Government of the District of Columbia
Office of the Chief Financial Officer

Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeffrey S. DeWitt** **Chief Financial Officer**
DATE:	**September 22, 2016**
SUBJECT:	**Fiscal Impact Statement – Medical Marijuana Omnibus Amendment Act of 2016**
REFERENCE:	**Bill 21-210, Draft Committee Print sent to the Office of Revenue Analysis on September 21, 2016**

This fiscal impact statement replaces the statement we issued for this legislation on March 9, 2016. We are reissuing the statement because Council has made significant changes to the legislation.

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost $364,000 to implement in FY 2017 and $1.4 million over the four-year financial plan.

Background

The bill makes[1] several changes to the District's medical marijuana program, including:

- **Allowing reciprocity with other states:** patients enrolled in another jurisdiction's medical marijuana program will be able to purchase and consume[2] medical marijuana in D.C., as long as the Department of Health determines there is no shortage of medical marijuana.

[1] By amending the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 et seq.).
[2] In its committee report, the Judiciary Committee notes that current law allows medical marijuana patients to consume medical marijuana only in their own home or at a medical treatment center. Neither of these options are regularly available to visitors, so the bill allows patients to use medical marijuana in the home of someone else, as long as they have that person's permission.

- **Requiring an electronic tracking system:** the system must track, in real-time, the amount of marijuana that District residents and patients from other states purchase. It must also track all transactions made by dispensaries, cultivation centers, and testing laboratories.

- **Removing the plant limit:** currently cultivation centers can grow no more than 1,000 plants. The bill removes this limit.

- **Requiring testing of marijuana before distribution:** independent laboratories must test all medical marijuana before distribution. The Department of Health will register the laboratories.

- **Allowing expansion of cultivation centers:** cultivation centers will be able to expand into adjacent spaces with permission from the Mayor.

- **Allowing relocation or change of ownership of dispensaries, cultivation centers, and testing laboratories:** medical marijuana facilities will be able to relocate or change ownership with permission from the Mayor.

- **Allowing[3] the Mayor to issue rules permitting health professionals other than physicians to recommend medical marijuana to a patient.** Currently only physicians can recommend medical marijuana to a patient.

The electronic tracking system, reciprocity with other states, and removal of the plant limit are subject to appropriation.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost $364,000 to implement in FY 2017 and $1.4 million over the four-year financial plan.

The cost of the bill comes from three sources: the electronic tracking system, reciprocity with other states, and the removal of the plant limit. To implement these portions of the bill, the Department of Health (DOH) will need additional funds to develop and maintain the electronic tracking system, hire a program analyst, and hire an additional cultivation inspector.

Fiscal Impact of Medical Marijuana Omnibus Amendment Act of 2016, FY 17- FY 20					
	FY 2017	**FY 2018**	**FY 2019**	**FY 2020**	**Four-Year Total**
Electronic tracking system	$280,000	$150,000	$150,000	$150,000	$730,000
Cultivation inspector[1]	$0	$0	$108,002	$112,322	$220,324
Program analyst[2]	$83,666	$116,017	$120,658	$125,484	$445,824
Total	**$363,666**	**$266,017**	**$378,659**	**$387,806**	**$1,396,148**

Notes:

[3] By amending the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 et seq.).

[1] Grade 12, Step 7 inspector. Costs include fringe benefits and annual cost increases of 4 percent a year.

[2] Grade 13, Step 5 analyst; assumes start date of January 2016. Costs include fringe benefits and annual cost increases of 4 percent a year.

DOH will develop the electronic tracking system in cooperation with cultivation centers, testing laboratories, and dispensaries. Based on the experiences of other states with similar systems, the Office of Revenue Analysis estimates it will cost the District about $280,000 to build the database in FY 2017 and $150,000 per year, in subsequent years, for IT support and maintenance.[4]

The program analyst will oversee the development and use of the database; monitor medical marijuana supply and let dispensaries know when there is a shortage; and coordinate with other states and District dispensaries so dispensaries can properly identify qualifying out-of-state patients.

DOH will need to hire an additional cultivation inspector once cultivation centers are collectively growing more than 10,000 plants—a number of plants the centers can reach only if there is no plant limit. The Office of Revenue Analysis estimates that the centers could surpass 10,000 plants as early as fiscal year 2019.[5]

With reciprocity, there could be an increase in patients purchasing medical marijuana, which would lead to an increase in revenue since medical marijuana is subject to the six percent sales tax. We believe revenue from tourists will be small since visitors can only use medical marijuana in a District resident's home[6], reducing the likelihood a tourist would purchase medical marijuana here. Residents of Virginia and Maryland who commute to the District and have friends here might be more likely to take advantage of reciprocity, though circumstances in each of those states make it hard for us to predict how many patients might buy medical marijuana in D.C. Virginia's pending medical marijuana legislation is not yet law, and as written would only apply to a narrow group of patients: those with intractable epilepsy.[7] Maryland has a medical marijuana program, but as of July 1, 2016, it has not yet started registering patients.[8] Even if a substantial number of patients sign up for Maryland's program, it's unclear how many of them would purchase marijuana in D.C. when it would be available in their own state, making any potential revenue increase hard to predict.

[4] The cost of building an electronic tracking system for marijuana varies greatly, from $60,000 in New Mexico, to $875,000 in Colorado. The cost depends on a number of factors, such as the size of the marijuana program (number of patients, dispensaries, etc.), the requirements of the tracking system, and competition among the companies that develop these systems. We looked into the costs of electronic tracking systems for marijuana in seven states, and believe the District's system will most closely resemble that of Illinois, since the two jurisdictions have medical marijuana programs that are similar in scale. Illinois spent $230,000 to build its system, but the Illinois system was an "off the shelf" product, meaning it did not require modifications. We estimate an additional $50,000 to account for system modifications (for example to accommodate reciprocity with other states, which Illinois does not have.)

[5] Assuming that patient numbers continue to grow at 83 patients per month (the average growth rate since January 2015), average monthly consumption per patient is 2.25 ounces (currently the limit per patient is 2 ounces, but the Mayor is raising the limit to 4 ounces), and cultivation centers grow enough plants to meet demand.

[6] Current law allows patients to consume medical marijuana at a medical treatment center, but the committee report for this bill says that this option is not regularly available to visitors.

[7] According to the Marijuana Policy Project: https://www.mpp.org/states/virginia/

[8] According to the Marijuana Policy Project: http://bit.ly/2d59D00