JOINT
BUDGET
COMMITTEE

STAFF BUDGET BALANCING
FY 2020-21

DEPARTMENT OF TRANSPORTATION

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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APRIL 16, 2020

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HOW TO USE THIS DOCUMENT

The **first section** of this document includes a summary table showing:

- Committee action on Long Bill appropriations through March 16, 2020; and
- Staff recommended changes to Long Bill appropriations, assuming that General Fund appropriations in FY 2020-21 must be kept at approximately the same level as FY 2019-20 to bring the budget into balance. This recommendation is based on the Legislative Council Staff March 16, 2020, revenue forecast, assumes that the statutory General Fund reserve will be increased in FY 2020-21 as proposed by the Governor, and assumes that only the federal increase in the Medicaid matching funds rate will be available to help cover shortfalls.

The table is followed by descriptions of each change recommended by staff.

A **second section** of the document summarizes staff recommendations that require statutory changes. This may include appropriation reductions that cannot be implemented without a statutory change, changes that affect the amount of available General Fund (e.g., a transfer from a cash fund), or any other items that are not captured in the Long Bill appropriations table. The recommendations in the second section are also based on the assumption that General Fund appropriations in FY 2020-21 must be kept at approximately the level of FY 2019-20 to bring the budget into balance.

A **third section** of the document includes additional staff recommendations and options for the Committee to consider if deeper cuts are required. For purposes of this section, staff has assumed additional reductions of 10.0 to 20.0 percent in General Fund appropriations and transfers will be required to bring the budget into balance in FY 2020-21.

SUMMARY OF STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

CDOT's Long Bill is a revenue allocation document: total expenditure equals the total revenue that CDOT expects to receive from cash, reappropriated, and federal sources and shows how that revenue will be allocated among CDOT's divisions. The Long Bill is a consolidated version of a much more detailed budget that is almost all continuously appropriated and is largely under the control of the Transportation Commission. As a consequence the vast majority of the CDOT appropriations in the Long Bill are informational.

The FY 2019-20 and FY 2020-21 revenue figures that underlie the following table are the same as those presented during February figure setting. The table's starting point, the FY 2019-20 appropriation, equals last year's forecast of the revenue CDOT expected to receive this year. Due to the Coronavirus recession, this appropriation is surely too high. Revenue from the Highway User Tax Fund (HUTF), which comes substantially from fuel taxes, is expected to decline sharply and revenue from S.B. 17-267 will decline by $500 million if certificates of participation (COP's) are not issued during FY 2019-20 pursuant to S.B. 17-267. (More on S.B. 17-267 later) Federal revenues may be higher. However staff does not recommend a supplemental bill to revise the FY 2019-20 appropriation because it is informational.

The Department plans to produce revised revenue forecasts for FY 2020-21 that reflect the current economic situation, but has not done so yet. If the revised forecasts are available before the FY 2020-21 Long Bill is drafted, staff requests permission to put the corresponding informational appropriations in the Long Bill and provide the Committee with a memo that summarizes the new numbers.

DEPARTMENT OF TRANSPORTATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION						
FY 2019-20 Appropriation	$2,112,021,087	$0	$1,483,476,167	$7,078,096	$621,466,824	3,328.8
TOTAL	**$2,112,021,087**	**$0**	**$1,483,476,167**	**$7,078,096**	**$621,466,824**	**3,328.8**
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation (i.e. FY 2019-20 revenue forecast, made last year)	$2,112,021,087	$0	$1,483,476,167	$7,078,096	$621,466,824	3,328.8
FY 20-21 revenue forecast vs FY 19-20 revenue forecast						
Revenue from Bridge Enterprise sources	2,770,162	0	2,770,162	0	0	0.0
Revenue from CM&O* sources	(100,952,038)	0	(120,143,347)	0	19,191,309	0.0
Revenue from Multimodal transportation fund	(22,500,000)	0	(22,500,000)	0	0	0.0
Revenue from Marijuana Tax Cash Fund	(1,000,000)	0	(1,000,000)	0	0	0.0
Revenue from Transportation Enterprise sources	(342,700)	0	(342,700)	0	0	0.0
Total revenue adjustments	(122,024,576)	0	(141,215,885)	0	19,191,309	0.0
FY 2020-21 CDOT Revenue forecast	$1,989,996,511	$0	1,342,260,282	$7,078,096	$640,658,133	3,328.8
Offsetting revenue allocation adjustments						
Impact of offsetting changes on:						
Administration Division	(2,624,502)	0	(2,624,466)	(36)	0	0.0

DEPARTMENT OF TRANSPORTATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
CM&O* Division	2,624,502	0	2,624,466	36	0	0.0
Net impact of offsetting expenditure adjustments	$0	$0	$0	$0	$0	0.0
SUBTOTAL – JBC ACTION AS OF 3/16/20	**$1,989,996,511**	**$0**	**$1,342,260,282**	**$7,078,096**	**$640,658,133**	**3,328.8**
Additional GF reductions	0	0	0	0	0	0.0
Other reductions: Reduced revenue from Marijuana Tax Cash Fund	0	0	(500,000)	0	0	0.0
TOTAL	**$1,989,496,511**	**$0**	**$1,341,760,282**	**$7,078,096**	**$640,658,133**	**3,328.8**
INCREASE/(DECREASE)	**($122,524,576)**	**$0**	**($141,515,885)**	**$0**	**$19,191,309**	**0.0**
Percentage Change	(5.8%)	n/a	(9.5%)	0.0%	3.1%	0.0%

*CM&O = CDOT's Construction, Maintenance, and Operations Division.

➔ NO GF APPROPRIATION REDUCTIONS ARE POSSIBLE

As the above table indicates, there are no General Fund appropriations to CDOT in the Long Bill, which means that no action is required to keep the Department's General Fund appropriations at their FY 2019-20 level.

There are two cash fund budget balancing actions to consider.

➔ CF ADJUSTMENT: MARIJUANA IMPAIRED DRIVING PROGRAM

JBC ACTION AS OF 3/16/20: The Committee has approved an appropriation of $950,000 for the Marijuana Impaired Driving Program, which equals the FY 2019-20 appropriation.

RECOMMENDATION/OPTION: Staff recommends that the appropriation for the Marijuana Impaired Driving Program be reduced by $500,000.

ANALYSIS: Since FY 2015-16 CDOT has received an appropriation for its Marijuana Impaired Driving Program from the Marijuana Tax Cash fund. The General Assembly sets the appropriation. This program funds marijuana-impaired driving prevention efforts, including public education campaigns and data collection efforts. The appropriation first appeared in the Long Bill in FY 2015-16 when it was transferred from the Department of Public Health and Environment and received $450,000. In FY 2017-18, the program received an additional $500,000 for a "Heat Is On" campaign that targets males, ages 18-34, who have a higher risk of "binge" behavior, are more likely to combine marijuana and alcohol, and are less aware of the degree to which driving ability is impaired by alcohol and drugs. While staff recognizes the value of a "Heat Is On" campaign, staff recommends that the appropriation be temporarily returned to its previous $450,000 level to preserve the Marijuana Tax Cash Fund for other, more pressing uses.

➔ CF ADJUSTMENT: NO FURTHER ADMINISTRATION DIVISION REDUCTION RECOMMENDED AT THIS TIME.

JBC ACTION AS OF 3/16/20: The Committee has approved an appropriation of $35.7 million total funds for the Administration Division, which is 6.9 percent lower than the FY 2019-20 appropriation.

RECOMMENDATION/OPTION: In view of the already approved Administration reduction and the fact that further reductions are likely to occur when the Committee adjusts FY 2020-21 common policies, staff recommends no further reduction at this time.

ANALYSIS: The General Assembly sets the overall appropriation for the Administration Division, though it has no say over how CDOT allocates this appropriation. Since expenditure reductions for the Administration Division increase the amount available for CDOT's Construction, Maintenance, and Operations Division, it's reasonable to expect CDOT to spend less on Administration during the current downturn. In fact, for FY 2020-21, the Department requested and the JBC has already approved an Administration-division appropriation that is 6.9 percent lower than the FY 2019-20 appropriation. Staff expects that the Committee will reduce or eliminate salary survey increases for FY 2020-21 and will reduce increases for other common-policy items, which will further reduce the Administration Division's FY 2020-21 appropriation. Staff will adjust the Administration appropriation in response to these actions. In addition to these decreases, Staff believes that further Administration reductions are desirable for FY 2020-21, but believes that at this time the reductions are best left to CDOT's discretion. Money that CDOT voluntarily chooses not to spend on Administration remains in CDOT's continuously appropriated cash funds and is available to be spent on Construction, Maintenance, and Operations.

ⓘ NEW FEDERAL FUNDS TO BE RECEIVED FOR TRANSIT

Local transit agencies have been seriously affected by the Coronavirus pandemic. As of early April, 30% of transit agency services around the state were suspended, 60% were operating with reduced services, and 10% were operating at normal levels.

The Federal Coronavirus, Aid, Relief and Economic Security Act (CARES Act) included funding to assist local transit agencies. Colorado transit agencies collectively received $325.2 million. The Federal Transit Administration (FTA) made the apportionments shown in the following table. Most of this money flows directly to transit agencies but CDOT is responsible for distributing the $39.75 million portion of this allocation that is labeled "Rural" to 57 of the smaller transit agencies in Colorado. This rural flow-through funding will augment the CDOT federal funds appropriation in the Long Bill. CDOT did not receive any CARES funding for its (currently suspended) Bustang transit program or for any of its other non-transit programs. This contrasts with FY 2008-09, when federal stimulus funding (as described in the JBC staff supplemental document) provided the Department with more than $400 million of additional funding.

CARES Act Federal Transit Assistance			
Agency	Area	Amount	Percent
RTD	Denver-Aurora	$209,393,920	64.4%
Rural*	Colorado	39,754,866	12.2%
MMT	Colorado Springs	21,562,532	6.6%
TransFort	Fort Collins	12,787,733	3.9%
RTD	Boulder	11,612,002	3.6%
RTD	Longmont	7,737,883	2.4%
GET	Greeley	7,228,214	2.2%
PT	Pueblo	6,164,018	1.9%
GVT	Grand Junction	5,408,461	1.7%
RTD	Lafayette-Louisville-Erie	3,510,141	1.1%
	All Colorado	325,159,770	100.0%
*"Rural" is an allocation to 57 small transit agencies around the state.			

SUMMARY OF RECOMMENDATIONS REQUIRING STATUTORY CHANGE

➔ LIMITED CDOT CASH FUND TRANSFER POSSIBILITIES

While an April 13, 2020 report from the State Controller's office shows that CDOT cash funds collectively have net asset balances of $2.1 billion ($771 million after subtracting encumbrances, i.e. after subtracting amounts already committed for spending), Article 10, Section 18 of the Colorado Constitution, which was approved by voters in 1934 and amended by voters in 1974, requires that most of this money be spent on transportation. This constitutional provision reads as follows:

> On and after July 1, 1935, the proceeds from the imposition of any license, registration fee, or other charge with respect to the operation of any motor vehicle upon any public highway in this state and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel except aviation fuel used for aviation purposes shall, except costs of administration, be used exclusively for the construction, maintenance, and supervision of the public highways of this state. Any taxes imposed upon aviation fuel shall be used exclusively for aviation purposes.

The State Highway Fund illustrates the impact of this provision. Though the April Controller's report shows $886 million of net assets in the State Highway Fund, most of the money in the fund traces to fuel taxes, registration fees, and other sources that fall within the scope of the constitutional limitation. However, money in the State Highway Fund that traces to General Fund transfers (such as those in S.B. 18-001) are not subject to this limitation and could in principle be reclaimed. As a practical matter, reclamation is probably very difficult. The April Controller's report shows net assets in the State Highway Fund of $886 million but shows encumbrances of $1.3 billion, which indicates that all or virtually all General Fund transfers to the State Highway Fund in prior years has been committed to various projects.

Transfers from some CDOT cash funds also have to take the Taxpayer's Bill of Rights (TABOR) into consideration. More than $1.2 billion of the net assets listed in the April Controller's report are under the control of CDOT's two TABOR enterprises: the Bridge Enterprise and the High Performance

Transportation Enterprise. Transfers from the cash funds these enterprises control may raise TABOR issues. Even if TABOR problems can be overcome, the Constitutional obstacle in Article 10, Section 18 would remain, so for example, funds tracing to the Bridge Safety surcharge are probably beyond reach. Both these funds contain borrowed money and rules in the debt documents pertaining to the use of the borrowed funds would have to be taken into account.

Because of these difficulties, staff is not currently recommending any transfers from CDOT cash funds to the General Fund.

➔ SB 17-267 UPDATE

Senate Bill 17-267 permits the State to enter into $2 billion of lease-purchase agreements (Certificates of Participation or COP's) over the four years that began with FY 2018-19. That's $500 million of COP's per year annually with all the proceeds in years 2 through 4 going to the Colorado Department of Transportation (CDOT). Colorado offered the first tranche of COP's in September, 2018, when it collateralized 25 buildings and received $545.5 million in return, almost 10 percent more than expected. The second was planned for mid April, 2020, but has been delayed due to the current economic situation.

Debt service (interest and principal) payments on each $500 million tranche of COP's equal $37.5 million annually and last for 30 years. The first $9 million of interest and principal payments come from the General Fund. The next $50 million of payments is paid from money under the control of the Transportation Commission that would otherwise be used for the construction, supervision, and maintenance of state highways, which effectively means it comes from the State Highway Fund. Remaining payments come from the General Fund. Senate Bill 18-001 transfers $50.0 million annually from the General Fund to the State Highway Fund for 20 years, beginning in FY 2019-20 and ending FY 2038-39, which compensates CDOT for its debt service payments on S.B. 17-267 borrowing. Thus CDOT is effectively not making debt service payments on the amounts it receives from S.B. 17-267 borrowing.

General Fund debt service payments on the borrowing appear in the State Treasury's section of the Long Bill. CDOT also makes payments, but its highly consolidated appropriation in the Long Bill does not separately state the amount. (CDOT also makes other payments on other debt, but it's never been possible to see any of these payments in the Long Bill.)

A referred measure in S.B. 18-001 as amended by S.B. 19-263 would cancel the last two years of offerings if it passes at the polls in November 2020. Staff believes that November 2020 is not a good time to send this measure to voters.

Staff understands that the following possibilities are currently being discussed regarding S.B. 17-267 COP's and the continuing annual transfer of $50 million from the General Fund to CDOT. Staff is not making related recommendations at this time because these matters are currently being considered by CDOT, OSPB, and some members of the General Assembly.

1. The $50 million annual transfer to the General Fund pursuant to S.B. 18-001 (as amended by S.B. 19-263) may be repealed or temporarily suspended in order to help the General Fund in FY 2020-21.

2. Because interest rates are currently very low, it is likely that a $500 million issue of COP's will bring in at least $550 million of borrowed revenue. The first $500 million would be used for transportation projects and the premium of $50 million may be used to support GF expenditures in FY 2020-21.

SUMMARY OF OTHER RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

10.0-20.0 PERCENT REDUCTION SCENARIOS

Because CDOT has no General Fund appropriations, Staff has not explored a scenario in which General Fund appropriations to the agency must be reduced by 10.0-20.0 percent.