

**JBC STAFF FISCAL ANALYSIS  
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING ADJUSTMENTS TO THE ADMINISTRATION OF THE DEPARTMENT OF PERSONNEL.

Prime Sponsors: Representative Todd  
Senator Bacon

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**Summary of Amendments Made to the Bill After the 4/13/2010 Legislative Council Staff Revised Fiscal Note Was Prepared**

None.

**JBC Staff Concurrence with Legislative Council Staff Fiscal Note**

**Concurs**                       **Does Not Concur**                       **Updated Analysis**

**Amendments/Appropriation Status**

***Appropriation***

The bill requires but does not contain an appropriation clause. Staff has prepared amendment **J.001** (attached) to add a provision increasing the FY 2010-11 appropriation for the Department of Personnel and Administration by a net total of \$445,434. This appropriation **increases the Department's FY 2010-11 appropriation by \$2,694,689 General Fund**, and *decreases* the Department's FY 2010-11 appropriation by \$2,249,255 cash funds.

Fiscal Impact of H.B. 10-1181			
Line Item	Total	General Fund	Cash Funds
Executive Director's Office, Colorado State Archives, Personal Services	\$0	(\$6,802)	\$6,802
Division of Accounts and Control - Controller, Office of the State Controller, Personal Services	0	1,089,800	(1,089,800)
Division of Accounts and Control - Controller, State Purchasing Office, Personal Services	0	794,393	(794,393)
Division of Accounts and Control - Controller, State Purchasing Office, Operating Expenses	540,298	817,298	(277,000)
Division of Accounts and Control - Controller, Collections Services, Private Agency Fees	(94,864)	0	(94,864)
<b>Total</b>	<b>\$445,434</b>	<b>\$2,694,689</b>	<b>(\$2,249,255)</b>

***Expenditures***

As delineated in the Legislative Council Staff Fiscal Note dated 4/13/2010, the legislation increases State *expenditures* by a net total of \$2,606,627. The expenditure amount is different than the appropriation amount because it takes into account the \$2.2 million cash funds (procurement card rebates) that are transferred to the General Fund for the purpose of allocating to other state agencies and institutions of higher education. The legislation permits the State Controller to allocate the funds according to each entity's proportional participation in the State procurement card program. The legislation is silent as to whether the state agencies will require spending authority from the General Assembly to spend the procurement card rebate moneys, but staff assumes that agencies will request spending authority through the annual budget process.

**Bill Sponsor Amendments**

The packet includes sponsor amendments **L.005** and **L.006** (attached).

**L.005**

- If the Committee *adopts L.005*, then it should *adopt J.002*.
- If the Committee *does not adopt L.005*, then it should *adopt J.001*.

**L.006**

- Amendment **L.006 does not have a fiscal impact for FY 2010-11**, and it does not impact which appropriation clause the Committee should adopt.

**Sponsor amendment L.005**

- Amendment **L.005 eliminates the legislation's positive General Fund impact**. The amendment results in a fiscal impact that **reduces the Department's total appropriation by \$94,864, which includes a reduction of \$6,802 General Fund**.
- The amendment stipulates that the allocation of procurement card rebates to institutions of higher education is an internal accounting transaction intended to satisfy federal accounting requirements. The procurement card revenue is not made available for other state entities to spend, and therefore the funds remain available for appropriation to the Division of Accounts and Control - Controller to fund the Office of the State Controller and the State Purchasing Office. **If the Committee adopts amendment L.005, the bill would no longer result in a \$2.2 million loss of cash funds for the Division, nor require a \$2.2 million General Fund appropriation to backfill the loss and continue the Division's operations.**
- The amendment specifies that the Office of the State Controller shall account for the procurement card rebates in a manner that satisfies the federal regulations regarding the use

of the procurement card program revenues. As a result, **the General Assembly would not need to appropriate \$540,298 General Fund** for the purpose of reimbursing the federal government for its portion of the revenue.

- ❑ The amendment specifies that for its purposes, the term "allocate" does not refer to an appropriation or a cash fund transfer to any state agency or institution of higher education, but instead refers to an internal accounting process within the Office of the State Controller. This alleviates staff's concerns that the Department was circumventing the General Assembly's power of appropriation, and the funds would remain available to appropriate to the Division of Accounts and Control.

Staff has prepared amendment **J.002** (attached) to make the following appropriations necessary to implement the bill with amendment L.005.

<b>Fiscal Impact, Amendment J.002</b>			
<b>Line Item</b>	<b>Total</b>	<b>General Fund</b>	<b>Cash Funds</b>
Executive Director's Office, Colorado State Archives, Personal Services	\$0	(\$6,802)	\$6,802
Division of Accounts and Control - Controller, Collections Services, Private Agency Fees	(94,864)	0	(94,864)
<b>Total</b>	<b>(\$94,864)</b>	<b>(\$6,802)</b>	<b>(\$88,062)</b>

**Sponsor amendment L.006**

Sponsor amendment **L.006** **does not have a fiscal impact for FY 2010-11** and therefore it is not a factor in which appropriation clause the Committee should choose. Of the five provisions in amendment L.006, staff anticipates the only potential fiscal impact is related to number four (below). The provisions include:

1. Permits the Controller to use fiscal rule to determine the maximum allowable amount for a travel advance to employees who are traveling on official state business. Currently, the maximum amount is set at \$1,500, but this amendment eliminates any restrictions on the allowable amount as determined by fiscal rule.
2. Requires the Department of Personnel and Administration to establish a rule so that other state departments are not required to purchase goods or services through the Division of Central Services if they can procure the services elsewhere at a net cost savings to the State.

3. Expands the moneys collected and deposited into the Department of Personnel Revolving Fund to include fees from rebates including, but not limited to, rebates from car rentals, travel agencies, lodging, and travel cards.
4. Permits the Department of Personnel and Administration to allow state agencies with demonstrated internal expertise to negotiate and execute leases for land, buildings, and office or other space on behalf of the state government. It also permits these entities to use real estate lease forms other than those approved by the Department. It is possible that allowing other entities to negotiate their own property leases will decentralize the process, reducing opportunities for efficiency and economies of scale. It is also possible that decentralizing the process, and permitting state agencies to use forms other than those approved by the State, will increase the State's exposure to legal challenges. However, given that the fiscal impact is speculative, it is not possible to quantify the potential fiscal impact.
5. Increases the minimum threshold for a project to be considered a "public project", and thus subject to laws regarding competitive sealed bidding, from \$150,000 to \$500,000. It is unclear as to whether this provision has a fiscal impact to the state.

### Points to Consider

1. **Fiscal impact:** Section 15 of the bill establishes a Statewide Procurement Card program, and requires all state agencies and institutions of higher education to participate in the program. It also deposits any related revenues (such as rebates and signing bonuses) directly into the General Fund, then allows the State Controller to allocate the moneys from the General Fund to state agencies and institutions of higher education on a basis proportional to their statewide procurement expenditures. This provision results in the following: (1) the General Assembly will relinquish its authority to appropriate these dollars; (2) depositing the procurement card revenue directly into the General Fund results in an annual fiscal impact between \$500,000 General Fund and \$750,000 General Fund, in the form of reimbursements to the federal government; and (3) approximately \$2.2 million in procurement card rebates currently funds the State Controller's Office. If the General Assembly intends to continue operating the Office of the State Controller, it will need to appropriate General Fund to backfill for the diverted dollars. The following discussion points provide additional detail about these items.
2. **Legislative authority:** Currently, procurement card savings are subject to annual appropriation by the General Assembly. The bill permits the State Controller to allocate the moneys from the General Fund to various state agencies and institutions of higher education. The bill does not specify how the departments will use this new fund source, nor how the departments would account for or report these expenditures to the General Assembly. It is

unclear as to whether the departments would require spending authority for the funds, as well as how the Controller's office would determine the specific allocation amounts.

3. **Federal reimbursement:** The State is not currently obligated to reimburse the federal government for the portion of the procurement card revenues attributed to federal funds expenditures because the moneys are used to support statewide central services such as the Office of the State Controller. However, the federal government requires to be reimbursed for its portion if the revenue is deposited into the General Fund. In January, 2010, the Department estimated the federal government may be entitled to up to 25.0 percent of the total amount, including interest. Depositing the procurement card revenue directly into the General Fund results in an annual fiscal impact between \$500,000 General Fund and \$750,000 General Fund. **For the purposes of this legislation, staff anticipates a \$540,000 General Fund impact as a result of transferring the procurement card rebates to the General Fund.**
4. **Office of the State Controller:** The FY 2010-11 Long Bill appropriates \$2.2 million cash funds, which originate as procurement card revenues, to support the Office of the State Controller. The legislation's language re-allocates the moneys to various state agencies and institutions of higher education, and subsequently the funds will not be available to appropriate for the Office of the State Controller. If it is the intent of the General Assembly to continue to fund the Office of the State Controller, the Department **will require an annual \$2.2 million General Fund appropriation backfill to maintain its current operating activities.**
5. The Joint Budget Committee has introduced a balanced budget package for FY 2010-11 based on the March 2010 Legislative Council Staff forecast. This bill requires a General Fund appropriation of \$2,694,689 for FY 2010-11, thereby decreasing the fiscal year-end General Fund reserve by \$2,694,689.