

JBC Staff Fiscal Analysis
House Appropriations Committee

Concerning the financing of a utility on-bill repayment program for certain energy-related improvements.

Prime Sponsors:

Representatives Joseph; Froelich
Senators Mullica; Winter F.

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Fiscal Impacts

Appropriation Not Required, Amendments in Packet

New Cash Fund with Continuous Appropriation

Fiscal Note Status

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/16/25.

No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill.

Amendments in This Packet

L.013/J.001 Bill Sponsor amendment - changes fiscal impact and appropriation

Current Appropriations Clause in Bill

The bill neither requires nor contains an appropriation clause.

Description of Amendments in This Packet

L.013/J.001

Bill Sponsor amendment **L.013** (attached) converts the Building Decarbonization Enterprise Cash Fund and the On-Bill Program Administration Cash Fund from being continuously appropriated to annually appropriated to the Colorado Energy Office. The amendment would require cash funds appropriations to the Colorado Energy Office.

Staff amendment **J.001** (attached) appropriates a total of \$200,000 cash funds from the On-Bill Program Administration Cash Fund to the Colorado Energy Office for FY 2025-26. The appropriation reflects 0.8 FTE. The amendment also appropriates a total of \$1,992,000 cash funds from the Building Decarbonization Enterprise Cash Fund to the Colorado Energy Office for FY 2025-26.

If the Committee adopts **L.013**, it should **also** adopt **J.001**.

Points to Consider

Technical Issues

Portions of this bill are contingent on the passage of H.B. 25-1269 (Building Decarbonization Measures). If H.B. 25-1269 is signed into law, the \$1,992,000 cash funds appropriation to the Building Decarbonization Enterprise Cash Fund from amendment **J.001** to this bill will become redundant. If the Committee adopts amendment **J.001**, an amendment should be adopted on House second reading to make the \$1,992,000 cash funds appropriation to the Building Decarbonization Enterprise Cash Fund in this bill contingent on the passage or failure of H.B. 25-1269.

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 Colorado Energy to **not** seek annual authority from the General Assembly to spend money from the On-Bill Cash Fund?

Unclaimed Property Trust Fund Loans

The bill requires a loan from the Unclaimed Property Trust Fund (UPTF) of \$25.0 million in FY 2025-26 and \$25.0 million in FY 2026-27. The UPTF is not considered fiscal year spending for purposes of Section 20 of Article X of the State Constitution (TABOR).

TABOR defines fiscal year spending as “all district expenditures and reserve increases except, as to both, those for refunds made in the current or next fiscal year or those from gifts, federal funds, collections for another government, pension contributions by employees and pension fund earnings, reserve transfers

or expenditures, damage awards, or property sales.” (Section 20 (2)(e) of Article X of the Constitution of Colorado)

Does a loan from the Unclaimed Property Trust Fund to a Department of the State constitute fiscal year spending under TABOR?

Does a loan from the UPTF constitute a multi-year financial obligation for the State?

Should the legislation identify a source of loan repayment?