



Colorado Legislative Council Staff

HB17-1367

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0437
Prime Sponsor(s): Rep. Pabon; Arndt
Sen. Jahn; Baumgardner

Date: May 1, 2017
Bill Status: House Agriculture
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BILL TOPIC: AUTHORIZE MARIJUANA CLINICAL RESEARCH

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u>\$172,337</u>	<u>\$65,474</u>
Cash Funds	172,337	65,474
State Expenditures	<u>\$212,171</u>	<u>\$105,308</u>
Cash Funds	192,826	84,234
Centrally Appropriated Costs	19,345	21,074
TABOR Impact	\$172,217	\$65,354
FTE Position Change	1.1 FTE	1.0 FTE
Appropriation Required: \$192,826 - Multiple agencies (FY 2017-18).		
Future Year Impacts: Ongoing revenue and expenditure increase.		

Summary of Legislation

This bill creates a marijuana research and development license and a marijuana research and development endorsement to an existing license to be issued by the Marijuana Enforcement Division in the Department of Revenue (DOR). The license or endorsement authorizes a person to produce, process, and possess marijuana for limited research purposes, including:

- testing chemical potency and composition levels;
- conducting clinical investigations of marijuana-derived medicinal products;
- conducting research on the efficacy and safety of administering marijuana as part of medical treatment;
- conducting genomic, horticultural, or agricultural research; and
- conducting research on marijuana-affiliated products or systems.

An application for a license or endorsement must include a description of the research and whether the research will be conducted with a public institution or with public money. If the research will be conducted with a public institution or with public money, the Scientific Advisory Council in the Colorado Department of Public Health and Environment (CDPHE) is required to assess the project based on criteria outlined in the bill. If the council finds the project does not meet the criteria, the application will be denied. If the research will not be conducted with a public institution or with public money, the Marijuana Enforcement Division will assess the project.

The division is required to promulgate rules by January 1, 2018, that permit researchers to use licensed retail marijuana testing facilities to test marijuana and marijuana products for medical or scientific research.

Assumptions

The fiscal note assumes that initially two public institutions of higher education will apply for a research and development license, eight cultivation facilities will apply for research and development endorsements resulting in ten research projects per year, and all ten research projects will register for the authority to use licensed testing facilities. Further, the fiscal note assumes that five individuals from each public institution will have fingerprint background and name checks per year for a total of ten individuals and that no fingerprint background checks will be required on endorsements to current licenses.

State Revenue

This bill will increase state cash fund revenue by \$172,337 in FY 2017-18 and \$65,474 in FY 2018-19 to the Marijuana Cash Fund in the DOR.

Fee impact on marijuana researchers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Actual fee calculations will be set administratively by the Department of Revenue based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. Fees will total \$172,337 in FY 2017-18 and \$65,474 in FY 2018-19 to cover the estimated costs of this bill. Because the bill does not specify that the cost of these licenses and endorsements need to cover the cost of administering them, the DOR may choose to recover these costs from a larger pool of licensees.

In addition, revenue from criminal history record and name checks will increase by a minimal amount. The Department of Public Safety will pass through \$12 per check to the FBI. This pass through is estimated at \$120 per year that will be exempt from TABOR.

TABOR Impact

This bill increases state cash fund revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

This bill increases cash fund expenditures by \$212,171 and 1.1 FTE in FY 2017-18 and \$105,308 and 1.0 FTE in FY 2018-19. These costs are shown in Table 1 and described below.

Table 1. Expenditures Under HB17-1367		
Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$50,285	\$54,780
FTE	1.1 FTE	1.0 FTE
Operating Expenses and Capital Outlay Costs	4,703	475
Legal Services	76,040	28,515
Computer Programming	61,334	0
Pass-through Background Checks	464	464
Centrally Appropriated Costs*	19,345	21,074
TOTAL	\$212,171	\$105,308

* Centrally appropriated costs are not included in the bill's appropriation.

Marijuana Enforcement Division, Department of Revenue. The bill increases expenditures for the division by \$172,337 and 0.4 FTE in FY 2017-18 and \$65,474 and 0.5 FTE in FY 2018-19 from the Marijuana Cash Fund for a compliance investigator to develop the review process, support rule development, review privately funded project proposals, and monitor compliance with division rules. The division requires \$61,334 for changes to its licensing, tax accounting, and marijuana tracking systems to accommodate the new license and endorsement types.

In addition, the division requires 800 hours of legal services from the Department of Law in FY 2017-18, at a cost of \$76,040, and 300 hours in FY 2018-19, at a cost of \$28,515, for general counsel and rule making associated with implementing the new license and endorsement. This number may decline as some of the technical issues of the bill are clarified. For this amount of legal services hours, the Department of Law requires 0.4 FTE in FY 2017-18 and 0.2 FTE in FY 2018-19.

Medical Marijuana Research Grant Program, Department of Public Health and Environment. This bill increases expenditures for CDPHE by \$39,834 per year beginning in FY 2017-18 from the Marijuana Tax Cash Fund. CDPHE will add 0.3 FTE to the grant program staff to support the Scientific Advisory Council in reviewing publicly funded research proposals according to the requirements set forth in the bill. Staff will develop and implement the new scientific proposal review process as well as recruit additional committee members who have the specified expertise required by the bill.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB17-1367		
Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$5,588	\$6,374
Supplemental Employee Retirement Payments	4,506	4,909
Indirect Costs	7,091	7,091
Leased Space	2,160	2,700
TOTAL	\$19,345	\$21,074

Local Government Impact

A local government that issues local medical marijuana licenses may have an increase in revenue and expenditures if it chooses to offer a local research and development license.

Technical Note

The bill as introduced includes language that is inconsistent between the Medical Marijuana Code and the Retail Marijuana Code. The fiscal note assumes this will be clarified through amendments. The fiscal impact of the bill will be reevaluated once those changes are made.

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2017-18, the following appropriations are required:

- \$165,017 to the Department of Revenue from the Marijuana Cash Fund and an allocation of 0.4 FTE; of which \$76,040 is reappropriated to the Department of Law and an allocation of 0.4 FTE; \$464 is reappropriated to the Department of Public Safety; and
- \$27,809 - Department of Public Health and Environment from the Marijuana Tax Cash Fund and an allocation of 0.3 FTE.

Departmental Difference

DOR estimates the cost of the bill to be \$445,107 and 1.8 FTE in FY 2017-18, and \$529,416 and 2.0 FTE in FY 2018-19. The DOR estimate includes 1,520 legal services hours in FY 2017-18 and 2,720 hours in FY 2018-19, which will require 0.8 FTE in FY 2017-18 and 1.5 FTE in FY 2018-19 for the Department of Law. DOR's estimate assumes that 41 entities will seek licensure annually, 310 entities will seek endorsements, and these entities will conduct 57 research projects annually. The Department of Law assumes that two license applications will be denied each year, requiring 720 hours of legal services in FY 2017-18 and 1,220 hours of legal services

in FY 2018-19 and beginning in FY 2018-19, two cases will require enforcement action requiring 1,200 hours of legal services. The Marijuana Enforcement Division also identified the need for additional staffing to review and evaluate research project proposals and monitor compliance with division rules. The fiscal note assumes fewer licenses, endorsements, and research projects and does not anticipate litigation for denials or enforcement actions.

State and Local Government Contacts

Higher Education

Public Health And Environment

Information Technology

Revenue

Law