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Fiscal Note

Drafting Number: LLS 22-0553
Prime Sponsors: Rep. Kennedy

Date: January 31, 2022
Bill Status: House Energy & Environment
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Bill Topic: **ELECTRIC AND GAS UTILITY CUSTOMER PROTECTIONS**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" 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 moves back two dates established in House Bill 21-1105 related to the Department of Human Services' supplemental utility assistance program. It establishes income standards for utility assistance eligibility. It also requires the Public Utilities Commission to adopt rules prohibiting gas and electric utilities from disconnecting a customer's service under certain conditions. The bill shifts state revenue and expenditures in the Department of Human Services back a year beginning in the current FY 2021-22, and increases state revenue and expenditures in the Department of Regulatory Agencies in FY 2022-23 only.

Appropriation Summary: The bill requires an appropriation of \$34,656 to the Department of Regulatory Agencies. A reappropriation to the Office of Information Technology may be required. See State Appropriations section.

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

Table 1
State Fiscal Impacts Under HB 22-1018

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	\$45,065	-
	Total Revenue	\$45,065	-
Expenditures	Cash Funds	\$34,656	-
	Centrally Appropriated	\$10,409	-
	Total Expenditures	\$45,065	-
	Total FTE	0.4 FTE	-
Transfers		-	-
Other Budget Impacts	TABOR Refund	\$45,065	-

Summary of Legislation

Pursuant to House Bill 21-1105, the Department of Human Services (DHS) will administer a supplemental utility assistance program funded by the energy assistance system benefit charge assessed on utility customers. This bill changes the date the DHS will submit a budget to Energy Outreach Colorado, the organization that receives benefit charge funding, from October 1, 2021, to October 1, 2022, and the date it receives funding to the Supplemental Utility Assistance Fund from January 1, 2022, to March 1, 2023.

The bill also establishes three income standards for determining a household's eligibility for utility assistance to include households at incomes at or below 200 percent of the federal poverty line; at incomes at or below 80 percent of the area median income; and incomes that meets the income eligibility criteria that the DHS sets by rule.

Finally, the bill requires the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to adopt rules prohibiting electric and gas utilities from disconnecting a customer's service: on weekends, on state or federal holidays, or after 11:59 a.m. on a weekday that is not a holiday. The PUC's rules must require that, under certain circumstances in which a customer makes a request for reconnection of service on a Monday through Friday that is not a holiday, the utility is required to reconnect the customer's service that same day. The bill also clarifies that the PUC may approve a year-round utility preference or advantage given to income-eligible customers.

Background

House Bill 21-1105 (<https://leg.colorado.gov/bills/hb21-1105>) required investor-owned utilities to collect a monthly energy assistance system benefit charge from each customer beginning October 1, 2021, to help finance the low income energy assistance programs administered by Energy Outreach Colorado, the Colorado Energy Office, and the DHS. Energy Outreach Colorado administers the benefit charge funding, with the Legislative Commission on Low-income Energy and Water Assistance determining allocations. Energy Outreach Colorado is required to use the funding 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 to perform community outreach. The Colorado Energy Office is required to use the funding for its weatherization assistance program. The DHS is required to use the funding to provide supplemental utility assistance benefits via Electronic Benefits Transfer cards to households receiving Supplemental Nutrition Assistance Program benefits to maximize their federal heating and cooling standard utility allowance.

State Revenue

The bill will increase state revenue to the Fixed Utility Fund in DORA by \$45,065 in FY 2022-23. The fund receives an annual assessment on the state's regulated utilities, based on a proportion of the prior year's gross intrastate operating revenue. Whenever additional expenses are incurred against the fund, the assessment can be raised to increase revenue to cover these expenses. This revenue is subject to TABOR.

The bill also shifts the timing of revenue credited to the Supplemental Utility Assistance Fund in DHS, beginning in the current fiscal year. Cash fund revenue will reflect the expected departmental expenditures to administer the supplemental fuel assistance. See Table 3 in the State Expenditures section for detail.

State Expenditures

The bill increases state expenditures in DORA by \$45,065 in FY 2022-23 only. It also shifts state expenditures back one fiscal year in the Department of Human Services beginning in FY 2021-22. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 22-1018

	FY 2022-23	FY 2023-24
Public Utilities Commission		
Personal Services	\$34,656	-
Centrally Appropriated Costs ¹	\$10,409	-
Total Cost	\$45,065	-
Total FTE	0.4 FTE	-

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

Public Utilities Commission. The PUC requires additional rulemaking staff, including 0.3 FTE Rate and Financial Analyst and 0.1 FTE Administrative Law Judge in FY 2022-23 only. This resource level is based on recent PUC rulemakings on disconnections (Proceeding 20R-0349EG regarding Senate Bill 20-030) and income-qualified programs (Proceeding 21R-0326EG regarding House Bill 21-1105), and also assumes hearings outside of normal business hours to accommodate public comment.

Department of Human Services. The bill shifts expenditures in the DHS back one fiscal year beginning in the current fiscal year, as shown in Table 3. The Supplemental Utility Assistance Fund is continuously appropriated to the DHS.

**Table 3
HB 21-1105 Expenditure Shift Under HB 22-1018**

Prior Expenditure Year	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
New Expenditure Year	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Department of Human Services				
Personal Services	\$117,492	\$201,417	\$151,976	\$71,176
Operating Expenses	\$1,620	\$2,700	\$2,700	\$1,350
Capital Outlay Costs	\$12,400	-	\$6,200	-
Computer Programming ¹	\$125,600	\$251,200	\$125,600	\$80,400
Fuel Assistance Payments ²	-	-	\$2,552,276 or \$6,379,528 per year	
EBT Transaction Costs ²	-	-	\$85,459 or \$213,607 per year	
Client Noticing ²	-	-	\$127,550 or \$318,817 per year	
LEAP Education and Outreach ²	-	-	\$0 or \$50,000 per year	
Centrally Appropriated Costs	\$22,631	\$38,225	\$33,751	\$16,440
FTE – Personal Services	1.2 FTE	2.0 FTE	2.0 FTE	1.0 FTE
DHS Subtotal	\$279,743	\$493,542	at least \$3,085,512	at least \$2,934,651

¹ OIT has updated its cost assessment to implement HB 21-1105; see Departmental Difference.

² HB 21-1105 allowed for the receipt of outside funding, estimated at \$7.0 million, that if received would be used to bridge the LEAP eligibility system and the Colorado Benefits Management System to allow only those SNAP households that are not LEAP eligible to receive the fuel assistance payment. Low range costs reflect amounts if that funding is received, and high range costs reflect amounts if funding is not received.

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.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by \$45,065 for FY 2022-23, and to shift the receipt of state revenue subject to TABOR by a year. This estimate assumes the December 2021 LCS revenue forecast. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Departmental Difference

The Office of Information Technology and their vendor Deloitte indicate that costs to make necessary changes to the Colorado Benefit Management System and PEAK System to implement House Bill 21-1105 are now estimated to be \$2,030,673 in FY 2022-23, \$374,820 in FY 2023-24, and \$63,975 in FY 2024-25 and future years. The fiscal note for House Bill 21-1105 indicated costs of about \$500,000 over a three-year period between FY 2021-22 and FY 2023-24 to make the necessary system changes and \$80,000 in ongoing maintenance in future years, based on information provided by OIT and the DHS. OIT requests that that \$2.0 million in FY 2022-23 be reappropriated from the Supplemental Utility Assistance Fund as part of this bill, House Bill 22-1018, to cover these costs.

However, the fiscal note does not include these costs because they are not driven directly by House Bill 22-1018, the legislation being assessed in this analysis, and additional funding not anticipated in a previous fiscal note should instead be requested by the impacted department through the annual budget process, rather than in future legislation making unrelated changes to the same program. However, the General Assembly, at its discretion, may choose to appropriate funding in House Bill 22-1018 to OIT to cover these costs. Additional detail on the OIT estimate is provided below.

Updated OIT cost estimate to implement House Bill 21-1105. As stated above, OIT estimates total system modification costs of \$2.4 million across FY 2022-23 and FY 2023-24, and ongoing maintenance in future years of \$63,975, as shown in Table 4. FY 2022-23 costs include 596 hours for business requirements, 1067 hours of design, 11,701 hours for development, and 3,017 hours for system integration and testing for a total of 16,383 hours at an hourly rate of \$123.95. FY 2023-24 costs include 3,000 hours of integration, testing, and maintenance at an hourly rate of \$125.94 per hour. From FY 2024-25 on, maintenance costs are estimated at 500 hours per year at a flat hourly rate of \$127.95.

Table 4
Updated OIT Cost Estimate to Implement HB 21-1105

	FY 2022-23	FY 2023-24	FY 2024-25
Office of Information Technology			
Computer Programming	\$2,030,673	\$374,820	\$63,975
Total Cost	\$2,030,673	\$374,820	\$63,975

Effective Date

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

State Appropriations

For FY 2022-23, the bill requires an appropriation of \$34,656 from the Fixed Utility Fund to the Public Utilities Commission in the Department of Regulatory Agencies, and 0.4 FTE. The Supplemental Utility Assistance Fund is continuously appropriated to the Department of Human Services.

If the General Assembly decides to address the updated OIT cost estimate for House Bill 21-1105 in this legislation (described in the Departmental Difference above), the Office of Information Technology would require \$2,030,673 in reappropriated funds received by the Department of Human Services in the Supplemental Utility Assistance Fund for FY 2022-23.

State and Local Government Contacts

Colorado Energy Office
Law

Human Services
Regulatory Agencies

Information Technology