



Legislative  
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**FINAL  
FISCAL NOTE**

<b>Drafting Number:</b>	LLS 18-0211	<b>Date:</b>	July 20, 2018
<b>Prime Sponsors:</b>	Sen. Neville T.; Jahn Rep. Pabon	<b>Bill Status:</b>	Postponed Indefinitely
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**Bill Topic:** MARIJUANA CLOSED-LOOP PAYMENT SYSTEM PILOT PROJECT

**Summary of Fiscal Impact:**

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

This bill would have required the Marijuana Enforcement Division to establish a pilot payment processing program to be used for marijuana transactions. It would have increased state revenue and expenditures on an ongoing basis.

**Appropriation Summary:** In FY 2018-19, the bill would have required an appropriation of \$110,420 to the Department of Revenue.

**Fiscal Note Status:** This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

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

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

\* 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. 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 and TABOR Refund**

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**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Department of Revenue</b>		
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
<b>Total Cost</b>	<b>at least \$130,238</b>	<b>at least \$129,797</b>
<b>Total FTE</b>	<b>at least 1.2 FTE</b>	<b>at least 1.2 FTE</b>

\* 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 was postponed indefinitely by the Senate Business, Labor, and Technology Committee on February 5, 2018.

### **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**

Public Health and Environment  
Revenue

Regulatory Agencies  
Treasury