



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 30, 2024)

Table with 4 columns: Drafting Number, Prime Sponsors, Date, Bill Status, Fiscal Analyst. Values include LLS 24-0669, Sen. Van Winkle; Gonzales, Rep. Lindstedt, May 7, 2024, House Third Reading, and John Armstrong | 303-866-6289.

Bill Topic: STREAMLINE MARIJUANA REGULATION

Summary of Fiscal Impact table with checkboxes for State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, and Statutory Public Entity.

The bill makes various changes to the regulation of marijuana businesses. The bill shifts state and local revenue collections and increases state and local expenditures beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$91,311 to the Department of Revenue.

Fiscal Note Status: The revised fiscal note reflects the revised bill.

Table 1
State Fiscal Impacts Under SB 24-076

Main fiscal impact table with columns: Revenue, Expenditures, Transfers, Other Budget. Rows include Cash Funds, General Fund, Central Approps., GF Reserve, and TABOR Refund across budget years FY 2024-25 to FY 2027-28.

## **Summary of Legislation**

The bill makes a series of changes to the regulation of marijuana businesses.

**Regulation of marijuana contaminants.** The bill allows marijuana business licensees to retest products which, upon initial testing, indicated the presence of substances that are injurious to health. If a licensee is able to remediate the product, and it passes retesting, licensees are not required to indicate on the label that the product failed a test before it was remediated.

**Transfer of marijuana products.** The bill requires the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR) to promulgate rules by January 1, 2027, that do not require radio frequency identification technology in seed-to-sale tracking.

**Public health disclosures.** The bill requires certain warnings about the impact of marijuana on pregnancy to be posted at every point of sale. It also requires that an existing educational resource about marijuana concentrate be physically attached to the product.

**Report on streamlining regulation.** For three years from 2026 to 2028, the bill requires the MED to issue a legislative report each January that identifies:

- rule changes that will reduce redundant or unnecessary testing of retail and medical marijuana;
- rule changes that reduce marijuana waste or reduce costs of compliance;
- rule changes that bring retail and medical marijuana testing in line with the testing of intoxicating hemp products; and
- legislative changes needed to make suggested rule changes.

**Licensing periods.** The bill extends the license renewal period from one year for marijuana businesses, controlling beneficial owners, and marijuana delivery permits to two years. Local licensing authorities may determine if their licenses are valid for one or two years. After January 1, 2026, the MED must promulgate rules authorizing multiple marijuana business licensees with identical controlling beneficial owners to submit a single initial or renewal application.

**Retail marijuana stores.** The bill permits retail marijuana stores to sell food, including food that is not infused with marijuana or hemp products or extracts, so long as food sales are not in excess of 20 percent of a store's annual gross revenue.

**Cultivation facilities.** The bill updates the retail and medical marijuana cultivation facility statutes to allow for the sale, transfer, or shipment of genetic material to other licensed cultivators, testing facilities, or other licensees approved by rule. Cultivation facilities must confirm that the recipient is at least 21 years old, and may not transfer genetic material directly to a consumer on the premises.

**Fees.** The bill puts a cap on initial application fees for retail marijuana businesses and allows the MED to annually adjust for inflation or deflation.

**Marijuana excise tax.** The bill clarifies that the transfer of unprocessed retail marijuana exclusively for microbial control is deemed to not be the first transfer for the purposes of excise taxation.

### **State Revenue**

From FY 2025-26 through FY 2027-28, the bill is anticipated to increase fee revenue to the MED by about \$130,000, with a half-year impact in the final year. This amount is not shown in Table 2.

Additionally, the bill changes revenue collections to the Marijuana Cash Fund by creating a biennial licensing renewal period in place of the current annual renewal, which this analysis assumes will have a neutral revenue impact.

**Fee impact on marijuana licensees.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill is anticipated to double all fees collected by MED to account for the change from annual to biennial renewal, which will have a neutral impact over a two-year period. These fees are expected to apply to marijuana business licenses, owner and owner entity licenses, modification of the premises applications, and marijuana delivery permits. Actual fees will be set administratively by MED based on cash fund balance, program costs, and the number of licenses subject to the fee. Table 2 below identifies the impact of the biennial renewal fee.

**Table 2**  
**Fee Impact on Marijuana Licensees**

<b>License Type</b>	<b>Licensees</b>	<b>Current Annual Fee</b>	<b>SB 24-076 Biennial Fee</b>
Regulated Marijuana Business	2,546	\$2,300	\$4,600
Owner License	1,649	\$550	\$1,100
Owner Entity License	268	\$825	\$1,650
Modifications of Premises	200	\$150	\$300
Marijuana Delivery License	37	\$2,650	\$5,300

<sup>1</sup> Table 2 shows how current fees will be modified to maintain consistent revenue on a biennial basis. It does not include the revenue increases that will be required to cover the DOR expenditures in this bill.

### **State Expenditures**

From FY 2024-25 through FY 2027-28, the bill increases state expenditures in the Department of Revenue, paid from the General Fund in FY 2024-25 due to a shortfall in the Marijuana Cash Fund. In the remaining years, expenditures are paid from the Marijuana Cash Fund. Costs are detailed in Table 3 and explained below.

**Table 3  
 Expenditures Under SB 24-076**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>
<b>Department of Revenue</b>				
Personal Services	\$83,617	\$104,522	\$104,522	\$62,713
Operating Expenses	\$1,024	\$1,280	\$1,280	\$768
Capital Outlay Costs	\$6,670	-	-	-
Centrally Appropriated Costs <sup>1</sup>	\$17,136	\$21,419	\$21,419	\$12,852
<b>Total</b>	<b>\$108,447</b>	<b>\$127,221</b>	<b>\$127,221</b>	<b>\$76,333</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>	<b>0.6 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Assumptions.** Intoxicating hemp products are not currently tested by the MED. The fiscal note assumes that the MED requires staff to compare the testing protocols and toxicity levels between marijuana products and intoxicating hemp products for the report on streamlining regulation through FY 2027-28.

**Department of Revenue.** The DOR requires 1.0 FTE from FY 2024-25 through FY 2027-28 to conduct the necessary research to write the report on rule changes to bring testing in line with testing of intoxicating hemp products and recommend changes. This position will conduct a literature review of testing of intoxicating hemp products and compare these procedures to testing requirements of medical and retail marijuana before drafting rule changes and coordinating with other stakeholders to make recommendations and write the report. Costs are prorated to assume a September 2024 start date in FY 2024-25 and a January 2028 end date. Standard operating expenses and capital outlay are included.

Additionally, the DOR will have increased workload to adopt new rules to comply with the bill, including extending the license renewal period from one to two years. Rulemaking, communication with stakeholders and updating forms and procedures will begin in FY 2024-25 and is assumed to be accomplished within existing appropriations.

**Other Budget Impacts**

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

### **Local Government**

Local marijuana licensing authorities will have impacts similar to the state to implement a biennial renewal cycle and consolidating licensing renewals.

### **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to acts committed on or after this date.

### **State Appropriations**

For FY 2024-25, the bill requires a General Fund appropriation of \$91,311 to the Department of Revenue and 0.8 FTE.

### **State and Local Government Contacts**

Counties	Municipalities	Public Health and Environment
Revenue		

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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](#).