



**Colorado  
Legislative  
Council  
Staff**

**SB17-192**

**FINAL  
FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0941 **Date:** September 15, 2017  
**Prime Sponsor(s):** Sen. Neville T. **Bill Status:** Signed into Law  
 Rep. Melton; Singer **Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** MARIJUANA BUSINESS EFFICIENCY MEASURES

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<b><u>\$64,023</u></b>	<b><u>\$35,137</u></b>
Cash Funds	64,023	35,137
<b>State Expenditures</b>	<b><u>\$73,623</u></b>	<b><u>\$35,137</u></b>
General Fund	9,600	
Cash Funds	59,458	29,349
Centrally Appropriated Costs	4,565	5,788
<b>FTE Position Change</b>	0.3 FTE	0.4 FTE
<b>Appropriation Required:</b> \$69,058 - Department of Revenue (FY 2017-18).		
<b>Future Year Impacts:</b> Ongoing revenue and expenditure increase.		

**Summary of Legislation**

The bill makes a number of changes to the regulation of medical and retail marijuana as well as the taxation of retail marijuana which include:

- changing the provisions for calculating the average market rate;
- creating a contract price to use when calculating excise taxes between unaffiliated retail marijuana businesses;
- increasing the number of times that the average market rate is calculated by the Department of Revenue (DOR) from two to four times per year;
- clarifying that the Marijuana Enforcement Division in the DOR can take action against a licensee upon a violation of law whether the license active, expired, or surrendered;
- allowing a retail marijuana licensee to retest a product if an initial test indicates the presence of any substance determined to be injurious to health;
- requiring the DOR to provide local governments with information on excise tax collections under a confidential shared-use agreement; and
- creating a local medical marijuana business operator license.

## Background

**Average market rate.** Retail marijuana is subject to a 15 percent excise tax collected when marijuana is transferred from a grow facility to a retail store or a processing facility. The DOR calculates the average market rate every six months for five different types of marijuana: marijuana flower, trim, immature plants, wet whole plant, and marijuana seeds. The average market rate calculated by the DOR is currently used to calculate the excise tax for both transactions between affiliated and unaffiliated marijuana businesses.

## State Revenue

**This bill will increase state cash fund revenue by \$64,023 in FY 2017-18 and \$35,137 in FY 2018-19 to the Marijuana Cash Fund in the DOR.** The bill may also affect excise tax revenue but the amount of excise tax revenue collected is based on a variety of factors and cannot be determined.

**Fee impact on retail marijuana licensees.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. This bill will require a fee increase for retail marijuana licensees to cover the expenditures of the bill. If the expenditures are divided equally among all 1,397 retail marijuana licensees, the increase per licensee will be approximately \$46 in FY 2017-18 and \$25 in FY 2018-19. Actual fee calculations will be set administratively by the Department of Revenue based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee.

## State Expenditures

**This bill will increase cash fund expenditures in the DOR by \$73,623 and 0.3 FTE in FY 2017-18 and \$35,137 and 0.4 FTE in FY 2018-19.** Of this, \$9,600 in FY 2017-18 is from the General Fund, while \$64,023 and \$35,137 is from the Marijuana Cash Fund in FY 2017-18 and FY 2018-19 respectively. These costs are shown in Table 1 and explained below.

<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Personal Services	\$24,458	\$29,349
FTE	0.3 FTE	0.4 FTE
Computer Programming	44,600	0
Centrally Appropriated Costs*	4,565	5,788
<b>TOTAL</b>	<b>\$73,623</b>	<b>\$35,137</b>

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

**Calculation of average market rate.** The bill requires the average market rate to be calculated twice as often so the DOR will increase its statistical staff by 0.3 FTE in FY 2017-18, and 0.4 FTE in FY 2018-19 and thereafter to perform the analysis more frequently. The fiscal note assumes a September 1, 2017, start date in FY 2017-18.

**Computer programming.** The DOR will have costs to modify its computer systems in FY 2017-18 only. To put the new average market rates into operation, the DOR will contract with its computer system vendors to update its taxation system, GenTax, at a cost of \$9,600 for 48 hours of programming, at a rate of \$200 per hour from the General Fund. To identify whether a transfer of marijuana is between affiliated or unaffiliated retail marijuana businesses for purposes of applying the average market rate, the DOR will update its marijuana tracking system, METRC, at a cost of \$35,000 from the Marijuana Cash Fund.

**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.

<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$2,373	\$3,158
Supplemental Employee Retirement Payments	2,192	2,630
<b>TOTAL</b>	<b>\$4,565</b>	<b>\$5,788</b>

### **Local Government Impact**

This bill will affect local governments in two ways. Local governments that issue medical marijuana licenses will have an increase in revenue and expenditures for the new medical marijuana business operator license. For local governments that levy an excise tax on retail marijuana, the changes to the frequency and method of calculating the average market rate will have an impact on revenue collected. Because of the variety of factors involved in the retail marijuana market, the effect on revenue collected for excise taxes cannot be determined. Receiving information on taxes collected from the Department of Revenue may increase workload at the local level to monitor the completeness of their tax collections.

### **Effective Date**

The bill was signed into law by the Governor on June 2, 2017, and became effective on August 9, 2017.

### **State Appropriations**

For FY 2017-18 the bill includes the following appropriations for the Department of Revenue:

- \$9,600 from the General Fund; and
- \$59,458 from the Marijuana Cash Fund and an allocation of 0.3 FTE.

**State and Local Government Contacts**

Counties	Law
Municipalities	Public Health and Environment
Public Safety	Revenue