



Legislative Council Staff

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Revised Fiscal Note

(replaces fiscal note dated April 16, 2021)

Drafting Number: LLS 21-0137 **Date:** May 20, 2021
Prime Sponsors: Rep. Kennedy **Bill Status:** Senate Finance
 Sen. Hansen **Fiscal Analyst:** Erin Reynolds | 303-866-4146
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Bill Topic: **LOW-INCOME UTILITY PAYMENT ASSISTANCE CONTRIBUTIONS**

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 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, the Colorado Energy Office, and the Department of Human Services, and eliminates the existing Tier 2 severance tax allocations to these programs. It increases state revenue and expenditures beginning in FY2021-22, and impacts state transfers beginning in FY 2024-25.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$27,709 to the Colorado Energy Office. The Supplemental Utility Assistance Fund is continuously appropriated.

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

Table 1
State Fiscal Impacts Under HB 21-1105

		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year ¹ FY 2023-24	Out Year ¹ FY 2024-25
Revenue	Cash Funds	\$246,000	-	\$3,078,044	\$2,934,650
	Total Revenue	\$246,000	-	\$3,078,044	\$2,934,650
Expenditures	General Fund	-	\$455,317	-	-
	Cash Funds	\$284,821	\$22,454	\$3,068,283	\$2,940,664
	Centrally Approp.	\$26,460	\$43,257	\$37,246	\$21,472
	Total Expenditures	\$311,281	\$521,028	\$3,105,529	\$2,962,136
	Total FTE	1.4 FTE	2.3 FTE	2.2 FTE	1.3 FTE
Transfers	Cash Funds	-	-	-	up to (\$13,000,000)
	Net Transfer	-	-	-	up to (\$13,000,000)
TABOR Refund		-	-	-	-

¹ Table 1 omits the \$7.0 million in outside funding 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 \$20.01 payment. If outside funding is received, it is assumed that this funding would be spent in FY 2021-22 and FY 2022-23, that DHS will have authority to expend this funding, and that this funding would be reappropriated to the Office of Information Technology to manage the project. Revenue and expenditures in FY 2023-24 and FY 2024-25 reflect only the LEAP ineligible SNAP households.

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.

Monthly energy assistance system benefit charge on utility customers. Beginning October 2021, each investor-owned utility is required to collect a monthly energy assistance benefit charge from all customers except those receiving utility bill assistance, and to transfer these funds to Energy Outreach Colorado. 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.

Funding to 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 to perform community outreach. Funding allocations are dependent on revenue collections, as detailed in the bill, with amounts credited to the Colorado Energy Office for its weatherization assistance program, to the Department of Human Services for fuel assistance benefits, and the remainder to Energy Outreach Colorado, with the Legislative Commission on Low-income Energy and Water Assistance determining allocations. The bill prohibits Energy Outreach Colorado from using any funds collected from the energy assistance system benefit charge for employee salaries or bonuses. 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.

Fuel assistance benefit. On or after January 1, 2024, the Department of Human Services is required to implement a program to distribute a fuel assistance benefit via Electronic Benefits Transfer (EBT) cards to households receiving Supplemental Nutrition Assistance Program (SNAP) benefits, but that do not receive Low Income Energy Assistance Program (LEAP) benefits—if this identification is made possible through a database connection (as described in the next paragraph)—in order to qualify those households for the standard utility allowance to maximize their SNAP benefits. These payments will be made from the newly created and continuously appropriated Supplemental Utility Assistance Fund in the Department of Human Services, which will receive funding from Energy Outreach Colorado.

The Department of Human Services will first receive funding on January 1, 2022, to make the computer systems changes required for implementing the processing of the fuel assistance benefit through EBT cards. On or before July 1, 2023, and each year thereafter, the department will submit a budget to Energy Outreach Colorado outlining its administrative costs and the projected number of households eligible to receive the fuel assistance benefit, in order to have those costs covered by the energy assistance system benefit charge.

Database connection for fuel assistance benefit. To allow the DHS to maximize the number of households that are receiving both the SNAP and LEAP benefits, the DHS must develop a database connection between the LEAP eligibility system and the Colorado Benefits Management System (CBMS) using outside funds. If outside funds are not received, the DHS must notify the Joint Technology Committee that outside funds were not received, and it can instead make fuel assistance payments to all households that receive SNAP benefits and is not required to commence work on the database connection.

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. On May 1, 2022, the bill repeals and reinstates the commission 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. Additionally, the Colorado Energy Office must submit an annual report to the General Assembly, the Legislative Audit Committee, and the Office of the State Auditor by March 31 each year that provides an itemized account of the money that the office received from the energy assistance system benefit charge for its weatherization assistance program.

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 for at least a portion of the year.

State Revenue

The bill increases state revenue to the Supplemental Utility Assistance Fund in FY 2021-22, and on an ongoing basis beginning in FY 2023-24. It will increase fees assessed by regulated investor-owned utilities beginning in FY 2021-22. It may also increase outside funding for computer programming, as detailed below.

Supplemental Utility Assistance Fund. In FY 2021-22, cash fund revenue to the newly created Supplemental Utility Assistance Fund in the Department of Human Services will increase by an estimated \$246,000. From FY 2023-24, revenue will increase on an ongoing basis by an estimated \$3.0 million per year. Funding is received from Energy Outreach Colorado through the energy assistance system benefit charge.

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. This revenue to Energy Outreach Colorado is not subject to TABOR, except that revenue transferred to the Supplemental Utility Assistance Fund in the DHS becomes subject to the state’s revenue and spending limits.

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

Customer Type	Annual Fee	Number Affected	Fee Impact Oct 21-Sept 22	Fee Impact Oct 22-Sept 23
Gas and Electric Customers (Excluding Customers Receiving Utility Bill Assistance)	Oct 21 - Sept 22: \$6.00 Oct 22-Sept 23 \$9.00	3,036,124	\$18.2 million	\$27.3 million

Outside funding for database connection between LEAP and SNAP. The bill requires the DHS to seek outside funding to build a database connection between the LEAP and SNAP eligibility systems, estimated to cost \$7.0 million over FY 2021-22 and FY 2022-23. The bill allows the DHS to expend these funds, if received, and this funding is not subject to TABOR.

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, funding will be spread over a smaller pool of programs in future years when revenue is sufficient to trigger transfers to Natural Resources and Energy Grant 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

Cost Components	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
Department of Human Services				
Personal Services	\$117,492	\$201,417	\$146,045	\$71,176
Operating Expenses	\$1,620	\$2,700	\$2,700	\$1,350
Capital Outlay Costs	\$12,400	-	\$6,200	\$0
Computer Programming	\$125,600	\$251,200	\$125,600	\$80,400
Fuel Assistance Payments ¹	-	-	\$2,552,276 or \$6,379,528 per year	
EBT Transaction Costs ¹	-	-	\$85,459 or \$213,607 per year	
Client Noticing ¹	-	-	\$127,550 or \$318,817 per year	
LEAP Education and Outreach ¹	-	-	\$0 or \$50,000 per year	
Centrally Appropriated Costs ²	\$22,631	\$38,225	\$32,214	\$16,440
FTE – Personal Services	1.2 FTE	2.0 FTE	1.9 FTE	1.0 FTE
DHS Subtotal³	\$279,743	\$493,542	\$3,078,044	\$2,934,650
Colorado Energy Office				
Personal Services	\$20,209	\$22,454	\$22,454	\$22,454
Computer Programming	\$7,500	-	-	-
Centrally Appropriated Costs ²	\$3,829	\$5,032	\$5,032	\$5,032
FTE – Personal Services	0.2 FTE	0.3 FTE	0.3 FTE	0.3 FTE
CEO Subtotal	\$31,538	\$27,486	\$27,486	\$27,486
Total	\$311,281	\$521,028	\$3,105,530	\$2,962,136
Total FTE	1.4 FTE	2.3 FTE	2.2 FTE	1.3 FTE

¹ If funding is received to connect the LEAP eligibility system and the Colorado Benefits Management System to allow only those SNAP households that are not LEAP eligible to receive the \$20.01 payment, ongoing expenditures for fuel assistance payments, transaction costs, client noticing, and LEAP outreach will fall on the low range. If funding is not received, costs will fall on the high range. DHS subtotal costs include the low-range costs.

² 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 mid-year FY 2021-22 to mid-year FY 2023-24. 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. CBMS costs reduce to 900 hours of programming in FY 2023-24. On an ongoing basis, beginning in FY 2024-25, 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 depend on the availability of an estimated \$7.0 million in outside funds for computer programming to connect the LEAP and SNAP eligibility databases. If funding is received, it is estimated that fuel assistance payments will be made to 127,550 households. If funding is not received, it is estimated that fuel assistance payments will be made to 318,875 households. Table 2 indicates these ranges beginning in FY 2023-24. Costs for fuel assistance payments, transactions costs, client noticing, and an LEAP education and outreach all depend on that funding. The EBT transaction fee is \$0.67 and client noticing costs are \$1.00 per mailing, including postage. 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 if the database connection is not built.

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. 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.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

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 an appropriation of \$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