

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING THE IMPLEMENTATION OF STATE CLIMATE GOALS.

Prime Sponsors: Senator Hansen
Reps. Amabile and McCormick

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Phone: 303-866-4963
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Appropriation Items of Note

Appropriation Required, Amendments in Packet

General Fund Impact

New Cash Funds (with Continuous Appropriation)

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/23/24.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
XXX	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Transportation and Energy Committee Report (04/24/24) amends the bill to reduce the FY 2024-25 transfer of General Fund to the Sustainability Revolving Fund from \$540,230 to \$400,000, and modifies the transfer from one-time to an annual transfer occurring on July 1 of each year. Additionally, the amendments increase the amount retained in the Decarbonization Tax Credits Administration Cash Fund from \$100,000 to \$175,000, reducing the amount transferred from the Fund to the General Fund in FY 2023-24, FY 2024-25, and FY 2025-26. On net, the Transportation and Energy Committee Report reduces the General Fund impact of the bill by \$65,230. Legislative Council Staff and JBC Staff agree on the fiscal impact of the amendments.

Technical Update

The Decarbonization Tax Credits Administration Cash Fund is intended to fund the administrative costs of the Colorado Energy Office and the Department of Revenue through a repayment of those costs to the various programmatic cash funds implementing decarbonization tax credits. Funding for this repayment is transferred to the Decarbonization Tax Credits Administration Cash Fund from a

portion of the severance tax for oil and gas production, pursuant to Section 39-29-108 (2)(e)(II), C.R.S. Section 11 of the bill changes from July 1, 2025 to June 30, 2024, the date by which the state Treasurer credits to the Decarbonization Tax Credits Administration Cash Fund an amount sufficient to repay all administrative costs expended from the cash funds supporting the implementation of the decarbonization tax credits, as specified in Section 39-29-108 (2)(e)(III)(C), C.R.S. This change eliminates the FY 2024-25 repayment of administrative costs.

The FY 2024-25 Long Bill includes appropriations of \$1,770,160 cash funds from various sources to the Department of Revenue for administrative costs associated with the implementation of the decarbonization tax credits. As a result of the changes in this bill, those costs will no longer be backfilled by the Decarbonization Tax Credits Administration Cash Fund and will reduce the funding available for decarbonization tax credits. In order to maintain the funding for the decarbonization tax credits, Legislative Council Staff and JBC Staff agree that the \$1.8 million cash funds appropriated to the Department of Revenue in the FY 2024-25 Long Bill should be shifted to an appropriation from the Decarbonization Tax Credits Administration Cash Fund. Staff has prepared amendment **J.001**, which includes this net neutral FY 2024-25 appropriations change.

Amendments in This Packet for Consideration by Appropriations Committee	
Amendment	Description
J.001	Staff-prepared appropriation amendment
L.006	Bill Sponsor amendment - changes fiscal impact, not appropriation
L.007/L.008/ L.009	Bill Sponsor amendment - does not change fiscal impact

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$958,596 cash funds for FY 2024-25, as follows:

- a net zero adjustment to the Department of Revenue's FY 2024-25 Long Bill appropriation, including a decrease of \$1,770,160 cash funds from various sources and an increase of the same amount of cash funds from the Decarbonization Tax Credits Administration Cash Fund; and
- an increase of \$958,596 cash funds from the Decarbonization Tax Credits Administration Cash Fund to the Colorado Energy Office in the Office of the Governor, which is based on the assumption that the Office will require an additional 3.1 FTE.

L.006

Bill Sponsor amendment **L.006** (attached) directs the state Treasurer to transfer from the

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JBC Staff Analysis

Decarbonization Tax Credits Administration Cash Fund, on July 29, 2024, sufficient funds to repay FY 2023-24 administrative costs of the respective cash funds, enumerated in the amendment, that were created to administer decarbonization tax credits. Additionally, the amendment increases the amount retained the Decarbonization Tax Credits Administration Cash Fund from \$175,000 to \$300,000, reducing the amount transferred from the Fund to the General Fund in FY 2023-24, FY 2024-25, and FY 2025-26.

L.007/L.008/L.009

Bill Sponsor amendments L.007, L.008, and L.009 (attached) makes technical changes to align statutory transfer and expenditure requirements with changes to the bill, as amended by L.006.

The Committee should adopt J.001 regardless of any other amendment adopted. If the Committee adopts L.006, it **should also** adopt amendments L.007, L.008, and L.009.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2024-25 based on the March 2024 Office of State Planning and Budgeting (OSPB) revenue forecast. The budget package includes \$63.1 million in set-asides for legislation outside of the package (see table below). The budget package accounts for the 15.0 percent reserve associated with the placeholders (a total of \$9.5 million).

General Fund Appropriation Placeholders for Other 2024 Legislation	
Description	FY 2024-25
General Legislative Priorities	\$21,739,130
Legislation for Shared Housing Priorities	12,043,478
Legislation for Shared Workforce and Education Priorities	16,152,110
Legislation for Other Shared Priorities	10,519,130
Legislation for Distributions to Rural Hospitals	2,608,689
TOTAL Placeholders for Other 2024 Legislation	\$63,062,537

This bill, as amended by the Transportation and Energy Committee Report (04/24/24), requires a General Fund transfer of \$400,000 to the Sustainability Revolving Fund for FY 2024-25, reducing the \$63.1 million set aside by the same amount.

Future Fiscal Impact

This bill, as amended by the Transportation and Energy Committee Report (04/24/24), will reduce

General Fund revenues by an estimated \$400,000 in FY 2025-26 and ongoing through a transfer to the Sustainability Revolving Fund, reducing the amount of General Fund available for other purposes.

Technical Issues

The Colorado Energy Office currently has continuous appropriation authority for administrative costs from the following cash funds that support the implementation of decarbonization tax credits:

- the Industrial and Manufacturing Operations Clean Air Grant Program Cash Fund (Section 24-38.5-116 (6)(b)(II), C.R.S.);
- the Geothermal Energy Grant Fund (Section 24-38.5-118 (7)(d), C.R.S.); and
- the Community Access to Electric Bicycles Cash Fund (Section 24-38.5-506 (2)(b), C.R.S.).

Staff has prepared **J.001**, in alignment with the Fiscal Note, appropriating \$958,596 cash funds from the Decarbonization Tax Credits Administration Cash Fund to the Colorado Energy Office for FY 2024-25. In light of this appropriation, is it necessary for the Colorado Energy Office to retain its continuous appropriation authority for administrative costs from the aforementioned cash funds?

Legislative Appropriation Authority

Continuous spending authority, also known as **continuous appropriation**, allows state agencies to spend money for statutorily specified purposes up to the total amount available in a specified fund source without seeking further legislative approval through the budget process.

The term *appropriation* is broadly understood as expressing or conveying legal spending authority. However, the term *appropriation* also inherently expresses fundamental legislative fiscal authority by communicating a *limit* on or maximum amount of spending from a specified fund source for a defined period such as a fiscal year. While continuous spending authority also expresses or conveys legal spending authority it does so by eliminating legislative fiscal authority and oversight.

An annual appropriation provides a limit on spending authority, while a continuous appropriation provides unlimited spending authority. This method of funding moves these expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process.

Is it necessary for the Department of Personnel to **not** seek annual authority from the General Assembly to spend money from Sustainability Revolving Fund or the Inflation Reduction Act Elective Pay Cash Fund?