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Final Fiscal Note

Drafting Number: LLS 24-0798 Date: July 18, 2024
Prime Sponsors: Sen. Priola; Cutter Bill Status: Postponed Indefinitely
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Bill Topic: AIR QUALITY IMPROVEMENTS

Summary of Fiscal Impact: [X] State Revenue [] State Transfer [] Local Government
[X] State Expenditure [X] TABOR Refund [] Statutory Public Entity

The bill would have established a variety of programs and reports to reduce emissions of ozone precursors in the ozone nonattainment area. It would have increased state expenditures beginning in FY 2024-25, and would have increased state revenue beginning in FY 2025-26.

Appropriation Summary: For FY 2024-25, the bill would have required appropriations totaling \$1.3 million to multiple state agencies.

Fiscal Note Status: The final fiscal note reflects the introduced bill, as amended by the Senate Transportation and Energy Committee. This bill was postponed indefinitely by the Senate Finance Committee on May 2, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 24-165

Table with 5 columns: Category, Sub-category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget (TABOR Refund, GF Reserve).

Summary of Legislation

The bill establishes a variety of programs and reports to reduce emissions of ozone precursors in the ozone nonattainment area.

Indirect emissions sources. The bill authorizes CDPHE to adopt rules limiting emissions in the nonattainment area from indirect sources, which are sites that generate or attract mobile sources of emissions including roads, parking facilities, and buildings. CDPHE may approve alternative compliance proposals from the owner or operator on an indirect source, and it may establish a fee on indirect sources to cover its direct and indirect costs.

Ozone season pause of preproduction activities. The bill prohibits preproduction activities of oil and gas operators in the nonattainment area during the implementation season beginning in 2025 until the area meets federal air quality standards. This restriction does not apply to preproduction activities powered from the electric grid.

Emissions reports. The bill requires oil and gas operators and CDPHE to publish annual reports about emissions from oil and gas operations beginning in 2024.

- By June 30, operators must report on emissions of greenhouse gases, hazardous air pollutants, and ozone precursors. By October 1, CDPHE must publish an emissions inventory report that includes an evaluation of progress towards the goals in the state's Greenhouse Gas Pollution Reduction Roadmap, descriptions of initiatives taken to reduce emissions, the impacts of oil and gas operations on federal air quality standards, and opportunities for interagency coordination on air quality.
- By November 30, operators in the nonattainment area must estimate their nitrogen oxide emissions for the subsequent ozone season. By February 1, CDPHE must publish a nitrogen oxides report that includes the estimates. The Energy and Carbon Management Commission in the Department of Natural Resources must create a nitrogen oxides emission budget and use information in the report to limit emissions from oil and gas operations.

Vehicle emission budgets. CDPHE must develop annual budgets for nitrogen oxides and volatile organic compounds from 2026 through 2050 for on- and off-road vehicles in the ozone nonattainment area. The budgets must decrease every five years and the department must report on the budgets in its annual SMART Act hearing.

State Revenue

The bill increases state cash fund revenue by up to \$1.4 million per year beginning in FY 2025-26. This revenue is subject to TABOR.

Permit applicants and operators pay fees depending on the type of permit sought, the amount of emissions allowed, and the time required for CDPHE to process the permit. This fee revenue accrues to the Stationary Sources Control Fund. The fiscal note assumes that CDPHE will adjust its fees as necessary in FY 2024-25 to generate revenue that covers its costs beginning in FY 2025-26. In addition, CDPHE may assess new fees on indirect sources. If CDPHE cannot

generate sufficient revenue, additional General Fund may be required in future years, which will be addressed through the annual budget process. While the fiscal note estimates the total amount of revenue, given the multitude of different fees charged by the CDPHE for permits, the impact on individual permit types cannot be estimated.

State Expenditures

The bill increases state expenditures by about \$1.4 million in FY 2024-25, \$1.5 million in FY 2025-26, and \$1.4 million in FY 2026-27 and ongoing, paid from the General Fund, the Stationary Sources Control Fund, and, to a lesser extent, the Energy and Carbon Management Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 24-165**

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Public Health and Environment			
Personal Services	\$480,642	\$557,349	\$557,349
Operating Expenses	\$6,528	\$8,064	\$8,064
Capital Outlay Costs	\$40,020	\$6,670	-
Legal Services	\$384,060	\$441,669	\$441,669
Information Technology	\$200,000	\$200,000	\$105,000
Travel Costs	\$2,480	\$2,480	\$2,480
Research	\$50,000	-	-
Communication Materials	\$33,750	\$33,750	\$33,750
Centrally Appropriated Costs ¹	\$103,866	\$124,894	\$124,894
FTE – Personal Services	5.1 FTE	6.3 FTE	6.3 FTE
FTE – Legal Services	1.7 FTE	1.9 FTE	1.9 FTE
CDPHE Subtotal	\$1,301,346	\$1,374,875	\$1,273,205
Colorado Energy Office			
Personal Services	\$92,642	\$92,642	\$92,642
Operating Expenses	\$896	\$896	\$896
Centrally Appropriated Costs ¹	\$17,437	\$17,437	\$17,437
FTE – Personal Services	0.7 FTE	0.7 FTE	0.7 FTE
CEO Subtotal	\$110,975	\$110,975	\$110,975

**Table 2
Expenditures Under SB 24-165 (Cont.)**

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Natural Resources			
Personal Services	\$18,962	\$18,962	\$18,962
Centrally Appropriated Costs ¹	\$6,242	\$6,242	\$6,242
FTE – Personal Services	0.2 FTE	0.2 FTE	0.2 FTE
DNR Subtotal	\$25,204	\$25,204	\$25,204
Total	\$1,437,525	\$1,511,054	\$1,409,384
Total FTE	7.7 FTE	9.1 FTE	9.1 FTE

Department of Public Health and Environment. The bill requires the development of significant new regulatory requirements related to indirect sources of air pollution, as well as ongoing implementation, oversight, and management of programmatic and regulatory needs, and the creation of new emissions budgets.

- **Staff.** The various programs increase workload in CDPHE by 5.1 FTE in FY 2024-25, increasing on net to 6.3 FTE in subsequent years as implementation ramps up over two years. Standard operating and capital outlay costs are included.
- **Legal services.** CPHE requires 3,000 hours of legal services for rulemaking and general counsel, increasing to 3,450 hours in subsequent years. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.
- **Information technology.** In order to track indirect sources of emissions, CDPHE requires information technology improvements. Costs assume a two-year implementation window at roughly \$200,000 per year. Ongoing system maintenance and operation costs are estimated at \$105,000 per year.
- **Travel costs.** Mileage costs are estimated at approximately 4,000 miles per year.
- **Research.** CDPHE requires contracted research studies to support rulemaking efforts, estimated at \$50,000 for indirect source research in FY 2024-25 only.
- **Communication materials.** CDPHE requires \$34,000 for translation services and communication materials annually beginning in FY 2024-25.

Colorado Energy Office. CEO requires 0.7 FTE beginning in FY 2024-25 to support the rulemaking activities in the bill.

Department of Natural Resources. The ECMC requires 0.2 FTE beginning in FY 2024-25 to develop the annual ozone season nitrogen oxide emissions budget, evaluate operator reports, and determine if total estimated emissions exceed the year's budget.

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 increase 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 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 cash fund revenue will reduce 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.

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 appropriations totaling \$1,290,763 as follows:

- \$1,197,480 from the General Fund to the Department of Public Health and Environment, and 5.1 FTE. Of this, \$384,060 is reappropriated to the Department of Law, with an additional 1.7 FTE;
- \$93,538 from the General Fund to the Colorado Energy Office, and 0.7 FTE; and
- \$18,962 from the Energy and Carbon Management Fund to the Department of Natural Resources, and 0.2 FTE.

Departmental Difference

The fiscal note does not include certain department-identified costs, as follows:

- CDPHE assumes that establishing the motor vehicle emissions budget requires 4.5 FTE in FY 2024-25 and 6.5 FTE in subsequent years; the fiscal note instead assumes that establishing the budgets in FY 2024-25 for rulemaking requires only 1.0 FTE and that the bill does not require the budgets to be updated annually;

- CDPHE and the Office of Information Technology (OIT) assume that \$442,023 is required in FY 2024-25 for computer programming to be performed by OIT on behalf of CDPHE related to emissions tracking; the fiscal note instead assumes that since the work will take place over multiple fiscal years, it is not necessary to appropriate the total from the General Fund in FY 2024-25; and
- the Colorado Energy Office assumes that it requires \$50,000 per year to perform bill-related analyses; the fiscal note assumes these costs are redundant to similar work performed by other agencies.

State and Local Government Contacts

Colorado Energy Office
Legislative Department
Transportation

Information Technology
Natural Resources

Law
Public Health and Environment

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](#).