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FISCAL NOTE

Drafting Number: LLS 18-0980 Date: March 26, 2018
Prime Sponsors: Rep. Hooton; Melton Sen. Coram; Fenberg Bill Status: House Health, Insurance, and Environment
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Bill Topic: MEDICAL MARIJUANA USE FOR AUTISM AND ACUTE PAIN

Summary of Fiscal Impact: [x] State Revenue (minimal) [x] State Expenditure (minimal) [ ] State Transfer [ ] TABOR Refund [ ] Local Government [ ] Statutory Public Entity

This bill adds Autism Spectrum Disorder and acute pain to the list of disabling medical conditions for which medical marijuana may be used. The bill creates an ongoing impact on state revenue and expenditures.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill creates a statutory right for a patient with Autism Spectrum Disorder (ASD) or acute pain to use medical marijuana. The bill creates the same rights, limitations, affirmative defense, and exceptions from criminal laws for these conditions as the constitutional right to use medical marijuana for other debilitating conditions.

Background

Autism Spectrum Disorder. ASD is the broad term for a group of disorders, including Asperger syndrome, childhood disintegrative disorder, autistic disorder, and pervasive developmental disorders not otherwise specified. ASD symptoms can be mildly to profoundly disabling. According to the United States Centers for Disease Control and Prevention, about 1 in 68 children has been identified with ASD.

Eligible conditions. Under current law, the following conditions qualify a patient to receive a medical marijuana registry card with a doctor's recommendation:

- cancer;
• glaucoma;
• HIV or AIDS positive;

- post-traumatic stress; and
- a chronic or debilitating disease or medical condition that produces one or more of the following:
  - cachexia (wasting syndrome);
  - persistent muscle spasms;
  - seizures;
  - severe nausea; or
  - severe pain.

**Medical marijuana registry program information.** According to the Colorado Department of Public Health and Environment (CDPHE), as of February 28, 2018, there are 93,314 persons authorized to use medical marijuana; 314 of whom are under the age of 18.

**Marijuana taxes.** Retail marijuana is subject to a 15 percent excise tax (on the wholesale price of marijuana) and a 15 percent special sales tax. Provided a person has been diagnosed with a qualifying debilitating medical condition, he or she may choose to enroll on the medical marijuana registry. After paying a \$15 fee to become registered, medical marijuana patients can purchase medical marijuana, which is exempt from the excise and special sales taxes, but subject to the 2.9 percent state sales tax. Excise taxes collected on the sale of retail marijuana are transferred from the General Fund to the Building Excellent Schools Today (BEST) Fund and the Public School Fund and sales taxes collected are transferred to the Marijuana Tax Cash Fund.

## State Revenue

Beginning in FY 2017-18, this bill may both increase and decrease state revenue as described below. Overall, the net impact is assumed to be minimal.

**Fee impact on individuals.** The bill may increase state cash fund revenue if more persons choose to enroll on the medical marijuana registry. Persons enrolling on the registry pay a \$15 annual fee to the CDPHE to receive a registry card. These fees are deposited into the Medical Marijuana Program Cash Fund and are used to pay the costs of administering the registry.

**Increases in sales tax revenue.** Persons with ASD or acute pain, who are not currently using retail marijuana, will be able to purchase medical marijuana with a registry card. The increase in medical marijuana purchases will increase state sales tax revenue deposited in the Marijuana Tax Cash Fund. This amount is expected to be minimal.

**Decreases in excise tax and special sales tax revenue.** If persons aged 21 and over who choose to enroll on the registry with ASD or acute pain are currently using retail marijuana and begin to purchase medical marijuana, excise tax and special sales tax revenue collected on retail marijuana will decrease. This analysis assumes that any change in revenue is marginal and the overall impact is minimal.

## State Expenditures

Beginning in FY 2017-18, this bill may increase cash fund expenditures and workload in the CDPHE to update its rules, and to process and monitor additional enrollment on the medical marijuana registry. As of this writing, any change is assumed to be minimal. Should the volume of new registry applications exceed existing capacity, this analysis assumes the department will request additional appropriations through the annual budget process.

To the extent that less revenue is collected from the excise and sales taxes on retail marijuana, expenditures will decrease for the BEST Program, Public School Fund, and programs funded through the Marijuana Tax Cash Fund. Any decrease is expected to be minimal.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State and Local Government Contacts

Counties  
Public Health and Environment

Municipalities  
Special Districts