



**Colorado
Legislative
Council
Staff**

SB17-111

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 13, 2017)

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

Drafting Number: LLS 17-0803

Date: April 6, 2017

Prime Sponsor(s): Sen. Neville T.

Bill Status: House Finance

Rep. Michaelson Jenet; Gray

Fiscal Analyst: Clare Pramuk (303-866-2677)

BILL TOPIC: MEDICAL MARIJUANA INVENTORY SHORTFALL FIXES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u>\$130,029</u>	<u>\$103,752</u>
Cash Funds	130,029	103,752
State Expenditures	<u>\$130,029</u>	<u>\$103,752</u>
Cash Funds	115,428	85,655
Centrally Appropriated Costs	14,601	18,097
TABOR Impact	\$130,029	\$103,752
FTE Position Change	0.9 FTE	1.1 FTE
Appropriation Required: \$115,428 - Department of Revenue (FY 2017-18).		
Future Year Impacts: Ongoing revenue and expenditure increase.		

Summary of Legislation

The **reengrossed** bill increases the amount of total on-hand inventory of medical marijuana that a medical marijuana licensee can purchase from another medical marijuana center from 30 percent to a percentage of at least 30 percent set in rule by the Marijuana Enforcement Division in the Department of Revenue (DOR). Alternately, a medical marijuana center may transfer any amount of medical marijuana to another medical marijuana center or medical marijuana-infused product manufacturer if all direct beneficial owners of the licensed businesses are the same.

Background

Medical marijuana regulation. Under the medical marijuana code, businesses that grow, transport, process, test, and sell retail marijuana are licensed by the Marijuana Enforcement Division. The medical marijuana code requires that cultivation, processing, manufacturing, and sales of medical marijuana share a common ownership. This type of market regulation is known as vertical integration. As of January 1, 2017, the medical marijuana market included the following numbers of licensees that will be subject to this bill:

- 528 Medical Marijuana Centers;
- 751 Optional Premises Cultivations; and
- 254 Medical Marijuana-infused Products Manufacturers.

Statewide in calendar year 2016, there were approximately 73,500 transfers from medical marijuana cultivation facilities and 33,500 from medical marijuana centers. The 30 percent limit for a marijuana business on transfers from one licensee to another is evaluated over a 12 month period of sales.

State Revenue

This bill will increase state cash fund revenue by \$130,029 in FY 2017-18 and \$103,752 in FY 2018-19 to the Marijuana Cash Fund.

Fee impact on medical marijuana licensees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. This bill will require a fee increase for medical marijuana licensees that will cover the expenditures of the bill. If the expenditures are divided equally among all 1,533 medical marijuana licensees, the increase will range between \$62 and \$68 per licensee. 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.

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 is expected to increase cash fund expenditures in the Marijuana Enforcement Division by \$130,029 and 0.9 FTE in FY 2017-18 and \$103,752 and 1.1 FTE in FY 2018-19 from the Marijuana Cash Fund. These costs are shown in Table 1 and described below.

Table 1. Expenditures Under SB17-111		
Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$44,503	\$53,943
FTE (DOR and Law)	0.9 FTE	1.1 FTE
Operating Expenses and Capital Outlay Costs	5,463	950
Legal Services	22,812	22,812
Computer Programming	35,000	0
Travel	7,650	7,950
Centrally Appropriated Costs*	14,601	18,097
TOTAL	\$130,029	\$103,752

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

Administration. In FY 2017-18, the division will increase its compliance investigator staff by 0.8 FTE, increasing to 1.0 FTE in FY 2018-19, to investigate and review ownership structures of businesses involved in transfers to determine whether the percentage limit set in rule for an unaffiliated transaction or the common owner exception for an affiliated transaction applies to each transfer, and to determine if businesses are manipulating their ownership structures to evade the transfer limit. The expenditures shown in Table 1 also include capital, operating and travel expenses for the investigative staff.

Legal services. The fiscal note includes legal services costs for two cases annually where exploitation of the common owner exception requires enforcement action. This is expected to require 120 hours per case at \$95.05 per hour provided by the Department of Law. The Department of Law will require 0.1 FTE to address this workload.

Computer programming. To identify whether a transfer of medical marijuana is between affiliated or unaffiliated medical marijuana businesses for calculating the percentage of inventory transferred, the DOR will update its marijuana tracking system, METRC, at a cost of \$35,000 from the Marijuana Cash Fund.

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 SB17-111		
Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$6,293	\$7,863
Supplemental Employee Retirement Payments	3,988	4,834
Leased Space	4,320	5,400
TOTAL	\$14,601	\$18,097

Technical Note

The \$35,000 in programming costs to METRC are also included in Senate Bill 17-192. If both bills pass, only one appropriation for these programming costs are required.

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 Department of Revenue requires an appropriation of \$115,428 from the Marijuana Cash Fund and an allocation of 0.8 FTE. Of this, \$22,812 is reappropriated to the Department of Law and an allocation of 0.1 FTE.

State and Local Government Contacts

Information Technology

Law

Revenue