# Colorado Legislative Council Staff Fiscal Note

# STATE FISCAL IMPACT

**Drafting Number:** LLS 15-0840 **Date:** March 25, 2015

Prime Sponsor(s): Rep. Lebsock Bill Status: House Health, Insurance & Environment

Sen. Holbert Fiscal Analyst: Clare Pramuk (303-866-2677)

BILL TOPIC: MARIJUANA REFERENCE LIBRARY AND LAB TESTING ACCESS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017	
State Revenue			
State Expenditures	\$83,851	\$74,893	
Cash Funds	70,721	61,315	
Centrally Appropriated Costs**	13,130	13,578	
FTE Position Change	1.1 FTE	1.1 FTE	
Appropriation Required: \$70,721 - Department of Public Health and Environment (FY 2015-16)			

<sup>\*</sup> This summary shows changes from current law under the bill for each fiscal year.

# **Summary of Legislation**

This bill requires the Department of Public Health and Environment (DPHE) to develop and maintain, or contract with an organization that represents marijuana testing laboratories, for a marijuana testing reference library to be funded from the Marijuana Tax Cash Fund. The reference library will be responsible for proficiency testing and remediating problems with medical and retail marijuana laboratories. The reference library must contain a library of methodologies for marijuana testing in the areas of potency, homogeneity, contaminants, and solvents. The DPHE will complete a stakeholder process by September 1, 2015; the reference library and methodologies will be in place by December 31, 2015.

The bill creates a medical marijuana testing facility license to be issued by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR). A medical marijuana testing facility may test marijuana or marijuana-infused products for any medical marijuana licensee or medical marijuana patient registered with DPHE, but is prohibited from performing process validation for registered medical marijuana patients. The MED will promulgate rules related to acceptable testing and research practices.

The bill establishes provisions to prevent conflicts of interest between licensed medical marijuana testing facilities and other medical marijuana licensees. However, a retail marijuana testing facility licensee may also hold a license for a medical marijuana testing facility.

The bill allows a retail marijuana testing facility to perform Delta-9 Tetrahydrocannabinol (THC) concentration-level testing for industrial hemp. The bill exempts from continued homogeneity testing individual marijuana pieces of ten milligrams or less that have gone through process validation and permits process validation for 100 milligram servings.

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

# Background

Under current law, recreational marijuana is tested for potency, homogeneity, and contaminants. If a retail marijuana facility's cultivation or manufacturing process is validated, meaning that the process is proven capable of consistently producing marijuana, marijuana concentrate, or a marijuana product that passes contaminant tests, additional testing is not required unless the facility makes a material change to the process. Testing is optional for medical marijuana.

Industrial hemp is regulated by the Department of Agriculture (DOA). Industrial hemp cannot contain a THC concentration of 0.3 percent on a dry weight basis. While the DOA has the means to test plants for THC concentration as part of its inspection process, testing facilities regulated by the DOR are not permitted to test industrial hemp samples.

### **State Revenue**

As noted in Technical or Mechanical Defects section, the bill creates a new license type, but does not provide the MED with the authority to issue the new license. As a result, the bill has no licensing revenue.

# **State Expenditures**

The bill increases expenditures for the DPHE by \$83,851 and 1.1 FTE in FY 2015-16 and \$74,893 and 1.1 FTE in FY 2016-17 and thereafter, from the Marijuana Tax Cash Fund. These costs are listed in Table 1 and explained below.

Table 1. Expenditures Under HB15-1283					
Cost Components	FY 2015-16	FY 2016-17			
Personal Services	\$55,491	\$55,491			
FTE	1.1	1.1			
Operating Expenses and Capital Outlay Costs	15,230	5,824			
Centrally Appropriated Costs*	13,130	13,578			
TOTAL	\$83,851	\$74,893			

<sup>\*</sup> Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. This analysis assumes that the bill will be implemented July 1, 2015.

**Department of Public Health and Environment.** The DPHE will hire a physical research scientist and an administrative assistant who, with other DPHE staff, will conduct a stakeholder process. Staff will then establish the reference library and collect, review and maintain laboratory testing methodology. Costs include travel expenses of \$4,874 for the physical research scientist to attend training required for testing certifications.

**Marijuana Enforcement Division, DOR.** As noted in Technical or Mechanical Defects section, the bill does not provide the MED with the authority to issue the medical marijuana testing facility license, so the fiscal note assumes there are no expenditures or workload associated with implementation for the MED.

**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 15-1283*				
Cost Components	FY 2015-16	FY 2016-17		
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,829	\$8,829		
Supplemental Employee Retirement Payments	4,301	4,749		
TOTAL	\$13,130	\$13,578		

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

### **Technical or Mechanical Defects**

The bill creates a medical marijuana testing facility license without providing the MED with the authority to issue such a license. The fiscal note, therefore, assumes this will not be implemented.

#### **Effective Date**

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

## **State Appropriations**

For FY 2015-16, the Department of Public Health and Environment requires an appropriation of \$70,721 from the Marijuana Tax Cash Fund, and an allocation for 1.1 FTE.

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

Agriculture Public Health and Environment Revenue