

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members
 FROM Carolyn Kampman, JBC Staff (303-866-4959)
 DATE March 18, 2019
 SUBJECT Updated Projection of Funds in the Marijuana Tax Cash Fund Available for Appropriation and JBC Actions to Date

This memorandum provides updated information concerning the Marijuana Tax Cash Fund (MTCF) to assist the Committee in making final decisions concerning the FY 2019-20 budget proposal. This memorandum reflects Committee actions to date on FY 2019-20 requests, as well as updated projections of funds available for appropriation for FY 2019-20 based both of the economic forecasts as of March 15, 2019.

Table 1 provides a summary of the most significant year-over-year changes in MTCF appropriations and transfers. Overall appropriations and transfers for FY 2019-20 will be \$1.8 million lower than for FY 2018-19.

Department	Program	Annual Change
Public Safety	Refinance State Toxicology Laboratory (DPS R5)	\$1,696,626
Transportation	Impaired driving campaign (TRA R1)	1,000,000
Governor	Transfer to Pay for Success Contracts Fund (H.B. 18-1323)	728,294
Revenue and Public Safety	CBI Task Force to assist Department of Revenue's Marijuana Enforcement Division (REV R7) [FY 2019-20 appropriation is offset by transfer from Marijuana Cash Fund]	0
Public Health and Environment	Eliminate one-time appropriation for Medical marijuana research grants	(3,000,000)
Higher Education	Eliminate one-time appropriations for the Center for Research Into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (H.B. 18-1003) and the Medication-assisted Treatment Pilot Program (S.B. 17-074)	(1,250,000)
Labor & Employment	Eliminate one-time appropriation for the Colorado Veterans' Service-to-career Pilot Program (H.B. 18-1343)	(1,000,000)
Public Health and Environment	Eliminate one-time appropriation for School-based Health Centers (H.B. 18-1003)	(775,000)
Health Care Policy and Financing	Reduce appropriation for training for health professionals to provide Screening, Brief Intervention, and Referral for Treatment (SBIRT) services for Medicaid clients at risk for substance abuse (H.B. 18-1003)	(175,000)
	Other changes (e.g., provider rate increases, employee benefits, indirect costs, etc.)	1,005,278
Total		(\$1,769,802)

Table 2 summarizes State tax revenues related to marijuana, including actual revenues for the last four fiscal years and projected revenues for FY 2018-19 and FY 2019-20. This table reflects projected revenues based on the Office of State Planning and Budgeting (OSPB) March 2019 forecast.

MARIJUANA TAX CASH FUND UPDATE
MARCH 18, 2019

TABLE 2
STATE TAX REVENUES RELATED TO RETAIL AND MEDICAL MARIJUANA (\$MILLIONS)

	ACTUALS (OSPB)				OSPB FORECAST (3/2019)	
	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Proposition AA Taxes (Not Subject to TABOR)						
Total Special Sales Tax on Retail Marijuana ^a	\$42.1	\$67.1	\$98.4	\$167.2	\$192.0	\$207.0
<i>State Share of Special Sales Tax</i>	35.8	57.0	83.7	150.5	173.0	186.0
<i>Local Share of Special Sales Tax</i>	6.3	10.1	14.8	16.7	19.0	21.0
15.0 Percent Excise Tax on Retail Marijuana	24.0	42.6	71.4	68.0	54.1	48.6
Total Proposition AA Tax Revenues	\$66.1	\$109.7	\$169.8	\$235.1	\$246.1	\$255.6
Regular 2.9 Percent Sales Taxes (Subject to TABOR)						
Total 2.9 Percent Sales Tax Revenues^b	\$22.4	\$32.7	\$41.0	\$15.8	\$9.8	\$9.3
Total State Taxes on Marijuana	\$88.5	\$142.4	\$210.9	\$251.0	\$255.9	\$264.9
<i>Portion Credited to Marijuana Tax Cash Fund^c</i>	<i>\$58.2</i>	<i>\$89.8</i>	<i>\$124.7</i>	<i>\$123.9</i>	<i>\$134.0</i>	<i>\$143.2</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.

For purposes of comparison, Table 3 summarizes projected State tax revenues related to marijuana based on the Legislative Council Staff (LCS) March 2019 forecast. The LCS forecast is higher than the OSPB forecast for both fiscal years. Specifically, the LCS forecast projects:

- \$10.2 million more in excise taxes in FY 2018-19 (and \$13.9 million more in FY 2019-20); and
- \$4.7 million more revenues credited to the MTCF in FY 2018-19 (and \$9.2 million more in FY 2019-20).

TABLE 3
STATE TAX REVENUES RELATED TO RETAIL AND MEDICAL MARIJUANA (\$MILLIONS)

	LCS FORECAST (3/2019)	
	FY 2018-19	FY 2019-20
Proposition AA Taxes (Not Subject to TABOR)		
Total Special Sales Tax on Retail Marijuana	\$195.5	\$216.4
<i>State Share of Special Sales Tax</i>	175.9	194.8
<i>Local Share of Special Sales Tax</i>	19.6	21.6
15.0 Percent Excise Tax on Retail Marijuana	64.3	62.5
Total Proposition AA Tax Revenues	\$259.9	\$278.9
Regular 2.9 Percent Sales Taxes (Subject to TABOR)		
Total 2.9 Percent Sales Tax Revenues	\$12.3	\$12.5
Total State Taxes on Marijuana	\$272.2	\$291.4
<i>Portion Credited to Marijuana Tax Cash Fund</i>	<i>\$138.7</i>	<i>\$152.4</i>

Finally, Table 4 details the total funds available in the MTCF for appropriation or transfer in FY 2019-20. This table reflects the OSPB March 2019 revenue forecast, mid-year appropriation changes, and actions to date on requests from the MTCF for FY 2019-20. **Due to a healthy fund balance, a total of \$154.5 million is available for appropriations and transfers in FY 2019-20.**

TABLE 4 FUNDS AVAILABLE FOR APPROPRIATION FROM THE MARIJUANA TAX CASH FUND FOR FY 2019-20	
DESCRIPTION	Amount
Beginning fund balance as of July 1, 2018 (per Department of Revenue)	\$164,153,512
LESS: FY 2018-19 Appropriations for various departments from prior year revenues, as amended by supplemental bills	(130,380,935)
LESS: FY 2018-19 transfer to a cash fund for H.B. 18-1323 (Pay for Success Contracts)	(989,470)
PLUS: Total projected MTCF share of revenue to be collected in FY 2018-19 per Office of State Planning and Budgeting (March 2019 forecast)	<u>133,956,800</u>
<i>State share of special sales tax on retail marijuana (71.85 percent of total State share)</i>	<i>124,156,800</i>
<i>Regular sales tax on retail and medical marijuana</i>	<i>9,800,000</i>
LESS: FY 2018-19 Appropriations to the Department of Revenue	(1,532,087)
EQUALS: Total funds available in the Fund for FY 2019-20	165,207,820
LESS: Statutorily required reserve (6.5 percent)	<u>(10,738,508)</u>
EQUALS: Funds Available for Appropriation or Transfer for FY 2019-20	\$154,469,312
LESS: Transfers to a cash fund for H.B. 18-1323 (Pay for Success Contracts) in FY 2019-20	(1,717,764)
PLUS: Transfer from Marijuana Cash Fund to MTCF to support CBI Task Force (DOR R7)	914,416
LESS: FY 2019-20 Appropriations to the Department of Revenue	(1,550,000)
LESS: FY 2019-20 Appropriations to various other departments	<u>(128,779,342)</u>
EQUALS: Funds Remaining Available Above Statutorily Required Reserve	\$23,336,622

Based on JBC actions to date, the FY 2019-20 Long Bill will include appropriations totaling \$130.3 million. Based on the OSPB forecast, this would leave \$23.3 million available for other purposes (e.g., JBC actions to increase FY 2019-20 Long Bill appropriations, pending 2019 legislation, or appropriations in future fiscal years). [Based on the LCS forecast, \$27.8 million would remain available for other purposes.] **Please note, however, that the General Assembly should consider this amount as one-time in nature for two reasons.**

First, annual obligations from the MTCF currently exceed annual MTCF revenues. Specifically, the total amount estimated to be available for FY 2019-20 appropriations and transfers (\$154.5 million) exceeds projected MTCF revenues in FY 2018-19 (\$134.0 million) by \$20.5 million (15.3 percent). Neither of the revenue forecasts project sufficient growth in MTCF revenues to sustain this level of expenditure.

Second, many of the existing appropriations from the MTCF support community provider services and state employees. The General Assembly will likely need to increase these appropriations annually to keep pace with inflationary increases. If the General Assembly chooses to appropriate the full amount anticipated to be available for FY 2019-20 (\$154.5 million) for ongoing programs, fund revenues may not be sufficient to sustain these programs in FY 2020-21.