



## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# FINAL FISCAL NOTE

<b>Drafting Number:</b>	LLS 18-1244	<b>Date:</b>	July 11, 2018
<b>Prime Sponsors:</b>	Sen. Marble Rep. Hooton; Ransom	<b>Bill Status:</b>	Lost in Senate
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**Bill Topic:** MED MARIJUANA CONDITION OPIATES PRESCRIBED FOR

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue ( <i>minimal</i> )	<input checked="" type="checkbox"/> TABOR Refund ( <i>minimal</i> )
<input type="checkbox"/> State Expenditure ( <i>minimal</i> )	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill would have added a condition for which a physician could prescribe an opiate for pain to the list of disabling medical conditions for which medical marijuana may be used. The bill would have created an ongoing impact on state revenue and expenditures.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

## Summary of Legislation

The bill creates a statutory right for a patient with a condition for which a physician could prescribe an opiate for pain to use medical marijuana. The bill creates the same rights, limitations, affirmative defense, and exceptions from criminal laws for these conditions as the constitutional right to use medical marijuana for other debilitating conditions.

## Background

**Eligible conditions.** Under current law, the following conditions qualify a patient to receive a medical marijuana registry card with a doctor's recommendation:

- cancer;
- glaucoma;
- HIV or AIDS positive;
- post-traumatic stress; and
- a chronic or debilitating disease or medical condition that produces one or more of the following:
  - ▶ cachexia (wasting syndrome);
  - ▶ persistent muscle spasms;
  - ▶ seizures;
  - ▶ severe nausea; or
  - ▶ severe pain.

**Medical marijuana registry program information.** According to the Colorado Department of Public Health and Environment (CDPHE), as of February 28, 2018, there are 93,314 persons authorized to use medical marijuana; 314 of whom are under the age of 18.

**Marijuana taxes.** Retail marijuana is subject to a 15 percent excise tax (on the wholesale price of marijuana) and a 15 percent special sales tax and any additional sales taxes levied by the local jurisdiction. Provided a person has been diagnosed with a qualifying debilitating medical condition, he or she may choose to enroll on the medical marijuana registry. After paying a \$15 fee to become registered, medical marijuana patients can purchase medical marijuana, which is exempt from the excise and special sales taxes, but subject to the 2.9 percent state sales tax and local sales taxes. Excise taxes collected on the sale of retail marijuana are transferred from the General Fund to the Building Excellent Schools Today (BEST) Fund and the Public School Fund and sales taxes collected are transferred to the Marijuana Tax Cash Fund.

### **State Revenue and TABOR Refund**

Beginning in FY 2018-19, this bill may both increase and decrease state revenue as described below. Overall, the net impact on state revenue and the TABOR refund is assumed to be minimal.

**Fee impact on individuals.** The bill may increase state cash fund revenue if more persons choose to enroll on the medical marijuana registry. Persons enrolling on the registry pay a \$15 annual fee to the CDPHE to receive a registry card. These fees are deposited into the Medical Marijuana Program Cash Fund and are used to pay the costs of administering the registry.

**Increases in sales tax revenue.** Persons with a condition for which a physician could prescribe an opiate for pain, who are not currently using retail marijuana, will be able to purchase medical marijuana with a registry card. The increase in medical marijuana purchases will increase state sales tax revenue deposited in the Marijuana Tax Cash Fund. This amount is expected to be minimal.

**Decreases in excise tax and special sales tax revenue.** If persons aged 21 and over who choose to enroll on the registry with a condition for which a physician could prescribe an opiate for pain are currently using retail marijuana and begin to purchase medical marijuana, excise tax and special sales tax revenue collected on retail marijuana will decrease. This analysis assumes that any change in revenue is marginal and the overall impact is minimal.

### **State Expenditures**

Beginning in FY 2018-19, this bill may increase cash fund expenditures and workload in the CDPHE to update its rules, and to process and monitor additional enrollment on the medical marijuana registry. As of this writing, any change is assumed to be minimal. Should the volume of new registry applications exceed existing capacity, this analysis assumes the department will request additional appropriations through the annual budget process.

To the extent that less revenue is collected from the excise and special sales taxes on retail marijuana, expenditures will decrease for the BEST Program, Public School Fund, and programs funded through the Marijuana Tax Cash Fund. Any decrease is expected to be minimal.

**Effective Date**

The bill lost on third reading in the Senate on April 30, 2018.

**State and Local Government Contacts**

Law

Public Health and Environment

Revenue