

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
FISCAL IMPACT**

<b>Drafting Number:</b> LLS 14-1056	<b>Date:</b> April 30, 2014
<b>Prime Sponsor(s):</b> Sen. Steadman Rep. Duran; Gerou	<b>Bill Status:</b> Senate Health and Human Services <b>Fiscal Analyst:</b> Clare Pramuk (303-866-2677)

**SHORT TITLE:** DISPOSITION OF LEGAL MARIJUANA RELATED REVENUE

<b>Fiscal Impact Summary*</b>	<b>FY 2014-2015</b>	<b>FY 2015-2016</b>
<b>State Revenue</b>	<b><u>\$0</u></b>	
<i>State Transfers</i>		
Cash Funds	(33.2 million)	
Cash Funds	33.2 million	
Cash Funds	(5.7 million)	
General Fund	5.7 million	
<b>State Expenditures**</b>	<b><u>\$24,324,882</u></b>	<b><u>\$19,052,026</u></b>
General Fund	3,500,000	0
Cash Funds	19,052,026	19,052,026
Federal Funds	1,772,856	0
<b>FTE Position Change</b>	11.2 FTE	11.2 FTE
<b>Appropriation Required:</b> \$24,324,882 - Multiple Agencies (2014-15)		

\* This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.

**Summary of Legislation**

**As recommended by the Joint Budget Committee**, this bill creates the Marijuana Tax Cash Fund (MTCF) for tax revenue collected in connection with the retail marijuana industry. These taxes include:

- excise tax revenue on wholesale marijuana in excess of \$40 million per year;
- the 10 percent sales tax revenue less 15 percent to local governments; and
- sales tax revenue from the 2.9 percent state sales tax on both retail and medical marijuana.

Funds in the Marijuana Cash Fund (MCF) not attributable to licensing fees will be transferred to the MTCF on July 1, 2014. Programs currently funded from the MCF in the Department of Law, Department of Public Health and Environment (DPHE), Department of Public Safety (DPS) and the Department of Revenue (DOR) will now be funded from the MTCF. A \$2.0 million transfer currently made from the MCF to the General Fund will now be from the MTCF.

Funds in the MTCF cannot be appropriated for the fiscal year in which they were received by the state except the appropriation to the DOR for the direct and indirect costs of regulating medical and retail marijuana. Any money not appropriated to the DOR may be appropriated by the General Assembly based on the most recent estimate of revenue prepared by the staff of the Legislative Council or the DOR. Beginning in FY 2015-16, 93.5 percent of the moneys in the MTCF will be available for appropriation.

The bill identifies the purposes for which moneys may be appropriated from the MTCF, which include:

- the study of law enforcement's activity and costs related to the legalization of retail marijuana;
- the coordination of the Executive Branch response to the legalization of retail marijuana;
- increasing the expertise and knowledge among prosecutors and law enforcement officials regarding the legal and regulatory issues surrounding the legalization of marijuana;
- obtaining health data through surveys or other means regarding marijuana and other drug use and monitoring the health effects of marijuana, including changes in drug use patterns and the emerging science and medical information relevant to the health effects associated with marijuana use;
- advanced roadside impaired driving enforcement training and drug recognition expert training for peace officers;
- developing and implementing marijuana education and prevention campaigns;
- providing inpatient treatment for adults who suffer from co-occurring disorders at the Colorado Mental Health Institute at Pueblo;
- increasing the availability of school-based prevention, early intervention, and health care services and programs to reduce the risk of marijuana and other substance use and abuse by school-aged children;
- funding community-based programs to provide marijuana prevention and intervention services to youth;
- funding local judicial district-based programs to provide marijuana prevention and intervention services to pre-adjudicated and adjudicated youth;
- expanding the provision of jail-based behavioral health services in underserved counties and to enhance the provision of jail-based behavioral health services to offenders transitioning from jail to the community to ensure continuity of care; and
- providing substance use disorder treatment services for adolescents and pregnant women.

The bill appropriates funds for the following:

- creating the School Health Professional Grant Program in the Department of Education (CDE);
- creating the Office of Marijuana Coordination in the Governor's Office;
- two marijuana education and prevention campaigns conducted by the DPHE;
- creating the School-based Substance Abuse Prevention and Intervention Grant Program in the Department of Health Care Policy and Financing (HCPF); and
- expanding the Tony Gramsas Youth Services Program in the Department of Human Services (DHS).

The bill also authorizes the Division of Criminal Justice in the DPS roll-forward spending authority for up to \$45,000 of a current year appropriation from the MCF to FY 2014-15 for gathering data and studying law enforcement's activity and costs related to the implementation of retail marijuana.

## **Background**

Proposition AA created an excise tax of up to 15 percent of the average market rate of the unprocessed retail marijuana on its first sale or transfer from a cultivation facility to a retail store, product manufacturing facility, or other cultivation facility. As required by Amendment 64, the first \$40 million collected annually in excise tax goes to the Public School Capital Construction Assistance Fund. Under current law, any amount remaining is deposited into the Marijuana Cash Fund.

The measure also authorized a retail marijuana sales tax of up to 15 percent, which is currently set at 10 percent. This tax is in addition to the current 2.9 percent state sales tax. Local jurisdictions will receive 15 percent of the proceeds of the retail marijuana sales tax apportioned according to the percentage of retail marijuana sales in their areas, distributed monthly. The General Assembly can raise or lower the retail marijuana sales tax at any time through legislation, but cannot increase it above 15 percent. Beginning April 1, 2014, and annually through April 1, 2016, the House and Senate Finance Committees are required to review the percent of revenue allocated to local governments is set at the appropriate level.

The Legislative Council's March forecast for marijuana tax revenues for FY 2013-14 is \$21.3 million.

## **State Revenue**

**State transfers.** This bill transfers \$33,200,000 from the MCF to the MTCF, and \$5,727,500 from the MTCF to the General Fund in FY 2014-15 only.

## **State Expenditures**

This bill increases expenditures by **\$24,324,882 and 11.2 FTE in FY 2014-15 and \$19,052,026 and 11.2 FTE in FY 2015-16.**

Beginning in FY 2014-15:

- The Department of Education is appropriated \$3,000,000 and 1.0 FTE, for the Office of Student Nutrition for grants to local education providers from the MTCF;
- The Governor's Office is appropriated \$190,097 and 2.0 FTE from the MTCF for the creation of the Office of Marijuana Coordination;
- HCPF is appropriated a total of \$5,272,856. Of this \$3,272,856 is for behavioral health community programs for school-based prevention and intervention substance use disorder services provided by behavioral health organizations. This will be funded with \$1,500,000 General Fund and \$1,772,856 in federal funds. The cost for implementation of the school-based substance abuse prevention and intervention program for general professional services and special projects and behavioral health community programs for grant awards is \$2,000,000 General Fund. This funding is assumed for FY 2014-15 only.

- DHS is appropriated \$7,500,000 from the MTCF for the following programs:
  - \$2,000,000 to the Division of Child Welfare for enhancement of the Tony Grampsas Youth Services Program;
  - \$1,500,000 to the Office of Behavioral Health for substance use treatment and prevention, treatment and detoxification contracts, for the provision of substance use disorder treatment services for adolescents and pregnant women;
  - \$2,000,000 to the Office of Behavioral Health for the expansion and enhancement of jail-based behavioral health services; and
  - \$2,000,000 to the Division of Youth Corrections for the enhancement of SB 91-94 programs that fund alternatives to incarceration at the local level.
- The Department of Law is appropriated \$1,624,760 and 3.0 FTE. Of this \$456,760 and 2.0 FTE are for the Special Prosecutions Unit and \$1,168,000 and 1.0 FTE, are for Peace Officer Standards and Training Board support for expanded training activities and associated costs.
- DPHE is appropriated 6,737,169 and 5.2 FTE. Of this \$5,833,608 and 3.7 FTE are for the Prevention Services Division for the expenses of the marijuana education campaign, and \$903,561 and 1.5 FTE are for the Healthy Kids Colorado survey.

### **Local Government**

A number of the appropriations included in this bill fund programs at the local level including schools, jail-based, and behavioral health community programs.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

### **State Appropriations**

For FY 2014-15:

- The Department of Health Care Policy and Financing is appropriated \$3,500,000 General Fund and \$1,772,856 federal funds;
- the Department of Education is appropriated \$3,000,000 and 1.0 FTE from the MTCF;
- the Governor's Office is appropriated \$190,097 and 2.0 FTE from the MTCF;
- the Department of Human Services is appropriated \$7,500,000 from the MTCF;
- the Department of Law is appropriated \$1,624,760 and 3.0 FTE from the MTCF; and
- the Department of Public Health and Environment is appropriated \$6,737,169 and 5.2 FTE from the MTCF.

### **State and Local Government Contacts**

Joint Budget Committee Staff