HB 23-1289

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 14, 2023)

Drafting Number:	LLS 23-0682	**Date:**	April 27, 2023
Prime Sponsors:	Rep. Pugliese; Bird Sen. Liston; Bridges	**Bill Status:**	House Appropriations
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Bill Topic: **SUSTAINABLE ADVANCEMENTS IN AVIATION TAX CREDITS**

Summary of Fiscal Impact:

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

The bill creates two income tax credits related to aviation. One credit is for electric ground support equipment and the other is for investment in businesses that advance sustainable aviation fuel. It decreases state revenue and increases expenditures from FY 2023-24 through FY 2026-27.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of $154,536 to multiple departments.

Fiscal Note Status: This fiscal note reflects the introduced bill, as amended by the House Finance Committee.

Table 1
State Fiscal Impacts Under HB 23-1289

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($250,000)	($500,000)	($250,000)
	Total Revenue	**($250,000)**	**($500,000)**	**($250,000)**
Expenditures	General Fund	$154,536	$286,771	$187,538
	Centrally Appropriated	$22,437	$38,884	$30,411
	Total Expenditures	**$176,973**	**$325,655**	**$217,949**
	Total FTE	**1.1 FTE**	**2.0 FTE**	**1.5 FTE**
Transfers		-	-	-
Other Budget Impacts	TABOR Impact	($250,000)	($500,000)	not estimated
	General Fund Reserve	$23,180	$43,016	$28,131

Summary of Legislation

The bill creates an income tax credit for investments in businesses that research, develop, or produce sustainable aviation fuel or alternative aircraft engines ("powerplants"). Investments must be in an equity security of at least $10,000 and be used by the business for research, development, or production of sustainable aviation fuel or alternative aircraft powerplants. The claimant must also certify that the tax credit was a significant factor in the investor's decision to make the investment. The size of the tax credit is equal to 30 percent of the size of the investment and is available to taxpayers certified by the Department of Revenue (DOR) on a first-come, first-served basis. The aggregate amount of credits issued may not exceed $250,000 per tax year, available on a first-come, first-served basis. The credit is available for tax years 2024 and 2025.

The bill also creates an income tax credit for the purchase or lease of electric-powered aviation ground support equipment (GSE). Airport ground support equipment is used to service airplanes between flights, including refueling, loading luggage, towing, and de-icing, among other services. The credit may be claimed by airports, aviation businesses, and fixed base operators that are subject to the state income tax. The GSE is only eligible for the credit if it is replacing non-electric GSE. The size of the tax credit is equal to 18 percent of the actual cost to purchase the equipment except that the aggregate amount of credits issued may not exceed $250,000, available on a first-come, first-served basis. The credit is available for tax years 2024 and 2025. To claim the credit, a taxpayer must apply for and receive a credit certificate from the Colorado Energy Office (CEO).

For both credits, any amount by which the credit exceeds the taxpayer's tax liability is neither refunded nor carried forward to a later tax year.

State Revenue

The bill is expected to decrease General Fund revenue by $250,000 in FY 2023-24, $500,000 in FY 2024-25, and $250,000 in FY 2025-26. Revenue impacts are presented in Table 2 and discussed below. Estimates for FY 2023-24 and FY 2025-26 represent half-year impacts for tax years 2024 and 2025, respectively, on an accrual accounting basis. The bill reduces income tax revenue, which is subject to TABOR.

Table 2
Revenue Impacts Under HB 23-1289

	FY 2023-24	FY 2024-25	FY 2025-26
Tax Credit for Innovative Aviation Ground Support Equipment	($125,000)	($250,000)	($125,000)
Investment in Sustainable Aviation Technologies and Advancements	($125,000)	($250,000)	($125,000)
Total	**($250,000)**	**($500,000)**	**($250,000)**

Investment in Sustainable Aviation Technologies and Advancements. The tax credit is expected to reach the maximum amount of credits allowed each year. This estimate uses the advanced industry investment credit as a proxy as the two credits share a similar structure. The advanced industry investment credit typically reaches the maximum credit allowed in the first few months of the year.

Tax Credit for Innovative Aviation Ground Support Equipment. The tax credit is expected to reach the maximum amount of credits allowed each year. According to a 2013 study by the National Academies of Sciences, Engineering, and Medicine, 11.6 percent of GSE is electric with the median fixed base operator spending approximately $300,000 per year on new GSE. This implies that only a small number of fixed based operators would need to claim the credit to reach the $250,000 maximum.

State Expenditures

The bill increases General Fund expenditures in the DOR and the CEO by $176,973 in FY 2023-24, $325,655 in FY 2024-25, and $217,949 in FY 2025-26, as shown in Table 3

Table 3
Expenditures Under HB 23-1289

	FY 2023-24	FY 2024-25	FY 2025-26
Department of Revenue			
Personal Services	$77,367	$134,816	$103,155
Operating Expenses	$1,080	$2,025	$1,350
Capital Outlay Costs	$6,670	$6,670	-
Office of Research and Analysis	-	$7,392	$7,328
GenTax Programming	-	$41,715	-
User Acceptance Programming	-	$16,544	-
DPA Form Changes	-	$1,904	-
Centrally Appropriated Costs[1]	$16,063	$29,157	$20,684
FTE – Personal Services	0.8 FTE	1.5 FTE	1.0 FTE
DOR Subtotal	**$101,180**	**$240,223**	**$132,517**
Colorado Energy Office			
Personal Services	$32,749	$45,030	$45,030
Operating Expenses	-	$675	$675
Capital Outlay Costs	$6,670	-	-
Grant Management Software	$10,000	$10,000	$10,000
Consulting	$20,000	$20,000	$20,000
Centrally Appropriated Costs[1]	$6,374	$9,727	$9,727
FTE – Personal Services	0.3 FTE	0.5 FTE	0.5 FTE
CEO Subtotal	**$75,793**	**$85,432**	**$85,432**
Total	**$176,973**	**$325,655**	**$217,949**
Total FTE	**1.1 FTE**	**2.0 FTE**	**1.5 FTE**

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

Department of Revenue

The bill is expected to increase General Fund expenditures for the DOR by about $101,000 in FY 2023-24, $240,000 in FY 2024-25, and $133,000 in FY 2025-26, as outlined below.

Personal services. The DOR will require 0.8 FTE in FY 2023-24, 1.5 FTE in FY 2024-25, and 1.0 FTE in FY 2025-26 to administer the tax credit for investment in sustainable aviation technologies and advancements. The DOR will require additional staff in taxpayer services to establish application materials, evaluate business to certify they are qualifying businesses, and review and process returns. Operating expenses include telephone, computers, and other supplies for these staff.

Computer programming and testing. The DOR will have costs of $58,259 for computer programming in FY 2024-25. These costs include contract programming for the department's DRIVES and GenTax systems, as well as auditing and user acceptance testing by department staff.

Document management. The DOR will have costs of $1,904 in FY 2024-25 for form changes and the creation of new forms, schedules, affidavits, and a return for tax-exempt entities. These services are performed in the Department of Personnel and Administration using reappropriated DOR funds.

Colorado Energy Office

The bill is expected to increase General Fund expenditures for the department by about $76,000 in FY 2023-24, and $85,000 in FY 2024-25 and FY 2025-26.

Personal services. The CEO will require 0.3 FTE in FY 2023-24 and 0.5 FTE in later years to implement, monitor, and report on the tax credit for innovative aviation ground support equipment. Specifically, the CEO will require additional staff for project management to manage all contracts, audit projects, and lead reporting.

Consulting. The CEO will require $20,000 on an ongoing basis starting in FY 2023-24 for consulting costs for industrial experts and studies across the aviation industry.

Grant management software. The CEO will require $10,000 annually between FY 2023-24 and FY 2025-26 for grant management software. The software will help the CEO manage applications for the credit.

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 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 March 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. 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.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires the following General Fund appropriations:

- $85,117 to the Department of Revenue, and 0.8 FTE; and
- $69,419 to the Colorado Energy Office, and 0.3 FTE.

State and Local Government Contacts

Colorado Energy Office	Information Technology	Personnel
Revenue	State Auditor	