

Final
STAFF SUMMARY OF MEETING
MARIJUANA SALES TAX REVENUES

Date: 08/12/2014

Time: **09:36 AM to 12:48 PM**

Place: HCR 0112

This Meeting was called to order by
Representative Pabon

This Report was prepared by
Matt Kiszka

ATTENDANCE

Adams	E
Aguilar	E
Anderie	X
Baumgardner	E
Blake	X
Bommer	X
Connors	X
Dore	X
Federspiel	X
Freedman	X
Martinez	X
McGowan	E
Pace	X
Raynes	E
Schut	X
Sills	X
Singer	X
Vasquez	X
Jahn	X
Pabon	X

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed:	Action Taken:
Call to Order	Witness Testimony and/or Committee Discussion Only
Marijuana Tax Revenue Forecast	Witness Testimony and/or Committee Discussion Only
Overview of the Recreational Marijuana Market, Revenue Collection, and Regulation	Witness Testimony and/or Committee Discussion Only
Programs and Initiatives Funded by Marijuana Tax Revenues	Witness Testimony and/or Committee Discussion Only
Further discussion	Witness Testimony and/or Committee Discussion Only

09:38 AM -- Call to Order

Representative Pabon, Chair, called the meeting to order. He stated his reasons for convening the committee and summarized his involvement in legislation and task forces surrounding retail marijuana, and called on the others members of the committee to introduce themselves and summarize what they were each hoping to achieve during committee meetings.

09:39 AM

Teresa Anderlie, representing the Department of Public Safety, introduced herself.
Sarah Sills, representing the Department of Human Services, introduced herself.
Brian Connors, representing the State Public Defenders Office, introduced himself.
Mark Vasquez, representing the Association of the Chiefs of Police, introduced himself.
Art Schut, representing Arapahoe House, introduced himself.
Andrew Freedman, representing the Office of the Governor, introduced himself.
Sal Pace, Pueblo County Commissioner, introduced himself.
Representative Tim Dore introduced himself.
Representative Jonathan Singer introduced himself.
Senator Cheri Jahn introduced herself.
David Blake, representing the Attorney General's Office, introduced himself.
Kevin Bommer, representing the Statewide Association of Towns and Cities, introduced himself.
Fernando Martinez, representing the San Luis Valley and Substance Use Prevention Services Providers, introduced himself.
Deb Federspiel, representing Children's Hospital, introduced herself.

09:53 AM

Representative Pabon discussed the membership of the committee and the expertise that had been assembled to study the use of marijuana sales tax revenues. He stated that the committee should make decisions based upon data wherever possible, that it should consider programs without over-concerning itself with exact revenue projections, and find ways to optimize the funds as best as possible. He laid out the schedule for the committee and discussed the potential for the committee to draft legislation should it see fit.

09:57 AM -- Marijuana Tax Revenue Forecast

Larson Silbaugh, Senior Economist, Legislative Council Staff, came to the table to present on the Legislative Council Staff marijuana tax revenue forecast. He stated that the forecast that the office had produced was a brand new forecast, and was only based on only 6 months of data. He detailed the data points used and considerations made in constructing the forecast, and noted the ways that the forecast could be improved over time. He stated that Legislative Council had assumed an adult usage rate of 12.9 percent in Colorado, noting that there was not much information available on individual usage rates. He stated that the forecast had assumed an average usage of 3.5 ounces of marijuana per year per user. Tourists were also considered in the estimation of usage to add such consumption to overall state consumption. Mr. Silbaugh told the committee that to estimate tax revenue, Legislative Council Staff also had to consider the medical, gray, and black markets. He noted adjustments that had been made to the forecast over time, including reducing the average consumption to 1.9 ounces per user per year.

10:05 AM

Representative Pabon asked Mr. Silbaugh to elaborate on the assumptions that Legislative Council had made when estimating marijuana tax revenue. Mr. Silbaugh stated that there is a degree of inaccuracy in all of the assumptions made, but that Legislative Council had the least confidence in the average annual consumption statistic it had used. Representative Pabon asked if other data points had become available since retail marijuana had been legalized, and Mr. Silbaugh responded that the only concrete Colorado-specific data that had been collected was the number of red card holders and monthly tax collections.

10:09 AM

Mr. Bommer asked Mr. Silbaugh if any estimations had been made on medical marijuana users transitioning to the retail market. Mr. Silbaugh stated that there had not been as much cannibalization of the medical marijuana market as expected and that in fact the number of red card holders had increased since retail marijuana went on sale.

10:11 AM

The committee discussed the data available and whether there were systems in place to collect data that would be of use on marijuana consumption in Colorado. Mr Silbaugh continued his presentation, describing the marijuana tax revenues that had been collected so far for FY 2013-14 and the projected revenues for FY 2014-15. He stated that the retail marijuana market is still in a process of maturation, and that there were a number of factors at play within the market that could have an impact on its growth or stabilization.

10:15 AM

Commissioner Pace asked Mr. Silbaugh to speak to the lower-than-expected excise tax revenue collections. Mr. Silbaugh stated that because of the Colorado Constitution, a one-time transfer of medical marijuana inventory to retail inventory was not taxed when retail marijuana operations were originally opened. Commissioner Pace asked Mr. Silbaugh to explain whether medical marijuana caregivers could be a reason for the lower revenue collections, and Mr. Silbaugh stated that it definitely could, but he had not seen any data to support this.

10:19 AM

Mr. Blake asked Mr. Silbaugh to speak further on how significantly caregivers might be affecting the retail marijuana market. Committee questioning and discussion of this topic ensued.

10:22 AM

Mr Silbaugh responded to questions on where the \$40 million in excise tax revenue amount that was approved by voters through Proposition AA came from and whether tax revenue collections could trigger a Taxpayer Bill of Rights (TABOR) refund. The committee discussed the first \$40 million in excise tax revenues that must be collected and directed towards the BEST program and why projections for overall tax revenue were significantly higher than actual collections.

10:27 AM

Representative Singer asked Mr. Silbaugh to clarify a statement he had made on Proposition AA being exempt from TABOR. Mr. Silbaugh responded that they are exempt from the TABOR revenue limits, but still subject to TABOR election provisions. The committee discussed this issue, which revolves around whether or not the state will need to perform a refund under TABOR because of retail marijuana tax revenue, the ability of the General Assembly to adjust the special sales and excise tax rates, and the \$40 million excise tax collection for the BEST program. Mr. Silbaugh responded to questions on the state law that allows an individual to grow up to 6 marijuana plants, the potential effects of this upon the demand for retail marijuana in Colorado, and whether an assumption for this was used in the Legislative Council forecast.

10:34 AM -- Overview of the Recreational Marijuana Market, Revenue Collection, and Regulation

Ron Kamerzell, Deputy Senior Director of Enforcement, and Lewis Koski, Director of the Marijuana Enforcement Division (MED), from the Department of Revenue (DOR) came to the table to present to the committee. A copy of the department's presentation was distributed to the committee (Attachment A). Mr. Koski summarized the four MED offices that had been opened throughout the state. He also explained the staffing allocations of the MED and its focus on the licensing of medical and retail marijuana businesses and rulemaking surrounding marijuana in Colorado. Mr. Kamerzell stated that the MED had recently been busy with rulemaking for marijuana products, focusing on such issues as over-consumption of marijuana edibles, the labeling of THC content in marijuana edibles, and serving sizes for different edibles such as liquid concentrates. Mr. Kamerzell outlined the different working groups that have been formed by the MED to study the numerous requirements for rulemaking, which include a responsible vendor program and increased regulation of medical marijuana card holders. Mr. Kamerzell responded to questions on "doctor shopping" and what was being done to counteract patients who elect to go to multiple doctors to receive the most preferential medical marijuana recommendations.

10:50 AM

Mr. Kamerzell responded to a question on why medical marijuana patients are only allowed to register at one medical marijuana center in the state. Mr. Kamerzell explained the Marijuana Inventory Tracking System (MITS) and how this allows the MED to regulate medical marijuana consumption in Colorado. Mr. Kamerzell responded to questions on extended plant counts for medical marijuana users and how many medical marijuana centers are relying on these extended plant counts as a way of making a profit, whether MITS tracks if a medical marijuana patient registers with a caregiver, who is responsible if a patient registers with multiple medical marijuana centers, and from where registered patients may purchase medical marijuana. Committee discussion of medical marijuana patient registration ensued.

11:02 AM

Mr. Kamerzell told the committee that the MED had also been focusing on the rulemaking surrounding tamper-proof packaging as laid out under House Bill 14-1122, retail occupational licensing, and the assurance of voluntary compliance.

11:03 AM

Dorinda Floyd, Chief Financial Officer, and Steven Paine, Budget Analyst, from the DOR came to the table. Ms. Floyd presented to the committee on the tax and fee revenue collections by the DOR for medical and retail marijuana in FY 2013-14. Ms. Floyd explained the various assumptions made by the DOR in its Market Size and Demand for Marijuana in Colorado Study, and responded to a question on the assumptions made by the DOR on marijuana-infused product consumption.

11:09 AM

Ms. Floyd summarized the retail and medical marijuana fee setting model laid out by the department and the current license counts for medical marijuana businesses and retail marijuana business. Mr. Koski returned to the table to respond to questions on the number of retail license applications that DOR had received since vertical integration and medical marijuana limitations for licenses had been lifted. Ms. Floyd described the retail marijuana fee revenue that had been collected by DOR and the tax revenue and average market price assumptions used in its study. Mr. Kamerzell responded to questions on the 15 percent excise tax and the first-time transfer of marijuana inventory from a medical business to a retail business owned by the same company, how MITS will operate post-vertical integration, whether the first-time transfer of marijuana provision will exist into perpetuity, and how the statutes might need to be amended to change this provision.

11:22 AM

Ms. Floyd explained the 10 percent special sales tax and 2.9 percent sales tax on retail marijuana, 2.9 percent sales tax on medical marijuana, the variables impacting the DOR's tax revenue projections, and how Senate Bill 14-215 impacted the DOR's regulation of marijuana. Ms. Floyd responded to questions on funds that are deposited into the Marijuana Cash Fund, license fees that are currently levied on marijuana businesses, the necessary appropriation of funds to the DOR over time to fund marijuana regulation, whether the DOR had made assumptions surrounding the sunseting of retail marijuana business vertical integration in its study, and the difference in revenue collections between the medical and retail markets.

11:30 AM

Mr. Kamerzell responded to questions on the Marijuana Policy Group, the promulgation of emergency regulations enacted by DOR, cost disparities between retail and medical marijuana edibles, the clear marking of marijuana edibles as containing THC, the increase in the medical marijuana market since retail marijuana was legalized, whether Colorado has less medical marijuana patients today than it did previously, and the current balance of resources within the DOR to regulate marijuana effectively.

11:43 AM

The committee went into a brief recess.

11:58 AM -- Programs and Initiatives Funded by Marijuana Tax Revenues

The committee came back to order. Andrew Freedman, Director of Marijuana Coordination, came to the table to present on behalf of the Governor's Office. He explained the genesis of the Office of Marijuana Coordination to the committee. Mr. Freedman stated that the office was focused on the efficient and effective regulation of marijuana, youth use prevention, public safety, and addiction. He outlined the successes of the regulatory system thus far, the office's partnership with local law enforcement, and data collection by the Department of Public Health and the Environment.

12:05 PM

Mr. Freedman told the committee that one of the top priorities of the office going forward was high quality data collection and that it was currently performing a data gap analysis. Representative Pabon asked Mr. Freedman how long it would take for the office to receive its data gap analysis, which he answered would be completed in the next few weeks. Mr. Freedman stated that the conversations on public safety and public health would be ongoing, and that the office also wanted to focus on avoiding the diversion of marijuana to other states. He also spoke to the office's focus on funding a robust regulatory system that has adequate enforcement behind it, programs to support education campaigns, substance abuse prevention efforts, youth prevention, and the prevention of increases in marijuana addiction levels. Mr. Freedman detailed the numerous departments and agencies the office was working with to achieve these goals.

12:11 PM

Mr. Freedman responded to questions on the prioritization of funds towards youth prevention programs, what the office's data gap analysis will be focusing on and whether it will have a geographical focus, whether there are opportunities for local entities to receive youth prevention funding, the current marketing campaigns being deployed by the state to address marijuana use by youth, the involvement of the Department of Education in youth use prevention, and new technologies for law enforcement surrounding marijuana.

12:24 PM

Mr. Freedman responded to questions on the push to enforce the unregulated market, which target audience the Governor's Office has determined the state should be the most concerned with in terms of prevention, the geographic diversity of marketing campaigns throughout the state, the timeline on the "Don't be a Lab Rat" marketing campaign and subsequent campaigns, and the school-based prevention and intervention services appropriation made under SB14-215.

12:35 PM -- Further discussion

Representative Pabon discussed future meeting dates with the committee. The committee discussed the various information and datasets that would be of use to it in informing its membership of the issues it is tasked with considering surrounding marijuana regulation, substance use, youth prevention, law enforcement, and Colorado-specific trends and consumption habits. The committee also discussed how funding can reach across the state to smaller communities that are affected by the legalization of marijuana.

12:48 PM

The committee was adjourned.

Department of Revenue Medical and Retail Marijuana Overview

Presented by: Ron Kammerzell, Deputy Senior Director of Enforcement
Lewis Koski, Director of the Marijuana Enforcement Division
Dorinda Floyd, Chief Financial Officer
Steven Paine, Budget Analyst



COLORADO
Department of Revenue
Enforcement Division

Overview

- * Marijuana Enforcement Division Operations
- * Medical and Retail Marijuana Sales Tax and Fee Revenue Actuals and Projections
- * Assumptions
 - * Retail Marijuana Consumption
 - * Medical Marijuana Consumption
- * Retail and Medical Marijuana Fee Setting Model
 - * Current License Counts
 - * Retail Marijuana Fee Revenue
- * Sales and Excise Tax Revenue
 - * Average Market Price
 - * Retail Marijuana Excise Tax
 - * Retail Marijuana Sales Tax
 - * Medical Marijuana Sales Tax
- * Variables impacting Projections
- * S.B. 14-215

Marijuana Enforcement Division

Office Locations and Services

- * Office Locations
- * Denver- Full service business and occupational licensing, field enforcement, and background staff
- * Colorado Springs – Occupational licensing and field enforcement
- * Longmont – Field enforcement and anticipated occupational licensing October 1, 2014
- * Grand Junction - Field enforcement and anticipated occupational licensing October 1, 2014

Staffing Allocations

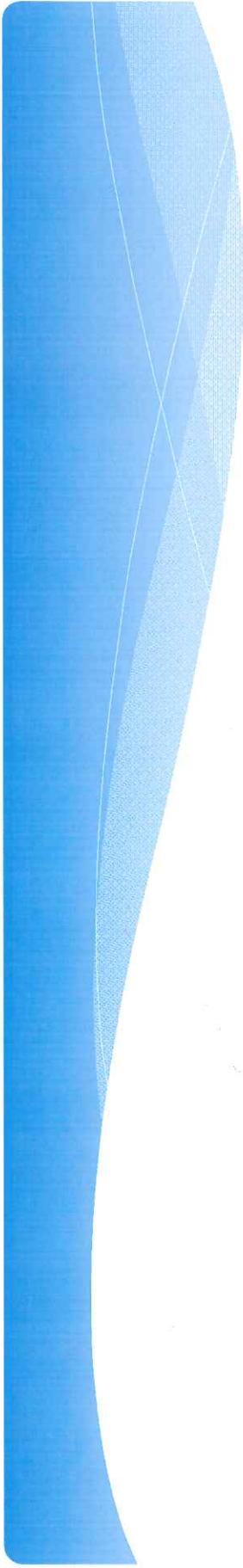
- * 55.2 FTE Authorized
- * Denver: 34.2 FTE with 23.0 FTE filled
- * Colorado Springs: 9.0 FTE with 7.0 FTE filled
- * Grand Junction: 6.0 FTE with 2.0 FTE filled
- * Longmont: 6.0 FTE with 3.0 FTE filled

Marijuana Enforcement Division

Rule Making Workgroups

- * Edibles
- * Serving sizes and child resistant packaging
- * House Bill 14-1366- Making edibles recognizable to the general public
- * Production Management- Retail marijuana cultivation facilities
- * General workgroup- Responsible vendor, limited sales in medical marijuana, child resistant packaging in medical marijuana (HB 14-1122), retail occupational licensing, industrial hygienist definition, and assurance of voluntary compliance

Recipient	State Tax Revenue Impact	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15	FY 2015-16
School Capital Construction (SCC)	Retail: Excise tax 15%	-	\$3,014,839	\$21,824,657	\$37,780,573
	Retail Excise tax spillover	-	-	-	-
	Subtotal	-	\$3,014,839	\$21,824,657	\$37,780,573
Marijuana Tax Cash Fund (MTCF)	Retail: State Sales tax 2.9%	-	\$2,706,299	\$9,042,706	\$14,169,187
	State share (85% of the 10% tax)	-	\$7,669,849	\$27,649,958	\$42,213,767
	Medical: Sales Tax 2.9%	\$9,376,093	\$10,562,577	\$14,153,074	\$16,579,334
	Retail Excise tax spillover	-	-	-	-
	Subtotal	\$9,376,093	\$20,938,725	\$50,845,738	\$72,962,288
Local Share	Local share (15% of the 10% tax)	-	\$1,353,503	\$4,879,404	\$7,449,488
	Subtotal	-	\$1,353,503	\$4,879,404	\$7,449,488
STATE TAX REVENUE TOTAL (SCC + MED)			\$9,376,093	\$23,953,564	\$110,742,861



State Fee Revenue	Recipient	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15	FY 2015-16
Medical Marijuana Fee Revenue	Marijuana Cash Fund (MCF) - MED	\$4,056,906	\$7,537,485	\$4,429,385	\$4,377,481
Retail Marijuana Fee Revenue	Marijuana Cash Fund (MCF) - MED	-	\$2,729,515	\$2,795,920	\$2,847,824
STATE FEE REVENUE TOTAL	Marijuana Cash Fund (MCF) - MED	\$4,056,906	\$10,267,000	\$7,225,305	\$7,225,305

Assumptions

Retail Marijuana Consumption

- * The Market Size and Demand for Marijuana in Colorado study was prepared by the Marijuana Policy Group
- * Researchers indicate resident consumption is 13.3 metric tons
- * Researchers indicate visitor consumption is 8.9 metric tons
- * Colorado's total retail marijuana consumption is 22.2 metric tons
- * Made no assumption on consumption of marijuana-infused products
- * Made no assumption regarding the 18-21 age group
- * Made no assumption on impact of production caps on consumption

Medical Marijuana Consumption

- * Medical marijuana revenue and patient population appears to be not affected by retail marijuana
- * Patient counts have been increasing in 2014: January- 111,030; February- 113,441; March- 115,208; April- 116,180
- * The June forecast does not include any conversion of medical marijuana patients to retail marijuana
- * Medical marijuana patients are more affected by the prices of marijuana than originally anticipated
- * Medical marijuana's retail price is estimated to be \$200.00 per ounce compared to retail marijuana's retail price of \$220.00 per ounce

Medical Marijuana Consumption

- * Made no assumption on consumption of marijuana-infused products
- * Made no assumption regarding the 18-21 age group
- * Made no assumption on impact of production caps on consumption

Retail and Medical Marijuana Fee Setting Model

- * Emergency rules were promulgated, permanent rule making hearing is scheduled for September 2, 2014
- * New Fee structure became effective July 1st
- * Fees decreased an average 20%
- * New categories of licenses: (1) Medical and Retail Marijuana Renewal Fees; (2) Retail Marijuana Production Management Fees; (3) Off Premise Storage Permit; (4) Medical Marijuana Associated Key and Owner Renewal Fees; (5) Retail Marijuana Occupational Fee; and (6) Indirect Financial Interest Background Investigations

Current License Counts as of August 1, 2014

Medical Marijuana Businesses

Centers 496

Infused Product Manufacturers 152

Optional Premises Cultivations 732

Retail Marijuana Businesses

Licensed

Pending

Retail Stores 221

75

Retail Product Manufacturers 66

17

Cultivation 293

47

Retail Testing Facilities 13

3

Retail Marijuana Fee Revenue

- * It is estimated that retail marijuana fee revenue will increase from July through October due to new businesses entering the market and from an increase in the number of employee licenses
- * Occupation licenses increased dramatically when retail marijuana became operational in January and the same is expected when new businesses start operating in October
- * The average monthly collections from occupational license fees totaled approximately \$30,000. Over the first 6 months of retail marijuana, the average monthly collections totaled \$125,337

Tax Revenue Assumptions: Average Market Price

- * Average market wholesale price for retail marijuana flower is \$117.25 per ounce (\$1,876 per pound), trim is \$296 per pound, and immature plant is \$9 per plant
- * Average retail price of retail marijuana was calculated to be \$220.00 per ounce of flower
- * Made no assumption on impact of production caps on revenue

Retail Marijuana

15% Excise Tax

- * Excise tax is levied at the first transfer from a retail marijuana cultivation facility
- * A ramp up effect is assumed on the excise tax revenue collections due to first time flower transferred from medical to retail marijuana being tax free

Retail Marijuana 10% Special Sales Tax and 2.9% Sales Tax

- * Additional 10% state sales tax imposed at the time of sale
- * Local Jurisdictions will receive 15% of the proceeds with 85% deposited in the Marijuana Tax Cash Fund effective July 1, 2014
- * As of June 30th, 36 local jurisdictions with retail marijuana have received a total of \$1,353,503 in sales tax revenue (15% of the retail 10% special sales tax revenue)
- * Sales tax for retail marijuana is 2.9% and imposed at the time of sale
- * No assumption made on impact of additional local sales tax

Medical Marijuana

2.9% Sales Tax

- * Sales tax for medical marijuana is 2.9%
- * Projections are based on previous medical marijuana tax revenue data
- * Does not make assumption on the affect of retail marijuana on medical marijuana tax revenue
- * Assumes no conversion of medical marijuana patients to retail marijuana

Variables Impacting Projections

- * Number of medical marijuana businesses applying for retail marijuana licenses
- * Number of new entrants into the retail marijuana market
- * Local jurisdictions prohibiting or limiting the number of retail marijuana businesses
- * Local jurisdictions licensing approval process
- * Sale of marijuana-infused products
- * Average market wholesale and retail prices for retail marijuana and medical marijuana
- * Consumption patterns of residents and visitors
- * Transfer of flower from medical marijuana to retail marijuana
- * Production caps
- * Failure rates of marijuana businesses

S.B. 14-215 Summary

- * All retail marijuana sales tax revenue, medical and retail marijuana state sales tax revenue, and spillover from the excise tax will be deposited in the newly created Marijuana Tax Cash Fund (MTCF) beginning July 1, 2014
- * On July 1, 2014 the state treasurer will transfer all moneys in the Marijuana Cash Fund (MCF) attributable to retail marijuana excise tax revenue (spillover), retail marijuana sales tax revenue, and retail and medical marijuana state sales tax revenue to the MTCF (\$18.9 million)
- * All moneys attributable to medical and retail marijuana application and license fees will remain in the MCF and will continue to be deposited in the fund
- * Beginning July 1, 2014, moneys in the MCF can only be appropriated to the Department of Revenue for the costs associated with the regulation, control, and taxation of medical and retail marijuana

S.B. 14-215 Summary

- * The General Assembly can appropriate moneys from the MTCF to the Department in the fiscal year in which they are received by the state for the costs associated with the regulation, control, and taxation of medical and retail marijuana
- * Per S.B. 14-215, \$7.6 million is appropriated from the MTCF to partially support the Division in FY 2015
- * This appropriation will supplement application and license fees that are deposited in the MCF
- * For each year thereafter, it is expected that the Division will receive an appropriation from the MTCF to fully fund its appropriation

Questions?