



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0864
Prime Sponsors: Rep. Melton

Date: February 19, 2018
Bill Status: House Business
Fiscal Analyst: Erin Reynolds | 303-866-4146
Erin.Reynolds@state.co.us

Bill Topic: BITCOIN DEALERS LICENSED AS MONEY TRANSMITTERS

- Summary of Fiscal Impact:
- State Revenue (checked)
- State Expenditure (checked)
- State Transfer (unchecked)
- TABOR Refund (unchecked)
- Local Government (unchecked)
- Statutory Public Entity (unchecked)

This bill requires cryptocurrency activities to be licensed by the Division of Banking. It will annually increase state revenue and expenditures beginning in FY 2018-19.

Appropriation Summary: In FY 2018-19, the bill requires an appropriation of \$195,024 to the Department of Regulatory Agencies.

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

Table 1
State Fiscal Impacts Under HB 18-1220

Table with 5 columns: Category, Sub-category, FY 2018-19, FY 2019-20, FY 2020-21. Rows include Revenue (Cash Funds, Total), Expenditures (Cash Funds, Centrally Appropriated, Total), Total FTE, and Transfers.

Summary of Legislation

Under current law, cryptocurrency activities are not subject to any state regulation. This bill expands the definition of "money transmission" in order to regulate cryptocurrency activity under the Money Transmitters Act in the Division of Banking in the Department of Regulatory Agencies (DORA). Money transmission is defined to include offering or managing cryptocurrency wallets; buying or selling cryptocurrency; or trading or exchanging cryptocurrency for any other fiat currency. The bill also defines "cryptocurrency" to mean a digital currency in which encryption techniques are used to regulate the generation of currency units, verify the transfer of funds, record transactions, or prevent counterfeiting and fraudulent transactions.

Background

Cryptocurrency is digital currency used to make online financial transactions outside the regulated banking system. Transactions are recorded on a digital public ledger called a blockchain. To date, five states have enacted legislation related to cryptocurrency and blockchain technology including Arizona, Delaware, Illinois, Nevada, and Vermont.

State Revenue

The bill will increase state cash fund revenue to the Division of Banking Cash Fund from licensing fees by \$235,500 in FY 2018-19, \$358,000 in FY 2019-20, and \$485,500 in FY 2020-21.

Fee impact on cryptocurrency exchanges. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set in rule by the Colorado Banking Board based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. The table below relies on the current money transmitter fee schedule, with a reduction for the three-year exam fee, to show the potential amount of fee revenue under the bill.

Table 2
Fee Impact on Cryptocurrency Exchanges

Year	Type of Fee	Fee	Licenses	Fee Impact
FY 2018-19	New Cryptocurrency Application	\$7,500	25	\$187,500
	Initial Exam Fee	\$1,920	25	\$48,000
	Background Check Fee	\$39.50	100	\$3,950
FY 2018-19 Total				\$239,450
FY 2019-20	New Cryptocurrency Application	\$7,500	25	\$187,500
	Initial Exam Fee	\$1,920	25	\$48,000
	Background Check Fee	\$39.50	100	\$3,950
	3-Year Exam Fee	\$5,000	12	\$24,000
	Cryptocurrency Renewal	\$3,500	25	\$75,000
FY 2019-20 Total				\$338,450
FY 2020-21	New Cryptocurrency Application	\$7,500	25	\$187,500
	Initial Exam Fee	\$1,920	25	\$48,000
	Background Check Fee	\$39.50	100	\$3,950
	3-Year Exam Fee	\$5,000	25	\$50,000
	Cryptocurrency Renewal	\$3,500	50	\$150,000
FY 2020-21 Total				\$439,450

Fingerprint-based background checks—DPS. Table 2 shows a fee for fingerprint-based criminal history background checks that will be collected by DORA and passed on to the Department of Public Safety, in the amount of \$3,950 per year beginning in FY 2018-19 to the CBI Identification Unit Cash Fund. The current fee for background checks is \$39.50, which includes \$10 for a Federal Bureau of Investigation (FBI) fingerprint-based check, passed on to that federal agency. The federal portion of this fee is excluded from the state TABOR limit. The background check is required only upon initial licensure and is not required for renewal. This revenue amount is based on an estimated 100 background checks per year, which represents 25 licensees and an estimated average 3 employees.

TABOR Refund

The bill increases state revenue subject to TABOR by the amounts shown in Table 2, less the pass-through dollars for the federal component of the fingerprint background check. State revenue is not currently expected to exceed the TABOR limit in the next two fiscal years and no refund is required. However, refunds in future years when the state next collects a TABOR surplus will be increased.

State Expenditures

The bill increases state cash fund expenditures from the Division of Banking Cash Fund by \$228,353 and 2.5 FTE in FY 2018-19, \$318,011 and 3.5 FTE in FY 2019-20, and \$357,497 and 4.0 FTE in FY 2020-21. These expenditures are shown in Table 3 and discussed below.

**Table 3
Expenditures Under HB 18-1220**

	FY 2018-19	FY 2019-20	FY 2020-21
Department of Regulatory Agencies			
Personal Services	\$163,934	\$249,942	\$286,342
Operating Expenses and Capital Outlay Costs	\$16,484	\$8,028	\$3,800
Legal Services	\$10,656	\$5,328	\$5,328
Fingerprint Background Checks	\$3,950	\$3,950	\$3,950
Centrally Appropriated Costs*	\$33,329	\$50,763	\$58,077
Total Cost	\$228,353	\$318,011	\$357,497
Total FTE	2.5 FTE	3.5 FTE	4.0 FTE

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

Data and Assumptions. The Division of Banking in DORA currently regulates 83 money transmitters at an approximate annual cost of \$700,000 and 7.0 FTE. The fiscal note assumes that the regulation of cryptocurrency activities will take a similar amount of work, with some efficiencies achieved through existing staff. As of writing, there are approximately 130 cryptocurrency exchanges in existence, and an unknown number of cryptocurrency companies. It is assumed that a total of 75 exchanges will seek Colorado regulation over a period of three years, at the rate of 25 per year. The fiscal note also assumes annual license renewal.

Division of Banking. Based on the assumptions outlined above, the fiscal note estimates that the division will require an increase in Financial and Credit Examiners to perform examinations and to supervise the program. A full-time examiner is required to supervise the program beginning in FY 2018-19. Each application is estimated to require 80 hours of processing time, which includes an initial supervisory exam and, beginning in FY 2019-20, full-scope examinations on a cycle of one every three years for each licensee requiring 200 hours of processing time. This workload equates to 1.0 FTE in FY 2018-19, 2.0 FTE in FY 2019-20, and 2.5 FTE in FY 2020-21 and ongoing. Similar to the current staffing for the money transmitters, 0.5 Administrative Assistant II will also be required to perform program support beginning in FY 2018-19. First years costs have been prorated for the bill's effective date. Standard operating and capital outlay costs are included.

Legal services. The program will require legal services for initial rulemaking and general program support on an ongoing basis. Legal services have been calculated at the rate of \$106.56 per hour for 100 hours in FY 2018-19 and 50 hours annually thereafter.

Fingerprint-based background checks—DPS. The bill increases cash fund expenditures for fingerprint-based criminal history background checks by \$3,950 each year from FY 2018-19 to FY 2020-21 from the CBI Identification Unit Cash fund in DPS. This covers the costs of conducting additional background checks, including fingerprint examiner and data specialist time, postage, and per-print software and equipment costs, as well as the pass-through costs for the FBI component.

Information Technology Audit Support. Given the technical nature of the licensed activities, another information technology auditor may be required to assist in the conducting of examinations. This staff has not been included in this fiscal note and, if needed, 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 and supplemental employee retirement payments, are \$33,329 in FY 2018-19, \$50,763 in FY 2019-20, and \$58,077 in FY 2020-21.

Technical Note

“Money transmission,” as defined in the bill, may be interpreted to mean that any individual who initiates a cryptocurrency transaction is subject to the licensing requirements under the bill. This would include an exponentially larger population than the one assumed in this fiscal note.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2018-19, the bill requires a cash fund appropriation of \$195,024 from the Division of Banking Cash Fund to the Department of Regulatory Agencies and an allocation of 2.5 FTE. Of this amount, the bill requires reappropriations of \$10,656 to the Department of Law, and \$3,950 to the Department of Public Safety.

State and Local Government Contacts

Information Technology
Regulatory Agencies

Law
Secretary of State

Public Safety