



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0791	Date:	February 28, 2024
Prime Sponsors:	Sen. Kirkmeyer	Bill Status:	Senate Transportation & Energy
		Fiscal Analyst:	Matt Bishop 303-866-4796 matt.bishop@coleg.gov

Bill Topic: **AIR QUALITY OZONE LEVELS**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill addresses high ozone levels in the Front Range through a variety of mechanisms, including creating a voucher program, repealing a tax credit, creating a rebate program, modifying an existing grant program, and requiring air quality studies. It increases state and local revenue and expenditures starting in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$2.1 million to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 24-095

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	\$11.1 million	\$12.3 million
	Total Revenue	\$11.1 million	\$12.3 million
Expenditures¹	General Fund	\$2,106,545	\$2,205,006
	Centrally Appropriated	\$110,822	\$141,449
	Total Expenditures	\$2,217,367	\$2,346,455
	Total FTE	4.5 FTE	2.6 FTE
Transfers	Highway Users Tax Fund	(\$0.6 million)	(\$1.2 million)
	High-Emitter Vehicle Fund	\$0.6 million	\$1.2 million
	Net Transfer	\$0	\$0
Other Budget Impacts	TABOR Refund	\$11.1 million	\$12.3 million
	General Fund Reserve	\$315,982	\$330,751

¹ The bill also shifts expenditures between different cash funds, but with no net change in cash fund spending overall. These impacts are described in the State Expenditure section below, and correspond to the transfer amounts shown in Table 1.

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. 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 as 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.

Garden rebate program and electric powered lawn equipment income tax credit. The bill repeals an existing income tax credit for the purchase of new electric powered lawn equipment and replaces it with a rebate program for outdoor power equipment. Rebates are applied to sales of outdoor power equipment at the point of purchase by retailers who register with the Department of Public Health and Environment (CDPHE).

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 trucks to this list. It also directs the enterprise to prioritize awarding fleet electrification grants to local governments.

Ozone studies. The bill requires CDPHE to conduct photochemical modeling studies to evaluate ambient ozone levels and the effectiveness of policies targeting ozone reduction. CDPHE must conduct the studies at least annually beginning in 2025, and it must the results in its annual SMART Act hearing beginning in 2026. The study requirement repeals if Colorado achieves attainment of federal ozone standards.

Background and Assumptions

High-Emitter Vehicle Program implementation. The fiscal note makes two assumptions that impact the transfers and expenditures in CDOT below. First, it assumes that the new High-Emitter Vehicle Fund is used only to pay for repair vouchers, and that the program's administrative costs are paid from the Nonattainment Area Air Pollution Mitigation Enterprise Fund. Second, because the voucher program must begin operation by January 1, 2025, the fiscal note assumes that vouchers will not be available until this date.

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

Repealing the income tax credit for electric powered lawn equipment increase General Fund revenue by \$11.1 million in FY 2024-25 (approximately an 11-month impact) and by \$12.3 million in FY 2025-26, with similar impacts through FY 2026-27, when the tax credit is scheduled to repeal. The fiscal note assumes that sales that takes place prior to the bill's effective date remain eligible for the credit, and that the revenue impact begins in FY 2024-25. For more information on the estimated use of this tax credit, see the fiscal note for [Senate Bill 23-016](#). The bill increases income tax revenue to the General Fund, which is subject to TABOR.

State Transfers

The bill requires monthly transfers between the new High-Emitter Vehicle Fund, from which vehicle repair rebates are paid, and the AIR Account of the Highway Users Tax Fund (HUTF). Each month, any unused money remaining in the High-Emitter Vehicle Fund is transferred to the AIR Account, and an amount of money determined by formula is transferred from the AIR Account to replenish the High-Emitter Vehicle Fund. This amount is the lesser of 20 percent of the AIR Account's balance or 10 percent of the revenue collected by the Nonattainment Area Air Pollution Mitigation Enterprise in the preceding month. The actual amount transferred each month depends on revenue to each of these funds and on how many rebates are paid from the High-Emitter Vehicle Fund each month. The fiscal note estimates that the net transfer from the AIR Account to the High-Emitter Vehicle Fund could be up to \$0.6 million in FY 2024-25 and \$1.2 million in FY 2025-26 and ongoing.

State Expenditures

On net, the bill increases state expenditures by \$2.2 million in FY 2024-25 and \$2.3 million in FY 2025-26 and ongoing, primarily paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 24-095**

	FY 2024-25	FY 2025-26
Department of Public Health and Environment		
Personal Services	\$455,606	\$546,892
Operating Expenses	\$7,040	\$8,448
Capital Outlay Costs	\$46,690	-
Rebate Program	\$1,129,500	\$1,062,750
Ozone Studies	\$375,000	\$525,000
Legal Services	\$76,812	\$12,802
Motor Vehicle Emissions Activities	(\$621,049)	(\$1,168,692)
Centrally Appropriated Costs ¹	\$106,130	\$127,373
FTE – New Personal Services	5.5 FTE	6.6 FTE
FTE – Existing Personal Services	(4.0 FTE)	(8.0 FTE)
FTE – Legal Services	0.3 FTE	0.1 FTE
CDPHE Subtotal	\$1,575,729	\$1,114,573
Department of Transportation		
Personal Services	\$177,003	\$221,254
Operating Expenses	\$3,072	\$3,840
Capital Outlay Costs	\$20,010	-
Repair Vouchers	\$373,461	\$884,220
Centrally Appropriated Costs ¹	\$47,503	\$59,378
FTE – Personal Services	2.4 FTE	3.0 FTE
CDOT Subtotal	\$621,049	\$1,168,692
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	\$2,217,367	\$2,346,455
Total FTE	4.5 FTE	2.6 FTE

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

Department of Public Health and Environment. Expenditures in CDPHE increase on net to administer the Garden Rebate Program and to perform the ozone studies.

- **New staffing.** CDPHE requires about 6.6 FTE beginning in FY 2025-26 to conduct rulemaking, develop the certification system for the Garden Rebate Program, advertise the program, conduct the photochemical modeling studies, and report on these activities as required. Standard operating and capital outlay expenses are included, and costs are prorated for the bill's effective date. CDPHE also requires 600 hours of legal services, provided by the Department of Law, in FY 2024-25 only to assist with program implementation and modification.
- **Rebate program.** The amount of money available for the Garden Rebate Program is at the discretion of the legislature. The fiscal note assumes that \$1.0 million will be made available annually. In addition, CDPHE will incur administrative costs for IT infrastructure to track the payments and communication materials to promote the program.
- **Ozone studies.** Costs to conduct the required photochemical studies are estimated at \$375,000 per year beginning in FY 2024-25. In addition, costs increase in FY 2025-26 for data visualization analysis, estimated at \$150,000.
- **Staffing reduction – motor vehicle emissions activities.** The department currently uses funding in the AIR Account for its Mobile Sources program. Moving some of this funding to the enterprise for the High-Emitter Vehicle Program reduces funding available for CDPHE by the same amount, and requires a reduction of staff estimated at 4.0 FTE in FY 2024-25 and 8.0 FTE in FY 2025-26 and ongoing.

Department of Transportation. Expenditures increase for CDOT to administer the High-Emitter Vehicle Program.

- **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 2 shows the amounts available to be spent based on the assumed transfers from the AIR Account. This represents about 450 vouchers in FY 2024-25 and about 1,050 vouchers in FY 2025-26. If the number of qualified vehicles exceed these amounts, additional vouchers will be paid from the Nonattainment Area Air Pollution Mitigation Enterprise Cash Fund. 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 would decrease by the amount spent on vouchers instead.

Department of Revenue. Expenditures increase for DOR to register additional repair facilities for the voucher program and to update the DRIVES system.

- **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.
- **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 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 December 2023 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 sales of new electric powered lawn equipment occurring on or after that date.

State Appropriations

For FY 2024-25, the bill requires the following General Fund appropriations:

- \$2,091,848 to the Department of Public Health and Environment, and 1.5 FTE. Of this, \$76,812 is reappropriated to the Department of Law, with an additional 0.3 FTE, and \$97,500 is reappropriated to the Office of Information Technology.
- \$15,897 to the Department of Revenue, and 0.3 FTE.

No appropriation is required to the Department of Transportation, as the High-Emitter Vehicle Fund is continuously appropriated to Nonattainment Area Air Pollution Mitigation Enterprise.

State and Local Government Contacts

Counties	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](#).