SB10-207

Colorado Legislative Council Staff Fiscal Note

STATE
CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 10-0953	**Date:**	May 3, 2010
Prime Sponsor(s):	Sen. Johnston; Romer	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Kerry White (303-866-3469)

TITLE: CONCERNING AUTHORIZATION FOR THE STATE TREASURER TO ENTER INTO LEASE-PURCHASE AGREEMENTS ON BEHALF OF THE STATE TO FINANCE CAPITAL CONSTRUCTION PROJECTS PROPOSED BY THE GOVERNOR'S ENERGY OFFICE THAT IMPROVE THE ENERGY EFFICIENCY OF STATE CAPITAL FACILITIES.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue Cash Funds Energy Efficiency Project Proceeds Fund	increase	
State Transfers Transfer from multiple funding sources to the Energy Efficiency Project Proceeds Fund	(increase)	
State Expenditures General Fund Cash Funds Energy Efficiency Project Proceeds Fund	 $20,900 increase	 $21,485 increase
FTE Position Change	0.2 FTE	0.2 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2010-2011: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

This bill authorizes the state treasurer to enter into lease-purchase and ancillary agreements on behalf of the state to finance certain energy efficiency-related capital construction projects. It establishes the process for identifying, recommending, and approving eligible projects and sets forth required terms that must be included in any agreements. All approved projects must be subject to an energy performance contract.

Lease-Purchase Agreements. The bill limits the total par value of any lease-purchase agreement to $73 million and grants the state treasurer the sole discretion of determining the timing of any agreements.

Financing of Projects. The bill establishes parameters and a process for financing lease-purchase agreements. For each agreement it does the following:

- directs the state treasurer to coordinate with the Office of State Planning and Budgeting (OSPB) to develop a schedule of lease payments for the purposes of preparing a budget request;
- specifies that annual lease payment appropriations be reallocated from the applicable utilities line to the capital construction line, and that the monies be transferred to the new Energy Efficiency Project Proceeds Fund created under the bill;
- requires an amount equal to the difference between the projected savings and annual lease payment also be transferred to the new cash fund, unless the original funding source prohibits this transfer; and
- allows the state controller to waive any fiscal rules that are incompatible or inapplicable to a lease-purchase or ancillary agreement.

Any monies received under the lease-purchase agreement, state appropriations or transfers, energy cost savings, and interest income are credited to the Energy Efficiency Project Proceeds Fund and continuously appropriated to the state treasurer to pay the state's costs. Monies may also be appropriated by the General Assembly to pay principal and interest, but may not be transferred to the General Fund.

Utility Cost-Savings Measures. Under current law, any utility cost-savings measures must create savings beyond the annual lease payment. The bill also clarifies that any rebates; gifts, grants, and donations designated for a particular measure; appropriations made for a distinct line item; or funds within the Department of Transportation reserved for certain projects do not count towards this calculation.

Background

Certificates of Participation (COPs) Financing. The state typically uses COPs to finance lease-purchase agreements. Under COP financing, the state assigns the property or asset as a security to a third-party, such as a corporation or trust, that serves as the lessor. The lessor, and in some cases the state, can issue COPs, or tax-exempt government securities, to private investors. The lessor and any COP holders are entitled to receive regular payments plus interest, paid by the state for the use of the property during the term of the agreement. At the end of the lease, the property title is transferred to the state. As the state can terminate the agreement at any time and payments are subject to annual appropriations, the agreement does not constitute debt.

State Transfers and Expenditures

This bill is assessed as having a conditional fiscal impact of $20,900 and 0.2 FTE in FY 2010-11 and $21,485 and 0.2 FTE in FY 2011-12. By authorizing the state treasurer to enter into one or more lease-purchase agreements, subject to legislative and executive branch approvals, this bill will result in an increase in state expenditures to manage the accounting and reporting requirements of lease-purchase agreements within the Office of the State Controller in the Department of Personnel and Administration (DPA). There will also be a change in state transfers to the Energy Efficiency Project Proceeds Fund.

It should be noted that the Governor's Energy Office has identified 8 projects, with a total value of approximately $45 million, that it will submit for approvals should this bill become law. Any work created under this bill for the state treasurer, OSPB, and Governor's Energy Office is expected to be minimal and can be absorbed within existing resources. There is no immediate reduction in state expenditures as a result of the projects selected, although the fiscal note assumes that any utility cost-savings measures will create operational and utility cost savings that exceed the annual lease payments and comply with current law. As these impacts are dependent upon the projects chosen and ultimately approved, these amounts have not been estimated.

State Appropriations

In FY 2010-11, the DPA requires $20,900 General Fund and 0.2 FTE.

Departments Contacted

Governor's Office	Personnel and Administration
Transportation	Treasury