

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE SUSTAINABILITY OF THE TRANSPORTATION SYSTEM IN COLORADO, AND, IN CONNECTION THEREWITH, CREATING NEW SOURCES OF DEDICATED FUNDING AND NEW STATE ENTERPRISES TO PRESERVE, IMPROVE, AND EXPAND EXISTING TRANSPORTATION INFRASTRUCTURE, DEVELOP THE MODERNIZED INFRASTRUCTURE NEEDED TO SUPPORT THE WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES, AND MITIGATE ENVIRONMENTAL AND HEALTH IMPACTS OF TRANSPORTATION SYSTEM USE; EXPANDING AUTHORITY FOR REGIONAL TRANSPORTATION IMPROVEMENTS; AND MAKING AN APPROPRIATION.

Prime Sponsors: Sens. Fenberg and Winter
Reps. Garnett and Gray

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Phone: 303-866-4956
Date Prepared: May 27, 2021

Appropriation Items of Note

Appropriation Already Added to Bill, Amendments in Packet

General Fund Impact

TABOR/ Excess State Revenues Impact

New Cash Funds (with Continuous Appropriation)

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 05/25/21.

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.004	Staff-prepared appropriation amendment
L.110/J.005	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

Current Appropriations Clause in Bill

The bill includes an appropriation clause that appropriates a total of \$128,979,025 in FY 2021-22 as follows:

- \$125,599,957 to the Department of Transportation, including \$259,957 cash funds from the State Highway Fund and \$125,340,000 cash funds from the Multimodal Transportation Options Fund, and based on the assumption that the Department will require an additional 3.0 FTE;
- \$1,104,661 to the Department of Revenue, including \$1,082,480 General Fund and \$22,181 cash funds from the License Plate Cash Fund, and based on the assumption that the Department will require an additional 5.3 FTE;
- \$100,491 General Fund to the Energy Fund in the Colorado Energy Office within the Office of the Governor;
- \$1,669,333 General Fund to the Department of Public Health and Environment; and
- \$504,583 reappropriated funds to the Department of Law, based on the assumption that the Department will require an additional 2.6 FTE, including \$191,412 and 1.0 FTE from reappropriated funds received from the Department of Transportation, \$100,491 and 0.5 FTE from reappropriated funds received from the Office of the Governor, and \$212,680 and 1.1 FTE from reappropriated funds received from the Department of Public Health and Environment.

The bill also includes an appropriation clause that amends the appropriation to Electric Vehicle Charging Station Grants in the Colorado Energy Office section of S.B. 21-205 (Long Bill) to include an annotation that notes the amount in the Long Bill is informational only because the Electric Vehicle Grant Fund is continuously appropriated.

The current appropriations clause erroneously excludes an appropriation of \$2.5 million from the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund for the Southwest Chief and Front Range Passenger Rail Commission to the Department of Transportation for FY 2021-22 contingent on Senate Bill 21-238 becoming law.

Description of Amendments in This Packet

J.004 Staff has prepared amendment **J.004** (attached) to strike the existing appropriation clause and replace it with an appropriation that is contingent on whether Senate Bill 21-__ and Senate Bill 21-238 become law. Amendment **J.004** makes the following appropriations for FY 2021-22 regardless of the outcome of other bills:

- \$259,957 cash funds from the State Highway Fund to the Department of Transportation, which is based on the assumption that the Department will require an additional 3.0 FTE;
- \$1,104,661 to the Department of Revenue, including \$1,082,480 General Fund and \$22,181 cash funds from the License Plate Cash Fund, and based on the assumption that the Department will require an additional 5.3 FTE;

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- \$100,491 General Fund to the Energy Fund in the Colorado Energy Office within the Office of the Governor;
- \$1,702,187 General Fund to the Department of Public Health and Environment; and
- \$504,583 reappropriated funds to the Department of Law, based on the assumption that the Department will require an additional 2.6 FTE, including \$191,412 and 1.0 FTE from reappropriated funds received from the Department of Transportation, \$100,491 and 0.5 FTE from reappropriated funds received from the Office of the Governor, and \$212,680 and 1.1 FTE from reappropriated funds received from the Department of Public Health and Environment.

Amendment **J.004** includes the following appropriations to the Department of Transportation for FY 2021-22 contingent on Senate Bill 21-__ and Senate Bill 21-238 becoming law:

- If Senate Bill 21-__ and Senate Bill 21-238 *both* become law, \$14.5 million is appropriated from the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund for the Southwest Chief and Front Range Passenger Rail Commission and \$146.3 million is appropriated from the Multimodal Transportation Options and Mitigation Fund for multimodal transportation projects.
- If Senate Bill 21-__ *does not* become law and Senate Bill 21-238 *does* become law, \$2.5 million is appropriated from the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund for the Southwest Chief and Front Range Passenger Rail Commission and \$125.3 million is appropriated from the Multimodal Transportation Options and Mitigation Fund for multimodal transportation projects.
- If Senate Bill 21-__ *does* become law and Senate Bill 21-238 *does not* become law, \$12.0 million is appropriated from the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund for the Southwest Chief and Front Range Passenger Rail Commission and \$146.3 million is appropriated from the Multimodal Transportation Options and Mitigation Fund for multimodal transportation projects.
- If *neither* Senate Bill 21-__ nor Senate Bill 21-238 becomes law, no funds are appropriated from the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund for the Southwest Chief and Front Range Passenger Rail Commission and \$125.3 million is appropriated from the Multimodal Transportation Options and Mitigation Fund for multimodal transportation projects.

L.110/J.005

L.110 Sponsor amendment **L.110** (attached) amends the House Finance Committee Report (05/24/21) to ensure that transfers of federal stimulus money to the State Highway Fund, Multimodal Transportation Options and Mitigation Fund, and Highway Users Tax Fund occur regardless of whether any other state legislation is enacted. The amendment also increases the amount spent from annual transfers made from July 1, 2024 to July 1, 2028 to

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mitigate the environmental and health impacts of air pollution in nonattainment areas from \$5.0 million to \$10.0 million.

J.005 Staff has prepared amendment **J.005** (attached) to strike the existing appropriation clause and replace it with an appropriation that is consistent with sponsor amendment **L.110**, as well as make certain appropriations contingent on the outcome of Senate Bill 21-238. Amendment **J.005** makes the following appropriations for FY 2021-22 regardless of the outcome of Senate Bill 21-238:

- \$259,957 cash funds from the State Highway Fund, which is based on the assumption that the Department will require an additional 3.0 FTE, and \$146,340,000 cash funds from the Multimodal Transportation Options and Mitigation Fund to the Department of Transportation;
- \$1,104,661 to the Department of Revenue, including \$1,082,480 General Fund and \$22,181 cash funds from the License Plate Cash Fund, and based on the assumption that the Department will require an additional 5.3 FTE;
- \$100,491 General Fund to the Energy Fund in the Colorado Energy Office within the Office of the Governor;
- \$1,702,187 General Fund to the Department of Public Health and Environment; and
- \$504,583 reappropriated funds to the Department of Law, based on the assumption that the Department will require an additional 2.6 FTE, including \$191,412 and 1.0 FTE from reappropriated funds received from the Department of Transportation, \$100,491 and 0.5 FTE from reappropriated funds received from the Office of the Governor, and \$212,680 and 1.1 FTE from reappropriated funds received from the Department of Public Health and Environment.

Amendment **J.005** includes the following appropriations to the Department of Transportation for FY 2021-22 contingent on Senate Bill 21-238 becoming law:

- If Senate Bill 21-238 becomes law, \$14.5 million is appropriated from the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund for the Southwest Chief and Front Range Passenger Rail Commission; or
- If Senate Bill 21-238 *does not* become law, \$12.0 million is appropriated from the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund for the Southwest Chief and Front Range Passenger Rail Commission.

If the Committee adopts sponsor amendment **L.110**, then **J.005** should also be adopted.

If the Committee does not adopt sponsor amendment **L.110**, then **J.004** should be adopted.

Technical Note

As noted on page 19 of the May 19 Legislative Council Staff Revised Fiscal Note, the \$5,300 General Fund appropriation to the Department of Revenue for FY 2021-22 for the Advance Fuel

Module program is also included in the Fiscal Note for H.B. 21-1141. This appropriation is already included in the appropriation clause of H.B. 21-1141 and is therefore not included in **J.004** or **J.005**.

Points to Consider

General Fund Impact

If Senate Bill 21-__ becomes law or sponsor amendment **L.110** is adopted, this bill requires a transfer of \$170.0 million from the General Fund in FY 2021-22. If Senate Bill 21-__ does *not* become law and **L.110** is not adopted, this bill requires a total of \$489.0 million in transfers from the General Fund in FY 2021-22.

Regardless of whether Senate Bill 21-__ becomes law or **L.110** is adopted, the bill requires General Fund appropriations totaling \$2,890,459 for FY 2021-22. Of this amount, \$1,769,824 will be repaid to the General Fund from the Community Access Enterprise Initial Expenses Fund and the Clean Fleet Enterprise Initial Expenses Fund.

The Joint Budget Committee (JBC) has proposed a budget package for FY 2021-22 based on the March 2021 Legislative Council Staff revenue forecast. The JBC has included as part of its FY 2021-22 budget package a \$170.0 General Fund revenue decrease that would result from the passage of this bill. Specifically, the JBC package includes a place holder of \$800.0 million General Fund for those bills that are part of the "State Stimulus Package", and this bill includes the \$170.0 million transfer to the Department of Transportation that is part of that package.

The budget package also includes a set aside of \$48.0 million General Fund for bills that require General Fund appropriations for FY 2021-22. This bill is anticipated to reduce General Fund revenues and increase General Fund appropriations for FY 2021-22 by \$319.0 million more than the \$170.0 million that was included in the budget proposal for this bill if Senate Bill 21-__ does *not* become law and **L.110** is *not* adopted. Thus, this bill would:(a) utilize the entire \$48.0 million set aside; and (b) require General Fund appropriations for existing programs to be reduced by \$271.0 million in order to maintain a 13.4 percent statutory General Fund reserve.

For FY 2022-23 and FY 2023-24, if S.B. 21-__ becomes law or sponsor amendment **L.110** is adopted, this bill *reduces* required transfers out of the General Fund by \$46.6 million and \$50.0 million, respectively. For FY 2024-25 through FY 2031-32, this bill *increases* required transfers out of the General Fund by \$67.5 million annually.

For FY 2022-23 and FY 2023-24, if S.B. 21-__ *does not* become law and sponsor amendment **L.110** is *not* adopted, this bill *reduces* required transfers out of the General Fund by \$17.1 million and \$32.5 million, respectively. For FY 2024-25 through FY 2031-32, this bill *increases* required transfers out of the General Fund by \$67.5 million annually.

TABOR/ Excess State Revenues Impact

As noted on page 18 of the May 25 Legislative Council Staff Revised Fiscal Note, this bill reduces the likelihood of TABOR refunds through the current forecast period, though a refund requirement remains possible within the margin of normal forecast error. TABOR refunds are paid from the General Fund.

New Cash Funds (with Continuous Appropriation)

The bill creates the following continuously appropriated enterprise funds: the Community Access Enterprise Fund, Clean Fleet Enterprise Fund, and Nonattainment Air Pollution Mitigation Enterprise Fund. The Clean Transit Enterprise Fund is subject to annual appropriation by the General Assembly. Additionally, the following continuously appropriated funds are created within the enterprise funds: the Community Access Enterprise Initial Expenses Fund, Clean Fleet Enterprise Initial Expenses Fund, Clean Transit Initial Expenses Fund, and Nonattainment Area Air Pollution Mitigation Enterprise Initial Expenses Fund.

Is it necessary to "continuously appropriate" money in the enterprise funds and initial expenses funds? This method of funding essentially moves related expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process. The Clean Transit Enterprise Fund is the only newly created enterprise that will be subject to annual appropriation.