HB 23-1272

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 26, 2023)

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Sen. Fenberg; Cutter
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Bill Topic: **TAX POLICY THAT ADVANCES DECARBONIZATION**

Summary of Fiscal Impact:

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

The bill makes various changes to state income tax credits, sales and use taxes, specific ownership tax, and severance taxes. It decreases state revenue, on net, and increases expenditures beginning in FY 2023-24 through at least FY 2032-33.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of $149,729 to the Department of Revenue.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill, as amended by the senate finance committee.

Table 1
State Fiscal Impacts Under HB 23-1272

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($55.4 million)	($76.3 million)	($68.9 million)
	Cash Funds	$13.9 million	$28.3 million	$29.2 million
	Total Revenue	**($41.5 million)**	**($48.0 million)**	**($39.7 million)**
Expenditures	General Fund	-	$21,000	$59,000
	Cash Funds	$1,648,436	$3,213,672	$1,783,877
	Centrally Appropriated	$58,318	$249,349	$141,198
	Total Expenditures	**$1,706,754**	**$3,484,021**	**$1,984,075**
	Total FTE	**2.9 FTE**	**14.3 FTE**	**7.9 FTE**
Transfers	General Fund	$12.2 million	$25.0 million	$27.3 million
	Cash Funds	($12.2 million)	($25.0 million)	($27.3 million)
	Net Transfer	**$0**	**$0**	**$0**
Other Budget Impacts	TABOR Refunds	($41.5 million)	($48.0 million)	not estimated
	General Fund Reserve	-	$3,150	$8,850

Summary of Legislation

Beginning in tax year 2024, the bill makes various modifications to state income tax credits, sales and use taxes, specific ownership tax, and severance taxes, as described below.

Income Tax Credits

Innovative motor vehicle and innovative truck income tax credits. The bill extends two state income tax credits for purchases and leases of electric and plug-in hybrid electric passenger vehicles and trucks.

As under current law, the bill allows the purchaser of a vehicle to assign the credit to the motor vehicle dealer or financer. If the purchaser assigns the credit to the dealer or financer, the purchaser must be compensated for the full value of the tax credit, excluding a service fee of up to $250. Dealers and financers may register for advance payments of the credit, in which case they must file a quarterly report to the Department of Revenue (DOR) who will then issue the credit. Beginning in 2024, the bill allows purchasers who are exempt from taxation to qualify for the credit, which may benefit them if they then assign the credit to a dealer or financer.

For FY 2023-24 and FY 2024-25, the bill allows the Colorado Energy Office (CEO) and the DOR to spend money from the Electrifying School Buses Grant Program Cash Fund to administer the innovative motor vehicle and innovative truck tax credits.

Innovative motor vehicle credit. The bill extends the innovative motor vehicle credit for electric and plug-in hybrid electric motor vehicles from 2025 to 2028. The bill also increases the size of the base credit, creates an additional $2,500 credit for passenger vehicles under $35,000 MSRP, and disqualifies passenger vehicles over $80,000 MSRP from being eligible for the credit. The base credit equals $5,000 starting on July 1, 2023, and decreases over time to $500 in 2028. For tax years 2024 and 2025, if the financer or dealer claims the credit on the purchaser's behalf, an additional $600 credit is allowed.

Innovative truck credit. The bill extends the expiration date of the innovative motor vehicle credit for electric and plug-in hybrid electric trucks from 2025 to 2032. Currently the credit applies to trucks that run on electricity, natural gas, hydrogen, and other fuels. The bill only extends the credits for electric and plug-in hybrid electric trucks, so that the credits for other fuel types will phase out as scheduled under current law. The size of the credit depends on the weight of the truck, ranging between $5,000 and $12,000 in tax year 2024, and then decreasing over time.

Beginning in tax year 2026, if state revenue subject to TABOR is not expected to increase by at least 4 percent in the fiscal year in which the relevant tax year begins, then the amounts of the tax credits will be reduced by 50 percent, with any credit less than $500 reduced to $0.

Industrial clean energy tax credit. The bill creates a new refundable state income tax credit, administered by the CEO, for tax years 2024 through 2032. The credit is equal to 30 percent of qualifying expenditures by an owner of an industrial facility to undertake an industrial emissions study or between 30 percent and 50 percent of qualifying expenditures to implement greenhouse gas emissions reduction improvements. The aggregate amount of the credit is limited to $16 million for tax years 2024 through 2028 and to $24 million for tax years 2029 through 2032. For FY 2023-24 and

FY 2024-25 the bill authorizes the CEO and the DOR to spend money from the Industrial and Manufacturing Operations Clean Air Program Cash Fund to administer the tax credit.

Geothermal energy expenditure income tax credit. The bill creates a new refundable state income tax credit, administered by the CEO, for tax years 2024 through 2032, for 30 to 50 percent of qualifying expenditures made to evaluate and develop a geothermal energy resource for the purpose of electricity production. Credits for approved projects may not exceed an aggregate amount of $5 million per taxpayer, and may not exceed $35 million for all taxpayers in all years the credit is allowed. For FY 2023-24 and FY 2024-25, the bill authorizes the CEO and the DOR to spend money from the Geothermal Energy Grant Fund to administer the tax credit.

Geothermal energy production income tax credit. The bill creates a refundable state income tax credit, administered by the CEO, for income tax years 2024 through 2032 for the production of geothermal electricity for sale or for own use. The credit is in the amount of 0.3¢ per kilowatt hour of geothermal electricity generated, up to a maximum of $1 million per qualified entity per tax year. For FY 2023-24 and FY 2024-25 the bill authorizes the CEO and the DOR to spend money from the Geothermal Energy Grant Fund to administer the tax credit.

Heat pump technology and thermal energy network income tax credit. The bill creates a new refundable state income tax credit for the installation of heat pump technology or the development of a thermal energy network. The tax credit is available for tax years 2024 through 2032 and varies depending on the year and type of technology, from $250 to $3,000. Eligible taxpayers must provide a discount for installation in the amount of the tax credit minus the percentage that may be retained, annually determined by the CEO. The CEO is required to maintain a list of eligible taxpayers, to annually review and evaluate the effectiveness of the credit and modify the amount of the credit if needed, and to annually review the records of eligible taxpayers for compliance. For FY 2023-24 and FY 2024-25 the bill authorizes the CEO and the DOR to spend money from the Geothermal Energy Grant Fund to administer the tax credit.

Beginning in tax year 2026, if state revenue subject to TABOR is not expected to increase by at least 4 percent in the fiscal year in which the relevant tax year begins, then the amounts of the tax credits will be reduced by 50 percent, with any credit less than $250 reduced to $0.

A different state income tax credit for the purchase of heat pump systems or heat pump water heaters was scheduled to expire after tax year 2024 under current law. The bill ends that credit after tax year 2023, so that only the new credit created in the bill is available for tax year 2024.

Electric bicycle tax credit. The bill creates a refundable income tax credit for tax years 2024 through 2032 for the sale of new, qualifying electric bicycles. Qualified purchasers must be Colorado residents and may claim only one credit per year. The credit amount is $500, and is allowed to a qualified retailer who sells an electric bicycle to a resident of the state and offers a discount equal to the lesser of $450 or the purchase price. Retailers may register for advance payments of the credit, in which case they must file a quarterly report to the Department of Revenue (DOR) who will then issue the credit. The bill requires the CEO to develop standards for determining allowable electric bicycle manufacturers and a process for purchasers to register as qualified. For FY 2023-24 and FY 2024-25, the bill authorizes the CEO to spend money from the Community Access to Electric Bicycles Cash Fund to administer the tax credit.

Beginning in tax year 2026, if state revenue subject to TABOR is not expected to increase by at least 4 percent in the fiscal year in which the relevant tax year begins, then the amounts of the tax credits will be reduced by 50 percent.

Sustainable aviation fuel production facility tax credit. The bill creates a refundable income tax credit for tax years 2024 through 2032 for the costs incurred to construct a sustainable aviation fuel production facility. For tax years 2024 through 2027, the credit is equal to 30 percent of the total cost of construction and decreases in later years. The maximum amount of total credits issued is capped at $1 million in 2024, $2 million in 2025 and 2026, $3 million in 2027 through 2032. In the five years following receipt of the credit, sustainable aviation fuel must make up at least 60 percent of total fuel production at the facility. For FY 2023-24 and FY 2024-25 the bill authorizes the CEO and the DOR to spend money from the Industrial and Manufacturing Operations Clean Air Program Cash Fund to administer the tax credit.

Sales and Use Tax Exemptions

Heat pump sales and use tax exemption. The bill repeals an existing sales and use tax exemption for heat pump systems and heat pump water heaters starting January 1, 2024.

Specific Ownership Tax

Electric fleet truck taxable value reduction. The bill reduces the taxable value of fleet vehicles that are electric or plug-in hybrid electric trucks with respect to the specific ownership tax. For tax years 2024 through 2027, the taxable value of such vehicles is 50 percent of the manufacturers' suggested list price. For tax years 2028 through 2032, the taxable value of such vehicles is 60 percent of the manufacturers' suggested list price. For FY 2023-24 and FY 2024-25, the bill authorizes the CEO and the DOR to spend money from the Electrifying School Buses Grant Program Cash Fund to administer the tax credit.

Severance Tax

Severance tax ad valorem credit. The bill modifies the ad valorem (AV) credit allowed under the state's severance tax on oil and gas. Under current law, taxpayers are able to claim a tax credit equal to 87.5 percent of the ad valorem (real property) taxes assessed or paid to a local government on oil and gas production. Starting in tax year 2025 under current law, the AV credit will be calculated on a per-well basis by applying the prior year's mill levy to the current year's gross income multiplied by the statewide oil and gas assessment rate of 87.5 percent, and then taking 87.5 percent of that amount, or 76.56 percent of each well's current year gross income multiplied by the previous year's mill levy.

Under the bill, the AV credit will be reduced from 87.5 percent to 75 percent of the ad valorem taxes assessed or paid to a local government on oil and gas production in tax years 2024 and 2025. In tax year 2026, the AV credit will be calculated as 65.625 percent (75 percent of the assessment rate of 87.5 percent) of each well's current year gross income multiplied by the previous year's mill levy. In 2027, the AV credit will be calculated as under current law.

Allocation of severance tax revenue. For FY 2023-24 through FY 2026-27, the bill requires that the additional severance tax revenue collected that is attributable to the decreased AV credit be credited to the Decarbonization Tax Credits Administration Cash Fund. On July 1, 2025, revenue in the amount attributable to administrative costs must be credited to the cash funds used by the CEO and DOR in FY 2023-24 and FY 2024-25 for administration of the tax credits created by the bill, as discussed above.

Decarbonization Tax Credits Administration Cash Fund. The bill creates the Decarbonization Tax Credits Administration Cash Fund, consisting of the additional severance tax revenue collected that is attributable to the decreased AV credit for FY 2023-24 through FY 2026-27. For FY 2023-24 through FY 2034-35, the CEO and the DOR may spend money from the fund for costs associated with the administration of the decarbonization tax credits, subject to annual appropriations. On June 30, 2024, June 30, 2025, and June 30, 2026, the State Treasurer is required to transfer all unexpended money in the fund, less $100,000, to the General Fund. Additional severance tax revenue received after June 30, 2026, that is attributable to the decreased AV credit will remain in the cash fund and be available for the CEO and the DOR for tax credit administration expenses. Any amount remaining in the fund is scheduled to be transferred to the General Fund on July 1, 2036.

Background

Innovative Motor Vehicles and Innovative Trucks Tax Credits. The state allows a refundable, transferable income tax credit for purchasers and lessees of innovative passenger vehicles and trucks, including battery electric or plug-in hybrid electric vehicles. Under current law, the amount of credit available for each purchaser or lessee of an electric vehicle is scheduled to be reduced in 2023 and unavailable beginning in 2026.

Severance tax ad valorem credit. The severance tax is one of the state's most volatile revenue streams. Severance tax revenue is volatile for a number of reasons, including the boom and bust nature of the oil and gas industry and fluctuations in commodity prices. Additionally, the current structure of the AV credit introduces volatility in severance tax collections due to the lag between actual production of oil and gas and when the AV credit is claimed. This volatility makes severance tax revenue forecasts less certain than those for other revenue streams.

Specific Ownership Tax. When Colorado citizens register their vehicles, they pay the specific ownership tax (SOT) in place of property taxes. The SOT is calculated based on the taxable value and the SOT rate. Once the taxable value is established it does not change for the life of the vehicle, while the tax rate declines as the vehicle ages, reaching a floor of $3 in the vehicle's tenth year. SOT revenue is collected by counties and distributed by the county treasurer to the county and other local governments, including cities, school districts, and special districts based on the proportion of the property taxes levied in the prior year. More information on the SOT can be found in this Legislative Council Staff Issue Brief here: http://leg.colorado.gov/publications/specific-ownership-tax-0.

Assumptions

All revenue estimates assume future economic activity consistent with the March 2023 Legislative Council Staff forecast. The fiscal note assumes that total state revenue will grow by at least 4 percent in FY 2025-26, FY 2026-27, and FY 2027-28 such that credit amounts for 2026, 2027, and 2028, respectively, will not be reduced. If state revenue grows by less than 4 percent, then revenue will decrease by less than expected.

Innovative Motor Vehicles Tax Credit. The fiscal note assumes that electric passenger vehicle sales will increase by between 4.6 percent and 11.0 percent annually, based on a forecast produced by the U.S. Energy Information Association.[1] The fiscal note also assumes a price elasticity of -0.4, meaning that a 1 percent decrease in the price of a vehicle will result in a 0.4 percent increase in the number of vehicles purchased.[2] The fiscal note assumes that about 9 percent of electric vehicles are priced below $35,000, about 8 percent of electric vehicles are priced above the price limits in the bill, and 90 percent of credits will be claimed by the dealer when the $600 additional credit is available.

Innovative Trucks Tax Credit. The fiscal note assumes that electric truck sales will increase by between 20.1 percent and 33.3 percent annually, based on a forecast produced by the U.S. Energy Information Association. The fiscal note also assumes a price elasticity of -0.4, meaning that a 1 percent decrease in the price of a vehicle will result in a 0.4 percent increase in the number of vehicles purchased. Within the number of qualifying purchases and leases, the shares of trucks of each weight class are assumed to remain constant, with light-duty trucks making up the majority of credits.

State Revenue

The bill is expected to decrease state revenue on net by $41.5 million in FY 2023-24, $47.8 million in FY 2024-25, and by $39.5 million in FY 2025-26. The bill decreases General Fund revenue from income taxes, increases General Fund revenue from sales and use taxes, and increases cash fund revenue from severance taxes. All sources of revenue affected by the bill are subject to TABOR. Revenue impacts are presented in Table 2 and discussed below.

[1] U.S. Energy Information Association. Annual Energy Outlook 2023. Table 38 Light-Duty Vehicle Sales by Technology Type. https://www.eia.gov/outlooks/aeo/data/browser/#/?id=48-AEO2023&cases=ref2023&sourcekey=0

[2] Tamara L. Sheldon, Rubal Dua. "Measuring the cost-effectiveness of electric vehicle subsidies", *Energy Economics*, Volume 84, 2019, https://doi.org/10.1016/j.eneco.2019.104545.

Table 2
Revenue Under HB 23-1272

	FY 2023-24	FY 2024-25	FY 2025-26
Income Tax Credits			
Innovative Motor Vehicle	($38.3 million)	($36.5 million)	($26.7 million)
Innovative Trucks	($0.3 million)	($0.7 million)	($0.8 million)
Industrial Clean Energy	($8.0 million)	($16.0 million)	($16.0 million)
Geothermal Energy Expenditure	($2.5 million)	($5.0 million)	($5.0 million)
Geothermal Energy Production	-	-	-
Heat Pump Installation and Development	($0.1 million)	($6.7 million)	($7.8 million)
Electric Bicycles	($5.2 million)	($10.9 million)	($12.2 million)
Sustainable Aviation Fuel	($1.0 million)	($2.0 million)	($2.0 million)
Sales and Use Tax Exemptions			
Heat Pump Technology and Equipment	-	$1.5 million	$1.6 million
Severance Tax			
Ad valorem credit[1]	$13.9 million	$28.3 million	$29.2 million
Total	**($41.5 million)**	**($48.0 million)**	**($39.7 million)**

[1] *Increased revenue from the ad valorem credit is credited to the decarbonization tax credits administration cash fund, except that a portion will be credited to other, various cash funds in the amounts used to pay for the administration of the tax credits in the bill in FY 2023-24 and FY 2024-25.*

Income Tax Credits

Innovative motor vehicle income tax credit. The expanded motor vehicle income tax credit is expected to decrease state revenue by $38.3 million in FY 2023-24, $36.5 million in FY 2024-25, by $26.7 million in FY 2025-26, and by smaller amounts in subsequent years as the size of the credit declines. The credit is expected to be claimed for 11,290 vehicles in FY 2023-24 and increasing amounts in future years.

Innovative truck income tax credit. The expanded motor vehicle income tax credit is expected to decrease state revenue by $0.3 million in FY 2023-24, $0.5 million in FY 2024-25, and by $0.6 million in FY 2025-26 and by similar amounts in future years. The credit is expected to be claimed for 169 vehicles in FY 2023-24 and increasing amounts in future years.

Industrial clean energy tax credit. The industrial clean energy tax credit is expected to decrease state revenue by $8.0 million in FY 2023-24 and by $16.0 million annually beginning in FY 2024-25. The fiscal note assumes that the aggregate credit amounts specified in the bill will be fully utilized and spread evenly across available tax years.

Geothermal energy expenditure income tax credit. The geothermal energy expenditure income tax credit is expected to decrease state revenue by $2.5 million in FY 2023-24, by $5.0 million in FY 2024-25 through FY 2029-30, and by $2.5 million in FY 2030-31. The fiscal note assumes that the aggregate credit amount specified in the bill will be fully utilized for the first seven years of the credit's availability.

Geothermal energy production income tax credit. The geothermal energy production income tax credit is expected to decrease state revenue by up to $5.0 million per fiscal year starting in FY 2029-30.

The fiscal note assumes that geothermal power plant construction and electricity generation development requires an average of six years, and that up to 5 entities may be able to claim the maximum credit of $1.0 million starting in tax year 2030.

Heat pump technology and thermal energy network income tax credit. The heat pump income tax credit is expected to decrease state revenue by $0.1 million in FY 2023-24 (a half-year impact), by $6.7 million in FY 2024-25, and by $7.8 million in FY 2025-26. The fiscal note assumes that heat pump adoption will grow at rates similar to that of recent years, with prices increasing by Denver-Aurora-Lakewood inflation, and average prices such that the maximum credit amount will be claimed on all purchases.

Electric bicycle tax credit. The electric bicycle income tax credit is expected to decrease state revenue by $5.2 million in FY 2023-24 (a half-year impact), by $10.9 million in FY 2024-25, by $12.2 million in FY 2025-26 and by increasing amounts in future years as electric bicycle sales expand, until FY 2032-33 (a final half-year impact). The fiscal note assumes accelerating growth in electric bicycle sales consistent with pre-pandemic patterns of adoption, and average prices such that the maximum credit amount will be claimed on all purchases.

Sustainable aviation fuel production facility tax credit. The sustainable aviation fuel credit is expected to reduce revenue by $1.0 million in FY 2023-24, $2.0 million in FY 2024-25, and $2.0 million in FY 2025-26. The fiscal note assumes that one credit will be claimed each year, which will reach the maximum amount available for the credit.

Sales and Use Tax Exemptions

Heat pump sales and use tax exemption. The repeal of the heat pump sales and use tax exemption is expected to increase state revenue by $1.5 million in FY 2024-25 and by $1.6 million in FY 2025-26.

Severance Tax

Severance tax ad valorem credit. The reduction in the severance tax AV credit is expected to increase cash fund revenue by $13.9 million in FY 2023-24 (a half-year impact), by $28.3 million in FY 2024-25, and by $29.2 million in FY 2025-26.

The fiscal note assumes that future changes in the AV credit claimed are consistent with historical average growth rates over time and that given the historical levels of AV credits claimed, the reduction in the AV credit will result in taxpayers being able to claim the full value of AV credits available to them each year. Historical data are available through 2021, and do not yet capture fluctuations associated with pandemic-related volatility in production and prices.

Given the significant volatility in commodity prices and severance tax revenue overall, there is significant uncertainty surrounding this revenue estimate. The bill extends for an additional year the current lag between when oil and gas production occurs and when the AV credit for that production becomes available to the taxpayer. The bill’s impact on state revenue for 2024 will depend on how market conditions change between 2022 and 2024; the impact for 2025 likewise depends on how market conditions change between 2023 and 2025; while the impact for 2026 depends on how market conditions change between 2025 and 2026.

State Transfers

The bill requires that unexpended money in the Decarbonization Tax Credits Administration Cash Fund be transferred to the General Fund on June 30, 2024, June 30, 2025, and June 30 2026, except that $100,000 will remain in the fund each year. Based on the revenue and expenditure estimates in this fiscal note, transfers to the General Fund will total $12.2 million in FY 2023-24, $25.0 million in FY 2024-25, and $27.3 million in FY 2025-26.

State Expenditures

The bill increases state expenditures by $1.7 million in FY 2023-24, $3.5 million in FY 2024-25, and $2.0 million in FY 2025-26. Costs are incurred in the DOR and the CEO and for school finance. Costs are paid from the Decarbonization Tax Credits Administration Cash Fund, except that costs in FY 2023-24 and FY 2024-25 may be paid from various other cash funds, and costs for school finance are assumed to come from the General Fund. Expenditures are summarized in Table 3 and described below.

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Table 3
Expenditures Under HB 23-1272

	FY 2023-24	FY 2024-25	FY 2025-26
Department of Revenue			
Personal Services	$6,328	$665,725	$263,839
Operating Expenses	-	$14,985	$6,345
Capital Outlay Costs	-	$86,710	-
GenTax Programming	$56,250	$765,934	$37,080
User Acceptance Testing	$3,200	$229,216	$47,904
DRIVES Programming	$19,040	-	-
Tax Form Changes	$63,921	$7,590	$10,197
OIT Support	$990	-	-
Centrally Appropriated Costs[1]	$1,694	$184,635	$76,484
FTE – Personal Services	0.1 FTE	11.1 FTE	4.7 FTE
DOR Subtotal	**$151,423**	**$1,954,795**	**$441,849**
Colorado Energy Office			
Personal Services	$274,917	$314,192	$314,192
Operating Expenses	$3,780	$4,320	$4,320
Capital Outlay Costs	$20,010	$0	$0
Consulting	$1,200,000	$1,125,000	$1,100,000
Centrally Appropriated Costs[1]	$56,624	$64,714	$64,714
FTE – Personal Services	2.8 FTE	3.2 FTE	3.2 FTE
CEO Subtotal	**$1,555,331**	**$1,508,226**	**$1,483,226**
Colorado Department of Education			
School Finance	-	$21,000	$59,000
CDE Subtotal	**-**	**$21,000**	**$59,000**
Total	**$1,706,754**	**$3,484,021**	**$1,984,075**
Total FTE	**2.9 FTE**	**14.3 FTE**	**7.9 FTE**

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

Department of Revenue

The bill is expected to increase cash fund expenditures for the DOR by about $151,000 in FY 2023-24, $2.0 million in FY 2024-25, and $442,000 in FY 2025-26, as outlined below.

Personal services. The DOR will require 0.1 FTE in FY 2023-24, 11.1 FTE in FY 2024-25, and 4.7 FTE in FY 2025-26 to administer the various tax changes under the bill. The bill creates new tax expenditures and modifies existing tax expenditures, resulting in increased workload for staff to review tax returns claiming the new expenditures. The DOR will require additional staff in taxpayer services to review and process these returns, including issuing advance credits on a quarterly basis for the innovative truck and motor vehicle credits. Operating expenses include telephone, computers, and other supplies for these staff.

Computer programming and testing. The DOR will have costs of $78,490 for computer programming in FY 2023-24, $995,150 in FY 2024-25, and smaller amounts in future years. These costs include contract programming for the department's DRIVES and GenTax systems, as well as auditing and user acceptance testing by department staff.

Document management. The DOR will have costs of $63,921 in FY 2023-24, $7,590 in FY 2024-25, and $10,197 in FY 2025-26, for a total of $147,696 through FY 2032-33 for form changes and the creation of new forms, schedules, affidavits, and a return for tax-exempt entities. These services are performed in the Department of Personnel and Administration using reappropriated DOR funds.

Colorado Energy Office

The bill is expected to increase cash fund expenditures for the department by about $1.5 million per year from FY 2023-24 to FY 2025-26. These expenditures are continuously appropriated to the CEO and paid from the Industrial and Manufacturing Operations Clean Air Grant Program Cash Fund, the Geothermal Energy Grant Program, the Community Access to Electric Bicycles Cash Fund, and the Decarbonization Tax Credits Administration Cash Fund.

Personal services. The CEO will require 2.8 FTE in FY 2023-24 and 3.2 FTE in future years to implement, monitor, and report on the new tax credits established under the bill. Specifically, the CEO will require 2.2 FTE for project management in FY 2023-24 and 2.6 FTE for project management in FY 2024-25 through FY 2033-34. In addition, for FY 2023-24 through FY 2033-34, the office will require 0.3 FTE for accounting, and 0.3 FTE for a purchasing agent for accounting and contracts administration.

Consulting. The CEO will require $575,000 in FY 2023-24, $500,000 in FY 2024-25, and $475,000 in FY 2025-26, and similar amounts through FY 2033-34 for consulting costs for industrial experts and studies across markets impacted by the tax credits. For FY 2023-24 and ongoing, the CEO will require $675,000 for third-party administrator costs to implement the e-bike registration program.

Other workload. For FY 2023-24 and FY 2024-25, the bill allows the CEO to spend money from the Electrifying School Buses Grant Program Cash Fund to administer the innovative motor vehicle and innovative truck tax credits. Because CEO's involvement in the administration of these credits is limited, the impact of this provision is expected to be minimal.

School Finance

The bill decreases specific ownership tax collections distributed to school districts, requiring an equivalent increase in the state share of total program funding for school finance. The increased state aid obligation is estimated at $21,000 in FY 2024-25, $59,000 in FY 2025-26 offsetting equivalent reductions in local share revenues. For informational purposes, these costs are assumed to be paid from the General Fund, but school finance expenditures may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these sources.

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 decrease 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 March 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. 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 while decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

The bill is expected to decrease General Fund revenue in FY 2023-24 through FY 2032-33 and increase cash fund revenue from severance taxes in FY 2023-24 through FY 2026-27. If state revenue exceeds the TABOR limit, the bill will decrease the General Fund obligation for TABOR refunds by the net of the General fund revenue decrease and the severance tax revenue increase in each year. In FY 2023-24 through FY 2025-26, the amount of revenue ultimately deposited into the General Fund is equal to this same amount minus the cost to DOR and CEO to administer the tax credits, such that the amount available for the General Fund budget is reduced by the amounts identified in the expenditure section.

In FY 2026-27, the additional revenue from the severance tax is not transferred to the General Fund as in prior years, but would still drive a General Fund obligation for TABOR refunds if state revenue exceeds the TABOR limit. Therefore, in FY 2026-27 only, the bill reduces the amount available for the General Fund budget by the full amount of additional severance tax revenue collected under the bill, which is expected to be about $30 million. The exact amount of the impact will depend on the state TABOR situation and severance tax outlook for this year. For FY 2026-27 to FY 2031-32, the bill has no impact on the amount available for the General Fund budget, because no additional severance tax revenue will be collected.

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.

Local Government and School Districts

Sales and use tax. The repeal of sales and use tax exemptions for heat pumps and thermal energy networks will increase sales and use tax revenue for state-collected local governments and special districts that opted into these exemptions. The distribution of potential impacts for local governments and special districts cannot be estimated due to lack of available data.

Specific ownership tax. While specific ownership taxes are administered at the county level, all jurisdictions that levy property taxes, including counties, municipalities, school districts, and special districts, will be affected. SOT revenue to municipalities, counties, and special districts will decrease by about $97,000 in property tax year 2024, $273,000 in 2025, and $367,000 in 2026. Workload in counties may increase to update forms and processes. The SOT revenue that is part of the local share of total program funding for school finance will be reduced by about $21,000 in state FY 2024-25, $59,000 in FY 2025-26, and $80,000 in FY 2026-27.

Technical Note

The bill allows the DOR to expend money from the Geothermal Energy Grant Fund and the Electrifying School Buses Grant Program Cash Fund to administer the heat pump innovative motor vehicle income tax credit and the innovative truck income tax credit. These two credits are set to expire on January 1, 2026, under current law, such that the DOR will have some expenses associated with administering the credits irrespective of the bill. The fiscal note assumes that the DOR will use funds from the Electrifying School Buses Grant Program Cash Fund only to cover new expenses that are a result of the bill, rather than all expenses associated with administering the credits.

Effective Date

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

State Appropriations

For FY 2023-24, the bill requires and includes appropriations totaling $149,729 from cash funds to the Department of Revenue, and 0.1 FTE as follows:

- $4,500 from the Industrial and Manufacturing Clean Air Program Grant Fund;
- $4,500 from the Geothermal Energy Grant Fund;
- $11,250 from the Community Access to Electric Bicycles Cash Fund;
- $129,479 from the Electrifying School Buses Grant Program Cash Fund, and 1.1 FTE

In addition, from the appropriations to the DOR listed above, $63,921 is reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Colorado Energy Office	Property Tax Division – Local Affairs
Counties	Regional Transportation District
Governor	Personnel
Public Health and Environment	Revenue