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FISCAL NOTE

Drafting Number:	LLS 18-0211	Date:	January 23, 2018
Prime Sponsors:	Sen. Neville T.; Jahn Rep. Pabon	Bill Status:	Senate Business
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Bill Topic: MARIJUANA CLOSED-LOOP PAYMENT SYSTEM PILOT PROJECT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires the Marijuana Enforcement Division to establish a pilot payment processing program to be used for marijuana transactions. It will increase state revenue and expenditures through FY 2019-20.

Appropriation Summary: In FY 2018-19, the bill requires an appropriation of \$110,420. See State Appropriations section for details.

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

**Table 1
State Fiscal Impacts Under SB 18-021***

		FY 2018-19	FY 2019-20
Revenue	Cash Funds	at least \$20,000	at least \$20,000
		at least \$20,000	at least \$20,000
Expenditures	Cash Funds	\$110,420	\$109,979
	Centrally Appropriated	\$19,818	\$19,818
	Total	at least \$130,238	at least \$129,797
	Total FTE	at least 1.2 FTE	at least 1.2 FTE
Transfers		-	-

* This bill will result in additional revenue and expenditures that cannot be quantified in the fiscal note prior to rulemaking by the Department of Revenue. It is assumed that additional costs will be addressed through the annual budget process after rulemaking is complete.

Summary of Legislation

This bill requires the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR) to establish, by rule, a pilot program for closed-loop payment processing. The payment processing system will enable medical and retail marijuana businesses, patients, caregivers, and customers to conduct marijuana payment transactions while using the state as a financial pass-through. The system must allow financial transactions between customers and licensed businesses, and between licensed businesses. The MED must report to the General Assembly by December 31, 2019, detailing the system operation, its successes, and its difficulties.

Background

Marijuana banking. According to the U.S. Treasury Department, nearly 400 banks and credit unions serve the marijuana industry nationwide. Because marijuana is illegal at the federal level, banks are at risk of federal action in response to a number of federal laws, including the Controlled Substances Act; Bank Secrecy Act; Anti-Money Laundering law; and the Know Your Customer doctrine. Although the U.S. Justice and Treasury departments previously provided guidance to banks on how to serve marijuana businesses, the guidance does not have the force of law and the current administration has withdrawn the guidance. Banks that are willing to serve marijuana businesses can charge higher fees to cover the additional monitoring required for those accounts.

Assumptions

The extent of the revenue and expenditure increase for the pilot program will only be known after rulemaking determinations on the number of participants and types of transactions to be processed. As such, the fiscal note assumes these impacts will be addressed through the annual budget process and shows only the known reporting and legal services costs.

State Revenue

Upon establishment of the pilot program, state revenue will increase by at least \$20,000 per year in FY 2018-19 and FY 2019-20 to the Marijuana Cash Fund from pass-through marijuana payments made through the DOR. If the program is broadly used, the amount of this impact will be significantly greater than \$20,000; however, the precise revenue impact has not been estimated. It is assumed that funds maintained through the system would be placed into accounts separate from all other MED funds and that these funds would not earn interest or be used for investment or lending by the state. While this revenue source would be temporary, transferred between private parties, and not utilized by the state, it is unclear on whether the funds are subject to TABOR.

State Expenditures

The bill increases state expenditures by at least \$130,238 and 1.2 FTE in FY 2018-19 and at least \$129,797 and 1.2 FTE in FY 2019-20 for DOR, to be paid from the Marijuana Cash Fund. These expenditures are shown in Table 2 and discussed below.

**Table 2
Expenditures Under SB 18-021**

	FY 2018-19	FY 2019-20
Department of Revenue		
Personal Services	\$72,799	\$72,799
Operating Expenses and Capital Outlay Costs	\$5,653	\$950
Legal Services	\$31,968	\$36,230
Pilot Program Administration	not estimated	not estimated
Centrally Appropriated Costs*	\$19,818	\$19,818
FTE – Personal Services	1.0 FTE	1.0 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
Total Cost	at least \$130,238	at least \$129,797
Total FTE	at least 1.2 FTE	at least 1.2 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Personal services. DOR will hire 1.0 FTE Rate and Financial Analyst III to perform the evaluation and reporting required under the bill. Costs reflect standard operating and capital outlay.

Legal services. DOR will require additional legal services associated with rulemaking and implementation, estimated at 300 hours in FY 2018-19 and 340 hours in FY 2019-20, at a rate of \$106.56 per hour.

Pilot program administration. The fiscal note anticipates additional costs for program administration once rules are adopted, including: accounting, computer programming, legal services, and staff. It assumes these costs will be addressed through the annual budget process.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance, supplemental employee retirement payments, and leased space, are estimated to be \$19,818 in both FY 2018-19 and FY 2019-20.

Effective Date

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

State Appropriations

In FY 2018-19, the bill requires an appropriation of \$110,420 from the Marijuana Cash Fund and an allocation of 1.2 FTE to the Department of Revenue. Of this amount, a reappropriation of \$31,968 and 0.2 FTE is required for the Department of Law.

State and Local Government Contacts

Law
Revenue

Public Health and Environment
Treasury

Regulatory Agencies