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Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 17, 2023)

Drafting Number: LLS 23-0018
Prime Sponsors: Rep. Kipp

Date: March 15, 2023
Bill Status: House Finance
Fiscal Analyst: Colin Gaiser | 303-866-2677
colin.gaiser@coleg.gov

Bill Topic: **DRIVER LICENSE EXAMINATION REIMBURSEMENT**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill creates the Affordable Driver Education Program Testing Enterprise to fund driver training and examinations. The bill increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$5.3 million to the Department of Revenue.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the House Transportation, Housing, and Local Government Committee.

Table 1
State Fiscal Impacts Under HB 23-1147

| | | Budget Year FY 2023-24 | Out Year FY 2024-25 | Out Year FY 2025-26 |
|---------------------|---------------------------|---------------------------|------------------------|-------------------------------|
| Revenue | ADEPT Enterprise Fund | \$5,302,991 | \$5,999,658 | at least \$7.5 million |
| | DRIVES Cash Fund | (\$206,892) | (\$225,700) | (\$225,700) |
| | Total Revenue | \$5,096,999 | \$5,773,958 | at least \$7.3 million |
| Expenditures | ADEPT Enterprise Fund | \$5,273,504 | \$5,905,621 | at least \$7.5 million |
| | Centrally Appropriated | \$29,487 | \$94,397 | \$94,397 |
| | Total Expenditures | \$5,302,991 | \$5,999,658 | at least \$7.6 million |
| | Total FTE | 1.6 FTE | 5.5 FTE | 5.5 FTE |
| Transfers | | - | - | |
| Other Budget | TABOR Refund | (\$206,892) | (\$225,700) | (\$225,700) |

Summary of Legislation

The bill creates the Affordable Driver Education Program Testing (ADEPT) Enterprise for the purpose of:

- increasing access to driver training and driving examinations in areas that are underserved by third-party driving examination providers, including by providing driving examinations at least once a week in areas that do not have a third-party provider within 60 miles from a license-issuing Department of Revenue (DOR) or county office;
- making available to the public, at no cost, an online driver training program that qualifies the student to be issued an instruction permit offered in English and Spanish;
- creating a system that allows a third-party provider or county office to verify whether an individual seeking a driving examination has proof of financial responsibility; and
- reimbursing a third-party provider so that the cost to an individual taking an examination is no more than \$25 for each initial driving examination and \$50 for a reexamination taken after a failed examination.

The bill establishes the makeup of the governing board of the ADEPT Enterprise and authorizes the governing board to issue bonds with approval of the executive director of the DOR. In addition, the bill directs to governing board to:

- oversee the implementation of the bill;
- annually report to the executive director and coordinate with the department;
- establish policies; and
- hire employees and obtain necessary office space, equipment, and services.

To implement the bill, a fee is established on applications for or issuance of an instruction permit or a driver license. The bill also prohibits the DOR from collecting a fee when an individual retakes a driving examination not administered by the DOR.

State Revenue

The bill increase state revenue to the ADEPT Enterprise Fund, which is TABOR exempt, and decreases state revenue to the DRIVES Cash Fund, which is subject to TABOR. These impacts are outlined in Table 2 and discussed below.

Table 2
State Revenue Under HB 23-1147

| | FY 2023-24 | FY 2024-25 | FY 2025-26 |
|-----------------------|--------------------|--------------------|-------------------------------|
| ADEPT Enterprise Fund | \$5,302,991 | \$5,783,112 | at least \$7.5 million |
| DRIVES Cash Fund | (\$206,892) | (\$225,700) | (\$225,700) |
| Total Revenue | \$5,096,999 | \$5,557,412 | at least \$7.3 million |

Fee impact on drivers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill sets the fee at \$3; however, this fiscal note assumes the fee will need to cover the estimated cost outlined in the State Expenditures section—see Technical Note—and is applied to approximately 1.3 million licenses and permits issued per year. For FY 2023-24, revenue impacts are prorated to ten months to reflect an assumed September implementation date for the bill. Table 3 identifies the fee impact of this bill.

Table 3
Fee Impact on Drivers

| Fiscal Year | Type of Fee | Proposed Fee | Number Affected | Total Fee Impact |
|--------------------|----------------------|---------------------|------------------------|-------------------------|
| FY 2023-24 | ADEPT Enterprise Fee | \$4.33 | 1,224,898 | \$5,302,991 |
| FY 2024-25 | ADEPT Enterprise Fee | \$4.33 | 1,336,252 | \$5,783,112 |
| FY 2025-26 | ADEPT Enterprise Fee | at least \$5.60 | 1,336,252 | at least \$7.5 million |

DRIVES Cash Fund. The bill will decrease revenue to the DRIVES Cash Fund by \$225,700 per year due to the repeal of the \$15 exam retake fee. Since the DOR ceased conducting driving exams in early 2020, around \$225,700 has been collected annually in driving exam retake fees. This amount is prorated to ten months in FY 2023-24, to reflect the September effective date for the bill.

Voter approval of new state enterprises. Current law requires voter approval for a state enterprise with projected or actual revenue from fees and surcharges over \$100 million in its first five fiscal years. The new enterprise in this bill will begin operating in FY 2023-24. Through FY 2027-28, the enterprise is projected to collect under \$100 million in fees.

State Expenditures

The bill increases state expenditures in the DOR by \$5.3 million in FY 2023-24, \$6.0 million in FY 2024-25, and at least \$7.5 million in FY 2025-26, from the ADEPT Enterprise Fund. Expenditures are shown in Table 4 and detailed below.

Table 4
Expenditures Under HB 23-1147

| | FY 2023-24 | FY 2024-25 | FY 2025-26 |
|---|--------------------|--------------------|-------------------------------------|
| Department of Revenue | | | |
| Personal Services | \$126,628 | \$196,980 | \$361,071 |
| Operating Expenses | \$2,295 | \$3,375 | \$7,425 |
| Capital Outlay Costs | \$20,010 | - | \$20,010 |
| Computer Programming | \$67,527 | - | - |
| Third-Party Driver Exam | \$5,057,044 | \$5,516,755 | \$5,516,755 |
| Online Driver Training | - | - | \$1.5 to \$5.5 million ¹ |
| Centrally Appropriated Costs ¹ | \$29,487 | \$94,397 | \$94,397 |
| Total Cost | \$5,302,991 | \$5,999,658 | at least \$7.6 million |
| Total FTE | 1.6 FTE | 2.5 FTE | 5.5 FTE |

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

Department of Revenue

Staff. The DOR requires 2.5 FTE to perform work specific to the enterprise in FY 2023-24 and FY 2024-25. Beginning in FY 2025-26, the DOR requires staff to provide driving tests in rural counties.

Initial staff includes 2.0 FTE Accountant to act as controllers and perform accounting activities related to expenses and the reimbursement program, with one starting mid-year 2023-24, and 0.5 FTE budget staff to perform budget-related work and required reporting. Beginning in FY 2025-26, 3.0 FTE Technicians are required to provide driving tests in three counties—Chaffee, Gunnison, and Las Animas—where the nearest third-party examination provider is the greater than 60 miles from the county driver license office.

Computer programming. DRIVES programming will be required to create the new ADEPT enterprise fee, remove the \$15 retake fee, and develop new code and interfaces. Programming is estimated to require 268 hours at \$225 per hour, paid to the vendor, for a one-time cost of \$60,300 in FY 2023-24. Required development and testing work in support of DRIVES programming is within the department's absorbable range. In addition, the DOR requires support from the Office of Information Technology (OIT) in FY 2023-24 only for 73 hours at a rate of \$99 per hour for a total of \$7,227, which will be paid to OIT through real time billing.

Third-party driver exam reimbursements. Reimbursements to third-party providers of driver examinations will increase costs by an estimated \$5.1 million in FY 2023-24 and \$5.5 million each year thereafter. Costs assume approximately 142,005 driving exams are conducted annually for an average of \$70, and that the ADEPT Enterprise Fund will provide reimbursement for costs over \$25 for the initial test and over \$50 for a second or subsequent test. Of the exams conducted annually, it is expected that approximately 107,067 will be initial tests and 34,938 will be subsequent tests.

Online driver training program. In FY 2025-26, the bill will increase expenditures by between \$1.5 and \$5.5 million to develop a 30-hour online driver training program at no cost to the public. The actual cost for the online driver training program will depend on decisions made by the ADEPT Enterprise Board on whether a third-party solution or in-house development is used.

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 2.

Governor's Office

Workload will minimally increase for the Governor's Office of Boards and Commissions to make the required appointment under the bill. This work can be accomplished within existing appropriations.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue will increase the amount of General Fund available to spend or save.

Technical Note

Effective date—programming. The DOR cannot meet the bill's mid-August effective date due to DRIVES programming requirements.

Effective date—enterprise board and fee collection. The ADEPT enterprise board created by this bill will decide upon the rules and procedures necessary to implement the programs described in this fiscal note; however, the provisions of this bill will be applicable to driving exams taken upon the effective date, before the ADEPT enterprise board will be able to meet. The DOR may require General Fund in FY 2023-24 to cover start-up costs until fees are collected.

Fee insufficient to cover costs. The \$3 amount in the bill for the ADEPT Enterprise Fee is insufficient to implement the programs described in the bill. This fiscal note assumes that the annual fee represents the amount required to pay for administration and reimbursements; however, decisions made by the board may result in additional program costs.

Reimbursement timeframe. The bill calls for reimbursements made through the ADEPT enterprise to be paid within 30 days of a third-party provider or county office requesting reimbursement. However, statute currently governing payments made on behalf of the state allows 45 days for payment after a liability is incurred.

Effective Date

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

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$5,273,504 and 1.6 FTE to the Department of Revenue from the ADEPT Enterprise Fund.

State and Local Government Contacts

Counties
Personnel

County Clerks
Revenue

Information Technology
Transportation