

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE MITIGATION OF CERTAIN TRANSPORTATION-RELATED ENVIRONMENTAL HAZARDS, AND, IN CONNECTION THEREWITH, CREATING THE FUELS IMPACT ENTERPRISE TO ADMINISTER PROGRAMS AND IMPOSE FEES THAT ARE RELATED TO THE TRANSPORTATION OF FUEL WITHIN THE STATE, MODIFYING THE CLEAN FLEET ENTERPRISE SO THAT IT ADMINISTERS PROGRAMS AND IMPOSES FEES THAT ARE DESIGNED TO REDUCE EMISSIONS FROM DIESEL TRUCKS, CREATING A TAX CREDIT FOR THE CONVERSION, LEASE, OR PURCHASE OF CLEAN COMMERCIAL VEHICLES, MODIFYING THE FEE COLLECTED FOR THE DISTRIBUTION TO THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CASH FUND, MODIFYING THE PETROLEUM STORAGE TANK FUND, ALLOWING THE COLORADO STATE PATROL TO CONFORM HAZARD MATERIALS ROUTING REGULATIONS TO TRANSPORTATION COMMISSION RULES, PHASING OUT THE USE OF CERTAIN DIESEL TRUCKS ON STATE PROJECTS, AND MAKING AN APPROPRIATION.

Prime Sponsors: Senator Mullica
Representative Snyder

JBC Analyst: Carolyn Kampman
Phone: 303-866-2062
Date Prepared: May 5, 2023

Appropriation Items of Note

Appropriation Already Added to Bill, Amendment in Packet

General Fund Impact

New Cash Funds (with Continuous Appropriations)

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 05/03/23.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.002	Staff-prepared appropriation amendment
L.021	Bill Sponsor amendment - does not change fiscal impact

Current Appropriations Clause in Bill

The bill includes a provision appropriating a total of \$576,346 General Fund to the Department of Revenue for FY 2023-24. This provision also states that the appropriation is based on the assumption that the Department of Revenue will require an additional 2.5 FTE. Of the amount appropriated to the Department of Revenue, \$24,047 is reappropriated to the Department of Personnel for document management services. The provision also appropriates \$224,592 cash funds from the Legal Services Cash Fund to the Department of Law for FY 2023-24 for the provision of legal services to the Department of Public Health and Environment. This provision also states that the appropriation is based on the assumption that the Department of Law will require an additional 1.0 FTE. The source of funding is the Clean Fleet Enterprise Diesel Truck Emissions Reduction Grant Program Cash Fund, which the bill continuously appropriates to the Clean Fleet Enterprise in the Department of Public Health and Environment.

Description of Amendments in This Packet

J.002 Staff has prepared amendment **J.002** (attached) to change the existing clause so that it is consistent with the fiscal impact of the bill as amended by the House Finance Committee Report. Compared to the existing appropriation clause, this amendment reduces the appropriation to the Department of Revenue for FY 2023-24 to \$66,184 General Fund, and eliminates the associated FTE assumption as well as the reappropriation to the Department of Personnel. This amendment also makes a technical correction to the appropriation to the Department of Law, noting that the Department will need 1.2 FTE (rather than 1.0 FTE).

L.021 Bill sponsor amendment **L.021** (attached) makes two technical changes to the bill. First, the amendment eliminates a duplicative word ("annually") in the provision authorizing the Director of the Division of Oil and Public Safety to annually transfer up to \$500,000 from the Petroleum Storage Tank Fund to the Petroleum Cleanup and Redevelopment Fund. Second, the amendment eliminates language indicating that grant awards for the Clean Enterprise Diesel Truck Emissions Reduction Grant Program are "subject to available appropriations", as the associated cash fund is continuously appropriated to the Clean Fleet Enterprise to administer a grant program. Legislative Council Staff and JBC Staff agree that these amendments do not change the fiscal impact of the bill.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2023-24 based on the March 2023 Office of State Planning and Budgeting (OSPB) revenue forecast. The budget package includes two set-asides for legislation outside of the package: (1) \$30.0 million General Fund for bills that create ongoing obligations; and (2) \$469.0 million for bills that create one-time obligations for FY 2023-24 (see table below).

General Fund Appropriation Placeholders for Other 2023 Legislation	
Description	FY 2023-24
Legislation with Ongoing Fiscal Impacts	\$30,000,000
Legislation with One-time Fiscal Impacts	
Workforce-related legislation, including free credentials, math scholarships, adult education, and concurrent enrollment	103,000,000
Housing-related legislation, including property tax relief, land use, and public-private partnerships	221,000,000
Legislation related to topics other than workforce and housing, including rural opportunity, line of duty loss, and Proposition 122 implementation	145,000,000
Subtotal	\$469,000,000
TOTAL Placeholders for Other 2023 Legislation	\$499,000,000

The budget package accounts for the 15.0 percent reserve associated with the above placeholders (a total of \$74.9 million).

This bill creates a one-time obligation and requires a General Fund appropriation of \$66,184 for FY 2023-24, reducing the \$469.0 million set aside by that amount.

Legislative Appropriation Authority

Continuous spending authority, also known as **continuous appropriation**, allows state agencies to spend money for statutorily specified purposes up to the total amount available in a specified fund source without seeking further legislative approval through the budget process.

The term appropriation is broadly understood as expressing or conveying legal spending authority. However, the term appropriation also inherently expresses fundamental legislative fiscal authority by communicating a limit on or maximum amount of spending from a specified fund source for a defined period such as a fiscal year. While continuous spending authority also expresses or conveys legal spending authority it does so by eliminating legislative fiscal authority and oversight.

SB23-280

JBC Staff Analysis

An annual appropriation provides a limit on spending authority, while a continuous appropriation provides unlimited spending authority. This method of funding moves these expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process.

This bill establishes two new cash funds that are continuously appropriated to a new enterprise within the Department of Transportation and to an existing enterprise in the Department of Public Health and Environment to cover the direct and indirect costs of implementing new grant programs. Each of these new cash funds consist of fee revenue as well as "any money that the General Assembly may transfer or appropriate" to the funds. Is it necessary for these two departments to **not** seek annual authority from the General Assembly to spend money from these cash funds, particularly if General Fund is transferred or appropriated to the cash funds in the future?