

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2017-18

MARIJUANA POLICY OVERVIEW

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

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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 initiative¹ 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 initiative² 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 Retail³ 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 supported by: (1) medical and retail marijuana business fees that are credited to the *Marijuana Cash Fund*; and (2) medical and retail marijuana sales tax revenues that are credited to the *Marijuana Tax Cash Fund*. 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 business fees and fines that are credited to the *Marijuana Cash Fund*⁴.

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

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

³ 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.

⁴ Actual business fee and fine revenues collected and credited to this fund, along with associated interest and other adjustments, totaled \$15,767,831 in FY 2015-16.

- 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;
 - Administering Healthy Kids Colorado Survey to collect data on youth 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*⁵, 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 are listed below.

- 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 of Marijuana Coordination** 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, and it 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 C provides additional information concerning local marijuana laws.

⁵ Actual patient fee revenues collected and credited to this fund, along with associated interest and other adjustments, totaled \$1,644,578 in FY 2015-16.

TAX REVENUE OVERVIEW

Appendix A, which was prepared by the Office of State Planning and Budgeting, provides a comprehensive graphic illustration of all of the marijuana-related fee and tax revenue that is collected and spent by the State. The discussion that follows focuses on the collection and allocation of marijuana-related tax revenue.

The State collects three types of taxes on marijuana products. First, the **regular state sales tax** (2.9 percent) is collected on consumer goods, including both medical and retail marijuana sales. These tax revenues are credited to the *Marijuana Tax Cash Fund* (MTCF) and are 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.

Second, a **special sales tax** (10.0 percent⁶) is collected on retail (but not medical) marijuana sales. Of the total amount collected annually, 15.0 percent is allocated to local governments based on the percentage of such revenues collected within the boundaries for each local government. The remaining 85.0 percent of annual revenues are credited to the *MTCF* and are used to support a variety of state programs and services.

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. The average market wholesale prices are set every six months by the Department of Revenue’s Marijuana Enforcement Division (MED). The current average market wholesale prices are listed below.

MED ESTABLISHED AVERAGE MARKET WHOLESALE PRICE FOR RETAIL MARIJUANA (EFFECTIVE JULY 1 THROUGH DECEMBER 31, 2016)			
PRODUCT CATEGORY	DETAILED DESCRIPTION	PRICE	MEASUREMENT
Flower	The most potent part of the plant, consumed primarily by smoking	\$1,816	pound
Trim	Sugar leaves, typically used for concentrates and edibles	\$505	pound
Immature plant	Nonflowering plant no larger than 8 inches	\$10	plant
Wet whole plant	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.	\$209	pound
Seed	Seeds of the marijuana plant	\$2	seed

As required by the State Constitution⁷, 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*. Moneys in this fund help pay for local K-12 school construction projects through the Building Excellent Schools Today (BEST) program, which is administered through the Colorado Department of Education. Any excise tax revenues in excess of \$40.0 million are credited to the *Public School Fund*, which is a constitutionally created trust fund that generates income to support public K-12 schools.

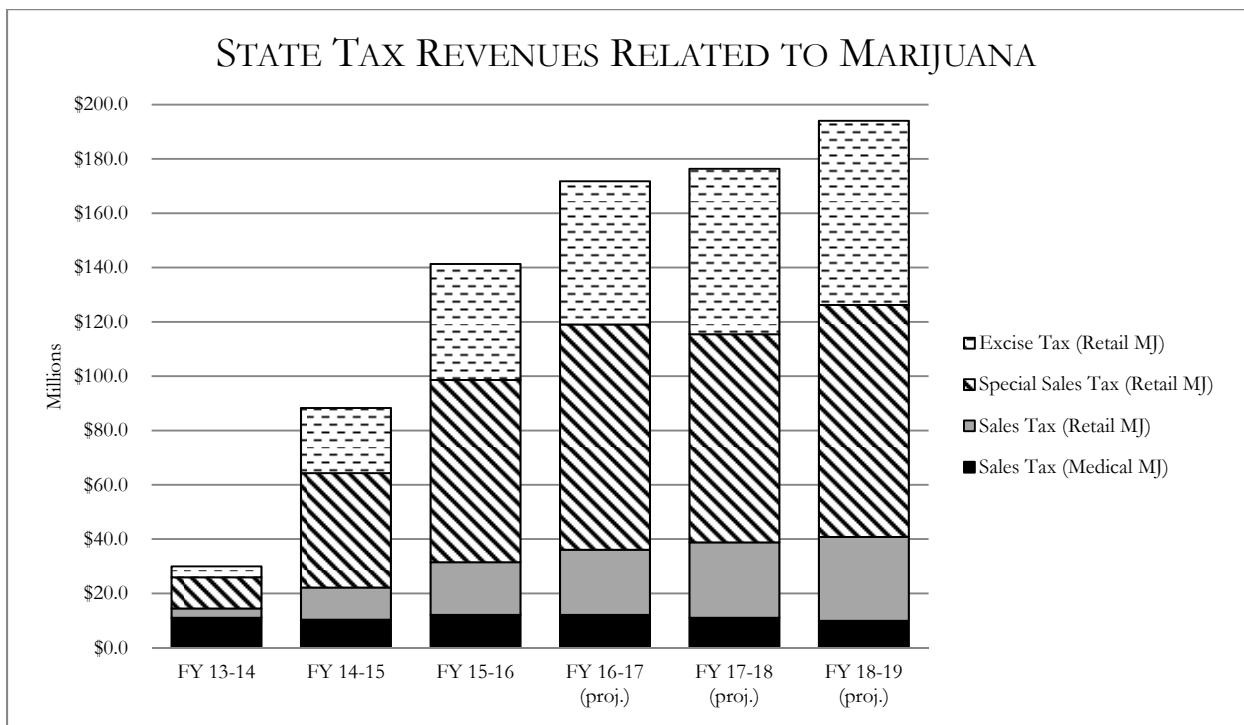
⁶ In 2013, voters approved Proposition AA, which authorized the State to levy up to a 15.0 percent excise tax and up to a 15.0 percent special retail sales tax on retail marijuana and marijuana products. The State initially chose to levy a 10.0 percent special sales tax (effective beginning January 1, 2014). Pursuant to Section 39-28.8-202 (1) (a) (I), C.R.S., the special sales tax rate decreases to 8.0 percent, effective July 1, 2017.

⁷ See Article XVIII, Section 16 (5) (d), of the State Constitution.

From FY 2013-14 through FY 2015-16, a total of \$69.4 million from marijuana excise tax revenues has been credited to these two funds, including:

- \$67.0 million to the Public School Capital Construction Assistance Fund⁸; and
- \$2.4 million to the Public School Fund.

The following chart depicts actual marijuana-related state tax revenues collected from FY 2013-14 through FY 2015-16, as well as three fiscal years of projected revenue collections based on Legislative Council Staff's September 2016 economic and revenue forecast. The underlying data for the chart is provided on the next page. Please note that the projections for FY 2017-18 reflect the impact of decreasing the special sales tax rate from 10.0 percent to 8.0 percent, 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 tax⁹. However, the regular state sales tax (2.9 percent) revenues collected for sales in medical marijuana centers and retail marijuana stores are 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 2015-16, the marijuana-related tax and fee revenue that is subject to TABOR totaled \$49.0 million (including \$31.6 million in sales tax revenues and \$17.4 million in fee revenue).

⁸ This amount excludes an additional \$40.0 million that was allocated 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.

⁹ See Sections 39-28.8-204 and 39-28.8-307, C.R.S., respectively.

STATE TAX REVENUES RELATED TO RETAIL AND MEDICAL MARIJUANA						
	ACTUALS			LEGISLATIVE COUNCIL STAFF FORECAST (9/2016)		
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Proposition AA Taxes (Not Subject to TABOR)						
Total Special Sales Tax on Retail Marijuana ^a	\$11,496,980	\$42,117,798	\$67,094,524	\$82,962,160	\$76,692,612	\$85,398,350
<i>State Share of Special Sales Tax</i>	9,772,433	35,800,128	57,030,345	70,517,836	65,188,720	72,588,598
<i>Local Share of Special Sales Tax</i>	1,724,547	6,317,670	10,064,179	12,444,324	11,503,892	12,809,753
15.0 Percent Excise Tax on Retail Marijuana	3,987,476	23,982,518	42,691,000	52,740,373	60,943,401	67,861,372
Total Proposition AA Tax Revenues	\$15,484,456	\$66,100,316	\$109,785,524	\$135,702,532	\$137,636,012	\$153,259,723
Regular 2.9 Percent Sales Taxes (Subject to TABOR)						
Regular Sales Tax on Medical Marijuana	\$11,112,352	\$10,409,340	\$12,150,625	\$12,130,938	\$11,084,945	\$9,978,170
Regular Sales Tax on Retail Marijuana	3,406,677	11,817,210	19,411,000	24,005,290	27,738,977	30,887,759
Total 2.9 Percent Sales Tax Revenues	\$14,519,029	\$22,226,550	\$31,561,625	\$36,136,228	\$38,823,922	\$40,865,929
TOTAL STATE TAXES ON MARIJUANA	\$30,003,485	\$88,326,866	\$141,347,149	\$171,838,760	\$176,459,934	\$194,125,652

a/ Special sales tax rate is 10.0 percent through June 30, 2017, and 8.0 percent effective July 1, 2017.

Source: Legislative Council Staff

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 currently appropriated to the Department of Revenue to support both the Marijuana Enforcement Division and the activities of the Taxation Business Group.
- 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 and retail marijuana sales; and (b) a portion (85.0 percent) of special sales tax revenues that are collected on retail marijuana sales. Money in this fund is appropriated to a number of state agencies to support a variety of state programs and services, including the Department of Revenue's Marijuana Enforcement Division.

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 revenues for any purpose. However, the General Assembly has chosen to prioritize appropriations from these tax revenues for certain purposes. Staff has provided below the relevant statutory excerpt¹⁰:

“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.

¹⁰ See Section 39-28.8-501 (2), 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 they were 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 they were received (e.g., revenues collected in FY 2015-16 may only be appropriated for FY 2016-17 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 6.5 percent annual General Fund reserve requirement¹¹.

The General Assembly makes appropriations from the MTCF based on the most recent available revenue projections from either Legislative Council Staff or Department of Revenue Staff. Appropriations for FY 2016-17 were premised on the March 2016 revenue forecast prepared by Legislative Council Staff. The following table provides updated figures for FY 2016-17 based on actual expenditures and revenue collections in FY 2015-16. A total of \$91.7 million is available for transfers and for appropriation to agencies other than the Department of Revenue for FY 2016-17. The MTCF is projected to have a balance of \$10.8 million at the end of FY 2016-17, an amount that exceeds the required statutory reserve by \$4.4 million.

FUNDS AVAILABLE FOR APPROPRIATION FROM THE MARIJUANA TAX CASH FUND FOR FY 2016-17	
DESCRIPTION	AMOUNT
Beginning fund balance as of July 1, 2015	\$28,211,042
LESS: FY 2015-16 Expenditures of prior year revenues by various departments	(14,121,764)
Transfers (to)/from the General Fund in FY 2015-16	(138,466)
PLUS: Total revenue collected in FY 2015-16	<u>90,216,268</u>
<i>State share of special sales tax on retail marijuana</i>	<i>57,494,799</i>
<i>Regular sales tax on retail marijuana</i>	<i>19,410,953</i>
<i>Regular sales tax on medical marijuana</i>	<i>12,150,626</i>
<i>Interest and accounting adjustments</i>	<i>1,159,890</i>
LESS: FY 2015-16 Expenditures by Department of Revenue for regulatory enforcement	(6,064,691)
EQUALS: Total funds available in the fund for FY 2016-17	98,102,389
LESS: Statutorily required reserve (6.5 percent)	<u>(6,376,655)</u>
EQUALS: Funds Available for Appropriation or Transfer for FY 2016-17	\$91,725,734
Transfers (to)/from the General Fund booked in FY 2016-17	(26,277,661)
LESS: FY 2016-17 Appropriations to the Department of Revenue for regulatory enforcement	(7,707,249)
LESS: FY 2016-17 Appropriations to various other departments	<u>(53,305,920)</u>
EQUALS: Funds Remaining Available Above Statutorily Required Reserve	\$4,434,904

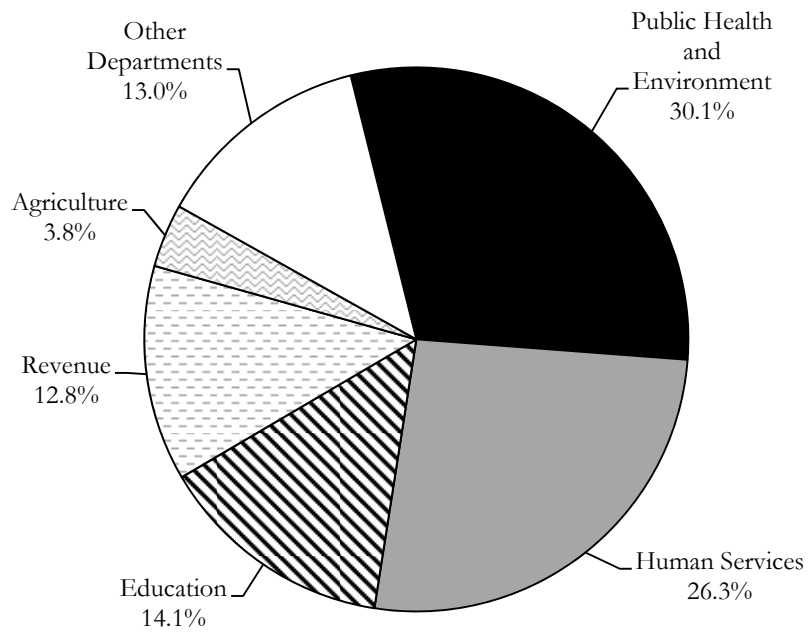
¹¹ See Section 24-75-201.1 (1) (d) (XIV), C.R.S.

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

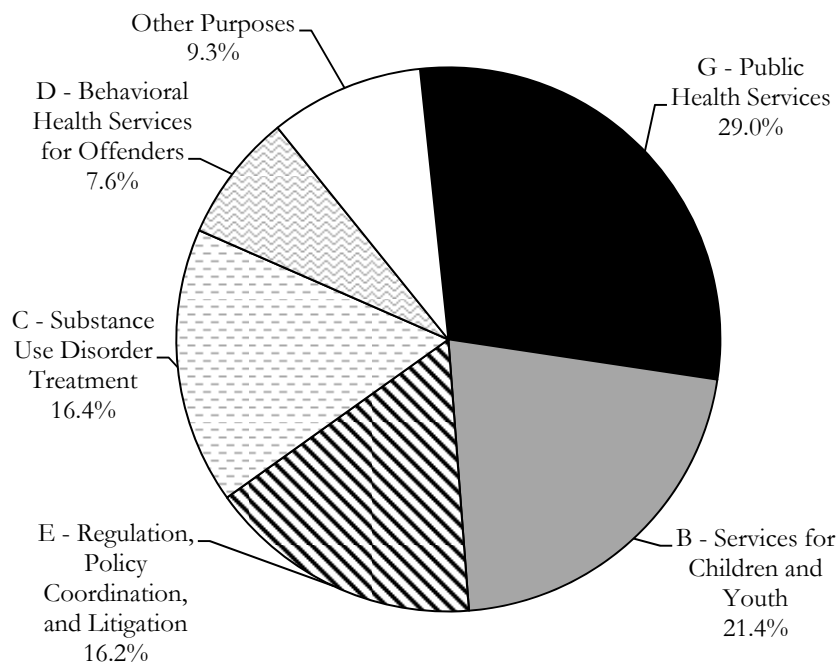
- (A) To *educate people about marijuana* to prevent its illegal use or legal abuse;
- (B) To provide *services for adolescents and school-aged children* in school settings or through community-based organizations;
- (C) To treat and provide related services to people with any type of substance use disorder, including those with co-occurring disorders, or to evaluate the effectiveness and sufficiency of *substance use disorder services*;
- (D) For jail-based and other *behavioral health services for persons involved in the criminal justice system* through the Correctional Treatment Cash Fund;
- (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; and
- (L) For the *Colorado Veterans' Service-to-career Pilot Program*.

For FY 2016-17, the General Assembly has appropriated a total of \$61.0 million from the MTCF. The following two graphics illustrate the allocation of appropriations among state agencies and among the statutorily authorized purposes. The graphics are followed by a table that details appropriations from the MTCF for FY 2016-17, by department and purpose.

MARIJUANA TAX CASH FUND APPROPRIATIONS FOR
FY 2016-17, BY DEPARTMENT



MARIJUANA TAX CASH FUND APPROPRIATIONS FOR
FY 2016-17, BY STATUTORY PURPOSE



SUMMARY OF APPROPRIATIONS FROM THE MARIJUANA TAX CASH FUND FOR FY 2016-17
FROM REVENUES COLLECTED IN FY 2015-16^a

PROGRAM	APPROPRIATION	STATUTORY PURPOSE ^b
Agriculture:		
Pesticide control and regulation	\$1,499,726	E
Colorado State Fair Authority: FFA and 4-H programming	300,000	B
Hemp regulatory and seed certification	364,273	I
Indirect cost assessments and centrally appropriated amounts not accounted for above	<u>105,241</u>	E/I
Subtotal: Agriculture	2,269,240	
Education:		
Early Literacy Competitive Grant Program	4,378,678	B
School Health Professionals Grant Program	2,280,833	B
Appropriation to the School Bullying Prevention and Education Cash Fund	900,000	B
Office of Dropout Prevention and Student Reengagement	900,000	B
Centrally appropriated amounts not accounted for above	<u>18,649</u>	B
Subtotal: Education	8,478,160	
Governor:		
Governor's Office of Marijuana Coordination	191,590	E
Centrally appropriated amounts not accounted for above	<u>25,354</u>	E
Subtotal: Governor	216,944	
Health Care Policy and Financing:		
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>	C
Subtotal: Health Care Policy and Financing	750,000	
Higher Education:		
Institute of Cannabis Research at CSU-Pueblo (S.B. 16-191)	<u>900,000</u>	H
Subtotal: Higher Education	900,000	
Human Services:		
Substance use disorder services (S.B. 16-202)	6,000,000	C
Mental health services for juvenile and adult offenders	3,025,192	D
S.B. 91-094 Programs that fund service alternatives to placing youth in a correctional facility	2,000,000	B
Circle Program for adults with co-occurring mental health and substance use disorders	1,852,824	C
Appropriation to the Youth Mentoring Services Cash Fund	1,000,000	B
Community prevention and treatment for alcohol and drug abuse	756,298	C
Behavioral health services for individuals in rural areas who have co-occurring mental health and substance use disorders	500,000	C
Tony Gramscas Youth Services Program grants for the prevention of youth marijuana use	373,672	B
Mental Health Treatment Services for Youth (H.B. 99-1116)	<u>300,000</u>	B
Subtotal: Human Services	15,807,986	
Judicial:		
Appropriation to the Correctional Treatment Cash Fund for jail-based behavioral health services	<u>1,550,000</u>	D
Subtotal: Judicial	1,550,000	
Labor and Employment:		
Colorado Veterans' Service-to-career Pilot Program (H.B. 16-1267)	<u>500,000</u>	L
Subtotal: Labor and Employment	500,000	

SUMMARY OF APPROPRIATIONS FROM THE MARIJUANA TAX CASH FUND FOR FY 2016-17
FROM REVENUES COLLECTED IN FY 2015-16^a

PROGRAM	APPROPRIATION	STATUTORY PURPOSE ^b
Law:		
Local law enforcement training through the Peace Officers Standards and Training (POST) Board	750,000	F
In-house legal expertise and training	<u>286,766</u>	E
Subtotal: Law	1,036,766	
Local Affairs:		
Local Government Retail Marijuana Impact Grant Program	1,117,540	K
Centrally appropriated amounts not accounted for above	<u>63,155</u>	K
Subtotal: Local Affairs	1,180,695	
Public Health and Environment:		
Substance abuse prevention	7,127,612	G
Public awareness campaign	7,025,000	G
Distributions to local public health agencies (H.B. 16-1408)	1,767,584	G
Healthy Kids Colorado Survey	745,124	G
Retail marijuana health research grants	343,622	H
Cannabis health environmental and epidemiological training, outreach, and surveillance	320,388	H
Marijuana lab certification	294,141	G
Health survey data collection	238,000	G
Enhanced marijuana data collection through Rocky Mountain Poison and Drug	123,383	G
Data collection and analysis (S.B. 16-283)	89,550	G
Centrally appropriated amounts not accounted for above	<u>24,058</u>	G/H
Subtotal: Public Health and Environment	18,098,462	
Public Safety:		
Juvenile diversion programs	400,000	B
Study of the impacts of the legalization of retail marijuana (S.B. 16-283/S.B. 16-191)	159,983	H
Collection of medical marijuana information by law enforcement agencies (S.B. 15-014)	61,940	H
Public safety intelligence support related to the illegal sale and diversion of marijuana	56,998	F
Centrally appropriated amounts not accounted for above	<u>43,888</u>	B/F/H
Subtotal: Public Safety	722,809	
Transportation:		
Impaired driving campaign	500,000	A
Marijuana impaired driving campaign	<u>450,000</u>	A
Subtotal: Transportation	950,000	
Total Appropriations^a	\$52,461,062	
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	
Appropriations remaining available for capital construction projects	844,858	
Total Appropriations and Transfers from Marijuana Tax Cash Fund	\$79,583,581	

a/ These amounts exclude appropriations from the Marijuana Tax Cash Fund (MTCF) to the Department of Revenue for enforcement activities (a total of \$7,707,249). Pursuant to Section 39-28.8-501 (2) (a) (I), C.R.S., such appropriations are supported by MTCF revenues collected in FY 2016-17.

SUMMARY OF APPROPRIATIONS FROM THE MARIJUANA TAX CASH FUND FOR FY 2016-17
FROM REVENUES COLLECTED IN FY 2015-16^a

PROGRAM	APPROPRIATION	STATUTORY PURPOSE ^b
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b/ 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 disorder, including those with co-occurring disorders, or to evaluate the effectiveness and sufficiency of substance use disorder services;
- (D) For jail-based and other behavioral health services for persons involved in the criminal justice system through the correctional treatment cash fund created in section 18-19-103 (4) (a), C.R.S.;
- (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) 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.; and
- (L) For the Colorado veterans' service-to-career pilot program created in part 2 of article 14.3 of title 8, C.R.S.

ISSUE: SUMMARY OF FY 2017-18 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 2017-18, and the Governor's related budget requests.

SUMMARY

- Based on the September 2016 Legislative Council Staff economic and revenue forecast, a total of \$109.8 million is projected to be available in the Marijuana Tax Cash Fund (MTCF) for appropriations to various state agencies for FY 2017-18.
- The Executive and Judicial Branches have requested appropriations from the MTCF totaling \$84.6 million, and the Governor has set aside an additional \$16.0 million for other legislative and budget initiatives. The Governor's proposal is projected to leave a MTCF fund balance that exceeds the required statutory reserve by \$9.2 million.
- Due to a scheduled reduction in the special sales tax rate on July 1, 2017, the State share of special sales tax revenues is projected to decrease by \$5.3 million in FY 2017-18, which will reduce the amount available for appropriation in FY 2018-19.

RECOMMENDATION

Staff recommends that the Committee endorse the Governor's proposal to appropriate less than the maximum allowable amount available in the MTCF for FY 2017-18. If the General Assembly were to appropriate all available revenues for FY 2017-18, it would likely need to reduce one or more appropriations in FY 2018-19 due to the reduction in the special sales tax rate.

DISCUSSION

Based on the September 2016 Legislative Council Staff economic and revenue forecast, a total of \$109.8 million is projected to be available for appropriations to agencies other than the Department of Revenue for FY 2017-18. The Executive and Judicial Branches have requested appropriations from the MTCF totaling \$84.6 million, and the Governor has set aside an additional \$16.0 million for other legislative and budget initiatives related to:

- Controlling marijuana trade on the grey market;
- Addressing criminal justice diversion and implementing a public health approach to drug use;
- Other behavioral health programming; and
- The evaluation of our current policies and programs related to marijuana.¹²

As detailed in the table on the following page, the requested appropriations and "set aside" funds would leave an estimated \$16.8 million in the MTCF at the end of FY 2017-18. This amount exceeds the required statutory reserve by \$9.2 million.

¹² See page 13 of Governor Hickenlooper's November 1, 2016, letter to Representative Hamner concerning the FY 2017-18 budget request.

FUNDS AVAILABLE FOR APPROPRIATION FROM THE MARIJUANA TAX CASH FUND FOR FY 2017-18	
DESCRIPTION	AMOUNT
Beginning fund balance as of July 1, 2016	\$98,102,389
LESS: FY 2016-17 Appropriations for various departments from prior year revenues	(53,305,920)
Transfers (to)/from the General Fund booked in FY 2016-17	(26,277,661)
PLUS: Total projected revenue to be collected in FY 2016-17 per Legislative Council Staff (September 2016 forecast)	<u>106,654,064</u>
<i>State share of special sales tax on retail marijuana</i>	70,517,836
<i>Regular sales tax on retail marijuana</i>	24,005,290
<i>Regular sales tax on medical marijuana</i>	12,130,938
LESS: FY 2016-17 Expenditures by Department of Revenue for regulatory enforcement	(7,707,249)
EQUALS: Total funds available in the fund for FY 2017-18	117,465,623
LESS: Statutorily required reserve (6.5 percent)	<u>(7,635,265)</u>
EQUALS: Funds Available for Appropriation or Transfer for FY 2017-18	\$109,830,358
Transfers (to)/from the General Fund booked in FY 2017-18	0
LESS: FY 2017-18 Request from the Department of Revenue for regulatory enforcement	(1,243,950)
LESS: FY 2017-18 Requests from various other departments (per OSPB)	(83,364,374)
LESS: Amount proposed by OSPB to be available for other legislative and budgeted initiatives	<u>(16,000,000)</u>
EQUALS: Funds Remaining Available Above Statutorily Required Reserve	\$9,222,034

Please note that the special sales tax rate will decrease from 10.0 percent to 8.0 percent on July 1, 2017. Legislative Council Staff projections for FY 2017-18 reflect a decrease of \$5.3 million in the State share of special sales tax revenues and a proportionate decrease in the local share of such revenues. As a result, overall revenues to the MTCF are projected to decline by about \$2.6 million in FY 2017-18, which will reduce the amount available for appropriations in FY 2018-19. If the General Assembly were to appropriate all available revenues for FY 2017-18, it would then need to reduce one or more appropriations in FY 2018-19 due to this revenue decline. The Governor's proposal for FY 2017-18 is currently projected to leave a cushion of \$9.2 million, thereby avoiding the need for reductions in FY 2018-19 and allowing for a potential revenue shortfall relative to projections.

Overall, the Governor is requesting a \$24.4 million increase compared to FY 2016-17 appropriations. The following table details amounts requested by each department from the MTCF for FY 2017-18, in comparison to amounts appropriated for FY 2016-17. Following the table, staff has provided brief descriptions of the most significant changes that are reflected in the Governor's FY 2017-18 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.

SUMMARY OF REQUESTS FROM THE MTCF FOR FY 2017-18, BY DEPARTMENT			
PROGRAM	FY 2016-17 APPROPRIATION	FY 2017-18 REQUEST	ANNUAL CHANGE
Agriculture	\$2,269,240	\$2,125,143	(\$144,097)
Education	8,478,160	20,581,723	12,103,563
Governor	216,944	1,226,647	1,009,703
Health Care Policy and Financing	750,000	750,000	0
Higher Education	900,000	900,000	0
Human Services	15,807,986	16,674,470	866,484
Judicial	1,550,000	1,550,000	0
Labor and Employment	500,000	0	(500,000)
Law	1,036,766	1,036,766	0
Local Affairs	1,180,695	17,505,895	16,325,200
Public Health and Environment	18,098,462	18,509,814	411,352
Public Safety	722,809	735,960	13,151
Regulatory Agencies	0	317,956	317,956
Revenue	7,707,249	1,243,950	(6,463,299)
Transportation	950,000	1,450,000	500,000
Total	\$60,168,311	\$84,608,324	\$24,440,013

LOCAL AFFAIRS: Increase of \$16.3 million [Briefing by Amanda Bickel, 11/29/16]

R3 SUPPORTIVE HOUSING FOR BEHAVIORAL HEALTH: The Department requests \$4,000,000 and 1.0 FTE beginning in FY 2017-18 to support the development of permanent supportive housing units (i.e., housing paired with intensive support services) for behavioral health consumers, including those exiting or at risk of entering hospitals or the state mental health institutes. The funds would be used both for grants to facilitate construction of new units and for state housing rental vouchers. The request would support a 1.0 FTE housing navigator position and administrative funding; treatment and case management services would be provided through other funding streams. The Department indicates that legislation would be required to implement this program.

R4 SUPPORTIVE HOUSING AND RAPID REHOUSING: The Department requests \$12,319,900 and 1.0 FTE beginning in FY 2017-18 to support permanent supportive housing and rapid rehousing initiatives.

- *Permanent supportive housing* services would be targeted to people who are permanently disabled, dually diagnosed with mental illness and substance abuse issues (including the chronically homeless), and youth with these issues who are at risk of homelessness.
- *Rapid rehousing* services would be targeted to individuals with “minimal” mental illness who are discharged from the Department of Corrections and at risk of homelessness.

The requested funding would be used both for construction of new units and for housing rental vouchers. The request also includes funding for case management, an employment counselor, and administration (1.0 FTE), training, and evaluation. The Department indicates that legislation would be required to implement this program.

EDUCATION: Increase of \$12.1 million [Briefing by Craig Harper, 12/7/16]

R7 SCHOOL HEALTH PROFESSIONALS: Based on a request from the Governor's Office, the Department's budget request includes an increase of \$9,642,893 and 3.0 FTE beginning in FY 2017-18 for the School Health Professionals Grant Program. This program, which is currently supported by \$2.3 million, offers matching grants to local school districts and charter schools to increase the presence of licensed school health professionals. These professionals provide education, universal screening, referral, and care coordination for secondary school students with substance abuse and other behavioral health needs. The requested funding is anticipated to support an additional 150 health professionals.

INCREASE FUNDING FOR BULLYING AND DROPOUT PREVENTION: The Department's request also reflects increases of \$1,100,000 (from \$900,000 to \$2,000,000) beginning in FY 2017-18 for each of the following two purposes:

- School Bullying Prevention and Education; and
- Office of Dropout Prevention and Student Reengagement.

GOVERNOR: Increase of \$1.0 million [Briefing by Kevin Neimond, 11/17/16]

OIT R2 MARIJUANA DATA COORDINATION: The Office of Information Technology requests \$1,109,625 for FY 2017-18 for the hardware, software, and technological infrastructure needed to support, maintain, and segment multi-agency marijuana-related data. Funding would also support analytics software for analyzing and presenting the data. The Office reflects ongoing funding of \$638,750 for this purpose in FY 2018-19.

GOV R2 SUNSET OFFICE OF MARIJUANA COORDINATION: The Governor is proposing to close the Office of Marijuana Coordination at the end of FY 2016-17. The Governor proposes transferring one of the two staff positions in this office to the Office of the Governor in FY 2017-18 to maintain long-term coordination efforts. As a result, the budget request for FY 2017-18 reflects a decrease of about \$100,000 and 1.0 FTE. The request indicates that legislation would be required to implement this proposal.

TRANSPORTATION: Increase of \$0.5 million [Briefing by Christina Beisel, 11/17/16]

R1 MARIJUANA IMPAIRED DRIVING CAMPAIGN: The Department requests an increase of \$500,000 beginning in FY 2017-18 to widen the scope of its marijuana impaired driving public awareness campaign.

HUMAN SERVICES: Increase of \$0.7 million [Briefing by Carolyn Kampman, 12/13/16]

R14 SUBSTANCE USE DISORDER TREATMENT AT THE MENTAL HEALTH INSTITUTES: The Department requests \$661,947 to hire 8.0 FTE Certified Addiction Counselors in FY 2017-18. These counselors would provide substance use disorder outpatient treatment, education, and ongoing recovery support among patients at both mental health institutes, with the goal of supporting a safe return to the community.

REGULATORY AGENCIES: Increase of \$0.3 million [Briefing by Vance Roper, 12/6/16]

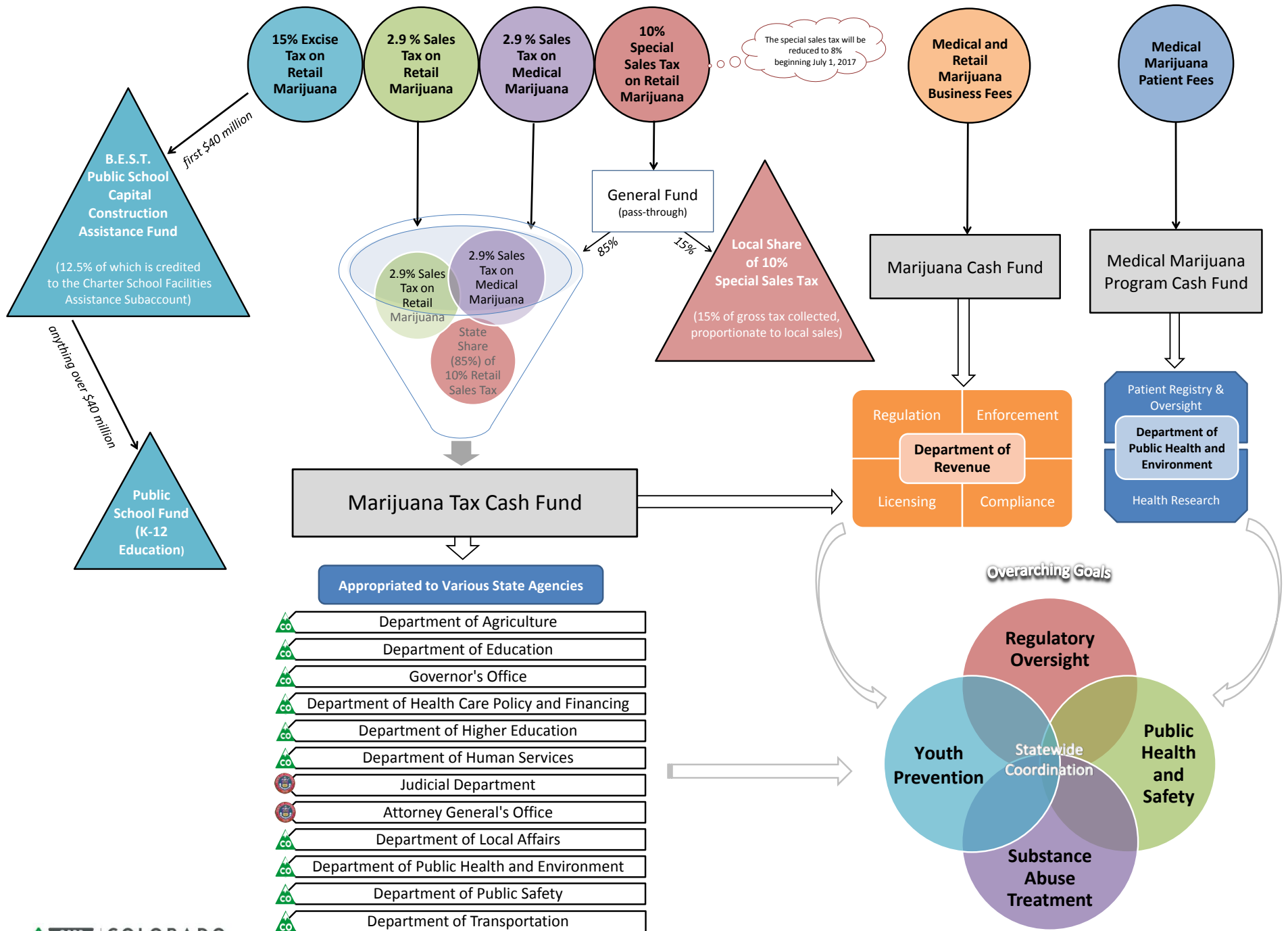
R3 IMPROVE ENFORCEMENT OF MEDICAL MARIJUANA GREY MARKET: The Department requests \$317,956 and 1.0 FTE beginning in FY 2017-18 to improve the ability of the Medical Services Board to receive and respond to complaints related to medical marijuana practice standards. Funds would also be used to expand the Board's collaboration with local, state, and federal regulators and law enforcement to support efforts to eliminate the medical marijuana grey market¹³.

REVENUE: Decrease of \$6.5 million [Briefing by Scott Thompson, 12/19/16]

REFINANCE THE MARIJUANA ENFORCEMENT DIVISION: The Department's request for FY 2017-18 reflects a change in the financing of marijuana-related activities. The Department requests that the Marijuana Enforcement Division be supported by medical and retail marijuana business fees that are credited to the Marijuana Cash Fund (rather than the MTCF). The Department also proposes that the marijuana-related activities of the Taxation Business Group be supported by the MTCF (rather than the Marijuana Cash Fund). This financing change allows for a \$6.5 million reduction in appropriations from the MTCF.

¹³ Office of Marijuana Coordination indicates that the combination of recreational and medical marijuana legalization has contributed to a large, unregulated market of "grey marketeers" operating under the guise of caregivers, cooperative members, or law-abiding residents. This allows large amounts of marijuana to be grown and distributed outside the intent of the law.

How is Marijuana Revenue Collected and Spent in the State of Colorado?



APPENDIX B

RECENT LEGISLATION CONCERNING MARIJUANA

2015 SESSION BILLS

Note: Bills noted with an asterisk () were sponsored by the Joint Budget Committee.*

S.B. 15-014 (Medical Marijuana): Requires the Colorado Medical Board in consultation with the Department of Public Health and Environment (DPHE) and physicians who specialize in medical marijuana to establish guidelines for physicians who make medical marijuana recommendations. Creates four different types of primary caregiver relationships: a parent child primary caregiver, an advising primary caregiver, a transporting primary caregiver, and a cultivating primary caregiver. Defines "significant responsibility for managing the well-being of a patient".

Requires DPHE to adopt rules regarding guidelines for primary caregivers to give informed consent to patients that the products they cultivate or produce may contain contaminants and that the THC levels are not verified. Requires DPHE to convene a group of interested parties including representatives from the state licensing authority, primary caregivers, patients, marijuana testing laboratory licensees, and any other interested persons to explore laboratory testing options for unlicensed medical marijuana.

Requires all transporting and cultivating primary caregivers to register with the state licensing authority (Department of Revenue or DOR). Places registration requirements on a cultivating primary caregiver and transporting primary caregivers. Allows the DOR to verify patient registration numbers and extended plant count numbers with the state health agency to confirm that a patient does not have more than one primary caregiver, or does not have both a designated caregiver and medical marijuana center, cultivating medical marijuana on his or her behalf at any given time. Prohibits any registering as a primary caregiver if the person is licensed as a medical or retail marijuana business. Requires a cultivating or transporting primary caregiver to maintain a list of his or her patients including the registry identification card number of each patient and a recommended total plant count at all times.

Requires DOR and DPHE to share the minimum amount of information necessary to ensure that a medical marijuana patient has only one caregiver and is not using a primary caregiver and a medical marijuana center. Encourages patients cultivating more than six medical marijuana plants for their own medical use to register with the state licensing authority. Prohibits a patient and primary caregiver from cultivating more than 99 plants. Requires a cultivating primary caregiver who grows more than 36 plants to register with the state licensing authority and report the location of his or her cultivation operation, the patient registration identification number for each of the primary caregiver's patients, and any extended plant count numbers and their corresponding patient registry numbers. Requires the DOR to verify the location of extended plant counts for primary caregiver cultivation operations and homebound patient registration for transporting caregivers to a local government or law enforcement agency upon receiving a request for verification. Requires the location of the cultivation operation to comply with all applicable local laws, rules, or regulations. Sunsets the medical marijuana program on September 1, 2019. Adds an exception to the student possession policy for medical marijuana. Permits moneys in the Marijuana Tax Cash Fund 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
TOTAL FUNDS	\$1,068,560	\$173,704	\$1,125,266	\$2,367,530

S.B. 15-115 (Sunset Medical Marijuana Programs): Continues the Medical Marijuana Code (Medical Code) from July 1, 2015, until September 1, 2019, and implements some of the recommendations from the Department of Regulatory Agencies' 2014 sunset review.

***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 moneys 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. The appropriation is reduced by \$452,787 to reflect actual allocations to counties for the fiscal year.

In addition, the act authorizes DHS to use moneys 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 from nine to 11 members by including a representative of the cannabinoid industry and a representative of the certified seed growers industry. The Colorado Department of Agriculture (CDA) is required to administer an industrial hemp certified seed program to identify seeds that produce industrial hemp. The CDA may import seeds to develop the certified seed program in accordance with state and federal laws.

If an industrial hemp registrant wants a licensed retail marijuana testing facility to perform testing on the registrant's industrial hemp, the registrant is required to use a radio frequency identification-based inventory tracking system approved by the CDA Commissioner to test a sample of the crop. The inventory tracking system must be compatible with the Department of Revenue's seed-to-sale tracking system. The testing facility must provide the test results to the registrant and the commissioner. The results are considered confidential business information.

Current law provides criminal immunity from those processing, selling, and distributing industrial hemp. This act extends that immunity to transporting and possessing hemp. The CDA may promulgate rules to require approved shipping documentation for the transportation of hemp.

In FY 2015-16, makes two appropriations: (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).

S.B. 15-260 (Medical Marijuana Product Testing): Authorizes the creation of a medical marijuana testing facility license and requires that medical marijuana and medical marijuana-infused products be tested. Mandatory testing cannot begin until a marijuana laboratory testing reference library is created. As the reference library is created by H.B. 15-1283, the implementation of this bill is conditioned upon the passage of H.B. 15-1283. A person with a financial interest in a medical marijuana testing facility license cannot also have a financial interest in any other marijuana license type with the exception of a retail marijuana testing facility license.

H.B. 15-1283 (Marijuana Reference Library and Lab Testing Access): Requires the Department of Public Health and Environment 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 moneys from the MTCF for the reference library. Appropriates \$23,850 cash funds from the MTCF to the Department of Public Health and Environment for FY 2015-16.

H.B. 15-1305 (Unlawful Manufacture Marijuana Concentrate): Makes it a class 2 drug felony for an unlicensed person to manufacture or permit manufacture of marijuana concentrate using a hazardous substance. Includes a 5-year statutory General Fund appropriation to the Department of Corrections that provides \$22,068 for FY 2016-17, \$22,068 for FY 2017-18, and \$11,034 for FY 2018-19.

***H.B. 15-1367 (Retail Marijuana Taxes):** Refers a ballot issue¹⁴ 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 MTCF 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 Fund rather than the MTCF;
- broadens purposes for which funds in the MTCF can be expended and requires the Marijuana Enforcement Division to report on its website how tax revenue is spent;
- requires that appropriations from the MTCF 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.

¹⁴ 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
Total		\$438,008	5.4
2015 Long Bill Conforming Adjustments			
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		Total ^{/1}	\$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 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>			
Total ^{/1}	\$58,106,770			

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

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.

H.B. 15-1379 (Marijuana Permitted Economic Interest): Allows people who are not residents of Colorado to apply to the Marijuana Enforcement Division (MED) in the Department of Revenue for the authorization to hold a Permitted Economic Interest (PEI) in a regulated medical or retail marijuana business. Only a natural person who is a lawful United States resident may obtain a PEI, and the interest is limited to an unsecured debt instrument, option agreement, warrant, or any other right to obtain an ownership interest. The MED is required to promulgate rules regarding the PEI by January 1, 2016, including a process for and a requirement to submit to and pass a criminal history record check, divestiture, and other agreements that would qualify as PEIs. Transfers \$138,466 from the Marijuana Tax Cash Fund to the General Fund on August 15, 2015. Appropriates \$166,305 and 1.4 FTE from the Marijuana Cash Fund to the Department of Revenue for FY 2015-16. Of this amount, \$33,254 and 0.2 FTE is reappropriated to the Department of Law and \$15,999 to the Department of Public Safety.

H.B. 15-1387 (End Transfer of Medical Marijuana to Retail Marijuana): Prohibits a medical marijuana business that receives a retail marijuana establishment license from transferring any of its medical marijuana inventory to the new retail marijuana establishment. Due to the fourth-month grow cycle of marijuana, the one-time transfer was initially included in law to ensure retail marijuana operators had sufficient marijuana on January 1, 2014, the first day of retail marijuana sales.

2016 SESSION BILLS

Note: Staff identified a total of 19 bills that passed during the 2016 legislative session that that concerned marijuana. Staff has summarized below only those seen bills that directly affect marijuana tax revenue or the appropriation or allocation of such revenues. Bills that concerned marijuana that are not summarized below include the following:

S.B. 16-15 (Marijuana pesticides)

S.B. 16-40 (Marijuana ownership forms)

S.B. 16-41 (Marijuana data and study of law enforcement costs)

S.B. 16-80 (Medical marijuana grows in an enclosed and locked space)

**S.B. 16-90 (Marijuana health effects data collection)*

H.B. 16-1041 (Marijuana licensing bonding requirement)

H.B. 16-1064 (Local licensing of medical marijuana testing facilities)

H.B. 16-1359 (Use of medical marijuana while on probation)

H.B. 16-1363 (Medical marijuana rule-making concerning advertising)

H.B. 16-1373 (Medical marijuana use at school)

H.B. 16-1427 (Retail marijuana package requirements)

H.B. 16-1436 (Marijuana edible shapes)

***S.B. 16-191 (CSU-PUEBLO SCIENTIFIC AND SOCIAL SCIENCE RESEARCH):** Authorizes the General Assembly to appropriate money from the Marijuana Tax Cash Fund (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. 16-1211 (MARIJUANA TRANSPORTER LICENSE) Creates licenses for medical and retail marijuana transporters, who provides logistics, distribution, and storage of marijuana and marijuana products. Appropriates \$76,284 cash funds from the MTCF to the Department of Revenue for FY 2016-17.

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 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) for the purpose of enhancing 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 bill 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. The following table summarizes the distribution changes.

SUMMARY OF DISTRIBUTION CHANGES		
	Current Distribution Tiers	New Distribution No Tiers
Tier 1 Programs		
Children's Basic Health Plan Trust	25.0%	18.00%
Nurse Home Visitor	19.0%	26.70%
Fitzsimons Trust Fund	8.0%	8.00%
Early Literacy	5.0%	Marijuana Funds
Tony Gramscas Youth Services	4.0%	7.50%
Drug Assistance Program (Ryan White)	3.5%	5.00%
AIDS and HIV Prevention Grants	2.0%	3.50%
Tobacco Litigation Settlement Cash Fund	2.0%	2.50%
State Veterans	1.0%	1.00%
Dental Loan Repayment	\$200,000	1.00%
Child Mental Health Treatment Act	\$300,000	Marijuana Funds
Cancer Program	0	2.00%
Autism Treatment	\$1,000,000	2.00%
	% of Remainder After Tier 1 programs	
Tier 2 Programs		
CU Health Sciences	49.00%	15.50%
Children's Basic Health Plan Trust	14.50%	Eliminated
Offender Mental Health Services	12.00%	Marijuana Funds
Alcohol & Drug Abuse	3.00%	Marijuana Funds
Local Public Health Agencies	7.00%	Marijuana Funds
Supplemental State Contribution	4.50%	2.30%
CO Immunization Fund	4.00%	2.50%
Health Services Corps (Loan Repayment)	\$250,000	1.00%
State Auditor's Office	\$89,000	Eliminated
Unallocated amount		1.50%

Creates a new Primary Care Provider Sustainability Fund in the Department of Health Care Policy and Financing to fund increased access to primary care office visits, immunization administration, health screening services, and newborn care, including neonatal critical care. On July 1, 2016, \$20.0 million is transferred from the Children's Basic Health Plan Trust to this new fund. Modifies statute concerning higher education fee-for-service contracts paid to the University of Colorado for specialty education services, specifying that these contracts include care provided by faculty of the University of Colorado Health Sciences Center and are eligible for payment under the state's Medicaid provider reimbursement.

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 Gramscas 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

Appropriates \$55,694,236 total funds, of which \$20,000,000 is cash funds from the Primary Care Provider Sustainability Fund, \$556,859 is cash funds from the Hospital Provider Fee Cash Fund, and \$35,137,377 is federal funds to the Department of Health Care Policy and Financing for FY 2016-17 rate enhancements.

***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.

RELEVANT LEGISLATION FROM PREVIOUS SESSIONS

***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). All moneys attributable to fees will continue to be deposited in the MCF. The act specifies the programs that can receive appropriations out of the MTCF and the MCF. Transfers the balance of marijuana sales tax revenues previously collected in the MCF to the MTCF on July 1, 2014. Limits appropriations from the MTCF to moneys received in the prior fiscal year (cannot appropriate revenues in the fiscal year in which they are received) except that the Department of Revenue is allowed to receive appropriations from current year revenues for direct and indirect costs related to the regulation and enforcement of the marijuana industry; limits the total amount that the General Assembly can appropriate out of the MTCF starting with appropriations for FY 2015-16 to 93.5 percent of moneys in the fund available for appropriation.

Moneys in the MTCF can initially be appropriated based on the most recent Legislative Council Staff (LCS) or Office of State Planning and Budgeting (OSPB) forecast for the following purposes:

- For the study of law enforcement's activity and costs related to the implementation of the laws legalizing retail marijuana;
- For the coordination of the executive branch response to the legalization of retail marijuana;
- To increase the expertise and knowledge among prosecutors and law enforcement officials regarding the legal and regulatory issues surrounding the legalization of marijuana;
- To obtain health data, through surveys or other means, regarding marijuana and other drug use and to monitor the health effects of marijuana, including changes in drug use patterns and the emerging science and medical information relevant to the health effects associated with marijuana use;
- To advance roadside impaired driving enforcement training and drug recognition expert training for peace officers;
- To develop and implement marijuana education and prevention campaigns;
- To provide inpatient treatment for adults who suffer from co-occurring disorders at the Colorado mental health institute at Pueblo;
- To increase the availability of school-based prevention, early intervention, and health care services and programs to reduce the risk of marijuana and other substance use and abuse by school-aged children;
- For community based programs to provide marijuana prevention and intervention services to youth;
- For local judicial district-based programs to provide marijuana prevention and intervention services to pre-adjudicated and adjudicated youth;
- To expand the provision of jail-based behavioral health services in underserved counties and to enhance the provision of jail-based behavioral health services to offenders transitioning from jail to the community to ensure continuity of care;
- For the provision of substance use disorder treatment services for adolescents and pregnant women; and
- To provide child welfare training specific to issues arising from marijuana use and abuse.

Specifies the permissible uses of the moneys in the MTCF, including:

- [Section 3] Creates the school health professional grant program in the department of education to provide matching grants to education providers to enhance the presence of school health professionals in secondary schools throughout the state and to facilitate better screening, education, and referral care coordination for secondary school students with substance abuse and other behavioral health needs;
- [Section 4] Creates the office of marijuana coordination in the governor's office to coordinate the executive branch response to the legalization of marijuana;
- [Section 5] Requires the department of public health to conduct 2 marijuana education and prevention campaigns, each with a specified purpose, and to create a web site to serve as the state portal for the most accurate and timely information regarding the health effects of marijuana and the laws regarding marijuana use;
- [Section 6] Creates the school-based substance abuse prevention and intervention grant program in the department of health care policy and financing to award competitive grants to entities to provide school-based prevention and intervention programs for youth 12 to 19 years of age, primarily focused on reducing marijuana use, but including strategies and efforts to reduce alcohol use and prescription drug misuse; and
- [Section 7] Expands the purposes of the Tony Grampsas youth services program, created in the department of human services, to include community-based programs specifically related to the prevention and intervention of adolescent and youth marijuana use.

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 bill 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 (Section 13). Appropriates \$8.2 million from the MTCF for existing programs that previously received appropriations out of the MCF (Section 12). Transfers \$6.3 million from the MTCF to the General Fund for the CIRCLE and SBIRT programs as well as for two new school-based prevention and intervention services program and the school-based early intervention and prevention substance abuse grant program (Section 2).

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.
HCP	(3)	4,363,807	2,000,000	0	2,363,807	0.0	School-based prevention and intervention services.
HCP	(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 Grampsas program grants for prevention.

SB 14-215 APPROPRIATIONS AND TRANSFERS FOR NEW PROGRAMS

AGENCY		TOTAL	GENERAL FUND	MARIJUANA TAX CASH FUND	FEDERAL FUNDS	FTE	PURPOSE
HUM	(6)	1,500,000	0	1,500,000	0	0.0	Substance use disorder treatment services for adolescents and pregnant women.
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.
Section 13 Subtotal		\$24,865,833	\$4,000,000	\$18,502,026	\$2,363,807	11.2	
Section 12 Subtotal		\$8,156,371	\$0	\$8,156,371	\$0	0.0	Adjustments to 2014 Long Bill
		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 HCP Sect. 13 (3) and HCP Sect. 13 (4) programs, as well as a 6.5 percent (\$260,000) General Fund reserve.
Section 2 Subtotal		\$6,260,000	\$0	\$6,260,000	\$0	0.0	
Sections 2, 12, 13 Total		\$39,282,204	\$4,000,000	\$32,918,397	\$2,363,807	11.2	

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.

- Converts the existing Medical Marijuana Enforcement Division (MMED) to the Marijuana Enforcement Division (MED), with the MED having the authority to regulate medical marijuana and retail marijuana, and authorizes the MED to receive moneys from the General Fund. All spending authority that previously existed for the MMED is transferred to the MED.
- Establishes unlawful acts including consuming marijuana in a licensed retail marijuana business, buying or selling marijuana outside of the regulated system, selling to a person under 21 years of age, and failing to pay the lawful excise tax. These acts are classified as Class 2 misdemeanors.
- Specifies the amount of the application fees for existing medical marijuana business and new businesses.
- Requires the MED to provide a report to the Finance Committees that includes the amount of revenue generated by retail marijuana, the expenses of the MED, and the regulatory work performed by the MED.
- Provides that only existing medical marijuana licensees businesses in good standing can apply for a license for a retail marijuana license business until September 30, 2014. Starting July 1, 2014,

other persons may give notice of intent to apply for a retail license and receive preference from the MED.

- Through September 30, 2014, continues the current requirement for vertical integration.
- Requires the MED to develop and maintain a seed-to-sale tracking system.
- Credits the Marijuana Cash Fund with 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, excess moneys are transferred to the General Fund until the General Fund has been repaid any moneys 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. The retailers are not permitted to keep any portion of the tax for their costs in collecting the tax for the State. Local jurisdictions receive 15.0 percent of the proceeds from the tax 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, the first \$40.0 million raised goes to the Public School Capital Construction Fund, with any remaining moneys deposited into 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, \$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.

APPENDIX C

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

Voters in nine states recently voted on measures concerning the legalization of marijuana. In Arizona, California, Maine, Massachusetts, and Nevada, voters decided whether to legalize the recreational use of marijuana. In Arkansas, Florida, Montana, and North Dakota, voters decided on measures concerning medical marijuana. As of the writing of this document, it appears that all of these measures passed except for the Arizona measure to legalize 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 2016 (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:

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

The Cannabist – U.S. Cannabis Laws (includes map) and the 2016 Election:

<http://www.thecannabist.co/2016/11/08/election-2016-marijuana-results-states-recreational-medical/66994/>

Within Colorado, voters in several local jurisdictions recently considered marijuana-related measures. As of the writing of this document, the outcome of some of these measures is not yet known. The Department of Revenue maintains two lists concerning local marijuana laws:

Local Authorities Allowing Medical Marijuana:

<https://www.colorado.gov/pacific/sites/default/files/Local%20Authorities%20Allowing%20%20Medical%2002172016.pdf>

Local Authorities Allowing Medical Marijuana:

https://www.colorado.gov/pacific/sites/default/files/Local%20Authorities%20Allowing%20Retail%2008152016_4.pdf