

Status:

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Fiscal Note

Drafting Number: LLS 24-0798 March 18, 2024 Date: **Prime Sponsors:** Sen. Priola; Cutter **Bill Status:** Senate Transportation & Energy Rep. Rutinel; Garcia Fiscal Analyst: Matt Bishop | 303-866-4796 matt.bishop@coleg.gov **Bill Topic: AIR QUALITY IMPROVEMENTS Summary of** ☐ State Transfer ☐ Local Government **Fiscal Impact:** ☐ Statutory Public Entity The bill establishes a variety of programs and reports to reduce emissions of ozone precursors in the ozone nonattainment area. It increases state expenditures on an ongoing basis beginning in FY 2024-25. For FY 2024-25, the bill requires appropriations totaling \$1.3 million to multiple state **Appropriation Summary:** agencies. The fiscal note reflects the introduced bill. **Fiscal Note**

Table 1 State Fiscal Impacts Under SB 24-165

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Revenue	Cash Funds	-	\$1,440,473	\$1,557,939	\$2,485,159
	Total Revenue	-	\$1,440,473	\$1,557,939	\$2,485,159
Expenditures	General Fund	\$1,271,801	\$93,538	\$93,538	\$93,538
	Cash Funds	\$18,962	\$1,459,434	\$1,576,901	\$2,504,121
	Central. Approp.	\$120,663	\$181,781	\$190,374	\$346,315
	Total Expenditures	\$1,411,426	\$1,734,753	\$1,860,813	\$2,943,974
	Total FTE	7.5 FTE	10.8 FTE	11.3 FTE	19.3 FTE
Transfers		-	-	-	-
Other Budget	TABOR Refund	-	\$1,440,473	\$1,557,939	\$2,485,159
	GF Reserve	\$190,770	\$14,031	\$14,031	\$14,031

Summary of Legislation

The bill establishes a variety of programs and reports to reduce emissions of ozone precursors in the ozone nonattainment area.

Diesel fleets and indirect emissions sources. The bill authorizes CDPHE to adopt rules limiting emissions in the nonattainment area from certain diesel fleets and from indirect sources, which are sites that generate or attract mobile sources of emissions including roads, parking facilities, and buildings. CDPHE may approve alternative compliance proposals from the owner or operator on an indirect source. CDPHE may establish a fee on indirect sources to cover its direct and indirect costs.

Ozone season pause of preproduction activities. The bill prohibits preproduction activities of oil and gas operators in the nonattainment area during the ozone season beginning in 2025 until the area meets federal air quality standards. This restriction does not apply to preproduction activities power from the electric grid.

Emissions reports. The bill requires oil and gas operators and CDPHE to publish annual reports about emissions from oil and gas operations beginning in 2024.

- By June 30, operators must report on emissions of greenhouse gases, hazardous air
 pollutants, and ozone precursors. By October 1, CDPHE must publish an emissions inventory
 report that includes an evaluation of progress towards the goals in the state's Greenhouse
 Gas Pollution Reduction Roadmap, descriptions of initiatives taken to reduce emissions, the
 impacts of oil and gas operations on federal air quality standards, and opportunities for
 interagency coordination on air quality.
- By November 30, operators in the nonattainment area must estimate their nitrogen oxide
 emissions for the subsequent ozone season. By February 1, CDPHE must publish a nitrogen
 oxides report that includes the estimates. The Energy and Carbon Management Commission
 in the Department of Natural Resources must create a nitrogen oxides emission budget and
 use information in the report to limit emissions from oil and gas operations.

Driving reduction strategy. The Department of Transportation must develop vehicle miles-traveled reduction targets for the nonattainment area and develop policies and programs to assist metropolitan planning organizations in meeting the targets. The department must present its policies to the legislature at its 2025 SMART Act hearing.

State Revenue

The bill increases state cash fund revenue by up to \$1.4 million beginning in FY 2025-26, increasing by up to \$2.5 million by FY 2027-28. This revenue is subject to TABOR.

Permit applicants and operators pay fees depending on the type of permit sought, the amount of emissions allowed, and the time required for CDPHE to process the permit. This fee revenue accrues to the Stationary Sources Control Fund. The fiscal note assumes that CDPHE will adjust its fees as necessary in FY 2024-25 to generate revenue that covers its costs beginning in

FY 2025-26. In addition, CDPHE may assess new fees on indirect sources. If CDPHE cannot generate sufficient revenue, additional General Fund may be required in future years, which will be addressed through the annual budget process. While the fiscal note estimates the total amount of revenue, given the multitude of different fees charged by the CDPHE for permits, the impact on individual permit types cannot be estimated.

State Expenditures

The bill increases state expenditures by about \$1.4 million in FY 2024-25, \$1.7 million in FY 2025-26, \$1.9 million in FY 2026-27, and \$2.9 million in FY 2027-28 paid from the General Fund, the Stationary Sources Control Fund, and, to a lesser extent, the Energy and Carbon Management Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 24-165

	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28		
Department of Public Health and Environment						
Personal Services	\$461,681	\$732,324	\$762,490	\$1,503,422		
Operating Expenses	\$6,272	\$10,240	\$10,880	\$20,480		
Capital Outlay Costs	\$40,020	\$20,010	\$6,670	\$66,700		
Legal Services	\$384,060	\$441,669	\$441,669	\$556,887		
Information Technology	\$200,000	\$200,000	\$200,000	\$150,000		
Travel Costs	\$2,480	\$2,480	\$2,480	\$153,920		
Research	\$50,000	-	\$100,000	-		
Communication Materials	\$33,750	\$33,750	\$33,750	\$33,750		
Centrally Appropriated Costs ¹	\$99,782	\$160,899	\$169,493	\$325,434		
FTE – Personal Services	4.9 FTE	8.0 FTE	8.5 FTE	16.0 FTE		
FTE – Legal Services	1.7 FTE	1.9 FTE	1.9 FTE	2.4 FTE		
CDPHE Subtotal	\$1,278,045	\$1,601,372	\$1,727,432	\$2,810,593		
Colorado Energy Office						
Personal Services	\$92,642	\$92,642	\$92,642	\$92,642		
Operating Expenses	\$896	\$896	\$896	\$896		
Centrally Appropriated Costs ¹	\$17,437	\$17,437	\$17,437	\$17,437		
FTE – Personal Services	0.7 FTE	0.7 FTE	0.7 FTE	0.7 FTE		
CEO Subtotal	\$110,975	\$110,975	\$110,975	\$110,975		

Table 2	
Expenditures Under SB 24-165 (Cont.)

	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
Department of Natural Resources				
Personal Services	\$18,962	\$18,962	\$18,962	\$18,962
Centrally Appropriated Costs ¹	\$3,444	\$3,444	\$3,444	\$3,444
FTE – Personal Services	0.2 FTE	0.2 FTE	0.2 FTE	0.2 FTE
DNR Subtotal	\$22,406	\$22,406	\$22,406	\$22,406
Total	\$1,411,426	\$1,734,753	\$1,860,813	\$2,943,974
Total FTE	7.5 FTE	10.8 FTE	11.3 FTE	19.3 FTE

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

Department of Public Health and Environment. The bill requires the development of significant new regulatory requirements related to in-use, off-road, diesel fleets and indirect sources of air pollution, as well as ongoing implementation, oversight, and management of programmatic and regulatory needs.

- **Staff.** The bill's staggered rulemaking deadlines require a gradual ramping up of staffing for research, rulemaking, and enforcement over several fiscal years, from 4.9 FTE in FY 2024-25 to 20.5 FTE by FY 2028-29 (not shown in Table 2). Standard operating and capital outlay costs are included.
- **Legal services.** CPHE requires 3,000 hours of legal services for rulemaking and general counsel, increasing to 3,450 hours in subsequent years. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.
- **Information technology.** In order to track additional sources of emissions, CDPHE requires information technology improvements. Costs assume a three-year implementation window at roughly \$200,000 per year. Ongoing system maintenance costs are estimated at \$150,000 per year.
- **Travel costs.** In initial years, mileage costs are estimated at approximately 4,000 miles per year. Beginning FY 2027-28, mileage increases to 16,000 miles per year. Costs in FY 2027-28 also include the purchase of two vehicles estimated at \$50,000 each, and hotel and per diem costs estimated at \$44,000 beginning.
- **Research.** CDPHE requires contracted research studies to support rulemaking efforts. This is estimated at \$50,000 for indirect source research in FY 2024-25 and \$100,000 for diesel fleet research in FY 2026-27.
- **Communication materials.** CDPHE requires \$34,000 for translation services and communication materials annually beginning in FY 2024-25.

Colorado Energy Office. CEO requires 0.7 FTE beginning in FY 2024-25 to support the rulemaking activities in the bill.

Department of Natural Resources. The ECMC requires 0.2 FTE beginning in FY 2024-25 to develop the annual ozone season nitrogen oxide emissions budget, evaluate operator reports, and determine if total estimated emissions exceed the year's budget.

Department of Transportation. CDOT must set vehicle miles-traveled reduction goals and develop policies and projects to assist metropolitan planning organizations reach their targets. Currently, the department sets goals to reduce vehicle miles-traveled under the Statewide Transportation Plan. If the department creates specific new targets and projects to enforce the existing goals, its workload will increase.

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 shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires appropriations totaling \$1,290,763 as follows:

- \$1,178,263 from the General Fund to the Department of Public Health and Environment, and 4.9 FTE. Of this, \$384,060 is reappropriated to the Department of Law, with an additional 1.7 FTE;
- \$93,538 from the General Fund to the Colorado Energy Office, and 0.7 FTE; and

• \$18,962 from the Energy and Carbon Management Fund to the Department of Natural Resources, and 0.2 FTE.

Departmental Difference

The fiscal note does not include certain department-identified costs, as follows:

- CDPHE assumes that 12.0 FTE are required beginning in FY 2024-25 to prepare for the rulemaking regarding diesel fleets; the fiscal note instead assumes that this staff will begin in FY 2026-27 since the rulemaking deadline is December 2028;
- CDPHE and the Office of Information Technology (OIT) assume that \$572,000 is required in
 FY 2024-25 for computer programming to be performed by OIT on behalf of CDPHE related
 to emissions tracking; the fiscal note instead assumes that since the work will take place over
 multiple fiscal years, it is not necessary to appropriate the total from the General Fund in
 FY 2024-25; and
- the Colorado Energy Office assumes that it requires \$50,000 per year to perform bill-related analyses; the fiscal note assumes these costs are redundant to similar work performed by other agencies.

State and Local Government Contacts

Colorado Energy Office Information Technology Law
Legislative Department Natural Resources Public Health and Environment
Transportation

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the <u>General Assembly website</u>.