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Fiscal Note

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Prime Sponsors:	Sen. Winter; Moreno Rep. Jackson	Bill Status:	Senate Trans. & Energy
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Bill Topic: **REDUCE GREENHOUSE GASES INCREASE ENVIRONMENTL JUSTICE**

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

The bill directs the Air Quality Control Commission to promulgate greenhouse gas emission reduction rules and establish a fee on greenhouse gas emissions. The bill also requires electric utilities to file plans with the Public Utilities Commission that will achieve specified emissions reductions. The bill creates the environmental justice ombudsperson and advisory board within the Department of Public Health and Environment. It increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill requires \$4.2 million in appropriations to multiple state agencies. See State Appropriations section.

Fiscal Note Status: This fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under SB 21-200**

		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	-	\$4,000,000	\$4,000,000
Expenditures	General Fund	\$4,180,228	\$109,628	
	Cash Funds	-	\$3,003,342	\$2,935,682
	Total	\$4,180,228	\$3,112,970	\$2,935,682
	Total FTE	31.0 FTE	22.8 FTE	21.8FTE
Transfers		-	-	
TABOR Refund		-	-	

Summary of Legislation

This bill directs the Air Quality Control Commission (AQCC) within the Department of Public Health and Environment (CDPHE) to promulgate rules related to greenhouse gas (GHG) emissions reductions and GHG emissions fees. It also requires electric utilities to submit plans to the Public Utilities Commission (PUC) that includes GHG emission reductions. Lastly, the bill creates an environmental justice ombudsperson and advisory board to promote environmental justice throughout the state. These provisions are described in more detail below.

Implementing rules. House Bill 19-1261 established Colorado’s GHG emission reduction targets to be reached by 2025, 2030, and 2050, relative to 2005 levels. This bill requires the AQCC to adopt final implementing rules by March 1, 2022, that ensure the state achieves these targets. The bill adds sector-specific detail by requiring the implementing rules to establish the GHG emissions limits shown in Table 2.

Table 2
Sector-Based GHG Emissions Limits in SB 21-200

Sector	2025 Upper Limit	2030 Upper Limit
Power Sector	21 MMT CO ₂ e	8 MMT CO ₂ e
Residential and commercial buildings and industrial processes	26 MMT CO ₂ e	20 MMT CO ₂ e
Transportation and mobile sources	23 MMT CO ₂ e	18 MMT CO ₂ e
Oil and gas exploration, production, processing, transmission, and storage	13 MMT CO ₂ e	8 MMT CO ₂ e
Remaining sources	the maximum allowable to meet 2025 target	the maximum allowable to meet 2030 target

MMT CO₂e = million metric tons of carbon dioxide equivalent

Multi-sector plan. The AQCC is directed to evaluate and determine whether a multi-sector program with an overall limit on GHG emissions would enable the state to achieve the GHG emission reduction targets. If the AQCC determines that such a program containing strategies designed to achieve reductions in harmful air pollution affecting disproportionately impacted communities would enable the state to achieve the GHG emission reduction targets, the AQCC is authorized to adopt such a multi-sector program by rule in lieu of the sector-specific limits.

Engagement. The AQCC is required to engage with disproportionately impacted communities that may be affected by a proposed rule. CDPHE is required to develop best practices to engage with disproportionately impacted communities for review by the AQCC no later than July 1, 2021, and must provide a report of these best practices to the General Assembly by September 1, 2021.

GHG emissions fee. The bill adds greenhouse gases to the definition of regulated pollutants and directs the AQCC to establish in rule a per-ton fee on GHG emissions in an amount that is sufficient to cover the indirect and direct costs required to develop and administer GHG programs. Fee revenue will be deposited to the Stationary Sources Control Fund and can be used for outreach and engagement with disproportionately impacted communities as well as paying for the environmental justice ombudsperson and the environmental justice advisory board created in this bill.

Social cost of greenhouse gases. The bill authorizes the AQCC to consider the social cost of greenhouse gas emissions in any rule-making proceeding. If the rule-making has potential to materially affect GHG emissions, the AQCC must use the social cost of GHG emissions in economic impact and cost benefit analyses.

Electric utilities. The bill requires wholesale generation and transmission electric cooperatives to file a responsible energy plan with the PUC that will achieve at least an 80 percent reduction by 2030, relative to 2005, in GHG emissions caused by the provision of electricity to customers within the state, including emissions associated with imported electricity. The PUC is required to approve a plan meeting these requirements by December 31, 2022, and CDPHE is required to verify emission reductions in approved plans.

No later than December 31, 2025, retail electric utilities and wholesale generation and transmission cooperatives are required to submit a plan to the PUC, or with regard to municipal utilities and cooperative electric associations that have voted to exempt themselves from PUC regulation, their respective governing bodies, to achieve a 95 percent reduction in GHG emissions between 2035 and 2040, and a 100 percent reduction by 2040.

Environmental justice ombudsperson. The bill creates the position of an environmental justice ombudsperson within CDPHE, which must provide administrative support to this independent position. The executive director of CDPHE must appoint the ombudsperson no later than February 1, 2022. The ombudsperson is required to:

- collaborate with the environmental justice advisory board to promote environmental justice;
- advocate for and be a liaison to disproportionately impacted communities;
- improve outreach regarding departmental programs;
- enable participation in the decision-making process;
- accept and resolve complaints;
- remove to the extent practicable environmental burdens to disproportionately impacted communities; and
- advise other state agencies in engaging with disproportionately impacted communities.

Environmental justice advisory board. The bill creates the Environmental Justice Advisory Board in CDPHE. The nine-member board will be appointed by the executive director and leadership of the General Assembly and must represent the geographic, racial, and ethnic diversity of the state and have experience with environmental issues. Advisory board members are authorized to receive reimbursement for actual and necessary expenses. The advisory board is required to:

- serve in an advisory capacity to the ombudsperson;
- hold joint meetings with the ombudsperson to receive stakeholder input on activities and priorities;
- address the adverse environmental effects of disproportionately impacted communities as directed by the Governor or executive director; and
- study and advise the department on best practices to engage with disproportionately impacted communities.

The advisory board is repealed effective September 1, 2027 following a sunset review.

State Revenue

Beginning in FY 2022-23, this bill increases fee revenue by an estimated \$4.0 million per year from the newly created GHG emission fee to the Stationary Sources Control Fund in the CDPHE. This fiscal note assumes that the fee will be set at a level sufficient to cover the costs for CDPHE to implement this bill beginning in FY 2022-23. Because of the large number of variables that will contribute to the costs per emissions source, specific fees are not estimated in the fiscal note. Actual fees will be set administratively by CDPHE based on cash fund balance, estimated program costs, and the estimated number of sources subject to the fee. This revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures by \$4.2 million and 31.0 FTE in FY 2021-22, \$3.1 million and 22.8 FTE in FY 2022-23, and \$2.9 million and 21.8 FTE in FY 2023-24 for multiple state agencies. Expenditures for all agencies will be paid from the General Fund in FY 2021-22; expenditures for CDPHE will be paid from the Stationary Sources Control Fund in FY 2022-23 and thereafter; expenditures for the Colorado Energy Office will be paid from the General Fund in FY 2022-23. These expenditures are shown in Table 3 and discussed below.

**Table 3
 Expenditures Under SB 21-200**

Cost Components	FY 2021-22	FY 2022-23	FY 2023-24
Department of Public Health and Environment			
<i>GHG rulemaking and fees</i>			
Personal Services	\$1,577,621	\$679,777	\$679,777
Operating Expenses	\$25,110	\$11,205	\$11,205
Capital Outlay Costs	\$117,800	-	-
Technology Costs	\$252,948	\$47,955	\$17,905
Legal Services	\$106,340	\$106,340	\$106,340
Employee benefits and indirect costs	\$312,744	\$317,788	\$311,628
FTE – Personal Services	17.0 FTE	8.3 FTE	8.3 FTE
FTE – Legal Services	0.6 FTE	0.6 FTE	0.6 FTE
GHG Subtotal	\$2,392,562	\$1,163,065	\$1,126,855
<i>Environmental justice</i>			
Personal Services	\$439,810	\$653,779	\$653,779
Operating Expenses	\$7,695	\$10,665	\$10,665
Capital Outlay Costs	\$37,200	\$18,600	-
Meeting costs including travel	\$221,172	\$221,172	\$213,672
Communication Materials	\$33,750	\$33,750	\$33,750
Legal Services	\$212,680	\$212,680	\$212,680
Employee benefits and indirect costs	\$93,794	\$374,037	\$368,686
FTE – Personal Services	5.4 FTE	7.9 FTE	7.9 FTE
FTE – Legal Services	1.1 FTE	1.1 FTE	1.1 FTE
EJ Subtotal	\$1,046,101	\$1,524,683	\$1,493,233

**Table 3
Expenditures Under SB 21-200 (Cont.)**

Cost Components	FY 2021-22	FY 2022-23	FY 2023-24
Administrative			
Personal Services	\$181,849	\$208,609	\$208,609
Operating Expenses	\$4,860	\$5,265	\$5,265
Capital Outlay Costs	\$24,800	-	-
Employee benefits and indirect costs	\$52,454	\$101,720	\$101,720
FTE – Personal Services	3.6 FTE	3.9 FTE	3.9 FTE
Administrative Subtotal	\$263,963	\$315,594	\$315,594
CDPHE Subtotal	\$3,702,626	\$3,003,342	\$2,935,682
Department of Regulatory Agencies			
Personal Services	\$113,798	-	-
Operating Expenses	\$2,025	-	-
Capital Outlay Costs	\$12,400	-	-
Legal Services	\$191,412	-	-
Employee benefits and indirect costs	\$54,662	-	-
FTE – Personal Services	1.4 FTE	-	-
FTE – Legal Services	1.0 FTE	-	-
DORA Subtotal	\$374,297	\$0	\$0
Colorado Energy Office			
Personal Services	\$65,801	\$71,783	-
Operating Expenses	\$1,350	\$1,350	-
Capital Outlay Costs	\$1,200	-	-
Meeting costs including travel	\$5,000	\$5,000	-
Communication materials	\$15,000	\$15,000	-
Employee benefits and indirect costs	\$14,954	\$16,495	-
FTE – Personal Services	0.9 FTE	1.0 FTE	-
CEO Subtotal	\$103,305	\$109,628	-
Total	\$4,180,228	\$3,112,970	\$2,935,682
Total FTE	31.0 FTE	22.8 FTE	21.8 FTE

Department of Public Health and Environment. The CDPHE requires the following resources to fulfill the bill’s requirements. Standard operating and capital outlay costs have been included for all FTE, and account for the General Fund pay date shift.

CDPHE GHG rulemaking and fees. These components of the bill require 17.0 FTE, technology-related costs, and legal services in FY 2021-22. These costs are explained below.

- **GHG rulemaking.** The CDPHE will require one-time staffing resources of 11.5 FTE to implement the rule-making required to occur by March 1, 2022, and to provide an evaluation of multi-sector programs to support the rulemaking. This includes rule-making to establish the sector-based GHG limits as defined in the bill, and to establish emission rates for renewable energy generation not associated with a renewable energy credit. The rulemaking will require additional enforcement staff once the rules are fully in place and enforceable beginning in FY 2024-25; because the scope of enforcement cannot yet be known, the fiscal note assumes that CDPHE will request resources for enforcement through the annual budget process.

- **GHG reporting and fee.** The CDPHE requires 4.4 FTE Environmental Protection Specialists and Engineer-in-Training to develop systems to facilitate reporting and annual billing for GHG emission fees. Current reporting requirements are insufficient to implement the GHG emission fees and ensure that emissions reductions are occurring on a linear or more stringent pathway, as required in the bill. In addition to staffing, the CDPHE will require technology upgrades and programming to capture GHG data to facilitate annual billing. Funding for technology costs, as shown in Table 3, is reappropriated to the Office of Information Technology, except for \$12,358 in the first year that will be used by CDPHE for staff to oversee application development.
- **Review energy plans.** The CDPHE requires 0.3 FTE Environmental Protection Specialist beginning in FY 2021-22 and ongoing to review responsible energy plans and clean energy plans to incorporate reductions into current rules. Wholesale generation and transmission electric cooperatives are required to file a plan by December 31, 2022. In addition, the emission reductions for electric utilities will require refile of resource plans in 2021-22, and additional plan filings are required by December 31, 2025 to meet the required emission reductions for 2035 and 2040.
- **Disproportionately impacted communities.** The CDPHE requires 0.9 FTE Environmental Protection Specialist to support the identification of disproportionately impacted communities and to develop best practices for engagement. Staff will also provide a report on the established best practices to the General Assembly by September 1, 2021. Staff resources will decline to 0.2 FTE on an ongoing basis beginning in in FY 2022-23.

CDPHE environmental justice. These components of the bill require 5.4 FTE in FY 2021-22 and 7.9 FTE in subsequent years continuing on an ongoing basis. These costs are discussed below.

- **Ombudsperson.** The CDPHE will require 1.0 FTE to fill the ombudsperson position. The CDPHE will provide administrative support to the ombudsperson requiring 1.0 FTE program assistant and 1.0 FTE marketing and communications specialist beginning February 2022. Staff will provide support facilitating meetings, processing complaints, and providing interpretation and translation services. Contractor services may be utilized for additional interpreter services when needed. The CDPHE will also require 0.1 FTE Human Resources Specialist beginning in February 2022, increasing to 0.5 FTE in FY 2022-23, to review complaints that involve state personnel. This is consistent with other practices, such as complaints submitted through the Department's Fraud Abuse Hotline.

The CDPHE will also incur travel and other community engagement-related costs associated with the ombudsperson. Travel costs include overnight stays and meal per diems, amounting to approximately \$39,000 per year. Facility rental, child care services, and interpreter and translation services are estimated at around \$142,000 per year for the 45 anticipated larger community events (25 percent of total community engagements per year). To support the diverse communication methods required by the bill, the CDPHE will also produce printed communications materials in the form of postcards, flyers, and newsletters. Publication and distribution costs are estimated at \$33,500 annually for the 45 larger community events anticipated.

- **Environmental justice advisory board.** This fiscal note assumes that the environmental justice advisory board will meet for two days quarterly at different locations in the state. Travel costs including overnight stays and meal per diems for advisory board members and an administrator amount to approximately \$25,000 per year. The CDPHE will require 1.0 FTE Policy Advisor to serve as the environmental justice advisory board administrator to develop the work products for consideration by the ombudsperson. An additional 0.2 FTE program assistant is required to support the quarterly meetings.

This fiscal note estimates that the advisory board will regularly seek information and technical assistance from the CDPHE's environmental health and protection divisions in the study and research of environmental effects on disproportionately impacted communities, requiring 3.0 FTE Environmental Protection Specialists.

CDPHE Administrative and legal support. Because of the number of increased FTE, the CDPHE requires additional administrative support services, including accounting, human resources, and general administrative support. This is estimated as an additional 3.6 FTE across various administrative support roles beginning in FY 2021-22. In addition, the CDPHE will require additional, on-going legal support for implementing and enforcing the GHG-related rules. It is anticipated that the ombudsperson and environmental justice advisory board will also require legal support during the course of its work and during the quarterly meetings. In total, an estimated 3,000 hours of legal services from the Department of Law and 1.7 FTE are required on an annual basis.

Department of Regulatory Agencies. In FY 2021-22, the PUC will require 1.5 FTE Rate/Financial Analyst to support the advisory and trial staff to consider the revised electric resource plans as required by this bill, prorated to 1.4 FTE to account for the General Fund pay date shift. Two electric utilities, Tri-State Generation and Transmission Association and Xcel Energy, currently have electric resource plans before the PUC. This bill necessitates the refiling of revised plans with the PUC that includes the new GHG emission reduction requirements of this bill. The PUC will require 1,800 hours of legal services and 1.0 FTE from the Department of Law to support these plan revisions.

Colorado Energy Office. The Colorado Energy Office requires 1.0 FTE Policy Advisor to participate in rulemaking proceedings and stakeholder processes related to these proceedings, in addition to meeting and communication-related costs. This is prorated to 0.9 FTE for FY 2021-22 to account for the General Fund pay date shift.

Centrally appropriated costs. Pursuant to fiscal note and Joint Budget Committee policy, centrally appropriated costs for bills involving more than 20 FTE are appropriated in the bill, rather than through the annual budget process. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$528,608 in FY 2020-21 and \$793,545 in FY 2021-22.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Effective Date

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

State Appropriations

In FY 2021-22, the bill requires the following General Fund appropriations:

- \$3,702,626 and 26.0 FTE to the Department of Public Health and Environment, of which \$240,590 is reappropriated to the Office of Information Technology, and \$319,020 and 1.7 FTE is reappropriated to the Department of Law;
- \$374,297 and 1.4 FTE to the Department of Regulatory Agencies, of which \$191,412 and 1.0 FTE is reappropriated to the Department of Law; and
- \$103,305 and 0.9 FTE to the Colorado Energy Office.

State and Local Government Contacts

Energy Office
Law
Regulatory Agencies

Information Technology
Public Health and Environment