SB 25-139

Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 25-139: GROCERY & UTILITY BILL REDUCTION MEASURES

Prime Sponsors:
Sen. Baisley

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Fiscal note status: The fiscal note reflects the introduced bill. This bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on March 4, 2025; therefore, the impacts identified in this analysis do not take effect.

Summary Information

Overview. The bill would have promoted nuclear energy development and repealed a variety of statutory requirements and programs enacted in recent years.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- State Revenue
- TABOR Refunds
- Local Government

Appropriations. For FY 2025-26, the bill would have required an appropriation of $24,167 to the Department of Revenue and a $30,983,333 decrease in appropriations to the Department of Transportation.

Table 1
State Fiscal Impacts

Type of Impact[1]	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	-$138 million	-$169 million
State Expenditures	-$143 million	-$169 million
Transferred Funds	$0	$0
Change in TABOR Refunds	-$57 million	-$71 million
Change in State FTE	-20.2 FTE	-21.6 FTE

[1] Fund sources for these impacts are shown in the tables below.

Table 1A
State Revenue

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	$0	$0
Cash Funds	-$138,256,742	-$168,996,124
Total Revenue	**-$138,256,742**	**-$168,996,124**

Table 1B
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	$24,167	$45,652
Cash Funds	-$143,256,742	-$168,996,124
Federal Funds	$0	$0
Centrally Appropriated	$0	$10,398
Total Expenditures	**-$143,232,575**	**-$168,940,074**
Total FTE	**-20.2 FTE**	**-21.6 FTE**

Summary of Legislation

The bill promotes nuclear energy development and repeals a variety of statutory requirements and programs enacted in recent years, as described below.

Nuclear Energy

The bill adds nuclear energy to the statutory definitions of “clean energy” for the state’s renewable energy standard and the Rural Clean Energy Project Finance Program.

Colorado Circular Communities Enterprise

Under current law, individuals who dispose of solid waste pay a user fee based on the amount of waste disposed. The fee revenue is used by the Colorado Circular Communities Enterprise, which was created by House Bill 24-1449 to update and replace the Front Range Waste Diversion Enterprise. The enterprise promotes a circular economy, including promoting reuse of natural resources, promoting reduction of greenhouse gas emissions, incentivizing businesses to use recyclable and compostable materials, supporting sustainability infrastructure, creating local jobs, extending the life of local landfills, and supporting waste diversion. The bill repeals the solid waste user fee and the enterprise.

Paper Carryout Bag Fee

The bill repeals the requirement that retail establishments charge a fee for providing recycled paper carryout bags, which currently cost 10 cents per bag, paid by the customer at checkout.

Cage-Free Eggs

Under current law, a farm owner or operator cannot keep an egg-laying hen whose eggs are sold in Colorado in an enclosure that is not a cage-free housing system or fails to meet certain minimum space restrictions. The bill repeals these requirements.

Local Government Taxes on Tobacco or Nicotine Products

House Bill 19-1033 allowed counties and municipalities to levy sales taxes on cigarettes, tobacco, and nicotine products. The bill repeals this authority.

Energy Assistance System Benefit Charge

Each investor-owned utility collects a monthly energy assistance benefit charge from all customers except those receiving utility bill assistance or those who opt out, and transfers these funds to Energy Outreach Colorado for its direct utility bill payment assistance and energy retrofit programs, and also credited to the Colorado Energy Office for its weatherization assistance program and to the Department of Human Services for fuel assistance benefits. The charge was $0.75 in 2023, the and is annually adjusted for inflation. The fee is scheduled to repeal on January 1, 2029, under current law. The bill repeals the fee early.

Retail Delivery Fee

Under current law, consumers pay a fee on retail deliveries that supports a variety of state transportation and air quality programs. There are six retail delivery fees that are collected by the Department of Revenue (DOR) and then distributed to the Highway Users Tax Fund (HUTF), the Multimodal Transportation and Mitigation Options Fund (MMOF), and five enterprises. DOR is permitted to retain a portion of the revenue to pay for the costs of collecting, administering and enforcing the fees. In the current FY 2024-25, the fee is $0.29 per delivery, and it is annually adjusted for inflation. The bill repeals the retail delivery fee.

State Revenue

The bill decreases state revenue by $138 million in FY 2025-26 and $169 million in FY 2026-27, with larger decreases in future years when some fees would rise with inflation. Table 2 shows the estimated revenue reductions through FY 2026-27. These impacts are described in more detail in the sections below.

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Table 2
Revenue Under SB 25-139

Fund or Program[1]	Budget Year FY 2025-26	Out Year FY 2026-27
Department of Revenue*	-$0.01 million	-$0.1 million
Highway Users Tax Fund*	-$26.2 million	-$32.5 million
Multimodal Transportation and Mitigation Options Fund*	-$18.7 million	-$23.2 million
Supplemental Utility Assistance Fund*	-$2.5 million	-$3.0 million
Weatherization Assistance Program*	-$9.9 million	-$12.2 million
Bridge and Tunnel Enterprise	-$10.6 million	-$13.0 million
Colorado Circular Economy Enterprise	-$14.2 million	-$17.2 million
Community Access Enterprise	-$23.5 million	-$28.3 million
Clean Fleet Enterprise	-$18.0 million	-$21.7 million
Clean Transit Enterprise	-$11.8 million	-$14.4 million
Nonattainment Area Air Pollution Mitigation Enterprise	-$2.8 million	-$3.4 million
Total	**-$138.3 million**	**-$169.0 million**
Total Subject to TABOR*	-$57.3 million	-$71.0 million
Total Exempt from TABOR	-$80.9 million	-$98.0 million

[1] Totals may not sum due to rounding. Items marked with an asterisk are revenue sources subject to TABOR.

Department of Revenue

DOR is responsible for administering all of the retail delivery fees, and may retain a portion of the state retail delivery fee revenue to cover the cost of administration. Administrative costs include the salary for one tax examiner and total about $80,000 per year. The DOR will retain revenue for three-fourths of this tax examiner's time in FY 2025-26 using July 2025 collections.

Highway Users Tax Fund

Of the revenue from retail delivery fees that is distributed to the HUTF, 40 percent is allocated to the State Highway Fund in the Department of Transportation (CDOT), 33 percent is allocated to counties, and 27 percent is allocated to municipalities. The State Highway Fund portion of revenue loss is estimated to be $10.5 million in FY 2025-26 and $13.0 million in FY 2026-27.

Multimodal Transportation and Mitigation Options Fund

Revenue to the MMOF is used for multimodal transportation projects and greenhouse gas mitigation projects. Of these funds, 85 percent are used to support local projects and 15 percent are retained by CDOT for statewide projects. The portion of the lost revenue attributable to state projects is estimated to be $2.8 million in FY 2025-26 and $3.5 million in FY 2026-27.

Enterprises

Five of the enterprises in Table 2 above impose their own retail delivery fees to be allocated at the discretion of each enterprise's governing board. All revenue collected by enterprises is exempt from the state TABOR limit.

Fee Impact on Solid Waste Disposal

The bill decreases revenue by repealing the solid waste user fee. Current fee amounts are set in statute, and the fee level depends on the county where the solid waste originates. Tables 2A and 2B show the expected revenue decrease based on the estimated amount of solid waste disposed. Impacts are prorated in the first year for the bill's effective date, and impacts grow in the second year by estimated population growth. Because this fee is collected by an enterprise, it is not subject to TABOR.

Table 2A
Fee Impact on Solid Waste Disposal
FY 2025-26

Type of Fee	Fee Decrease	Yd^3 of Waste	Total Fee Impact
Front Range Fee	-$0.78	17,630,692	-$13,751,940
Non-Front Range Fee	-$0.14	3,231,266	-$452,377
Total Fee Revenue – FY 2025-26			**-$14,204,317**

Table 2B
Fee Impact on Solid Waste Disposal
FY 2026-27

Type of Fee	Fee Decrease	Yd^3 of Waste	Total Fee Impact
Front Rage Fee	-$0.78	21,347,242	-$21,347,242
Non-Front Range Fee	-$0.14	3,912,417	-$547,738
Total Fee Revenue – FY 2026-27			**-$17,198,587**

Fee Impact on Electricity Customers

Eliminating the Energy Assistance Benefit Charge reduces state income by about $26.6 million per year, about half of which supports state programs. The current fee is estimated at $0.79 per month and indexed to inflation. Table 2C shows the impact on electricity customers per year, with costs in the first year prorated for the bill's effective date. The total fee impact is larger than the state revenue impact, as about half of the money funds programs through Energy Outreach Colorado, which is not a state entity. Although this has no impact on state revenue or spending, the bill also reduces funds available for Energy Outreach Colorado's programs.

Table 2C
Fee Impact on Electricity Customers

Fiscal Year	Type of Fee	Fee Decrease	Number Affected	Total Fee Impact
FY 2025-26	Benefit Charge	$9.48	3.2 million	**$25.3 million**
FY 2026-27	Benefit Charge	$9.84	3.2 million	**$31.5 million**

Penalties from Cage-Free Egg Laws

Under current law, violations of cage-free laws are subject to civil penalties, which may be recovered in court. By repealing the regulation, the bill reduces revenue from civil penalties to the Department of Agriculture and court filing fees to the Judicial Department. This decrease in revenue, which is subject to TABOR, is expected to be minimal.

Local Government Taxes on Tobacco or Nicotine Products

By eliminating local taxes on cigarette, tobacco, and nicotine products, the bill is expected to minimally increase consumption of these products. This may increase revenue from the three state taxes on these products, which include a statutory tax, the Amendment 35 tax, and the Proposition EE tax, each of which have different distribution formulas. Revenue from the statutory tax is subject to TABOR, while the Amendment 35 and Proposition EE taxes are exempt from TABOR. Any increase in revenue is expected to be minimal.

State Expenditures

The bill reduces state expenditures by about $143 million in FY 2025-26 and $169 million in FY 2026-27. These costs will be incurred in the Department of Revenue, the Department of Transportation, the Department of Public Health and Environment, the Colorado Energy Office, and the Department of Human Services as shown in Table 3 and described in the sections below. Costs in DOR are paid from the General Fund; all other costs are paid from various cash funds.

Table 3
State Expenditures
All Departments

Department	Budget Year FY 2025-26	Out Year FY 2026-27
Department of Revenue	$24,167	$45,652
Department of Transportation	-$98,674,854	-$114,951,264
Department of Public Health and Environment	-$32,204,317	-$38,898,587
Colorado Energy Office	-$9,864,035	-$12,174,482
Department of Human Services	-$2,514,536	-$3,017,443
Total Costs	**-$143,232,575**	**-$168,940,074**

Department of Revenue

Revenue from the retail delivery fee is currently used by DOR for administrative costs which include one tax examiner at the rate of $79,611 per year. This bill will result in a reduction in personnel expenditures as workload associated with the retail delivery fees declines beginning in FY 2025-26; however, with a four-year statute of limitations, DOR expects ongoing but decreasing audits, returns, collections, and corrections to previous filings where there is a protest or claim for refund. Because cash funds are repealed by the bill, these costs will shift to the General Fund. The impact on the General Fund is shown in Table 3. The cash fund savings is captured in the State Revenue section.

Additionally, the bill requires one-time computer programming estimated at $24,167 in FY 2025-26. DOR will program, test, and update its GenTax software system to eliminate the retail delivery fee. Programming costs are estimated at $23,175, representing 100 hours of contract programming at an hourly rate of $231.75. Costs for testing at the department are estimated at $992, representing 31 hours of work at an hourly rate of $32.

Table 3A
State Expenditures
Department of Revenue

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27
Personal Services	$0	$45,012
Operating Costs	$0	$640
Computer Programming	$24,167	$0
Centrally Appropriated Costs	$0	$10,398
Total Costs	**$24,167**	**$56,050**
Total FTE	**0.0 FTE**	**0.5 FTE**

Department of Transportation

The decrease in revenue to the State Highway Fund, MMOF, Bridge and Tunnel Enterprise, Clean Transit Enterprise, and Nonattainment Area Air Pollution Mitigation Enterprise will result in a reduction of expenditures in CDOT by the amounts specified in the revenue section.

State Highway Fund

Expenditures from the State Highway Fund for maintenance activities and match funds for the Infrastructure Investment and Jobs Act are expected to decrease under this bill. The State Highway Fund is continuously appropriated and most funding is dedicated to multi-year projects at the discretion of the Transportation Commission. Therefore, the amount of the decrease in expenditures for each fiscal year is not known.

Multimodal Transportation and Mitigation Options Fund

The MMOF is appropriated annually with three years of roll-forward authority, and most funding is dedicated to multi-year projects at the discretion of the Transportation Commission. The bill will result in fewer multimodal projects receiving funding, but the amount of the decrease in expenditures for each fiscal year is not known.

Bridge and Tunnel Enterprise

Revenue from the bridge and tunnel retail delivery fee is expected to make up about 6.5 percent of revenue in FY 2025-26 and FY 2026-27. The bill will result in fewer bridge and tunnel projects receiving funding, but the amount of the decrease in expenditures for each fiscal year is unknown since the fund is continuously appropriated.

Clean Transit Enterprise

The retail delivery fee makes up the entirety of the fee revenue going into the Clean Transit Enterprise fund, which is subject to appropriation by the General Assembly. Eliminating this fee revenue is expected to decrease expenditures by the enterprise’s full appropriation amount beginning in FY 2025-26.

Nonattainment Areas Air Pollution Mitigation Enterprise

The Nonattainment Area Air Pollution Mitigation Enterprise is funded by its retail delivery fee and passenger ride fee. From implementation through 2024, the retail delivery fee has comprised of about 26 percent of total fee revenue in the fund. The bill will result in less expenditures by the enterprise, but because the fund is continuously appropriated, the amount of the decrease in expenditures in each fiscal year is not known.

Department of Public Health and Environment

Colorado Circular Economies Enterprise

The bill decreases expenditures by repealing the Colorado Circular Economies Enterprise, which has expenditures that roughly match the revenue estimated above: about $14 million in FY 2025-26 and $17 million in FY 2026-27. Because the enterprise operates grant programs that lag revenue collection, some expenditures may persist in FY 2025-26 to wind down programs and monitor previously awarded grants.

Clean Fleet Enterprise

The decrease in revenue to the Clean Fleet Enterprise outlined in the revenue section will result in a decrease in expenditures in the Department of Public Health and Environment. The funds otherwise would be dedicated toward grants for projects supporting electric vehicles and other clean fleet technology in government and private fleets. Revenue from the retail delivery fee has made up just under 89 percent of the enterprise's total revenue since the creation of the enterprise. Because the funds are continuously appropriated, it is not known in which fiscal years the decrease in expenditures will occur.

Colorado Energy Office

Weatherization Assistance Program

The bill reduces funding for the Weatherization Assistance Program, which receives funding from the Energy Assistance Benefit Charge. This is expected to reduce the office's expenditures by $9.6 million and 3.8 FTE in FY 2025-26 and $11.5 million and 4.5 FTE in FY 2026-27 and subsequent years. Costs are prorated in the first year for the bill's effective date.

Community Access Enterprise

The decrease in revenue to the Community Access Enterprise outlined in the revenue section will result in a decrease in expenditures and personnel in the Colorado Energy Office. The funds otherwise would be used to support and incentivize the adoption of electric vehicles and electric alternatives to motor vehicles, including the development of vehicle charging infrastructure. The retail delivery fee is the sole fee revenue for the Community Access Enterprise. Because the fund is continuously appropriated, the enterprise may still have limited expenditures to close out projects in future years; however, with no other dedicated funding source, the enterprise will be unable to fund new projects or maintain personnel that currently manage projects funded by the enterprise.

Department of Human Services

The bill reduces funding for the Fuel Assistance Program, which receives funding from the Energy Assistance Benefit Charge. This is expected to reduce the department's expenditures by $2.4 million and 0.8 FTE in FY 2025-26 and $2.9 million and 1.0 FTE in FY 2026-27. Costs are prorated in the first year for the bill's effective date.

Department of Agriculture

The bill minimally decreases workload in related to egg production inspections. The department will continue to inspect egg producers regarding other standards and requirements.

Judicial Department

To the extent that the bill reduces violations of cage-free egg requirements, there will be fewer penalties imposed by the Department of Agriculture, and fewer that require adjudication in trial courts. As the number of such cases is expected to be minimal, any decreased workload in the Judicial Department is likewise minimal and no change in appropriations is required.

Department of Regulatory Agencies

Specifying that nuclear energy is a clean energy resource increases workload in the Public Utilities Commission to update rules regarding recycled energy, which can be accomplished within the normal course of business.

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 the expenditure table above.

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 December 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue will increase the amount of General Fund available to spend or save. Decreased enterprise revenue has no impact on the state TABOR refund obligation.

Local Government

The bill decreases revenue to local governments from the HUTF by $15.7 million in FY 2025-26, of which $8.7 million is allocated to counties and $7.1 is allocated to municipalities; and $19.5 million in FY 2026-27 with growing amounts in future years, of which $10.7 million is allocated to counties and $8.8 million is allocated to municipalities.

The bill reduces funds from the MMOF for local projects by $15.9 million in FY 2025-26, and $19.7 million in FY 2026-27 with comparable amounts in future years. Funds for local projects from the MMOF may be used to expand local transit or other multimodal projects.

If counties receive additional applications and approve additional projects under the Rural Clean Energy Project Finance Program, workload will increase. This workload is expected to be minimal.

Revenue and expenditures may decrease for local governments that can no longer receives grants from the Colorado Circular Economy Enterprise.

Unless a municipality or county has passed or passes a local ordinance requiring stores to charge a bag fee, the bill reduces local revenue from carryout bag fees and decreases expenditures on program administration, enforcement, and uses such as waste diversion. These impacts will vary by affected jurisdiction. A statewide total of bag fee collections is not available at this time. In a sample of 10 Colorado cities, annual revenue ranged from about $900 in Mead to about $1.2 million in Colorado Springs, with per capita revenues ranging from roughly $0.14 in Mead to $8.24 in Granby. For some cities, annual revenues have generally trended downward as consumer behavior changes in response to the carryout bag fee. Local collections vary by jurisdiction depending on consumer behavior, number of stores, the level of local enforcement, tourist activity, and other factors.

The bill decreases revenue in any local government that currently levies sales taxes on tobacco or nicotine products, which they will no longer be able to levy under the bill.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2025-26, the bill requires a General Fund appropriation of $24,167 to the Department of Revenue, and reductions in appropriations from the Multimodal Transportation and Mitigation Options Fund and the Clean Transit Enterprise Fund to the Department of Transportation in the amounts of $19,158,333 and $11,825,000, respectively. These amounts are based on Department of Transportation's forecast, rather than the LCS forecast described in the State Revenue Section.

No change to appropriations is required for the State Highway Fund, Statewide Bridge Enterprise Special Revenue Fund, Nonattainment Area Air Pollution Mitigation Enterprise Fund, Clean Fleet Enterprise Fund, the Community Access Enterprise Fund, or the Colorado Circular Communities Cash Fund because these funds are continuously appropriated to their respective departments.

State and Local Government Contacts

Agriculture	Local Affairs
Colorado Energy Office	Personnel
Human Services	Public Health and Environment
Judicial	Revenue
Law	Transportation