SB 23-280

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 3, 2023)

Drafting Number:	LLS 23-0270	**Date:**	May 6, 2023
Prime Sponsors:	Sen. Mullica Rep. Snyder	**Bill Status:**	House Second Reading
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Bill Topic: **HAZARDOUS MATERIAL MITIGATION**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☒ State Transfer
☐ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

The bill creates an enterprise and a grant program, among other changes, to address hazardous materials transportation and vehicle emissions. It increases state and local revenue and expenditures beginning in FY 2023-24.

Appropriation Summary: No appropriation is required, as the Fuels Impact Enterprise Cash Fund is continuously appropriated to the Department of Transportation.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill, as amended by the House Finance Committee and the House Appropriations Committee.

Table 1
State Fiscal Impacts Under SB 23-280

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	Cash Funds	$14.5 million	$19.5 million
	Total Revenue	**$14.5 million**	**$19.5 million**
Expenditures	Cash Funds	$14,389,621	$14,899,596
	Centrally Appropriated	$16,486	$20,223
	Total Expenditures	**$14,406,107**	**$14,919,819**
	Total FTE	**0.8 FTE**	**1.0 FTE**
Transfers	Petroleum ST Fund	(up to $500,000)	(up to $500,000)
	Petroleum C&R Fund	up to $500,000	up to $500,000
	Net Transfer	**$0**	**$0**
Other Budget Impacts		-	-

Summary of Legislation

The bill makes a number of changes to address hazardous materials transportation and vehicle emissions, including creating an enterprise, and a grant program. The changes in the bill are discussed below.

Fuels Impact Enterprise. The bill creates the Fuels Impact Enterprise in the Department of Transportation (CDOT) to improve the transportation of fuel and monitor vehicle emissions. The enterprise repeals January 1, 2030.

- **Fuel impacts reduction fee.** Beginning September 1, 2023, the enterprise will impose a fuels impact reduction fee of up to 0.6125 cents per gallon of fuel on licensed fuel excise tax distributors and licensed fuel distributors.

- **Grant program.** The enterprise will administer the Fuel Impacts Reduction Grant Program, which makes grants to certain communities, governments, and transportation corridors for improving hazardous mitigation corridors and projects related to emergency responses, environmental mitigation, or fuel transportation.

- **Cash fund.** The bill creates the Fuels Impact Enterprise Cash Fund, which consists of fuels impact reduction fee revenue, any federal money received by the enterprise, and any gifts, grants, or donations. The fund is continuously appropriated to the enterprise, and the fund balance is limited to $15 million.

Petroleum and other fuel fees. Purchasers, manufacturers, and distributors of odorized liquefied petroleum gas may pay a fee per tank truckload of fuel products delivered. The fee depends on the balance of the Petroleum Storage Tank Fund. Under current law, no fee is required if the fund balance exceeds $8 million; otherwise it is $25. Under current law, the fund balance limit is scheduled to repeal on September 1, 2023, at which point fees increase. The bill extends the existing fee schedule for ten years, until September 1, 2033.

Under current law, manufacturers and distributors of certain other fuel products also pay a fee of $25 per tank truckload of fuel products delivered. The bill extends this fee, which is currently scheduled to repeal September 1, 2026, until September 1, 2031. The bill also adjusts the formula by which fee revenue is paid to support various state functions, as described in Table 2.

Table 2
Distribution of Fuel Product Fees

Recipient	Current Law	Under SB 23-280
Department of Public Safety for the regulation of hazardous materials on highways	$100,000	$2,000,000
Department of Revenue	Administrative costs	Administrative costs
Perfluoroalkyl and Polyfluoroalkyl Substances Cash Fund	75 percent of remaining revenue	70 percent of remaining revenue
Department of Transportation for hazardous material safety products	25 percent of remaining revenue	30 percent of remaining revenue

Under current law, these fees are only collected if the balance of the Perfluoroalkyl and Polyfluoroalkyl Substances Cash fund is less than $8 million. The bill increases this threshold to $9 million on October 1, 2023. The bill extends CDPHE's existing reporting requirements on the Perfluoroalkyl and Polyfluoroalkyl Substances Cash Fund and related activities from 2027 to 2036.

Petroleum regulations. The bill allows the Department of Labor and Employment (CDLE) to transfer up to $500,000 annually from the Petroleum Storage Tank Fund to the Petroleum Cleanup and Redevelopment Fund.

Current law allows certain owners and operators of underground or aboveground petroleum storage tanks to access state funds for remediation. They must repay the state the lesser of the remediation amount or $10,000. The bill allows CDLE to instead base the payment on a percentage of the remediation amount.

State Revenue

The bill increases state revenue from the new fee on fuel distributors by about $14.5 million in FY 2023-24 and $19.5 million in FY 2024-25.

The Fuels Impact Enterprise will impose a fee of up to 0.6125 cents per gallon on manufacturers or distributors of certain fuel products. 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 administratively by the Fuels Impact Enterprise based on cash fund balance, program costs, and the amount of product subject to the fee. The table below identifies the fee impact of this bill. The fiscal note assumes the maximum fee of 0.6125 cents per gallon. The total fuel estimate in FY 2023-24 is prorated for nine months of the fiscal year based on the bill's effective date. This revenue is not subject to TABOR because it is collected by an enterprise.

Table 3
Fee Impact on Fuel Distribution

Fiscal Year	Type of Fee	Proposed Fee	Number of Gallons Affected	Total Fee Impact
FY 2023-24	Fuels Impact Reduction	$0.006125	2.37 billion	$14.5 million
FY 2024-25	Fuels Impact Reduction	$0.006125	3.19 billion	$19.5 million

Gifts, grants, and donations. The bill potentially increases state revenue to the Fuels Impact Enterprise Cash Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

State Transfers

Beginning in FY 2023-24, CDLE may transfer up to $500,000 annually from the Petroleum Storage Tank Fund to the Petroleum Cleanup and Redevelopment Fund.

State Expenditures

The bill increases state expenditures in CDOT by $14.4 million in FY 2023-24 and $14.9 million in FY 2024-25 paid from the Fuels Impact Enterprise Cash Fund. Expenditures are shown in Table 4 and discussed below

Table 4
Expenditures Under SB 23-280

		FY 2023-24	FY 2024-25
Department of Transportation			
Personal Services		$81,871	$98,246
Operating Expenses		$1,080	$1,350
Capital Outlay Costs		$6,670	-
Grants		$14,300,000	$14,800,000
Centrally Appropriated Costs[1]		$16,486	$20,223
	Total Cost	**$14,406,107**	**$14,919,819**
	Total FTE	**0.8 FTE**	**1.0 FTE**

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

Department of Transportation. Expenditures include administering the new Fuels Impact Enterprise, the associated grant program, and updating its fleet.

- **Staffing.** Administering the enterprise and awarding grants under the bill requires 1.0 FTE beginning in FY 2023-24. Standard operating and capital outlay costs are included, and costs have been prorated for the bill's effective date.

- **Grant program.** The total amount available in grant awards depends on the amount of fuels impact reduction fee revenue collected, any revenue retained by the Department of Revenue for its administrative expenses, and the number of applications for discretionary grants.

Distribution of fuel fees. Changing the distribution of fuel fee revenue among the Department of Public Safety, the Perfluoroalkyl and Polyfluoroalkyl Substances Cash Fund in CDPHE and CDOT causes no net increase in expenditures, but shifts where these expenditures will occur. Generally speaking, expenditures in CDPS will increase, expenditures in CDPHE will decrease, and expenditures in CDOT may increase or decrease, depending on the total revenue collected.

Department of Revenue. The DOR will have an increase in workload to collect and distribute the fuels impact reduction fee, for which the bill allows it to retain administrative expenses. The fiscal note assumes any administrative costs will be minimal and addressed through the annual budget process as necessary.

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 shown in Table 4.

Local Government

Revenue and expenditures will increase in any local government that receives a grant from the Fuels Impact Enterprise. The bill specifies annual awards as follows:

- $6,400,000 to Adams County;
- $2,000,000 to the city of Aurora;
- $1,300,000 to El Paso County;
- $240,000 to Mesa County; and
- $60,000 to Otero County.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Colorado Energy Office	Information Technology	Labor
Law	Personnel	Public Health and Environment
Public Safety	Revenue	Transportation