

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE RECOMMENDATIONS MADE IN THE PUBLIC PROCESS FOR THE PURPOSE OF IMPLEMENTING RETAIL MARIJUANA LEGALIZED BY SECTION 16 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

Prime Sponsors: Representative Pabon

JBC Analyst: David Meng

Phone: 303-866-2061

Date Prepared: April 25, 2013

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/23/13.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
XXX	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The House State, Veterans, and Military Affairs Committee Report (04/24/13) added provisions identical to H.B. 13-1114 (reengrossed version) that set standards for driving with blood levels of delta 9-tetrahydrocannabinol (THC), allowing a permissible inference that a driver was under the influence of one or more drugs when the blood level of THC exceeds 5 nanograms per milliliter of blood. This amendment requires an appropriation of \$12,000 General Fund for FY 2013-14 to the Office of the State Public Defender for retesting and expert witness expenses as well as General Fund appropriations totaling \$26,367 to the Department of Corrections to cover increased operational expenses.

In addition, this analysis assumes that the other amendments adopted by the House State, Veterans, and Military Affairs Committee Report (04/24/13) and the House Finance Committee Report (04/25/13) have minimal or no fiscal impact and any fiscal impact can be absorbed within the appropriations identified in the Legislative Council Staff Fiscal Note. Legislative Council Staff agrees with this assessment.

There are additional minor updates to the Legislative Council Staff Fiscal Note:

- The Fiscal Note identifies a need for the Division of Law to provide 915 hours of legal services to the Department of Revenue for FY 2013-14. It identifies a rate of \$91.08. Pursuant to the 2013 common policies for fiscal notes, the rate should have been \$77.25, reducing the required appropriation by \$12,654.
- The Fiscal Note identifies information technology services of \$445,532, including contract services for programming to the GenTax (CITA) system and services provided by the

Governor's Office of Information Technology. Of this amount, \$56,492 needs to be reappropriated to the Governor's Office of Information Technology (OIT) for services provided to the Department of Revenue.

- Minor technical differences in the appropriation to the Department of Revenue.

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating \$4,154,759 General Fund for FY 2013-14 to the Marijuana Cash Fund, \$923,962 total funds and 3.9 FTE for FY 2013-14 to several departments, and a statutory appropriation of \$26,367 over several fiscal years. The appropriations are allocated as follows:

1. \$4,154,759 General Fund to the Marijuana Cash Fund;
2. \$629,026 cash funds and 2.7 FTE from the Marijuana Cash Fund to the Department of Revenue to fund the operations of Marijuana Enforcement Division, the purchase of Computer Center Services from OIT, and the purchase of legal services from the Department of Law;
3. \$70,684 reappropriated funds to the Department of Law for the provision of legal services to the Department of Revenue;
4. \$56,492 reappropriated funds to the Governor's Office of Information Technology for the provision of Computer Center Services to the Department of Revenue;
5. \$155,760 cash funds and 0.7 FTE from the Colorado Bureau of Investigation Identification Unit Fund to the Department of Public Safety, Colorado Bureau of Investigation for fingerprint-based criminal history record checks;
6. \$12,000 General Fund to the Judicial Department, Office of the Public Defender for retesting and expert witness testimony expenses; and
7. A total of \$26,367 General Fund to the Department of Corrections for FY 2014-15 and FY 2015-16 to cover the increased correctional facility operational costs anticipated in the first five fiscal years following passage of the bill.

Points to Consider

General Fund Impact

1. The Joint Budget Committee has proposed a budget package for FY 2013-14 based on the March 2013 Office of State Planning and Budgeting revenue forecast. The budget package

allocates all but approximately \$9.0 million of General Fund revenues projected to be available. Pursuant to S.B. 13-236, this \$9.0 million General Fund will be transferred to the Colorado Water Conservation Board (CWCB) Construction Fund. This bill requires General Fund appropriations totaling \$4,166,759 and reduces General Fund revenues by \$1.5 million for FY 2013-14 and thus will reduce the transfer to the CWCB Construction Fund by those amounts.

2. The bill creates the new Marijuana Cash Fund, which would consist of fees charged to businesses licensed by the State Licensing Authority, excise tax or sales tax revenues, and General Fund moneys appropriated by the General Assembly to the Cash Fund. The bill appropriates \$4,154,759 General Fund to the Cash Fund. The bill requires the General Assembly to direct the State Treasurer to transfer moneys from the Cash Fund to the General Fund to repay this initial and subsequent appropriations once revenues to the Cash Fund are sufficient to fund the Marijuana Enforcement Division's appropriations.
3. While this bill generates \$4.2 million in sales tax revenue, approximately 54.0 percent of the sales of medical marijuana will shift to the retail market, thus reducing sales taxes from medical marijuana by \$1.5 million. Since this bill dedicates sales taxes collected from the sales of retail marijuana to the Marijuana Cash Fund, the net result is the General Fund reduction identified in paragraph 1 above.
4. The FY 2013-14 Long Bill includes appropriations of \$6.0 million for the Medical Marijuana Enforcement Division in the Department of Revenue. Under this bill, the Medical Marijuana Enforcement Division (MMED) becomes the Marijuana Enforcement Division (MED), and all appropriations to the MMED for FY 2013-14 are appropriations to the MED for FY 2013-14. Likewise, the Medical Marijuana License Cash Fund becomes the Marijuana Cash Fund and the MED is authorized to expend moneys from the Marijuana Cash Fund. Thus, for FY 2013-14, the combined appropriations from the Marijuana Cash Fund are \$6,609,703 and 57.9 FTE.