



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Revised Fiscal Note

(replaces fiscal note dated March 1, 2021)

|                         |                             |                        |   |
|-------------------------|-----------------------------|------------------------|---|
| <b>Drafting Number:</b> | LLS 21-0137                 | <b>Date:</b>           | April 16, 2021  |
| <b>Prime Sponsors:</b>  | Rep. Kennedy<br>Sen. Hansen | <b>Bill Status:</b>    | House Appropriations                                      |
|                         |                             | <b>Fiscal Analyst:</b> | Erin Reynolds   303-866-4146<br>Erin.Reynolds@state.co.us |

**Bill Topic:** LOW-INCOME UTILITY PAYMENT ASSISTANCE CONTRIBUTIONS

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

This bill requires investor-owned utilities to collect a monthly energy assistance system benefit charge from each customer beginning October 2021 to help finance the low-income energy assistance programs administered by Energy Outreach Colorado and the Department of Human Services, and eliminates the existing Tier 2 severance tax allocations to these programs. It increases state expenditures beginning in FY 2021-22, state revenue beginning in FY 2023-24, and impacts state transfers beginning in FY 2024-25.

**Appropriation Summary:** For FY 2021-22, the bill requires an appropriation of \$422,746 to the Department of Human Services and the Colorado Energy Office.

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

**Table 1  
State Fiscal Impacts Under HB 21-1105**

|                     |                           | Budget Year<br>FY 2021-22 | Out Year<br>FY 2022-23 | Out Year<br>FY 2023-24 | Out Year<br>FY 2024-25      |
|---------------------|---------------------------|---------------------------|------------------------|------------------------|-----------------------------|
| <b>Revenue</b>      | Cash Funds                | -                         | -                      | \$6,380,709            | \$6,380,709                 |
|                     | <b>Total Revenue</b>      |                           |                        | <b>\$6,380,709</b>     | <b>\$6,380,709</b>          |
| <b>Expenditures</b> | General Fund              | \$395,037                 | \$455,317              | \$735,718              | \$735,449                   |
|                     | Cash Funds                | \$27,709                  | \$22,454               | \$6,403,163            | \$6,403,163                 |
|                     | Centrally Approp.         | \$29,978                  | \$43,256               | \$43,256               | \$19,935                    |
|                     | <b>Total Expenditures</b> | <b>\$452,724</b>          | <b>\$521,027</b>       | <b>\$7,182,137</b>     | <b>\$7,158,547</b>          |
|                     | <b>Total FTE</b>          | <b>1.6 FTE</b>            | <b>2.3 FTE</b>         | <b>1.2 FTE</b>         | <b>1.3 FTE</b>              |
| <b>Transfers</b>    | Cash Funds                | -                         | -                      | -                      | up to (\$13,000,000)        |
|                     | <b>Net Transfer</b>       | -                         | -                      | -                      | <b>up to (\$13,000,000)</b> |
| <b>TABOR Refund</b> |                           | -                         | -                      | -                      | -                           |

## **Summary of Legislation**

This bill requires investor-owned utilities to collect a monthly energy assistance system benefit charge from each customer beginning October 2021 to help finance the low-income energy assistance programs administered by Energy Outreach Colorado and the Department of Human Services, and eliminates the existing Tier 2 severance tax allocation to Low-Income Energy Assistance Programs.

**Energy Assistance System Benefit Charge.** Beginning October 2021, each investor-owned utility is required to collect a monthly energy assistance benefit charge from certain customers and to transfer these funds to Energy Outreach Colorado; customers who receive direct utility bill assistance are exempt from the charge. The charge is initially \$0.50 on electric and natural gas services through September 2022; thereafter it is \$0.75. Beginning October 1, 2023, the charge is annually adjusted for inflation. Utilities are required to transfer charge revenue to Energy Outreach Colorado. This section is repealed on January 1, 2029.

**Energy Outreach Colorado.** Energy Outreach Colorado is required to use the energy assistance system benefit charge to help finance direct utility bill payment assistance and energy retrofits to low-income households within the investor-owned utility's or an affiliate's service territory, as well as education and outreach about the program. No more than 50 percent of the total amount collected, including from optional energy assistance contributions, may be allocated to direct utility bill payment assistance. Any money collected for water assistance must be held in a separate account and used to provide low-income water assistance. The organization is required to submit a copy of its budget to the Colorado Energy Office for review. The budget must include the amount of money transmitted to the State Treasurer for fuel assistance payments managed by the Department of Human Services.

**Fuel assistance payments.** By October 1, 2023, the Department of Human Services is required to implement a program to distribute fuel assistance payments to households receiving supplemental nutrition assistance program benefits in order for them to qualify for the federal heating and cooling standard utility allowance. These payments will be made from the continuously appropriated Supplemental Utility Assistance Fund, which will receive funding from Energy Outreach Colorado.

**Water utilities.** The bill creates a voluntary, opt-in program among water utilities to help finance water assistance for low-income customers provided by Energy Outreach Colorado. A water utility is defined as a water corporation or municipal water provider that provides retail water service to Colorado customers.

**Legislative Commission on Low Income Energy and Water Assistance.** The Legislative Commission on Low-income Energy Assistance is renamed to the Legislative Commission on Low-income Energy and Water Assistance and moved under the Colorado Energy Office, which is required to provide staff support. The bill modifies the composition of the commission effective May 1, 2022, reducing it from 11 members to 7 to include representatives from the Department of Human Services, the Colorado Energy Office, and Energy Outreach Colorado, and 4 Governor-appointed members meeting criteria outlined in the bill. The commission is newly charged with: serving as a policy advisor to the Colorado Energy Office with respect to any U.S. Department of Energy grant award; serving as an advisory council to any Colorado water utilities that provide or seek to provide water assistance and efficiency programs to their customers; and reviewing annual budget submissions from

Energy Outreach Colorado regarding the organization's use of the energy assistance system benefit charge.

**Reporting.** Energy Outreach Colorado is required to submit annual financial reporting on the low-income energy assistance program, to be reviewed by the Colorado Energy Office and the commission. In addition, an annual report to the General Assembly, the Legislative Audit Committee, and the Office of the State Auditor is due by March 31 each year.

**Severance Tax Operational Fund.** The bill repeals the inclusion of three Low-income Energy Assistance Programs administered by the Department of Human Services, Energy Outreach Colorado, and the Colorado Energy Office, as Natural Resources and Energy Grant Programs supported by transfers from the Severance Tax Operational Fund.

## Background

Approximately 3.4 million electric and gas customers are served by investor-owned utilities in the state. Approximately 318,876 households in the state receive federal Supplemental Nutrition Assistance Program benefits over the course of a year.

## State Revenue

The bill increases state revenue to the Supplemental Utility Assistance Fund beginning in FY 2023-24. It will also increase fees assessed by regulated investor-owned utilities beginning in FY 2021-22.

**Supplemental Utility Assistance Fund.** Beginning in FY 2023-24, cash fund revenue to the newly created Supplemental Utility Assistance Fund in the Department of Human Services will increase by an estimated \$6,380,700 from funding received from Energy Outreach Colorado through the energy assistance system benefit charge. This revenue is subject to TABOR.

**Fee impact on investor-owned utility customers.** Table 2 below identifies the fee impact of this bill, which applies to customers of investor-owned utilities that do not receive direct utility bill assistance. Fee amounts are set at \$0.50 per month on electric and natural gas services through September 2022, \$0.75 thereafter, and adjusted for inflation beginning in October 2023. During the first two years, fee revenue is distributed only to Energy Outreach Colorado, which is not part of state government; starting in FY 2023-24, a portion of the revenue will go to the DHS as discussed above.

**Table 2**  
**Fee Impact on Investor-Owned Utility Customers**

| <b>Customer Type</b>   | <b>Annual Fee</b> | <b>Number Affected</b> | <b>Fee Impact Oct 21-Sept 22</b> | <b>Fee Impact Oct 22-Sept 23</b> |
|--|-------------------|------------------------|----------------------------------|----------------------------------|
| Gas and Electric Customers, Less Customers Receiving Utility Bill Assistance | \$6.00 / \$9.00   | 3,036,124              | \$18.2 million                   | \$27.3 million                   |

## State Transfers

Based on the March 2021 Legislative Council Staff revenue forecast, the bill will decrease state transfers by up to \$13.0 million beginning in FY 2024-25, as discussed below.

The Department of Natural Resources administers the Severance Tax Operational Fund, which receives 25 percent of statewide severance tax revenue annually. The distribution of revenue in the fund is based on a statutory formula which first directs revenue to Core Programs (formerly known as “Tier 1” programs) that support permanent staff and ongoing operations at DNR and the Colorado Geological Survey. It then requires that the Operational Fund maintain a reserve equal to 100 percent of Core Program appropriations. When there is available revenue in excess of these Core Program obligations, it is distributed proportionally across a collection of Natural Resources and Energy Grant Programs (formerly known as “Tier 2” programs) up to a maximum amount specified in statute.

Under current law, three low-income energy assistance programs and funds (collectively referred to as LEAP) are identified as Natural Resources and Energy Grant Programs. Together, these programs are authorized to receive up to a total of \$13.0 million in transfers from the Operational Fund, distributed as follows, contingent on available revenue:

- 25 percent to the DHS Low-income Energy Assistance Fund (up to \$3.25 million);
- 25 percent to the EOC Low-income Energy Assistance Fund (up to \$3.25 million); and
- 50 percent to the CEO Low-income Energy Assistance Fund (up to \$6.5 million).

Distributions to Grant Programs now occur partially in arrears and are made in one lump sum each August from actual revenue that accumulated in the Operational Fund during the prior, most recently closed fiscal year. Based on the March 2021 LCS Revenue Forecast, the Operational Fund is not expected to fulfill Core Program obligations (appropriations plus reserve) through FY 2022-23, which means there will be no excess revenue to distribute to Grant Programs in August 2021 (FY 2021-22), 2022 (FY 2022-23), or 2023 (FY 2023-24).

By eliminating LEAP as an Operational Fund Grant Program, the bill discontinues a state transfer to LEAP programs by up to \$13.0 million and decreases the total annual Grant Program obligation by \$13.0 million. As the size of the total Grant Program obligation dictates the percentage of funding that each program receives relative to available revenue, available revenue will be spread over a smaller pool of programs.

## State Expenditures

The bill will increase state expenditures by the amounts shown in Table 2. Expenditures in the Department of Human Services will be paid from the General Fund, except for fuel assistance payments which will come from the Supplemental Utility Assistance Fund. Expenditures in the Colorado Energy Office will be paid from the Energy Outreach Colorado Low-Income Energy Assistance Fund. First year costs are prorated for an October 1, 2021, effective date and, where applicable, the General Fund pay date shift. Costs are shown in Table 3 and detailed below.

**Table 3  
Expenditures Under HB 21-1105**

| <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>Department of Human Services (Primarily GF)</b> |                   |                   |                    |                    |
| Personal Services                                  | \$134,277         | \$201,417         | \$65,245           | \$71,176           |
| Operating Expenses                                 | \$2,160           | \$2,700           | \$1,350            | \$1,350            |
| Capital Outlay Costs                               | \$12,400          | -                 | \$6,200            | -                  |
| Computer Programming                               | \$246,200         | \$251,200         | \$80,400           | \$80,400           |
| Fuel Assistance Payments (CF)                      | -                 | -                 | \$6,380,709        | \$6,380,709        |
| Transaction Costs per EBT Card                     | -                 | -                 | \$213,647          | \$213,647          |
| Client Noticing                                    | -                 | -                 | \$318,876          | \$318,876          |
| LEAP Education and Outreach                        | -                 | -                 | \$50,000           | \$50,000           |
| Centrally Appropriated Costs <sup>1</sup>          | \$26,149          | \$38,225          | \$14,904           | \$16,440           |
| FTE – Personal Services                            | 1.4 FTE           | 2.0 FTE           | 0.9 FTE            | 1.0 FTE            |
| <b>DHS Subtotal</b>                                | <b>\$421,186</b>  | <b>\$493,542</b>  | <b>\$7,131,331</b> | <b>\$7,132,598</b> |
| <b>Colorado Energy Office (CF)</b>                 |                   |                   |                    |                    |
| Personal Services                                  | \$20,209          | \$22,454          | \$22,454           | \$22,454           |
| Computer Programming                               | \$7,500           | -                 | -                  | -                  |
| Centrally Appropriated Costs <sup>1</sup>          | \$3,829           | \$5,032           | \$5,032            | \$5,032            |
| FTE – Personal Services                            | 0.2 FTE           | 0.3 FTE           | 0.3 FTE            | 0.3 FTE            |
| <b>CEO Subtotal</b>                                | <b>\$31,538</b>   | <b>\$27,486</b>   | <b>\$27,486</b>    | <b>\$27,486</b>    |
| <b>Total</b>                                       | <b>\$452,724</b>  | <b>\$521,028</b>  | <b>\$7,158,816</b> | <b>\$7,160,084</b> |
| <b>Total FTE</b>                                   | <b>1.6 FTE</b>    | <b>2.3 FTE</b>    | <b>1.2 FTE</b>     | <b>1.3 FTE</b>     |

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

**Department of Human Services.** The DHS requires 2.0 FTE Business Analyst and Project Manager to implement the new fuel assistance benefit from FY 2021-22 to FY 2022-23. From FY 2023-24 on, DHS requires 1.0 FTE Program Specialist to oversee the program. Employee costs include mid-range salary and standard operating and capital outlay costs, and are prorated in the first year for the General Fund pay date shift and effective date.

- *Computer programming.* The DHS requires an estimated 1,800 hours of programming to the Colorado Benefit Management System at \$134 per hour in FY 2021-22 and FY 2022-23 in order to issue this benefit to eligible SNAP households in subsequent years. In addition, programming is required in the EBT system, estimated at \$15,000, to create a new payment code to issue the fuel assistance payment on households' EBT cards. On an ongoing basis, beginning in FY 2023-24, an estimated 600 hours of data system changes and system maintenance will be provided outside of SNAP pool hours.
- *Fuel assistance payments.* Fuel assistance payments will be made to approximately 318,876 SNAP households, which represents 125 percent of the average caseload to account for caseload changes, at the rate of \$20.01 per household beginning in FY 2023-24 and ongoing.
- *Transaction costs.* The DHS will incur annual costs of \$0.67 per EBT transaction to provide the fuel assistance benefit to SNAP households' EBT cards annually beginning in FY 2023-24 and ongoing.

- *Client noticing.* The DHS will incur client noticing costs at \$1.00 per mailing, including postage beginning in FY 2023-24 and ongoing.
- *LEAP education and outreach.* Finally, the DHS will provide training, education, and outreach to LEAP customers, counties, and partners to ensure that LEAP-eligible households understand that this fuel assistance payment does not preclude them from applying for LEAP assistance.

**Colorado Energy Office.** The CEO requires 0.3 FTE Program Manager to develop new reporting processes, upgrade the current database to track additional required metrics, and report. Its work in supporting the commission can be accomplished within existing appropriations.

**Department of Regulatory Agencies.** The bill permits the Public Utilities Commission to initiate a rulemaking and may create work for the PUC to address any benefit charge-related issues brought by utilities. These impacts are assumed to be accommodated during the normal course of business.

**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.

**TABOR refunds.** The bill increases state revenue subject to TABOR beginning in FY 2023-24, which is outside the LCS forecast period.

## 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 2021-22, the bill requires the following appropriations:

- \$395,037 to the Department of Human Services from the General Fund and 1.4 FTE; and
- \$27,709 to the Colorado Energy Office from the Energy Outreach Colorado Low-Income Energy Assistance Fund and 0.2 FTE.

## State and Local Government Contacts

Colorado Energy Office  
Information Technology  
Regulatory Agencies

Governor  
Law

Human Services  
Natural Resources