

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING CIVIL FORFEITURE REFORM, AND, IN CONNECTION THEREWITH, CHANGING THE ENTITY REQUIRED TO REPORT ON FORFEITURES, EXPANDING THE SCOPE OF THE FORFEITURES TO BE REPORTED, ESTABLISHING GRANT PROGRAMS, AND CHANGING THE DISBURSEMENT OF NET FORFEITURE PROCEEDS.

Prime Sponsors: Representative Herod
Senator Kagan

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Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 02/20/18.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$1,487,821 cash funds from the Marijuana Tax Cash Fund to the Department of Public Safety for FY 2018-19 for the Law Enforcement Assistance Grant Program. This provision also states that the appropriation is based on the assumption that the Department will require an additional 0.8 FTE.

Points to Consider

Revenue Source/ Related Budget Information

1. A total of \$133.8 million is projected to be available in the Marijuana Tax Cash Fund for appropriation in FY 2018-19. The Joint Budget Committee (JBC) has included as part of its FY 2018-19 budget package a \$1,500,000 cash funds appropriation from the Marijuana Tax

Cash Fund for FY 2018-19 for implementation of this bill. Pursuant to Section 39-28.8-501 (2)b)(iv)(F), C.R.S., the General Assembly may appropriate money in this fund for "law enforcement and law enforcement training".

Future Budget Processes/ Technical Issues

2. The bill creates the Law Enforcement Community Services Grant Program Fund, which consists of three sources of potential revenues:
 - proceeds from forfeited property;
 - any gifts, grants, and donations received; and
 - any other money that the General Assembly may appropriate or transfer to the Fund.

The provision creating this fund does not clearly indicate whether the Fund is subject to annual appropriation or continuously appropriated to the Department of Local Affairs (DOLA). The bill states that DOLA's Division of Local Government "may only expend money from the fund for the grants awarded ... and for up to five percent of the money in the fund for the direct and indirect costs incurred in administering the grant program" [page 11, line 26, through page 12, line 2]. The bill also states that the Division "is not required to implement the program until sufficient funds are received in the fund". However, grant awards are subject to available appropriations [see page 9, lines 7 through 10]. Thus, **it appears that DOLA would require an appropriation to make grant awards when there is sufficient money in the Fund, but it is not clear whether DOLA would require an appropriation to incur administrative expenditures.**

3. As described at the bottom of page five of the attached Fiscal Note, **the 5.0 percent limitation on DOLA's administrative expenditures is not sufficient to cover DOLA's costs of administering the grant program.** In addition, if the General Assembly intends to impose a limit on administrative expenditures, it would be more clear and transparent to impose a limit by applying a percentage to the amount annually *appropriated from* the Fund rather than the amount *in* the Fund. An appropriated amount is clear and certain, while the amount of money *in* the Fund may change throughout the fiscal year and it is not as easily identifiable.