

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
 FROM Craig Harper, JBC Staff (303-866-3481)
 DATE March 22, 2022
 SUBJECT Update on Status of the Marijuana Tax Cash Fund for the Long Bill

This memo provides an update on the status of the Marijuana Tax Cash Fund (MTCF) for the Long Bill based on the Committee's actions as of March 22, 2022, and the March 2022 Legislative Council Staff Revenue Forecast.

Table 1 shows the status of the Marijuana Tax Cash Fund as of March 22, 2023, based on the Committee's actions to date. During the previous MTCF discussion, the Committee approved drafting a JBC bill that makes several changes related to the fund (discussed on the following page), including delaying a portion of the transfer to the PSCCAF enacted in S.B. 21-207 (Public School Capital Construction Assistance Fund Transfer). This memo updates staff's recommendations related to that transfer.

- **As shown in the table, staff is recommending reducing the transfer to the PSCCAF in FY 2021-22 from \$100.0 million to \$50.0 million in order to stay above the proposed reserve requirement for the MTCF in the current year.**
- **Based on the same forecast data, staff recommends that the bill transfer \$30.0 million to the PSCCAF in FY 2022-23 and \$20.0 million in FY 2023-24. As with S.B. 21-207, staff recommends that the transfers take place on June 1 of each fiscal year to allow for adjustments if required by updated revenue forecasts.**

DESCRIPTION	FY 2021-22	FY 2022-23
Beginning fund balance as of July 1, 2021 (per Department of Revenue)	\$145,499,720	\$124,249,072
PLUS: Total MTCF share of revenue (March LCS)	185,234,031	191,540,371
LESS: Amount designated as TABOR emergency reserve	(100,000,000)	(100,000,000)
LESS: S.B. 21-207 (Pub School Cap Const Assistance Fund Transfer)		
Transfer to Education	(100,000,000)	0
ADJUST: Recommended change to transfer to education	50,000,000	(30,000,000)
LESS: H.B. 21-1317 (Regulating Marijuana Concentrates) Transfer to CDOT	(2,000,000)	0
LESS: S.B. 21-283 (Cash Fund Solvency) Transfer to Marijuana Cash Fund	(1,805,317)	0
LESS: H.B. 21-1314 (DOR Action Against Certain Documents) Transfers to Various Cash Funds	(912,000)	0
LESS: H.B. 21-1315 (Costs Assessed to Juveniles in the Criminal Justice System) Transfers	(598,000)	(598,000)
LESS: Annual appropriations to a variety of departments	(151,169,362)	(155,992,642)
LESS: Recommended statutory reserve (15.0 percent of appropriations)	(22,675,404)	(23,398,896)
EQUALS: Estimated available balance above/(deficit below) 15.0 percent statutory reserve	\$1,573,668	\$5,799,905
PLUS: Total reserve amounts	122,675,404	123,398,896
Year-end fund balance (including reserves)	\$124,249,072	\$129,198,801

Consistent with the discussion during the last MTCF update, JBC Staff also recommends that the Committee reduce the FY 2022-23 appropriation to the Building Excellent Schools Today (B.E.S.T.) Cash Grants line item by \$50.0 million below the currently approved amount (from \$160.0 million

cash funds from the PSCCAF to \$110.0 million). **Staff requests direction from the Committee regarding whether to reduce the Long Bill appropriation or include a reduction in MTCF legislation.**

Staff notes that while this change will reduce appropriations to B.E.S.T. for FY 2022-23, it will allow for increases of \$30.0 million in FY 2023-24 and \$20.0 million in FY 2024-25 above the amounts that would otherwise have been available in those years.

DRAFT LEGISLATION UPDATE

Staff plans to present the bill draft to the Committee on March 23, 2022. As approved for drafting by the Committee, the bill draft:

- Delays a portion of the current transfer to B.E.S.T. (discussed above) to maintain the solvency of the fund. **Staff requests permission to adjust the language in the bill to align with this memorandum.**
- Restores the General Assembly's ability to appropriate MTCF revenues in the year in which they are collected (correcting the technical error in S.B. 21-059). Maintaining the current requirement to appropriate prior year revenues would require more significant adjustments (to appropriations, transfers, the TABOR Emergency Reserve, and/or the use of General Fund).
- Modifies the reserve requirement to reflect 15.0 percent of annual appropriations from the fund rather than 6.5 percent of available revenues and to clarify that the reserve requirement must be over and above any amount designated as part of the TABOR Emergency Reserve.