Colorado Legislative Council Staff

# Initiative # 126

# FISCAL IMPACT STATEMENT

**Date:** August 20, 2018 **Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BALLOT TITLE:** LIMITATIONS ON PAYDAY LOANS

| Fiscal Impact Summary | FY 2018-19 | FY 2019-20 |
|---|---|---|
| **State Revenue**<br>Cash Funds | up to ($85,000) | up to ($85,000) |
| **State Expenditures**<br>Cash Funds | up to ($85,000) | up to ($85,000) |
| **TABOR Refund** | up to ($85,000) | up to ($85,000) |

## Summary of Measure

Under current law, a lender may charge an origination fee, a monthly maintenance fee, and apply an interest rate of 45 percent on a deferred deposit or payday loan. The origination fee is up to 20 percent of the first $300 loaned plus 7.5 percent of any amount loaned in excess of $300. The monthly maintenance fee is $7.50 per $100 loaned, up to a maximum of $30 per month and is charged at the end of each month, beginning 30 days after the origination of the loan.

This measure limits the total cost of the loan to a maximum annual percentage rate (APR) of 36 percent and eliminates all other financing charges and fees associated with deferred deposit or payday lending. The APR is the total loan cost expressed as a yearly rate and includes the interest on the loan amount, origination fees, and monthly maintenance fees. The measure also expands what constitutes unfair or deceptive trade practices for deferred deposit or payday lending.

## Background

Deferred deposit or payday loans are small, unsecured loans that must be repaid quickly. Colorado law limits payday loans to $500 with a minimum repayment term of six months and no maximum repayment term. In 2016, about 207,000 individuals in Colorado obtained 414,284 deferred deposit or payday loans from the state's 180 licensed lenders, which represented over $166 million in loans. The average deferred deposit or payday loan was about $392 in 2016, with a 129 percent average APR.

The Uniform Consumer Credit Unit of the Department of Law licenses deferred deposit and payday lenders, conducts compliance examinations of their loans, investigates complaints involving lenders, and establishes rules for the industry. The current annual license fee is $500. Of this, $400 is retained by the Uniform Consumer Credit Cash Fund and $100 is transferred to the Identity Theft and Financial Fraud Cash Fund in the Department of Public Safety.

## State Revenue

If Initiative 126 results in deferred deposit or payday lenders choosing not to renew their licenses, there will be a reduction in fee revenue of up to $85,000. The Uniform Consumer Credit Cash Fund will have a revenue reduction of up to $68,000 and the Identity Theft and Financial Fraud Cash Fund will have a reduction of up to $17,000. These revenue reductions are subject to TABOR. If the revenue reduction creates a budget shortfall for the Uniform Consumer Credit Unit in the Department of Law, the unit is authorized under current law to increase the license fees for other lenders. The Department of Public Safety portion of the license fee was created in statute and would require legislative action to recover the loss in revenue.

If the measure results in an increase in lenders found to have committed unfair or deceptive trade practices, fine revenue to the General Fund may increase and this revenue is subject to TABOR. Because there is no record of any such cases in recent years, the fiscal note does not assume such a revenue increase.

## State Expenditures

If the measure is approved by voters, the Uniform Consumer Credit Unit in the Department of Law will update its rules and examination procedures to reflect the new APR limit. Current unit resources are sufficient to make these updates as well as to continue to license and examine deferred deposit or payday lenders in the future. If the number of licensees decreases due to the measure, the unit is expected to maintain the same workload, but will reprioritize its inspection efforts among the other lenders licensed by the unit. The Department of Public Safety may need to reduce its financial fraud operating expenses to address the revenue reduction during the annual budget process. If unfair or deceptive trade practices cases are brought because of the measure, the Judicial Department will have a workload increase. Any increase in workload is not expected to require additional appropriations.

**TABOR Refunds.** The bill is expected to decrease state General Fund obligations for TABOR refunds by up to $85,000 in FY 2018-19 and FY 2019-20. Under current law and the current revenue forecast, TABOR refunds are expected to be paid in the following year via reimbursements to local governments for senior and disabled veteran property tax exemptions. The measure will not affect the amount of these reimbursements.

## Effective Date

The measure takes effect on February 1, 2019, if approved by voters at the 2018 general election.

## Departments Contacted

Law Judicial Public Safety