

# JOINT BUDGET COMMITTEE



## STAFF BUDGET BRIEFING FY 2018-19

### MARIJUANA POLICY OVERVIEW

JBC WORKING DOCUMENT - SUBJECT TO CHANGE  
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:  
CAROLYN KAMPMAN, JBC STAFF  
NOVEMBER 14, 2017

JOINT BUDGET COMMITTEE STAFF  
200 E. 14TH AVENUE, 3RD FLOOR • DENVER • COLORADO • 80203  
TELEPHONE: (303) 866-2061 • TDD: (303) 866-3472  
<https://leg.colorado.gov/agencies/joint-budget-committee>

# CONTENTS

Legal and Regulatory Overview .....2  
Tax Revenue Overview .....4  
Marijuana Tax Cash Fund Overview .....8

## ISSUES

Summary of FY 2018-19 Requests from the Marijuana Tax Cash Fund.....13

## APPENDICES

A. Recent Legislation Concerning Marijuana.....17  
B. List of Online Resources Concerning Marijuana Laws in Other States and in Local  
Jurisdictions Within Colorado.....31  
C. Appropriations from the Marijuana Tax Cash Fund for FY 2016-17 and FY 2017-18,  
and Requested Appropriations for FY 2018-19, by Department and Purpose .....32

# MARIJUANA POLICY OVERVIEW

## LEGAL AND REGULATORY OVERVIEW

Marijuana has been legalized in Colorado through the passage of two citizen ballot initiatives that amended the State Constitution. In 2000, voters passed an initiative<sup>1</sup> that added Section 14 to Article XVIII, authorizing the medical use of marijuana for persons suffering from debilitating medical conditions. In 2012, voters passed an initiative<sup>2</sup> that added Section 16 to Article XVIII, authorizing personal use of marijuana.

The General Assembly has passed legislation to implement the constitutional provisions adopted by voters. The most significant statutory provisions concerning marijuana include:

- Colorado Medical Marijuana Code [Section 12-43.3-101 et. seq., C.R.S.]
- Colorado Retail<sup>3</sup> Marijuana Code [Section 12-43.4-101 et. seq., C.R.S.]
- Taxes on Marijuana and Marijuana Products [Section 39-28.8-101 et seq., C.R.S.]

Two state agencies are primarily responsible for implementing the above laws:

- The **Department of Revenue** has two general areas of responsibility:
  - The Department's Executive Director is the "State Licensing Authority", charged with regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical and retail marijuana. These duties are performed with the assistance of the Department's Marijuana Enforcement Division and are supported by medical and retail marijuana business fees that are credited to the *Marijuana Cash Fund*<sup>4</sup>. These regulatory functions include:
    - Establishing and enforcing rules and regulations for the marijuana industry;
    - Administering the marijuana inventory seed-to-sale tracking system (METRC);
    - Issuing licenses to medical and retail marijuana businesses (including stores, cultivations, and testing facilities), and issuing occupational licenses to those seeking employment in the marijuana industry;
    - Administering caregiver cultivation registration; and
    - Approving responsible vendor training programs.
  - The Department collects, administers, and enforces state taxes and fees related to marijuana and marijuana products. This includes the distribution of a portion of the special sales tax on retail marijuana to local governments. These activities are supported by medical and retail marijuana sales tax revenues that are credited to the *Marijuana Tax Cash Fund*.

---

<sup>1</sup> Amendment 20 was adopted with 915,943 (53.5 percent) voting for the measure.

<sup>2</sup> Amendment 64 was adopted with 1,383,140 (55.3 percent) voting for the measure.

<sup>3</sup> While marijuana that is sold for personal use as authorized by Amendment 64 is generally called "recreational" marijuana, the statutory provisions that implement Amendment 64 use the term "retail" marijuana. Staff has generally used the term "retail" for purposes of this document.

<sup>4</sup> Actual business fee and fine revenues collected and credited to this fund, along with associated interest and other adjustments, totaled \$14,221,913 in FY 2016-17.

- The **Department of Public Health and Environment** administers certain aspects of the medical marijuana program, including:
  - Administering the medical marijuana registry (which tracks patients, caregivers, and physician recommendations) and distributing medical marijuana cards;
  - Coordinating inspection of retail marijuana lab testing facilities;
  - Administering ongoing education and specific prevention and education campaigns to educate the public and visitors on the parameters of safe, legal, and responsible marijuana use; and
  - Monitoring all marijuana use patterns, health impacts, and research on marijuana’s health effects.

This department’s regulatory activities are supported by fees paid by patients seeking medical marijuana cards that are credited to the *Medical Marijuana Program Cash Fund*<sup>5</sup>, and the remaining activities are supported by medical and retail marijuana sales tax revenues that are credited to the *Marijuana Tax Cash Fund*.

Other state agencies that perform key functions related to marijuana legalization include the following:

- The **Department of Agriculture** determines and monitors allowable pesticides for use on cannabis plants. This department also administers registration for commercial industrial hemp growers and administers industrial hemp inspection, sampling, and testing.
- The **Governor’s Office** coordinates the Executive Branch response to the legalization of marijuana, including strategic planning and budget coordination.
- The **Department of Law** provides training for peace officers concerning various legal issues related to marijuana legalization. This department also provides legal clarification and guidance for state agencies and district attorneys concerning marijuana legalization.
- The **Department of Public Safety** enforces criminal marijuana laws, and collects and analyzes data concerning the impacts of marijuana legalization.
- The **Department of Regulatory Agencies** administers disciplinary proceedings concerning physicians who inappropriately recommend medical marijuana in excess, for a profit, or without medical necessity. This department is also responsible for approving applications for charter marijuana financial services cooperatives.
- The **Department of Transportation** administers impaired driving public education campaigns, including those related to marijuana use. This department also administers and certifies Colorado law enforcement officers in advanced impaired driving training and in the detection of drivers impaired by drugs other than alcohol.

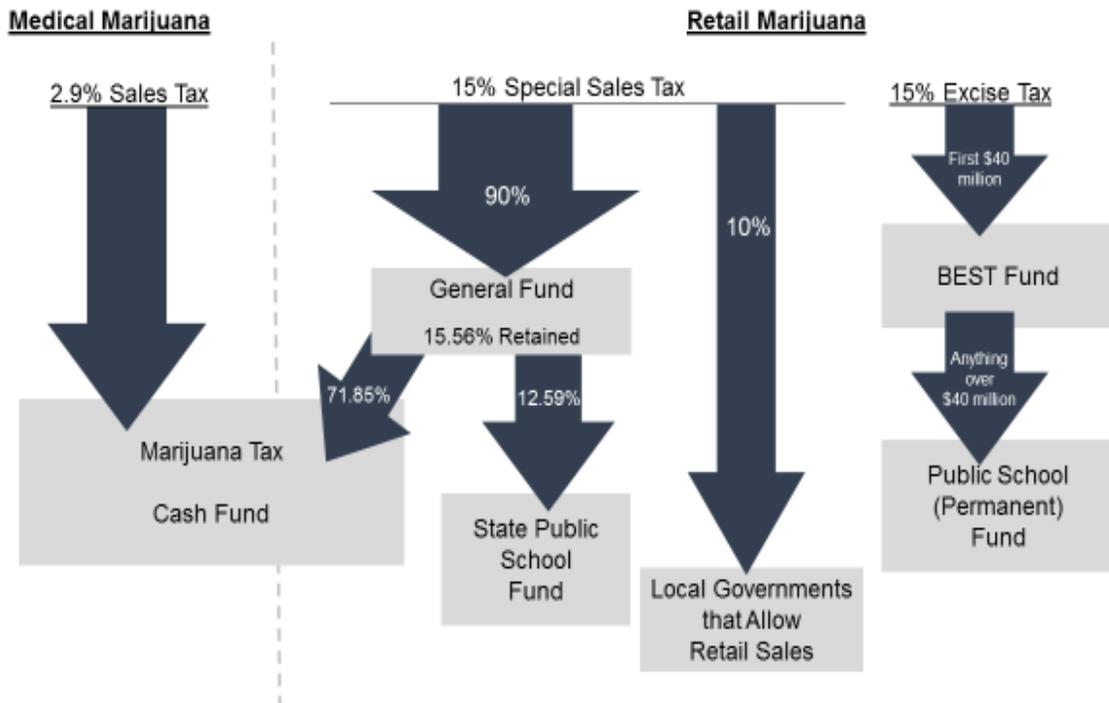
Local governments also have a role in regulating marijuana. Cities and counties may prohibit or place limits on the medical and retail marijuana sales in their jurisdictions, including the number and location of businesses and hours of operation. Cities and counties may establish land use restrictions concerning marijuana businesses, cultivation, and operations. Local jurisdictions may also impose and collect their own sales or excise tax on retail marijuana. However, each local government is responsible for collecting, administering, and enforcing local marijuana taxes. Appendix B provides additional information concerning local marijuana laws.

---

<sup>5</sup> Actual patient fee revenues collected and credited to this fund, along with associated interest and other adjustments, totaled \$1,386,004 in FY 2016-17.

## TAX REVENUE OVERVIEW

The State collects three types of taxes on marijuana products. The following graphic, which was prepared by Legislative Council Staff, illustrates the allocation of state tax revenue related to marijuana. A discussion of each type of tax and the allocation of the associated tax revenue follows.



First, the **regular state sales tax** (2.9 percent) is collected on consumer goods, including both medical and retail marijuana sales. However, pursuant to S.B. 17-267, retail marijuana is now exempt from the regular state sales tax. Thus, effective July 1, 2017, the general state sales tax only applies to sales of medical marijuana and non-marijuana products (i.e., t-shirts and other novelty items). General sales tax revenue related to marijuana is credited to the *Marijuana Tax Cash Fund* (MTCF) and is used to support a variety of state programs and services. The next section of this document provides an overview of the allocation of money in this fund.

- Please note that in his November 1, 2017, letter to the Joint Budget Committee, the Governor proposes legislation to transfer \$2,100,000 from the MTCF to the General Fund in FY 2017-18. The Governor’s Office asserts that “marijuana products” should include only those products that contain marijuana; other general items should be taxed like any other consumer good and the associated revenue should be credited to (and remain in) the General Fund. Staff understands that the proposed transfer would correct previous accounting entries that credited sales tax revenue earned on non-marijuana products to the MTCF.

Second, a **special sales tax** (15.0 percent<sup>6</sup>) is collected on retail (but not medical) marijuana sales. Of the total amount collected annually, 10.0 percent is allocated to local governments based on the percentage of such revenues collected within the boundaries for each local government. The remaining 90.0 percent state share of special sales tax revenues is allocated among three funds:

- 71.85 percent is transferred to the *MTCF* and is annually appropriated to support a variety of state programs and services;
- 12.59 percent is transferred to the *State Public School Fund* and is statutorily appropriated (in the fiscal year in which the revenue is collected) to the Department of Education for the State’s share of total program funding for school districts and institute charter schools<sup>7</sup>; and
- the remainder (15.56 percent<sup>7</sup>) is retained in the *General Fund* and is thus available for appropriation in the fiscal year in which it is collected.

Third, a marijuana **excise tax** (15.0 percent) is applied to the average market wholesale price of the product being sold or otherwise transferred from a retail marijuana cultivation facility. Average market wholesale prices are periodically set by the Department of Revenue’s Marijuana Enforcement Division (MED). Table 1 lists the current average market wholesale prices.

PRODUCT CATEGORY	DETAILED DESCRIPTION	PRICE	MEASUREMENT
Retail flower rate	The most potent part of the plant, consumed primarily by smoking	\$1,305	pound
Retail trim	Sugar leaves, typically used for concentrates and edibles	\$405	pound
Retail immature plant rate	Nonflowering plant no larger than 8 inches	\$5	plant
Wet whole plant rate	A plant that is cut off just above the roots and is not trimmed, dried, or cured. The plant must be weighed within two hours of being harvested.	\$227	pound
Seed rate	Seeds of the marijuana plant	\$3	seed
Contaminated product allocated for extraction	Bud or trim that failed microbial testing and is transferred to a retail marijuana products manufacturing facility	\$403	pound

As required by the State Constitution<sup>8</sup>, the first \$40.0 million of excise tax revenue raised annually from retail marijuana wholesale products is credited to the *Public School Capital Construction Assistance Fund*. Money in this fund helps pay for local K-12 school construction projects through the Building Excellent Schools Today (BEST) program, which is administered through the Department of Education. Any excise tax revenue in excess of \$40.0 million is credited to the *Public School “Permanent” Fund*, which is a constitutionally created trust fund that generates income to support public K-12 schools.

<sup>6</sup> In 2013, voters approved Proposition AA, which authorized the State to levy up to a 15.0 percent excise tax and up to a 15.0 percent special retail sales tax on retail marijuana and marijuana products. The State initially chose to levy a 10.0 percent special sales tax (effective beginning January 1, 2014). Pursuant to S.B. 17-267, the special sales tax rate increased to 15.0 percent, effective July 1, 2017.

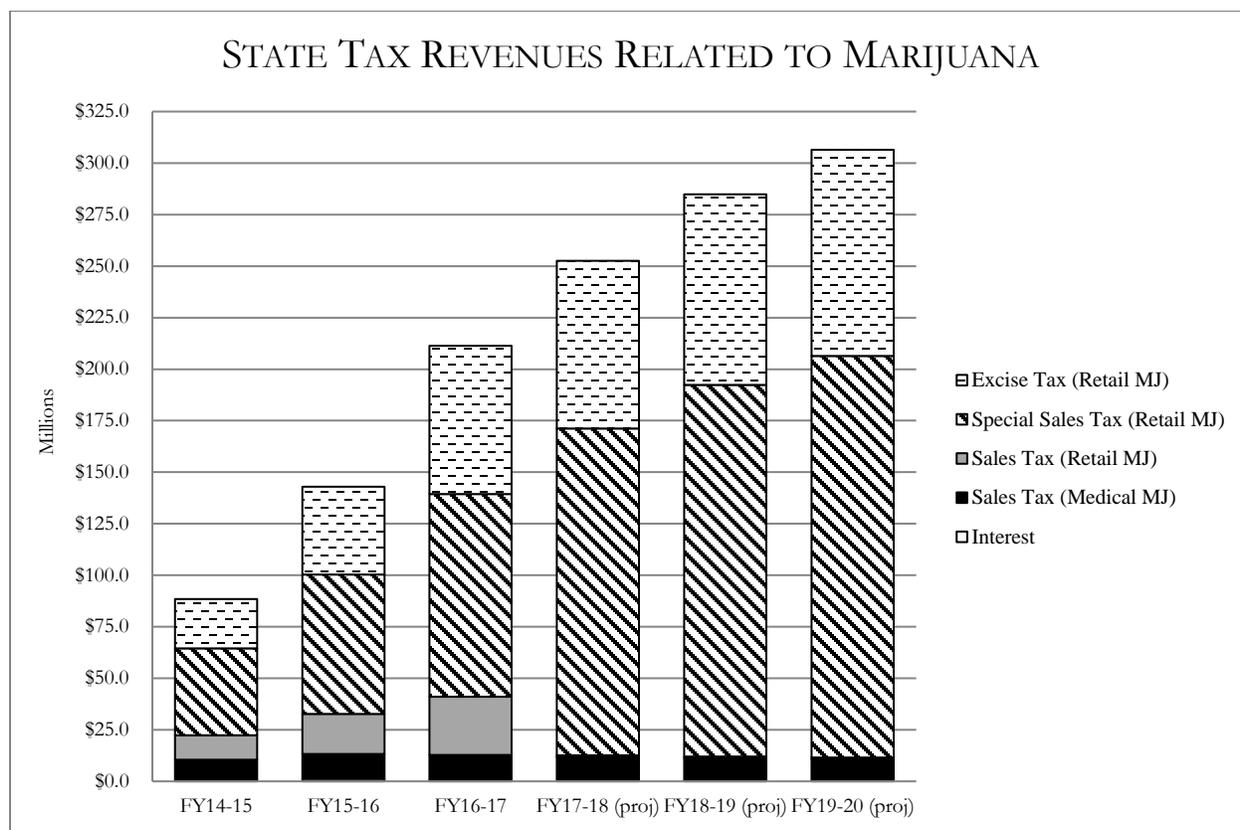
<sup>7</sup> For FY 2017-18 only, a flat amount of \$30,000,000 is transferred to the State Public School Fund (rather than applying 12.59 percent to annual special sales tax revenues) and is statutorily appropriated to the Department of Education for disbursement to schools in rural school districts.

<sup>8</sup> See Article XVIII, Section 16 (5)(d), of the State Constitution.

From FY 2013-14 through FY 2016-17, a total of \$141.0 million from marijuana excise tax revenue has been credited to these two funds, including:

- \$107.0 million to the Public School Capital Construction Assistance Fund<sup>9</sup>; and
- \$34.0 million to the Public School “Permanent” Fund.

The following chart depicts actual marijuana-related state tax revenues collected from FY 2014-15 through FY 2016-17, as well as three fiscal years of projected revenue collections based on Legislative Council Staff’s September 2017 economic and revenue forecast. The underlying data follows, in Table 2. Please note that the projections for FY 2018-19 reflect the impact of S.B. 17-267 on general and special sales tax revenues, effective July 1, 2017.



Please note that two of the three sources of state marijuana-related tax revenues are not subject to the limitation on state fiscal year spending imposed by Article X, Section 20, of the State Constitution (the Taxpayer’s Bill of Rights or TABOR): the special sales tax and the excise tax<sup>10</sup>. However, the regular state sales tax (2.9 percent) revenue collected by medical marijuana centers and retail marijuana stores is subject to TABOR. In addition, the fees and fines paid by retail and medical marijuana businesses and the fees paid by medical marijuana patients are subject to TABOR. For FY 2016-17, the marijuana-related tax and fee revenue that is subject to TABOR totaled \$56.6 million (including \$41.0 million in sales tax revenue and \$15.6 million in fee revenue).

<sup>9</sup> This amount excludes an additional \$40.0 million that was transferred to the Public School Capital Construction Assistance Fund from the Proposition AA Refund Account in FY 2015-16, pursuant to voter approval of Proposition BB. The source of this funding was sales tax revenues, rather than excise tax revenues.

<sup>10</sup> See Sections 39-28.8-204 and 39-28.8-307, C.R.S., respectively.

TABLE 2:  
STATE TAX REVENUES RELATED TO RETAIL AND MEDICAL MARIJUANA

	ACTUALS (PER OSPB)			LEGISLATIVE COUNCIL STAFF FORECAST (9/2017)		
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
<b>Proposition AA Taxes (Not Subject to TABOR)</b>						
Total Special Sales Tax on Retail Marijuana <sup>a</sup>	<u>\$42,117,798</u>	<u>\$67,640,940</u>	<u>\$98,425,252</u>	<u>\$158,530,339</u>	<u>\$180,191,176</u>	<u>\$194,905,333</u>
<i>State Share of Special Sales Tax</i>	<i>35,800,128</i>	<i>57,494,799</i>	<i>83,661,464</i>	<i>142,677,305</i>	<i>162,172,058</i>	<i>175,414,800</i>
<i>Local Share of Special Sales Tax</i>	<i>6,317,670</i>	<i>10,146,141</i>	<i>14,763,788</i>	<i>15,853,034</i>	<i>18,019,118</i>	<i>19,490,533</i>
15.0 Percent Excise Tax on Retail Marijuana	23,982,518	42,653,062	71,915,551	81,405,908	92,528,827	100,084,601
<b>Total Proposition AA Tax Revenues</b>	<b>\$66,100,316</b>	<b>\$110,294,002</b>	<b>\$170,340,803</b>	<b>\$239,936,247</b>	<b>\$272,720,003</b>	<b>\$294,989,934</b>
<b>Regular 2.9 Percent Sales Taxes (Subject to TABOR)</b>						
Regular Sales Tax on Medical Marijuana	\$10,409,340	\$12,150,626	\$12,422,012	\$11,815,632	\$11,141,102	\$10,481,711
Regular Sales Tax on Retail Marijuana <sup>b</sup>	11,817,210	19,410,953	28,147,429	759,986	863,827	934,366
Interest	134,882	1,159,890	450,000	91,564	99,041	99,041
<b>Total 2.9 Percent Sales Tax Revenues</b>	<b>\$22,361,432</b>	<b>\$32,721,469</b>	<b>\$41,019,440</b>	<b>\$12,667,182</b>	<b>\$12,103,970</b>	<b>\$11,515,118</b>
<b>Total State Taxes on Marijuana</b>	<b>\$88,461,748</b>	<b>\$143,015,471</b>	<b>\$211,360,244</b>	<b>\$252,603,429</b>	<b>\$284,823,973</b>	<b>\$306,505,051</b>
<i>Portion Credited to Marijuana Tax Cash Fund<sup>c</sup></i>	<i>\$58,161,560</i>	<i>\$90,216,268</i>	<i>\$124,680,904</i>	<i>\$115,180,826</i>	<i>\$128,624,594</i>	<i>\$137,550,651</i>

a/ Special sales tax rate was 10.0 percent through June 30, 2017, and increased to 15.0 percent effective July 1, 2017.

b/ Effective July 1, 2017, the general state sales tax only applies to sales of medical marijuana and non-marijuana products (e.g., t-shirts); retail marijuana is exempt from the regular state sales tax.

c/ Beginning July 1, 2017, 71.85 percent (rather than 100.0 percent) of the State share of special sales tax revenues is credited to the Marijuana Tax Cash Fund.

## MARIJUANA TAX CASH FUND OVERVIEW

As described earlier in this document, the General Assembly has established three cash funds related to marijuana legalization:

- The *Marijuana Cash Fund* consists of medical and retail marijuana business fees and fines. Money in this fund is annually appropriated to the Department of Revenue to support the Marijuana Enforcement Division.
- The *Medical Marijuana Program Cash Fund* consists of fees paid by patients seeking medical marijuana cards. Money in this fund is annually appropriated to the Department of Public Health and Environment to support the medical marijuana registry and other regulatory functions.
- The *Marijuana Tax Cash Fund* (MTCF) consists of: (a) all revenues collected from the regular state sales tax on medical marijuana and non-marijuana retail product sales; and (b) a portion of special sales tax revenue that is collected on retail marijuana sales. Money in this fund is annually appropriated to a number of state agencies to support a variety of state programs and services, including the Department of Revenue's Taxation Business Group.

The remainder of this section provides an overview of the allocation of money in the MTCF.

The General Assembly has declared its authority to appropriate marijuana tax revenue for any purpose. However, the General Assembly has chosen to prioritize appropriations for certain purposes. Staff has provided below the relevant statutory excerpt<sup>11</sup>:

“The general assembly hereby finds and declares that the retail marijuana excise tax and sales tax created a new revenue stream for the state, and the basis of these taxes is the legalization of marijuana, which presents unique issues and challenges for the state and local governments. Thus, there is a need to use some of the sales tax revenue for marijuana-related purposes. But, as this is revenue from a tax, the general assembly may appropriate this money for any purpose.

The general assembly further declares that the new retail marijuana tax revenue presents an opportunity to invest in services, support, intervention, and treatment related to marijuana and other drugs.

Therefore, the purposes identified in this subsection (2) prioritize appropriations related to legalized marijuana, such as drug use prevention and treatment, protecting the state's youth, and ensuring the public peace, health, and safety.”

The statutory provisions that follow this declaration limit the timing, amount, and allowable uses of money in the MTCF.

---

<sup>11</sup> See Section 39-28.8-501 (2)(b), C.R.S.

With respect to **timing**, this provision states that the General Assembly may appropriate money in the MTCF to the Department of Revenue for the fiscal year in which it was received by the State for the costs associated with implementing the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, and provisions concerning taxes on marijuana and marijuana products. However, any other appropriations from the MTCF are limited to the fiscal year following the fiscal year in which it was received (e.g., revenue collected in FY 2016-17 may only be appropriated for FY 2017-18 or subsequent fiscal years).

With respect to the **amount** appropriated from the MTCF, this statutory provision limits annual appropriations from the MTCF to 93.5 percent of the “amount of moneys in the fund available for appropriation”. This provision thus establishes an annual MTCF reserve that is similar to the statutory 6.5 percent General Fund reserve requirement<sup>12</sup>.

The General Assembly appropriates money in the MTCF based on the most recent revenue projections from either Legislative Council Staff or Department of Revenue Staff. Appropriations for FY 2017-18 were premised on the March 2017 revenue forecast prepared by Legislative Council Staff. Table 3 provides updated figures concerning funds available for FY 2017-18 based on actual expenditures and revenue in FY 2016-17. A total of \$130.9 million is available for transfers and for appropriation to agencies other than the Department of Revenue for FY 2017-18. **Based on existing appropriations, the MTCF is projected to have a balance of \$20.4 million at the end of FY 2017-18, an amount that exceeds the required statutory reserve by \$11.3 million.**

DESCRIPTION	AMOUNT
Beginning fund balance as of July 1, 2016	\$98,102,389
LESS: FY 2016-17 Expenditures of prior year revenues by various departments	(49,836,509)
Transfers (to)/from the General Fund booked in FY 2016-17	(26,277,661)
PLUS: Total revenue collected in FY 2016-17	<u>124,680,905</u>
<i>State share of special sales tax on retail marijuana</i>	<i>83,661,464</i>
<i>Regular sales tax on retail marijuana</i>	<i>28,147,429</i>
<i>Regular sales tax on medical marijuana</i>	<i>12,422,012</i>
<i>Interest and accounting adjustments</i>	<i>450,000</i>
LESS: FY 2016-17 Expenditures by Department of Revenue	(6,634,419)
EQUALS: Total funds available in the Fund for FY 2017-18	140,034,705
LESS: Statutorily required reserve (6.5 percent)	<u>(9,102,256)</u>
<b>EQUALS: Funds Available for Appropriation or Transfer for FY 2017-18</b>	<b>\$130,932,449</b>
Transfers (to)/from the General Fund booked in FY 2017-18	(37,500)
Transfer to General Fund proposed by Governor	(2,100,000)
LESS: FY 2017-18 Appropriations to the Department of Revenue	(1,591,805)
LESS: FY 2017-18 Appropriations to various other departments	<u>(115,935,945)</u>
<b>EQUALS: Funds Remaining Available Above Statutorily Required Reserve</b>	<b>\$11,267,199</b>

<sup>12</sup> See Section 24-75-201.1 (1)(d)(XIV), C.R.S.

Finally, the General Assembly has specified the following **allowable purposes** for which the General Assembly may appropriate money in the MTCF:

- (A) To *educate people about marijuana* to prevent its illegal use or legal abuse;
- (B) To provide *services for adolescents and school-aged children* in school settings or through community-based organizations;
- (C) To treat and provide related services to people with any type of substance use or mental health disorder, including those with co-occurring disorders, or to evaluate the effectiveness and sufficiency of *behavioral health services*;
- (D) For jail-based and other *behavioral health services for persons involved in or diverted from the criminal justice system*;
- (E) For state *regulatory enforcement, policy coordination, or litigation defense costs* related to retail or medical marijuana;
- (F) For *law enforcement and law enforcement training*, including any expenses for the police officers standards and training board training or certification;
- (G) For the *promotion of public health*, including poison control, prescription drug take-back programs, the creation of a marijuana laboratory testing reference library, and other public health services related to controlled substances;
- (H) To *study the use of marijuana and other drugs*, their health effects, and other social impacts related to them;
- (I) To *research, regulate, study, and test industrial hemp or hemp seeds*;
- (J) For the *start-up expenses of the Division of Financial Services* related to the regulation of marijuana financial services cooperatives;
- (K) For *grants to local governments for documented retail marijuana impacts* through the Local Government Retail Marijuana Impact Grant Program;
- (L) For the *Colorado Veterans' Service-to-career Pilot Program*;
- (M) For the expenses of the Department of Education and the Department of Public Health and Environment in *developing and maintaining a resource bank for educational material on marijuana* and providing technical assistance; and
- (N) For *housing, rental assistance, and supportive services*, including reentry services.

**For FY 2017-18, the General Assembly has appropriated a total of \$117.5 million from the MTCF, an increase of \$56.5 million (92.7 percent) compared to FY 2016-17.** This increase was possible due to the elimination of a \$26.3 million transfer to the General Fund in FY 2016-17, as well as overall increases in marijuana sales tax revenues. Table 4 details the \$56.5 million change in appropriations from FY 2016-17 to FY 2017-18.

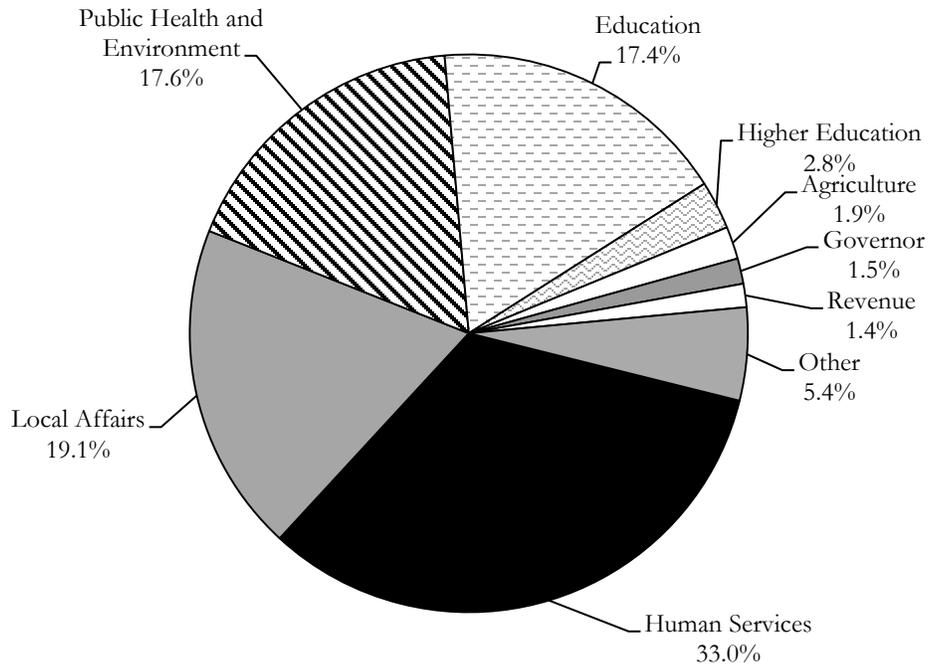
DEPARTMENT	PROGRAM	ANNUAL CHANGE
Local Affairs	Affordable Housing Construction Grants and Loans	\$15,300,000
Education	School Health Professionals Grant Program	9,642,893
Human Services	Increasing access to effective substance use disorder services, including evaluation of intensive residential treatment (S.B. 16-202)	6,260,477
Local Affairs	Gray and Black Market Marijuana Enforcement Efforts (H.B. 17-1221)	5,919,036

TABLE 4:  
ANNUAL CHANGES IN APPROPRIATIONS FROM THE MARIJUANA TAX CASH FUND: FY 2017-18

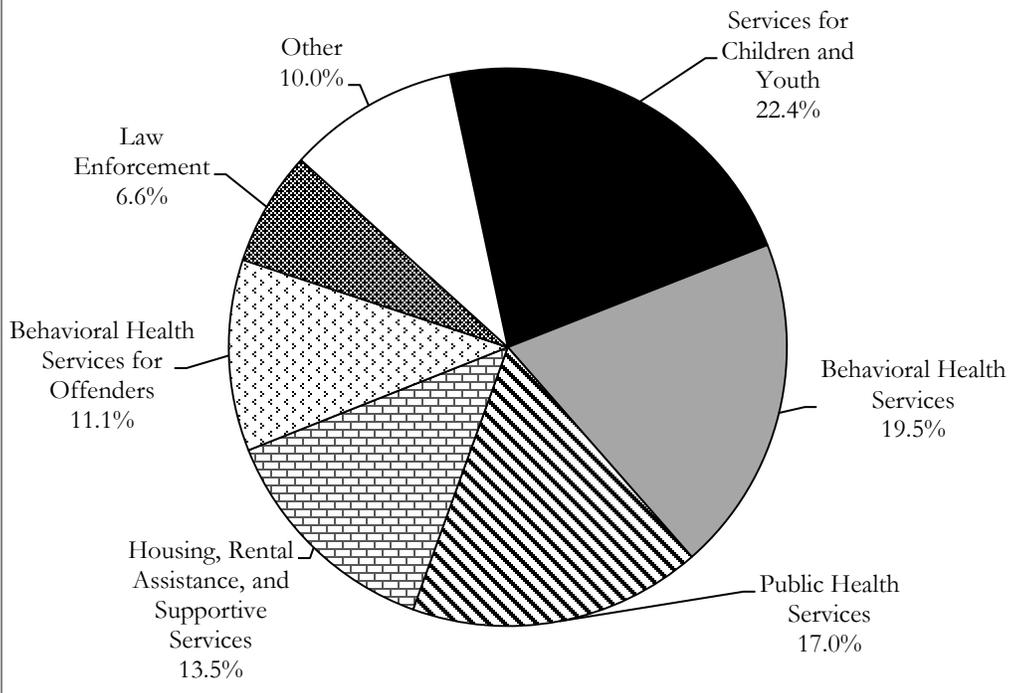
DEPARTMENT	PROGRAM	ANNUAL CHANGE
Human Services	Criminal justice diversion programs (Law Enforcement Assisted Diversion or "LEAD" pilot programs and S.B. 17-207)	5,517,942
Human Services	Enhance behavioral health crisis response system (S.B. 17-207)	4,070,318
Human Services	Mental health services for juvenile and adult offenders	2,619,113
Public Health & Env.	Substance abuse prevention	2,281,188
Governor	Office of Information Technology, Applications Administration	1,109,625
Education	Appropriation to the School Bullying Prevention and Education Cash Fund	1,100,000
Education	Office of Dropout Prevention and Student Reengagement	1,100,000
Public Health & Env.	Marijuana Reference Laboratory	1,001,402
Higher Education	Center for Research Into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (S.B. 17-193)	1,000,000
Human Services	Tony Gramscas Youth Services Program grants for the prevention of youth marijuana use	1,000,000
Higher Education	Institute of Cannabis Research at CSU-Pueblo (S.B. 16-191)	900,000
Public Safety	Reserve Peace Officer Academy Grant Program (S.B. 17-096)	814,834
Human Services	Substance use disorder treatment at the mental health institutes	556,986
Human Services	Behavioral health services for individuals in rural areas show have co-occurring mental health and substance use disorders	535,529
Public Health & Env.	Retail marijuana health research grants	522,500
Governor:	Evidence-based policymaking evaluation and support	500,000
Higher Education	Medication-assisted Treatment Pilot Program (S.B. 17-074)	500,000
Agriculture:	Pesticide control and regulation	410,057
Regulatory Agencies	Improve enforcement of medical marijuana gray market	304,225
Human Services	Circle Program for adults with co-occurring mental health and substance use disorders	140,687
Public Health & Env.	Enhanced marijuana data collection through Rocky Mountain Poison and Drug	(63,283)
Governor:	Governor's Office of Marijuana Coordination	(99,745)
Labor & Employment	Colorado Veterans' Service-to-career Pilot Program (H.B. 16-1267)	(334,704)
Agriculture	Hemp regulatory and seed certification	(364,273)
Public Health & Env.	Public awareness campaign	(2,375,000)
Revenue	Appropriation to the Department of Revenue from revenues collected in same fiscal year	(6,115,444)
	Other changes (e.g., provider rate increases, employee benefits, indirect costs, etc.)	2,778,709
<b>TOTAL</b>		<b>\$56,533,072</b>

The following two graphics illustrate the current allocation of MTCF appropriations among state agencies and among the statutorily authorized purposes. Appendix C details appropriations from the MTCF for FY 2016-17 and FY 2017-18, and requested appropriations for FY 2018-19, by department and purpose.

MARIJUANA TAX CASH FUND APPROPRIATIONS FOR  
FY 2017-18, BY DEPARTMENT



MARIJUANA TAX CASH FUND APPROPRIATIONS FOR  
FY 2017-18, BY STATUTORY PURPOSE



## ISSUE: SUMMARY OF FY 2018-19 REQUESTS FROM MARIJUANA TAX CASH FUND

This issue brief provides an overview of the funds projected to be available for appropriation from the Marijuana Tax Cash Fund for FY 2018-19, and the Governor's related budget requests.

### SUMMARY

- Based on the September 2017 Legislative Council Staff economic and revenue forecast, a total of \$126.7 million is projected to be available in the Marijuana Tax Cash Fund (MTCF) for appropriations to various state agencies for FY 2018-19.
- The Governor is proposing appropriations from the MTCF for FY 2018-19 totaling \$131.3 million, including \$118.0 million that is included in Executive and Judicial agency budget requests and \$13.3 million that has been set aside for budget amendments and related legislation.
- The Department of Revenue's projections of marijuana sales tax revenues in FY 2017-18 is \$15.0 million higher than the revenues projected by Legislative Council Staff. Under the higher forecast, the Governor's proposal is projected to leave a MTCF fund balance that exceeds the required statutory reserve by \$9.4 million; under the lower forecast, the balance would fall \$4.6 million short of the required reserve.
- Updated revenue forecasts will be available to the Committee before it needs to make final decisions on MTCF appropriations to be included in the FY 2018-19 Long Bill and any amounts that should be set aside for separate legislation that may be initiated through the Governor's Office, by other legislative committees, or by individual legislators.

### DISCUSSION

#### **Comparison of Available Revenues and the November 1, 2017 Request**

Based on the September 2017 Legislative Council Staff economic and revenue forecast, a total of \$126.7 million is projected to be available for appropriations to agencies other than the Department of Revenue for FY 2018-19. The Executive and Judicial Branches have requested appropriations from the MTCF totaling \$118.0 million, and the Governor has set aside an additional \$13.3 million for budget amendments and related legislation. The Governor is also proposing legislation to transfer \$2.1 million from the MTCF to the General Fund in FY 2017-18 to "offset an error in collecting the sales tax from marijuana businesses".

Table 5 details the funds projected to be available for appropriation or transfer in FY 2018-19, and the requested appropriations and "set aside" funds. Please note that Table 3, concerning MTCF funds available for appropriation in FY 2017-18, includes the proposed \$2.1 million transfer to the General Fund. Thus, Table 5 starts with a beginning fund balance that assumes the \$2.1 million transfer is approved by the General Assembly.

TABLE 5:  
FUNDS AVAILABLE FOR APPROPRIATION FROM THE MARIJUANA TAX CASH FUND FOR FY 2018-19

DESCRIPTION	AMOUNT
Beginning fund balance as of July 1, 2017	\$140,034,705
LESS: FY 2017-18 Appropriations for various departments from prior year revenues	(115,935,945)
Transfers (to)/from the General Fund booked in FY 2017-18 (including Governor's \$2.1 million proposed transfer to correct error related to sales tax collections)	(2,137,500)
PLUS: Total projected revenue to be collected in FY 2017-18 per Legislative Council Staff (September 2017 forecast) <sup>a</sup>	<u>115,180,826</u>
<i>State share of special sales tax on retail marijuana (71.85 percent of total State share)</i>	<i>102,513,644</i>
<i>Regular sales tax on retail marijuana</i>	<i>759,986</i>
<i>Regular sales tax on medical marijuana</i>	<i>11,815,632</i>
<i>Interest and accounting adjustments</i>	<i>91,564</i>
LESS: FY 2017-18 Appropriations to the Department of Revenue	(1,591,805)
EQUALS: Total funds available in the fund for FY 2018-19	135,550,281
LESS: Statutorily required reserve (6.5 percent)	<u>(8,810,768)</u>
<b>EQUALS: Funds Available for Appropriation or Transfer for FY 2018-19</b>	<b>\$126,739,512</b>
Transfers (to)/from the General Fund requested in FY 2018-19	0
LESS: FY 2018-19 Request from the Department of Revenue	(1,532,087)
LESS: FY 2018-19 Requests from various other departments (per OSPB)	(116,498,131)
LESS: Amount set aside by OSPB for budget amendments and related legislation	<u>(13,280,000)</u>
<b>EQUALS: Funds Remaining Available Above Statutorily Required Reserve<sup>a</sup></b>	<b>(\$4,570,706)</b>

a/ Please note that the September 2017 Legislative Council Staff revenue projection for FY 2018-19 is \$15.0 million lower than that of the Department of Revenue. The Governor's request is based on the Department of Revenue's projection, and thus anticipates \$9.4 million remaining available above the statutory reserve.

As detailed in Table 5, the requested appropriations and “set aside” funds would leave an estimated \$4.2 million in the MTCF at the end of FY 2018-19 based on the September 2017 Legislative Council Staff revenue projections for FY 2018-19. This ending balance would fall short of the required statutory reserve by \$4.6 million. In contrast, the Governor's request is based on the Department of Revenue's projection, which is \$15.0 million higher than Legislative Council Staff's projection. The Governor's request thus anticipates \$9.4 million remaining available above the statutory reserve.

For the first three months of FY 2017-18, actual marijuana excise and sales tax revenues are \$4.6 million (6.4 percent) lower than projected by the Department of Revenue<sup>13</sup>. For the month of September, both excise and special sales tax revenues came in lower than projected. Updated revenue forecast projections will be available prior to the Committee finalizing a proposed budget for FY 2018-19. At this point, the Committee should be aware that there may not be enough revenue available to fund all of the requested appropriations for FY 2018-19 and the Governor's initial set asides for future requests and legislative proposals.

<sup>13</sup> Source: Department of Revenue's monthly “Comparative Analysis of Medical and Retail Marijuana for September 2017 Sales Remitted in October 2017”.

## Summary of Major Changes Proposed for FY 2018-19

Overall, the Governor is proposing appropriations from the MTCF totaling \$131.3 million in FY 2018-19, an increase of 13.7 million (11.7 percent) compared to FY 2017-18. Table 6 details the \$13.7 million proposed increase. Following Table 6, staff has provided brief descriptions of the most significant changes that are reflected in the Governor's FY 2018-19 budget proposal. To the extent that the Joint Budget Committee (JBC) has questions about any of these items, staff has identified the relevant dates for the corresponding JBC staff budget briefings.

Department	PROGRAM	ANNUAL CHANGE
Higher Education	Policy proposals related to teacher shortage report [Governor's placeholder]	\$10,000,000
Governor	Pay for Success feasibility study [Governor's placeholder]	1,780,000
Public Safety	Grant program to offset revenue reductions for local law enforcement agencies resulting from H.B. 17-1313 [Governor's placeholder]	1,500,000
Public Safety	Black market marijuana interdiction (R7)	1,225,202
Human Services	Expansion of evidence based Incredible Years program (R17)	624,612
Human Services	Medication consistency and health information exchange (R13; S.B. 17-019)	590,936
Human Services	Enhance behavioral health crisis response system (annualize funding for S.B. 17-207)	274,120
Human Services	Criminal justice diversion programs (annualize funding for Law Enforcement Assisted Diversion or "LEAD" pilot programs and S.B. 17-207)	68,647
Law	Shift \$286,766 from developing in-house legal expertise to local law enforcement training through the Peace Officers Standards and Training (POST) Board	0
Labor & Employment	Colorado Veterans' Service-to-career Pilot Program (annualize funding for H.B. 16-1267)	(165,296)
Governor	Office of Information Technology, Applications Administration	(470,875)
Public Health & Env.	Marijuana lab certification	(596,887)
Public Safety	Reserve Peace Officer Academy Grant Program (annualize S.B. 17-096)	(798,651)
Higher Education	Center for Research Into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (annualize S.B. 17-193)	(1,000,000)
Local Affairs	Eliminate funding for Local Government Retail Marijuana Impact Grant Program (R2)	(1,117,540)
	Other changes (e.g., provider rate increases, employee benefits, indirect costs, etc.)	1,830,700
<b>Total</b>		<b>\$13,744,968</b>

**HIGHER EDUCATION - POLICY PROPOSALS RELATED TO TEACHER SHORTAGE REPORT:** The Governor's budget proposal includes a placeholder of \$10,000,000 to support policy proposals focused on rural educators, potentially including scholarships, incentives, and tuition support. Pursuant to H.B. 17-1003, the Department of Higher Education is required to submit a strategic action plan to address teacher shortages in school districts and public schools within Colorado. In his November 1, 2017, letter to the Joint Budget Committee, the Governor indicates that he anticipates a significant focus on the challenges rural communities face in attracting, retaining, and developing the qualified teachers needed to support positive student outcomes. *[Briefing by Amanda Bickel, 12/19/17]*

**GOVERNOR'S OFFICE – PAY FOR SUCCESS:** The Governor's budget proposal includes a placeholder of \$1,780,000 from the MTCF (along with \$305,000 General Fund) for the results of the Pay for Success Feasibility Study conducted by the Office of State Planning and Budgeting. *[Briefing by Kevin Neimond, 11/16/17]*

**PUBLIC SAFETY – LAW ENFORCEMENT GRANT PROGRAM:** The Governor's budget proposal includes a placeholder of \$1,500,000 for a grant program to offset revenue reductions for local law enforcement agencies resulting from H.B. 17-1313. In his November 1, 2017, letter to the Joint Budget Committee, the Governor indicates that a stakeholder group is in the process of developing recommendations for how these funds should be spent to ensure local law enforcement agencies can continue necessary programs funded by civil asset forfeiture proceeds. *[Briefing by Christina Beisel, 12/4/17]*

**PUBLIC SAFETY - R7 BLACK MARKET MARIJUANA INTERDICTION:** The Department requests \$1,225,202 for FY 2018-19 to establish an 8-person unit within the Colorado Bureau of Investigation to investigate black market marijuana operations. This unit would provide rural law enforcement agencies with the experienced personnel necessary to gather actionable intelligence and effect arrests of organized criminal enterprises operating across multiple jurisdictions. The Department anticipates the need for ongoing funding of \$1,187,578 in FY 2019-20. *[Briefing by Christina Beisel, 12/4/17]*

**HUMAN SERVICES - R17 EXPANSION OF EVIDENCE BASED INCREDIBLE YEARS PROGRAM:** The Department requests \$624,612 for FY 2018-19 to expand access to the Incredible Years program through a public-private partnership. This program is a two-generational program to foster child social-emotional well-being, and it includes three components: classroom management support for teachers; curriculum delivered in Pre-K and kindergarten classrooms; and a parenting program. The Department anticipates the need for ongoing funding of \$843,867 in FY 2019-20. *[Briefing by Vance Roper, 12/20/17]*

**HUMAN SERVICES - R13 MEDICATION CONSISTENCY AND HEALTH INFORMATION EXCHANGE:** The Department requests \$590,936 for FY 2018-19 to promote continuity of care between jails, state agencies, and community treatment providers as required by S.B. 17-019, including:

- Developing and maintaining a standard medication formulary that is shared across criminal justice service agencies;
- Developing purchasing and pricing options that jails and other service providers may utilize; and
- Overseeing pilot projects to develop a plan for electronic healthcare information exchange.

The Department anticipates the need for ongoing funding of \$483,113 in FY 2019-20. *[Briefing by Carolyn Kampman, 12/6/17]*

**LOCAL AFFAIRS - R2 ELIMINATION OF MARIJUANA IMPACT GRANT PROGRAM:** The Department requests an elimination of funding for the Local Government Marijuana Impact Grant Program, resulting in a reduction of \$1,120,636 cash funds from the MTCF and a reduction of 1.0 FTE for FY 2018-19. The Department indicates that the General Assembly could choose to simply exclude funding for this program in the FY 2018-19 Long Bill, and the General Assembly could also choose to introduce legislation to repeal the program. *[Briefing by Carolyn Kampman, 11/30/17]*

## APPENDIX A

### RECENT LEGISLATION CONCERNING MARIJUANA

#### 2017 SESSION BILLS

**S.B. 17-012 (COMPETENCY RESTORATION SERVICES AND EDUCATION):** Establishes the Department of Human Services' Office of Behavioral Health (OBH) as the agency responsible for the oversight of competency restoration education and coordination of services for both juveniles and adults. Requires OBH to develop standardized juvenile and adult curricula for the educational component of competency restoration services by December 1, 2017, and establishes several other duties and responsibilities for OBH beginning July 1, 2018. For defendants on bond or summons, directs the court to consider whether restoration to competency should occur on an outpatient and out-of-custody basis. For juveniles in custody, requires the court to review the case at least every 30 (rather than 90) days. Appropriates \$18,000 cash funds from the Marijuana Tax Cash Fund (MTCF) to OBH for FY 2017-18 for the development of competency restoration education curricula.

**S.B. 17-019 (BEHAVIORAL HEALTH MEDICATION FOR PERSONS IN THE CRIMINAL JUSTICE SYSTEM):** Beginning December 1, 2017, requires the Department of Human Services (DHS), in consultation with the Department of Corrections (DOC), to promulgate rules that require providers under each department's authority and allow public hospitals and licensed private hospitals to use an agreed upon medication formulary. To ensure medication consistency for persons with mental health disorders in the criminal and juvenile justice systems, requires DHS' Division of Youth Services, DOC, counties, community mental health centers, and other providers to share patient-specific mental health care and treatment information. Establishes, beginning July 1, 2018, several other duties and responsibilities for DHS' Office of Behavioral Health (OBH) related to the medication formulary, cooperative purchasing of medication, and the sharing of patient information. Appropriates \$26,000 General Fund to OBH for FY 2017-18 for development of a medication formulary.

**S.B. 17-021 (ASSISTANCE TO RELEASED MENTALLY ILL OFFENDERS):** Establishes a housing program for persons with mental illness transitioning from incarceration to be managed by the Department of Local Affairs (DOLA). Subject to available appropriations, requires DOLA to: (1) provide vouchers and other support services to persons with a mental health disorder or co-occurring behavioral health disorder that are newly released from the Department of Corrections, the Division of Youth Services in the Department of Human Services, or county jail; and (2) provide grants or loans for the acquisition, construction, or rehabilitation of rental housing for persons with behavioral or mental health disorders.

Creates the Housing Assistance for Persons Transitioning from Incarceration Cash Fund, which consists of money transferred from the Department of Public Safety (DPS) and money appropriated by the General Assembly. Transfers to a new cash fund any money appropriated from the General Fund for community corrections that is unexpended or unencumbered at the close of FY 2016-17. Money in the new fund may be appropriated to DOLA for housing assistance.

Broadens permissible uses of the MTCF, allowing such funds to be used for housing, rental assistance, and supportive services, including reentry services. By extension, expands how MTCF appropriations to DOLA that are included in the FY 2017-18 Long Bill may be used.

**S.B. 17-025 (MARIJUANA EDUCATION MATERIALS RESOURCE BANK):** Requires the Department of Education, with assistance from the Department of Public Health and Environment and the Marijuana Educational Oversight Committee, to create and maintain a resource bank of materials and curricula related to marijuana. Requires the Department of Education to solicit input regarding materials and curricula and allows the Department to contract for services related to the development of the resource bank and curricula. For FY 2017-18, appropriates \$47,000 cash funds from the MTCF to the Department of Education.

**S.B. 17-074 (CREATE MEDICATION-ASSISTED TREATMENT PROGRAM):** Creates a pilot program in the College of Nursing in the University of Colorado to make grants for organizations providing medication-assisted treatment to persons with opioid use disorders in Pueblo and Routt counties. Requires an annual appropriation from the MTCF of \$500,000 in FY 2017-18 and FY 2018-19, and provides the FY 2017-18 appropriation to the Department of Higher Education for the University of Colorado. Returns any unexpended money to the MTCF at the end of FY 2018-19. Repeals the program as of June 30, 2020.

**S.B. 17-096 (RESERVE PEACE OFFICER ACADEMY GRANT PROGRAM):** Creates the reserve academy grant program and reserve peace officer training academy in the Division of Homeland Security and Emergency Management. Appropriates \$814,834 cash funds from the MTCF to train and certify a reserve peace officer auxiliary group. In addition, states the assumption that the Department will require an additional 0.3 FTE.

**S.B. 17-192 (MARIJUANA BUSINESS EFFICIENCY MEASURES):** Allows for a single-instance transfer of retail marijuana and retail marijuana products from a retail marijuana licensee to a medical marijuana licensee, changes the provisions for calculating the average market rate, and creates a contract price to use when calculating excise taxes between unaffiliated retail marijuana businesses. Also clarifies that the Marijuana Enforcement Division in the Department of Revenue can take action against a licensee upon a violation of law whether the license active, expired, or surrendered. For FY 2017-18, appropriates \$69,058 total funds, including \$9,600 General Fund, to the Department of Revenue.

**S.B. 17-193 (RESEARCH CENTER FOR SUBSTANCE ABUSE AND ADDICTION):** Creates a research center for substance abuse and addiction prevention strategies and treatment at the University of Colorado Health Sciences Center. Provides a one-time appropriation of \$1,000,000 from the MTCF for FY 2017-18 to the Department of Higher Education for allocation to the University of Colorado.

**S.B. 17-207 (STRENGTHEN BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM):** Effective May 1, 2018, eliminates the use of the criminal justice system to hold individuals who are experiencing a mental health crisis, and allows a person experiencing a mental health crisis to be taken to an emergency medical services facility if a facility that has been approved by the Department of Human Services (DHS) is not available. Makes a number of changes regarding the State's coordinated behavioral health crisis response system (crisis system) including the following:

- requires that on or before January 1, 2018, all crisis system walk-in centers, acute treatment units, and crisis stabilization units be able to adequately care for individuals brought to the facility through the emergency mental health hold procedure or a voluntary application for mental health services as authorized by the act;

- requires DHS, on or before January 1, 2018, to ensure that crisis system mobile response units are available to respond to a behavioral health crisis anywhere in the state within two hours;
- requires DHS to ensure that crisis system contractors are responsible for community engagement, coordination, and system navigation for key partners including criminal justice agencies, emergency departments, hospitals, primary care facilities, and walk-in centers;
- requires DHS to ensure consistent training for professionals who have regular contact with individuals experiencing a behavioral health crisis, and to explore solutions for addressing secure transportation of individuals placed on a 72-hour treatment and evaluation hold;
- allows certain licensed advanced practice nurses to determine that a person in custody as a result of an emergency mental health hold can be discharged or referred for further care and treatment in another setting;
- modifies reporting requirements related to behavioral health crisis services; and
- requires that on or before July 1, 2019, and each July 1 thereafter, each emergency medical services facility that has treated a person taken into emergency custody for a mental health hold provide an annual report to DHS including specified and confidential aggregated service information.

Expands the authorized use of money in the MTCF to include treatment and related services for people with a mental health disorder, evaluation of the effectiveness and sufficiency of behavioral health services, and behavioral health services for persons diverted from the criminal justice system. Appropriates a total of \$7,086,280 cash funds from the MTCF to the DHS' Office of Behavioral Health for FY 2017-18, including:

- \$2,960,000 for local partnerships between law enforcement and behavioral health agencies;
- \$2,451,481 for local implementation and regional coordination for the provision of 24-7 crisis services;
- \$976,255 to expand behavioral health crisis response system services in rural areas;
- \$485,082 for a transportation pilot program for individuals experiencing a behavioral health crisis;
- \$107,500 for statewide training for first responders concerning mental health holds; and
- \$105,962 for administration and for a crisis system needs and capacity study.

In addition, states the assumption that the Department will require an additional 0.9 FTE.

**S.B. 17-264 (FUNDING FOR BEHAVIORAL HEALTH DISORDERS):** Makes two statutory changes related to the implementation of H.B. 16-1408:

- Makes a conforming amendment to the authorized purposes for which the MTCF may be used to include both substance use and behavioral health services; and
- Repeals the Offender Mental Health Services Fund.

**S.B. 17-267 (SUSTAINABILITY OF RURAL COLORADO):** Among other provisions, makes significant changes to the collection and allocation of state marijuana sales taxes starting in FY 2017-18. Specifically, beginning July 1, 2017, the act:

- exempts sales of retail marijuana from the regular (2.9 percent) state sales tax;
- increases the special sales tax rate from 10.0 to 15.0 percent [please note that prior to S.B. 17-267 this rate was scheduled to decrease from 10 percent to 8 percent]; and
- adjusts the distribution of special sales tax revenues to local governments, decreasing the local share from 15.0 percent to 10.0 percent.

Provides that local governments can continue to impose their local general sales taxes on retail sales of marijuana.

The act also modifies the allocation of special sales tax revenues as follows:

- for FY 2017-18 and all subsequent years, 71.85 percent of the State's share of retail marijuana special sales tax revenues is transferred to the MTCF;
- for FY 2017-18 only, \$30.0 million is transferred to the State Public School Fund (SPSF) and is statutorily appropriated to the Department of Education for disbursement to schools in rural school districts; and
- for FY 2018-19 and all subsequent years, 12.59 percent is transferred to the SPSF and is statutorily appropriated to the Department of Education for the State's share of total program funding for school districts and institute charter schools.

The amount remaining each fiscal year, after the transfers to the MTCF and the SPSF, is retained in the General Fund. For FY 2018-19 and all subsequent years, this allocation is equal to 15.56 percent of the State's share of retail marijuana special sales tax revenues.

**H.B. 17-1221 (GRAY AND BLACK MARKET MJ ENFORCEMENT EFFORTS):** Creates the Gray and Black Market Marijuana Enforcement Grant Program in the Department of Local Affairs (DOLA). Also creates an offense for a person who is not a primary caregiver for possessing a marijuana plant that the person is growing on behalf of another person.

Authorizes DOLA to award grants to local law enforcement agencies and district attorneys to cover investigation and prosecution costs associated with unlicensed and illegal marijuana cultivation or distribution operations. Outlines priorities for the grant program and requires DOLA to establish related policies and procedures. Authorizes money from the MTCF to be used to fund the grant program and its administration. Allows money not expended in a given fiscal year to be retained for use in the next fiscal year. Requires DOLA to provide an annual update about the program in its annual SMART Act hearing for the General Assembly, beginning November 1, 2019.

Provides an appropriation of \$5,945,392 cash funds from the MTCF for FY 2017-18 and reflects the assumption that DOLA will require an additional 1.3 FTE. The total includes \$5,919,036 for the grant program and its administration, \$21,603 for the purchase of information technology services, and \$4,753 for the purchase of legal services. Provides FY 2017-18 appropriations of \$21,603 reappropriated funds to the Governor's Office for related information technology services and \$4,753 reappropriated funds to the Department of Law for related legal services.

**H.B. 17-1313 (CIVIL FORFEITURE REFORM):** Requires criminal justice agencies involved in the seizure of property to submit biannual seizure reports to the Department of Local Affairs (DOLA), and requires DOLA to establish and maintain a searchable public access database for seizure-related information. Imposes restrictions and requirements on an agency's ability to receive forfeiture proceeds from the federal government, a joint task force, or multi-jurisdictional collaboration. Requires DOLA to submit annual reports summarizing seizure and forfeiture activity in the state to the Governor, Attorney General, and General Assembly beginning December 31, 2019. Provides a FY 2017-18 appropriation of \$84,451 General Fund to DOLA and reflects the assumption that DOLA will require an additional 0.5 FTE. Also adds FY 2017-18 appropriations of \$4,753

reappropriated funds to the Department of Law and \$44,486 reappropriated funds to the Governor's Office for related legal and information technology services.

**H.B. 17-1351 (STUDY INPATIENT SUBSTANCE USE DISORDER TREATMENT):** Requires the Department of Health Care Policy and Financing (HCPF), with assistance from the Department of Human Services' Office of Behavioral Health, to prepare a written report concerning the feasibility of providing residential and inpatient substance use disorder treatment as part of the Medicaid program or as a state-funded benefit. Requires HCPF to submit the report to several legislative committees by November 1, 2017. Requires the State Treasurer to transfer \$37,500 cash funds from the MTCF to the General Fund on June 30, 2018. Appropriates \$37,500 General Fund to HCPF for FY 2017-18, and states that this appropriation is based on the assumption that HCPF will receive \$37,500 federal funds to implement the act.

## RELEVANT LEGISLATION FROM PREVIOUS SESSIONS

**S.B. 16-191 (CSU-PUEBLO SCIENTIFIC AND SOCIAL SCIENCE RESEARCH):** Authorizes the General Assembly to appropriate money from the MTCF to the Board of Governors of the Colorado State University System (CSU) to fund scientific and social science research at CSU-Pueblo concerning marijuana and other matters that impact the state and its regions. Appropriates \$900,000 cash funds from the MTCF to CSU-Pueblo for FY 2016-17 for this purpose. Continues ongoing study in the Department of Public Safety of law enforcement's costs related to legalization of marijuana. Appropriates \$79,992 cash funds from the MTCF for this purpose for FY 2016-17. Also requires the Governor's Office of Marijuana Coordination facilitate data sharing and address data gaps related to the impact of marijuana legalization on public health, safety, or economic issues.

**S.B. 16-202 (INCREASING ACCESS TO EFFECTIVE SUD SERVICES):** Requires each of the State's designated regional managed service organizations (MSOs) to assess the sufficiency of substance use disorder services in its geographic region. Requires each MSO to prepare a community action plan to address the most critical service gaps and submit the plan to the Department of Human Services (DHS) and the Department of Health Care Policy and Financing by March 1, 2017. Provides for an annual appropriation from the MTCF for the initial community assessments and for the ongoing implementation of resulting community action plans. Requires the DHS to disburse to each MSO an annual allocation from the MTCF on July 1 each fiscal year, except that for FY 2016-17 forty percent of the allocation is disbursed upon receipt of an MSO's community action plan. Requires the DHS to contract for an evaluation of the effectiveness of intensive residential treatment of substance use disorder services provided through MSOs. Appropriates \$6,000,000 cash funds from the MTCF to the DHS for FY 2016-17, and states the assumption that the DHS will require an additional 1.0 FTE.

**H.B. 16-1261 (RETAIL MARIJUANA SUNSET REVIEW)** Implements recommendations from the sunset report for the retail marijuana program, and extends the retail marijuana code until September 1, 2019. Appropriates \$132,251 cash funds from the MTCF to the Department of Revenue for FY 2016-17.

**H.B. 16-1267 (VETERANS' SERVICE-TO-CAREER PILOT PROGRAM):** Creates the Colorado Veterans' Service-to-career Pilot Program (Program) to enhance Workforce Center services that are not available under federal law. The Department of Labor and Employment will select one or more Centers to contract with a nonprofit agency to administer the Program. A selected Center shall develop

and expand programs to provide workforce development-related services specifically tailored to the unique needs and talents of veterans, spouses, and other eligible participants. Funding for the internships and apprenticeships may come from the employer, federal funds, and grant money through the General Fund. Appropriates \$500,000 cash funds from the MTCF to the Department of Labor and Employment for FY 2016-17.

**H.B. 16-1408 (CASH FUND ALLOCATIONS FOR HEALTH-RELATED PROGRAMS):** Establishes a new formula for the allocation of the annual payment received by the state as part of the Tobacco Master Settlement Agreement (Tobacco MSA). The new formula allocates all Tobacco MSA revenue by percentage shares, rather than the hybrid scheme of fixed dollar amounts and capped percentage shares in multiple tiers. The formula increases annual allocations to most programs receiving funding under the current distribution, while eliminating dedicated funding for the following six purposes:

- Early Literacy Fund in the Department of Education;
- Public Health Services Support Fund in the Department of Public Health and Environment;
- Offender Mental Health Services Program in the Department of Human Services;
- Alcohol and Drug Abuse Prevention Program in the Department of Human Services;
- Children's' Mental Health Treatment Program in the Department of Human Services; and
- The annual audit of Tobacco MSA-funded programs by the Office of the State Auditor.

For all of these purposes listed above except the audit, the act makes FY 2016-17 appropriations from the MTCF in the amounts that the programs are expected to receive under the current law allocation formula. Repeals the Public Health Services Support Fund and the Tobacco Litigation Settlement Trust Fund, requires the State Treasurer to transfer any remaining balance in the Public Health Services Support Fund and the Offender Mental Health Services Fund to the Tobacco Litigation Settlement Cash Fund at the end of FY 2015-16. Makes the following appropriation changes related to funds from the Tobacco Master Settlement revenues and MTCF dollars.

**SUMMARY OF TOBACCO MASTER SETTLEMENT AGREEMENT DISTRIBUTION FORMULA APPROPRIATION CHANGES**

SECTION	PROGRAM	GENERAL FUND	TOBACCO MASTER SETTLEMENT CASH FUNDS	MARIJUANA TAX CASH FUND
27	Early Literacy	\$0	\$(4,378,678)	\$4,378,678
28	Mental Health Services for Juvenile and Adult Offenders	0	(3,025,192)	3,025,192
28	Mental Health Services for Youth (H.B. 99-1116)	0	(300,000)	300,000
28	Community Prevention Treatment - Alcohol and Drug Abuse	0	(756,298)	756,298
29	Local Public Health Agencies	0	(1,767,584)	1,767,584
30	Tony Grampsas Youth Services	0	2,626,328	(2,626,328)
31	Autism Treatment Fund	(6,451,471)	6,451,471	0
32a	Higher Education - Cancer Program	0	1,751,471	0
32b	Higher Education - Health Sciences Center Programs	0	1,221,033	0
333	Nurse Home Visitor Program	0	6,743,164	0
34	Supplemental State Contribution Fund	0	879,745	0
35	Drug Assistance Program	0	1,313,603	0
36	AIDS and HIV Prevention Grants	0	1,313,604	0
37	Immunization Program	0	1,180,942	0
38	Oral Health Programs	0	675,736	0
39	Health Service Corps within the Primary Care Office	0	625,736	0

**H.B. 16-1418 (MARIJUANA TAX CASH FUND TRANSFER TO GENERAL FUND)** Transfers a total of \$26,277,661 from the MTCF to the General Fund on July 1, 2016. This amount includes: (a) \$1,977,661 to offset the General Fund appropriated to Fort Lyon Supportive Residential Community; and (b) \$24,300,000 for early repayment of the full \$30,300,000 General Fund that was set aside in the Proposition AA Refund Account and used to fund programs based on the passage of Proposition BB. [The initial repayment of \$6,000,000 was made through H.B. 15-1367 (Retail Marijuana Taxes).] The act eliminates all future transfers that would have repaid the General Fund over the next four fiscal years as required by H.B. 15-1367.

**S.B. 15-014 (Medical Marijuana):** Makes several changes concerning medical marijuana. Permits money in the MTCF to be used to fund the implementation of any costs for law enforcement audits. The appropriations in S.B. 15-014 are summarized in the following table.

SUMMARY OF APPROPRIATIONS IN S.B. 15-014				
DEPARTMENT	MEDICAL MARIJUANA CASH FUND	MARIJUANA TAX CASH FUND	REAPPROPRIATED FUNDS	TOTAL FUNDS
Public Safety	\$0	\$60,000	\$0	\$60,000
Public Health and Environment	1,068,560	0	0	1,068,560
Revenue	0	113,704	0	113,704
FTE	0.0	1.0	0.0	1.0
Department of Law	0	0	56,706	56,706
FTE	0.0	0.0	0.3	0.3
Office of Information Technology	0	0	1,068,560	1,068,560
<b>TOTAL FUNDS</b>	<b>\$1,068,560</b>	<b>\$173,704</b>	<b>\$1,125,266</b>	<b>\$2,367,530</b>

**S.B. 15-167 (Modify FY 2014-15 Appropriation from Marijuana Revenue):** Reduces the difference between appropriations made from the MTCF for FY 2014-15 and the actual money collected and deposited in the MTCF during FY 2013-14 by creating a one-year exception to the prohibition on appropriating moneys in the MTCF for the current fiscal year, authorizing the General Assembly to appropriate, in FY 2014-15, a certain amount of money in the MTCF received by the State during FY 2014-15, and by reducing appropriations for marijuana-related programs and services for FY 2014-15 in four principal departments as follows:

- Reduces the appropriation from the MTCF to the Department of Law for optional training for certified peace officers who will act as trainers in advanced roadside impaired driving enforcement by \$76,000;
- Reduces the appropriation from the MTCF to the Department of Revenue for the Marijuana Enforcement Division by \$6.4 million and increases the appropriation from the Marijuana Cash Fund (MCF) to the Department of Revenue for the Marijuana Enforcement Division by the same amount;
- Reduces the General Fund appropriation to the Department of Health Care Policy and Financing (HCPF) for the School-based Substance Abuse Prevention and Intervention Grant Program by \$1,081,344 to reflect the actual amount of grants HCPF awarded plus \$50,000 for HCPF's administrative costs. In addition, the act reduces the amount that the State Treasurer is required

to transfer from the MTCF to the General Fund by \$1,151,631 to offset the General Fund appropriation for the grant program for the associated 6.5% statutory reserve.

- Reduces the appropriation from the MTCF to the Department of Human Services (DHS) for jail-based behavioral health services to offenders, including screening and providing treatment for adult inmates with a substance use disorder and providing continuity of care within the community after the inmate's release from jail. Reduces the appropriation by \$452,787 to reflect actual allocations to counties for the fiscal year.

In addition, the act authorizes DHS to use money appropriated from the MTCF for FY 2014-15 for the provision of substance use disorder treatment services for adolescents and pregnant women for the expanded purposes of providing substance use disorder treatment and prevention services and intensive wrap around services for adolescents and pregnant women. The act also authorizes DHS to spend such appropriated moneys in FY 2014-15 if necessary.

**S.B. 15-196 (Industrial Hemp Certified Seeds Concentration Test):** Expands the Industrial Hemp Committee, requires the Department of Agriculture to administer an industrial hemp certified seed program to identify seeds that produce industrial hemp, and makes several related statutory changes. Makes two appropriations for FY 2015-16: (1) \$249,763 cash funds from the MTCF to the Department of Agriculture based on the assumption it will require an additional 2.0 FTE; and (2) \$2,780 reappropriated funds to the Department of Law from those received by the Department of Agriculture.

**S.B. 15-249 (Marijuana Tax Cash Fund Transfer to General Fund):** In FY 2014-15, transfers \$27,700,000 from the MTCF to the General Fund in anticipation of reserving the funds for the Proposition AA refund expected to be required by Section 20 (3)(c) of Article X, of the Colorado Constitution (TABOR election provision).

**H.B. 15-1283 (Marijuana Reference Library and Lab Testing Access):** Requires the Department of Public Health and Environment (DPHE) to develop and maintain a marijuana laboratory testing reference library, or to contract with an organization that represents marijuana testing laboratories for the development and maintenance of the reference library. Laboratories licensed by the Department of Revenue are required to provide materials for the reference library; but no licensee is required to provide testing protocols. Creates a new license in the medical marijuana code for medical marijuana testing facilities. Permits a retail marijuana laboratory licensee to test industrial hemp from a registered entity or person. Creates process validation for edible marijuana products and other marijuana products in multi-serving packages for a ten milligram serving in a one hundred milligram package, including homogeneity, potency, solvents, and pesticides. Permits the use of money from the MTCF for the reference library. Appropriates \$23,850 cash funds from the MTCF to the DPHE for FY 2015-16.

**H.B. 15-1367 (Retail Marijuana Taxes):** Refers a ballot issue (“Proposition BB”)<sup>14</sup> to voters asking whether the State may retain and spend revenue collected from the Proposition AA excise and special sales taxes on retail marijuana in FY 2014-15. Creates a Proposition AA Refund Account (Refund Account) in the General Fund comprised of \$58.0 million (the amount expected to be collected from Proposition AA taxes in FY 2014-15). Of this amount, \$27.7 million is a transfer from the MTCTF pursuant to S.B. 15-249, and \$30.3 million is from the General Fund. If voters approve the ballot issue, the act apportions the amount in the Refund Account for expenditure during FY 2015-16. If voters reject the ballot issue, the act establishes mechanisms to refund moneys in the Account to taxpayers in FY 2015-16.

Independent of whether the voters approve the ballot issue, the act:

- lowers the retail marijuana excise and special sales tax rates to zero effective September 16, 2015, and raises them back to 15.0 percent and 10.0 percent, respectively, effective September 17, 2015;
- lowers the retail marijuana special sales tax rate from 10.0 percent to 8.0 percent beginning July 1, 2017;
- repeals current law requiring the Finance Committees of the General Assembly to review tax rates by April 1, 2016;
- transfers any marijuana excise tax revenue collected in excess of \$40.0 million during a single fiscal year to the Public School “Permanent” Fund rather than the MTCTF;
- broadens purposes for which funds in the MTCTF can be expended and requires the Marijuana Enforcement Division to report on its website how tax revenue is spent;
- requires that appropriations from the MTCTF for jail-based behavioral health services be made through the Correctional Treatment Cash Fund;
- creates the Local Government Retail Marijuana Impact Grant Program (described below); and
- makes conforming adjustments to appropriations in the 2015 Long Bill, as detailed in the following table.

---

<sup>14</sup> Proposition BB was adopted with 847,380 (69.4 percent) voting for the measure.

SECTION 22 APPROPRIATIONS NOT DEPENDENT ON OUTCOME OF BALLOT QUESTION			
DEPARTMENT/RECIPIENT	FUND SOURCE	DOLLAR AMOUNT	FTE
Department of Agriculture	Marijuana Tax Cash Fund	\$314,633	4.3
Department of Law	Reappropriated funds from Department of Local Affairs	1,890	0.0
Department of Law	Reappropriated funds from Department of Agriculture	24,703	0.1
Department of Local Affairs	Marijuana Tax Cash Fund	71,342	1.0
Department of Revenue	Marijuana Tax Cash Fund	25,440	0.0
<b>Total</b>		<b>\$438,008</b>	<b>5.4</b>
<b>2015 Long Bill Conforming Adjustments</b>			
Department of Human Services	Marijuana Tax Cash Fund	(\$1,550,000)	0.0
Department of Human Services	Reappropriated funds from Correctional Treatment Cash Fund	1,550,000	0.0
Correctional Treatment Cash Fund	Marijuana Tax Cash Fund	1,550,000	0.0
Judicial Department	Correctional Treatment Cash Fund	1,550,000	0.0

The act requires that the General Fund be reimbursed between FY 2014-15 and FY 2019-20 for the \$30.3 million deposited in the Proposition AA Refund Account. The schedule and amount of the reimbursement depends on whether voters approve or reject the ballot issue.

CONTINGENCIES IN ACT RELATED TO THE OUTCOME OF THE BALLOT ISSUE			
IF APPROVED	AMOUNT	IF REJECTED	AMOUNT
Explicitly describes how the funds identified for the refund (\$58.0 million) would be spent:		Describes how the Proposition AA Refund will be made:	
\$40.0 million is transferred to the Public School Capital Construction Fund, known as the BEST Fund	\$40,000,000	\$25.0 million refunded via the six-tier sales tax refund mechanism	\$25,000,000
\$2.5 million to the Department of Public Health and Environment (CDPHE) for the marijuana education campaign	2,500,000	\$19.7 million refunded to marijuana cultivators who paid a retail marijuana excise tax in FY 2014-15	19,700,000
\$1.0 million to CDPHE for the dissemination of information from poison control centers	1,000,000	\$13.3 million refunded via a special sales tax rate reduction	13,300,000
\$2.0 million to the School Bullying Prevention and Education Cash Fund administered by the Colorado Department of Education (CDE)	2,000,000	DOLA will not begin making grants through the Local Government Retail Marijuana Impact Grant Program until FY 2016-17	

CONTINGENCIES IN ACT RELATED TO THE OUTCOME OF THE BALLOT ISSUE				
IF APPROVED	AMOUNT	IF REJECTED	AMOUNT	
\$2.0 million to CDE via the Student Re-Engagement Program Cash Fund for costs associated with the student re-engagement program	2,000,000	Beginning FY 2015-16, \$6.06 million is retained in the General Fund from revenue that would have been transferred to the MTCF to repay \$30.3 million General Fund identified for the refund	<u>6,060,000</u>	
\$1.0 million to the Department of Human Services (DHS) via the Youth Mentoring Services Cash Fund for costs associated with youth mentoring services	1,000,000		<b>Total</b> <sup>/1</sup>	\$64,060,000
\$1.0 million to DHS for the provision of grants through the Tony Grampsas youth mentoring program	1,000,000			
\$0.5 million to the Department of Health Care Policy and Financing for grants to substance the substance abuse screening, brief intervention, and referral to treatment (SBIRT) program	500,000			
\$0.3 million to the Department of Agriculture for Future Farmers of American and 4-H programs at the state fair	300,000			
\$1.0 million to the Department of Local Affairs (DOLA) for grants through the Local Government Retail Marijuana Impact (LGRMI) Grant Program	1,000,000			
\$0.5 million to DHS for treatment and detoxification contracts	500,000			
\$0.2 million to the Department of Law (DOL) for Peace Officers Standards and Training (POST) Board	200,000			
\$6.0 retained in the General Fund to begin repayment of the \$30.3 million General Fund identified for the refund	6,000,000			
Appropriates \$82,132 and 1.0 FTE from the MTCF to DOLA for additional expenditures requires to make grants through the LGRMI Grant Program	82,132			
Of the \$82,132 to DOLA, \$21,803 is reappropriated to the Office of Information Technology	21,803			
Of the \$82,132 to DOLA, \$2,835 is reappropriated to the Office of Information Technology	<u>2,835</u>			
<b>Total</b> <sup>/1</sup>	\$58,106,770			

<sup>/1</sup> Does not total \$58.0 million due to inclusion of reappropriated funds and FY 2015-16 appropriations in totals.

Creates the Local Government Retail Marijuana Impact Program is to be administered by the Division of Local Government in the Department of Local Affairs. Local governments eligible to receive grants from the program are those that:

- permit the sale of retail marijuana but do not impose a tax, except sales taxes that apply uniformly to all products;
- counties where no retail marijuana is sold in unincorporated areas, but where retail marijuana is sold in one of more municipalities within the county;
- counties where no marijuana is sold, but where retail marijuana is sold in a contiguous county; and
- municipalities where no retail marijuana is sold, but where retail marijuana is sold in another municipality or unincorporated area of the same county, or in any part of a contiguous county.

**S.B. 14-215 (Disposition of Legal Marijuana Related Revenue):** Creates the Marijuana Tax Cash Fund (MTCF) and directs that all sales tax moneys collected by the state starting in FY 2014-15 from retail and medical marijuana to be deposited in the MTCF instead of the Marijuana Cash Fund (MCF). Transfers from the MCF to the MTCF the balance of marijuana sales tax revenue previously collected. Limits most appropriations from the MTCF to the fiscal year following the fiscal year in which it was received. Limits the total annual appropriations from the MTCF to 93.5 percent of money in the Fund available for appropriation. Specifies permissible uses of money in the MTCF, and creates the School Health Professional Grant Program, the Office of Marijuana Coordination, and the School-based Substance Abuse Prevention and Intervention Grant Program.

Continues for FY 2013-14 and FY 2014-15 the transfer of \$2.0 million of sales tax revenues to the General Fund to offset General Fund expenditures for the Department of Human Services' "Circle Program" and the Department of Health Care Policy and Financing Screening, Brief Intervention, and Referral for Treatment for Substance Abuse ("SBIRT") Program. Starting in FY 2015-16, the act authorizes the General Assembly to appropriate moneys from the MTCF to support the Circle Program.

For FY 2014-15 appropriates \$24.9 million total funds, including \$4.0 million General Fund and \$18.5 million from the MTCF for new programs authorized in the bill. Appropriates \$8.2 million from the MTCF for existing programs that previously received appropriations from the MCF. Transfers \$6.3 million from the MTCF to the General Fund for the Circle and SBIRT programs as well as two new programs that will be administered by the Department of Health Care Policy and Financing.

SB 14-215 APPROPRIATIONS AND TRANSFERS FOR NEW PROGRAMS							
AGENCY		TOTAL	GENERAL FUND	MARIJUANA TAX CASH FUND	FEDERAL FUNDS	FTE	PURPOSE
EDU	(1)	\$2,500,000	\$0	\$2,500,000	\$0	1.0	Behavioral health issues in public schools.
GOV	(2)	190,097	0	190,097	0	2.0	Drug policy office creation.
HCPF	(3)	4,363,807	2,000,000	0	2,363,807	0.0	School-based prevention and intervention services.
HCPF	(4)	2,000,000	2,000,000	0	0	0.0	School-based early intervention and prevention substance abuse grant program.
HUM	(5)	2,000,000	0	2,000,000	0	0.0	Tony Gramscas program grants for prevention.
HUM	(6)	1,500,000	0	1,500,000	0	0.0	Substance use disorder treatment services for adolescents and pregnant women.

**SB 14-215 APPROPRIATIONS AND TRANSFERS FOR NEW PROGRAMS**

AGENCY		TOTAL	GENERAL FUND	MARIJUANA TAX CASH FUND	FEDERAL FUNDS	FTE	PURPOSE
HUM	(7)	2,000,000	0	2,000,000	0	0.0	Expansion and enhancement of jail-based behavioral health services.
HUM	(8)	2,000,000	0	2,000,000	0	0.0	Enhancement of S.B. 91-094 programs.
LAW	(9)	456,760	0	456,760	0	2.0	Development of in-house expertise on regulations.
LAW	(10)	1,168,000	0	1,168,000	0	1.0	Peace Officers Standards and Training Board expanded training activities.
PBH	(11)	5,683,608	0	5,683,608	0	3.7	Public awareness campaign.
PBH	(12)	903,561	0	903,561	0	1.5	Health Kids Colorado survey.
HUM	(13)	100,000	0	100,000	0	0.0	Child welfare training.
<b>Section 13 Subtotal</b>		<b>\$24,865,833</b>	<b>\$4,000,000</b>	<b>\$18,502,026</b>	<b>\$2,363,807</b>	<b>11.2</b>	
<b>Section 12 Subtotal</b>		<b>\$8,156,371</b>	<b>\$0</b>	<b>\$8,156,371</b>	<b>\$0</b>	<b>0.0</b>	<b>Adjustments to 2014 Long Bill</b>
		2,000,000	0	2,000,000	0	0.0	Transfer to General Fund for CIRCLE and SBIRT
		4,260,000	0	4,260,000	0	0.0	Transfer to General Fund for HCPF Sect. 13 (3) and HCPF Sect. 13 (4) programs, as well as a 6.5 percent (\$260,000) General Fund reserve.
<b>Section 2 Subtotal</b>		<b>\$6,260,000</b>	<b>\$0</b>	<b>\$6,260,000</b>	<b>\$0</b>	<b>0.0</b>	
<b>Sections 2, 12, 13 Total</b>		<b>\$39,282,204</b>	<b>\$4,000,000</b>	<b>\$32,918,397</b>	<b>\$2,363,807</b>	<b>11.2</b>	

**S.B. 13-283 (Implement Amendment 64 Consensus Recommendations):** Makes a number of changes related to the implementation of Amendment 64, and appropriates the following amounts in FY 2013-14 for implementation:

- \$307,542 cash funds and 4.0 FTE from the Marijuana Cash Fund to the Department of Public Health and Environment;
- \$154,034 General Fund to the Department of Public Safety;
- \$280,000 General Fund to the Department of Revenue; and
- \$20,000 General Fund to the Department of Law.

**H.B. 13-1317 (Implement Amendment 64 Majority Recommendation):** Establishes the regulatory framework to implement Amendment 64, which legalizes the possession of small amounts of marijuana. Credits to the Marijuana Cash Fund all application and licensing fees related to marijuana businesses, all regular sales taxes and any special sales taxes from medical and retail marijuana, as well as any General Fund required to fund the MED's regulatory and enforcement operations. Once the MED achieves a sufficient balance of cash funds to support the operations of the MED, transfers excess money to repay the General Fund for any money provided to the MED for its operations. Appropriates \$1,227,026 cash funds from the Marijuana Cash Fund to the Department of Revenue for personal services and operating expense and the purchase of legal services and computer center services related to implementation of the act.

**H.B. 13-1318 (Retail Marijuana Taxes):** Creates a special sales tax of up to 15.0 percent (in addition to the existing 2.9 percent state sales tax and any local sales tax) to be levied on retail marijuana sales. The tax rate is initially set at 10.0 percent, which the General Assembly may raise or lower without having to go back to the voters for approval. Allocates 15.0 percent of the proceeds to local jurisdictions in the proportion of the total marijuana sales that occur in their areas. Requires an annual transfer from the General Fund to the Marijuana Cash Fund in the amount equal to the remaining sales tax revenues after apportionment to the local jurisdictions.

Creates an excise tax of up to 15.0 percent of the average market rate of the unprocessed retail marijuana upon its first sale or transfer from a cultivation facility to a retail store, manufacturing facility, or other cultivation facility. As required by Amendment 64, transfers the first \$40.0 million collected to the Public School Capital Construction Fund, with any remaining moneys transferred to the Marijuana Cash Fund.

The additional sales and excise taxes are contingent on voter approval of a statewide ballot question regarding imposition of the taxes. Appropriates, contingent on voter approval of the ballot measure (“Proposition AA”)<sup>15</sup>, \$4,246,090 cash funds from the Marijuana Cash Fund to the Department of Revenue for FY 2013-14 for the administration of the taxes imposed.

---

<sup>15</sup> Proposition AA was adopted with 902,181 (65.3 percent) voting for the measure.

## APPENDIX B

### LIST OF ONLINE RESOURCES CONCERNING MARIJUANA LAWS IN OTHER STATES AND IN LOCAL JURISDICTIONS WITHIN COLORADO

Since 1996, voters in twenty-nine states have legalized medical marijuana, and eight states plus Washington D.C. allow adult-use recreational marijuana. With assistance from staff at the Department of Revenue, staff has identified and listed below a few sources of timely information about marijuana laws in other states.

Governing Magazine - State Marijuana Laws in 2017 (includes map):

<http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html>

National Conference of State Legislatures – State Laws Concerning Medical Marijuana/Cannabis Programs (includes a table listing details by state):

<http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx#3>

The Cannabist – U.S. Cannabis Laws (includes map):

<http://www.thecannabist.co/2016/10/14/legal-marijuana-laws-by-state-map-united-states/62772/>

The Department of Revenue maintains a list of local authorities that have advised the Department's Marijuana Enforcement Division that they are currently allowing marijuana businesses to operate within their jurisdiction:

<https://www.colorado.gov/pacific/sites/default/files/Local%20Authority%20Status%20Lists%20%2011012017%20CURRENT%20VERSION.pdf>

## APPENDIX C

### APPROPRIATIONS FROM THE MARIJUANA TAX CASH FUND

APPROPRIATIONS FROM AND TRANSFERS OUT OF THE MARIJUANA TAX CASH FUND FOR FY 2016-17, FY 2017-18, AND FY 2018-19					
DEPARTMENT AND PROGRAM	FY 2016-17 APPROPRIATION	FY 2017-18 APPROPRIATION	FY 2018-19 REQUEST	FY 2018-19 ANNUAL CHANGE	STATUTORY PURPOSE <sup>a</sup>
<b>Agriculture:</b>					
Pesticide control and regulation	\$1,499,726	\$1,909,783	\$2,008,783	\$99,000	E
Colorado State Fair Authority: FFA and 4-H programming	300,000	300,000	300,000	0	B
Hemp regulatory and seed certification	364,273	0	0	0	I
Indirect cost assessments and centrally appropriated amounts not accounted for above	<u>105,241</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<b>Subtotal: Agriculture</b>	<b>2,269,240</b>	<b>2,209,783</b>	<b>2,308,783</b>	<b>99,000</b>	
<b>Education:</b>					
School Health Professionals Grant Program	2,280,833	11,923,783	11,927,543	3,760	B
Early Literacy Competitive Grant Program	4,378,678	4,378,678	4,378,678	0	B
Office of Dropout Prevention and Student Reengagement	900,000	2,000,000	2,000,419	419	B
Appropriation to the School Bullying Prevention and Education Cash Fund	900,000	2,000,000	2,000,000	0	B
Marijuana Education Materials Resource Bank (S.B. 17-025)	0	47,000	17,000	(30,000)	M
Centrally appropriated amounts not accounted for above	<u>18,649</u>	<u>69,869</u>	<u>79,352</u>	<u>9,483</u>	
<b>Subtotal: Education</b>	<b>8,478,160</b>	<b>20,419,330</b>	<b>20,402,992</b>	<b>(16,338)</b>	
<b>Governor:</b>					
Office of Information Technology, Applications Administration	0	1,109,625	638,750	(470,875)	E
Evidence-based policymaking evaluation and support	0	500,000	435,675	(64,325)	E
Governor's Office	0	117,199	131,054	13,855	E
Governor's Office of Marijuana Coordination	191,590	0	0	0	E
Centrally appropriated amounts not accounted for above	<u>25,354</u>	<u>0</u>	<u>0</u>	<u>0</u>	E
<b>Subtotal: Governor</b>	<b>216,944</b>	<b>1,726,824</b>	<b>1,205,479</b>	<b>(521,345)</b>	

APPROPRIATIONS FROM AND TRANSFERS OUT OF THE MARIJUANA TAX CASH FUND FOR FY 2016-17, FY 2017-18, AND FY 2018-19

DEPARTMENT AND PROGRAM	FY 2016-17 APPROPRIATION	FY 2017-18 APPROPRIATION	FY 2018-19 REQUEST	FY 2018-19 ANNUAL CHANGE	STATUTORY PURPOSE <sup>a</sup>
<b>Health Care Policy and Financing:</b>					
Training for health professionals to provide Screening, Brief Intervention, and Referral for Treatment (SBIRT) services for Medicaid clients at risk for substance abuse	<u>750,000</u>	<u>750,000</u>	<u>750,000</u>	<u>0</u>	C
<b>Subtotal: Health Care Policy and Financing</b>	<b>750,000</b>	<b>750,000</b>	<b>750,000</b>	<b>0</b>	
<b>Higher Education:</b>					
Institute of Cannabis Research at CSU-Pueblo (S.B. 16-191)	900,000	1,800,000	1,800,000	0	H
Center for Research Into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (S.B. 17-193)	0	1,000,000	0	(1,000,000)	G
Medication-assisted Treatment Pilot Program (S.B. 17-074)	<u>0</u>	<u>500,000</u>	<u>500,000</u>	<u>0</u>	C
<b>Subtotal: Higher Education</b>	<b>900,000</b>	<b>3,300,000</b>	<b>2,300,000</b>	<b>(1,000,000)</b>	
<b>Human Services:</b>					
Increasing access to effective substance use disorder services, including evaluation of intensive residential treatment (S.B. 16-202)	5,928,632	12,189,109	12,309,950	120,841	C
Criminal justice diversion programs (Law Enforcement Assisted Diversion or "LEAD" pilot programs and S.B. 17-207)	0	5,517,942	5,586,589	68,647	D
Mental health services for juvenile and adult offenders	2,900,185	5,519,298	5,574,491	55,193	D
Enhance behavioral health crisis response system (S.B. 17-207)	0	4,070,318	4,344,438	274,120	C
Circle Program for adults with co-occurring mental health and substance use disorders	1,852,824	1,993,511	2,202,417	208,906	C
Programs that fund service alternatives to placing youth in a correctional facility (S.B. 91-094)	2,000,000	2,028,036	2,048,317	20,281	B
Tony Grampsas Youth Services Program grants for the prevention of youth marijuana use	373,672	1,373,672	1,373,672	0	B
Behavioral health services for individuals in rural areas show have co-occurring mental health and substance use disorders	500,000	1,035,529	1,045,884	10,355	C
Appropriation to the Youth Mentoring Services Cash Fund (Tony Grampsas Youth Services Program)	1,000,000	1,000,000	1,000,000	0	B
Community prevention and treatment for alcohol and drug abuse	756,298	756,298	763,861	7,563	C
Expansion of evidence based Incredible Years program (R17)	0	0	624,612	624,612	B?

APPROPRIATIONS FROM AND TRANSFERS OUT OF THE MARIJUANA TAX CASH FUND FOR FY 2016-17, FY 2017-18, AND FY 2018-19

DEPARTMENT AND PROGRAM	FY 2016-17 APPROPRIATION	FY 2017-18 APPROPRIATION	FY 2018-19 REQUEST	FY 2018-19 ANNUAL CHANGE	STATUTORY PURPOSE <sup>a</sup>
Medication consistency and health information exchange (S.B. 17-019)	0	0	590,936	590,936	D
Substance use disorder treatment at the mental health institutes	0	556,986	468,031	(88,955)	C
Office of Behavioral Health administrative expenses	238,103	310,587	391,194	80,607	C, D
Mental Health Treatment Services for Youth (H.B. 99-1116)	300,000	304,205	307,247	3,042	C
Competency restoration services and education (S.B. 17-012)	0	18,000	18,000	0	C
Indirect cost assessments and centrally appropriated amounts not accounted for above	<u>784,639</u>	<u>2,068,997</u>	<u>2,264,341</u>	<u>195,344</u>	
<b>Subtotal: Human Services</b>	<b>16,634,353</b>	<b>38,742,488</b>	<b>40,913,980</b>	<b>2,171,492</b>	
<b>Judicial:</b>					
Appropriation to the Correctional Treatment Cash Fund for jail-based behavioral health services (administered through the Department of Human Services)	<u>1,550,000</u>	<u>1,571,728</u>	<u>1,587,445</u>	<u>15,717</u>	D
<b>Subtotal: Judicial</b>	<b>1,550,000</b>	<b>1,571,728</b>	<b>1,587,445</b>	<b>15,717</b>	
<b>Labor and Employment:</b>					
Colorado Veterans' Service-to-career Pilot Program (H.B. 16-1267)	<u>500,000</u>	<u>165,296</u>	<u>0</u>	<u>(165,296)</u>	L
<b>Subtotal: Labor and Employment</b>	<b>500,000</b>	<b>165,296</b>	<b>0</b>	<b>(165,296)</b>	
<b>Law:</b>					
Local law enforcement training through the Peace Officers Standards and Training (POST) Board	750,000	750,000	1,036,766	286,766	F
Develop in-house legal expertise and training	<u>286,766</u>	<u>286,766</u>	<u>0</u>	<u>(286,766)</u>	E
<b>Subtotal: Law</b>	<b>1,036,766</b>	<b>1,036,766</b>	<b>1,036,766</b>	<b>0</b>	
<b>Local Affairs:</b>					
Affordable Housing Construction Grants and Loans	0	15,300,000	15,300,000	0	N
Gray and Black Market Marijuana Enforcement Efforts (H.B. 17-1221)	0	5,919,036	5,940,151	21,115	F
Local Government Retail Marijuana Impact Grant Program	1,117,540	1,117,540	0	(1,117,540)	K
Indirect cost assessments and centrally appropriated amounts not accounted for above	<u>63,155</u>	<u>141,389</u>	<u>144,963</u>	<u>3,574</u>	
<b>Subtotal: Local Affairs</b>	<b>1,180,695</b>	<b>22,477,965</b>	<b>21,385,114</b>	<b>(1,092,851)</b>	

APPROPRIATIONS FROM AND TRANSFERS OUT OF THE MARIJUANA TAX CASH FUND FOR FY 2016-17, FY 2017-18, AND FY 2018-19

DEPARTMENT AND PROGRAM	FY 2016-17 APPROPRIATION	FY 2017-18 APPROPRIATION	FY 2018-19 REQUEST	FY 2018-19 ANNUAL CHANGE	STATUTORY PURPOSE <sup>a</sup>
<b>Public Health and Environment:</b>					
Substance abuse prevention	7,127,612	9,408,800	9,420,800	12,000	G
Public awareness campaign	7,025,000	4,650,000	4,650,000	0	G
Distributions to Local Public Health Agencies	1,767,584	1,792,362	1,810,286	17,924	G
Marijuana lab certification	294,141	1,295,543	698,656	(596,887)	G
Retail marijuana health research grants	343,622	866,122	867,167	1,045	H
Healthy Kids Colorado Survey	745,124	745,124	748,314	3,190	G
Marijuana Health Effects Monitoring	320,388	320,388	330,729	10,341	H
Health survey data collection	238,000	238,000	238,000	0	G
Data collection and analysis (S.B. 13-283)	89,550	90,939	90,939	0	G
Enhanced marijuana data collection through Rocky Mountain Poison and Drug	123,383	60,100	60,100	0	G
Indirect cost assessments and centrally appropriated amounts not accounted for above	<u>24,058</u>	<u>1,263,368</u>	<u>2,407,606</u>	<u>1,144,238</u>	
<b>Subtotal: Public Health and Environment</b>	<b>18,098,462</b>	<b>20,730,746</b>	<b>21,322,597</b>	<b>591,851</b>	
<b>Public Safety:</b>					
Black market marijuana interdiction (R7)	0	0	1,225,202	1,225,202	F
Juvenile diversion programs	400,000	400,000	400,000	0	B
Study of the impacts of the legalization of retail marijuana (S.B. 13-283/S.B. 16-191)	159,983	159,983	162,174	2,191	H
Public Safety Intelligence Support Related to the Illegal Sale and Diversion of Marijuana	56,998	56,998	75,774	18,776	F
Collection of medical marijuana information by law enforcement agencies (S.B. 15-014)	61,940	61,940	61,940	0	H
Reserve Peace Officer Academy Grant Program (S.B. 17-096)	0	814,834	16,183	(798,651)	F
Indirect cost assessments and centrally appropriated amounts not accounted for above	<u>43,888</u>	<u>57,039</u>	<u>89,477</u>	<u>32,438</u>	
<b>Subtotal: Public Safety</b>	<b>722,809</b>	<b>1,550,794</b>	<b>2,030,750</b>	<b>479,956</b>	

APPROPRIATIONS FROM AND TRANSFERS OUT OF THE MARIJUANA TAX CASH FUND FOR FY 2016-17, FY 2017-18, AND FY 2018-19

DEPARTMENT AND PROGRAM	FY 2016-17 APPROPRIATION	FY 2017-18 APPROPRIATION	FY 2018-19 REQUEST	FY 2018-19 ANNUAL CHANGE	STATUTORY PURPOSE <sup>a</sup>
<b>Regulatory Agencies:</b>					
Improve enforcement of medical marijuana gray market	<u>0</u>	<u>304,225</u>	<u>304,225</u>	<u>0</u>	E
<b>Subtotal: Regulatory Agencies</b>	<b>0</b>	<b>304,225</b>	<b>304,225</b>	<b>0</b>	
<b>Transportation:</b>					
Marijuana impaired driving campaign	450,000	950,000	950,000	0	A
Impaired driving campaign	<u>500,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	A
<b>Subtotal: Transportation</b>	<b>950,000</b>	<b>950,000</b>	<b>950,000</b>	<b>0</b>	
<b>Subtotal: Appropriations from Revenues Collected in Previous Fiscal Year</b>					
	<b>\$53,287,429</b>	<b>\$115,935,945</b>	<b>\$116,498,131</b>	<b>\$562,186</b>	
Appropriation to the Department of Revenue from revenues collected in same fiscal year pursuant to Section 39-28.8-501 (2)(a)(I), C.R.S.	<u>7,707,249</u>	<u>1,591,805</u>	<u>1,532,087</u>	<u>(59,718)</u>	E
<b>Total Appropriations</b>	<b>\$60,994,678</b>	<b>\$117,527,750</b>	<b>\$118,030,218</b>	<b>\$502,468</b>	
<b>Additional FY 2018-19 Appropriations and Transfers Proposed by the Governor (Description/Administering Department):</b>					
Pay for Success Feasibility Study			1,780,000	1,780,000	
Policy proposals related to teacher shortage report			10,000,000	10,000,000	
Grant program to offset revenue reductions for local law enforcement agencies resulting from H.B. 17-1313			<u>1,500,000</u>	<u>1,500,000</u>	
Subtotal			13,280,000	13,280,000	
<b>Other Existing Transfers and Appropriations</b>					
Transfer to General Fund for repayment related to the Proposition AA Refund Account created in H.B. 15-1367 (H.B. 16-1418)	26,277,661	0	0	0	
Transfer to General Fund for H.B. 17-1351 (HCPF study of inpatient substance use disorder treatment)	0	37,500	0	(37,500)	
Transfer to General Fund proposed by Governor to correct error related to sales tax collections		2,100,000			
Appropriations remaining available for capital construction	<u>844,858</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<b>Total Appropriations and Transfers from Marijuana Tax Cash Fund</b>	<b>\$88,117,197</b>	<b>\$119,665,250</b>	<b>\$131,310,218</b>	<b>\$13,744,968</b>	

APPROPRIATIONS FROM AND TRANSFERS OUT OF THE MARIJUANA TAX CASH FUND FOR FY 2016-17, FY 2017-18, AND FY 2018-19

DEPARTMENT AND PROGRAM	FY 2016-17 APPROPRIATION	FY 2017-18 APPROPRIATION	FY 2018-19 REQUEST	FY 2018-19 ANNUAL CHANGE	STATUTORY PURPOSE <sup>a</sup>
------------------------	-----------------------------	-----------------------------	-----------------------	--------------------------------	-----------------------------------

a/ Pursuant to Section 39-28.8-501(2)(b)(IV), C.R.S., the General Assembly may annually appropriated money in the MTCF for the following purposes:

- (A) To educate people about marijuana to prevent its illegal use or legal abuse;
- (B) To provide services for adolescents and school-aged children in school settings or through community-based organizations;
- (C) To treat and provide related services to people with any type of substance use or mental health disorder, including those with co-occurring disorders, or to evaluate the effectiveness and sufficiency of behavioral health services;
- (D) For jail-based and other behavioral health services for persons involved in or diverted from the criminal justice system;
- (E) For state regulatory enforcement, policy coordination, or litigation defense costs related to retail or medical marijuana;
- (F) For law enforcement and law enforcement training, including any expenses for the police officers standards and training board training or certification;
- (G) For the promotion of public health, including poison control, prescription drug take-back programs, the creation of a marijuana laboratory testing reference library, and other public health services related to controlled substances;
- (H) To study the use of marijuana and other drugs, their health effects, and other social impacts related to them;
- (I) To research, regulate, study, and test industrial hemp or hemp seeds;
- (J) For the start-up expenses of the division of financial services related to the regulation of marijuana financial services cooperatives pursuant to article 33 of title 11, C.R.S., until the State Commissioner of Financial Services first collects assessments on such cooperatives;
- (K) For grants to local governments for documented retail marijuana impacts through the Local Government Retail Marijuana Impact Grant Program created in section 24-32-117, C.R.S.;
- (L) For the Colorado Veterans' Service-to-career Pilot Program created in part 2 of article 14.3 of title 8, C.R.S.
- (M) For the expenses of the Department of Education and the Department of Public Health and Environment in developing and maintaining the resource bank for educational materials on marijuana and providing technical assistance as required by Section 22-2-127.7, C.R.S.; and
- (N) For housing, rental assistance, and supportive services, including reentry services, pursuant to Section 24-32-721, C.R.S.



# **JBC Staff Marijuana Policy Overview**

**Presented by:**

**Carolyn Kampman, JBC Staff  
November 14, 2017**

# ALLOCATION OF STATE TAXES RELATED TO MARIJUANA: FY 2018-19

## Medical Marijuana

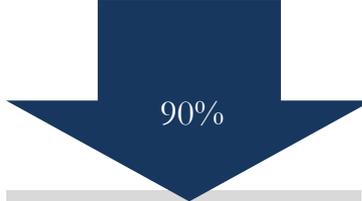
2.9% Sales Tax



Marijuana Tax  
Cash Fund

## Retail Marijuana

15% Special Sales Tax



General Fund  
15.56% Retained

71.85%

12.59%

State Public  
School  
Fund

15% Excise Tax

First \$40  
million

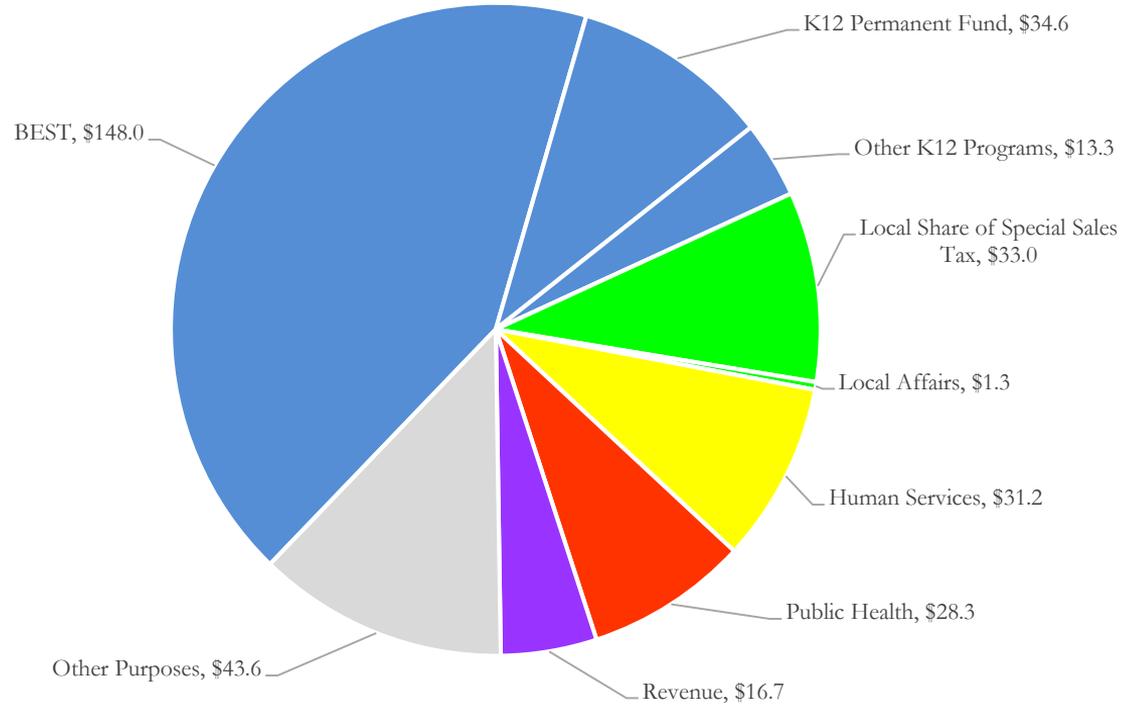
BEST Fund

Anything  
over  
\$40  
million

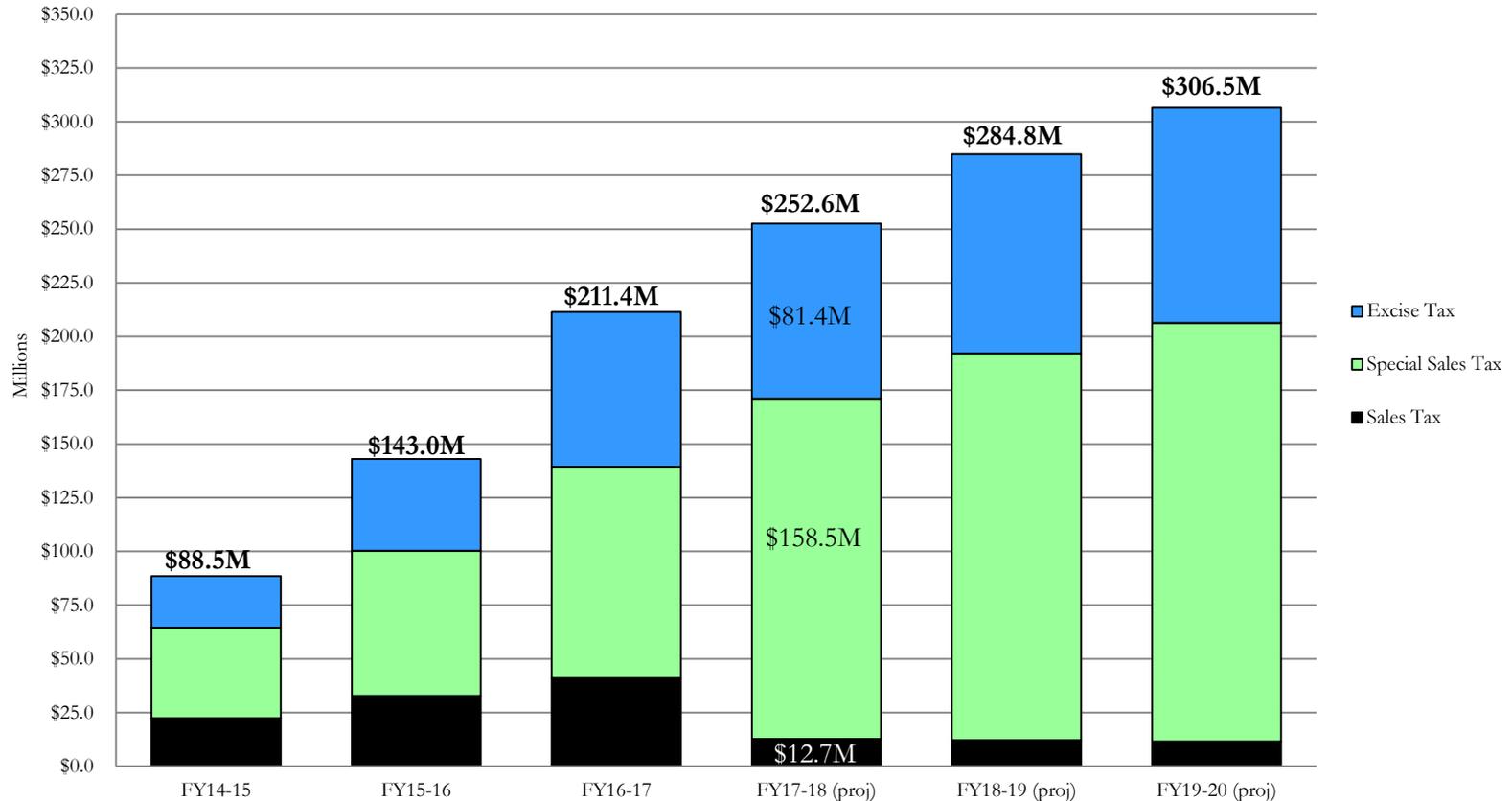
Public School  
"Permanent"  
Fund

Local  
Governments  
that Allow  
Retail Sales

ALLOCATION OF STATE MARIJUANA REVENUES THROUGH FY 2016-17  
(\$ MILLIONS)

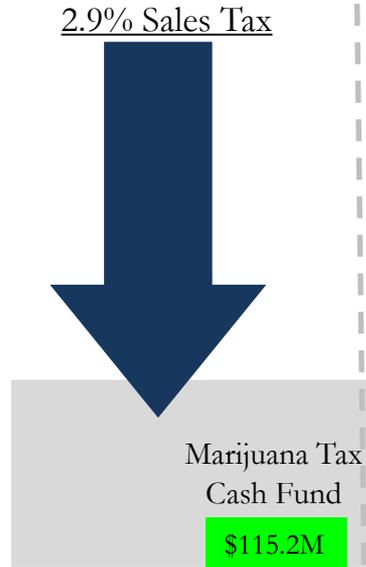


## SOURCES OF STATE TAXES RELATED TO MARIJUANA

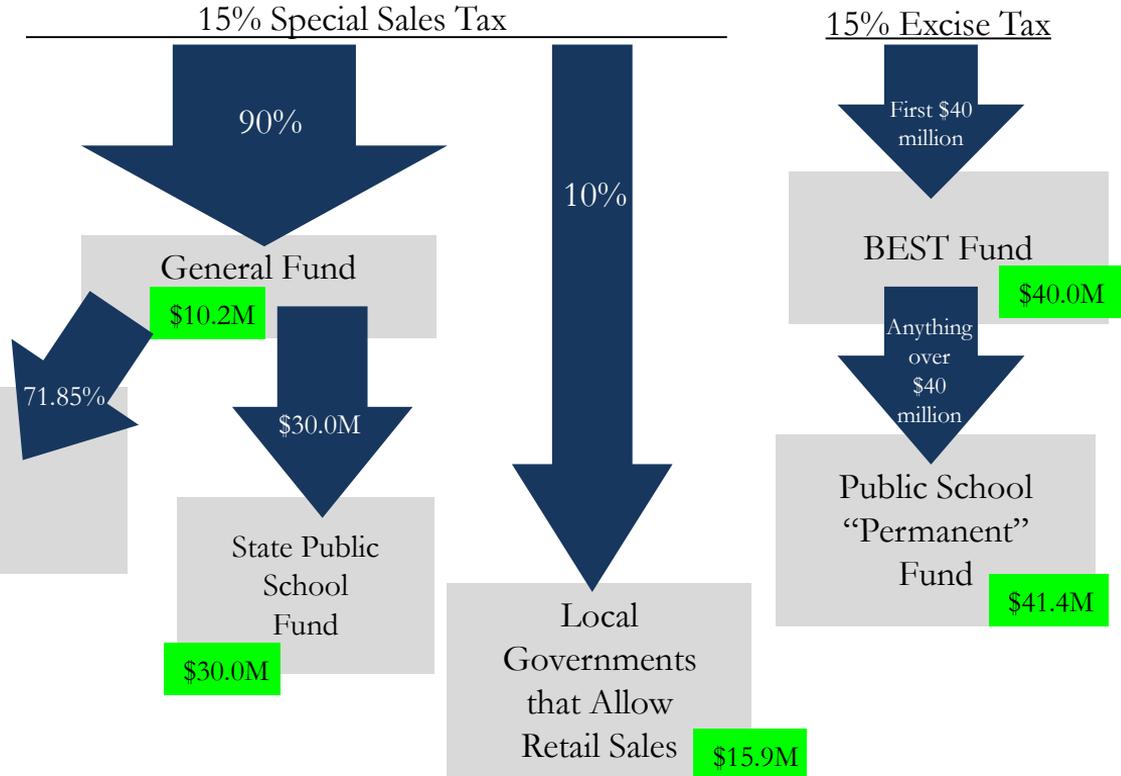


# ALLOCATION OF STATE TAXES RELATED TO MARIJUANA: FY 2017-18

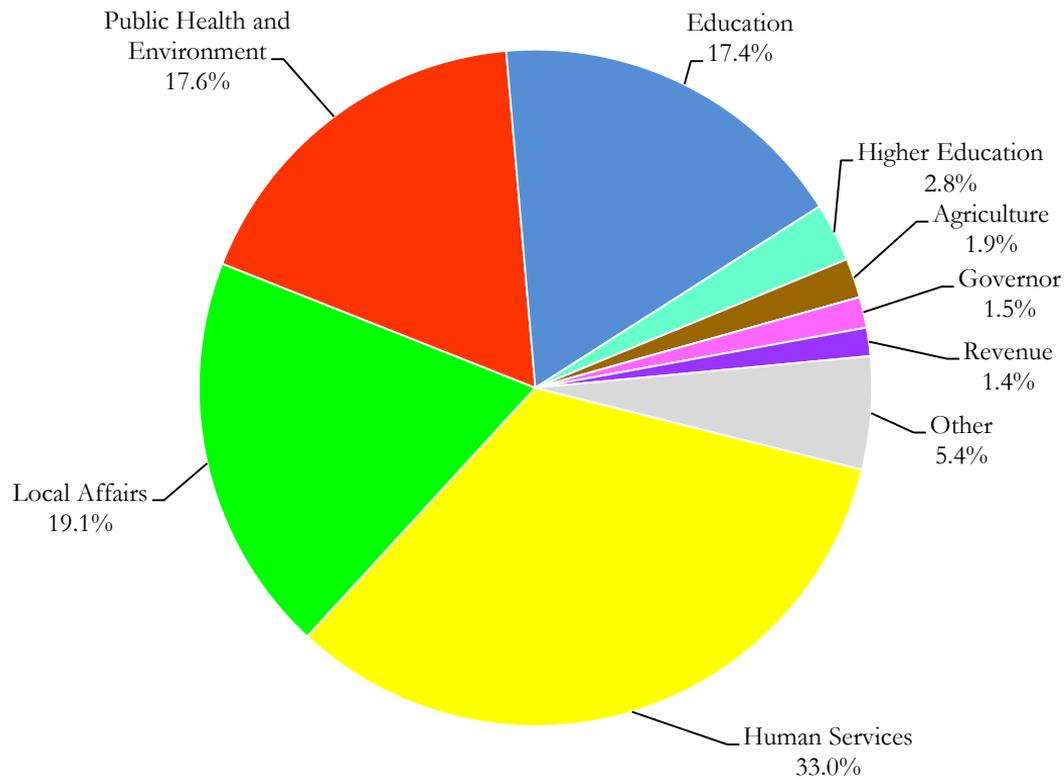
## Medical Marijuana



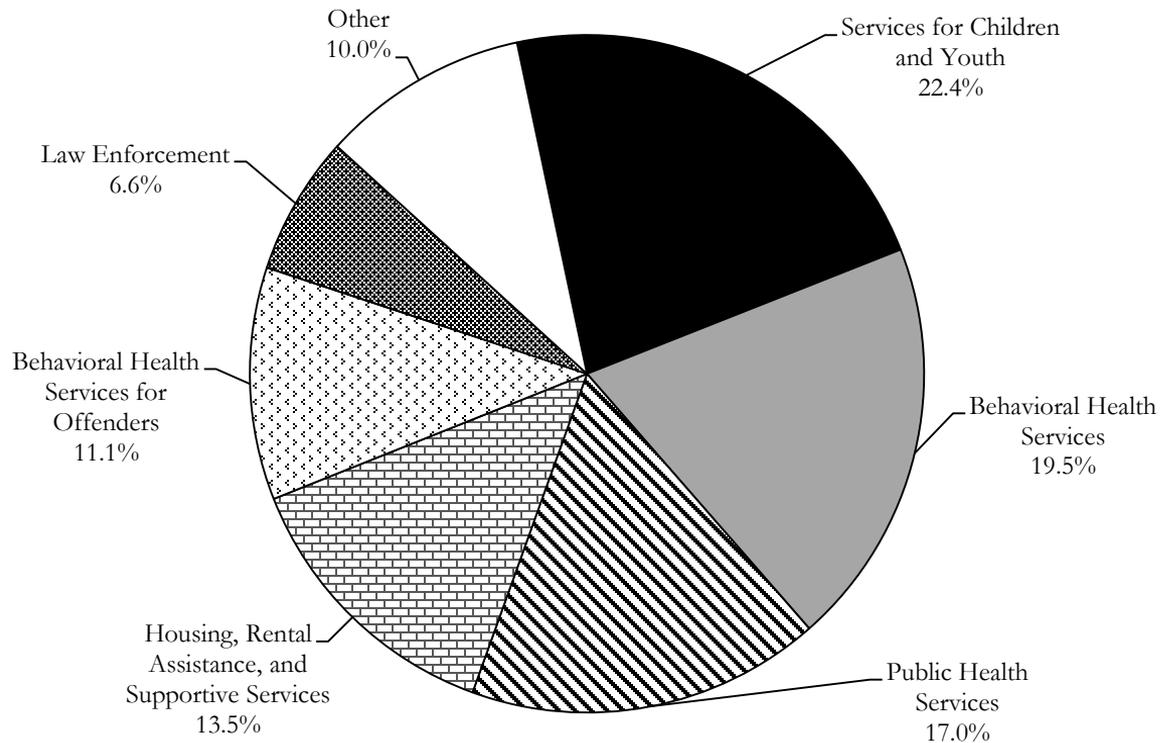
## Retail Marijuana



## MARIJUANA TAX CASH FUND APPROPRIATIONS FOR FY 2017-18, BY DEPARTMENT



## MARIJUANA TAX CASH FUND APPROPRIATIONS FOR FY 2017-18, BY STATUTORY PURPOSE





# **JBC Staff Marijuana Policy Overview**

**Presented by:**

**Carolyn Kampman, JBC Staff  
November 14, 2017**