



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 26-1077: AVERAGE MKT RATE OF UNPROCESSED RETAIL MARIJUANA

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Fiscal note status: The fiscal note reflects the introduced bill.

Summary Information

Overview. The bill creates separate market rates for marijuana that is cultivated indoors and outdoors.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- State Expenditures

Appropriations. For FY 2026-27, the bill requires an appropriation of \$22,359 to the Department of Revenue.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0
State Expenditures	\$22,359	\$8,778
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

For the purposes of collecting the 15 percent state excise tax on retail marijuana, the Department of Revenue (DOR) currently calculates an “average market rate” for each category of unprocessed retail marijuana. The bill requires the DOR to calculate at least the following four separate average market rates for unprocessed marijuana:

- cultivated indoors, including “fresh frozen” marijuana, and allocated to extractions;
- cultivated indoors and allocated for direct sale to consumers;
- cultivated outdoors, including “fresh frozen” marijuana, and allocated to extractions; and
- cultivated outdoors and allocated for direct sale to consumers.

The rates for marijuana allocated to extractions must be lower than the rates for direct sale to consumers. The rates for outdoor cultivation must be lower than the rates for indoor cultivation.

Background

The state imposes an excise tax that is due when retail marijuana is first transferred from a cultivator to a processor or distributor. If the buyer and seller are unaffiliated with each other, the amount of excise tax due is equal to 15 percent of the sale price. If the buyer and seller are affiliated with each other (for example, if the processor, distributor, and cultivator are all part of the same business), then the excise tax is calculated as 15 percent of the “average market rate” of unprocessed retail marijuana. The DOR determines the average market rate for each category of unprocessed retail marijuana by calculating median market prices per pound or count. Average market rates are updated each quarter. For more information about current average market rates, visit [DOR’s Average Market Rate for Unprocessed Retail Marijuana](#) page.

Revenue from the excise tax is used for the Building Excellent Schools Today (BEST) program and is exempt from TABOR as a voter approved revenue change. In FY 2024-25, the state collected \$40.1 million in revenue from the excise tax on retail marijuana.

State Revenue

The bill may have a minimal impact on state revenue. By creating additional average market rates for the purposes of calculating excise taxes, the amount of excise tax owed for individual transactions may be higher or lower than under current law depending on whether the unprocessed marijuana was cultivated indoors or outdoors or is frozen or allocated for direct sale to consumers. On net, the bill is not expected to have a significant impact on excise tax revenue from marijuana.

State Expenditures

The bill increases expenditures for DOR by \$22,359 in FY 2026-27 and \$8,778 in FY 2027-28 and ongoing, paid from the General Fund. Expenditures are discussed in more detail below.

Programming and Testing

This bill requires expenditures of \$22,359 to program, test, and update database fields in the DOR's GenTax software system. Programming costs are estimated at \$12,310, representing 40 hours of contract programming at a rate of \$244.19 per hour and 62 hours of innovation, strategy and delivery programming at a rate of \$41 per hour. Costs for user acceptance testing are estimated at \$1,271, including 31 hours at a rate of \$41 per hour. Expenditures in the Office of Research and Analysis are required for changes in the related GenTax reports so that the department can access and document tax statistics related to the new tax policy. In FY 2026-27 and ongoing, these costs are estimated at \$8,778, representing 231 hours for data management and reporting at \$38 per hour.

Marijuana Enforcement Division

The bill may increase workload for the Marijuana Enforcement Division for rulemaking in the event that additional clarification is required to administer the tax changes. Increased workload for rulemaking is expected to be minimal and absorbable within existing appropriations.

Effective Date

The bill takes effect July 1, 2026.

State Appropriations

For FY 2026-27, the bill requires a General Fund appropriation of \$22,359 to the Department of Revenue.

State and Local Government Contacts

Agriculture

Revenue

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).