SB 24-214

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 4, 2024)

Drafting Number:	LLS 24-1175	**Date:**	May 5, 2024
Prime Sponsors:	Sen. Hansen; Cutter Rep. Amabile; McCormick	**Bill Status:**	House Appropriations
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Bill Topic: **IMPLEMENT STATE CLIMATE GOALS**

Summary of Fiscal Impact:

☒ State Revenue ☒ State Transfer ☐ Local Government
☒ State Expenditure ☒ TABOR Refund ☐ Statutory Public Entity

The bill creates a new Office of Sustainability, clarifies existing tax credits, and makes various programmatic adjustments. These changes transfer funds starting in the current FY 2023-24, increase state expenditures starting in FY 2024-25, and eliminate a diversion in FY 2025-26.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $100,000 to the Colorado Energy Office. It also includes an appropriation adjustment to the 2024 Long Bill to fund Department of Revenue expenditures from the Decarbonization Tax Credit Administration Cash Fund and an appropriation of $958,596 to the Colorado Energy Office. No further appropriation is required, as costs are paid from continuously appropriated cash funds. See State Appropriations section.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill, as amended by the House State, Civic, Military, and Veterans Affairs.

Table 1
State Fiscal Impacts Under SB 24-214

		Current Year FY 2023-24	Budget Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-	-
Expenditures	General Fund	-	$100,000	-
	Sustainability Revolving Fund	-	$400,000	$400,000
	Decarbonization Tax Cred. Admin. Cash Fund	-	$2,728,756	-
	Various Cash Funds	-	($2,728,756)	-
	Total Expenditures	-	**$500,000**	**$400,000**
Transfers	General Fund	-	($400,000)	($400,000)
	Decarbonization Tax Cred. Admin. Cash Fund	($1,219,781)	-	$3,948,537
	Sustainability Revolving Fund	-	$400,000	$400,000
	Various Cash Funds	$1,219,781	-	($3,948,537)
	Net Transfer	**$0**	**$0**	**$0**
Other Budget	General Fund Reserve	-	$15,000	-

Summary of Legislation

The bill creates a new Office of Sustainability, modifies the Geothermal Energy Grant Program and Energy Code Board administration, clarifies some existing tax credits, and makes an adjustment to the flow of money between funds to pay for administrative expenses for various tax credits, establishes energy efficiency standards for certain construction projects, commissions a study on heat pumps, modifies an existing heat pump tax credit, and requires voluntary electricity rates for utility customers who use heat pumps. It also extends deadlines, scope of grant funding, and appropriations for various climate-related programs.

Office of Sustainability. The bill creates the Office of Sustainability in the Department of Personnel and Administration to streamline sustainability practices across state agencies. This includes developing baseline metrics for reducing negative environmental impacts, setting goals for state government, tracking financial savings from implementing sustainability policies, seeking federal funding to support sustainability practices, and facilitating sustainability infrastructure projects with other state agencies. Such projects may include electric vehicle charging infrastructure, energy efficiency, water use reduction, and waste diversion.

In FY 2024-25, the bill creates the Sustainability Revolving Fund for the office to replace the state's gas- and diesel-powered equipment located in the ozone nonattainment area on the front range. It also creates the Inflation Reduction Act Elective Pay Cash Fund, which consists of money received by DPA under the federal act's elective pay provisions, and which may be used to coordinate state agencies' applications for elective pay funding and other administration of the new office.

Geothermal Energy Grant Program. The bill modifies the provision of this existing grant program administered by the Colorado Energy Office (CEO) by adjusting the grantmaking priorities and allowing the CEO to use grant program money to support outreach activities.

Energy Code Board. House Bill 22-1362 established the Energy Code Board to develop model codes for voluntary adoption by local governments and state agencies. This bill extends the deadline for the board to produce a model low energy and carbon code from June 1, 2025, to September 1, 2025, and reallocates existing transfers to the board's cash fund by allowing the board to spend an additional $125,000 on board costs instead of grants to local governments.

Industrial Clean Energy Tax Credit. The bill increases the maximum tax credit per taxpayer from $5 million to $8 million, broadens the scope of industrial studies that are considered qualified projects, clarifies that project developers may qualify for the credit, and disallows taxpayers from receiving grant money from the industrial and manufacturing options clean air grant program for the same project for which they received the tax credit.

The bill does not change the aggregate amount of tax credits allowed to be claimed, which is limited to $16 million per year for tax years 2024 to 2028 and $24 million per year from 2029 to 2032.

Geothermal Expenditures Tax Credit. The bill expands the type of project that is eligible for the credit to include studies and expands eligible taxpayers to include tribal governments.

The bill does not change the aggregate amount of tax credits allowed to be claimed, which is limited to $35 million in all years the tax credit is allowed.

Geothermal Production Tax credit. The bill removes the maximum tax credit amount of $1 million per year per taxpayer, allows the CEO to modify the size of the tax credit, and requires the CEO to annually evaluate the effectiveness of the tax credit.

Tax administration. Under current law, a portion of increased severance tax revenue from changes made in House Bill 23-1272 is used to pay for administrative costs in the CEO and the Department of Revenue (DOR), except that the departments may use other cash funds in FY 2024-25 and those funds will be repaid by a diversion from the Decarbonization Tax Credits Administration Cash Fund. This bill repeals this diversion, and instead requires the repayment to occur via a transfer from the Decarbonization Tax Credits Administration Cash Fund on June 29, 2024.

Energy Star requirements. Beginning in 2025, the recipient of state financial assistance for new building construction projects that include certain energy-consuming products must use products certified by the Energy Star program unless it receives a waiver from the state agency that is administering the state financial assistance. The Attorney General may take civil action against violators of these requirements, which may include a civil penalty up to the amount of state financial assistance received.

Heat pump adoption study. In FY 2024-25, the CEO must conduct a study on how to accelerate adoption of heat pump technology through a technical standard for applicable air conditioners. It must submit the study and any recommendations to the General Assembly.

Tax credit for heat pump technology and thermal energy networks. The bill modifies this existing tax credit, which is available for the installation of certain equipment based on the type of equipment. The bill makes cold-source heat pumps ineligible for the tax credit, eliminates the maximum heating capacity that qualifies for nonresidential buildings, and allows the CEO to adjust the limits on the credits.

Electricity rates. Electric utilities must offer for voluntary rates for customers who use a heat pump, and must submit the proposed rates to the Public Utilities Commission (PUC) in the Department of Regulatory Agencies during a general rate case request by August 1, 2027.

Clean heat targets. Under current law, the Public Utilities Commission must determine greenhouse gas emission reduction targets for clean heat plans for 2035 by December 1, 2024. The bill extends this deadline by one year, to December 1, 2025.

High-Efficiency Electric Heating and Appliances Grant Program. The bill expands the scope of eligible uses of grant funds to include dryers and other uses determined by the CEO.

Biochar study. House Bill 23-1069 commissioned a study from Colorado State University on the use of biochar for plugging oil and gas wells, and appropriated money from the Oil and Gas Conservation and Environmental Response Fund. This bill extends the university's spending authority for that appropriation through FY 2024-25.

Background

The federal Inflation Reduction Act of 2022 created a number of tax credits related to energy production, clean fuels, and carbon sequestration. Entities that claim the credits can use elective pay to make the credits effectively refundable. This bill establishes a coordinating method for state agencies to apply for elective pay and uses any such payments to fund the new office.

State Revenue

If the bill causes state agencies to receive more elective pay under the Inflation Reduction Act, revenue will increase to the Inflation Reduction Act Elective Pay Cash Fund beginning in FY 2024-25. The amount of revenue depends on tax credit-eligible projects pursued by state agencies and cannot be estimated here.

By removing the limit of $1 million per taxpayer for the geothermal production tax credit, the bill may reduce General Fund revenue beginning in FY 2029-30, when the first tax credits are expected to be claimed.

The bill potentially increases state revenue to the Sustainability Revolving Fund and the Inflation Reduction Act Elective Pay Cash Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

Prohibiting cold-climate heat pumps from qualifying for the tax credit for heat pump technology and thermal energy networks may reduce state revenue beginning in FY 2024-25. As the uptake of this technology is currently limited, this impact is expected to be minimal.

State Transfers and Diversions

Beginning in FY 2024-25, the bill transfers $400,000 from the General Fund to the Sustainability Revolving Fund. This transfer occurs on July 1 each year.

In addition, the bill repeals an existing diversion in FY 2025-26 from the Decarbonization Tax Credits Administration Cash Fund to various cash funds in the CEO and CDPHE, and instead it transfers money from the fund to the various cash funds in the current FY 2023-24. Based on the costs identified in the fiscal note for HB 23-1272, this transfer in FY 2023-24 is estimated to be $1.2 million on June 29, 2024. The eliminated diversion from the Decarbonization Tax Credits Administration Cash Fund is estimated to be $2,989,941 in FY 2025-26.

State Expenditures

The bill increases expenditures by $400,000 beginning in FY 2024-25 in DPA from the Sustainability Revolving Fund, by up to $370,140 in the Department of Higher Education in FY 2024-25 only, and by $100,000 in the Colorado Energy Office in FY 2024-25. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 24-214

	FY 2024-25	FY 2025-26
Department of Personnel and Administration		
Equipment Replacement and Administrative Costs	$400,000	$400,000
DPA Total	**$400,000**	**$400,000**
Colorado Energy Office		
Heat Pump Study	$100,000	-
CEO Total	**$100,000**	-
Total Cost	**$500,000**	**-**

Department of Personnel and Administration. The bill includes funding to replace equipment in the ozone nonattainment area and to administer the new office. Administrative costs include personal services, standard operating and capital outlay costs, and employee benefits, and may also include fulfilling the office's other duties.

Colorado Energy Office. The CEO requires $100,000 to conduct the required study on accelerating heat pump adoption in FY 2024-25 only, paid from the General Fund.

The CEO currently receives funding of $1,022,807 and 3.1 FTE, which is $958,596 plus centrally appropriated costs, for its role in tax credit administration. While this bill does not change the overall expenditures, it requires that these costs be paid from the Decarbonization Tax Credits Administration Cash Fund, which is subject to annual appropriation, rather than from continuously appropriated sources since the bill will no longer repay those funds via a diversion after the current FY 2023-24.

Modifications to the Geothermal Energy Grant Program and the Energy Code Board affect CEO's workload to administer these programs. As the bill does not affect the amount of funding available for either program, any net change in workload is expected to be minimal.

Department of Higher Education. Expenditures increase at Colorado State University to complete the biochar study, paid from the Oil and Gas Conservation and Environmental Response Fund. The bill authorizes the university to spend the remainder of its $370,140 appropriation for FY 2023-24, which otherwise reverts to the fund.

Department of Revenue. Similar to the Colorado Energy Office, the Department of Revenue incurs costs to administer the tax credits. This includes appropriations from various cash funds totaling $1,770,160 for FY 2024-25. This bill instead appropriates these funds from the Decarbonization Tax Credits Administration Cash Fund.

Local Government

Revenue and expenditures may decrease in local governments to the extent that less grant funding is available from the Energy Code Board.

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 a General Fund appropriation of $100,000 to the Colorado Energy Office.

For FY 2024-25, the bill includes cash fund appropriations of:

- $1,770,160 from the Decarbonization Tax Credits Administration Cash Fund to the Department of Revenue, and reduces appropriations from other cash funds to the department by the same amount; and
- $958,596 from the Decarbonization Tax Credits Administration Cash Fund to the Colorado Energy Office, and 3.1 FTE. This represents expenditures that would otherwise be paid from cash funds continuously appropriated to the office.

No further appropriation is required as the following cash funds are continuously appropriated:

- the Sustainability Revolving Fund to the Department of Personnel and Administration;
- the Inflation Reduction Act Elective Pay Cash Fund to the Department of Personnel and Administration; and
- the Energy Fund to the Colorado Energy Office.

State and Local Government Contacts

Colorado Energy Office	Personnel	Revenue
Treasury		

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 General Assembly website.