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Final Fiscal Note

Drafting Number: LLS 21-0031 Date: August 31, 2021
Prime Sponsors: Rep. Cutter; Gray Bill Status: Signed into Law
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Bill Topic: NATURAL DISASTER MITIGATION ENTERPRISE

- Summary of Fiscal Impact:
[X] State Revenue [ ] TABOR Refund
[X] State Expenditure [ ] Local Government
[ ] State Transfer [ ] Statutory Public Entity

The bill creates a hazard mitigation enterprise and charges fees on insurance policies to create revenue for a grant program and technical assistance to local governments. Revenue and expenditure impacts in the enterprise are ongoing beginning with FY 2023-24.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under HB 21-1208

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, Out Year FY 2022-23, Out Year FY 2023-24\*. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

\*Enterprise revenue in the first implementation year is based on ten months of revenue from policies sold between March 2022 and December 2022.

## Summary of Legislation

The bill creates the Natural Disaster Mitigation Enterprise as a Type 2 agency in the Department of Public Safety (DPS) to administer a grant program, provide public education, and supply technical assistance to local governments concerning natural hazard mitigation.

The enterprise is created as a state-owned business and funded by fees charged to insurance companies providing specific types of property and hazard insurance. The fee is equal to \$2.00 per policy for policies sold covering specified property or risks in the state. Beginning July 1, 2023, insurers must pay the fee on policies sold between March and December 2022, a ten month period. Beginning July 1, 2024 and each subsequent year, insurers must pay the fee for the previous calendar year. Insurers are also required to report the number of affected policies annually to the Division of Insurance in the Department of Regulatory Agencies (DORA). Fee revenue collected by the enterprise are not subject to state revenue and expenditure limitations in the constitution. The bill creates the Natural Disaster Mitigation Cash Fund to consist of fee revenue collected by the enterprise. The cash fund is continuously appropriated. The bill is repealed January 1, 2030.

## Background

TABOR defines an enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under ten percent of annual revenue in grants from all Colorado state and local governments combined." Because the share of revenue that an enterprise may receive from government sources is capped, enterprises are largely financially independent of core government agencies. Additionally, enterprises cannot levy taxes. TABOR limits the amount of money that can be spent or saved by the state government and all local governments within the state. However, revenue collected by enterprises is not subject to these constraints.

Current law requires voter approval to create a state government enterprise that collects more than \$100 million over its first five years of operation. The enterprise created in this bill is not expected to collect fee or surcharge revenue exceeding \$100 million over its first five fiscal years; therefore, the voter approval requirement does not apply.

## State Revenue

The bill increases revenue to the new enterprise by approximately \$5.14 million per year beginning FY 2023-24. Fees paid to a state enterprise are exempt from TABOR.

According to the Division of Insurance in the DORA, the total number of policies in 2018 for the types of insurance covered by the new fee was about 2.57 million. The bill requires that the new enterprise charge a fee \$2.00 on each policy, which will result in collections of about \$5.14 million annually, beginning with FY 2023-24, with first-year revenue prorated for 10 months of collections.

**State Expenditures**

Beginning with FY 2023-24, the bill increases expenditures in the new enterprise by about \$5.0 million and 3.0 FTE. New costs are displayed in Table 2 and described below.

**Table 2**  
**State Expenditures under HB 21-1208**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>	<b>FY 2024-25</b>
<b>Hazard Mitigation Enterprise</b>				
Personal Services	-	-	\$233,383	\$233,383
Operating Expenses	-	-	\$4,050	\$4,050
Capital Outlay Costs	-	-	\$18,600	-
Contract Services	-	-	\$250,000	\$250,000
Hazard Mitigation Grants	-	-	\$3,733,988	\$4,610,816
Centrally Appropriated Costs <sup>1</sup>	-	-	\$51,117	\$51,117
<b>Total</b>	-	-	<b>\$4,291,138</b>	<b>\$5,149,366</b>
<b>Total FTE</b>	-	-	<b>3.0 FTE</b>	<b>3.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Personal services.** Beginning FY 2023-24, the new enterprise requires staff to adopt rules, manage the enterprise, collect premium fees, create application procedures and timelines for grants, develop program materials, and conduct outreach and work with contractors to provide technical assistance to local governments. Accounting staff is required to execute contracts, perform financial compliance reviews, and approve and track payments. In total, 3.0 FTE is required for the enterprise.

**Hazard mitigation grants.** Grants from the enterprise are the largest expenditure for the new program. Assuming about \$5.0 million in revenue from fees on insurance premiums, the enterprise is expected to award between \$3.7 million and \$4.6 million in grants annually.

**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. This fiscal note assumes that both direct and indirect costs for the new enterprise are paid from the cash fund and the TABOR exempt revenue. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$51,117 per year.

**Local Government**

Local governments participating in the program will receive additional revenue to use for natural hazard mitigation. It is assumed that this funding will be used to both support direct assistance for local initiatives and to apply toward local matching fund requirements for federal grants.

**Effective Date**

The bill was signed into law by the Governor on July 6, 2021, and takes effect September 7, 2021, assuming no referendum petition is filed.

**State and Local Government Contacts**

Counties	Information Technology	Law
Local Affairs	Municipalities	Natural Resources
Personnel	Public Safety	Regulatory Agencies
Revenue	Treasury	