SB 24-214

Legislative Council Staff
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Fiscal Note

Drafting Number:	LLS 24-1175	**Date:**	April 23, 2024
Prime Sponsors:	Sen. Hansen Rep. Amabile; McCormick	**Bill Status:**	Senate Transportation & Energy
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Bill Topic: **IMPLEMENT STATE CLIMATE GOALS**

Summary of Fiscal Impact:

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

The bill creates a new Office of Sustainability, modifies the Geothermal Energy Grant Program and Energy Code Board administration, clarifies other existing tax credits, and makes an adjustment to the flow of money between funds to pay for administrative expenses for various tax credits. These changes increase state expenditures, transfer money from the General Fund starting in FY 2024-25, and divert money between cash funds starting in the current FY 2023-24.

Appropriation Summary: For FY 2024-25, the Colorado Energy Office requires an appropriation of $958,596. No further appropriation is required, as costs are paid from continuously appropriated cash funds. See State Appropriations section.

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

Table 1
State Fiscal Impacts Under SB 24-214

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-
Expenditures	Sustainability Revolving Fund	$540,230	-
	Decarbonization Tax Cred. Admin. Cash Fund	$1,022,807	-
	Various Cash Funds	($1,022,807)	-
	Total Expenditures	**$540,230**	**-**
Transfers	General Fund	($540,230)	-
	Sustainability Revolving Fund	$540,230	-
	Net Transfer	**$0**	**-**
Other Budget Impacts		-	-

Summary of Legislation

The bill creates a new Office of Sustainability, modifies the Geothermal Energy Grant Program and Energy Code Board administration, clarifies some existing tax credits, and makes an adjustment to the flow of money between funds to pay for administrative expenses for various tax credits.

Office of Sustainability. The bill creates the Office of Sustainability in the Department of Personnel and Administration to streamline sustainability practices across state agencies. This includes developing baseline metrics for reducing negative environmental impacts, setting goals for state government, tracking financial savings from implementing sustainability policies, seeking federal funding to support sustainability practices, and facilitating sustainability infrastructure projects with other state agencies. Such projects may include electric vehicle charging infrastructure, energy efficiency, water use reduction, and waste diversion.

In FY 2024-25, the bill creates the Sustainability Revolving Fund for the office to replace the state's gas- and diesel-powered equipment located in the ozone nonattainment area on the front range. It also creates the Inflation Reduction Act Elective Pay Cash Fund, which consists of money received by DPA under the federal act's elective pay provisions, and which may be used to coordinate state agencies' applications for elective pay funding and other administration of the new office.

Geothermal Energy Grant Program. The bill modifies the provision of this existing grant program administered by the Colorado Energy Office (CEO) by adjusting the grantmaking priorities and allowing the CEO to use grant program money to support outreach activities.

Energy Code Board. House Bill 22-1362 established the Energy Code Board to develop model codes for voluntary adoption by local governments and state agencies. This bill extends the deadline for the board to produce a model low energy and carbon code from June 1, 2025, to September 1, 2025, and reallocates existing transfers to the board's cash fund by allowing the board to spend an additional $125,000 on board costs instead of grants to local governments.

Industrial Clean Energy Tax Credit. The bill increases the maximum tax credit per taxpayer from $5 million to $8 million, broadens the scope of industrial studies that are considered qualified projects, clarifies that project developers may qualify for the credit, and disallows taxpayers from receiving grant money from the industrial and manufacturing options clean air grant program for the same project for which they received the tax credit.

The bill does not change the aggregate amount of tax credits allowed to be claimed, which is limited to $16 million per year for tax years 2024 to 2028 and $24 million per year from 2029 to 2032.

Geothermal Expenditures Tax Credit. The bill removes the requirement that the tax credit may not exceed 30 to 50 percent of qualifying expenditures made to evaluate and develop a geothermal energy resource, and allows the CEO to determine the maximum credit amount. The bill expands the type of project that is eligible for the credit to include studies, geothermal workforce trainings, apprenticeships, and other strategic initiatives.

The bill does not change the aggregate amount of tax credits allowed to be claimed, which is limited to $35 million in all years the tax credit is allowed.

Geothermal Production Tax credit. The bill removes the maximum tax credit amount of $1 million per year per taxpayer, allows the CEO to modify the size of the tax credit, and requires the CEO to annually evaluate the effectiveness of the tax credit.

Heat pump technology and thermal energy network income tax credit. The bill allows the CEO to modify or create tax credit maximums and removes the tax credit maximum for nonresidential buildings, which allowed tax credits to be granted for each increment of four tons of heat up to 100 tons.

Tax administration. Under current law, a portion of increased severance tax revenue from changes made in House Bill 23-1272 is used to pay for administrative costs in the CEO and the Department of Revenue (DOR), except that the departments may use other cash funds in FY 2024-25 and those funds will be repaid by a diversion from the Decarbonization Tax Credits Administration Cash Fund. This bill changes the deadline for this diversion by about a year, from July 1, 2025, to June 30, 2024.

Background

The federal Inflation Reduction Act of 2022 created a number of tax credits related to energy production, clean fuels, and carbon sequestration. Entities that claim the credits can use elective pay to make the credits effectively refundable. This bill establishes a coordinating method for state agencies to apply for elective pay and uses any such payments to fund the new office.

State Revenue

If the bill causes state agencies to receive more elective pay under the Inflation Reduction Act, revenue will increase to the Inflation Reduction Act Elective Pay Cash Fund beginning in FY 2024-25. The amount of revenue depends on tax credit-eligible projects pursued by state agencies and cannot be estimated here.

By removing the limit of $1 million per taxpayer for the geothermal production tax credit, the bill may reduce General Fund revenue beginning in FY 2029-30, when the first tax credits are expected to be claimed.

The bill potentially increases state revenue to the Sustainability Revolving Fund and the Inflation Reduction Act Elective Pay Cash Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

State Transfers and Diversions

In FY 2024-25, the bill transfers $540,230 from the General Fund to the Sustainability Revolving Fund. This transfer will occur on July 1, 2024.

In addition, the bill diverts funds from the Decarbonization Tax Credits Administration Cash Fund to various cash funds in the CEO and CDPHE sooner, in the current FY 2023-24, rather than in FY 2025-26, by moving the date to repay the various cash funds to June 30, 2024 from the current July 1, 2025. Based on the costs identified in the fiscal note for HB 23-1272, this diversion is estimated to be $1.2 million. The bill eliminates an analogous diversion in FY 2025-26.

State Expenditures

The bill increases expenditures by $540,230 in FY 2024-25 in DPA from the Sustainability Revolving Fund. It also affects workload in the Colorado Energy Office. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 24-214

	FY 2024-25	FY 2025-26
Department of Personnel and Administration		
Equipment Replacement	$400,000	-
Administrative Costs	$140,230	-
Total Cost	**$540,230**	**-**

Department of Personnel and Administration. The bill includes funding to replace equipment in the ozone nonattainment area and to administer the new office. Administrative costs include personal services, standard operating and capital outlay costs, and employee benefits. Costs are shown for FY 2024-25 only. However, expenditures may occur over multiple fiscal years as the funds are continuously appropriated to the department, and additional funding will be required in future years to fulfil the office's other duties. This depends on departmental priorities and how the office is organized, and will be addressed through the annual budget process.

Colorado Energy Office. The CEO currently receives funding of $1,022,807 and 3.1 FTE, which is $958,596 plus centrally appropriated costs, for its role in tax credit administration. While this bill does not change the overall expenditures, it requires that these costs be paid from the Decarbonization Tax Credits Administration Cash Fund, which is subject to annual appropriation, rather than from continuously appropriated sources since the bill will no longer repay those funds via a diversion after the current FY 2023-24.

Modifications to the Geothermal Energy Grant Program and the Energy Code Board affect CEO's workload to administer these programs. As the bill does not affect the amount of funding available for either program, any net change in workload is expected to be minimal.

Local Government

Revenue and expenditures may decrease in local governments to the extent that less grant funding is available from the Energy Code Board.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

The bill requires an appropriation of $958,596 from the Decarbonization Tax Credits Administration Cash Fund to the Colorado Energy Office, and 3.1 FTE. This represents expenditures that would otherwise be paid from cash funds continuously appropriated to the office.

No further appropriation is required as the following cash funds are continuously appropriated:

- the Sustainability Revolving Fund to the Department of Personnel and Administration;
- the Inflation Reduction Act Elective Pay Cash Fund to the Department of Personnel and Administration; and
- the Energy Fund to the Colorado Energy Office.

State and Local Government Contacts

Colorado Energy Office	Personnel	Revenue
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.