HB 24-1235

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0251	**Date:**	March 4, 2024
Prime Sponsors:	Rep. Brown; Bird Sen. Fenberg; Zenzinger	**Bill Status:**	House Trans., Hous., & Local Govt.
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Bill Topic: **REDUCE AVIATION IMPACTS ON COMMUNITIES**

Summary of Fiscal Impact:

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

The bill creates new requirements concerning adverse airport impacts for the State Aviation System Grant Program and the Division of Aeronautics, and establishes the Unleaded Aviation Gasoline Enterprise in the division. The bill also creates a tax credit for unleaded aviation gasoline. It increases state revenue and expenditures and impacts local governments on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $76,991 to the Department of Revenue. The Aviation Cash Fund and the Unleaded Aviation Gasoline Enterprise Fund are continuously appropriated to the Colorado Department of Transportation.

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

Table 1
State Fiscal Impacts Under HB 24-1235

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($800)	($17,800)
	Cash Funds	$1,330,330	$1,600,000
	Total Revenue	**$1,329,530**	**$1,582,200**
Expenditures	General Fund	$76,991	$7,392
	Cash Funds	$8,279,811	$9,335,234
	Centrally Appropriated	$38,019	$32,266
	Total Expenditures	**$8,394,821**	**$9,374,892**
	Total FTE	**2.0 FTE**	**1.7 FTE**
Transfers		-	-
Other Budget Impacts	TABOR Refund	($800)	($17,800)
	General Fund Reserve	$11,549	$1,109

Summary of Legislation

State tax credit. The bill creates a tax credit for aircraft owners that incur qualified expenses to modify and certify their aircraft to use unleaded aviation gasoline rather than leaded aviation gasoline.

Aviation grant program. The bill instructs the Division of Aeronautics in the Department of Transportation (CDOT), when considering grant applications for the State Aviation System Grant Program, to prioritize airports at which there is significant aviation activity over areas with a population of more than 3,000 individuals per square mile. Airports receiving a grant must:

- have adopted a plan by January 1, 2026, for phasing out sales of leaded gasoline;
- have established and enforced a voluntary noise mitigation plan that follows the criteria and guidelines established by the Division of Aeronautics; and,
- comply with the requirements of any aviation easements or contracts it has entered into.

Limitations do not apply to money expended for an aviation project designed to mitigate significant adverse effects on the health and safety of residents near the project.

Aeronautical board. The bill increases membership on the Colorado Aeronautical Board from seven to nine by adding two members that are residents of communities affected by general aviation or commercial airport traffic. It also adds the executive director of the Department of Public Health and Environment (CDPHE), or the director's designee, as a nonvoting member of the board.

Adverse impact prevention and mitigation. The bill requires the Division of Aeronautics to work with the CDPHE to evaluate the adverse impacts of aircraft noise and leaded aviation gasoline at airports in densely populated areas. The division and CDPHE are required to:

- install noise monitoring systems;
- conduct periodic testing for presence of lead in the blood of individuals who reside, work, or attend school or child care near such airports; and,
- provide technical assistance to airports and local governments working to mitigate significant adverse effects on the health and safety of residents near such airports.

Unleaded Aviation Gasoline Enterprise. The bill creates the Unleaded Aviation Gasoline Enterprise in the Division of Aeronautics. The enterprise may impose a leaded aviation gasoline remediation impact fee and provide grants, loans, or rebates for programs and infrastructure that support accessibility of unleaded gasoline at general aviation airports.

Background and Assumptions

Aviation gasoline. Aviation gasoline is typically used by small piston-engine aircraft. There are approximately 4,500 piston-engine aircraft in Colorado, although not all of these aircraft are necessarily airworthy or actively flying.

The most widely used grade of aviation gasoline, Avgas 100LL (low-lead), contains lead. There are some versions of unleaded aviation gasoline that are currently available, such as Avgas UL91 and Avgas UL94, but not all piston-engine aircraft can use these fuels due to their lower octane rating, and these fuels are not widely available in Colorado outside of Centennial airport. The cost of unleaded aviation gasoline is generally higher than the cost of Avgas 100LL. Most aircraft do not need to be modified to use unleaded gasoline, but they are required to obtain a Supplemental Type Certificate (STC) certifying that the aircraft may be powered by unleaded aviation gasoline. For UL94, these STCs cost about $100.

The Federal Aviation Administration has launched an initiative to eliminate the use of leaded aviation fuels by the end of 2030, including facilitating the production, distribution, and use of unleaded replacement fuels. There are a number of potential types of 100-octane unleaded aviation gasoline in the process of being developed or produced. This includes G100UL, which will be available in select airports in California beginning in the summer of 2024, but has not received American Society for Testing and Materials (ASTM) certification. The cost of obtaining an STC for G100UL ranges from about $200 to $600.

Noise monitoring systems. CDOT identified eight airports that meet the bill's criteria for installation of noise monitoring systems: Boulder Municipal Airport, Erie Municipal Airport, Vance Brand Municipal Airport (Longmont), Greeley-Weld County Airport, Northern Colorado Regional, Meadow Lake Airport (Falcon), Colorado Springs Airport, and Denver International Airport. The fiscal note assumes costs will be similar to a previous installation of noise monitoring equipment at the Centennial Airport. However, for Denver International Airport, these costs may increase significantly due to the airport's size and quantity of aircraft operations.

Lead testing. Under current law, the CDPHE receives reports of lead levels from health care providers that obtain blood samples. Providers report all results for children and results above the CDC reference value for adults. The Colorado Childhood Lead Poisoning Prevention Program (CCLPP) regularly reviews and analyzes trends in health outcomes related to lead exposure in partnership with local public health agencies and the CDPHE Toxicology and Environmental Epidemiology Office. The fiscal note assumes the current process meets the bill's periodic testing requirement and rate and nature of blood testing requests would be unchanged by the bill language.

State Revenue

The bill is estimated to increase revenue by $1.3 million in FY 2024-25 and $1.6 million in FY 2025-26 and ongoing. Actual revenue may differ from these estimates based on the fee amounts set by the enterprise and the actual number of gallons of leaded gasoline sold. Revenue is shown in Table 2 and detailed below.

Table 2
State Revenue Under HB 24-1235

	FY 2024-25	FY 2025-26
Unleaded Aviation Gasoline Enterprise Fund	$1,330,330	$1,600,000
General Fund	($800)	($17,800)
Total Revenue	**$1,329,530**	**$1,582,200**

Fee impact of leaded gasoline sales. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill sets the fee at a maximum of $0.50, applied to 3.2 million gallons of leaded gasoline purchased annually. For FY 2024-25, revenue impacts are prorated to ten months to reflect an assumed September implementation date for the fee. This revenue is not subject to the state's revenue limit under TABOR in years when the program qualifies as a state enterprise under TABOR. Table 3 identifies the fee impact of this bill.

Table 3
Fee Impact of Leaded Gasoline Sales

Fiscal Year	Type of Fee	Proposed Fee	Gallons Sold	Total Fee Impact
FY 2024-25	Leaded Aviation Fee	$0.50	2.7 million	$1.3 million
FY 2025-26	Leaded Aviation Fee	$0.50	3.2 million	$1.6 million

Tax credit for certification of aircraft to use unleaded aviation gasoline. The bill creates a tax credit equal to half the amount of expenses incurred to receive a Supplemental Type Certificate (STC), certifying that the aircraft may be powered by unleaded aviation gasoline. Currently, STCs can cost between $100 (for UL94) and $600 (for multi-engine aircraft using g100UL). The fiscal note assumes that unleaded 100-octane aviation gasoline will not be available in Colorado until 2026, about 30 taxpayers will get the tax credit in tax year 2025 for UL94 STCs, and about 200 will get the credit in 2026 when higher octane unleaded fuels are expected to be available in Colorado. The fiscal note also assumes the cost of an STC for other types of unleaded aviation gasoline will be comparable to the cost of an STC for G100UL. The tax credit is expected to reduce General Fund revenue by about $800 in FY 2024-25 (a half-year impact) and $17,800 in FY 2025-26. This revenue is subject to TABOR.

Voter approval of new state enterprises. Current law requires voter approval for a state enterprise with projected or actual revenue from fees and surcharges over $100 million in its first five fiscal years. The new enterprise in this bill will begin operating in FY 2023-24. Through FY 2027-28, the enterprise is projected to collect under $100 million in fees.

State Expenditures

The bill increases state expenditures by $8.3 million in FY 2024-25 and $9.4 million in FY 2025-26, primarily from the Aviation Cash Fund and minimally the Unleaded Aviation Gasoline Enterprise in CDOT. In addition, the Department of Revenue (DOR) will incur General Fund costs. Expenditures are shown in Table 4 and detailed below.

Table 4
Expenditures Under HB 24-1235

	FY 2024-25	FY 2025-26
Unleaded Aviation Gasoline Enterprise, CDOT		
Personal Services	$130,796	$110,641
Operating Expenses	$2,560	$2,176
Capital Outlay Costs	$6,670	-
Grants, Loans, and Rebates	$1,152,285	$1,454,917
Centrally Appropriated Costs[1]	$38,019	$32,266
FTE – Personal Services	2.0 FTE	1.7 FTE
Enterprise Subtotal	**$1,330,330**	**$1,600,000**
Aeronautics Division, CDOT		
Noise Monitoring Installation and Maintenance	$6,780,000	$7,560,000
Aviation Noise Consultant	$200,000	$200,000
Aviation Board	$7,500	$7,500
Aviation Subtotal	**$6,987,500**	**$7,767,500**
Department of Revenue (DOR)		
Programming and Testing	$74,400	-
Data Reporting	-	$7,392
Document Management	$2,591	-
DOR Subtotal	**$76,991**	**$7,392**
Total	**$8,394,821**	**$9,374,892**
Total FTE	**2.0 FTE**	**1.7 FTE**

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

Unleaded Aviation Gasoline Enterprise—CDOT. CDOT requires 2.0 FTE in FY 2024-25 and 1.7 FTE in FY 2026-26 to perform work specific to the enterprise. This includes 1.0 FTE to administer the enterprise and oversee the grant program, and 1.0 FTE in 2024-25 and 0.7 FTE in

FY 2025-26 of budget, accounting, and procurement support staff. The fiscal note assumes a July 2024 start date and standard operating costs and capital outlay are included. These costs are paid from the Unleaded Aviation Gasoline Enterprise Fund which is continuously appropriated to the enterprise.

All revenue not used to support enterprise administration goes toward grants, loans, or rebates for construction of unleaded gasoline infrastructure or programs that subsidize the purchase of unleaded gasoline at general aviation airports.

Division of Aeronautics—CDOT. The Division of Aeronautics requires $7.0 million in FY 2024-25 and $7.8 million in FY 2025-26 to be the lead agency on noise mitigation installation and maintenance. The fiscal note assumes the division will install noise monitoring systems at eight airports over two years. Noise monitoring systems cost $1.5 million for installation, and $195,000 annually for maintenance and additional staff. The division also requires a consultant to help establish and enforce effective voluntary noise mitigation plans, and funding to support the additional two members on the Aeronautics Board. These costs are paid from the Aviation Cash Fund which is continuously appropriated to the division.

Department of Revenue. The bill increases General Fund expenditures in the Department of Revenue for various programming and data management costs.

- **Programming and testing.** In FY 2024-25 only, the bill requires $74,400 to program, test, and update database fields in the DOR's GenTax software system, including 200 hours of contract programming at a rate of $231.75 per hour and $28,050 for ISD development and testing.

- **Data reporting.** Beginning in FY 2025-26, the Office of Research and Analysis requires $7,391 to change related GenTax reports so the department can access and document tax statistics related to the new tax policy. These costs represent 231 hours of data management and reporting at $32 per hour.

- **Document management.** For FY 2024-25 only, the bill requires changes to one tax form at a cost of $2,591. Expenditures for form changes occur in the Department of Personnel and Administration using reappropriated funds.

Department of Public Health and Environment. Though the bill requires the CDPHE to collaborate with the Division of Aeronautics, the fiscal note assumes the Division of Aeronautics will lead noise mitigation efforts, and any CDPHE workload will be minimal and accomplished within existing resources.

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 decrease 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, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise 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 workload for local governments that receive money from the state aviation grant program if these entities need to develop a noise mitigation plan and/or a plan to phase out leaded gasoline. Local governments fail to comply with these requirements may see a decrease in revenue from the state aviation grant program.

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 a General Fund appropriation of $76,991 to the Department of Revenue.

State and Local Government Contacts

Colorado Energy Office	Counties	Local Affairs
Office of Economic Development	Public Health and Environment	Revenue
State Auditor	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.