



**Colorado
Legislative
Council
Staff**

HB17-1367

**REVISED
FISCAL NOTE**

(replaces fiscal note dated May 1, 2017)

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

Drafting Number: LLS 17-0437 **Date:** May 8, 2017
Prime Sponsor(s): Rep. Pabon; Arndt **Bill Status:** Senate Finance
 Sen. Jahn; Baumgardner **Fiscal Analyst:** Clare Pramuk (303-866-2677)

BILL TOPIC: AUTHORIZE MARIJUANA CLINICAL RESEARCH

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		<u>\$173,510</u>
Cash Funds		173,510
State Expenditures		<u>\$173,510</u>
Cash Funds		164,461
Centrally Appropriated Costs		9,049
TABOR Impact		\$173,510
FTE Position Change		0.9 FTE
Appropriation Required: None.		
Future Year Impacts: Ongoing revenue and expenditure increase.		

Summary of Legislation

The **reengrossed** bill creates a two research licenses in the Medical Marijuana Code to be issued by the Marijuana Enforcement Division in the Department of Revenue (DOR) and local licensing authorities. The marijuana research and development cultivation license allows a person to grow, cultivate, possess, and transfer marijuana by sale or donation, for limited research purposes. A marijuana research and development license allows a person to 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 must specify the location in Colorado at which the licensee intends to operate and 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.

A person licensed under this bill, as well as a registered patient or caregiver participating in a clinical or observational study conducted by a licensee, may use a licensed medical marijuana testing facility to test medical marijuana and medical marijuana-infused products used for research by a licensee.

The division is required to promulgate rules for the new licenses, including:

- application and renewal requirements;
- security measures;
- allowable numbers of plants, usable marijuana, and marijuana products that can be possessed;
- reporting requirements;
- provisions to prevent contamination; and
- requirements for the destruction of marijuana after the research is concluded.

Assumptions

Because the bill is not effective until July 1, 2018, the fiscal note assumes that licenses will not be issued prior to January 1, 2019. The fiscal note assumes that initially ten entities will apply for licenses resulting in ten research projects per year. Finally, the fiscal note assumes that no public funding will be available for medical marijuana research unless the General Assembly chooses to make funding available in the future.

State Revenue

This bill will increase state cash fund revenue by \$173,510 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 DOR based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. Fees will total \$173,510 in FY 2018-19 to cover the estimated costs of this bill. Because the bill does not specify that the cost of these licenses need to cover the cost of administering them, the DOR may choose to recover these costs from a larger pool of licensees.

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 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 \$173,510 and 0.9 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		\$26,971
FTE - DOR		0.5 FTE
FTE - Law		0.4 FTE
Operating Expenses and Capital Outlay Costs		2,827
Legal Services		76,040
Computer Programming		58,623
Centrally Appropriated Costs*		9,049
TOTAL		\$173,510

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

Marijuana Enforcement Division, Department of Revenue. The division will add 0.5 FTE 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 \$58,623 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 2018-19, at a cost of \$76,040, for general counsel and rule making associated with implementing the new license and endorsement. For this amount of legal services hours, the Department of Law requires 0.4 FTE in FY 2018-19.

Medical Marijuana Research Grant Program, Department of Public Health and Environment. If additional public funding becomes available for medical marijuana research, the CDPHE may require additional staffing to support the Scientific Advisory Council in reviewing publicly funded research proposals according to the requirements set forth in the bill. The fiscal note assumes this will be requested through the annual budget process.

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)		\$3,932
Supplemental Employee Retirement Payments		2,417
Leased Space		2,700
TOTAL		\$9,049

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 local research and development cultivation and research and development licenses. The fiscal note assumes that local licensing fees will be set to cover the costs of administration.

Effective Date

The bill takes effect July 1, 2018, if no referendum petition is filed.

Departmental Difference

DOR estimates the cost of the bill to be \$359,679 and 1.6 FTE in FY 2018-19. The DOR estimate includes 1,520 legal services hours in FY 2018-19, which will require 0.8 FTE in FY 2018-19 for the Department of Law. DOR's estimate assumes that 40 entities will seek licensure and will conduct 40 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 2018-19. 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 and research projects and does not anticipate litigation for denials or enforcement actions.

State and Local Government Contacts

Counties
Information Technology
Municipalities
Revenue

Higher Education
Law
Public Health and Environment