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Revised Fiscal Note

(replaces fiscal note dated March 05,2021)

Drafting Number:	LLS 21-0335	Date:	May 17, 2021
Prime Sponsors:	Sen. Story Rep. Bennett; Cutter	Bill Status:	House Energy & Environment
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Bill Topic: PUC GAS UTILITY SAFETY INSPECTION AUTHORITY

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill directs the Public Utilities Commission to expand its rules related to gas pipeline safety and increases the maximum penalty for violations of pipeline safety rules. Beginning in FY 2021-22, it increases state expenditures and may increase state revenue.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$423,448 to the Department of Regulatory Agencies.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under SB 21-108**

	Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	-	-
Expenditures		
General Fund ¹	\$423,448	\$284,401
Centrally Appropriated	\$101,194	\$74,859
Total Expenditures	\$524,642	\$359,260
Total FTE	4.0 FTE	3.3 FTE
Transfers	-	-
TABOR Refund	-	-

¹ Public Utilities Commission expenditures are typically paid from the Fixed Utility Fund, which supports the Pipeline Safety Program. However, the commission is assessing the statutory maximum rate of 0.25 percent on the gross revenues of regulated electric and natural gas utilities; therefore, the fiscal note assumes that the General Fund is required to cover the costs identified in this bill. The Pipeline Safety Program also receives reimbursement grants from the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, which can support between 55-70 percent of these costs. These grants are eligible beginning in calendar year 2022 and may reduce the need for General Fund.

Summary of Legislation

The bill directs the Public Utilities Commission (PUC) in the Department of Regulatory Agencies to expand its gas pipeline safety rules to address operator qualifications, annual reporting requirements, abandoned gas pipelines, mapping of all pipelines within PUC jurisdiction, increased inspections, and pipeline damage enforcement in order to clarify and expand its duties concerning gas pipeline safety.

The bill also increases the maximum penalty for violating gas pipeline safety rules from \$100,000 per violation to \$200,000, and increases the aggregate total from \$1 million to \$2 million. The bill authorizes the PUC to recover court costs as necessary to collect penalty payments, and to reduce penalties based on certain metrics and factors, except that the penalty cannot be reduced below \$5,000 per violation.

Background

The PUC operates a federally certified hazardous gas intrastate pipeline safety program under the review of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration. The PUC Gas Pipeline Safety Program implements rules adopted from federal regulations in addition to Colorado-specific rules concerning rural gas gathering pipelines. Under the program, the PUC inspects and monitors operators transporting hazardous gas by pipeline, including investor-owned natural gas utilities, municipal natural gas utilities, master-metered systems, liquefied natural gas and propane systems, gas gathering systems, and gas gathering-related transmission systems. As of March 2020, the PUC has jurisdiction over 61,000 miles of pipeline.

PUC's Gas Pipeline Safety Program receives reimbursement grants from the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, which can support between 55 to 70 percent of the costs identified in the bill in future grant cycles, potentially reducing the need for General Fund or Fixed Utility Fund expenditures.

State Revenue

To the extent that penalties assessed against violators of the gas pipeline safety rules are increased under the new penalty caps, revenue to the General Fund will increase. Due to the discretion the PUC has in assessing these penalties, the fiscal note does not estimate these revenue impacts. Penalties are subject to TABOR.

The bill may increase fee revenue to the Fixed Utilities Fund to cover the PUC's administrative expenses under the bill; however, the fund is currently assessing the statutory maximum 0.25 percent fee on the gross revenues of regulated electric and natural gas utilities and cannot increase the assessment beyond this cap without a change in law. See Technical Note.

State Expenditures

The bill increases state expenditures in the Department of Regulatory Agencies by \$524,642 and 4.0 FTE in FY 2021-22 and \$359,260 and 3.3 FTE in FY 2022-23 and future years. These expenditures are shown in Table 2 and discussed in detail below.

**Table 2
 Expenditures Under SB 21-108**

Cost Components	FY 2021-22	FY 2022-23
Department of Regulatory Agencies		
Personal Services	\$264,878	\$197,181
Operating Expenses	\$5,400	\$4,050
Technology Costs	\$100,000	\$30,000
Legal Services	\$53,170	\$53,170
Centrally Appropriated Costs ¹	\$101,194	\$74,859
FTE – Personal Services	3.7 FTE	3.0 FTE
FTE – Legal Services	0.3 FTE	0.3 FTE
Total	\$524,642	\$359,260
Total FTE	4.0 FTE	3.3 FTE

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

Department of Regulatory Agencies. Beginning in FY 2021-22, the PUC will require one-time staffing to conduct pipeline safety rulemaking, and three ongoing staff members for implementation and enforcement of the new rules. First-year costs are prorated to reflect the General Fund pay date shift.

- **Pipeline safety rulemaking.** The PUC will commence rulemaking in FY 2021-22 concerning pipeline operator qualifications, expanded pipeline operator annual reporting, pipeline abandonment, and damage investigation. Rulemaking will require one-time staff costs of 0.4 FTE Administrative Law Judge, 0.1 FTE Hearings Officer, 0.3 FTE Professional Engineer, and 0.2 FTE Project Coordinator.
- **Data systems and processing.** Beginning in FY 2021-22, the PUC requires 1.0 FTE Environmental Specialist to create and support data systems and processes for tracking, monitoring, analyzing, conducting field verifications for the expanded regulations, and integrating this information into current gas pipeline safety program risk analyses and workflows. This cost assumes that the volume of data collected through the program will substantially increase under the new regulations in the bill.
- **Operator qualifications, abandoned pipelines, and pipeline damage enforcement.** Beginning in FY 2021-22, the PUC requires 1.0 FTE Environmental Protection Specialist for field investigations associated with expanded regulations of operator qualifications, abandoned pipelines, and pipeline damage enforcement. It is anticipated that the pipeline damage

investigation and enforcement requirements under the bill will significantly increase field work from the current 20 annual inspections to at least 200 inspections per year.

- **Pipeline mapping.** Beginning in FY 2021-22, the PUC requires 1.0 FTE GIS Data Analyst to develop maps of all pipelines within the PUC's jurisdiction. In addition, technology costs include one-time expenses of \$100,000 to purchase GIS software and license acquisition, and \$30,000 ongoing expense for licensing, maintenance, and technical support.

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 estimated to be \$101,194 in FY 2021-22 and \$74,859 in FY 2022-23.

TABOR refunds. Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Technical Note

The PUC is currently assessing the statutory maximum 0.25 percent fee on the gross revenues of regulated electric and natural gas utilities and cannot increase the assessment beyond this cap without a change in law. This fiscal note assumes that there are not sufficient resources in the Fixed Utility Fund at the present time to support the expenditures identified in the fiscal note. If the General Assembly revises the statutory maximum fee, these and future expenses may be paid from the Fixed Utility Fund.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2021-22, the bill requires a General Fund appropriation of \$423,448 to the Department of Regulatory Agencies and 3.7 FTE. Of this amount, the Department of Law is reappropriated \$53,170 and an additional allocation of 0.3 FTE.

State and Local Government Contacts

Information Technology
Natural Resources

Judicial
Regulatory Agencies

Law