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Final Fiscal Note

Drafting Number: LLS 22-0383 Date: July 22, 2022
Prime Sponsors: Sen. Fenberg; Gonzales Bill Status: Signed into Law
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Bill Topic: AIR QUALITY IMPROVEMENT INVESTMENTS

- Summary of Fiscal Impact:
State Revenue (unchecked)
State Expenditure (checked)
State Transfer (checked)
TABOR Refund (unchecked)
Local Government (checked)
Statutory Public Entity (unchecked)

The bill creates several grant programs in the Colorado Energy Office and the Department of Public Health and Environment with the purpose of reducing air pollution. It also modifies certain definitions, form and filing requirements, hearing deadlines, and the legislative review process for revisions to the state implementation plan in the department's air quality control program. It will create several one-time transfers from the General Fund in the current FY 2021-22, and will increase state and local government expenditures starting in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires and includes appropriations totaling of \$6.3 million to multiple state agencies. See appropriations section.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 22-193

Table with 4 columns: Category, Sub-category, Current Year FY 2021-22, Budget Year FY 2022-23, Out Year FY 2023-24. Rows include Revenue, Expenditures (General Fund, Cash Funds, Total Expenditures, Total FTE), Transfers (General Fund, Cash Funds, Net Transfer), and Other Budget Impacts (General Fund Reserve).

1 Transferred funds will be spent over multiple years from the various program cash funds, using continuous spending authority. See Table 2 for more detail on program expenditures.

Summary of Legislation

The bill creates a number of grant programs to fund voluntary efforts to reduce air pollution. It also modifies certain definitions, form and filing requirements, hearing deadlines, and the legislative review process for revisions to the State Implementation Plan in the Department of Public Health and Environment's (CDPHE) air quality control program. These programs and provisions are detailed below.

Industrial and Manufacturing Operations Clean Air Grant Program. The bill creates the Industrial and Manufacturing Operations Clean Air Grant Program in the Colorado Energy Office (CEO) to help private entities, local governments, tribal governments, and public-private partnerships finance voluntary projects to reduce emissions of air pollutants from industrial and manufacturing operations. The CEO will establish an application process, determine the eligibility of projects, develop criteria for awarding money, determine how recipients must demonstrate emissions reductions, determine reporting requirements, and establish procedures for addressing noncompliance. By January 1 of each year beginning in 2025, the CEO must provide a progress report to relevant legislative committees and post the report on its website.

The bill creates the continuously appropriated Industrial and Manufacturing Operations Clean Air Grant Program Cash Fund and transfers \$25 million from the General Fund to the cash fund on June 30, 2022. The CEO is authorized to use a portion of the money in the fund to cover the direct and indirect costs of administering the grant program and for interagency money transfers for technical support provided by the CDPHE and the Department of Natural Resources (DNR). The CEO may seek, accept, and expend money from federal sources and from gifts, grants or donations. The program repeals September 1, 2029.

Community Access Electric Bicycles. The bill creates the Community Access to Electric Bicycles Grant Program in the CEO to finance bike share programs and ownership programs administered by local governments or nonprofit organizations. Local governments, tribal governments, or nonprofit organizations may use awarded funds to purchase and maintain electric bicycles, equipment, and infrastructure for its bike share program or ownership program, pay labor costs to implement the program, and cover the administrative costs associated with implementing the program. The CEO will establish an application process, develop award criteria and reporting requirements, and procedures for addressing noncompliance.

The CEO must also establish a rebate program for individuals, businesses, and nonprofit organizations to purchase electric bicycles. The CEO will establish eligibility criteria as outlined in the bill and the mechanism for issuing a rebate. By January 1 of each year beginning in 2025, the CEO must provide a progress report to relevant legislative committees and post the report on its website.

The bill creates the continuously appropriated Community Access to Electric Bicycles Cash Fund and transfers \$12 million from the General Fund to the cash fund on June 30, 2022. The CEO is authorized to use a portion of the money in the fund to cover administrative costs. The office may seek, accept, or expend money from federal sources and from gifts, grants or donations. The program repeals September 1, 2028.

Cannabis Resource Optimization Cash Fund. The bill creates the Cannabis Resource Optimization Cash Fund administered by the CEO to provide assessments financing, grants, credit enhancement offerings, and direct incentives to producers to reduce energy and water use promote renewable energy, and encourage sustainable practices in cannabis operations. The fund is continuously appropriated to the CEO, who may also seek, accept, and expend gifts, grants and donations. On July 1, 2022, the bill transfers \$1.5 million from the General Fund to the fund. Correspondingly, it decreases a direct General Fund appropriation for the program in the Long Bill for FY 2022-23.

Electrifying School Buses Grant Program. The bill creates the Electrifying School Buses Grant Program in the CDPHE to help school districts and charter schools finance the conversion and replacement of fossil-fuel powered school buses with electric-powered school buses. The CEO will provide technical assistance, and the CDPHE will administer the program, establish an application process, and develop award criteria, reporting requirements, and procedures for addressing noncompliance. By January 1 each odd-numbered year beginning in 2025, the CDPHE must provide a progress report to relevant legislative committees and post the report on its website.

The bill creates the Electrifying School Buses Grant Program Cash Fund and transfers \$65 million from the General Fund to the cash fund on June 30, 2022, and appropriates the funds to CDPHE in FY 2022-23. The CDPHE may seek, accept, or expend money from federal sources and from gifts, grants, or donations. The program repeals September 1, 2034.

Air Quality Control Program. The bill modifies certain definitions, form and filing requirements, and hearing deadlines in the CDPHE's air quality control program. It clarifies that statutory fee caps for fees collected by the Air Quality Enterprise apply only to the annual stationary source emissions fees. It also modifies the legislative review process for revisions to the State Implementation Plan.

Eco passes. The bill appropriates \$750,000 from the General Fund to the Department of Personnel and Administration (DPA) for the costs of issuing free annual RTD Eco Passes to state employees.

Aerial surveying. The bill appropriates \$7.0 million from the General Fund to the CDPHE to finance the aerial surveying of pollutants. Money appropriated is available to the CDPHE through FY 2024-25.

State Revenue

To the extent that gifts, grants, or donations are received, state revenue will increase. No sources of these funds are known at this time, so state revenue is not estimated. Gifts, grants, and donations are not subject to the state's TABOR revenue limit.

State Transfers

The bill makes the following transfers from the General Fund on June 30, 2022, in the current FY 2021-22:

- \$25 million to the Industrial and Manufacturing Operations Clean Air Grant Program Cash Fund
- \$12 million to the Community Access to Electric Bicycles Cash Fund; and
- \$65 million to the Electrifying School Buses Grant Program Cash Fund.

The bill also makes a \$1.5 million transfer from the General Fund to the Cannabis Resource Optimization Cash Fund on July 1, 2022, in FY 2022-23.

State Expenditures

The bill increases state expenditures in multiple state agencies by \$34.2 million and 9.9 FTE in FY 2022-23 and \$33.3 million and 10.4 FTE in FY 2023-24, paid from multiple cash funds and the General Fund. These estimates assume that funding transferred for the programs created by the bill will be spent over multiple years. Expenditures are shown in Table 2 below.

Table 2
Expenditures Under SB 22-193

	FY 2022-23	FY 2023-24
CEO Industry and Manufacturing Grant Program¹		
Personal Services	\$121,030	\$121,030
Operating Expenses	\$2,160	\$2,160
Capital Outlay Costs	\$12,400	-
Grant Management Software License	\$5,000	\$5,000
Industrial Technical Expert Contractor	\$300,000	\$300,000
Grant Awards	\$5,791,823	\$5,791,823
Centrally Appropriated Costs ²	\$26,887	\$26,887
FTE – Personal Services	1.6 FTE	1.6 FTE
CEO Subtotal	\$6,259,300	\$6,246,900
CEO Electric Bicycle Grant Program¹		
Personal Services	\$93,413	\$93,413
Operating Expenses	\$1,755	\$1,755
Capital Outlay Costs	\$6,200	-
Grant Management Software License	\$5,000	\$5,000
Industrial Technical Expert Contractor	\$135,000	\$135,000
Grant Awards	\$2,741,880	\$2,741,880
Centrally Appropriated Costs ²	\$21,402	\$21,402
FTE – Personal Services	1.3 FTE	1.3 FTE
CEO Subtotal	\$3,004,650	\$2,998,450

**Table 2
Expenditures Under SB 22-193 (Cont.)**

	FY 2022-23	FY 2023-24
CEO Cannabis Resource Optimization Program		
Grant Awards (Cash Funds)	\$1,500,000	-
Grant Awards (General Fund)	(\$1,500,000)	-
CEO Subtotal	\$0	-
CDPHE School Bus Grant Program¹		
Personal Services	\$328,670	\$328,670
Operating Expenses	\$6,750	\$6,750
Capital Outlay Costs	\$31,000	-
Software Licensing and Storage	\$7,500	\$7,500
Grant Awards	\$21,166,404	\$21,166,404
Centrally Appropriated Costs ²	\$156,219	\$149,864
FTE – Personal Services	5.0 FTE	5.0 FTE
CDPHE Subtotal	\$21,696,543	\$21,659,188
Department of Education		
Personal Services	\$37,490	\$37,490
Operating Expenses	\$675	\$675
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs ²	\$8,372	\$8,372
FTE – Personal Service	0.5 FTE	0.5 FTE
CDE Subtotal	\$52,737	\$46,537
CDPHE Aerial Surveying		
Personal Services	\$124,181	\$167,879
Operating Expenses	\$2,025	\$2,700
Capital Outlay Costs	\$12,400	-
Computer Programming	\$90,725	\$18,045
Contracts	\$2,137,155	\$2,137,155
Centrally Appropriated Costs ²	\$26,170	\$35,101
FTE – Personal Services	1.5 FTE	2.0 FTE
CDPHE Subtotal	\$2,392,656	\$2,360,880
Department of Personnel and Administration		
Eco Passes	\$750,000	-
DPA Subtotal	\$750,000	-
Total	\$34,155,886	\$33,311,955
Total FTE	9.9 FTE	10.4 FTE

¹ Money for these grant programs is transferred in FY 2022-23 to continuously appropriated cash funds. This fiscal note reflects expenditures in the years they are anticipated to occur.

² Centrally appropriated costs are not included in the bill's appropriation.

Colorado Energy Office. The CEO will incur administrative expenses to implement the three new grant programs. In addition to 2.9 FTE to provide program management, accounting, and procurement services, the CEO will contract with third-party contractors to administer the grant programs and provide technical support services to facilities. In addition, the CEO will incur annual costs for grant management software licenses. This fiscal note assumes grant funds will be spent over four fiscal years.

In addition, the bill shifts funding for the Cannabis Resource Optimization Program from a direct General Fund appropriation in the FY 2022-23 Long Bill to a continuously appropriated cash fund. Funding for the program will remain at \$1.5 million. Because the new cash fund receives a transfer from the General Fund, the net General Fund impact of the program is unchanged in FY 2022-23.

Department of Public Health and Environment. The CDPHE will hire 5.0 FTE to administer the grant program and will incur costs for software licensing and computer programming. After accounting for these administrative costs, around \$21.2 million will be awarded annually for the school bus grant program over three fiscal years.

The CDPHE will also hire 1.5 FTE in FY 2022-23, increasing to 2.0 FTE in FY 2023-24 to administer the aerial surveying program. The CDPHE will also incur computer programming costs, provided by the Office of Information Technology through a reappropriation of funds. After accounting for these administrative costs, around \$2.1 million annually between FY 2022-23 and FY 2024-25 will be available to contract for aerial survey services.

Department of Education. The Department of Education will require 0.5 FTE for a senior consultant to provide technical assistance to school districts and charter schools in applying for electric school bus grant funds.

Department of Personnel and Administration. The department will purchase and distribute RTD Eco-passes to state employees.

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

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 beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve as shown in Table 1, which will decrease the amount of General Fund available for other purposes

Local Government

Local governments and school districts that apply for grants will have workload impacts, and those that receive grant funding will have increased revenue and expenditures.

Effective Date

This bill was signed into law by the Governor and took effect on June 2, 2022.

State Appropriations

For FY 2022-23, the bill requires and includes the following appropriations:

- \$750,000 from the General Fund to the DPA for purchasing Eco Passes; and
- \$7.0 million from the General Fund to CDPHE for aerial surveying, of which \$90,725 is reappropriated to the Office of Information Technology; and
- \$44,365 to the Department of Education, and 0.5 FTE.

Funds in the grant program cash funds are continuously appropriated to the CEO and the CDPHE and do not require additional appropriation in this bill.

The bill also decreases the FY 2022-23 General Fund appropriation to the Colorado Energy Office in the Long Bill for the cannabis resource optimization program by \$1,500,000.

State and Local Government Contacts

Colorado Energy Office
Local Affairs
Personnel

Counties
Municipalities
School Districts

Information Technology
Public Health and Environment