



Legislative Council Staff
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Final Fiscal Note

Drafting Number: LLS 21-0263 Date: September 9, 2021
Prime Sponsors: Sen. Fenberg; Winter Bill Status: Signed into Law
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Bill Topic: SUSTAINABILITY OF THE TRANSPORTATION SYSTEM

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [X] Local Government
[X] State Transfer [] Statutory Public Entity

This bill creates new sources of dedicated funding for the state's transportation system, creates four new state enterprises, modifies an existing state enterprise, and expands authority for transportation planning organizations. The bill increases state and local government revenue and expenditures on an ongoing basis, and raises the state's revenue limit under TABOR.

Appropriation Summary: For FY 2021-22, the bill requires and includes appropriations totaling \$164.0 million to multiple state agencies. The State Highway Fund and Energy Fund are continuously appropriated.

Fiscal Note Status: This final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 21-260

Table with 6 columns: Category, Sub-category, Current Year FY 2020-21, Budget Year FY 2021-22, Out Year FY 2022-23, Out Year FY 2023-24. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers (General Fund, Federal ARPA Funds, Other Cash Funds, Net Transfer), and TABOR Refund.

1 Expenditure amounts do not include transportation and enterprise project costs. This funding, which is shown in Tables 9 and 10, will be expended at the discretion of the Transportation Commission and enterprise boards.

Summary of Legislation

This bill increases spending for the state's transportation system through General Fund transfers and new fees; creates and modifies state enterprises; and expands authority for transportation planning organizations. Provisions of the bill are described in more detail below.

Transfers. The bill makes one-time transfers to fund transportation projects. In the current FY 2020-21, the bill makes one-time transfers totaling \$380 million from federal American Rescue Plan Act funds to the State Highway Fund, the Highway Users Tax Fund (HUTF), and the Multimodal Transportation and Mitigation Options Fund (Multimodal Options Fund). The bill then makes an additional transfer of \$170.0 million from the General Fund to the State Highway Fund in FY 2021-22.

The bill also makes annual General Fund transfers to provide additional funding to the State Highway Fund, makes a one-time transfer from the Multimodal Options Fund to the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair and Maintenance Fund (Southwest Chief Fund), and repeals annual General Fund transfers to the State Highway Fund that are related to the TRANs ballot measure. Transfers are described in more detail in the State Transfers section on page 10.

Creation of and adjustments to state fees and funds. The bill creates new fees for electric motor vehicle registrations, purchases of gasoline and diesel fuel, retail deliveries, passenger ride services, and short-term vehicle rentals. It also indexes new and existing fees either to inflation or to the national highway construction costs index (NHCCI), requires an executive agency review of fees in 2026, and temporarily reduces road safety surcharges on vehicle registrations from 2022 to 2024. These fee and fund activities are discussed in more detail below.

Fees on gasoline and diesel fuel. The bill imposes a per gallon fee on gasoline and diesel fuel to pay for road usage, and on diesel fuel only for vehicles' impacts on bridges and tunnels. The fees are phased in from FY 2022-23 through FY 2031-32 and then indexed to the NHCCI. Future NHCCI adjustments for the road usage fees on gasoline and diesel fuel are based on the combined taxes and fees on these fuels, such that the fees will incorporate an annual adjustment for both the tax and fee amounts. All fees will be remitted to the Department of Revenue (DOR) at the same time when excise taxes are remitted by fuel distributors. Road usage fees will be paid into the HUTF, and bridge and tunnel impact fees will be paid into the Statewide Bridge and Tunnel Enterprise Fund.

Retail delivery fees. Starting in FY 2022-23, the bill imposes fees on retail deliveries by motor vehicles that transport tangible personal property subject to the state sales tax. The fees must be collected from the purchaser by the retailer, and will be adjusted for inflation in future years. Retail delivery fees are assessed by the state, the Statewide Bridge and Tunnel Enterprise, and four new enterprises created in the bill. Fees are collected by the DOR and distributed to the HUTF, the Multimodal Options Fund, and cash funds for each enterprise. The DOR will retain a portion of the fees to pay for the costs of collecting, administering and enforcing these fees.

Passenger ride fees. The bill imposes per-ride fees on passenger rides provided by transportation network companies (TNCs) that use a digital network to connect riders and drivers for the purpose of transportation. Starting in FY 2022-23, the DOR will collect fees from TNCs for the enterprises, and distribute fee revenue to the enterprises. In future years, these fees will be adjusted for inflation.

Electric motor vehicle registration fees. Starting in FY 2022-23, the bill requires the existing registration fee of \$50 that is charged per electric vehicle to be annually adjusted for inflation. It also imposes additional road usage equalization registration fees on regular and commercial electric vehicles. These fees are phased in through FY 2031-32, and then adjusted annually using the NHCCI. New fees on electric vehicles will be paid into the HUTF only; current fees are split between the HUTF and the Electric Vehicle Grant Fund.

Short-term vehicle rental fee. The bill indexes the existing short-term vehicle daily rental fee of \$2 to inflation on or after July 1, 2022, and requires car sharing programs to collect the daily rental fee for any short-term vehicle rental of 24 hours or longer.

Fee adjustment. The bill requires certain executive branch agencies to jointly review fees in 2026 and make recommendations to the General Assembly about the appropriateness of current fees, and whether they should be adjusted to ensure equalization of fee collection from owners of electric motor vehicles and vehicles powered exclusively by combustion engines.

Road safety surcharge reduction. The bill reduces the amount of each road safety surcharge imposed on motor vehicle registrations by \$11.10 for registrations during 2022 and by \$5.55 for registrations during 2023. Surcharges for 2024 and later years are unaffected.

Multimodal Options Fund. The bill changes the name of the fund, and makes greenhouse gas mitigation projects eligible for grants from the fund.

Creation and modification of state enterprises. The bill creates four new state enterprises and modifies an existing enterprise. It authorizes these enterprises to impose fees on retail deliveries, passenger ride services from TNCs, or both, as discussed in the prior section, and to issue revenue bonds. The enterprises are discussed in more detail below:

Community Access Enterprise. This enterprise is created within the Colorado Energy Office (CEO) to support widespread adoption of electric vehicles and electric alternatives to motor vehicles, including development of vehicle charging infrastructure, as well as financial incentives for electric vehicle purchases, electric alternatives to motor vehicles, and use of public transit. The bill allows the enterprise to impose a community access retail delivery fee to fund its operations. It also allows the enterprise to invest in transportation infrastructure programs.

Clean Fleet Enterprise. This enterprise is created within Colorado Department of Public Health and Environment (CDPHE) to incentivize and support the use of electric motor vehicles and other technologies in private and government vehicle fleets by providing financial assistance for electric motor vehicles to fleet operators, and by providing or supporting related services. The bill allows the enterprise to impose a clean fleet fee on retail deliveries and rides provided by TNCs to fund its operations. It may also issue grants, loans and rebates to incentivize and support the adoption of electric motor vehicles in motor vehicle fleets.

Clean Transit Enterprise. This enterprise is created within the Colorado Department of Transportation (CDOT) to support public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, as well as construction and development of electric motor vehicle charging and fueling infrastructure. The bill allows the enterprise to impose a clean transit retail delivery fee to fund its operations, and to issue grants, loans or rebates to support electrification of public transit.

Nonattainment Area Air Pollution Mitigation Enterprise. This enterprise is created within CDOT to mitigate transportation-related emissions in ozone nonattainment areas by funding projects that reduce traffic or directly reduce air pollution through the congestion mitigation and air quality improvement program. The bill allows the enterprise to impose an air pollution mitigation fee on retail deliveries and rides provided by TNCs to fund its operations.

Statewide Bridge Enterprise. The bill changes the name of this enterprise to the Statewide Bridge and Tunnel Enterprise, and authorizes it to complete surface transportation projects for tunnels. The enterprise may also impose a bridge and tunnel impact fee on diesel fuel, as well as a bridge and tunnel retail delivery fee, to fund its operations.

Annual reporting to the General Assembly. The bill requires the CEO and CDPHE to consult with CDOT and jointly prepare an annual report for the General Assembly about progress being made toward the electric motor vehicle adoption goals set forth in the Colorado Electric Vehicle Plan 2020, and the transportation sector greenhouse gas pollution reduction goals set forth in the Colorado Greenhouse Gas Pollution Reduction Roadmap. These agencies must also use a specified methodology to estimate the social costs of greenhouse gas pollution.

New guidelines for regionally significant projects. The bill requires CDOT and the Transportation Commission to implement new procedures and guidelines for regionally significant transportation capacity projects that account for the impacts these projects will have on statewide greenhouse gas emissions and vehicle miles traveled. The new procedures and guidelines must evaluate the environmental and health impacts of significant projects on disproportionately impacted communities, and be incorporated into future ten-year plans. Starting in FY 2022-23, if new procedures and guidelines have not been adopted and incorporated into the current ten-year plan, CDOT is not allowed to make expenditures from the multimodal transportation and mitigation options fund, unless it will help bring CDOT into compliance with these requirements.

Creation of the Environmental Justice and Equity Branch. The bill creates a new branch in the CDOT Engineering, Design, and Construction Division to work directly with disproportionately impacted communities and other CDOT programs on the planning, study, and delivery of transportation capacity projects. The new branch will also identify barriers that may prevent these communities from participating in transportation decisions that affect their health, quality of life, and access for disadvantaged and minority businesses in project delivery.

Additional CDOT duties and requirements. The bill creates additional requirements for CDOT, which require the department to:

- comply with specific transparency and contractor short-listing requirements when using the integrated project delivery method of contract procurement for a public project involving infrastructure that is part of the state highway system;
- create the Freight Mobility and Safety Branch to implement projects and programs that enhance freight mobility and safety within the state;
- engage in comprehensive planning, modeling, analysis, community engagement and monitoring for transportation projects with metropolitan planning organizations; and,
- conduct a road usage vehicle mileage tracking study and an autonomous motor vehicles study, and present results of these studies to the General Assembly.

Taxi parity report. The bill requires the Public Utilities Commission (PUC) to report on whether there is parity between authorized taxi carriers and TNCs and their contributions to funding the transportation system, taking into account their respective business models, regulatory burdens, and impacts on the sustainability of the transportation system. The PUC must report to the Transportation Legislative Review Committee during the 2023 legislative interim.

Transportation planning organizations. The bill authorizes transportation planning organizations to exercise the powers of a regional transportation authority (RTA). The Transportation Commission and CDOT are prohibited from taking any revenue generated by a planning organization exercising the power of an RTA into account when determining the amount of state and federal funding to be allocated within its boundaries, and CDOT must provide evidence that it is abiding by this requirement when submitting its annual proposed budget allocation plan.

Vehicle emissions testing exemptions. The bill requires CDPHE to seek approval from the Environmental Protection Agency (EPA) and adopt rules to expand the current emissions testing exemption to 10 model years for new vehicles, and to 12 model years for plug-in hybrid electric motor vehicles.

TABOR limit. For the current FY 2020-21, the bill increases the state TABOR limit by \$224,957,602, reverting the reduction made by the General Assembly in Senate Bill 17-267. For FY 2021-22 and later years, the limit is adjusted from this higher level for inflation and population growth.

TRANS ballot measure. The bill cancels the referral of a 2021 ballot measure to allow the issuance of transportation revenue anticipation notes (TRANS), and repeals state law that would make related fiscal policy changes if the referred measure were approved.

Background

Highway Users Tax Fund. The Highway Users Tax Fund (HUTF) is the primary source of state highway system funding in Colorado. Revenue credited to the HUTF primarily comes from motor fuel taxes and vehicle registration fees. After off-the-top disbursements to the Department of Revenue and the Department of Public Safety, HUTF revenue is distributed to the State Highway Fund, counties, and municipalities for transportation purposes.

Funding for CDOT. The department is primarily funded from the State Highway Fund, which is comprised of federal funds, the state's share of revenue collected in the Highway Users Tax Fund, and other various sources of revenue. The decision-making authority for the majority of state transportation revenue rests with the Transportation Commission.

State enterprises. The state constitution defines an enterprise as a government-owned business that has authority to issue revenue bonds and receives less than 10 percent of its revenue from state and local government sources combined. Revenue paid to enterprises is not state revenue for the purpose of the state's constitutional spending limit (TABOR). CDOT currently oversees two enterprises, the Statewide Bridge Enterprise and the High-Performance Transportation Enterprise.

Regional Transportation Authorities. With voter approval, municipalities and counties may join together to create RTAs to finance, construct, operate, or maintain regional transportation systems. State law authorizes RTAs to establish, collect, and increase or decrease tolls, rates, and charges to finance a transportation system. With voter approval, they may also levy sales taxes, impose an annual motor vehicle registration fee, levy a visitor benefit tax, impose a property tax, establish regional transportation activity enterprises, and issue bonds. The board of an RTA may enter into intergovernmental agreements with CDOT and bordering entities, as well as create local improvement districts within their boundaries to facilitate transportation system improvements.

TABOR limit. TABOR limits state government revenue from most sources to an amount adjusted annually for inflation and population growth. Revenue collected under the limit may be spent or saved, and revenue collected in excess of the limit must be refunded to taxpayers. Senate Bill 17-267 reduced the state TABOR limit (Referendum C cap) by \$200.0 million in FY 2017-18. Because the TABOR limit is adjusted annually for inflation and population growth, the effect of this reduction is to reduce the state TABOR limit by \$224,957,602 in the current FY 2020-21.

TRANS ballot measure. A ballot measure to authorize the state to issue Transportation Revenue Anticipation Notes (TRANS) was first referred to voters under Senate Bill 18-001 and is scheduled to appear at the November 2021 statewide election. If approved, the measure would allow the state to sell TRANS in an amount of \$1.337 billion, with a maximum repayment cost of \$1.865 billion. Approval of the ballot measure would cancel the final \$500 million tranche of lease-purchase agreements scheduled to be executed in FY 2021-22 under current law enacted in SB 17-267.

Assumptions

Voter approval of new state enterprises. Proposition 117 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 four new enterprises in this bill will each begin operating in FY 2021-22. Through FY 2025-26, none of the four enterprises is projected to collect \$100 million or more in fees or surcharges. While the bill specifies maximum amounts for each fee, actual fee amounts will be set by the enterprise boards. Should fee revenue to any new enterprise approach \$100 million, it is assumed that the enterprise board will set fees so as not to exceed this amount.

State Revenue

The bill decreases state revenue by \$33.3 million in FY 2021-22 and increases state revenue by \$112.9 million in FY 2022-23, \$200.4 million in FY 2023-24, and larger amounts in later years. Revenue impacts occur in various state cash funds, including five state enterprises. Table 2 presents revenue estimates through FY 2023-24 and shows which revenue is expected to be subject to, and exempt from, the state TABOR limit.

**Table 2
Revenue Under SB 21-260**

	FY 2021-22	FY 2022-23	FY 2023-24
Highway Users Tax Fund*	(\$33.3 million)	\$28.3 million	\$97.3 million
Multimodal Options Fund*	-	\$6.8 million	\$7.6 million
Electric Vehicle Grant Fund*	-	\$0.1 million	\$0.2 million
Bridge and Tunnel Enterprise	-	\$23.3 million	\$33.4 million
Community Access Enterprise	-	\$19.4 million	\$21.7 million
Clean Fleet Enterprise	-	\$17.3 million	\$19.6 million
Clean Transit Enterprise	-	\$8.4 million	\$9.4 million
Air Pollution Enterprise	-	\$9.2 million	\$11.1 million
Total	(\$33.3 million)	\$112.9 million	\$200.4 million
Total Subject to TABOR	(\$33.3 million)	\$35.2 million	\$105.2 million
Total Exempt from TABOR	-	\$77.7 million	\$95.2 million

* This revenue is subject to the TABOR limit.

Assumptions. Revenue estimates for fees assessed on fuel, vehicle registrations, and vehicle rentals assume the June 2021 Legislative Council Staff forecast. Revenue estimates for fees assessed on retail delivery orders and TNC rides are based on the study completed pursuant to Senate Bill 19-239 and on a the technical update to the study dated January 2021.

The fee amounts identified in this fiscal note are the maximum fees allowed by the bill. Boards that impose the fees are empowered to select lower fee amounts at their discretion, but not higher amounts.

Highway Users Tax Fund. Most of the bill’s revenue impacts occur in the HUTF. These include the following:

- A decrease in the **road safety surcharge**, a registration fee applied to all vehicles. The bill decreases the road safety surcharge for all vehicles by \$11.10 in 2022 and \$5.55 in 2023 only. The estimates in Table 2 include a half-year impact of this effect in FY 2021-22 and FY 2023-24, and a full-year impact in FY 2022-23.
- Revenue from new **road usage fees** assessed on gasoline and diesel fuel purchases. These fees begin at \$0.02 per gallon and are increased incrementally to reach \$0.08 per gallon in FY 2028-29. Based on the estimated price elasticity of demand, the increased price is expected to modestly decrease gasoline and diesel fuel consumption, resulting in an annual decrease of \$0.1 million in revenue from the fuel taxes assessed under current law.
- An increase in **electric vehicle registration fees**. These include inflation adjustments for the \$50 electric vehicle registration fee assessed in current law, 60 percent of which is credited to the HUTF, and new electric vehicle road usage equalization fees assessed on electric vehicle registrations. The latter fees are increased incrementally through FY 2031-32. The remaining 40 percent of increased current law fees is credited to the **Electric Vehicle Grant Fund**.
- Changes to the current law **daily rental fee**. The fee is indexed for inflation, and broadened to apply for full-day use of car share services.
- The assessment of a **retail delivery fee**.

All HUTF revenue is subject to the state TABOR limit. Table 3 presents the bill’s impacts on HUTF revenue through FY 2023-24; revenue increases will grow larger in later years.

Table 3
Highway Users Tax Fund Revenue Under SB 21-260

Fee Type	FY 2021-22	FY 2022-23	FY 2023-24
Road Safety Surcharge	(\$33.3 million)	(\$49.5 million)	(\$16.8 million)
Road Usage Fees	-	\$59.7 million	\$91.6 million
Fuel Taxes	-	(\$0.1 million)	(\$0.1 million)
Electric Vehicle Registration Fees	-	\$0.4 million	\$1.0 million
Daily Rental Fee	-	\$0.9 million	\$2.8 million
Retail Delivery Fee	-	\$16.8 million	\$18.8 million
Total HUTF Revenue	(\$33.3 million)	\$28.3 million	\$97.3 million

Multimodal Options Fund. Revenue to the Multimodal Options Fund is attributable to a retail delivery fee. Multimodal Options Fund revenue is subject to TABOR.

Bridge and Tunnel Enterprise. New revenue to this existing enterprise is attributable to a retail delivery fee and to a bridge and tunnel impact fee applied to diesel fuel sales. The bridge and tunnel impact fee begins at \$0.02 per gallon and is increased incrementally to reach \$0.08 per gallon in FY 2028-29.

New enterprises. Revenue credited to the four new enterprises created in the bill is attributable to new retail delivery fees and TNC ride fees imposed by the enterprises. Table 4 shows the amounts of retail delivery fees and TNC ride fees expected to be imposed by the state and by enterprises in FY 2022-23. Ride fees are assessed at discounted rates for pooled rides and for rides in zero-emission vehicles. All revenue collected by enterprises is exempt from the state TABOR limit.

Table 4
Maximum Retail Delivery Fees and TNC Ride Fees Under SB 21-260
FY 2022-23

Retail Delivery Fees	
State (Highway Users Tax Fund)	5.97¢ / delivery
State (Multimodal Options Fund)	2.43¢ / delivery
Bridge and Tunnel Enterprise	2.70¢ / delivery
Community Access Enterprise	6.90¢ / delivery
Clean Fleet Enterprise	5.30¢ / delivery
Clean Transit Enterprise	3.00¢ / delivery
Air Pollution Mitigation Enterprise	0.70¢ / delivery
Total of Retail Delivery Fees	27.00¢ / delivery
Ride Fees (Full Price)	
Clean Fleet Enterprise	7.50¢ / ride
Air Pollution Mitigation Enterprise	22.50¢ / ride
Total of Ride Fees (Full Price)	30.00¢ / ride
Ride Fees (Discounted)	
Clean Fleet Enterprise	3.75¢ / ride
Air Pollution Mitigation Enterprise	11.50¢ / ride
Total of Ride Fees (Discounted)	15.00¢ / ride

Vehicle emissions testing exemptions. The bill requires CDPHE to seek approval from the EPA to extend vehicle emissions testing exemptions for new and plug-in hybrid electric vehicles. If CDPHE attains this waiver, state revenue will be reduced to the extent that residents and businesses avoid related fees for vehicle emissions testing. This fiscal note does not estimate the potential revenue reduction from this requirement.

Fee impact on individuals and businesses. Colorado law requires legislative service agency review of measures that create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by agencies and enterprises based on available cash fund balances, estimated program costs, and the number of transactions subject to the fee. Table 5 below identifies the fee impact of this bill in FY 2022-23.

**Table 5
FY 2022-23 Fee Impacts of SB 21-260**

Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
Road Usage Fee	\$0.02/gallon	2.99 billion gallons	\$59.7 million
Bridge and Tunnel Impact Fee	\$0.02/gallon	0.79 billion gallons	\$15.7 million
Road Safety Surcharge ¹	(\$8.33)/vehicle	5.9 million vehicles	(\$49.5 million)
Battery Electric Vehicle Fee	\$4.00/vehicle	60,000 vehicles	\$0.2 million
Plug-in Hybrid Vehicle Fee	\$3.00/vehicle	21,000 vehicles	\$0.1 million
Retail Delivery Fee	\$0.27/delivery	281 million deliveries	\$75.9 million
TNC Ride Fee (not discounted)	\$0.30/ride	29.6 million rides	\$8.9 million
TNC Ride Fee (discounted)	\$0.15/ride	5.2 million rides	\$0.8 million
Other Fees ²	-	-	\$1.1 million
Total Fees³			\$113.0 million

¹ The road safety surcharge is reduced by \$11.10 for calendar year 2022 and by \$5.55 for calendar year 2023.

² Other fees includes inflation adjustments for various existing fees. It also includes the new fee on car share vehicle rentals for which data is limited and a complete estimate cannot be made at this time.

³ Estimated fee revenue slightly exceeds the bill's estimated revenue impact shown in Table 1 and Table 2, as it omits an estimated \$0.1 million decrease in current law fuel tax revenue.

State Transfers

Transfers in the bill begin in the current FY 2020-21 and are first made from federal funds allocated to Colorado under the American Rescue Plan Act, and then from the General Fund. The bill also repeals an annual transfer from the General Fund to the State Highway Fund that is scheduled to occur under current law. Transfers are shown in Table 6 and discussed below.

**Table 6
Transfers Under SB 21-260**

	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
General Fund	-	(\$170.0 million)	(\$65.0 million)	\$50.0 million	(\$67.5 million)
Federal ARPA Funds	(\$380.0 million)	-	-	-	-
State Highway Fund	\$182.2 million	\$170.0 million	(\$43.1 million)	(\$50.0 million)	\$57.0 million
Highway Users Tax Fund	\$36.5 million	-	-	-	-
Multimodal Options Fund	\$161.3 million	(\$14.5 million)	\$108.1 million	-	\$10.5 million
Southwest Chief Fund	-	\$14.5 million	-	-	-
Net Transfers	\$0	\$0	\$0	\$0	\$0

One-time transfers. The bill creates the following one-time transfers for the current FY 2020-21 only. Transfers are made from federal American Rescue Plan Act funds that are available to be spent to offset revenue losses during and following the COVID-19 pandemic:

- \$182.2 million from federal funds to the State Highway Fund; of this amount, \$22.2 million is required to be used for CDOT's Revitalizing Main Streets program, and \$0.5 million is required to be used in conjunction with the development of the Burnham Yard rail property in Denver;
- \$36.5 million from federal funds to the HUTF; this amount is allocated entirely to local governments; and
- \$161.3 million from federal funds to the Multimodal Options Fund.

Transfers occur on June 30, 2021. It is assumed that expenditures of the transferred funds will occur no earlier than FY 2021-22.

The bill creates the following one-time transfers for FY 2021-22 only:

- \$170.0 million from the General Fund to the State Highway Fund; and
- \$14.5 million from the Multimodal Options Fund to the Southwest Chief Fund.

Annual transfers. For FY 2024-25 through FY 2031-32, the bill creates annual transfers as follows:

- \$10.5 million from the General Fund to the Multimodal Options Fund; and
- \$7.0 million from the General Fund to the State Highway Fund, which is required to be used for the Revitalizing Main Streets program.

For FY 2024-25 through FY 2028-29, the bill transfers \$100.0 million annually from the General Fund to the State Highway Fund. Of this amount, \$10.0 million annually must be used to fund projects that reduce vehicle miles traveled or directly reduce air pollution in nonattainment areas. For FY 2029-30 through FY 2031-32, the transfer amount is reduced to \$82.5 million and the requirement that a portion of the transfer be spent for air pollution-related purposes no longer applies.

Repealed transfers. The bill repeals a \$50.0 million annual transfer from the General Fund to the State Highway Fund that is scheduled to occur beginning FY 2022-23 through FY 2039-40 under current law.

Conditional transfer of revenue above current TABOR limit. Beginning in FY 2022-23, the bill creates a conditional transfer from the General Fund to the Multimodal Options Fund (94 percent of the transfer amount) and the State Highway Fund (6 percent). The transfer amount is 50 percent of the amount of state revenue retained as a result of the increase in the TABOR limit (Referendum C cap). The transfer is made annually through FY 2025-26 and limited to \$115 million over the four-year period. Based on the June 2021 LCS forecast, the full \$115.0 million transfer is expected to occur in FY 2022-23, including \$108.1 million to the Multimodal Options Fund and \$6.9 million to the State Highway Fund for the Revitalizing Main Streets program. If the transfer amount is less than \$115.0 million in FY 2022-23 based on TABOR conditions, then this transfer could extend into FY 2023-24, FY 2024-25, and/or FY 2025-26.

State Expenditures

The bill increases state expenditures by \$5.1 million and 21.7 FTE in FY 2021-22, by \$5.7 million and 32.8 FTE in FY 2022-23, and by \$5.5 million and 32.5 FTE in FY 2023-24. Expenditures are summarized in Table 7 and detailed below. Detailed expenditures tables for each department are included in the appendix. Expenditures in this fiscal note are initial estimates of administration costs for affected departments. Actual enterprise costs will be determined by the enterprise boards.

**Table 7
Administrative Expenditures Under SB 21-260¹**

	FY 2021-22	FY 2022-23	FY 2023-24
Department of Transportation (CF)	\$1,413,630	\$1,558,544	\$1,544,966
Department of Revenue (GF)	\$1,182,338	\$253,497	\$233,284
Colorado Energy Office (GF/CF)	\$416,365	\$892,400	\$887,600
Dept. of Public Health and Environment (GF/CF)	\$2,084,619	\$2,909,416	\$2,801,451
Public Utilities Commission (GF)	-	\$75,000	-
Total Cost	\$5,096,951	\$5,688,856	\$5,467,301
Total FTE	21.7 FTE	32.8 FTE	32.5 FTE

¹ Expenditure amounts do not include transportation and enterprise project costs. This funding, which is shown in Table 9, will be expended at the discretion of the Transportation Commission and enterprise boards.

Department of Transportation

Cash fund expenditures will increase in CDOT by \$1.4 million and 10.0 FTE in FY 2021-22, by \$1.6 million and 12.0 FTE in FY 2022-23, and by \$1.5 million and 12.0 FTE in FY 2023-24 to establish two new enterprises, manage new fees, and conduct various projects and studies as required by the bill. All costs in FY 2021-22 will be paid from the State Highway Fund. Beginning in FY 2022-23, costs for enterprise administration will be paid by the enterprises.

Staff and consulting costs. The bill will increase CDOT administrative expenditures by 10.0 FTE in FY 2021-22, and by 12.0 FTE in future years. These staff positions will provide support to the department's revenue forecasting team and the budget management and operations team; provide administrative support to the Clean Transit Enterprise and the Nonattainment Enterprise; serve as staff members for the associated boards; support the expanded Statewide Bridge and Tunnel Enterprise; address pollution and air quality requirements for transportation capacity projects; and to support the newly created Environmental Justice and Equity Branch. CDOT will also require consulting services to incorporate the new fees created by this bill into the department's annual revenue and cash models in FY 2021-22 at a cost of \$50,000. Appropriations from the State Highway Fund are required for expenditures in the Division of Accounting and Finance, including 3.0 FTE in FY 2021-22, while expenditures for programmatic functions can be paid from the State Highway Fund using continuous appropriations.

Capacity project requirements. The bill requires CDOT and metropolitan planning organizations to engage in enhanced planning, modeling, analysis, community engagement and monitoring when selecting and funding transportation capacity projects. These requirements also apply to adoption of the next ten-year plan and subsequent planning cycles, and must fully evaluate environmental and health impacts on disproportionately impacted communities. For regionally significant projects, the bill also requires the Transportation Commission to adopt procedures and guidelines related to pollution and air quality as of July 1, 2022, and to provide opportunities for public involvement. The amount of work needed to meet these requirements will vary depending on the procedures and guidelines set by the Transportation Commission. For this fiscal note it is assumed CDOT will require 3.0 FTE starting in FY 2022-23 and future years for environmental specialists to conduct modeling and

develop plans, as well as a marketing specialist to conduct outreach. It is expected that additional resources may be required and will be addressed by the Transportation Commission as needed.

Environmental Justice and Equity Branch. The bill requires CDOT to create a new branch in the Engineering, Design, and Construction Division. The branch will work directly with disproportionately impacted communities to provide additional access to transportation capacity projects, and reduce technological, language and information barriers that may prevent these communities from participating fully in transportation capacity projects. Starting in FY 2021-22, the new branch will require 1.0 FTE for a branch manager and 1.0 FTE for a program manager to provide general support and conduct outreach functions of the new branch.

Freight Mobility and Safety Branch. The bill requires CDOT to create the Freight Mobility and Safety Branch to implement projects and programs that enhance freight mobility and safety within the state. CDOT currently operates a freight office that performs similar functions to the new branch created by the bill. This fiscal note assumes that employees will be transferred to the new branch, and that this transfer will not increase CDOT personal service expenditures. The new branch is required to submit a long-term strategic plan to the Transportation Commission by January 1, 2022. Any additional resources required to develop the new strategic plan will be addressed by the Transportation Commission as needed.

Integrated project delivery. The bill requires CDOT to comply with certain requirements when using the integrated project delivery method of contract procurement for public projects. This fiscal note assumes that this workload can be accomplished within existing appropriations.

Studies and reports. Under the bill, CDOT must conduct a road usage charge feasibility study and an autonomous motor vehicles study. The bill also requires CDOT to work with the CEO and the CDPHE on an annual report detailing the progress made toward electric motor vehicle adoption goals and transportation sector greenhouse gas pollution reduction goals. This fiscal note assumes that this workload can be accomplished within existing appropriations and additional resources will be addressed by the Transportation Commission, if needed.

Fee adjustment review. CDOT is required to work with the CEO and the CDPHE, in consultation with enterprises created by this bill, to jointly review fees created by the bill and make recommendations to the General Assembly during the 2026 legislative interim about the appropriateness of current fees, and whether they should be adjusted. Resources to conduct this work will be requested in FY 2026-27, if needed.

Legal services. CDOT requires an estimated 1,800 hours of legal services per year at a cost of \$191,412. The Department of Law will require 1.0 FTE for this work, paid for with reappropriated funds from CDOT.

Department of Revenue

General Fund expenditures will increase in DOR by \$1.2 million and 5.3 FTE in FY 2021-22, by \$253,497 and 3.4 FTE in FY 2022-23, and by \$233,284 and 3.4 FTE in FY 2023-24 to implement and administer the new fees created in the bill.

Staff and consulting costs. DOR requires 3.5 FTE in FY 2021-22 and 3.4 FTE in future years for tax examiners and administrative support, as well as 2.0 FTE in FY 2021-22 to assist with project management and DRIVES development. DOR will also require a statistical analyst to conduct reporting in the Office of Research and Analysis, at a cost of \$3,200 in FY 2021-22 and \$19,968 in FY 2022-23.

Programming costs. DOR will have costs of \$776,350 for computer programming in FY 2021-22 and \$24,000 in ongoing costs for maintenance. These costs include contract programming for the department's DRIVES, GenTax, and Sales and Use Tax systems, as well as auditing and user acceptance testing by department staff.

Updates and training. DOR will need to update rules, forms, manuals and websites, and provide updated training for authorized agents, vehicle services section staff, law enforcement and other entities affected by the bill. It will also require additional fee and accounting programming for CORE. This work can be accomplished within existing appropriations.

Colorado Energy Office

Expenditures will increase in the CEO by \$416,365 and 2.1 FTE in FY 2021-22, by \$892,400 and 5.8 FTE in FY 2022-23, and by \$887,600 and 5.8 FTE in FY 2023-24 to establish the Community Access Enterprise. Of initial expenditures, \$100,491 will be paid from the General Fund to be paid back from enterprise funds and \$277,894 will be paid from the Energy Fund, which is continuously appropriated to the CEO. Ongoing expenditures will be paid by the enterprise.

Staffing and contracting costs. The board of the new Community Access enterprise is required to develop a 10-year business plan, create and maintain a public accountability dashboard and website, as well as to engage in public outreach. To support these activities, CEO requires 2.1 FTE in FY 2021-22 and 4.8 FTE in FY 2022-23 and future years for program management and administrative staff, including board support, stakeholder engagement, program development, as well as budget and accounting. Starting in FY 2022-23, the department will also require 1.0 FTE for procurement and contracts administration.

Administration and development costs. In FY 2021-22 CEO will require \$50,000 to develop a ten-year plan for the enterprise, \$30,000 to create their public accountability dashboard and website, and \$5,000 for board travel expenses. In FY 2022-23 and future years, CEO will require \$10,000 for board travel expenses and \$5,000 for ongoing website maintenance costs.

Legal services. The CEO requires an estimated 945 hours of legal services in FY 2021-22 at a cost of \$100,491 and 2,100 hours in FY 2022-23 and ongoing at a cost of \$223,314. The Department of Law will require 0.5 FTE and 1.2 FTE in the respective years for this work, paid for with reappropriated funds from the CEO.

Department of Public Health and Environment

Expenditures will increase in the CDPHE by \$2.1 million and 1.7 FTE in FY 2021-22, by \$2.9 million and 8.3 FTE in FY 2022-23, and by \$2.8 million and 8.0 FTE in FY 2023-24 to establish the Clean Fleet Enterprise. Initial expenditures will be paid from the General Fund to be paid back from enterprise funds. Ongoing expenditures will be paid by the enterprise.

Staffing and contracting costs. The board of the new Clean Fleet enterprise is required to develop a 10-year business plan, create and maintain a public accountability dashboard and website, engage in public outreach and prepare an annual report to the Transportation Commission. The CDPHE requires 1.5 FTE in FY 2021-22 and 2.0 FTE in future years for administrative staff to support the new enterprise board and to manage grantmaking activities. The Air Pollution Control Division will require 6.0 FTE to assist with regulatory activities and functions and to develop a 10-year business plan, with costs for these staff paid by the enterprise. This staff will include 3.0 FTE for rulemaking and to coordinate with CEO and CDOT to enhance adoption of renewable and clean vehicle technologies. The Air Pollution Control Division will also provide 1.0 FTE to evaluate and develop next generation diesel inspection and maintenance improvements and standards, 1.0 FTE to supervise the new section and an additional 1.0 FTE to support enterprise grantmaking, contracting and other administrative duties. The bill also requires the CDPHE to seek EPA approval to extend vehicle testing exemptions for new and plug-in hybrid electric vehicles. The CDPHE will require 0.3 FTE in FY 2021-22 to seek approval for the exemptions, and 0.3 FTE in FY 2022-23 if it attains approval for rulemaking, updating remote sensing software systems and coordination with DMV offices to implement the changes. The CDPHE may require additional appropriations in future years to complete program implementation, which will be requested through the annual budget process.

Technology costs. The Air Pollution Control Division will have costs of \$1.3 million for technology development and services provided to, and paid for by, the Clean Fleet Enterprise.

Legal services. The CDPHE requires an estimated 2,000 hours of legal services in FY 2021-22 and ongoing at a cost of \$212,680. The Department of Law requires 1.1 FTE for this work.

Public Utilities Commission

Taxi Parity Study. The PUC will have \$75,000 in additional costs in FY 2022-23, paid from the General Fund, for a contractor to conduct a taxi parity study and report results to the General Assembly.

Other Agency Impacts

State agency fuel costs. Starting in FY 2022-23, fuel costs for state agencies will increase from the road usage and bridge and tunnel fees created by the bill. Costs will vary depending on state agencies' vehicle usage. For example, the Department of Corrections is estimated to have costs of \$15,000 in FY 2022-23, \$23,000 in FY 2023-24, and larger amounts in later years. Other impacted agencies with significant vehicle usage include the Department of Public Safety and State Patrol, Department of Natural Resources, and CDOT, among others. It is assumed that these costs will be addressed through the annual budget process.

Governor's office. One-time costs will be required in the Governor's office to appoint members to four new enterprise boards. This work is estimated to require 150 hours of state time, which can be accomplished within existing appropriations.

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 estimated to be \$0.7 million in FY 2021-22, \$1.0 million in FY 2022-23 and \$1.0 million in FY 2023-24.

HUTF distributions

Revenue deposited or transferred to the HUTF is allocated to the State Highway Fund for expenditure at the discretion of the Transportation Commission, and to local governments. Revenue collected in the HUTF under the bill is allocated in shares of 60 percent for the State Highway Fund, 22 percent for counties, and 18 percent for municipalities. Revenue transferred to the HUTF under the bill is allocated in shares of 55 percent for counties and 45 percent for municipalities.

Transportation and Enterprise Projects

Beginning in FY 2021-22, revenue credited or transferred to the State Highway Fund and the Multimodal Options Fund will be available for expenditure for transportation projects and multimodal project grants. Actual expenditures will be made at the discretion of the Transportation Commission and are not subject to appropriation by the General Assembly. For this reason, the timing and amounts of expenditures are unknown, and they are not shown in this fiscal note. Revenue credited to enterprises will similarly be expended at the discretion of each enterprise board for each enterprise's business purpose. Funding from new revenue and transfers for transportation and enterprise projects is shown in Table 8. In addition to project costs, enterprise administration costs, which have not been estimated, will be paid using this funding. Funding in future years will increase further as various fees phase in.

Table 8
Estimated Funding Available for Transportation and Enterprise Projects Under SB 21-260

	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
State Highway Fund	\$182.2 million	\$150.0 million	(\$29.5 million)	\$4.6 million
Multimodal Options Fund	\$161.3 million	(\$14.5 million)	\$114.9 million	\$7.6 million
Electric Vehicle Grant Fund	-	-	\$0.1 million	\$0.2 million
Bridge and Tunnel Enterprise	-	-	\$23.3 million	\$33.4 million
Community Access Enterprise	-	-	\$19.4 million	\$21.7 million
Clean Fleet Enterprise	-	-	\$17.3 million	\$19.6 million
Clean Transit Enterprise	-	-	\$8.4 million	\$9.4 million
Air Pollution Enterprise	-	-	\$9.2 million	\$11.1 million
Southwest Chief Fund	-	\$14.5 million	-	-
Counties	\$20.1 million	(\$7.3 million)	\$8.1 million	\$23.4 million
Municipalities	\$16.4 million	(\$6.0 million)	\$6.7 million	\$19.2 million
Total	\$380.0 million	\$136.7 million	\$177.9 million	\$150.4 million

TABOR Refunds

The bill decreases fee revenue subject to TABOR in FY 2021-22, and then increases fee revenue subject to TABOR beginning in FY 2022-23. The bill also reverses a downward adjustment made to the TABOR limit in FY 2017-18, effectively increasing the state TABOR limit for FY 2020-21 and future years. The net effect of these changes is to reduce the amount of TABOR surpluses expected for FY 2020-21, FY 2021-22, and FY 2022-23, reducing the state obligation for refunds to taxpayers for these years. Refunds are paid from the General Fund in the fiscal year following the year when a surplus is collected. Table 9 shows the bill’s impact on the state TABOR outlook during the current forecast period. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Table 9
State TABOR Outlook Under SB 21-260

	Current Year FY 2020-21	Budget Year FY 2021-22	Out Year FY 2022-23
Current Law TABOR Surplus or (Deficit)	\$776.3 million	\$921.3 million	\$1,113.8 million
Plus: Change in TABOR Revenue	\$0	(\$33.3 million)	\$35.2 million
Less: Change in TABOR Limit	(\$225.0 million)	(\$229.9 million)	(\$240.5 million)
TABOR Surplus or (Deficit) under SB 21-260	\$551.4 million	\$658.2 million	\$908.5 million
TABOR Refund Impact of SB 21-260	(\$225.0 million)	(\$263.2 million)	(\$205.3 million)

Source: June 2021 Legislative Council Staff forecast, adjusted to exclude the impacts of SB 21-260. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA Funds

This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled “Legislative Changes and Flexibility in Use of American Rescue Plan Funds”: <https://leg.colorado.gov/node/2211881>

Local Government

The bill increases direct distributions of HUTF revenue to counties and municipalities as shown in Table 8. Counties and municipalities may also receive grants from the Multimodal Options Fund or through CDOT’s Revitalizing Main Streets program; both programs receive allocations of revenue generated through the bill.

Some transportation planning organizations may pass resolutions empowering them to exercise the powers of a regional transportation authority. For these organizations, revenue may increase in future years if voters approve new or increased taxes or multi-year debt questions.

Effective Date

The bill was signed into law by the Governor and took effect on June 17, 2021. Because Senate Bill 21-238 became law, the provision requiring a \$2.5 million transfer to the Southwest Chief Fund also took effect.

State Appropriations

For FY 2021-22, the bill requires and includes the following appropriations:

- \$146,840,000 from the Multimodal Transportation and Mitigation Options Fund to CDOT;
- \$14,500,000 from the Southwest Chief Fund to CDOT;
- \$259,957 from the State Highway Fund to CDOT, and 3.0 FTE;
- a reappropriation of \$191,412 from the State Highway Fund in CDOT to the Department of Law, and 1.0 FTE;
- \$1,082,480 from the General Fund and \$22,181 from the License Plate Cash Fund to the Department of Revenue, and 5.3 FTE;
- \$100,491 from the General Fund via the Community Access Enterprise Initial Expenses Fund to the Colorado Energy Office; of this amount, \$100,491 is reappropriated to the Department of Law with an additional 0.5 FTE; and
- \$1,702,187 to the Department of Public Health and Environment and 1.7 FTE. Of this amount, \$32,854 and 0.3 FTE is from the General Fund and \$1,669,333 and 1.4 FTE is from the General Fund via the Clean Fleet Enterprise Initial Expenses Fund; of the amount that is appropriated via the Clean Fleet Enterprise Initial Expenses Fund, \$212,680 is reappropriated to the Department of Law with an additional 1.1 FTE.

No appropriation is required from the Energy Fund, and no appropriation is required for State Highway Fund expenditures to CDOT beyond those identified above, because these funds are continuously appropriated to the CEO and to CDOT, respectively. Appropriations for the Clean Transit Enterprise, Air Pollution Enterprise, and Community Access Enterprise will be made via the initial expenses fund for each enterprise using these continuously appropriated cash funds.

State and Local Government Contacts

Colorado Energy Office
Counties
Information Technology
Legislative Council Staff Economists
Municipalities
Personnel
Public Safety
Revenue

Corrections
Governor
Law
Local Affairs
Office of State Planning and Budgeting
Public Health and Environment
Regulatory Agencies
Transportation

Appendix A

This appendix provides additional detail on agency expenditures in CDOT, DOR, CEO, CDPHE, and PUC, as shown in Tables A1 through A5 below.

**Table A1
CDOT Expenditures Under SB 21-260**

Department of Transportation	FY 2021-22	FY 2022-23	FY 2023-24
Personal Services	\$815,375	\$1,010,249	\$1,010,249
Operating Expenses	\$13,500	\$16,200	\$16,200
Capital Outlay Costs	\$62,000	\$12,400	-
Consulting Costs	\$50,000	-	-
Legal Services	\$191,412	\$191,412	\$191,412
Centrally Appropriated Costs ¹	\$281,343	\$328,283	\$327,105
FTE – Personal Services	10 FTE	12 FTE	12 FTE
FTE – Legal Services	1.0 FTE	1.0 FTE	1.0 FTE
Total Cost	\$1,413,630	\$1,558,544	\$1,544,966
Total FTE	11.0 FTE	13.0 FTE	13.0 FTE

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

**Table A2
DOR Expenditures Under SB 21-260**

Department of Revenue	FY 2021-22	FY 2022-23	FY 2023-24
Personal Services	\$272,730	\$156,531	\$156,531
Operating Expenses	\$5,400	\$4,590	\$4,590
Capital Outlay Costs	\$24,800	-	-
SSO Testing and Implementation	\$64,225	-	-
SUTS Programming and Maintenance	\$40,050	\$24,000	\$24,000
ORA Reporting	\$3,200	\$19,968	-
GenTax Programming	\$259,875	-	-
License Plate Materials	\$22,181	\$244	-
DRIVES Programming	\$412,200	-	-
Centrally Appropriated Costs ¹	\$77,676	\$48,163	\$48,163
Total Cost	\$1,182,338	\$253,497	\$233,284
Total FTE	5.3 FTE	3.4 FTE	3.4 FTE

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

**Table A3
CEO Expenditures Under SB 21-260**

Colorado Energy Office	FY 2021-22	FY 2022-23	FY 2023-24
Personal Services	\$187,659	\$499,941	\$499,941
Operating Expenses	\$2,835	\$7,830	\$7,830
Capital Outlay Costs	\$2,400	\$4,800	-
Legal Services	\$100,491	\$223,314	\$223,314
Program Administration	\$50,000	-	-
Travel Expenses	\$5,000	\$10,000	\$10,000
Computer Programming and Maintenance	\$30,000	\$5,000	\$5,000
Centrally Appropriated Costs ¹	\$37,979	\$141,515	\$141,515
FTE – Personal Services	2.1 FTE	5.8 FTE	5.8 FTE
FTE – Legal Services	0.5 FTE	1.2 FTE	1.2 FTE
Total Cost	\$416,365	\$892,400	\$887,600
Total FTE	2.6 FTE	7.0 FTE	7.0 FTE

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

**Table A4
CDPHE Expenditures Under SB 21-260**

Public Health and Environment	FY 2021-22	FY 2022-23	FY 2023-24
Personal Services	\$139,677	\$683,404	\$657,823
Operating Expenses	\$2,430	\$11,205	\$10,800
Capital Outlay Costs	\$12,400	\$37,200	-
Legal Services	\$212,680	\$212,680	\$212,680
APCD Contract	\$1,290,000	\$1,290,000	\$1,290,000
Technology Costs	\$15,000	\$17,000	\$4,000
Translation/Interpretation Costs	\$21,000	\$21,000	\$12,000
Enterprise Board Materials	\$9,000	\$9,000	\$9,000
Centrally Appropriated Costs ¹	\$382,432	\$627,926	\$605,148
FTE – Personal Services	1.7 FTE	8.3 FTE	8.0 FTE
FTE – Legal Services	1.1 FTE	1.1 FTE	1.1 FTE
Total Cost	\$2,084,619	\$2,909,416	\$2,801,451
Total FTE	2.8 FTE	9.4 FTE	9.1 FTE

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

**Table A5
PUC Expenditures Under SB 21-260**

Public Utilities Commission	FY 2021-22	FY 2022-23	FY 2023-24
Contractor Costs	-	\$75,000	-
Total Cost	-	\$75,000	-