

Colorado Legislative Council Staff Fiscal Note

STATE
REVISED FISCAL IMPACT

(replaces fiscal note dated February 13, 2015)

Drafting Number: LLS 15-0106 **Date:** April 9, 2015
Prime Sponsor(s): Sen. Aguilar **Bill Status:** Senate Appropriations
 Rep. Singer **Fiscal Analyst:** Lauren Schreier (303-866-3523)

BILL TOPIC: MEDICAL MARIJUANA

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	\$1,254,272	\$379,490
Cash Funds	\$1,242,264	\$355,001
Centrally Appropriated Costs**	\$12,008	\$24,489
FTE Position Change	1.0 FTE	2.0 FTE
Appropriation Required: \$1,242,264 - Multiple Agencies (FY 2015-16).		

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

The bill, **as amended by the Senate Health and Human Services Committee**, makes several changes to the regulation of medical marijuana in Colorado. The bill requires the Colorado Medical Board within the Department of Regulatory Agencies (DORA) to adopt rules and establish guidelines for physicians making medical marijuana recommendations for patients suffering from severe pain. The bill also requires the Department of Public Health and Environment (DPHE) to establish guidelines for primary caregivers to help provide informed consent to medical marijuana patients. Informed consent will include information that the products cultivated or produced may contain contaminants and unverified cannabinoid levels. The DPHE must also convene a group including representatives from the state licensing authority, primary caregivers, patients, marijuana testing laboratory licensees, and any other interested persons to explore potential laboratory testing options for medical marijuana not produced by someone licensed pursuant to the Colorado Medical Marijuana Code.

The bill makes several changes to the definition and requirements for primary caregivers. Under the bill, primary caregivers may have one or more of the following relationships with a patient:

- a parent of a child and anyone who assists that parent with caregiver responsibilities, including cultivation and transportation of medical marijuana;
- a caregiver who advises a patient on which medical marijuana products to use and at what dosage but does not possess, provide, cultivate, or transport medical marijuana on behalf of the patient;
- a transporting caregiver who purchases and transports marijuana to a patient who is homebound; or
- a cultivating caregiver who grows medical marijuana for a patient.

The bill specifies that primary caregivers must register with the Department of Revenue (DOR), the state licensing authority. Primary caregivers must provide the location of any cultivation operation and the number of plants that the caregiver is authorized to cultivate to the DOR. The DOR may verify patient registration numbers and extended plant count numbers with the DPHE to confirm that a patient does not have more than one primary caregiver, or does not have both a designated caregiver and medical marijuana center cultivating medical marijuana on his or her behalf at any given time. All patients cultivating more than six medical marijuana plants for their own medical use are encouraged to register with the DOR. All patients who choose to register must update his or her information upon renewal of his or her medical marijuana registry card.

The DOR will provide cultivation information for patients who choose to register to state and local law enforcement through the Colorado Crime Information Center. The Colorado Bureau of Investigation (CBI) will include proper use of medical marijuana information in audits of state and local law enforcement agencies.

The bill permits peace officers making law enforcement contact with a primary caregiver who fail to provide proper documentation showing registration with the DOR, to report the caregiver to the DOR or take appropriate law enforcement action. The primary caregiver may be subject to any chargeable criminal offenses. The bill also allows the DOR to share the minimum necessary information in accordance with applicable federal and state laws to verify that a patient only has one entity cultivating medical marijuana on his or her behalf at any given time.

The bill also allows for moneys in the Marijuana Tax Cash Fund to be used to fund the implementation of any bills approved by the Marijuana Revenues Interim Committee.

State Expenditures

The bill will increase workload in some state agencies. In FY 2015-16 the bill increases expenditures by \$1,242,264 and 1.0 FTE and \$355,001 and 2.0 FTE in FY 2016-17. In the DOR the bill increases expenditures by \$1,194,272 and 1.0 FTE in FY 2015-16 and \$305,483 and 1.0 FTE in FY 2016-17. In the DPS the bill increases expenditures by \$60,000 in FY 2015-16 and \$74,007 and 1.0 FTE in FY 2016-17. These costs, outlined in Table 1, are described below.

Table 1. Expenditures Under SB 15-014		
Cost Components	FY 2015-16	FY 2016-17
<i>Department of Revenue</i> (DOR)		
Personal Services	\$51,345	\$51,345
FTE	1.0 FTE	1.0 FTE
Operating Expenses and Capital Outlay Costs	5,653	950
Legal Services	56,706	56,706
Medical Marijuana Registry Database Enhancement**	1,068,560	184,060
Centrally Appropriated Costs*	12,008	12,422
DOR - TOTAL	\$1,194,272	\$305,483

Table 1. Expenditures Under SB 15-014 (Cont.)		
Cost Components	FY 2015-16	FY 2016-17
Department of Public Safety (DPS)		
Personal Services	\$0	\$47,287
FTE	0.0 FTE	1.0 FTE
Operating Expenses and Capital Outlay Costs	\$0	5,653
Information Technology Enhancements	60,000	9,000
Centrally Appropriated Costs*	0	12,067
DPS - TOTAL	\$60,000	\$74,007
COMBINED TOTAL - DOR and DPS	\$1,254,272	\$379,490

* Centrally appropriated costs are not included in the bill's appropriation.

** Although the DOR will oversee the construction of the new database system, the project will be funded through DPHE's Medical Marijuana Registry Cash Fund. In FY 2015-16, the DPHE will appropriate \$1,068,560 to the OIT for this work.

Department of Revenue. The bill increases costs in the DOR by \$1,194,272 and 1.0 FTE in FY 2015-16 and \$305,483 and 1.0 FTE in FY 2016-17. The bill requires the DOR to create a system that allows caregivers to update required information online. The new database system must also share data concerning caregiver patient and plant count information between the DOR, the DPHE, and the DPS. The DOR will contract with the Office of Information Technology (OIT) to complete this work. The new database system will comply with the OIT and the State of Colorado Cyber Security Policy.

The DOR requires ongoing additional staff to monitor the system, respond to requests for assistance from caregivers, provide ongoing training to law enforcement, routine communication with other departments and monitor the use of aggregate data from the system. The additional staff will also serve as a liaison between the DPHE and the DPS.

The DOR also requires legal services from the Department of Law at a cost of \$56,706 or approximately 600 hours of counsel in both FY 2015-16 and FY 2016-17. The DOR will require legal services to select an appropriate vendor, ensure the new database system meets all necessary requirements and provide general counsel as deemed necessary.

Department of Public Safety (DPS). The bill increases costs in the DPS by \$60,000 in FY 2015-16 and \$74,007 and 1.0 FTE in FY 2016-17. The bill requires the DPS to include medical marijuana information in law enforcement questionnaires. The information technology enhancements required will cost \$60,000 in FY 2015-16. In FY 2016-17, the bill requires additional staff to provide audit reviews of medical marijuana transactions. This staff will be responsible for auditing the proper use, storage, and creation of electronic medical marijuana information by law enforcement agencies.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under SB 15-014*		
Cost Components - Department of Revenue	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,028	\$8,028
Supplemental Employee Retirement Payments	3,980	4,394
Cost Components - Department of Public Safety		
Employee Insurance (Health, Life, Dental, and Short-term Disability)	0	8,020
Supplemental Employee Retirement Payments	0	4,047
TOTAL	\$12,008	\$24,489

*More information is available at: <http://colorado.gov/fiscalnotes>

Department of Public Health and Environment (DPHE). The bill increases workload in the DPHE by a minimal amount. The bill requires the DPHE to create guidelines for primary caregivers concerning informed consent to patients that the products cultivated or produced may contain contaminants and unverified cannabinoid levels. The bill also requires the DPHE to convene a working group of interested parties to explore topics related to medical marijuana. This will increase workload in the DPHE by a minimal amount but can be accomplished with existing appropriations.

Department of Regulatory Agencies (DORA). The bill will increase workload in the DORA by a minimal amount. The Colorado Medical Board within the DORA will adopt rules and guidelines for physicians making medical marijuana recommendations to patients. The DORA will conduct some rulemaking and outreach to communicate the changes with licensed physicians. However, any workload increase is anticipated to be minimal and can be accomplished within existing appropriations.

Effective Date

The bill takes effect upon passage, except that sections 25-1.5-106 (7), (8.5), and (8.6) of section 3 take effect January 1, 2017.

State Appropriations

In FY 2015-16 the bill requires an appropriation of \$1,242,264 and 1.0 FTE. Of this amount:

- \$1,068,560 from the Medical Marijuana Program Cash Fund will be appropriated to the Department of Public Health and Environment and then reappropriated to the Office of Information Technology;
- \$113,704 and an allocation of 1.0 FTE will be appropriated from the Marijuana Tax Cash Fund to the Department of Revenue; of which \$56,706 will be reappropriated to the Department of Law; and
- \$60,000 will be appropriated from the Marijuana Tax Cash Fund to the Department of Public Safety.

State and Local Government Contacts

Public Health and Environment
Revenue
Public Safety

Regulatory Agencies
Counties