SB 21-161

Legislative Council Staff
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Final Fiscal Note

Drafting Number:	LLS 21-0106	**Date:**	August 4, 2021
Prime Sponsors:	Sen. Hansen; Coram Rep. Arndt	**Bill Status:**	Postponed Indefinitely
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Bill Topic: **VOLUNTARY REDUCE GREENHOUSE GAS NATURAL GAS UTILITIES**

Summary of Fiscal Impact:

☐ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill would have required the Public Utilities Commission to promulgate rules establishing a voluntary greenhouse gas emission reduction program for large and small natural gas utilities. It would have increased state expenditures beginning in FY 2021-22.

Appropriation Summary: In FY 2021-22, the bill would have required an appropriation of $152,270 to multiple agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 21-161

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	General Fund	$80,989	$317,592
	Cash Funds	$71,281	$86,724
	Centrally Appropriated	$42,609	$83,147
	Total Expenditures	**$194,878**	**$487,463**
	Total FTE	**1.6 FTE**	**4.4 FTE**
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill would have required the Public Utilities Commission (PUC) in the Department of Regulatory Agencies to adopt by rule, by July 31, 2022, a voluntary greenhouse gas (GHG) emission reduction program (program) for large and small natural gas utilities. Large natural gas utilities are defined as having at least 250,000 customer accounts in Colorado. Municipally owned natural gas utilities may voluntarily participate in the program, but are not subject to commission approval. Utilities that participate in the program and can demonstrate their ability to meet the required emission reduction targets or the applicable retail rate impact are exempted from further GHG emission reduction requirements.

Targets. The bill establishes the following GHG emission reduction targets for large natural gas utilities, using 2019 GHG emissions as a baseline:

- at least 5 percent by January 1, 2025;
- at least 10 percent by January 1, 2030; and
- at least 15 percent on and after January 1, 2035.

Natural gas utility emissions include methane leaked from the transportation and delivery of natural gas from distribution and service pipelines, and the carbon dioxide emitted by retail customers (excluding transportation sector customers) as a result of combusting the natural gas delivered by the utility. GHG emission reductions resulting from the delivery of natural gas to other natural gas utilities and transportation sector retail customers are excluded from the program.

Qualified investments. Natural gas utilities may achieve these emission reduction targets by:

- using renewable natural gas, which must account for at least 35 percent of the GHG emissions reductions;
- purchasing GHG emissions offsets;
- sequestering GHG in a Class VI injection well; and
- other programs approved by the PUC that demonstrate GHG emission reductions.

If a large natural gas utility's total incremental annual cost to meet the GHG emissions reduction targets exceed 2 percent of the large natural gas utility's total revenue requirement for a particular year, the large natural gas utility is prohibited from making additional qualified investments under the program for that year without approval from the PUC. Small utilities may opt in to the program as established by PUC rule.

Rulemaking. Rules adopted by the PUC to establish the large and small natural gas utilities GHG emission reduction programs must:

- establish cost-effective and viable GHG emissions reduction targets;
- ensure that renewable natural gas used in the program meets certain conditions;
- prohibit sources of renewable natural gas that have an adverse impact on Colorado's water or are out of compliance with applicable air pollution requirements;
- allow for the future diversion of organic materials from landfills;
- establish reporting requirements;

- allow for modifications to existing rules for gas cost adjustment and prudence review;
- create a process for natural gas utilities to fully recover prudently incurred costs associated with the program;
- exclude reductions resulting from the delivery of natural gas to other natural gas utilities and transportation sector customers;
- establish a renewable natural gas tracking and verification process;
- establish a program, in consultation with the CDPHE, of tradeable renewable natural gas environmental attribute credits that may be used by natural gas utilities to meet the emission reduction targets in the program;
- adopt rate-making mechanisms.

Credit trading program. The credit trading program created by the bill will allow natural gas utilities to purchase and trade renewable natural gas environmental attribute credits to comply with the GHG emission reduction targets. This program will be developed by PUC rule, in consultation with the CDPHE.

Class VI Injection Wells. The bill authorizes the Colorado Oil and Gas Conservation Commission to regulate Class VI Injection Wells, which natural gas utilities may use to meet the GHG emissions reduction targets.

Background

Natural gas utilities in Colorado. There are currently four natural gas utilities operating in Colorado. The utilities and number of meters (or customers) as of 2018 are listed below:

- Public Service Company of Colorado (Xcel Energy) 1,329,848 meters
- Black Hills Colorado Gas: 184,350 meters
- Atmos Energy: 114,866 meters
- Colorado Natural Gas: 21,831 meters

Class VI Geologic Sequestration Wells. The bill authorizes natural gas utilities to make qualified investments in geologic greenhouse gas sequestration, which requires a Class VI injection permit. Currently, Class VI injection permits are regulated by the U.S. Environmental Protection Agency (EPA) in Colorado. The bill authorizes the Colorado Oil and Gas Conservation Commission (COGCC) to issue Class VI injection permits, which will require the COGCC to pursue Class VI primacy with the EPA. The COGCC currently only has primacy for Class II wells, which are used for the injection of fluids associated with oil and natural gas production.

North Dakota and Wyoming are the only states to have primacy for permitting Class VI wells. As of January 2020, only two Class VI wells, both in Illinois, are currently permitted by the EPA. Geologic sequestration is regulated under the Safe Drinking Water Act for the purpose of protecting underground sources of drinking water.

State Expenditures

The bill will increase expenditures by $194,878 and 1.6 FTE in FY 2021-22 and $487,463 and 4.4 FTE in FY 2022-23, as shown in Table 2 and discussed below. Costs in DORA are paid from the Fixed Utility Fund, costs in CDPHE are paid from the General Fund, and costs in the DNR are paid from the Oil & Gas Conservation and Environmental Response Fund. Standard operating and capital outlay costs have been included. First-year costs have been prorated for the bill's effective date and staff costs have been prorated for the General Fund pay day shift, where applicable.

Table 2
Expenditures Under SB 21-161

Cost Components	FY 2021-22	FY 2022-23
Department of Regulatory Agencies		
Personal Services	$55,175	$255,959
Operating Expenses	$1,080	$4,050
Capital Outlay Costs	$6,200	$12,400
Centrally Appropriated Costs[1]	$17,925	$51,159
FTE – Personal Services	0.7 FTE	2.8 FTE
DORA Subtotal	**$80,380**	**$323,568**
Department of Public Health and Environment		
Personal Services	$12,334	$44,373
Operating Expenses	-	$810
Capital Outlay Costs	$6,200	-
Centrally Appropriated Costs[1]	$2,116	$10,015
FTE – Personal Services	0.1 FTE	0.6 FTE
CDPHE Subtotal	**$20,650**	**$55,198**
Department of Natural Resources		
Personal Services	$63,731	$84,974
Operating Expenses	$1,350	$1,350
Capital Outlay Costs	$6,200	-
Computer Upgrade Costs	-	$400
Centrally Appropriated Costs[1]	$22,567	$21,973
FTE – Personal Services	0.8 FTE	1.0 FTE
DNR Subtotal	**$93,848**	**$108,697**
Total	**$194,878**	**$487,463**
Total FTE	**1.6 FTE**	**4.4 FTE**

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

Public Utilities Commission. The PUC will conduct rulemaking in FY 2021-22 to adopt rules by July 31, 2022, requiring 1.0 FTE Rate and Financial Analyst. The additional staff is needed to support rulemaking concerning the establishment of a system of tradeable renewable natural gas attribute credits. Beginning in FY 2022-23, the PUC will require 2.0 FTE Rate and Financial Analysts and 1.0 Professional Engineer, split across trial and advisory staff, to support plan filings by natural gas utilities, including associated litigation concerning the filings. It is expected that all four large and small natural gas utilities will file applications to participate in the program.

Department of Public Health and Environment. In FY 2021-22, CDPHE will require 0.2 FTE Environmental Protection Specialist staff to support the PUC rulemaking regarding the design of the credit trading program. First-years costs are prorated for an assumed October 1 start date and the General Fund paydate shift. Starting in FY 2022-23, the department will require 0.6 FTE Environmental Protection Specialist staff to verify, calculate, and approve greenhouse gas emissions offsets for applicable natural gas utilities as well as to establish the accounting methodology natural gas utilities must apply when reporting greenhouse gas emissions reductions to the commission.

Department of Natural Resources. Beginning in FY 2021-22, the Department of Natural Resources requires 1.0 FTE Physical Science Researcher to develop and administer an Underground Injection Control Program for Class VI injection wells. In order to assume permitting and enforcement authority, the COGCC will apply for primacy with the EPA. It is estimated that the application process will require 12 to 18 months to complete with one full-time staff, who will then oversee all aspects of the program in accordance with EPA guidance. These staffing requirements are based on COGCC's experience regulating Class II injection wells, and input from other states with authority to regulate Class VI injection wells. The Department of Natural Resources will pursue additional federal funds to support this program, which may reduce these cash fund requirements in future fiscal years.

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 $42,609 in FY 2021-22 and $83,147 in FY 2022-23.

Effective Date

This bill was postponed indefinitely by the Senate Transportation and Energy Committee on April 20, 2021.

State Appropriations

In FY 2021-22, the bill would have required the following appropriations:

- $62,455 and 0.7 FTE from the Fixed Utility Fund to the PUC in the Department of Regulatory Agencies;
- $18,534 and 0.1 FTE from the General Fund to the Department of Public Health and Environment; and

- $71,281 and 0.8 FTE from the Oil & Gas Conservation and Environmental Response Fund to the Department of Natural Resources.

State and Local Government Contacts

Colorado Energy Office	Information Technology	Law
Natural Resources	Public Health and Environment	Regulatory Agencies