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SB 20-218

FINAL FISCAL NOTE

Drafting Number: LLS 20-1147
Prime Sponsors: Sen. Fenberg; Lee
Rep. Singer; McKean

Date: August 11, 2020
Bill Status: Signed into Law
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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. It also provides funding for the Colorado State Patrol and the Department of Transportation to address the safety of hazardous material transportation. The bill increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2020-21, the bill requires an appropriation of \$1,592,327 to multiple state agencies. Other funds are continuously appropriated. See State Appropriations section.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

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

		FY 2020-21	FY 2021-22
Revenue	Cash Funds	\$6,250,000	\$7,500,000
	Total	\$6,250,000	\$7,500,000
Expenditures	General Fund	\$39,769	-
	Cash Funds	\$5,952,388	\$7,040,259
	Centrally Appropriated	\$208,590	\$318,714
	Total	\$6,200,747	\$7,358,973
	Total FTE	3.8 FTE	5.0 FTE
Transfers		-	-
TABOR Refund		-	-

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 freight and 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 tank loads per year is based on historical monthly averages of fuel deliveries. A tank load represents 8,000 gallons of fuel. The table below identifies the fee impact of this bill.

Table 2
Fee Impact on Fuel Product Manufacturers

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

State Expenditures

This bill will increase state cash fund expenditures by up to up \$6.2 million in FY 2020-21 and up to \$7.4 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

Cost Components	FY 2020-21	FY 2021-22
Department of Public Health and Environment		
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	\$1,200,000
Centrally Appropriated Costs*	\$208,590	\$318,714
FTE – Personal Services	3.8 FTE	5.0 FTE
CDPHE Subtotal	\$3,055,862	\$4,940,319
Department of Revenue		
Computer Programming	\$24,750	-
System Testing and Maintenance	\$15,019	\$126
DOR Subtotal	\$39,769	\$126

**Table 3 (Cont.)
 Expenditures Under SB 20-218**

Department of Public Safety		
Colorado State Patrol Hazardous Materials Section	up to \$1,552,558	up to \$568,719
DPS Subtotal	\$1,552,558	\$568,719
Department of Transportation		
Hazardous Materials Transportation and Infrastructure	up to \$1,552,558	up to \$1,849,969
CDOT Subtotal	\$1,552,558	\$1,849,809
Total	\$6,200,747	\$7,358,973
Total FTE	3.8 FTE	5.0 FTE

* 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 recommendations on human health-based standards, and identify safe disposal methods. 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 in FY 2020-21. The cost for GenTax programming is estimated at \$24,750. Testing requires a one-time cost of \$15,019 and ongoing maintenance is \$126 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.

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 estimated to be \$208,590 in FY 2020-21 and \$318,714 in FY 2021-22.

Local Government

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

Technical Note

The DOR requires \$39,769 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 was signed into law by the Governor and took effect June 29, 2020.

State Appropriations

For FY 2020-21, the bill requires a General Fund appropriation of \$39,769 to the Department of Revenue and a cash funds appropriation of \$1,552,558 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
Revenue

Public Safety
Transportation