



Legislative  
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**FISCAL NOTE**

**Drafting Number:** LLS 20-1147  
**Prime Sponsors:** Sen. Fenberg; Lee

**Date:** June 6, 2020  
**Bill Status:** Senate Finance  
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**Bill Topic:** **CDPHE HAZARDOUS SUBSTANCES RESPONSE**

**Summary of Fiscal Impact:**

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

This bill creates a new fee on fuel products to fund a grant program and a takeback program for Perfluoroalkyl and Polyfluoroalkyl Substances in the Department of Public Health and Environment and to fund the provision of technical assistance to communities. The bill increases state revenue and expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2020-21, the bill requires an appropriation of \$1,679,860 to multiple state agencies. Other funds are continuously appropriated. See State Appropriations section.

**Fiscal Note Status:** This preliminary fiscal note reflects the introduced bill. While all agencies were canvassed for this fiscal note, additional time may be required to obtain information from agencies and to further review information previously submitted. The fiscal note will be updated if new or additional information becomes available.

**Table 1**  
**State Fiscal Impacts Under SB 20-218**

		FY 2020-21	FY 2021-22
<b>Revenue</b>	General Fund	\$6,250,000	\$7,500,000
	<b>Total</b>	<b>\$6,250,000</b>	<b>\$7,500,000</b>
<b>Expenditures</b>	General Fund	\$156,480	-
	Cash Funds	\$6,050,512	\$6,840,739
	Centrally Appropriated	\$208,590	\$308,714
	<b>Total</b>	<b>\$6,415,582</b>	<b>\$7,149,453</b>
	<b>Total FTE</b>	<b>3.8 FTE</b>	<b>5.0 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## **Summary of Legislation**

This bill creates a fee on fuel products to:

- fund the Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Cash Fund;
- support the Department of Transportation in enhancing the safety of transporting hazardous materials; and
- support the Colorado State Patrol in regulating hazardous materials on highways in the state.

The \$25 fee per tank truckload of fuel products delivered during the previous calendar month for sale or use in Colorado will be collected by the Department of Revenue (DOR). Between September 1, 2020, and September 30, 2021, the fee will be disbursed as follows:

- 50 percent after DOR administrative costs to the PFAS Cash Fund;
- 25 percent after DOR administrative costs to the Department of Transportation; and
- 25 percent after DOR administrative costs to the Department of Public Safety.

Between October 1, 2021, and September 30, 2026, the fee will be disbursed as follows:

- \$100,000 to the Department of Public Safety;
- 75 percent of the remaining amount after DOR administrative costs to the PFAS Cash Fund; and
- 25 percent of the remaining amount after DOR administrative costs to the Department of Transportation.

If the PFAS Cash Fund exceeds \$8.0 million, the DOR will not collect the fee.

**PFAS Cash Fund.** Money in the fund is continuously appropriated to:

- administer the PFAS grant program and for grant awards;
- administer the PFAS Takeback Program and purchase and dispose of materials under the takeback program; and
- providing technical assistance in locating and studying PFAS to communities, stakeholders, and regulatory boards and commissions.

**PFAS grant program.** The Department of Public Health and Environment (CDPHE) will develop and administer the grant program. Grant recipients may use grant awards for the following purposes:

- sampling, assessment and investigation of PFAS in ground or surface water;
- funding water systems infrastructure used for treatment of PFAS; and
- providing emergency assistance to communities and water systems affected by PFAS.

**PFAS takeback program.** The CDPHE will develop and administer the takeback program. This will include the identification, pricing, and purchase and proper disposal of eligible materials.

**Reporting.** The CDPHE will report annually to the General Assembly by February 1 of each year, beginning February 1, 2021, until February 1, 2027. The report will include:

- amounts credited to the PFAS Fund and unobligated balance;
- number of grant applicants and the number and value of grant awards;

- details on grantee activities;
- amount of eligible materials purchased and properly disposed of under the takeback program;
- any newly located PFAS; and
- any recommended legislation or policy changes.

**Civil penalties.** The bill also creates new civil penalties of not more than \$15,000 per day for each violation for owners or operators of storage tanks at gasoline dispensing facilities who violate requirements to maintain a vapor collection system. Owners and operators of gasoline dispensing facilities who violate requirements to maintain records are subject to a civil penalty of not more than \$5,000 for a first violation, \$10,000 for a second violation, and \$15,000 for subsequent violations.

**Design, operation, and maintenance guidelines.** The bill requires stakeholders from gasoline dispensing facilities and gasoline transport truck companies to collaborate with the CDPHE in the design, operation and maintenance of guidelines to assist owners and operators of gasoline dispensing facilities and gasoline transport trucks in complying with the requirements of Air Quality Control Commission regulations.

## Background

PFAS are synthetic chemicals that were developed in the early 1900s to coat products to make them heat-, water-, and oil-resistant. They have become prevalent in a variety of products used around the world, including: nonstick cookware, water-repellent clothing, stain-resistant fabrics, and firefighting foams. According to the Environmental Protection Agency (EPA), there are over 4,000 different types of PFAS that have been manufactured in the last 70 years.

## State Revenue

This bill will increase state cash fund revenue by \$6.3 million in FY 2020-21 and \$7.5 million in FY 2021-22. This revenue is subject to TABOR. The bill may also increase civil penalties but those amounts are not estimated.

**Fee impact on fuel products manufacturers.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are set in the bill. The number of gallons per year is based on historical monthly averages of fuel deliveries. The table below identifies the fee impact of this bill.

**Table 2**  
**Fee Impact on Fuel Product Manufacturers**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Gallons per Year</b>	<b>Total Fee Impact</b>
<b>FY 2020-21</b>	Fuel products fee	\$25	250,000	\$6,250,000
<b>FY 2021-22</b>	Fuel products fee	\$25	300,000	\$7,500,000

**State Expenditures**

This bill will increase state cash fund expenditures by up to up \$6.3 million in FY 2020-21 and up to \$7.1 million in FY 2021-22 and through FY 2025-26 for multiple agencies. Expenditures are shown in Table 3 and explained below.

**Table 3  
Expenditures Under SB 20-218**

<b>Cost Components</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Department of Public Health and Environment</b>		
Personal Services	\$311,142	\$414,855
Operating Expenses	\$5,130	\$6,750
Capital Outlay Costs	\$31,000	-
Grants	\$1,000,000	\$1,500,000
Takeback purchases	\$1,000,000	\$1,500,000
Technical support	\$500,000	\$1,000,000
Centrally Appropriated Costs*	\$208,590	\$308,714
FTE – Personal Services	3.8 FTE	5.0 FTE
<b>CDPHE Subtotal</b>	<b>\$3,055,862</b>	<b>\$4,730,319</b>
<b>Department of Revenue</b>		
Computer Programming	\$119,500	-
System Testing and Maintenance	\$36,980	\$766
<b>DOR Subtotal</b>	<b>\$156,480</b>	<b>\$766</b>
<b>Department of Public Safety</b>		
Colorado State Patrol Hazardous Materials Section	up to \$1,523,380	up to \$568,559
<b>DPS Subtotal</b>	<b>\$1,523,380</b>	<b>\$568,559</b>
<b>Department of Transportation</b>		
Hazardous Materials Transportation and Infrastructure	up to \$1,523,380	up to \$1,849,809
<b>CDOT Subtotal</b>	<b>\$1,523,380</b>	<b>\$1,849,809</b>
<b>Total</b>	<b>\$6,259,102</b>	<b>\$7,149,453</b>
<b>Total FTE</b>	<b>3.8 FTE</b>	<b>5.0 FTE</b>

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

**CDPHE.** The CDPHE will add staff to administer the PFAS Grant Program and PFAS Takeback Program as well as staff to provide technical assistance, testing, and risk assessments. Five staff will be added beginning in October 2020 and those FTE and costs are prorated to reflect that start date. This includes Physical Researcher/Scientist III and Environmental Protection Specialist II employees.

**Department of Revenue.** The DOR will have startup programming and testing costs for GenTax and the Colorado Fuel Tracking System (COFTS) in FY 2020-21. The cost for GenTax programming is estimated at \$49,500 and COFTS at \$70,000. Testing requires a one-time cost of \$36,980 and ongoing maintenance is \$766 per year beginning in FY 2021-22.

**Department of Transportation and Department of Public Safety.** Both departments will receive a portion of the fee collected. The fiscal note assumes these funds will be used to enhance their current activities related to the transportation of hazardous materials.

## **Local Government**

Local governments can request technical assistance from CDPHE to include risk assessments, testing, and safe disposal methods for PFAS. Local governments can also receive PFAS grants.

## **Technical Note**

The DOR requires \$156,480 for startup costs prior to the collection of revenue. This amount is shown as a General Fund appropriation and also subtracted from the first year cash fund disbursements to the CDPHE, CDOT, and DPS.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State Appropriations**

For FY 2020-21, the bill requires a General Fund appropriation of \$156,480 to the Department of Revenue and a cash funds appropriation of \$1,523,380 to the Department of Public Safety from the Hazardous Materials Safety Fund.

The PFAS Cash Fund is continuously appropriated for the PFAS Grant Program and Takeback Program. Funds credited to the State Highway Fund for the Department of Transportation are also continuously appropriated.

## **State and Local Government Contacts**

Public Health and Environment	Public Safety
Revenue	Transportation