



**Colorado  
Legislative  
Council  
Staff**

Room 029 State Capitol, Denver, CO 80203-1784  
(303) 866-3521 • FAX: 866-3855 • TDD: 866-3472  
[leg.colorado.gov/lcs](http://leg.colorado.gov/lcs)  
E-mail: [lcs.ga@state.co.us](mailto:lcs.ga@state.co.us)

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**M E M O R A N D U M**

September 25, 2017

**TO:** Interested Persons

**FROM:** Greg Sobetski, Senior Economist, 303-866-4105

**SUBJECT:** Impacts of Senate Bill 17-267 on Special Districts

**Summary**

This memorandum presents the impact of Senate Bill 17-267 on special districts that previously assessed sales taxes on retail marijuana transactions. The bill exempted retail marijuana sales from the state's 2.9 percent sales tax, affecting the authority of 14 districts to assess sales taxes on retail marijuana. A fiscal impact is not expected in five districts where retail marijuana sales do not occur. For the other nine districts, SB 17-267 reduced district sales tax revenue beginning in FY 2017-18. Table 1 presents estimates for the revenue loss to seven of the nine impacted districts totaling \$6.9 million in FY 2017-18, \$8.6 million in FY 2018-19, and \$9.3 million in FY 2019-20. Fiscal impacts were not estimated for two districts because data were unavailable for reasons related to taxpayer confidentiality.

**Marijuana Tax Provisions in Senate Bill 17-267**

Effective beginning in FY 2017-18, Senate Bill 17-267 changes the rates of two state taxes on retail (non-medical or "recreational") marijuana. The bill creates a new retail marijuana exemption from the regular 2.9 percent *state sales tax*. The *special sales tax* authorized by voters in Proposition AA is increased from a rate of 10 percent to 15 percent, with new allocations to the State Public School Fund and the General Fund. Taxes on medical marijuana are not affected.

The exemption for retail marijuana from the 2.9 percent state sales tax is not applied to counties and municipalities unless these governments adopt a resolution or ordinance extending the exemption.<sup>1</sup> However, the exemption is applied by default to a collection of special districts that assess sales taxes on the same tax base as that used by the state.

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<sup>1</sup>Section 29-2-105 (1)(d)(I)(O), C.R.S.

**Applicability to special districts.** Under SB 17-267, as administered by the Department of Revenue (DOR), retail marijuana is exempt from the sales taxes assessed by 14 special districts beginning July 1, 2017. Descriptions of the affected districts are presented beginning on page 3. Among these, there are nine special districts that collected sales taxes on retail marijuana transactions during FY 2016-17. These districts are expected to incur a revenue loss attributable to the exemption in FY 2017-18 and subsequent fiscal years. Estimates of the fiscal impacts for each of the affected districts are presented in Table 1.

**Table 1. Revenue Loss Attributable to Marijuana Tax Policy Change in SB 17-267**  
*Impacted Special Districts*

	FY 2017-18	FY 2018-19	FY 2019-20
Regional Transportation District	(\$5,966,000)	(\$7,420,000)	(\$8,026,000)
Scientific and Cultural Facilities District	(597,000)	(742,000)	(803,000)
Pikes Peak RTA*	Not estimated due to confidentiality requirements.		
Roaring Fork RTA*	(124,000)	(154,000)	(166,000)
Gunnison Valley RTA*	(66,000)	(79,000)	(85,000)
San Miguel RTA*	(10,000)	(12,000)	(13,000)
Summit Combined Housing Authority	(87,000)	(111,000)	(120,000)
Montezuma Hospital District	(62,000)	(79,000)	(86,000)
Edwards Metropolitan District	Not estimated due to confidentiality requirements.		
<b>Total - All Affected Districts</b>	<b>(\$6,912,000)</b>	<b>(\$8,597,000)</b>	<b>(\$9,299,000)</b>

Source: Legislative Council Staff.

\*"RTA" denotes a regional transportation authority.

**Districts for which fiscal impacts are not estimated.** Fiscal impacts are not estimated for the Pikes Peak Regional Transportation Authority (RTA) or for Edwards Metropolitan District. In both districts, the number of marijuana retailers is small enough that district-wide tax remittance data cannot be shared with Legislative Council Staff (LCS) due to taxpayer confidentiality requirements. Because data are unavailable, LCS has no basis from which to derive an estimate. In the case of Pikes Peak RTA, retail marijuana sales are prohibited in the City of Colorado Springs, which comprises the majority of the district. In the case of Edwards Metropolitan District, the small number of retailers is attributable to the district's small size.

**Districts for which fiscal impacts are estimated.** Fiscal impacts are estimated for seven districts. The amounts in Table 1 represent the revenue loss expected from SB 17-267 if the retail marijuana sales tax exemption is extended to each district's sales tax, consistent with DOR's current administration. Impacts were estimated based on each district's share of FY 2016-17 statewide retail marijuana sales.<sup>2</sup> District shares were applied to the September 2017 LCS forecast of retail marijuana sales for FY 2017-18 through FY 2019-20. Revenue estimates reflect the assumed volume of retail marijuana sales, the district sales tax rate, and the presence and size of a district vendor fee. To the extent that district marijuana sales grow faster or slower than the state's, the amount of the fiscal impact will be different than presented in Table 1.

<sup>2</sup>The sales tax assessed by the San Miguel RTA took effect on January 1, 2017. For this district, taxes remitted between February and June were prorated to determine an impact for the entire FY 2016-17.

For FY 2017-18 only, the amounts shown in Table 1 represent an 11-month impact. Sales taxes are remitted to the state and local governments one month after transactions occur. Accordingly, taxes remitted for July 2017 reflect sales made in June 2017, when retail marijuana sales were taxed in all districts. Actual July 2017 sales tax receipts for all districts were subtracted from the revenue loss that would otherwise be anticipated for 12 months in FY 2017-18 to account for July receipts based on June sales.

### **Affected Special Districts**

The state sales tax exemption for retail marijuana in SB 17-267 is extended to 14 special districts in the categories presented below.

**Regional Transportation District.** The Regional Transportation District (RTD) operates mass transit systems in the Denver metropolitan area. The district assesses a 1.0 percent sales tax in an area comprising Boulder, Broomfield, Denver, and Jefferson counties, and parts of Adams, Arapahoe, Douglas, and Weld Counties. Pursuant to House Bill 13-1272, the RTD sales tax is assessed on the same transactions as those subject to the 2.9 percent state sales tax.<sup>3</sup> Accordingly, all sales tax exemptions adopted at the state level are extended by default to RTD. As shown in Table 1, the retail marijuana exemption is expected to reduce RTD tax revenue by \$6.0 million in FY 2017-18 and \$7.4 million in FY 2018-19.

**Scientific and Cultural Facilities District.** The Scientific and Cultural Facilities District (SCFD) provides funding to museums and cultural institutions in the Denver metropolitan area. The district assesses a 0.1 percent sales tax in an area comprising Adams, Arapahoe, Boulder, Broomfield, Denver, and Jefferson Counties, and parts of Douglas County. Like the RTD tax, the SCFD sales tax is assessed on the same transactions as those subject to the 2.9 percent state sales tax pursuant to HB 13-1272.<sup>4</sup> Accordingly, all sales tax exemptions adopted at the state level are extended by default to SCFD. As shown in Table 1, the retail marijuana exemption is expected to reduce SCFD tax revenue by \$597,000 in FY 2017-18 and \$742,000 in FY 2018-19.

**Regional Transportation Authorities.** An RTA may be created to operate and fund a transit system in a specific area of the state. With voter approval, an RTA may assess a sales tax at a rate of up to 1.0 percent on transactions that are subject to a state sales or use tax.<sup>5</sup> There are five RTAs that assess sales taxes, including:

- the Gunnison Valley RTA, which assesses a 1.0 percent sales tax in most areas of Gunnison County;
- the Pikes Peak RTA, which assesses a 1.0 percent sales tax in most areas of El Paso County;
- the Roaring Fork RTA, which assesses a sales tax of varying rates in areas of Eagle, Garfield, and Pitkin Counties;
- the San Miguel Authority for Regional Transportation, which assesses a 0.25 percent sales tax in portions of San Miguel County; and
- the South Platte Valley RTA, which assesses a 0.1 percent sales tax in the City of Sterling in Logan County.

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<sup>3</sup>Section 32-9-119 (2)(a), C.R.S.

<sup>4</sup>Section 32-13-107 (1)(a), C.R.S.

<sup>5</sup>Section 43-4-605 (1)(j)(I), C.R.S.

State law does not specify whether the RTA tax may be assessed only on transactions subject to the 2.9 percent state sales tax as opposed to any other state sales tax. However, the Department of Revenue (DOR), which administers RTA sales taxes, has determined that retail marijuana sales are exempt from RTA sales taxes pursuant to the state sales tax exemption in SB 17-267.

As shown in Table 1, the Gunnison Valley, Pikes Peak, Roaring Fork, and San Miguel RTAs are expected to lose revenue as a result of the retail marijuana exemption. No revenue decrease is expected for the South Platte Valley RTA because retail marijuana sales are not permitted in Logan County.

**Summit Combined Housing Authority.** Summit Combined Housing Authority is a multijurisdictional housing authority (MHA) that provides services related to affordable housing. Pursuant to state law under its jurisdiction as an MHA, the authority assesses a 0.725 percent sales tax in Summit County on transactions that are subject to a state sales or use tax.<sup>6</sup> State law does not specify whether an MHA tax may be assessed only on transactions subject to the 2.9 percent state sales tax as opposed to any other state sales tax. However, DOR has determined that retail marijuana sales are exempt from MHA sales taxes pursuant to the state sales tax exemption in SB 17-267. As shown in Table 1, the retail marijuana exemption is expected to decrease authority revenue by \$87,000 in FY 2017-18 and \$111,000 in FY 2018-19.

**Montezuma Hospital District.** Montezuma Hospital District is a health services district (HSD) that provides and funds health care infrastructure and related services. Pursuant to state law under its jurisdiction as an HSD, the district assesses a 0.4 percent sales tax in Montezuma County on transactions that are subject to the 2.9 percent state sales tax.<sup>7</sup> Accordingly, all sales tax exemptions that are adopted at the state level are extended by default to the district. As shown in Table 1, the retail marijuana exemption is expected to decrease district revenue by \$62,000 in FY 2017-18 and \$79,000 in FY 2018-19.

**Metropolitan districts.** Metropolitan districts that provide street improvement, safety protection, or transportation services are authorized in statute to assess a sales tax on transactions that are subject to a state sales tax.<sup>8</sup> Qualifying metropolitan districts that levy a sales tax include:

- Aspen Park Metropolitan District in Conifer, Jefferson County;
- Bachelor Gulch Metropolitan District near Avon in Eagle County;
- Edwards Metropolitan District near Edwards in Eagle County;
- Southwest Plaza Metropolitan District near Littleton in Jefferson County; and
- Two Rivers Metropolitan District near Gypsum in Eagle County.

State law does not specify whether a metropolitan district sales tax may be assessed only on transactions subject to the 2.9 percent state sales tax as opposed to any other state sales tax. However, DOR has determined that retail marijuana sales are exempt from metropolitan district sales taxes pursuant to the state sales tax exemption in SB 17-267. As shown in Table 1, only the Edwards Metropolitan District is expected to lose revenue as a result of the retail marijuana exemption. Revenue losses are not expected for the other districts because no retail marijuana sales occurred in these districts during FY 2016-17.

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<sup>6</sup>Section 29-1-204.5 (3)(f.1)(I), C.R.S.

<sup>7</sup>Section 32-19-112 (1)(a), C.R.S.

<sup>8</sup>Section 32-1-1106 (1), C.R.S.