1. Dropped the tax rate to 10% of the original rates and remove the Consumer Price Index increases (\$.10 per sf for outdoor cultivation; \$.20 per sf for mixed light; \$.30 per sf for indoor) for the 2024 growing season/2025 tax season; and
2. Suspended the tax on the 2025 cultivation season/2026 Tax season; and
3. Directed staff to bring back options for a repeal and replace measure to be placed on the ballot.

March 25, 2025:

1. Extend the deadline for payment of Measure S taxes from March 31, 2025, to Dec. 31, 2025, for those who have entered into a payment plan. For those who have not entered into a payment plan they must enter a payment plan by April 3, 2025, in order to extend the Measure S payment deadline to Dec. 31, 2025. The Dec. 31, 2025, deadline is final and there will be no extensions.

Below is a summary of billing for the 2024 growing season/2025 tax season:

| | |
|-----------------------------------------------|----------------|
| Total Billed | \$1,630,524.33 |
| Total Collected | \$578,221.77 |
| Total amount still owed (all accounts): | \$1,052,302.56 |
| | |
| Total accounts (all): | 1129 |
| Total accounts billed | 947 |
| Total accounts billed and have a payment plan | 279 |
| | |
| Accounts with BOTH installments paid: | 491 |
| Accounts with BOTH installments owing: | 470 |
| Accounts with First Paid, Second Owing: | 168 |
| Accounts with First Owing, Second Paid: | 0 |
| | |
| Total accounts still owing money: | 638 |
| Average Amount Owed | \$914.77 |
| | |
| Avg First Installment still owed | \$919.45 |
| Avg Second Installment Still owed | \$910.10 |

Below is a summary of accounts with past due taxes:

| | |
|---------------------------------------------------------|-----------------|
| Total Due | \$11,452,957.78 |
| Total Accounts with current or prior past due amount | 2,669 |
| | |
| Total Accounts with fully paid past due | 1622 |
| Accounts with amount still owing | 1047 |
| Average past due amount owed | \$10,938.83 |
| Total accounts owing \$5,000 or less | 534 |
| | |
| Total accounts on a payment plan | 445 |
| Payment plan accounts with zero balance | 62 |
| Payment plan account with amount still owed | 383 |
| Average amount remaining for accounts on a payment plan | \$12,917 |

The total past due balance of \$11.45 million is down from October 2024 when there was \$11.97 million past due.

The charts and graph below detail the tax rates by calendar year (Figure 1), the amounts billed,

collected and still owed (Figures 2 and 3). It is important to note that the amounts collected may not directly align with the amounts billed. This is because often tax payers would pay for prior year bills, but the amounts collected are reflected in the year those payments are made.

Figure 1

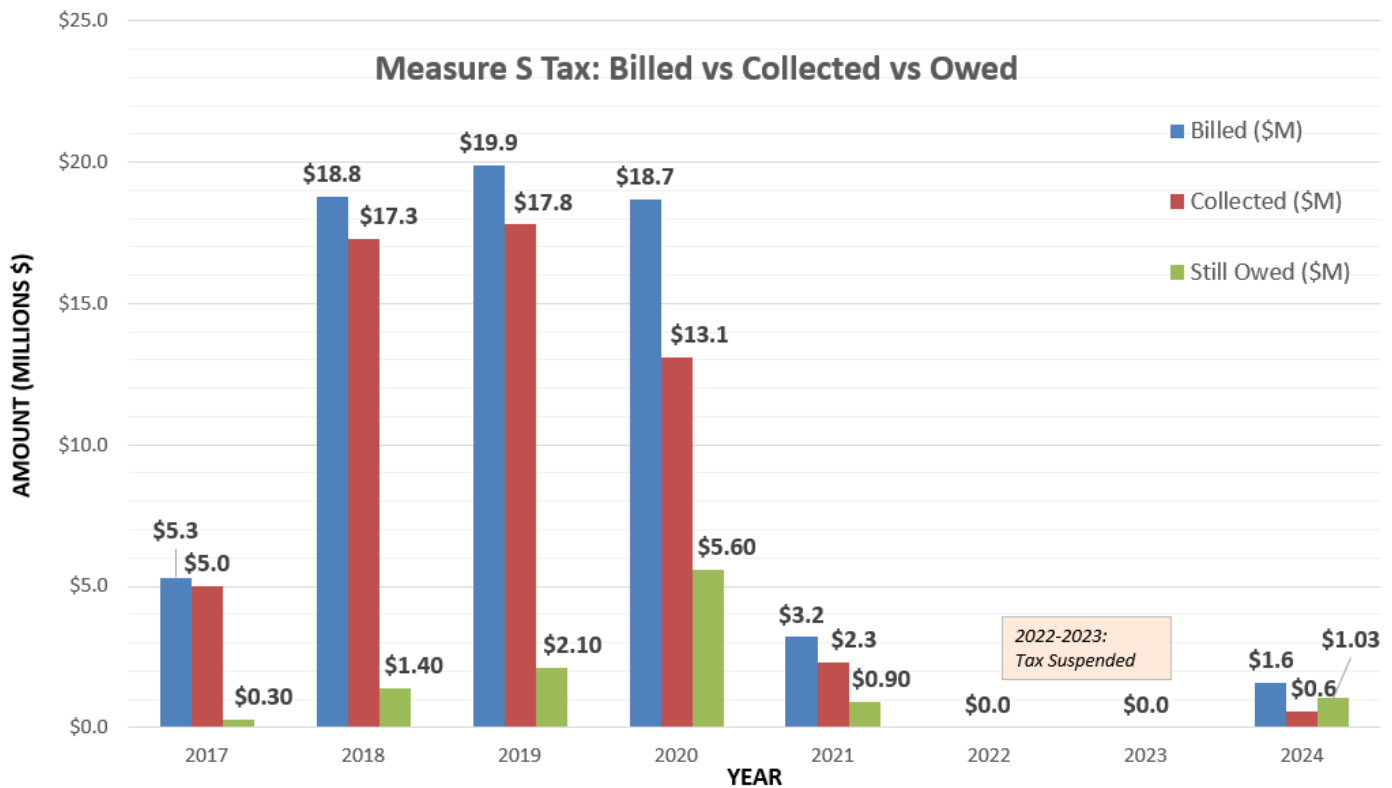
| Measure S Tax Rate History | | | | |
|----------------------------|-------------------|-----------------------|------------------|-----------------------------------------|
| Year | Outdoor (\$/sqft) | Mixed-Light (\$/sqft) | Indoor (\$/sqft) | Notes |
| 2017 | \$1.000 | \$2.000 | \$3.000 | Original rates |
| 2018 | \$1.032 | \$2.064 | \$3.096 | Rates increased after July 1, 2018 |
| 2019 | \$1.073 | \$2.146 | \$3.220 | Annual adjustment |
| 2020 | \$1.084 | \$2.169 | \$3.255 | Annual adjustment |
| 2021 | \$0.169 | \$0.338 | \$0.507 | 85% reduction applied (15% of original) |
| 2022 | \$0.000 | \$0.000 | \$0.000 | Tax suspended |
| 2023 | \$0.000 | \$0.000 | \$0.000 | Tax suspended |
| 2024 | \$0.100 | \$0.200 | \$0.300 | Lowest rates ever - 90% below 2020 |

(Note: Years refer to cultivation years that the tax bills were based on)

Figure 2

| Humboldt County Measure S Cannabis Tax Overview (2017-2024) | | | | |
|-------------------------------------------------------------|--------------|----------------|-----------------|------------------|
| <i>Note: Tax was suspended in 2022-2023</i> | | | | |
| Year | Bills Mailed | Billed (\$M) | Collected (\$M) | Still Owed (\$M) |
| 2017 | 411 | \$5.3 | \$5.0 | \$0.30 |
| 2018 | 1,297 | \$18.8 | \$17.3 | \$1.40 |
| 2019 | 1,081 | \$19.9 | \$17.8 | \$2.10 |
| 2020 | 1,167 | \$18.7 | \$13.1 | \$5.60 |
| 2021 | 1,205 | \$3.2 | \$2.3 | \$0.90 |
| 2022 | 0 | \$0.0 | \$0.0 | \$0.00 |
| 2023 | 0 | \$0.0 | \$0.0 | \$0.00 |
| 2024 | 1,115 | \$1.6 | \$0.6 | \$1.03 |
| TOTAL | 6,276 | \$67.50 | \$56.07 | \$11.33 |

Figure 3



Note: Amounts collected refers to the amounts collected against that cultivation year’s tax bill. For example, the 2020 cultivation was billed in 2021. There was \$18.7 million billed, and through 2025, \$13.1 million has been collected against that tax bill.

Challenges with the Current Tax Structure

Beginning with the issuance of state licenses in early 2018, Humboldt County cannabis growers began experiencing significant competition from large industrial growers in other parts of California, combined with the illegal infusion of cannabis from other states, primarily from Oregon. Humboldt farmers were significantly affected by not having market access primarily because lack of enforcement allowed illegal product into the legal market and because many distributors were taking product without paying the farmers and returning the product later in a damaged condition. The cultivation sector quickly became oversaturated, with licensed growers having enough capacity to produce more than eight times as much cannabis as Californians consume. These factors drove wholesale cannabis prices down significantly.

Additionally, while cannabis growers in Humboldt anticipated that “sun grown” cannabis from legacy growers would be received as higher-value premium product, the marketplace generally pays far less for outdoor cannabis than for either mixed-light or indoor cultivation.

In response to these market factors, the county has taken numerous actions over the years to provide relief to cannabis growers, including reducing or waiving cultivation taxes. The county's tax rates are

currently set at 10% of their initial rates (\$0.10/square foot [sf] for outdoor, \$0.20/sf for mixed-light and \$0.30/sf for indoor), which are the lowest cannabis cultivation tax rates in California. In addition, the county has heavily advocated for reductions in the state cultivation taxes, which were eliminated as of July 1, 2022, via AB 195.

As discussed in the March 25, 2025, staff report on Measure S tax payments, the tax has proven cumbersome to implement. Preparing the base data for Measure S taxes requires approximately 40 staff hours annually at a cost of about \$8,000, and once farmers receive their tax bills, many dispute the taxed amounts, requiring additional staff time to verify actual cultivation areas. This diverts Planning and Building Department staff from other priorities.

Furthermore, Measure S was originally envisioned as a tax that would come out of the bounty associated with legal cannabis. That circumstance has not materialized and is unlikely to occur in the future. Measure S does not produce the anticipated income, is cumbersome to implement, places additional burdens on farmers, and diverts staff time from other beneficial activities.

Options for Board Consideration

The Board of Supervisors has two primary options to consider:

Option 1: Repeal Measure S

The Board could direct staff to return with the necessary documentation to repeal Measure S entirely. The Measure S ordinance (County Code section 719-9) provides authority for the Board to repeal or amend the tax (and even later reinstate it) as long as such action does not increase or broaden the scope of the tax. Repealing Measure S would eliminate the administrative burden on county staff and remove the tax obligation from cannabis cultivators. However, during a time of budgetary challenges this will place more strain on the budget and may exasperate the need for future reductions to other county services.

Option 2: Study and Replace Measure S

The Board could direct staff to contract with HdL Companies to conduct a fiscal analysis of the county's cannabis cultivation tax and develop a new tax ordinance to replace Measure S. This approach would include:

Fiscal Analysis: HdL would conduct an analysis comparing the county's tax structure and rates with those of other jurisdictions in California. The analysis would include a methodology for comparing square footage-based taxes with gross receipts taxes and would provide information on taxes and rates for other commercial cannabis business types, including retail, manufacturing, and distribution. The analysis would also include a general discussion of the cannabis cultivation sector in California

and other relevant market factors.

Tax Ordinance Development: HdL, in conjunction with County Counsel, would develop a draft commercial cannabis tax ordinance to replace Measure S, which would ultimately need to be approved by your Board and placed on the ballot for voter approval. The ordinance would set maximum tax rates for each type of cannabis business permitted by the county and would allow the Board to set rates as desired up to the maximum. The ordinance would specify schedules and procedures for remitting taxes and would allow the county to conduct audits of cannabis businesses to ensure proper reporting and remittance.

Subject Matter Expertise: In addition to the work described above, the proposal includes up to 40 hours of general consulting services that could be used for presentations to the Board, technical assistance, research and analysis, or other needs as requested by the county. This proposal is not only for 40 hours of consulting services.

The consultant has recommended that the cleanest, fastest, and least costly approach to developing a new tax ordinance would be to provide HdL with basic parameters upfront and allow them to draft a new ordinance from scratch, rather than attempting to rewrite Measure S line by line. This method would help keep dialog focused on key decision points rather than getting mired in every detail.

The total cost for the fiscal analysis, ordinance development, and technical assistance would not exceed \$48,000. County staff time will be required for the fiscal analysis (primarily for an initial kickoff meeting, information gathering, and review of the draft report) and development of the tax ordinance itself, in addition to time for internal departmental reviews, staff report development, Board meetings, or other administrative tasks.

If the Board pursues this option, the goal would be to place a new tax measure on the November 2026 ballot.

Cultivation Year 2026/Tax Year 2027

Your Board in November 2024 chose to suspend the cannabis cultivation excise tax for bills due in 2026. The decision before the Board now is to decide whether the taxes that would be due in 2027 (for cultivation that occurred in 2026) should be re-instated and at what level. Cultivators are harvesting crops this fall and preparing for next year's cultivation, and clarity on this policy decision is needed now for operators as they plan their business operations.

Recommendation

Staff recommends the Board provide clear direction on which option to pursue. A fiscal analysis and new tax ordinance could provide the county with a more effective and less burdensome approach to

cannabis taxation that better aligns with current market realities and could potentially expand the tax base beyond cultivation to include other cannabis business activities.

SOURCE OF FUNDING:

General Fund (1100)

FINANCIAL IMPACT:

| <i>Expenditures (Fund, Budget Unit)</i> | FY25-26 | FY26-27 Projected* | FY27-28 Projected* |
|-----------------------------------------|----------------|---------------------------|---------------------------|
| <i>Budgeted Expenses</i> | \$0 | | |
| <i>Additional Appropriation Needed</i> | \$48,000 | | |
| <i>Total Expenditures</i> | \$48,000 | | |

**This is the amount that would be needed if the Board chooses to contract with HdL.*

| <i>Funding Sources (Fund, Budget Unit)</i> | FY25-26 | FY26-27 Projected* | FY27-28 Projected* |
|--------------------------------------------|----------------|---------------------------|---------------------------|
| <i>Contingencies</i> | \$48,000 | | |
| <i>Total Funding Sources</i> | \$48,000 | | |

Narrative Explanation of Financial Impact:

If your Board selections Option 1 to repeal Measure S, cultivators would still owe the county \$11.45 million in past due balances, as well as \$1.052 million for the current tax year. Your Board has already directed that the cultivation tax be suspended for Tax Year 2026, and repealing the tax indefinitely would result in no additional revenue beyond the amounts currently owed. In this scenario staff would still continue to work to collect past due amounts, but it would also eliminate the significant staff expense related to confirming square footage for taxation purposes, as described in the March 25, 2025, agenda item.

If the Board selects Option 2, the cost for consulting services would not exceed \$48,000. This cost is not currently budgeted and would require a budget amendment and use of contingency funds. If your Board eventually chose to place a measure on the ballot there could be additional costs for public education efforts to inform voters of the measure.

STAFFING IMPACT:

Narrative Explanation of Staffing Impact:

Not applicable at this time. County staff time requirements are discussed in the body of this report.

OTHER AGENCY INVOLVEMENT:

Treasurer Tax Collector, Planning and Building Department

If Option 2 is selected: HdL Companies (consultant)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to maintain the current Measure S tax structure without modification. However, given the administrative challenges and limited revenue generation discussed in this report and in the March 25, 2025, staff report, staff does not recommend this alternative.

The Board could also direct staff to develop modifications to Measure S internally without engaging a consultant. However, the complexity of cannabis taxation and the benefit of comparative analysis with other jurisdictions suggests that consultant expertise would be valuable.

ATTACHMENTS:

1. HdL Proposal

File #: 25-1233

PREVIOUS ACTION/REFERRAL:

Meeting of: Nov. 12, 2024; March 25, 2025

File No.: 24-1504; 25-368