# SB 24-095

## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Final Fiscal Note

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| **Drafting Number:** | LLS 24-0791 | **Date:** | July 18, 2024 |
| **Prime Sponsors:** | Sen. Kirkmeyer; Rodriguez<br>Rep. Bacon; Evans | **Bill Status:** | House Finance |
| | | **Fiscal Analyst:** | Matt Bishop \| 303-866-4796<br>matt.bishop@coleg.gov |

**Bill Topic:** **AIR QUALITY OZONE LEVELS**

**Summary of Fiscal Impact:**

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

The bill would have addressed high ozone levels in the Front Range through a variety of mechanisms, including creating a voucher program, modifying an existing grant program, and requiring air quality studies. It would have increased state and local revenue and expenditures starting in FY 2024-25.

**Appropriation Summary:** No appropriation would have been required to the Department of Transportation, as the Nonattainment Area Air Pollution Mitigation Enterprise Cash Fund is continuously appropriated to Nonattainment Area Air Pollution Mitigation Enterprise. However, appropriations from this fund would have been required and included for the Department of Public Health and Environment and the Department of Revenue.

**Fiscal Note Status:** The final fiscal note reflects the reengrossed bill. This bill was postponed indefinitely by House Finance Committee on May 7, 2024; therefore, the impacts identified in this analysis do not take effect.

**Table 1**
**State Fiscal Impacts Under SB 24-095**

| | | Budget Year FY 2024-25 | Out Year FY 2025-26 |
|---|---|---|---|
| **Revenue** | | - | - |
| **Expenditures** | Cash Funds | $825,982 | $1,94,208 |
| | Centrally Appropriated | $52,194 | $73,454 |
| | **Total Expenditures** | **$878,176** | **$1,67,662** |
| | **Total FTE** | **2.7 FTE** | **3.9 FTE** |
| **Transfers** | | - | - |
| **Other Budget Impacts** | TABOR Refund | $120,589 | $63,190 |

## Summary of Legislation

The bill addresses high ozone levels in the Front Range through a variety of mechanisms, as described below.

**High-Emitter Vehicle Program—vouchers.** The bill creates the High-Emitter Vehicle Program, operated by the Nonattainment Area Air Pollution Mitigation Enterprise, to provide incentives for the owner of a passenger car or light-duty truck to voluntarily repair their vehicle in order to reduce emissions of ozone precursors. Under current law, vehicles that fail an emissions test must be repaired, and if they subsequently fail another emissions test they may receive a certificate of emissions waiver. The program identifies vehicles that have received a waiver or which have been identified has having high emissions from the Clean Screen Program and provides a voucher to offset the cost of additional repairs to the vehicle's owner if they reside in an ozone nonattainment area. The rebates are funded from revenue generated by vehicle registration fees. The program repeals if Colorado achieves attainment of federal ozone standards.

**Electric lawn equipment rebate program.** The bill provides $100,000 to the Regional Air Quality Commission to be used for a rebate program for the replacement of gas-powered lawn equipment with electric lawn equipment.

**Clean Fleet Enterprise expansion.** Under current law, the Clean Fleet Enterprise operates a grant program that includes promoting the adoption of electric vehicles in fleets. The program considers fleets primarily composed of heavy-duty vehicles, medium-duty vehicles, and refrigerated trailers. The bill adds light-duty vehicles to this list. It also directs the enterprise to prioritize awarding fleet electrification grants to local governments.

**Photochemical modeling.** When CDPHE revises the State Implementation Plan (SIP) in 2026, it must contract a research institution for photochemical modeling and data analysis as the basis for the revision.

**Motor vehicle emissions inspections.** Under current law, a emissions testing facility can charge a fee of no more than $25. The bill raises the fee maximum to $35, which is adjusted annually for inflation, and directs CDPHE to renegotiate or renew existing contracts in FY 2024-25 to incorporate the new fee maximum, increase testing stations, and expand Clean Screen inspection units.

In addition, under current law, a vehicle fails its emissions test if the check engine light is illuminated. In FY 2024-25, the bill directs CDPHE to submit, following a stakeholder meeting, a SIP revision to the Environment Protection Agency for approval that would replace current onboard emissions testing based on the check engine list with an IM240 tailpipe emissions test.

## Background

**DRIVES upgrade.** The Division of Motor Vehicles (DMV) in the Department of Revenue (DOR) uses its Driver License, Record, Identification and Vehicle Enterprise Solution (DRIVES) information technology system for all driver license and motor vehicle transactions. The DRIVES system requires an extensive 18-month upgrade which is scheduled to take place from July 1, 2024, through March 31, 2026. As a result, the DOR has requested that any new legislation requiring DRIVES programming have an effective date of April 1, 2026, with roll-forward spending authority through FY 2026-27, noting that each programming requirement during the system upgrade period may increase the overall project timeline. Based on the current effective date in the bill, the fiscal note includes costs for the DRIVES programming to take place twice—in the existing and new system.

## State Revenue

The bill increases fees for emissions inspections and may increase fines on testing stations.

**Fee impact on front range vehicle owners.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill authorizes up to a $10 fee increase for emissions inspections that are required for Boulder, Broomfield, Denver, Douglas, and Jefferson counties, and in portions of Adams, Arapahoe, Larimer and Weld counties. Actual fees will be set administratively. While at least some fee revenue passes through the Clean Screen Authority, the fiscal note assumes that all the new revenue generated by the fee increase is paid to the contractor operating the emissions inspections, with no net impact on the state. Table 2 assumes 1 million paid emissions inspections, based on 2022 annual reporting. First-year costs are prorated for 10-months of fee impact.

**Table 2**
**Fee Impact on Front Range Vehicle Owners**

| Fiscal Year | Type of Fee | Fee Increase | Number Affected | Total Fee Impact |
|---|---|---|---|---|
| **FY 2024-25** | Emissions Inspection Fee | $10 | 833,333 | **$8,333,333** |
| **FY 2025-26** | Emissions Inspection Fee | $10 | 1,000,000 | **$10,000,000** |

**Fines on emissions testing stations.** Conditional on a full transition to IM240 tailpipe testing, wait times will likely increase for consumers as the OBD test is approximately five to ten minutes faster to complete than the IM240 test. Longer wait times will likely result in increased wait time violations and fines for the testing station contractor, which may result in increased cash fund revenue to the Department of Revenue. As discussed above, the fiscal note has not included these potential revenues as they are conditional on EPA's decision.

## State Expenditures

On net, the bill increases state expenditures by $878,000 in FY 2024-25 and $1.4 million in FY 2025-26 and ongoing, paid from the General Fund and from the Nonattainment Area Air Pollution Mitigation Enterprise Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3**
**Expenditures Under SB 24-095**

| | FY 2024-25 | FY 2025-26 |
|---|---|---|
| **Department of Transportation** | | |
| Personal Services | $177,003 | $221,254 |
| Operating Expenses | $3,072 | $3,840 |
| Capital Outlay Costs | $20,010 | - |
| Repair Vouchers | $510,000 | $1,020,000 |
| Centrally Appropriated Costs[1] | $47,502 | $59,378 |
| FTE – Personal Services | 2.4 FTE | 3.0 FTE |
| **CDOT Subtotal** | **$757,587** | **$1,304,472** |
| **Department of Public Health and Environment** | | |
| Electric Lawn Equipment Program | $100,000 | - |
| **CDPHE Subtotal** | **$100,000** | **-** |
| **Department of Revenue** | | |
| Personal Services | $12,862 | $38,585 |
| Operating Expenses | $384 | $1,152 |
| Capital Outlay Costs | - | $6,670 |
| Computer Programming | $2,651 | $2,707 |
| Centrally Appropriated Costs[1] | $4,692 | $14,076 |
| FTE – Personal Services | 0.3 FTE | 0.9 FTE |
| **DOR Subtotal** | **$20,589** | **$63,190** |
| **Total Costs** | **$878,176** | **$1,367,662** |
| **Total FTE** | **2.7 FTE** | **3.9 FTE** |

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

**Department of Transportation.** Expenditures increase for CDOT to administer the High-Emitter Vehicle Program, paid from the Nonattainment Area Pollution Mitigation Enterprise Cash Fund.

- **Staffing.** The department requires 3.0 FTE to develop the program, including collaborating with other departments, publicizing the program, hosting events, and processing voucher payments. Standard operating and capital outlay costs are included, and costs are prorated for the bill’s effective date.

- **Repair vouchers.** The amount spent on vouchers depends on the number of eligible vehicles that are repaired through the voucher program. Table 3 assumes 100 vouchers per month beginning January 1, 2025. If the number of qualified vehicles differs from this amount, expenditures will likewise differ. The enterprise currently uses those funds to mitigate the environmental and health impacts of increased air pollution from motor vehicle emissions. Those other enterprise expenditures may decrease by the amount spent on vouchers instead.

**Department of Public Health and Environment.** Expenditures in CDPHE increase on net support the electric law equipment program and submit a SIP revision to the EPA.

- **Electric law equipment program.** The bill specifies $100,000 for the program operated by the Regional Air Quality Committee, which is paid from the Nonattainment Area Air Pollution Mitigation Enterprise Fund by CDPHE.

- **SIP revision.** In FY 2024-25 only, the bill increases workload in CDPHE to perform rulemaking to comply with the bill. In addition, CDPHE must submit a technical demonstration to the EPA showing that the change will not result in emissions backsliding, and oversee changes in testing software for the testing contractor. The fiscal note assumes this can be accomplished within existing appropriations. If additional staff and legal services hours are determined to be required to comply with federal law, they will be addressed through the annual budget process.

**Department of Revenue.** Expenditures increase for DOR to register additional repair facilities for the voucher program and to update the DRIVES system, paid from the Nonattainment Area Air Pollution Mitigation Enterprise Cash Fund.

- **Staffing.** As the voucher program incentivizes repair facilities to register with the department, additional staff are required to process registration applications and conduct audits for eligibility. The fiscal note assumes that 120 additional facilities will register, phased in over two years, requiring 0.3 FTE in FY 2024-25 and 0.9 FTE in subsequent years in DOR. Standard operating and capital outlay costs are included, and costs are prorated for the bill's effective date. Workload may also increase if the EPA approves the SIP revision for emissions testing for the department to support contractor and customer inquiries. If additional resources are required, they will be addressed through the annual budget process.

- **DRIVES programming.** Computer programming costs in FY 2024-25 and FY 2025-26 include DRIVES programming, estimated at eight hours each year at a rate of $248 per hour in FY 2024-25 and $255 per hour in FY 2025-26; ISD development and testing costs, estimated at six hours at a rate of $35 per hour in each year; support from the Office of Information Technology estimated at three hours at a rate of $99 per hour in each year, paid to OIT through real-time billing; and business user acceptance testing at five hours at a rate of $32 per hour in each year.

**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 3.

## 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 impact occurs because paying for state agency expenditures with enterprise revenue makes that revenue subject to TABOR once it is used for state government purposes outside of the enterprise. This estimate assumes the March 2024 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 General Fund revenue will increase the TABOR refund obligation, but result in no net change to 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.

## Local Government

The bill may increase revenue to local governments to the extent that they apply for and are awarded grants from the Clean Fleet Enterprise.

## Technical Note

The fiscal note currently includes a duplicative programming cost for the DOR's DRIVES system, as discussed in the Background and Assumptions section. The duplicate cost would be removed if the bill's effective date were amended to April 1, 2026, when the DRIVES upgrade is complete.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and it applies to taxable actions occurring on or after this date.

## State Appropriations

No appropriation is required to the Department of Transportation, as the Nonattainment Area Air Pollution Mitigation Enterprise Cash Fund is continuously appropriated to Nonattainment Area Air Pollution Mitigation Enterprise. However, for FY 2024-25, the bill requires and includes the following appropriations from the Nonattainment Area Air Pollution Mitigation Enterprise Cash Fund to the following state agencies:

- $100,000 to the Department of Public Health and Environment; and
- $15,897 to the Department of Revenue, and 0.3 FTE.

## State and Local Government Contacts

| | | |
|---|---|---|
| Law | Public Health and Environment | Revenue |
| Transportation | 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.