Joint Budget Committee

Staff Budget Briefing
FY 2027-28

Marijuana Policy Overview

Prepared by:
Jon Catlett, JBC Staff
November 12, 2026

Joint Budget Committee Staff

200 E. 14th Avenue, 3rd Floor
Denver, Colorado·80203
Telephone: (303) 866-2061
leg.colorado.gov/agencies/joint-budget-committee

JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision

Contents

Legal and Regulatory Overview 2
Tax Policy and Revenue Overview 3
TABOR Implications 8
Marijuana Revenue Outlook 9
Marijuana Tax Cash Fund Overview 12
Statutory Provisions Governing the MTCF 12
Issue: Marijuana Industry Trends & Policy Developments 17
Summary 17
Discussion 17
Colorado's Marijuana Market Outlook: 21
Issue: FY 2026-27 Marijuana Tax Cash Fund Status and the FY 2027-28 Request 24
Summary 24
MTCF Solvency in FY 2026-27 24
Governor's FY 2027-28 MTCF Balancing Proposal: 26
Appendix A: Numbers Pages 28

Additional Resources

To find the online version of the briefing document search the General Assembly's website for budget documents (leg.colorado.gov/content/budget/budget-documents).

Legal and Regulatory Overview

Marijuana was legalized in Colorado through the passage of two citizen ballot initiatives that amended the State Constitution. In 2000, voters passed an initiative[1] that added Section 14 to Article XVIII, authorizing the medical use of marijuana for persons suffering from debilitating medical conditions. In 2012, voters passed a second initiative[2] that added Section 16 to Article XVIII, authorizing personal use of marijuana.

The General Assembly has passed legislation to implement the constitutional provisions adopted by voters. The most significant statutory provisions concerning marijuana include:

- Colorado Marijuana Code [Section 44-10-101 et. seq., C.R.S.][3]
- Taxes on Marijuana and Marijuana Products [Section 39-28.8-101 et seq., C.R.S.]

Two state agencies are primarily responsible for implementing the above laws: the Department of Revenue and the Department of Public Health and Environment.

The **Department of Revenue** has two general areas of responsibility:

- First, the Department's Executive Director is the "State Licensing Authority," charged with regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical and retail[4] marijuana. These duties are performed with the assistance of the Department's Marijuana Enforcement Division and are supported by medical and retail marijuana business fees that are credited to the *Marijuana Cash Fund* [5]. These regulatory functions include:
  - Establishing and enforcing rules and regulations for the marijuana industry.
  - Administering the marijuana inventory seed-to-sale tracking system (METRC).
  - Issuing licenses to medical and retail marijuana businesses (including stores, cultivations, and testing facilities), and issuing occupational licenses to those seeking employment in the marijuana industry.
  - Administering caregiver cultivation registration.
  - Approving responsible vendor training programs

Second, the Department collects, administers, and enforces state taxes and fees related to marijuana and marijuana products. This includes the distribution of a portion of the special sales tax on retail marijuana to local governments. These activities are supported by medical and retail marijuana sales tax revenues that are credited to the Marijuana Tax Cash Fund.

The **Department of Public Health and Environment** administers portions of the medical marijuana program, including:

- Administering the medical marijuana registry (which tracks patients, caregivers, and physician recommendations) and distributing medical marijuana cards.

---

[1] Amendment 20 was adopted with 915,943 (53.5 percent) voting for the measure.
[2] Amendment 64 was adopted with 1,383,140 (55.3 percent) voting for the measure.
[3] Senate Bill 19-224 integrates the previously existing Colorado Medical Marijuana Code and Colorado Retail Marijuana Code into a single "Colorado Marijuana Code" in Article 10 of Title 44, C.R.S.
[4] While marijuana that is sold for personal use as authorized by Amendment 64 is often called "recreational" marijuana, the statutory provisions that implement Amendment 64 use the term "retail" marijuana. Staff has generally used the term "retail" for purposes of this document.
[5] Total revenue from business fees, licenses, and fines collected and credited to this fund, including associated interest and other adjustments, amounted to $16,704,089 in FY 2025-26.

- Coordinating inspection of retail marijuana lab testing facilities.
- Administering education and prevention campaigns to educate the public and visitors on the parameters of safe, legal, and responsible marijuana use.
- Monitoring marijuana use patterns, health impacts, and research on marijuana's health effects.
- This department's regulatory activities are supported by fees paid by patients seeking medical marijuana cards that are credited to the *Medical Marijuana Program Cash Fund*[6]*,* and the remaining activities are supported by medical and retail marijuana sales tax revenues that are credited to the *Marijuana Tax Cash Fund.*

Other state agencies that perform key functions related to marijuana legalization include the following:

- The **Department of Agriculture** determines and monitors allowable pesticides for use on cannabis plants. This department also administers registration for commercial industrial hemp growers and administers industrial hemp inspection, sampling, and testing.
- The **Governor's Office** coordinates the Executive Branch response to the legalization of marijuana, including strategic planning and budget coordination.
- The **Department of Law** provides training for peace officers concerning various legal issues related to marijuana legalization. This department also provides legal clarification and guidance for state agencies and district attorneys concerning marijuana legalization.
- The **Department of Public Safety** enforces criminal marijuana laws, and collects and analyzes data concerning the impacts of marijuana legalization.
- The **Department of Regulatory Agencies** administers disciplinary proceedings concerning physicians who inappropriately recommend medical marijuana in excess, for a profit, or without medical necessity. This department is also responsible for approving applications for charter marijuana financial services cooperatives.
- The **Department of Transportation** administers impaired driving public education campaigns, including those related to marijuana use. This department also administers and certifies Colorado law enforcement officers in advanced impaired driving training and in the detection of drivers impaired by drugs other than alcohol.

Finally, local governments also have a role in regulating marijuana. Cities and counties may prohibit or place limits on the sale of medical and retail marijuana in their jurisdictions, including the number and location of businesses as well as hours of operation. Cities and counties may establish land use restrictions concerning marijuana businesses, cultivation, and operations. Local jurisdictions may also impose and collect their own sales or excise tax on retail marijuana. However, each local government is responsible for collecting, administering, and enforcing local marijuana taxes.

Tax Policy and Revenue Overview

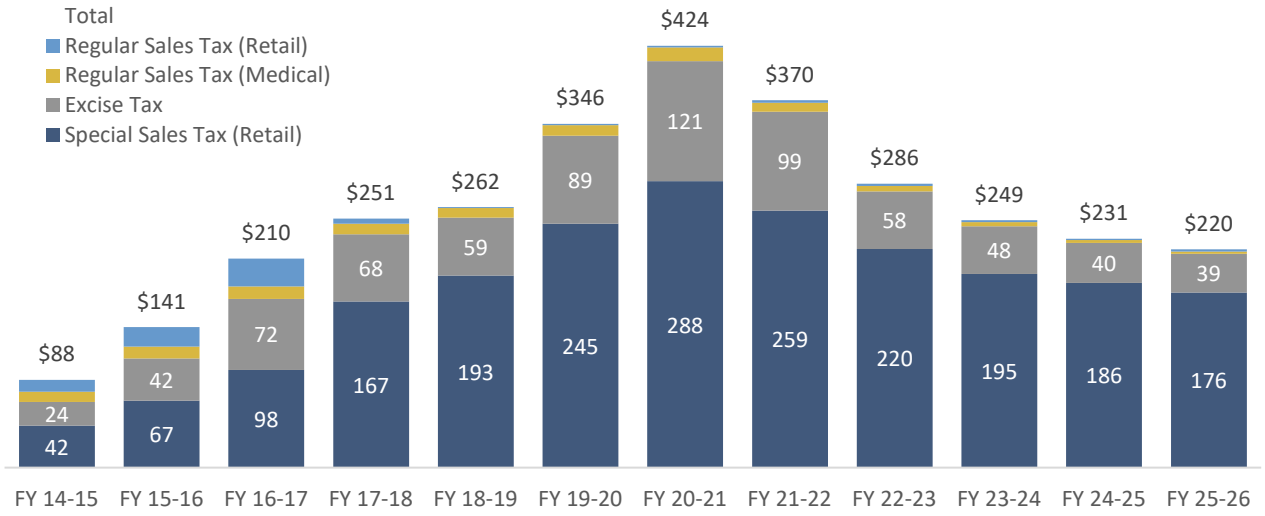
The State collects three types of taxes on marijuana products: (1) a special sales tax on retail marijuana, which accounts for the majority of annual marijuana tax revenues; (2) an excise tax on wholesale transfers of retail

[6] Actual patient fee revenues collected and credited to this fund, along with associated interest and other adjustments, totaled $3,286,457 in FY 2025-26.

marijuana that supports uses related to K-12 education; and (3) the State's regular sales tax, which applies to medical marijuana and some non-marijuana products.

Preliminary numbers for FY 2025-26, indicate that the state collected a total of approximately $219.6 million from those three taxes. The special sales tax accounted for $176.3 million (80.3 percent of the total revenues). The excise tax added another $39.0 million (17.8 percent), while the regular 2.9 percent sales tax generated 4.3 million (1.9 percent). As shown in the following graphic, marijuana-related revenues rose steadily from FY 2014-15 through FY 2020-21, with special sales tax revenues driving much of that increase. However, total revenues have fallen by $204 million (48 percent) since the pandemic peak in FY 2020-21.

Marijuana tax revenue peaked at $424 million in FY 20-21 and has since declined 48 percent to $220 million, with the excise tax falling by 68 percent over this time.
($ in millions)



Colorado's distribution of marijuana tax revenue has changed significantly over the past two legislative sessions in response to declining collections and state budget pressures. SB 25-268 reduced the local government share of the state's retail marijuana special sales tax from 10.0 percent to 3.5 percent, while HB 26-1409 eliminated the distribution entirely, redirecting the revenue to the Marijuana Tax Cash Fund (MTCF). Local governments retain the authority to impose their own marijuana taxes but no longer receive a share of the state's special sales tax revenue.

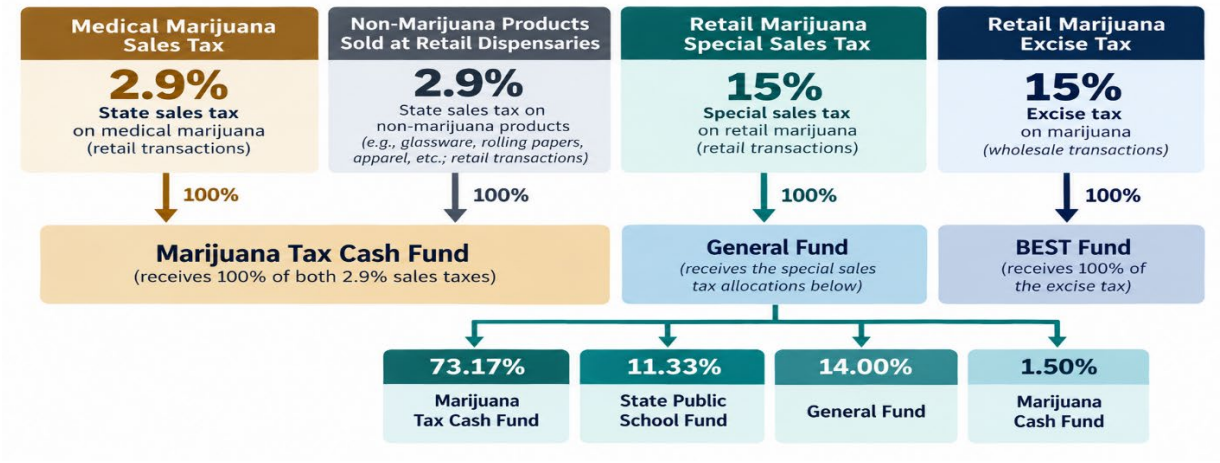
Effective July 1, 2026, HB 26-1409 revised the distribution of the 15.0 percent retail marijuana special sales tax as follows:

- **73.2 percent to the Marijuana Tax Cash Fund (MTCF)** for appropriation or transfer to support various state programs. Subsequent sections of this document provide additional detail on MTCF revenues and expenditures.
- **11.3 percent to the State Public School Fund** to support school finance, subject to annual appropriation in the fiscal year following collection. (this revenue is available in the year after it is collected).[7]

[7] Prior to FY 2019-20, these funds were statutorily appropriated to the Department of Education for school finance in the year in which the revenues were collected. Pursuant to H.B. 18-1101 [Section 22-54-139 (3), C.R.S.], starting with the FY 2019-20 budget year the General Assembly may appropriate all or any portion of the marijuana sales tax proceeds that are transferred to the State Public School Fund during the prior budget year. Thus, these revenues are now subject to annual

- **14.0 percent to the General Fund** to support statewide budget priorities.
- **1.5 percent to the Marijuana Cash Fund** to support the Marijuana Enforcement Division and associated regulatory and oversight activities.

The following graphic illustrates the current distribution of Colorado's marijuana tax revenues, including changes enacted under H.B. 26-1409. An important distinction is the treatment of these revenues under TABOR. Revenue from the 2.9 percent state sales tax on medical marijuana and non-marijuana products sold at dispensaries is subject to TABOR limits, while revenue from the 15.0 percent retail marijuana special sales tax and 15.0 percent marijuana excise tax, which account for most marijuana tax collections, is exempt.



In FY 2025-26 the State allocated the total of approximately $220 million in marijuana tax revenue collections as follows:

- $127.7 million (58.0 percent) was credited to the MTCF and made available for appropriation and transfer for a variety of purposes.
- $58.4 million (26.5 percent) was allocated to two funds that support K-12 education, including $38.9 million in excise taxes and $19.5 million originating as special sales taxes.
- $25.1 million (11.4 percent) was retained in the General Fund.
- $6.2 million (2.8 percent) was distributed to local governments.
- $2.7 million (1.2 percent) was credited to the Marijuana Cash Fund

Special Sales Tax: ($176.3 million in FY 2025-26 and 80.3 percent of marijuana taxes)

The **15.0 percent special sales tax** applies to retail marijuana sales (but not medical marijuana) and represents the largest source of marijuana-related tax revenue. Proposition AA, approved by voters in 2013, authorized the state to levy up to a 15.0 percent special sales tax. The State initially chose to levy a tax of 10.0 percent, beginning January 1, 2014. However, S.B. 17-267 (Sustainability of Rural Colorado) increased that rate to 15.0 percent beginning July 1, 2017, and exempted retail marijuana from the regular state sales tax, which is discussed below. With the increased tax rate and increasing retail sales, special sales tax revenues grew significantly, from $67.3 million in FY 2015-16 (the first full fiscal year of collections) to $290.0 million in FY 2020-21. However, as noted throughout this document, revenues have sharply fallen in recent fiscal years, and the

appropriation and may be distributed to school districts in a fiscal year following the fiscal year in which the revenue is received.

State collected approximately $176.3 million in FY 2025-26, a decrease of $9.7 million (5.2 percent) from FY 20224-25.

Excise Tax: (approximately $39.0 million in FY 2025-26 and 17.8 percent of marijuana taxes)

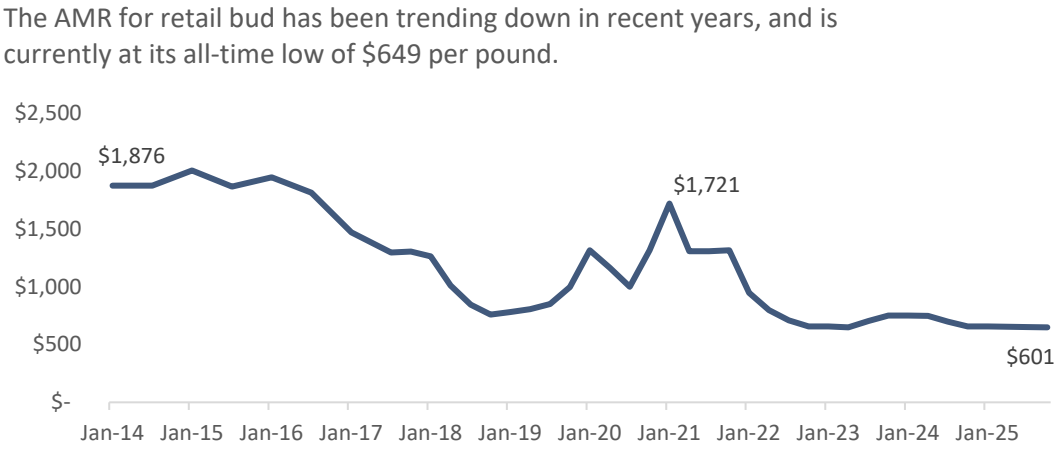
A **15.0 percent marijuana excise tax** (also authorized by Proposition AA) applies to the wholesale price of the product being sold or otherwise transferred from a retail marijuana cultivation facility. For certain transfers between unaffiliated businesses, the tax applies to the contract price for the transfer. For transfers between affiliated businesses, the tax applies to an "average market rate" (AMR) set by the Department of Revenue's Office of Research and Analysis (ORA) and the Marijuana Enforcement Division (MED).

The Department sets the AMR for several categories of marijuana products based on the median price for recent transactions (for example, transactions between June 1, 2026, and August 31, 2026, determined the rate for October 1, 2026, through December 31, 2026, shown in Table 1 below). [8]

Table 1: MED Established Average Market Wholesale Price for Retail Marijuana

Product Category	Description [1]	Unit	Price
Retail bud	Product in the flowering stage	pound	$601
Retail trim	Any part of a plant other than the bud or wet whole plant	pound	$204
Retail immature plant	Nonflowering plant no larger than 8 inches tall or wide	plant	$18
Wet whole plant	A plant that is cut off just above the roots and is not trimmed, dried, or cured. The plant must be weighed within two hours of being harvested.	pound	$100
Seed	Seeds of the marijuana plant	seed	$7
Trim allocated for extraction	Trim that is designated for the extraction of retail marijuana concentrate and not for direct sale to consumers	pound	$100
Bud allocated for extraction	Bud that is designated for the extraction of retail marijuana concentrate and not for direct sale to consumers	pound	$425

According to the Department of Revenue, a majority of excise tax revenues are driven by the AMR rather than contract pricing. As a result, changes in the AMR can significantly affect revenues. The AMR has fluctuated profoundly over time, which directly impacts excise tax revenues (the graph below illustrates the changes in the AMR for "retail bud" since 2014)



[8] Current average market rates.

Note that HB 26-1077 (Average Market Rate of Unprocessed Retail Marijuana), passed during the 2026 legislative session, modifies the methodology used to determine the average market rate of unprocessed retail marijuana for purposes of assessing Colorado's 15 percent marijuana excise tax. The legislation establishes separate valuation categories for fresh-frozen marijuana cultivated indoors and outdoors, recognizing differences in cultivation practices and product characteristics.

The Colorado Department of Revenue is required to adopt rules establishing the new average market rates by July 1, 2027, and to publish information describing the methodology and data sources used to determine those rates. Although the legislation does not modify the statutory excise tax rate, the revised valuation methodology may affect the amount of excise tax collected on certain marijuana transfers and, consequently, revenue deposited into state funds supporting public school capital construction and other authorized purposes

The bill's fiscal note anticipates that the new categories could increase or decrease excise taxes on individual transactions, *but does not project a significant net change in statewide marijuana excise tax collections.*

Changes in wholesale sales, both price and quantity, create volatility in the collection of excise tax revenues. The bullet points below outline trends in excise tax revenues in recent years, which are highly correlated with fluctuations in AMR.

- In large part as a result of the changes in AMR, excise tax revenues decreased from $71.4 million in FY 2016-17 to $58.4 million in FY 2018-19 even as sales of marijuana increased.
- With increases in both the AMR and in marijuana sales, excise tax revenues rebounded to $81.1 million in FY 2019-20 and increased again to $120.8 million in FY 2020-21.
- Demand and price have declined since then, with excise tax revenues falling to $97.3 million in FY 2021-22, a year-over-year decrease of 19.4 percent. In FY 2022-23, excise tax revenue continued to drop, falling by $39.5 million to $57.8 million, a decrease of 40.5 percent compared to the previous fiscal year. Excise tax revenue continued to fall in FY 2024-25 dropping to $40.2 million.
- The September 2026 revenue forecast for OSPB shows preliminary excise tax revenue of $38.9 million for FY 2025-26. The OSPB forecast further projects excise tax revenue being relatively flat throughout FY 2026-27 and FY 2027-28 (see the Marijuana Revenue Outlook section below).

Pursuant to Amendment 64, the State Constitution requires the transfer of the first $40.0 million of annual marijuana excise tax revenues to the *Public-School Capital Construction Assistance Fund (PSCCAF)*.[9] Money in this fund helps pay for local K-12 school construction projects through the Building Excellent Schools Today (BEST) program, which is administered through the Department of Education. While the State Constitution specifies that the first $40.0 million in excise tax revenues will support BEST, the General Assembly has made statutory changes to adjust the amount of excise tax revenues supporting BEST.

- For FY 2014-15 through FY 2017-18, statute transferred any *additional* excise tax collections (above $40.0 million per year) to the *Public School "Permanent" Fund,* which is a constitutionally created trust fund that generates income to support public K-12 schools.
- Starting July 1, 2018, H.B. 18-1070 (Additional Public School Capital Construction Funding) required the transfer of 90.0 percent of excise tax revenues to support the BEST Program.[10]

[9] See Article XVIII, Section 16 (5)(d), of the State Constitution.

[10] The bill specifically required the transfer of the greater of 90.0 percent of excise tax revenues or $40.0 million.

- Beginning in FY 2019-20, H.B. 19-1055 (Public School Capital Construction Financial Assistance) transfers *all* marijuana excise tax revenues to the PSCCAF, thereby eliminating deposits of excise tax revenues to the Permanent Fund.
- Finally, *for FY 2020-21 only*, H.B. 20-1418 (School Finance) diverted all excise tax above the first $40.0 million to the State Public School Fund, making those revenues available for appropriation to support school finance (rather than BEST) in FY 2021-22. This provision diverted $80.8 million to the State Public School Fund in FY 2020-21.

From FY 2013-14 through FY 2025-26, the State has collected a total of approximately $851.9 million from marijuana excise tax revenue, directing $703.5 million to the PSCCAF[11], $67.6 million to the Permanent Fund, and the $80.8 million to the State Public School Fund in FY 2020-21.

Regular Sales Tax: ($4.3 million in FY 2025-26 and 1.9 percent of marijuana taxes)

Finally, the **State's 2.9 percent regular state sales tax** applies to sales of both medical marijuana and non-marijuana products sold by marijuana stores (e.g., t-shirts, pipes, and other novelty items). As noted above, retail marijuana has been exempt from this tax since July 1, 2017, as a result of S.B. 17-267 (which also increased the special sales tax rate from 10.0 percent to 15.0 percent as of that date).

Current statute credits all general sales tax revenue related to marijuana to the Marijuana Tax Cash Fund (MTCF). However, with retail marijuana exempt from the regular sales tax, this tax is now a relatively minor share of marijuana-related tax revenue.

TABOR Implications

Please note that the 15.0 percent special sales tax and the 15.0 percent excise tax are not subject to the limitation on state fiscal year spending imposed by Article X, Section 20, of the State Constitution (the Taxpayer's Bill of Rights or TABOR). However, the regular (2.9 percent) state sales tax revenue collected by medical marijuana centers and retail marijuana stores is subject to TABOR. In addition, the fees and fines paid by retail and medical marijuana businesses and the fees paid by medical marijuana patients are subject to TABOR. For FY 2024-25, the marijuana-related tax and fee revenue that is subject to TABOR totaled $21.2 million (including $4.8 million in sales tax revenue and $16.4 million in fee revenue).

[11] This amount excludes an additional $40.0 million that was transferred to the Public School Capital Construction Assistance Fund from the Proposition AA Refund Account in FY 2015-16, pursuant to voter approval of Proposition BB. The source of this funding was sales tax revenues, rather than excise tax revenues.

Marijuana Revenue Outlook

As noted throughout this document, marijuana tax revenues have declined significantly since FY 2020-21, falling from $424 million to an estimated $220 million in FY 2025-26. Both forecasts currently anticipate revenues stabilizing in the range of approximately $215 million to $225 million annually through FY 2028-29, with minimal to no growth projected over the period.

The September 2026 OSPB forecast represents a notable downward revision from the March 2026 forecast, reducing projected FY 2026-27 revenues from $235 million to $212 million and FY 2027-28 revenues from $243 million to $215 million. More broadly, both OSPB and LCS have consistently revised marijuana tax revenue projections downward over the past four fiscal years, reflecting continued weakness relative to earlier expectations.

The trend line below suggests that revenues may be starting to level off, but it is still too early to say that they have reached a bottom. Given the size and continued downward revisions to revenue forecasts in recent years, staff recommends taking a cautious approach to future-year revenue projections. Continuing to track actual collections and future forecast changes will help determine whether revenues have stabilized and whether a more consistent level of marijuana tax revenue is emerging.

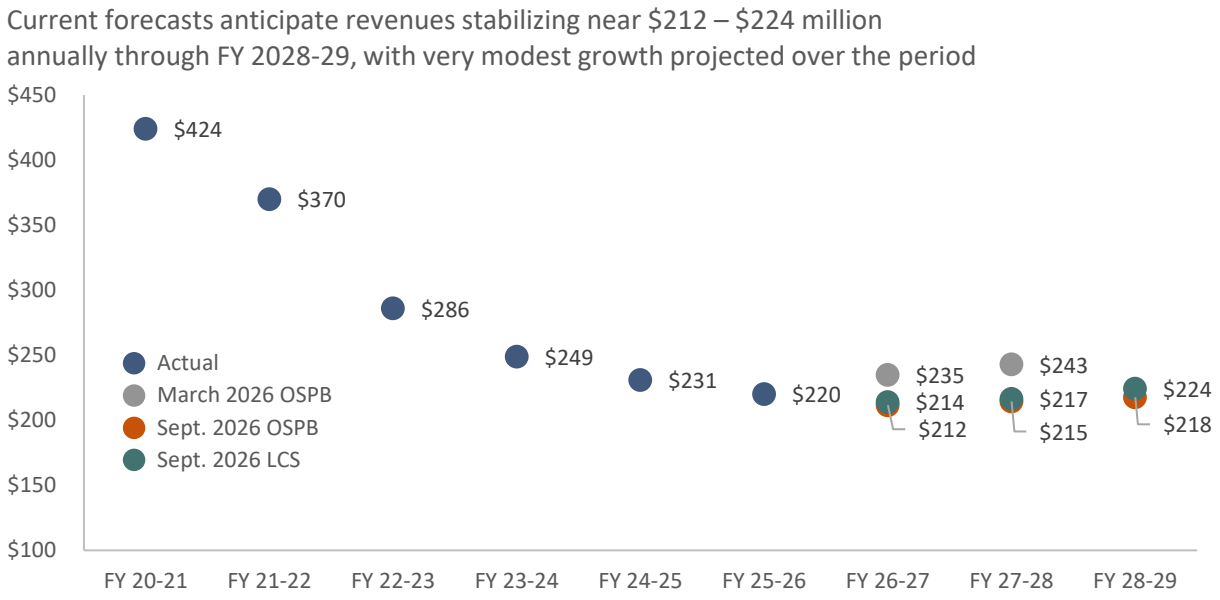


Table 2 below presents the September revenue forecasts for the MTCF as provided by OSPB. Current estimates by OSPB for special sales tax collections, which are the primary source of funding for the MTCF, are projected to be relatively level over the next two fiscal years. OSPB anticipates excise taxes to grow at 2.3 percent over the forecast period. Medical marijuana, a relatively small part of overall marijuana tax revenue, is projected to continue to decline modestly. In aggregate, OSPB anticipates all sources of marijuana tax revenue to grow at a compound annual rate of 0.5 percent over the next two fiscal years, notably below recent inflation rates.

Table 2: OSPB September State Tax Revenue Forecast Related to Retail and Medical Marijuana

($ in millions)	Actuals		OSPB Forecast		
OSPB Forecast	FY 24-25	Preliminary FY 25-26	FY 26-27	FY 27-28	2 YR CAGR
Proposition AA Taxes (Not Subject to TABOR)					
15.0 Percent Special Sales Tax on Retail Marijuana	$186.4	173.9	$167.7	$169.9	*-1.2%*
15.0 Percent Excise Tax on Wholesale Transactions	40.2	38.9	38.2	39.5	0.7%
Interest Income	3.4	3.0	1.8	1.5	-29.3%
Total Proposition AA Tax Revenues (Not Subject to TABOR)	**$230.0**	**$215.8**	**$207.7**	**$210.8**	**-1.2%**
Regular 2.9 Percent Sales Taxes (Subject to TABOR)					
2.9 Percent Sales Tax on Medical Marijuana	$3.0	2.0	2.7	2.5	11.8%
2.9 Percent Sales Tax on MJ merchandise	1.5	2.3	1.1	1.0	-34.0%
Interest Income	0.1	0.1	0.1	0.1	0.0%
Total Nonexempt Revenue (Subject to TABOR)	**4.6**	**4.4**	**3.9**	**3.7**	**-8.3%**
Total Marijuana Tax Revenue, OSPB Forecast	**$234.6**	**$220.1**	**$211.6**	**$214.5**	**-1.3%**
% Change		*-6.0%*	*-1.5%*	*2.5%*	

Table 3 below presents the September revenue forecasts for the MTCF as presented by LCS. Note that LCS projects lower marijuana revenue over the next two fiscal years across all major categories. LCS projects a compound annual growth rate of -4.7 percent for the special sales tax on marijuana, which represents the largest source of marijuana tax revenue. OSPB, as noted above, is anticipating 0.5 percent growth in this category. This revenue category is the primary revenue source for the MTCF, and although the two forecasts have begun to converge, relative to recent years, the difference is significant for balancing purposes.

Excise tax, which directly funds BEST (Public School Capital Construction Assistance Fund), is also anticipated to fall by 4.7 percent annually over the forecast period under the LCS forecast. Medical marijuana is projected to decline by 24.7 percent, which aligns with the long-term decline in this market. Interest rate income, under both estimates, is expected to decrease, consistent with the declining fund balance in recent years and the downward movement in market interest rates.

Table 3: LCS State Tax Revenue Forecasts Related to Retail and Medical Marijuana

($ in millions)	Actuals		LCS Forecast (9/2026)		
LCS Forecast	FY 24-25	Preliminary FY 25-26	FY 26-27	FY 27-28	2 YR CAGR
Proposition AA Taxes (Not Subject to TABOR)					
15.0 Percent Special Sales Tax on Retail marijuana	$186.4	176.3	$172.8	$174.4	*-0.5%*
15.0 Percent Excise Tax on Wholesale Transactions	40.2	38.9	38.1	38.8	*-0.1%*
Interest Income	3.4	3.0	3.0	3.3	*4.9%*
Total Proposition AA Tax Revenues (Not Subject to TABOR)	**$230.0**	**$218.2**	**$213.9**	**$216.5**	***-0.4%***
Regular Sales Taxes (Subject to TABOR)					
2.9 Percent Sales Tax on medical marijuana	$3.0	2.0	$1.3	$0.9	*-33.0%*
2.9 Percent Sales Tax on marijuana merchandise	1.5	2.3	2.8	3.2	*17.9%*
Interest Income	0.1	0.1	0.1	0.1	*0.0%*
Total Nonexempt Revenue (Subject to TABOR)	**4.6**	**4.4**	**4.2**	**4.2**	***-2.3%***
Total Marijuana Tax Revenue, LCS Forecast	**$234.6**	**$220.1**	**$218.1**	**$220.7**	***0.1%***
% Change					

Table 4 below presents the September forecast from LCS for revenue distributions from retail, medical, and excise marijuana tax collections. Note that the 3.5 percent annual growth rate of revenue distributions to the

MTCF is almost entirely due to SB 25-268 (Changes to Money in the Marijuana Tax Cash Fund). Without this allocation shift from local governments to the MTCF, the growth rate would have been flat based on OSPB's forecast assumptions. Also note, the troubled Marijuana Cash Fund now receives a portion of distributions beginning in FY 2025-26 as a result of the revised distribution formula.

Table 4: LCS Projected Marijuana Revenue Distributions

($ in millions)	Preliminary	LCS Forecast (9/2026)		
Marijuana Revenue Distributions	FY 25-26	FY 26-27	FY 27-28	CAGR
Marijuana Tax Cash Fund	$127.7	$133.6	$135.1	2.9%
BEST Fund	38.9	38.1	38.8	-0.1%
General Fund	25.1	24.2	24.4	-1.4%
State Public School Fund	19.5	19.6	19.8	0.8%
Marijuana Cash Fund	2.7	2.6	2.6	-1.9%
Local Distributions	6.2	0.0	0.0	n/a
Total Marijuana Revenue Distributions, OPSB Sept. Forecast	**$220.1**	**$218.1**	**$220.7**	**0.1%**

Table 5 below presents the September forecast from OSPB for revenue distributions from retail, medical, and excise marijuana taxes. Again, note that the increase in Marijuana Tax Cash Fund distributions is entirely attributable to the revised revenue allocation formula.

Table 5: OSPB Projected Marijuana Revenue Distribution

($ in millions)	Preliminary	OSPB Forecast (9/2026)		
Marijuana Revenue Distributions	FY 25-26	FY 26-27	FY 27-28	CAGR
Marijuana Tax Cash Fund	$127.7	$128.4	$129.4	0.7%
BEST Fund	38.9	38.2	39.5	0.8%
General Fund	25.1	23.5	23.8	-2.6%
State Public School Fund	19.5	19.0	19.2	-0.8%
Marijuana Cash Fund	2.7	2.5	2.5	-3.7%
Local Distributions	6.2	0.0	0.0	n/a
Total Marijuana Revenue Distributions, LCS Sept. Forecast	**220.1**	**211.6**	**214.5**	**-1.3%**

Table 6, below outlines the differences between the LCS and OSPB forecasts. While the growth rate assumptions have started to converge and are now closer than in previous years, a significant discrepancy still exists. Depending on how revenues trend over the next two forecasts, this could have a substantial impact on the balancing process in March.

Table 6: MTCF Revenue Forecast Difference

MTCF Distributions ($ in millions)	FY 25-26	FY 26-27	FY 27-28
LCS MTCF revenue projections, Sept forecast	127.7	133.6	135.1
OSPB MTCF revenue projections, Sept forecast	127.7	128.4	129.4
LCS - OSPB	0.0	5.2	5.7

Marijuana Tax Cash Fund Overview

As discussed above, the General Assembly has established three cash funds related to marijuana legalization:

- The *Marijuana Cash Fund* consists of medical and retail marijuana business fees and fines. Money in this fund is annually appropriated to the Department of Revenue to support the Marijuana Enforcement Division.
- The *Medical Marijuana Program Cash Fund* consists of fees paid by patients seeking medical marijuana cards. Money in this fund is annually appropriated to the Department of Public Health and Environment to support the medical marijuana registry and other regulatory functions.
- The *Marijuana Tax Cash Fund (MTCF)* consists of: (a) all revenues collected from the regular state sales tax on medical marijuana and non-marijuana retail product sales and (b) a portion of special sales tax revenue that is collected on retail marijuana sales (64.665 percent of total special sales tax revenues and 71.85 percent of the revenues actually retained by the state). The General Assembly annually appropriates money in this fund to support a variety of state programs and services, including the Department of Revenue's Taxation Business Group.

The remainder of this section provides an overview of the allocation of money in the MTCF.

Statutory Provisions Governing the MTCF

The General Assembly has declared its authority to appropriate marijuana tax revenue for any purpose but has also identified certain purposes as priorities for appropriations. Statute includes the following legislative declaration:[12]:

> "The general assembly hereby finds and declares that the retail marijuana excise tax and sales tax created a new revenue stream for the state, and the basis of these taxes is the legalization of marijuana, which presents unique issues and challenges for the state and local governments. Thus, there is a need to use some of the sales tax revenue for marijuana-related purposes. But, as this is revenue from a tax, the general assembly may appropriate this money for any purpose."

The statute further identifies investments in services, support, intervention, and treatment related to marijuana and other drugs as priorities for the use of these revenues. These priorities include preventing drug abuse, protecting youth, and promoting public health and safety.

The statutory provisions governing the MTCF also establish requirements concerning the timing and amount of appropriations and identify specific purposes for which money in the fund may be appropriated.

Timing of Appropriations

Prior to FY 2020-21, statute generally required the General Assembly to appropriate MTCF revenue in fiscal years following the year in which the revenue was collected. An exception allowed appropriations to the Department of Revenue in the year of collection.

[12] Section 39-28.8-501 (2)(b), C.R.S.

House Bill 20-1401 (Marijuana Tax Cash Fund Spending and Transfer) repealed this restriction, allowing the General Assembly to appropriate MTCF revenue in the same fiscal year in which it is collected. This change facilitated the transfer of $137.0 million from the MTCF to the General Fund to assist with budget balancing in FY 2020-21. The General Assembly also appropriated $121.7 million from the MTCF for FY 2020-21. In effect, revenue collected in FY 2019-20 supported the General Fund transfer, while projected FY 2020-21 revenue supported most of the appropriations from the fund.

Reserve Requirements

Statute also establishes a reserve requirement for the MTCF[13]. Prior to FY 2022-23, annual appropriations from the fund were limited to no more than 93.5 percent of the amount available for appropriation. House Bill 22-1341 modified this provision to require the General Assembly to maintain a reserve equal to 15.0 percent of annual appropriations from the fund. This reserve must be maintained in addition to any MTCF balance designated as part of the State Emergency Reserve under TABOR.

For FY 2021-22 through FY 2024-25, the General Assembly designated $100.0 million of the MTCF balance as part of the State Emergency Reserve. Senate Bill 26-178 (Health Insurance Affordability Measures) reduced this designation to $60.0 million for FY 2025-26 and FY 2026-27. The legislation also required a one-time transfer of $40.0 million from the MTCF to the Health Insurance Affordability Cash Fund by June 30, 2026.

House Bill 26-1409 (Marijuana Tax Cash Fund Distributions) established an additional requirement concerning the disposition of excess MTCF balances. Beginning June 30, 2027, and annually thereafter, the State Treasurer is required to transfer to the State Public School Fund any MTCF balance exceeding the combined amount of the 15.0 percent statutory reserve and any MTCF balance designated as part of the State TABOR Emergency Reserve.

Statutory Purposes for MTCF Appropriations

The General Assembly has identified specific purposes for which money in the Marijuana Tax Cash Fund (MTCF) may be appropriated. These purposes reflect the state's intent to use a portion of marijuana tax revenue to address public health, safety, and other impacts associated with legalization. Priorities include substance use prevention and treatment, services for children and adolescents, behavioral health, law enforcement, and other public health and safety programs.

The authorized purposes have changed since the MTCF was established in 2014. Over time, the General Assembly has expanded the list to include housing assistance, criminal justice programs, and other state priorities. Some provisions have also been repealed because programs ended, funding sources changed, or temporary authorizations expired. However, repealing an MTCF funding authorization does not necessarily mean the underlying program was eliminated.

Although statute identifies these purposes as priorities, it also allows the General Assembly to appropriate marijuana tax revenue for any purpose. Therefore, the listed purposes reflect legislative priorities rather than strict limits on how MTCF revenue may be used.

Statute identifies the following purposes for which money in the MTCF may be appropriated:[14]

[13] Section 39-28.8-501 (2), C.R.S.
[14] Section 39-28.8-501 (2)(b)(IV), C.R.S.

(A) To educate people about marijuana to prevent its illegal use or legal abuse.

(B) To provide services for adolescents and school-aged children in school settings or through community-based organizations.

(C) To treat and provide related services to people with any type of substance use or mental health disorder, including those with co-occurring disorders, or to evaluate the effectiveness and sufficiency of *behavioral health services*.

(D) For jail-based and other *behavioral health services for persons involved in or diverted from the criminal justice system*.

(E) For state *regulatory enforcement, policy coordination, or litigation defense costs* related to retail or medical marijuana.

(F) For *law enforcement and law enforcement training*, including any expenses for the police officers' standards and training board training or certification.

(G) For the *promotion of public health*, including poison control, prescription drug take-back programs, the creation of a marijuana laboratory testing reference library, and other public health services related to controlled substances.

(H) To *study the use of marijuana and other drugs*, their health effects, and other social impacts related to them.

(I) To *research, regulate, study, and test industrial hemp or hemp seeds*.

(J) Repealed.

(K) Repealed.

(L) Repealed.

(M) For the expenses of the Department of Education and the Department of Public Health and Environment in developing and maintaining a resource bank for educational material on marijuana and providing technical assistance.

(N) For housing, rental assistance, and supportive services, including reentry services.

(O) For the development of local dually identified crossover youth plans and services.

(P) For comprehensive quality physical education instruction.

(Q) Repealed.

(R) Repealed.

(S) For the program to support entrepreneurs in the marijuana industry.

(T) For expenses relating to the reduction of collateral consequences experienced by people previously sentenced for drug offenses.

(U) For trial court programs administered by the Judicial Department.

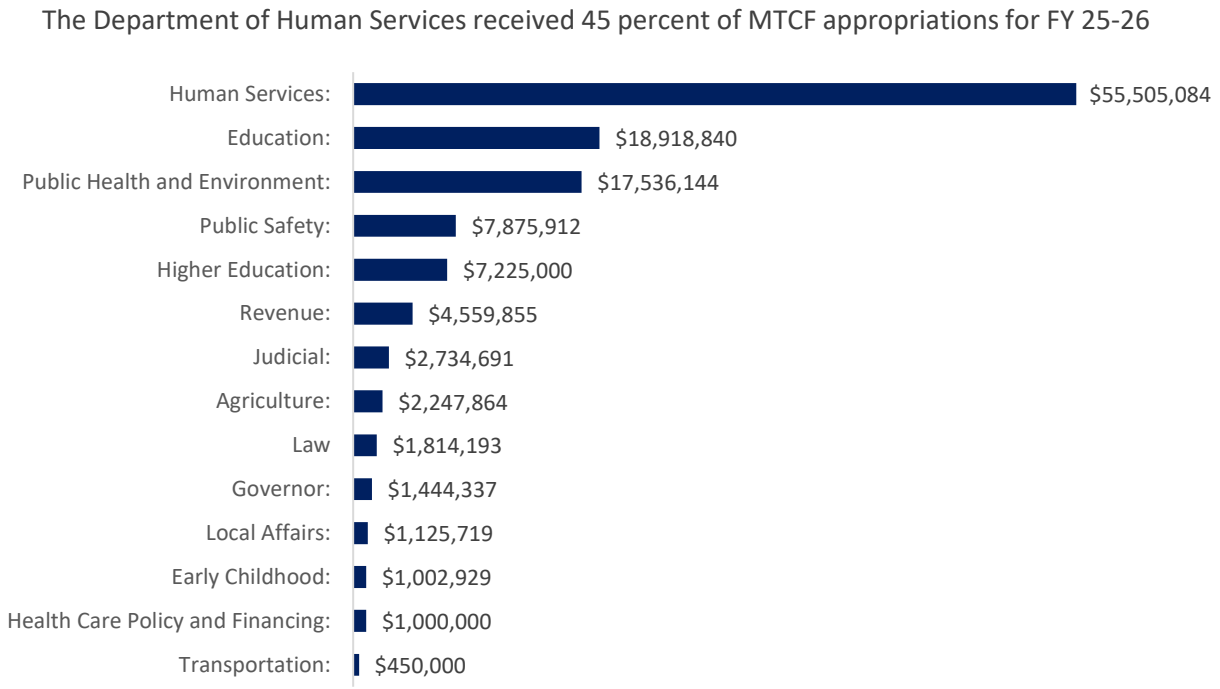
Recent MTCF Appropriations, Transfers, and Reserve Adjustments

The General Assembly appropriates money from the Marijuana Tax Cash Fund (MTCF) based on revenue projections from either Legislative Council Staff (LCS) or the Office of State Planning and Budgeting (OSPB), depending on the revenue forecast selected by the Joint Budget Committee for overall state budget balancing purposes.

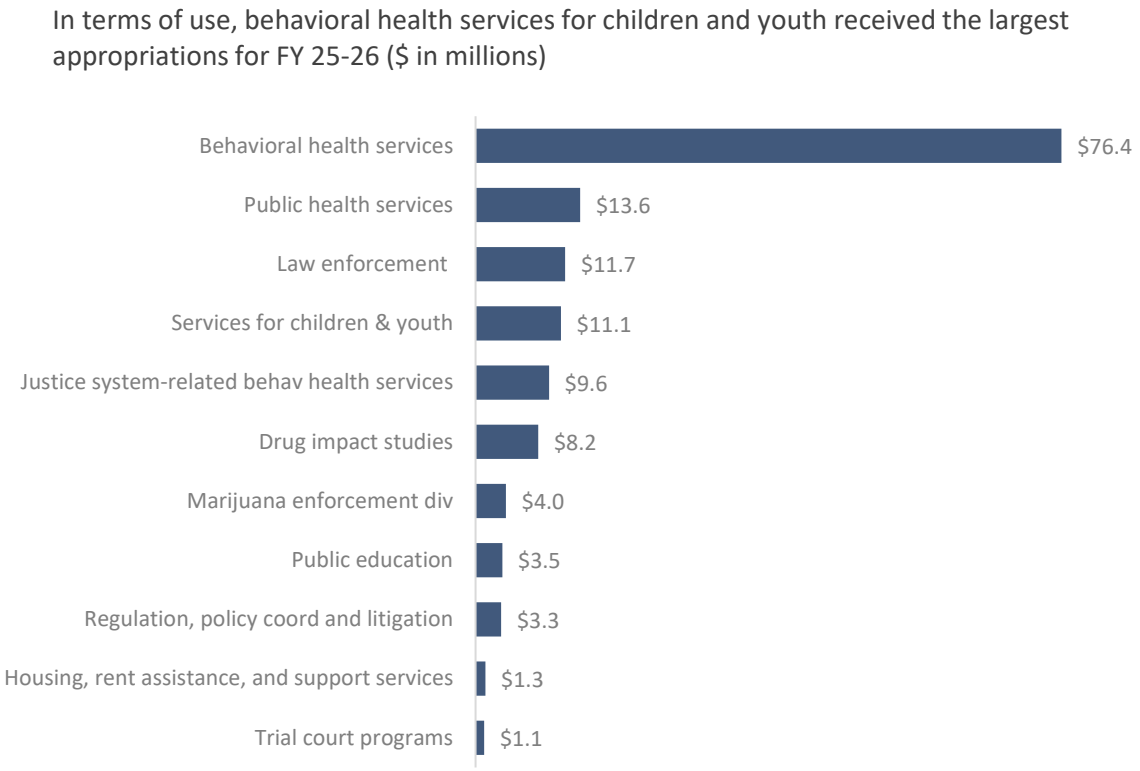
- **FY 2025-26 Appropriations:** For FY 2025-26, the General Assembly appropriated or authorized transfers totaling approximately $128.5 million from the MTCF, including $124.7 million in appropriations and $3.8 million in statutory transfers.
- **FY 2026-27 Appropriations:** For FY 2026-27, the General Assembly appropriated or authorized transfers totaling approximately $124.2 million from the MTCF, including $123.6 million in appropriations and $0.6 million in statutory transfers. This represents a decrease of approximately $4.3 million compared with FY 2025-26.
- **TABOR Emergency Reserve:** Senate Bill 26-178 (Health Insurance Affordability Measures) reduced the amount of the MTCF designated as part of the State Emergency Reserve under TABOR from $100.0 million to $60.0 million for FY 2025-26 and FY 2026-27. To maintain the overall State Emergency Reserve, the legislation increased the designated value of the Capitol Annex Building by $40.0 million. The bill also required a one-time transfer of $40.0 million from the MTCF to the Health Insurance Affordability Cash Fund by June 30, 2026.

The following two charts illustrate the distribution of FY 2025-26 MTCF appropriations by state agency and statutory purpose. The charts reflect only appropriations from the MTCF and exclude marijuana excise tax revenue, which is credited directly to the Public-School Capital Construction Assistance Fund to support the Building Excellent Schools Today (BEST) program, as well as retail marijuana special sales tax revenue distributed directly to the General Fund and the State Public School Fund.

As shown in the chart below, MTCF appropriations in FY 20225-26 were concentrated in a small number of state departments. The Department of Human Services received the largest share, with $55.5 million, or approximately 42.0 percent of total appropriations. The Department of Education ($18.9 million) and the Departments of Public Health and Environment ($17.5 million) received the next largest allocations. Together, these three departments accounted for approximately 74.0 percent of total MTCF appropriations, with the remaining funds distributed among 12 other state departments and agencies.



As shown in the chart below, behavioral health services accounted for the largest share of MTCF appropriations in FY 2025-26, receiving $76.4 million, or approximately 53.5 percent of the total. Public health services ($13.6 million), law enforcement ($11.7 million), and services for children and youth ($11.1 million) received the next largest allocations. Together, these four purposes accounted for approximately 79.0 percent of total MTCF appropriations, with the remaining funds supporting drug impact studies, marijuana enforcement, public education, and other authorized purposes.



Issue: Marijuana Industry Trends & Policy Developments

This policy brief examines national marijuana market trends and their implications for Colorado's regulated marijuana industry and state tax revenues. It reviews declining sales in established markets, recent federal policy developments, and challenges facing Colorado's marijuana industry, including falling prices, reduced licensing activity, and ongoing financial pressures. Together, these trends provide context for assessing current market conditions and the long-term outlook for marijuana tax revenues in Colorado.

Summary

- National marijuana markets are showing signs of maturation and contraction. Adult-use legalization has slowed, and seven of the ten states examined experienced declining marijuana sales in 2025. Established markets, including Colorado, are experiencing sustained sales declines.
- While recent federal rescheduling has provided tax relief for qualifying medical marijuana businesses, recreational marijuana remains subject to federal tax restrictions under Section 280E, pending further federal action. Broader rescheduling could improve industry profitability, while federal restrictions on intoxicating hemp products could interact favorably with regulated marijuana markets.
- Colorado's marijuana industry continues to experience significant pricing pressures. Average retail marijuana flower prices declined approximately 74 percent between 2014 and 2026, while cumulative inflation increased approximately 42 percent. This divergence, combined with rising operating costs, presents ongoing challenges to business profitability and the sustainability of marijuana tax revenues.
- Active adult-use business licenses have declined approximately 30 percent since 2022, while occupational licenses have fallen 43 percent since 2021. These declines reflect an industry struggling with falling prices, rising operating costs, and reduced profitability, and suggest that financial pressures are contributing to business closures and a shrinking workforce. Continued contraction also presents longer-term funding challenges for the Marijuana Cash Fund and the Marijuana Enforcement Division.
- Recent legislation modified the Average Market Rate calculation, while other states have also adjusted their marijuana tax structures. These changes occur amid declining marijuana prices, reduced industry revenues, and continued financial pressures on licensed businesses.

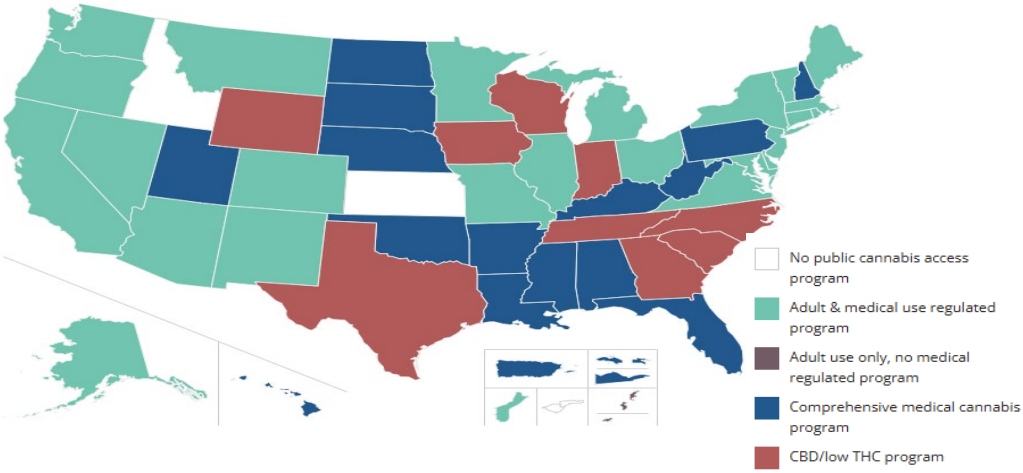
Discussion

Expansion of State Marijuana Legalization

The expansion of adult-use marijuana legalization has slowed considerably in recent years. Following unsuccessful legalization ballot initiatives in Florida, North Dakota, and South Dakota in 2024, no additional states legalized adult-use marijuana in 2025. However, regulated markets continued to expand as Delaware and Minnesota began adult-use retail sales in August and September 2025, respectively, implementing legislation enacted in prior years. As of 2026, 24 states and Washington, D.C., have legalized adult-use marijuana, although Virginia and Washington, D.C., have not established regulated commercial adult-use retail markets.

The map below, published by the National Conference of State Legislatures (NCSL), illustrates the legal status of marijuana across the United States. Since Colorado and Washington became the first states to legalize adult-use marijuana in 2012, legalization has expanded to nearly half of all states. Medical marijuana programs are more widespread, although their scope and regulatory requirements vary considerably. While adult-use legalization has slowed, states have increasingly focused on regulating intoxicating hemp products, adopting differing approaches to products containing hemp-derived THC and other intoxicating cannabinoids.

State legal status of recreational and medicinal marijuana as of November 2026. Twenty-four states and Washington DC currently have a regulated adult-use marijuana market.



National Marijuana Sales Trends

The expansion of regulated marijuana markets has been accompanied by significant changes in industry sales trends. As illustrated in Table 7, seven of the ten states examined experienced declining marijuana sales in 2025, including all four states that began adult-use retail sales before 2020. Illinois experienced the largest annual decline at 14.3 percent, followed by Arizona at 6.8 percent and California at 6.7 percent. These declines suggest that established marijuana markets face broader industry challenges, including falling retail prices, market saturation, and increased competition.

In contrast, Missouri, Maryland, and New Jersey were the only states examined to report sales growth in 2025, increasing by 3.4 percent, 2.9 percent, and 7.4 percent, respectively. All three states began adult-use retail sales in 2022 or later, suggesting that newer markets continue to benefit from expanding retail access and the transition of consumers into regulated markets. However, the relatively modest growth in Missouri and Maryland may indicate that the initial period of rapid market expansion is beginning to moderate.

Per capita sales also vary substantially across states, ranging from approximately $100 in California to $314 in Michigan. Michigan's per capita sales are more than three times those of California, despite both states having relatively mature adult-use markets. These differences likely reflect variations in retail prices, taxation, consumer participation, market accessibility, and interstate purchasing. Importantly, per capita sales measure consumer expenditures rather than the quantity of marijuana purchased and therefore do not directly measure consumption.

Colorado's 5.8 percent sales decline in 2025 is consistent with the broader contraction observed across established markets. Nevertheless, Colorado's per capita sales of approximately $219 rank fourth among the ten states examined, indicating that the state continues to maintain a relatively substantial regulated marijuana

market. These trends suggest that Colorado's declining marijuana sales and associated tax collections increasingly reflect structural changes affecting the broader industry rather than an isolated or temporary downturn. Continued retail price contraction, in particular, presents an ongoing challenge to state marijuana tax revenue, even if the quantity of marijuana purchased remains relatively stable.

Table 7: Annual Marijuana Sales by State, 2025

State	2025 Sales ($ in billions)	Annual % change	2025 Sales per capita [1]	First adult-use retail sales	Sales Data Source
California	$3.93	-6.7%	$99.86	2018	CA Dept of Tax Admin
Michigan	3.18	-3.6%	313.98	2019	MI Cannabis Reg. Agency
Missouri	1.51	3.4%	240.81	2023	MO Cannabis Information
Illinois	1.71	-14.3%	134.76	2020	IL Dept of Fin & Prof Reg.
Colorado	1.32	-5.8%	218.82	2014	CO Dept of Revenue
Washington	1.19	-3.4%	148.48	2014	WA Liquor & Cannabis Board
Maryland	1.17	2.9%	187.38	2023	MD Cannabis Administration
New Jersey	1.16	7.4%	121.93	2022	NJ Cannabis Reg Commission
Arizona	1.23	-6.8%	161.34	2021	AZ Dept of Revenue
Oregon	0.93	-3.5%	216.68	2015	OR Liquor and Cannabis Comm.

[1] U.S population data

Federal Marijuana Policy

Two significant developments in federal marijuana policy could have important implications for the marijuana industry and its long-term financial outlook. The first involves the federal rescheduling of marijuana, which could substantially reduce federal income tax liabilities for marijuana businesses. The second involves federal regulation of intoxicating hemp products, which have emerged as a competing industry operating under a different regulatory and tax structure. While both developments could affect Colorado's marijuana industry, their potential impacts on state marijuana tax collections are unclear.

Federal Tax Treatment of Marijuana Businesses (Section 280E)

Section 280E of the federal Internal Revenue Code prohibits marijuana businesses from deducting most ordinary business expenses, including labor, marketing, security, and legal fees, when calculating federal income taxes. This restriction substantially increases effective federal tax rates, which can approach 70 percent or more for some operators. According to an April 2026 analysis by Whitney Economics, marijuana businesses nationwide incurred an estimated $2.2 billion in additional federal taxes in 2025 because of this provision[15]. These additional tax liabilities have reduced profitability and limited businesses' ability to reinvest in an industry already facing declining prices, increased competition, and rising operating costs.

In April 2026, the federal government reclassified qualifying state-licensed medical marijuana as a Schedule III controlled substance, generally removing Section 280E restrictions for qualifying medical marijuana activities. However, recreational marijuana remains subject to Section 280E pending further federal action.

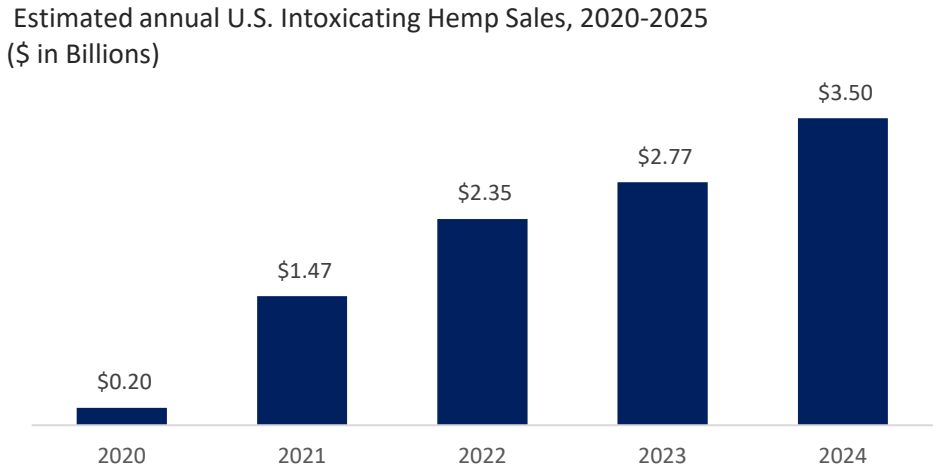
Broader rescheduling could provide significant financial relief to Colorado marijuana businesses by reducing federal tax liabilities and improving profitability. However, the impact on state marijuana tax collections would be indirect and depend on how businesses respond to these savings. In staff's view, while rescheduling could

[15] Analysis of Federal Tax Impact on Legal Cannabis Operators

improve the financial stability of marijuana businesses, it is unlikely, on its own, to reverse the ongoing decline in Colorado marijuana tax revenues.

Federal regulation of intoxicating hemp

The federal Agricultural Improvement Act of 2018 (2018 Farm Bill) legalized hemp containing no more than 0.3 percent delta-9 THC by dry weight. Intended primarily to support agricultural production and provide additional economic opportunities for farmers, an important unintended consequence was the emergence of a rapidly growing intoxicating hemp industry, including THC-infused beverages, edibles, and alternative cannabinoids. According to Brightfield Group, national sales of hemp-derived THC products reached over 3.5 billion in 2024, up from $200 million in 2020[16].



These products are sold through convenience stores, liquor stores, online retailers, and other outlets outside state-regulated marijuana markets. In many states, hemp businesses face fewer regulatory requirements and lower taxes than licensed marijuana operators, creating a competitive disadvantage for the regulated marijuana industry.

In November 2025, Congress enacted legislation substantially narrowing the federal definition of legal hemp, including a limit of 0.4 milligrams of total THC and certain similarly acting cannabinoids per container for finished hemp-derived cannabinoid products. Originally scheduled to take effect November 12, 2026, most restrictions were subsequently delayed until December 11, 2026, through legislation enacted in September 2026. The restrictions would effectively prohibit many intoxicating hemp products currently sold nationwide. However, Congress continues to consider proposals to further delay implementation or modify the restrictions.[17].

Colorado previously addressed intoxicating hemp through SB 23-271 (Intoxicating Cannabinoid Hemp & Marijuana). Federal restrictions would prohibit many hemp-derived products containing more than 0.4 milligrams of THC per container, regardless of state licensing. While Colorado already restricts these products, reduced online availability could benefit licensed marijuana businesses. Impacts on state sales and tax revenues remain uncertain.

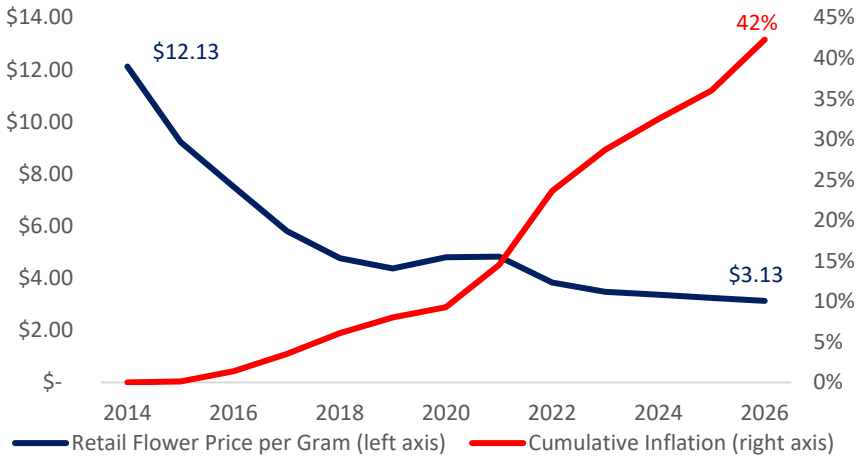
[16] Brightfield Group: An overview of the Hemp THC consumer market
[17] Changes to the Statutory Definition of Hemp and Implications for Agricultural Policy

Colorado's Marijuana Market Outlook:

Ongoing Retail Marijuana Pricing Decline

One of the most significant challenges facing Colorado's marijuana industry is the sustained decline in retail prices, particularly when considered alongside rising operating costs and inflation. The following graphic illustrates the change in average nominal retail marijuana flower prices since the establishment of Colorado's adult-use market in 2014, compared with cumulative inflation over the same period.[18]

Colorado Retail Marijuana Flower Prices Ongoing Decline, Despite Persistent Inflation



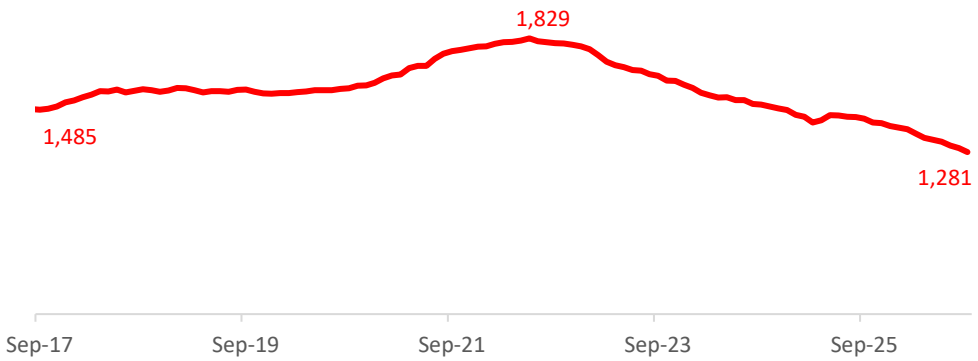
According to data obtained from the Marijuana Enforcement Division dashboard, the average retail price of marijuana flower declined from $12.13 per gram in 2014 to $3.13 in 2026, a decrease of approximately 74 percent[19]. Over the same period, cumulative inflation increased approximately 42 percent. This substantial decline illustrates the significant pressures facing Colorado marijuana businesses, which must contend with rising operating costs, regulatory requirements, and taxation in an increasingly competitive marketplace. These conditions present ongoing and substantial challenges to both industry profitability and the long-term sustainability of marijuana tax revenues.

Marijuana Adult Use Business Licenses Continue to Decline

The effects of these market pressures are also evident in the declining number of licensed marijuana businesses operating in Colorado. As illustrated below, active adult-use marijuana business licenses, which include retail stores, cultivation facilities, product manufacturers, testing facilities, and other regulated business operations, have fallen from a peak of 1,829 in 2022 to 1,281 in 2026, a decline of approximately 30 percent. The number of business licenses is now below 2017 levels, providing further evidence of the sustained contraction in Colorado's marijuana industry. Declining licensing activity also places financial pressure on the Marijuana Cash Fund, which relies on licensing fees and other revenues to support the state's regulatory operations.

[18] U.S. Bureau of Labor Statistics: Year-over-year inflation rate
[19] Colorado Marijuana Enforcement Div Dashboard - market pricing

Colorado Adult-Use Marijuana Business Licenses, 2017–2026



The decline in business licenses has been accompanied by a substantial reduction in occupational licenses, which authorize individuals to work in both the medical and adult-use marijuana industries. Since peaking at approximately 42,400 in 2021, active occupational licenses have fallen to approximately 24,300 in 2026, a decline of 18,100 licenses, or 43 percent. While licensing data do not directly measure employment, this decline is consistent with job losses and a shrinking workforce amid falling sales, declining prices, and continued financial pressures on marijuana businesses.

These trends also have implications for the Marijuana Cash Fund, which relies heavily on business and occupational licensing fees to support the Marijuana Enforcement Division (MED). The enactment of SB 25-268 (Changes to Money in the Marijuana Tax Cash Fund) provided additional funding through the allocation of marijuana special sales tax revenue to the MCF. While this measure provides near-term relief, continued declines in licensing activity and associated fee revenue may create longer-term funding challenges for MED.

Marijuana Tax Policy and Evolving Market Conditions

Colorado's regulated marijuana industry has changed substantially since adult-use sales began in 2014. Following rapid expansion and maturation, the industry has experienced sustained declines in retail and wholesale prices, tax collections, business activity, and employment. These developments represent a significant departure from the market conditions that existed when Colorado's marijuana tax structure was established.

In discussions with industry representatives and marijuana business operators, staff has repeatedly heard concerns regarding the 15.0 percent wholesale excise tax and calculation of the Average Market Rate (AMR). The Department of Revenue establishes quarterly AMRs using median transaction prices by product category, without directly accounting for transaction volume or wholesale discounts. Industry representatives indicate this methodology can result in taxable values significantly exceeding actual wholesale prices for larger transactions.

The General Assembly recently modified the AMR methodology through House Bill 26-1077 (Average Market Rate of Unprocessed Retail Marijuana), which requires separate rates for fresh frozen marijuana cultivated indoors and outdoors and greater transparency regarding the methodology and data sources used to establish AMRs. Implementing rules are required by July 1, 2027. These changes are intended to better distinguish between products with different production characteristics, quality differences, and provide businesses with additional information regarding how taxable values are determined. Industry representatives have generally characterized the legislation as a positive step toward improving the AMR methodology, while continuing to raise concerns regarding the use of median transaction prices and the treatment of volume discounts.

Other states have also modified their marijuana tax structures in response to changing market conditions. California eliminated its cultivation tax in 2022 and reduced its retail excise tax from 19.0 percent to 15.0 percent in October 2025, maintaining the lower rate through June 2029[20]. Maine reduced cultivation excise taxes by approximately one-third in January 2026, while simultaneously increasing its retail sales tax from 10.0 percent to 14.0 percent, shifting a greater share of marijuana taxation from cultivation to retail sales[21]. These changes reflect differing approaches to marijuana taxation as regulated markets mature and tax revenues decline.

Staff is not making recommendations regarding changes to Colorado's marijuana tax rates or structure, as a comprehensive evaluation of tax policy is well beyond the scope of this briefing. Nevertheless, the substantial evolution of the industry since 2014, including sustained declines in state marijuana sales tax revenue, business license activity, and employment, provides relevant context for evaluating the state's existing tax framework under the current market's ongoing challenging conditions.

Conclusion

Colorado's marijuana industry continues to experience significant financial pressures as the market matures and adjusts to changing economic conditions. Declining retail prices, reduced business and occupational licensing activity, and sustained reductions in tax collections suggest that the challenges facing the industry are increasingly structural rather than temporary. Similar trends in other established marijuana markets indicate that these conditions are not unique to Colorado and may persist as regulated markets continue to evolve.

Recent federal policy developments, including potential changes to the tax treatment of recreational marijuana and restrictions on intoxicating hemp products, could improve conditions for licensed businesses. However, the extent to which these developments might stabilize Colorado's marijuana market or increase state tax collections remains uncertain. Similarly, recent changes to Colorado's Average Market Rate methodology represent an adjustment to the state's tax framework, although broader industry concerns regarding taxation and declining profitability remain.

Taken together, these trends suggest that Colorado's marijuana industry is operating under substantially different conditions than those that existed when adult-use sales began in 2014. While the long-term trajectory of the market remains uncertain, continued pricing pressures and declining business activity present ongoing challenges for Colorado marijuana tax revenues and the funding of associated state programs. These developments warrant continued monitoring as the General Assembly evaluates revenue expectations, regulatory funding needs, and the evolving economic conditions facing Colorado's marijuana industry.

[20] CDTFA, Cultivation Tax Ends on July 1, 2022
CDTFA, Cannabis Retailers — Background of Cannabis Excise Tax Rate Change in 2025.
[21] Maine Morning Star: Some of the new taxes Mainers can expect in January

Issue: FY 2026-27 Marijuana Tax Cash Fund Status and the FY 2027-28 Request

The Marijuana Tax Cash Fund (MTCF) is relatively unique among state cash funds in that it receives revenue from a dedicated source while supporting discretionary appropriations across numerous state departments and programs. This structure requires the Committee and the General Assembly to balance available revenue with competing funding priorities. Current projections indicate that the MTCF will end FY 2026-27 above its statutory reserve requirement for the first time in five years. However, ongoing challenges facing Colorado's marijuana industry and uncertainty surrounding future revenue collections remain concerns.

This issue brief provides an overview of the MTCF's financial position in FY 2026-27 and FY 2027-28, based on the September 2026 revenue forecasts prepared by Legislative Council Staff and the Office of State Planning and Budgeting. The brief also examines the Governor's proposed statewide MTCF balancing adjustments.

Summary

- **Shift in Revenue Outlook**: The September 2026 revenue forecasts reflect a significant shift toward more subdued expectations for marijuana tax revenue. Unlike previous forecasts, which anticipated a relatively strong recovery following several years of declining collections, both agencies now project a much more gradual stabilization and modest growth. Revenue is expected to decline slightly in FY 2026-27 before returning to limited growth in subsequent fiscal years. Notably, the LCS forecast is now more optimistic than the OSPB forecast, reversing the relative outlooks of recent years.
- **FY 2026-27 Fund Balance**: For the first time in several fiscal years, the MTCF is projected to end the fiscal year above its 15.0 percent statutory reserve requirement. The OSPB forecast projects a balance of approximately $150,000 above the requirement, while the LCS forecast projects a surplus of approximately $5.3 million. These projections represent a meaningful improvement in the fund's financial position.
- **Industry Challenges and Revenue Uncertainty**: Colorado's marijuana industry continues to face significant challenges, including declining retail prices, competition from other states, increased availability of intoxicating hemp products, and ongoing financial pressures on businesses. These factors create uncertainty regarding the longer-term stability of marijuana tax revenue.
- **FY 2027-28 Budget Considerations**: Pursuant to HB 26-1409, excess MTCF balances must be transferred to the State Public School Fund beginning June 30, 2027, after accounting for applicable reserve requirements.

MTCF Solvency in FY 2026-27

The General Assembly balanced appropriations and transfers from the Marijuana Tax Cash Fund (MTCF) for FY 2026-27 based on revenue projections from the March 2026 Office of State Planning and Budgeting (OSPB) forecast. In response to continued declines in marijuana tax revenue, the General Assembly took the following actions during the 2026 legislative session:

- **TABOR Emergency Reserve:** Senate Bill 26-178 (Health Insurance Affordability Measures) reduced the portion of the TABOR emergency reserve held in the MTCF from $100.0 million to $60.0 million for FY 2025-

26 and FY 2026-27. The bill offset this reduction by increasing the value of the Capitol Annex Building designated toward the emergency reserve by $40.0 million. The bill also transferred $40.0 million from the MTCF to the Health Insurance Affordability Cash Fund in FY 2025-26.

- **MTCF Revenue Distributions:** The Committee sponsored HB 26-1409 (Marijuana Tax Cash Fund Distributions) to address declining revenue and improve the solvency of the MTCF. Effective July 1, 2026, the bill made the following changes:
  - Eliminated the 3.5 percent share of retail marijuana special sales tax revenue previously distributed to local governments.
  - Increased the share of special sales tax revenue allocated to the MTCF to 73.17 percent, redirecting approximately $6.1 million to the fund in FY 26-27.
  - Established an annual transfer of excess MTCF balances to the State Public School Fund, beginning June 30, 2027. Transfers are required only when the fund balance exceeds the amounts needed to satisfy the MTCF's 15.0 percent statutory reserve and its designated share of the TABOR emergency reserve.
- Transfers $598,000 to various cash funds related to juveniles in the criminal justice system
- Appropriates a total of $123.5 million to various state agencies. A breakdown of these appropriations by at the departmental level is available in Appendix C, starting on page 29.

As shown in Table 9, the OSPB forecast projects that the MTCF will end FY 2026-27 approximately $150,000 above its 15.0 percent statutory reserve requirement. In comparison, the LCS forecast projects approximately $5.2 million more in MTCF revenue for the same fiscal year, resulting in a projected year-end balance of $5.3 million above the reserve requirement. Pursuant to HB. 26-1409, any balance exceeding the combined requirements of the statutory reserve and the MTCF's designated share of the TABOR emergency reserve will be transferred to the State Public School Fund on June 30, 2027.

Table 9: FY 2026-27 Projections Based on September Forecasts

Description	September OSPB	September LCS
Beginning Balance	**$74,449,492**	**$74,449,492**
Total Projected Revenue to be Collected (OSPB Sept '26 Forecast)	128,400,436	133,600,000
State TABOR Emergency Reserve Cash	-60,000,000	-60,000,000
Total Available after emergency reserve	142,849,928	148,049,492
Appropriations approved for FY 2026-27	123,566,575	123,566,575
Current Law Transfers to Various Criminal Justice Funds (HB 21-1315)	598,000	598,000
EQUALS: Total Obligations	**$124,164,575**	**$124,164,575**
Ending Balance Excluding Emergency Reserve	**18,685,353**	**$23,884,917**
Statutorily required reserve	18,534,986	18,534,986
Amount Above/Below Statutorily Required Reserve	**$150,367**	**$5,349,931**

The FY 2027-28 Request

Looking forward, staff notes that based on the September 2026 OSPB revenue forecast, the Marijuana Tax Cash Fund (MTCF) is projected to have sufficient resources to support base appropriations for ongoing programs and statutory transfers required under current law in FY 2027-28. It is also viable under the September 2026 LSC forecast. However, sustained declines in marijuana tax revenues and continued market pressures create uncertainty regarding the fund's capacity to support existing commitments over the longer term.

Recent statutory changes, including HB 26-1409, also affect the fund's financial outlook by making a transfer of any year-end balance in excess of the 15 percent statutory reserve to the State Public School Fund. These changes, combined with declining revenues, may limit the fund's flexibility to accommodate future expenditure obligations.

Staff notes that the General Assembly will have additional information available from the December 2026 and March 2027 revenue forecasts to inform final decisions about the current transfers and appropriations from the MTCF and recommends basing final decisions on the March revenue forecast selected for balancing.

Governor's FY 2027-28 MTCF Balancing Proposal:

The Governor's FY 2027-28 budget request includes significantly fewer adjustments to Marijuana Tax Cash Fund (MTCF) appropriations than in recent years. The request proposes funding reductions for the Department of Higher Education and the Department of Law. It also includes two proposals to restore funding reduced through prior budget actions, affecting the Departments of Higher Education and the Department of Transportation. The major components of the request are summarized below.

Proposed Reductions

Higher Education: The request (CDPHE NP3) includes eliminating the $2 million appropriation within the Colorado Department of Higher Education for the CU School of Public Health for the Regulation of Marijuana Concentrates.

This program was initially funded through HB 21-1317 (Regulating Marijuana Concentrates). It initially increased state expenditures by $4 million in FY 2021-22 and $1 million per year in FY 2022-23 and FY 2023-24. The remaining $1 million a year was intended to be utilized to review existing research, support the scientific review council, and conduct required research.

Law: The request (Law R3) includes a $500,000 reduction to the $1,036,766 in MTCF funding currently appropriated to the Peace Officers Standards and Training (POST) Board. The POST Board has historically used these funds to support intergovernmental grants, training, and software development and improvements.

According to the Department, the proposed reduction would increase pressure on the POST Cash Fund and reduce funding available for grants to local law enforcement agencies. However, the Department indicates that the reduction would allow the State to redirect these funds to other priorities consistent with the purposes of the MTCF or to increase the fund's year-end balance.

Proposed New / Amended Funding Requests

Higher Education: The request (CDPHE NP3) includes a restoration of the $750,000 appropriation to the Institute of Cannabis Research (ICR) at CSU Pueblo.

Since 2017, the ICR has focused on conducting and funding research related to cannabis and sharing the results with the public. According to the request, this program has been successful in supporting cannabis research, and establishing itself as an international leader in the field.

Transportation: The request (CDOT NP7) includes restoration of the $500,000 appropriation to the Marijuana Impaired Driving Campaign.

This appropriation was previously funded at $950,000 but was reduced in FY 2025-26 as part of efforts to balance the Marijuana Tax Cash Fund (MTCF). The Governor proposes restoring funding to $950,000 to support a public awareness campaign focused on the dangers of marijuana-impaired driving. According to the Governor's Office, this funding would maintain a critical public safety resource.

TABLE 10: Marijuana Tax Cash Fund Balancing. Gov Request (Sept OSPB Forecast)

Marijuana Tax Cash Fund Balance (Sept '26 OSPB Forecast)		
Description	**FY 2026-27 Appropriated**	**FY 2027-28 Gov. Request**
Beginning Balance	**$74,449,492**	**$79,534,986**
Total Projected Revenue to be Collected (OSPB Sept '26 Forecast)	128,400,436	129,445,297
State Emergency Reserve Cash	-60,000,000	-60,000,000
Total Available after emergency reserve	142,849,928	148,980,283
Appropriations approved for FY 2026-27; FY 2027-28 base appropriations	123,566,575	125,011,728
Eliminate CDHE Appropriation to the CU School of Public Health for Regulating Marijuana Concentrates		-2,000,000
Reduce LAW Standards and Training (POST) Board		-500,000
Restore the appropriation to CDHE Institute of Cannabis Research at CSU Pueblo		750,000
Restore the CDOT Appropriation for the Marijuana Impaired Driving Campaign		500,000
Total Appropriations Including Other Legislation Reductions	**123,566,575**	**123,761,728**
Current Law Transfers to Various Criminal Justice Funds (HB 21-1315)	598,000	598,000
EQUALS: Total Obligations	**124,164,575**	**124,359,728**
Ending Balance Excluding Emergency Reserve	**18,685,353**	**24,620,555**
Statutorily required reserve	18,534,986	18,564,259
Amount Above/Below Statutorily Required Reserve*	**$150,367**	**$6,056,296**
**Pursuant to HB 26-1409, this amount is transferred to the State Public School fund*		
Estimated Reversions	1,000,000	0

Note that the Governor's MTCF request is viable under either of the most recent MTCF revenue forecasts. Additionally, the MTCF, in significant contrast to recent years, requires no additional action to remain in balance based of current projections and FY 2027-28 base appropriations. The governor's request is primarily focused on realigning the fund with the executive branch's priorities.

If revenues align with the LCS forecast, the MTCF is projected to end the current fiscal year approximately $5.3 million above the statutory reserve requirement. Pursuant to HB 26-1409 (Marijuana Tax Cash Fund Distributions), these excess funds would be transferred to the State Public School Fund.

Under the same revenue assumptions, the MTCF is projected to end FY 2027-28 approximately $11.7 million above the statutory reserve requirement. This amount would be transferred to the State Public School Fund in June 2028. It is worth noting that in recent years both forecasts have overestimated actual marijuana tax revenue.

The Committee will gain substantially more information and clarity from the December 2026 and March 2027 revenue forecasts to inform final decisions regarding transfers and appropriations from the MTCF. **Staff recommends basing final decisions on the March revenue forecast selected for balancing.**

Appendix A: Numbers Pages

Summary of Appropriations and Transfers from the MTCF for FY 2025-26 & FY 26-27 and the FY 27-28 Request

	FY 2025-26 Enacted	FY 2026-27 Enacted	FY 2027-28 Request	Annual Change
Breakdown of Appropriations by Department and Program				
Agriculture:				
Pesticide control and regulation	$1,292,141	$1,323,469	$1,326,905	$3,436
Colorado State Fair Authority: FFA and 4-H programming	300,000	300,000	300,000	$0
Centrally appropriated amounts not accounted for above	547,409	624,395	638,714	14,319
Subtotal: Agriculture	**2,139,550**	**2,247,864**	**2,265,619**	**17,755**
Early Childhood:				
Community and Family Support	130,408	136,483	141,825	5,342
Social-Emotional Learning Programs Grants	817,289	817,289	817,289	0
Centrally appropriated amounts not accounted for above	59,915	49,157	68,875	19,718
Subtotal: Early Childhood	**1,007,612**	**1,002,929**	**1,027,989**	**25,060**
Education:				
School Health Professionals Grant Program	15,025,080	11,999,647	12,001,681	2,034
Early Literacy Competitive Grant Program	0	4,797,091	4,800,545	3,454
Office of Dropout Prevention and Student Reengagement	2,005,329	2,007,157	2,007,435	278
Appropriation to the School Bullying Prevention and Education Cash Fund	0	0	0	0
Concurrent Enrollment Expansion and Innovation Grant Program	0	0	11	11
Colorado Imagination Library Program	0	0	0	0
Comprehensive Physical Education Pilot Program	0	0	0	0
K-5 Social and Emotional Health Pilot Program	0	0	0	0
Centrally appropriated amounts not accounted for above	210,989	114,945	132,372	17,427
Subtotal: Education	**17,241,398**	**18,918,840**	**18,942,044**	**23,204**
Governor:				
Evidence-based policymaking evaluation and support	300,000	150,000	150,000	0
Appropriation to Marijuana Entrepreneur Cash Fund	0	0	0	0
Office of Information Technology, Enterprise Solutions	453,812	453,812	453,812	0
Governor's Office	117,866	67,908	0	-67,908
Commission on Community Service	0	750,000	750,000	0
Centrally appropriated amounts not accounted for above	62,668	22,617	0	-22,617
Subtotal: Governor	**934,346**	**1,444,337**	**1,353,812**	**-90,525**
Health Care Policy and Financing:				
Medical and Long-Term Care Services for Medicaid Eligible Indiv	0	0	0	0
Behavioral Health Capitation Payments	500,000	0	0	0
Training for health professionals to provide Screening, Brief Intervention, and Referral for Treatment (SBIRT) services for Medicaid clients at risk for substance abuse	1,000,000	1,000,000	1,000,000	0
Subtotal: Health Care Policy and Financing	**1,500,000**	**1,000,000**	**1,000,000**	0
Higher Education:				
Regulating marijuana concentrates - CU School of Public Health	2,000,000	2,000,000	0	-2,000,000
Medication-assisted Treatment Pilot Program	0	0	0	0
Institute of Cannabis Research at CSU-Pueblo	3,075,000	3,075,000	3,825,000	750,000
AgrAbility project at CSU	900,000	900,000	900,000	0

	FY 2025-26 Enacted	FY 2026-27 Enacted	FY 2027-28 Request	Annual Change
Opioid awareness campaign, grant assistance, and provider education per Section 27-80-118, C.R.S.	1,250,000	1,250,000	1,250,000	0
Subtotal: Higher Education	**7,225,000**	**7,225,000**	**5,975,000**	**-1,250,000**
Human Services:				
*BHA - SB 16-202 MSO/BHASO Increase regional substance use treatment access)	16,938,566	0	0	0
*BHA - Co-responder programs	6,214,123	0	0	0
*BHA - Circle program and rural treatment	5,829,663	0	0	0
*BHA - CMHC juvenile and adult offender treatment	6,210,075	0	0	0
*BHA - Crisis services	4,941,404	0	0	0
OCYF - Colorado Youth Detention Continuum (CYDC/SB 91-094 Programs) (S.B. 91-094)	3,346,113	3,346,113	3,354,604	8,491
OCYF - Tony Grampsas Program	2,157,147	2,161,093	2,161,340	247
BHA - HB 22-1278 Substance use prevention programs	642,479	747,701	747,701	0
BHA - Administrative costs	1,190,158	137,008	145,406	8,398
BHA - MSO/BHASO substance use contracts	5,325,126	0	0	0
OCFMH - State hospital substance use treatment	946,133	992,871	1,010,435	17,564
OCYF - Approp. to Youth Mentoring Services Fund for TGYS	0	0	0	0
BHA - Treatment for non-Medicaid, non-Child welfare youth	453,698	453,698	453,698	0
BHA - SB 17-019 Health information exchange	760,700	0	0	0
OCYF - Administrative costs	437	0	0	0
BHA - HB 19-1287 Capacity tracking system	42,611	0	0	0
DHS - Indirect and centrally appropriated costs	3,801,994	3,355,011	4,162,142	807,131
BHA - Behavioral Health System Technology and Monitoring	0	115,717	115,717	
BHA - Behavioral Health Safety Net Services	0	30,651,520	30,651,520	0
BHA - Diversion and Justice Involved Services	0	12,681,023	12,681,023	0
BHA - Jail Based Services	0	863,329	863,329	0
Subtotal: Human Services	**58,800,427**	**55,505,084**	**56,346,915**	**841,831**
**The starred categories have been consolidated into new categories*				
Judicial:				
Appropriation to the Correctional Treatment Cash Fund for jail-based behavioral health services (administered through the Department of Human Services)	1,626,967	1,626,967	1,626,967	0
Trial court programs	1,107,724	1,107,724	1,107,724	0
Subtotal: Judicial	**2,734,691**	**2,734,691**	**2,734,691**	**0**
Labor and Employment:				
Colorado Veterans' Service-to-career Pilot Program	0	0	0	0
Subtotal: Labor and Employment	**0**	**0**	**0**	**0**
Law:				
Local law enforcement training through the Peace Officers Standards and Training (POST) Board	1,036,766	1,036,766	536,766	-500,000
Office of Community Engagement/Safe2Tell	0	0	0	0
Consumer Protection and Antitrust (S.B. 22-205)	583,000	597,850	597,850	0
Centrally appropriated amounts not accounted for above	89,767	179,577	179,577	0
Subtotal: Law	**1,709,533**	**1,814,193**	**1,314,193**	**-500,000**
Local Affairs:				
Affordable Housing Construction Grants and Loans	0	0	0	0
Gray and Black Market Marijuana Enforcement Efforts (H.B. 17-1221)	175,100	0	0	0
Low income rental subsidies	939,649	939,649	939,649	0
Division of Housing Administration	68,536	70,461	70,911	450

	FY 2025-26 Enacted	FY 2026-27 Enacted	FY 2027-28 Request	Annual Change
Indirect cost assessments and centrally appropriated amounts not accounted for above	164,029	115,609	70,426	-45,183
Subtotal: Local Affairs	**1,347,314**	**1,125,719**	**1,080,986**	**-44,733**
Public Health and Environment:				
Substance abuse prevention	6,719,277	6,740,707	6,740,707	0
Public awareness campaign	144,202	159,127	159,127	0
Colorado Health Service Corps Program (S.B. 18-024)	1,605,101	1,605,101	1,605,101	0
Distributions to Local Public Health Agencies	1,988,225	1,988,225	1,988,225	0
Transfer to Harm Reduction Cash Fund	1,800,000	1,800,000	1,800,000	0
Healthy Kids Colorado Survey	768,127	776,253	776,253	0
Marijuana Health Effects Monitoring	371,114	386,929	386,929	0
Health survey data collection	244,134	244,134	244,134	0
Data collection and analysis (S.B. 13-283)	227,302	227,302	227,302	0
Enhanced marijuana data collection through Rocky Mountain Poison and Drug	60,100	60,100	60,100	0
Executive Director's Office, Personal Services	10,948	10,948	10,948	0
Marijuana lab certification	1,156,232	1,156,232	1,156,232	0
Indirect cost assessments and centrally appropriated amounts not accounted for above	2,381,086	2,381,086	2,381,086	0
Subtotal: Public Health and Environment	**17,475,848**	**17,536,144**	**17,536,144**	**0**
Public Safety:				
Black market marijuana interdiction/state toxicology lab	4,651,956	4,750,308	4,786,070	35,762
Office of School Safety-Emergency School Safety Incident Response	250,000	250,000	0	-250,000
School Security Disbursement Grant Program	0	0	250,000	250,000
Division of Criminal Justice - Study of the impacts of the legalization of retail marijuana (S.B. 13-283/S.B. 16-191), and Law Enforcement Assistance Grant Program (H.B. 18-1020)	211,918	213,430	218,052	4,622
Juvenile diversion programs	400,000	400,000	400,000	0
Youth Delinquency Prevention and Intervention Grants Program (legislation requested)	0	0	0	0
Safer Streets Grant Program	0	0	0	0
State Patrol training academy	150,000	150,000	150,000	0
Public Safety Intelligence Support Related to the Illegal Sale and Diversion of Marijuana	95,352	95,352	106,083	10,731
Indirect cost assessments and/or centrally appropriated amounts not accounted for above	1,730,964	2,016,822	2,638,268	621,446
Subtotal: Public Safety	**7,490,190**	**7,875,912**	**8,548,473**	**672,561**
Regulatory Agencies:				
Division of Professions and Occupations for medical marijuana enforcement	120,807	126,007	126,007	0
Centrally appropriated amounts not accounted for above	0	0	0	0
Subtotal: Regulatory Agencies	**120,807**	**126,007**	**126,007**	**0**
Revenue:				
Marijuana Enforcement	3,500,000	3,500,000	3,500,000	0
Taxation Services	1,059,855	1,059,855	1,059,855	0
Subtotal: Revenue	**4,559,855**	**4,559,855**	**4,559,855**	**0**
Transportation:				
Marijuana impaired driving campaign	450,000	450,000	950,000	500,000
Subtotal: Transportation	**450,000**	**450,000**	**950,000**	**500,000**
Total Long Bill Appropriations	**$124,736,571**	**$123,566,575**	**$123,761,728**	**$195,153**

	FY 2025-26 Enacted	FY 2026-27 Enacted	FY 2027-28 Request	Annual Change
Statutory Transfers & Other Legislation				
IT capital Seed to sale MTCF Transfer (HB 24-1425)	2,980,000	0	0	0
Transfer IT Capital CDPS Placeholder	250,000	0	0	0
Transfers to various criminal justice related funds (HB 21-1315)	598,000	598,000	598,000	0
[*]Transfer to the State Public School Fund (HB 26-1409)	*0*	*TBD*	*TBD*	*n/a*
Total Statutory Transfers & Other Legislation	$3,828,000	598,000	598,000	0
Total Appropriations and Transfers from the Marijuana Tax Cash Fund	**$128,564,571**	**$124,164,575**	**$124,359,728**	**$195,153**

[*]Revenue contingent