

MEMORANDUM

TO: Joint Budget Committee Members

FROM: Megan Davisson, JBC Staff

SUBJECT: Cash Fund Paybacks

DATE: March 14, 2014

Cash Fund Paybacks

The Committee requested this request be brought back during comebacks. The recommendation has not changed but additional information has been provided for what the pay back will buy for each fund. Additionally the Major Medical Insurance Fund requested payback is included in the recommendation.

Request: The Governor's November 1 budget request letter to the Joint Budget Committee included four cash fund paybacks, one in the Department of Labor and Employment and three in the Department of Public Health and Environment including:

- \$1.5 million to the Recycling Resources Economic Opportunity Fund;
- \$10.0 million to the Hazardous Substance Response Fund;
- \$0.5 million to the Waste Tire Cleanup Fund; and
- \$94.0 million to the Major Medical Insurance Fund.

Recommendation: Staff recommends the Committee not approve the requested cash fund paybacks for two reasons: (1) paying back these cash funds would set a precedent of paying back cash funds if a portion of the reserve is transferred to the General Fund for balancing purposes; and (2) there was little discussion as to why these funds were selected out of all the funds from which cash reserves were transferred to the General Fund from FY 2008-09 through FY 2010-11.

The General Assembly did start paying back cash funds after reserves were transferred in the early 2000s but discontinued the process because of the unsustainable nature of paying back cash funds. Staff questions if paying back these funds would place the General Assembly in a similar position again. If the General Assembly wants to pay back cash funds, staff recommends the General Assembly review the entire list of cash funds and select which cash funds should be paid back after evaluating all cash funds which have reserves transferred to the General Fund.

Analysis of the cash funds in the Department:(1) Recycling Resources Economic Opportunity Fund

New information: The Department indicated that there remains between \$3 million and \$4 million of grant requests that are not funded each year because of insufficient funds. Staff would note that from FY 2010-11 through FY 2013-14 the amount of grant requests has fallen from \$13.6 million in FY 2010-11 to \$5.4 million in FY 2013-14.

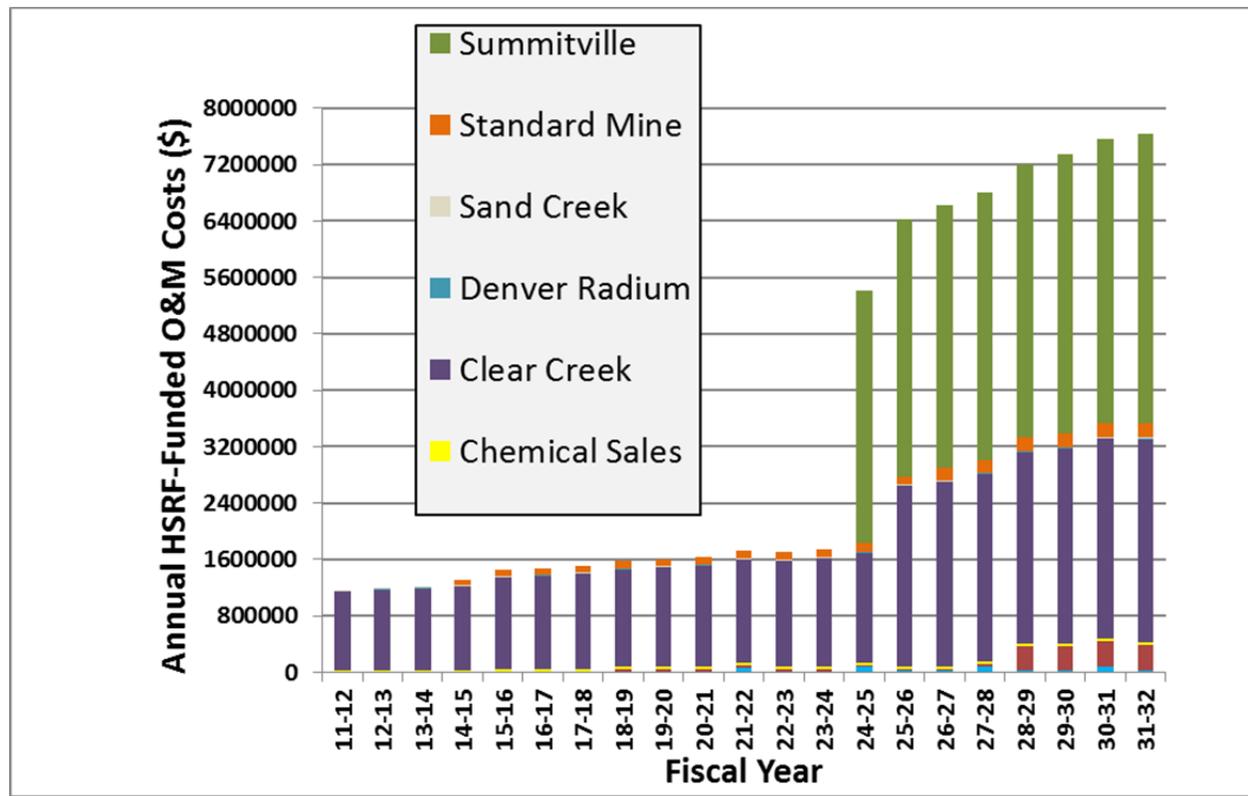
Senate Bill 09-208 transferred \$1.5 million from the Recycling Resources Economic Opportunity Fund to the General Fund in FY 2008-09, which the Governor is requested be repaid. The Recycling Resources Economic Opportunity Fund is used for grants to counties and local governments to promote waste diversion, recycling, recycling markets, the beneficial use of discarded materials, and other recycling-related activities. Revenue for the Fund is generated by a fee on solid waste disposal. Senate Bill 13-050 increased the solid waste disposal fee incrementally to increase the amount of revenue going into the Recycling Resources Economic Opportunity Fund as shown in the table below.

| S.B. 13-050 Fiscal Impact¹ | |
|--|--------------------|
| Fee Change Pursuant to S.B. 13-050 | |
| Calendar Year | Fee |
| CY 2013 | \$0.07 |
| CY 2014 | \$0.09 |
| CY 2015 | \$0.11 |
| CY 2016 | \$0.14 |
| Total Fee Change from FY13-14 | \$0.07 |
| Revenue Impact | |
| Fiscal Year | New Revenue |
| FY 2013-14 | \$207,498 |
| FY 2014-15 | \$622,494 |
| FY 2015-16 | \$1,141,239 |
| FY 2016-17 | \$1,452,486 |
| Total Revenue | \$3,423,717 |

¹ Information within the table is from the final fiscal note for S.B. 13-050 dated July 3, 2013.

(2) Hazardous Substance Response Fund

Once the State assumes responsible for maintenance of the cleanup site, there is projected to be significant costs as illustrated in the following graphic. The Department has indicated if the General Assembly decides to pay back this Fund the Department would prefer legislation be used to create a new fund in which to hold these moneys until the state has to start paying the maintenance costs.



The Governor's request includes a repayment of \$10.0 million to the Hazardous Substance Response Fund (HSRF) in FY 2014-15. The HSRF receives revenue from the solid waste user fee (same fee that funds the Recycling Resources Economic Opportunity Fund) and is used to pay for the State's cost of the federal Superfund Program designed to clean up uncontrolled hazardous waste sites. The following table summarizes the total transfers (\$32,468,517) from the HSRF to the General Fund in FY 2008-09 and FY 2009-10.

| Transfers from the HSRF to the General Fund | | |
|---|---------------------|--------------------|
| | FY 2008-09 | FY 2009-10 |
| S.B. 09-208 | \$17,468,517 | \$0 |
| S.B. 09-279 | 12,500,000 | 2,500,000 |
| Total | \$29,968,517 | \$2,500,000 |

The issue with the request to repay \$10.0 million to the HRSF is the limit on the fund balance pursuant to Section 25-16-104.6 (1) (a), C.R.S. House Bill 0-1329 language to Section 25-16-104.6 (1) (a), C.R.S. which limited the HRSF fund balance to \$10.0 million, and required if the balance was not projected to fall below \$10.0 million within twenty-four months the solid waste fee would have to be reduced. The following table shows the actual and projected balance for the HSRF.

| Hazardous Substance Response Fund Balance | | | | |
|--|-------------------|-------------------|-------------------|-------------------|
| | FY 2011-12 | FY 2012-13 | FY 2013-14 | FY 2014-15 |
| | Actual | Actual | Estimated | Projected |
| Balance* | \$13,914,274 | \$14,336,512 | \$11,864,175 | \$9,253,871 |
| Two Year Average | | \$14,125,393 | \$13,100,344 | \$10,559,023 |

*Includes the balance reserve of 16.5 percent of operating costs

Information from Department's Schedule 9 Cash Fund Report

(3) Waste Tire Cleanup Fund

Additional Information:

The Department provided staff with a list of five applications for the Waste Tire Cleanup Fund totally \$9.3 million. Cleanup sites include: 5,000 tires in Orchard Mesa near Grand Junction, 1.0 million tires in Prowers County, 1.0 million tires in El Paso County, 10,000 tires in Left Hand Canyon near Boulder, and 1,300 tires near Pueblo.

The Waste Tire Cleanup Fund is used to reimbursement local agencies for the identification and cleanup of sites where waste tires have been illegally dumped and to provide incentives for the reuse of waste tires.

There are a number of issues with the current statutory structure of the Waste Tire Cleanup Fund including:

- these funds can only be used to reimburse local cleanup costs which means locals must upfront the costs which does not happen often; and
- the unspent funds at the end of each fiscal year rollover into the Processor and End Users Fund.

Therefore if the General Assembly decided to repay the Waste Tire Cleanup Fund and not make any additional statutory changes, there is a significant chance the funds will simply roll into the Processor and End User Fund at the end of the fiscal year in which the repayment is made.

(4) Major Medical Insurance Fund

The Major Medical Insurance Fund (MMIF) and the Subsequent Injury Fund (SIF) make up the Special Funds. The MMIF covers the medical expenses of individuals who sustained catastrophic injuries between July 1, 1971 and June 30, 1981, once that individual's medical expenses exceed \$20,000. The program is not open to new cases, but will occasionally add new

individuals because an individual's cumulative medical expenses exceeded \$20,000.

Senate Bill 09-037 changed the funding mechanism for the Special Funds. Prior to S.B. 09-037 the balance of both funds was to be built up until the funds were deemed actuarially sufficient to pay all present and future claims. Per S.B. 09-037 the funding mechanism was changed so that the balance in the funds is equal to one year's expenses plus a reserve equal to one year's expenses (pay-as-you-go).

It is unclear if the Governor would also like to change the funding mechanisms for the Special Funds, or if the request is intended to see the fee for the Special Funds to zero. The Department of Labor and Employment has indicated there is no pressing need to transfer funds into this Major Medical Insurance Fund.