



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Revised Fiscal Note

(replaces fiscal note dated January 23, 2023)

**Drafting Number:** LLS 23-0029  
**Prime Sponsors:** Rep. Ricks

**Date:** March 15, 2023  
**Bill Status:** House Finance  
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**Bill Topic:** SOCIAL EQUITY LICENSES IN REGULATED MARIJUANA

**Summary of Fiscal Impact:**

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill expands eligibility criteria for social equity licensees, expands the categories of marijuana accelerator licenses for which social equity licensees may apply, and requires additional incentives for social equity licensees and accelerator-endorsed licensees. The bill increases state revenue and expenditures and local workload on an ongoing basis.

**Appropriation Summary:**

For FY 2023-24, the bill requires an appropriation of \$160,989 to the Department of Revenue. The Marijuana Entrepreneur Fund is continuously appropriated to the Office of Economic Development. See State Appropriations section for detail.

**Fiscal Note Status:**

The revised fiscal note reflects the introduced bill, as amended by the House Business Affairs and Labor Committee.

**Table 1  
State Fiscal Impacts Under HB 23-1020**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>	Cash Funds	\$179,108	\$153,432
	<b>Total Revenue</b>	<b>\$179,108</b>	<b>\$153,432</b>
<b>Expenditures</b>	Cash Funds	\$169,176	\$131,689
	Centrally Appropriated	\$19,988	\$21,743
	<b>Total Expenditures</b>	<b>\$189,164</b>	<b>\$153,432</b>
	<b>Total FTE</b>	<b>1.5 FTE</b>	<b>1.4 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	TABOR Refunds	\$179,108	\$153,432

## Summary of Legislation

Under current law, retail marijuana store, cultivation facility, and manufacturing accelerator licenses are awarded to social equity applicants that meet certain criteria. Existing licensees can receive accelerator endorsements to host social equity licensees in these categories. Social equity licensees may also hold any regular marijuana license. The bill makes the following changes to the social equity marijuana program:

- adds transporter, hospitality business, and independent delivery licenses as accelerator marijuana licenses for which social equity licensees may apply;
- creates an independent delivery license that allows social equity licensees who are licensed as a retail marijuana transporter with a delivery permit to purchase retail marijuana and marijuana products from a cultivation or manufacturing facility for sale to individuals;
- expands eligibility criteria for social equity licensees beginning January 2024;
- specifies that social equity licensees and accelerator-endorsed licensees are eligible for incentives, which are determined by the Department of Revenue (DOR) through rule and may include a reduction or waiver of application and license fees; and
- requires the DOR to report annually to the legislature on the social equity program starting January 2025, including recommendations for social equity funding sources or license types that were developed by either a new or existing working group.

The bill also creates a program grant committee in the Office of Economic Development and International Trade (OEDIT) to review applications, select recipients, and determine award amounts for the existing Cannabis Business Grant program. OEDIT's director must appoint 15 persons to serve on the committee by September 1, 2023.

## Background

Under current law, Colorado residents may apply as a social equity licensee if they meet the following criteria:

- resided for at least 15 years between 1980 and 2010 in an area designated as an opportunity zone, or as a disproportionate impacted area as defined in rule by the Marijuana Enforcement Division;
- the applicant or the applicant's immediate family was arrested for or convicted of a marijuana offense or was subject to civil asset forfeiture related to a marijuana investigation; or
- the applicant's household income in the previous year did not exceed an amount determined by the Department of Revenue (DOR).

As of January 2023, there are 84 active social equity licensees and 119 pending social equity applications. Fees for regulated marijuana licenses are set through DOR rule.

**State Revenue**

The bill will increase revenue to the Marijuana Cash Fund in the DOR by an estimated \$179,108 in FY 2023-24 and \$153,432 in FY 2024-25 and ongoing.

**Fee impact on marijuana licenses.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the DOR based on cash fund balance, program costs, and the number of marijuana licenses subject to the fee. Table 2 below identifies the fee impact of this bill based on:

- increased expenditures to implement changes to the social equity program;
- decreased revenue to cover incentives for social equity applicants; and
- increased revenue from fees charged to non-social equity licensees to cover the revenue lost as a result of the incentives and to maintain sufficient fund balance to cover department costs.

The estimated revenue impact from incentives is based on the current fee schedule, the three-year average of the number of impacted licensees, and expected utilization of the expanded social equity program. Actual incentives will be determined by the DOR in rule, with input from a working group.

**Table 2  
 Fee Impact on Marijuana Licenses**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Total Fee Impact</b>
<b>FY 2023-24</b>	Marijuana Fees <i>(cover expenditures)</i>	\$179,108
	Marijuana Fee Incentives <i>(incentives for social equity applicants)</i>	(up to \$700,000)
	Marijuana Fees <i>(cover incentives)</i>	up to \$700,000
<b>FY 2023-24 Total</b>		<b>\$179,108</b>
<b>FY 2024-25</b>	Marijuana Fees <i>(cover expenditures)</i>	\$153,432
	Marijuana Fee Incentives <i>(incentives for social equity applicants)</i>	(up to \$700,000)
	Marijuana Fees <i>(cover incentives)</i>	up to \$700,000
<b>FY 2024-25 Total</b>		<b>\$153,432</b>

**State Expenditures**

The bill increases state expenditures by \$189,164 in FY 2023-24 and \$153,432 in FY 2024-25. Costs are in the DOR and OEDIT, and are paid from the Marijuana Cash Fund (see Technical Note) and Marijuana Entrepreneur Fund, respectively. Expenditures are detailed below and shown in Table 2.

**Table 3**  
**Expenditures Under HB 23-1020**

	FY 2023-24	FY 2024-25
<b>Department of Revenue</b>		
Personal Services	\$75,836	\$91,003
Operating Expenses	\$1,350	\$1,620
Capital Outlay Costs	\$6,670	-
Legal Services	\$76,133	\$38,066
Mapping Fees	\$1,000	\$1,000
Centrally Appropriated Costs <sup>1</sup>	\$18,119	\$21,743
FTE – Personal Services	1.0 FTE	1.2 FTE
FTE – Legal Services	0.4 FTE	0.2 FTE
<b>DOR Subtotal</b>	<b>\$179,108</b>	<b>\$153,432</b>
<b>Office of Economic Development &amp; International Trade</b>		
Personal Services	\$8,187	-
Centrally Appropriated Costs <sup>1</sup>	\$1,869	-
FTE – Personal Services	0.1 FTE	-
<b>OEDIT Subtotal</b>	<b>\$10,056</b>	<b>-</b>
<b>Total</b>	<b>\$189,164</b>	<b>\$153,432</b>
<b>Total FTE</b>	<b>1.5 FTE</b>	<b>1.4 FTE</b>

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

**Department of Revenue.** The bill increases workload for the DOR to implement changes to the social equity licensing program and handle an increase in applications for social equity and accelerator-endorsed licenses.

- **Staffing.** The DOR requires 0.7 FTE Compliance Investigator II and 0.5 FTE Statistical Analyst II. The investigator will conduct more complex licensing investigations based on new eligibility criteria, as well as handle an increase in applications and implement the new license. The analyst will collect data related to eligibility requirements and reports on social equity program activity. Costs include standard operating and capital outlay expenses and are prorated for a September 1 start date in the first year.
- **Legal services.** The DOR will require 720 hours (0.4 FTE) of legal services in FY 2023-24 and 360 hours (0.2 FTE) in subsequent years to support the DOR with additional rulemaking for the social equity program and an overall increase in administrative case work as a result of expanding the social equity program. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

- **Mapping fees.** The DOR uses maps created by the Department of Local Affairs (DOLA) to determine if social equity applicants reside in criteria-matching locations. Based on the current volume of social equity program activity, the DOR pays for each use of DOLA's maps. The DOR anticipates moving to a flat-fee model to accommodate the expanded eligibility criteria and increase in social equity applications.

**Office of Economic Development and International Trade.** The bill increases workload for OEDIT to staff a grant program application review committee. OEDIT requires 0.1 FTE Program Management I in FY 2023-24 only to support the committee by recruiting members, managing meetings, and assisting with application review and disposition.

**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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will decrease the amount of General Fund available to spend or save.

## Local Government

The bill may minimally increase workload for local licensing authorities that offer marijuana licenses to update local licensing regulations.

## Technical Note

**Marijuana Cash Fund.** The Marijuana Cash Fund is currently in a cash fund deficit. The fiscal note anticipates that the MED will adjust fees or make other adjustments to make the fund solvent within FY 2023-24 and therefore assumes that the bill's expenditures will be paid from the fund. However, should the assumed adjustments not result in cash fund solvency, the General Fund may be required to fund initial program costs.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

For FY 2023-24, the bill requires an appropriation of \$160,989 from the Marijuana Cash Fund to the DOR, and 1.0 FTE. Of this amount, \$76,133 is reappropriated to the Department of Law, with 0.4 FTE.

No appropriation is required for OEDIT. The Marijuana Entrepreneur Fund is continuously appropriated to OEDIT.

## State and Local Government Contacts

Counties	Economic Development & International Trade	Law
Municipalities	Public Health & Environment	Revenue