

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members  
 FROM Carolyn Kampman, JBC Staff (303-866-4959)  
 DATE June 19, 2019  
 SUBJECT Updated Projection of Funds in the Marijuana Tax Cash Fund Available for Appropriation for FY 2019-20

**This memorandum provides updated information concerning the Marijuana Tax Cash Fund (MTCF) to facilitate the Committee’s consideration of an interim supplemental request recently submitted by the Office of State Planning and Budgeting (OSPB). This memorandum reflects all 2019 legislation, as well as updated projections of funds available for appropriation for FY 2019-20 based on the Legislative Council Staff (LCS) June 2019 revenue forecast. Based on this updated information, MTCF funds are not projected to be sufficient to support the requested \$3.0 million appropriation for FY 2019-20 – even if the \$2,170,000 reversions occur in FY 2018-19 as anticipated by OSPB.**

*Projections of Available Funds Decline.* Table 1 details the total funds available in the MTCF for appropriation or transfer in FY 2019-20. Based on the LCS *March* 2019 revenue forecast, \$159.0 million was anticipated to be available for appropriation or transfer for FY 2019-20. The LCS revenue forecast for June reflects lower marijuana tax revenues for FY 2018-19 and future fiscal years. As indicated in Table 1, staff now estimates that \$156.0 million is available for appropriations and transfers in FY 2019-20. The appropriations and transfers that have been authorized through 2019 legislation (excluding the appropriation to the Department of Revenue, which may come from FY 2019-20 MTCF revenues) total \$157.9 million. Thus, **based on the LCS June 2019 forecast, appropriations and transfers exceed available funds by \$1.9 million.** While the Committee may need to consider making mid-year adjustments to FY 2019-20 MTCF appropriations or transfers next January, any such adjustments will be based on actual FY 2018-19 MTCF revenues and expenditures.

TABLE 1 FUNDS AVAILABLE FOR APPROPRIATION FROM THE MARIJUANA TAX CASH FUND FOR FY 2019-20	
DESCRIPTION	AMOUNT
Beginning fund balance as of July 1, 2018 (per Department of Revenue)	\$164,153,512
LESS: FY 2018-19 Appropriations for various departments from prior year revenues, as amended by mid-year adjustments	(130,380,935)
LESS: FY 2018-19 transfer to a cash fund for H.B. 18-1323 (Pay for Success Contracts)	(989,470)
PLUS: Total projected MTCF share of revenue to be collected in FY 2018-19 per Legislative Council Staff (June 2019 forecast)	135,617,946
LESS: FY 2018-19 Appropriations to the Department of Revenue	(1,532,087)
EQUALS: Total funds available in the Fund for FY 2019-20	166,868,966
LESS: Statutorily required reserve (6.5 percent)	(10,846,483)
<b>EQUALS: Funds Available for Appropriation or Transfer for FY 2019-20</b>	<b>\$156,022,484</b>
LESS: Transfer to High-cost Special Education Trust Fund (S.B. 19-066)	(2,500,000)
LESS: Transfers to a cash fund for H.B. 18-1323 (Pay for Success Contracts) in FY 2019-20	(1,717,764)
PLUS: Transfer from Marijuana Cash Fund to MTCF to support CBI Task Force (S.B. 19-213)	914,416
LESS: FY 2019-20 Long Bill appropriations to departments other than the Department of Revenue	(129,042,064)
LESS: FY 2019-20 appropriations in legislation other than the Long Bill	(25,601,325)
<b>EQUALS: Funds Remaining Available Above Statutorily Required Reserve</b>	<b>(\$1,924,253)</b>

*OSPB Forecast for MTCF Lower Than LCS.* As indicated, Table 1 is based on the LCS revenue forecast because that is the forecast that the Committee chose to use for the 2019 budget process. In March, the LCS forecast for MTCF revenues was higher than the OSPB revenue forecast (a difference of \$4.7 million for FY 2018-19). The LCS June forecast for MTCF revenues is also higher than the OSPB forecast (a difference of \$2.1 million for FY 2018-19). **If staff were to use the OSPB June 2019 forecast to produce Table 1, the shortfall would be \$3.9 million rather than \$1.9 million.**

*LCS Projects Slower Growth in Marijuana Revenue.* Table 2 summarizes State tax revenues related to marijuana, including actual revenues for the last four fiscal years and projected revenues for FY 2018-19 through FY 2020-21 (based on the LCS June 2019 revenue forecast). **The LCS forecast projects that revenues from the 15.0 percent special sales tax will continue to increase annually, but at a slower rate. The LCS forecast projects that revenues from the regular 2.9 percent state sales tax and the 15.0 percent excise tax will decline in FY 2018-19 remain flat in subsequent fiscal years.**

	ACTUALS				LCS FORECAST (6/2019)		
	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21
<b>Proposition AA Taxes (Not Subject to TABOR)</b>							
Special Sales Tax on Retail Marijuana <sup>a</sup>	\$42.1	\$67.3	\$98.3	\$167.2	\$192.6	\$214.2	\$232.6
State Share of Special Sales Tax (90%)	\$35.8	\$57.2	\$83.6	\$150.5	\$173.3	\$192.8	\$209.3
Local Share of Special Sales Tax (10%)	\$6.3	\$10.1	\$14.8	\$16.7	\$19.3	\$21.4	\$23.3
Excise Tax on Retail Marijuana	\$24.0	\$42.7	\$71.9	\$68.2	\$55.8	\$56.1	\$56.9
<b>Total Proposition AA Tax Revenues</b>	<b>\$66.1</b>	<b>\$110.0</b>	<b>\$170.3</b>	<b>\$235.3</b>	<b>\$248.4</b>	<b>\$270.3</b>	<b>\$289.5</b>
<b>Regular 2.9 Percent Sales Taxes (Subject to TABOR)</b>							
Regular Sales Tax on Medical Marijuana	\$10.4	\$12.2	\$12.4	\$10.6	\$9.4	\$9.4	\$9.4
Regular Sales Tax on Retail Marijuana <sup>b</sup>	\$11.8	\$19.4	\$28.1	\$5.2	\$1.3	\$1.4	\$1.4
Interest	\$0.1	\$0.2	\$0.3	\$0.3	\$0.4	\$0.4	\$0.4
<b>Total 2.9 Percent Sales Tax Revenues</b>	<b>\$22.4</b>	<b>\$31.8</b>	<b>\$40.9</b>	<b>\$16.1</b>	<b>\$11.1</b>	<b>\$11.2</b>	<b>\$11.2</b>
<b>Total State Taxes on Marijuana</b>	<b>\$88.5</b>	<b>\$141.8</b>	<b>\$211.1</b>	<b>\$251.4</b>	<b>\$259.5</b>	<b>\$281.5</b>	<b>\$300.6</b>
<i>Portion Credited to Marijuana Tax Cash Fund<sup>c</sup></i>	<i>\$58.2</i>	<i>\$89.0</i>	<i>\$124.5</i>	<i>\$124.2</i>	<i>\$135.6</i>	<i>\$149.7</i>	<i>\$161.6</i>

a/ Special sales tax rate was 10.0 percent through June 30, 2017, and increased to 15.0 percent effective July 1, 2017.

b/ Effective July 1, 2017, the general state sales tax only applies to sales of medical marijuana and non-marijuana products (e.g., t-shirts); retail marijuana is exempt from the regular state sales tax.

c/ Beginning July 1, 2017, 71.85 percent (rather than 100.0 percent) of the State share of special sales tax revenues is credited to the Marijuana Tax Cash Fund.