

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 19, 2007)

Drafting Number: LLS 07-0240

Date: February 20, 2007

Prime Sponsor(s): Rep. Gardner C.
Sen. Shaffer

Bill Status: House Transportation & Energy

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TITLE: CONCERNING RENEWABLE ENERGY, AND, IN CONNECTION THEREWITH, REQUIRING COLORADO STATE UNIVERSITY TO CONDUCT A STUDY OF WATER-LIMITED AGROECOSYSTEMS AND BIOENERGY CROPS, REQUIRING COLORADO STATE UNIVERSITY TO ESTABLISH A BIOENERGY RESEARCH PROGRAM, REQUIRING THE PETROLEUM STORAGE TANK COMMITTEE TO ESTABLISH POLICIES REGARDING ABOVEGROUND STORAGE OF RENEWABLE FUELS, REQUIRING THE PUBLIC UTILITIES COMMISSION TO ESTABLISH A BTU RENEWABLE ENERGY CREDIT PROGRAM, AND ELIMINATING THE EXCISE TAX ON GASOLINE MADE FROM AT LEAST EIGHTY-FIVE PERCENT ALTERNATIVE FUEL.

Fiscal Impact Summary	FY 2007-2008	FY 2008-2009
State Revenue		
CF — Highway Users Tax Fund (HUTF)	(\$499,000)	(\$1,412,000)
State Expenditures		
General Fund	\$353,416	\$37,232
CFE — Petroleum Storage Tank Fund	\$35,635	\$50,808
FTE Position Change	1.1 FTE	1.5 FTE
Effective Date: January 1, 2008.		
Appropriation Summary for FY 2007-2008: See State Appropriations section.		
Local Government Impact: See Local Government Impact Section.		

This fiscal note is revised to correct a technical error in the box, namely showing a reduction in revenue to the HUTF rather than the General Fund.

Summary of Legislation

Beginning January 1, 2008, this bill requires the executive director of the Department of Personnel and Administration to purchase *only* flexible fuel vehicles (FFVs) unless the cost is more than 10 percent higher than a comparable vehicle that runs on petroleum gasoline. FFVs are vehicles that can run on either petroleum gasoline or on an E85 ethanol blend. An E85 ethanol blend is made up of 85 percent ethanol and 15 percent petroleum gasoline. This bill also provides an exemption for E85 from the state excise tax on gasoline. Currently, all ethanol blends sold in Colorado are taxed at a rate of 22 cents per gallon.

This bill requires Colorado State University to establish a Bioenergy Research Program and conduct a study to evaluate water limited agroecosystems and bioenergy crops for purposes of producing alternative fuels.

Within 120 days after January 1, 2008, this bill requires the Petroleum Storage Tank Committee to establish policies that govern the placement of above-ground storage tanks that contain renewable fuels.

This bill requires the Public Utilities Commission (PUC) to establish a transferable BTU Renewable Energy Credit Program for geothermal suppliers who use biomass thermal systems or geothermal space heating and process heating systems.

State Revenue

The exemption for E85 fuel from the state excise tax on gasoline will have a one-half year revenue impact in FY 2007-08 reducing HUTF revenue by \$499,000. The full-year impact in FY 2008-09 will reduce HUTF revenue by \$1,412,000.

This bill exempts E85 from the state gasoline excise tax of 22 cents per gallon. The Department of Revenue began tracking E85 sales in July 2005 and reported that an E85 exemption for Calendar Year 2006 would have reduced HUTF revenue by about \$219,000. However, given the changing economic climate for ethanol-blended gasolines across the United States, the cost of this exemption is expected to be significant in upcoming years. The U.S. Energy Information Administration expects the use of alternative fuels such as ethanol blends (E85) to *increase substantially* as higher prices for traditional fuels and federal and state support for alternative fuels drive demand. Additionally, the Governor's Office of Energy Management and Conservation is promoting an effort to add 40 more E85 retail pumps in Colorado to the 12 that will be available to the public in the *next year*.

This fiscal note assumes that an average of 2 new pumps per month will be opened to the public beginning in April 2007, and continuing through December 2008. *The revenue impact estimated in this fiscal note is likely conservative*, since sales per pump are assumed to remain at the same level estimated to occur in FY 2006-07 through FY 2008-09. In addition, the impact of this bill is expected to continue to increase dramatically as E85 grows as a share of the fuel market.

State Expenditures

The bill's total fiscal impact is \$389,051 and 1.1 FTE for FY 2007-08, of which \$353,416 and 0.6 FTE is General Fund and \$35,653 and 0.5 FTE is cash funds exempt.

Department of Revenue: E85 exemption — \$4,800 General Fund in FY 2007-08. The E85 exemption will require a one-time programming change to the Department of Revenue's fuel tracking system estimated at \$4,800 (40 hours at \$120 per hour) in FY 2007-08.

Department of Higher Education: Bioenergy Research Program and study — \$300,000 General Fund in FY 2007-08. This bill requires Colorado State University's (CSU's) agricultural experimental station to establish a Bioenergy Research Program to study dryland crops for use as energy sources. The station is required to conduct a study on water limited agroecosystems and bioenergy crops. Upon completion of the study, the station must submit a report on its conclusions to the General Assembly. The fiscal note estimates that \$300,000 will be needed to complete the study.

Department of Labor and Employment: Regulation of above-ground storage tanks — \$35,635 cash funds exempt and 0.5 FTE in FY 2007-08. This bill requires the Division of Oil and Public Safety (OPS) in the Department of Labor and Employment (DOLE) to establish regulations that govern the placement of above-ground storage tanks that contain renewable fuels.

For FY 2007-08, OPS will require \$24,119 and 0.5 FTE to review applications and site plans before issuing permits. Staff will also visit sites for inspection and enforcement purposes. Annual travel and operating costs are estimated at \$2,070 and \$500. A one-time cost for computer programming of \$5,600 is needed to allow the current program to classify renewable fuel tanks separately. Also, a one-time capital cost of \$3,005 will be needed for computers and office furniture. The OPS will also require the Department of Law to assist in promulgating rules for regulating above-ground storage tanks. The fiscal note estimates that \$1,626 will be needed for legal services to the Department of Law in FY 2007-08 (24 hours X \$67.77).

Department of Regulatory Agencies, Public Utilities Commission: BTU Renewable Energy Credit Program — \$48,616 General Fund and 0.6 FTE in FY 2007-08. This bill requires the PUC to establish a BTU Renewable Energy Credit Program to allow geothermal suppliers in Colorado that use renewable energy in some forms, such as geothermal energy, to capture a transferable renewable energy credit which can be used to meet compliance requirements under the renewable energy standard.

The Geo-Heat Center at the Oregon Institute of Technology is an information center for direct use applications of geothermal energy in the United States. The institute estimates that Colorado has 39 direct use applications of geothermal energy. Based on this estimate, for FY 2007-08, the PUC may have up to 39 geothermal suppliers in Colorado that apply for PUC certification, allowing eligibility for the BTU renewable energy credits for their facilities. The PUC expects that the number of geothermal suppliers may increase by 5 percent in each succeeding year to 41 in FY 2008-09.

In FY 2007-08, the PUC will require \$40,895 and 0.5 FTE to review applications and site plans to ensure that an applicant's energy production is accurate before issuing a permit. Also, \$3,632 and 0.1 FTE clerical staff will be needed for administrative support. An additional one-time cost of \$3,005 will be needed for software and office furniture.

The PUC will also require the Department of Law to assist in promulgating rules for regulating above-ground storage tanks. The fiscal note estimates that \$1,084 will be needed for legal services to the Department of Law beginning in FY 2007-08 (16 hours X \$67.77).

Table 1. Expenditures Under House Bill 07-1228		
	FY 2007-08	FY 2008-09
Department of Revenue E85 exemption	\$4,800	\$0
Department of Higher Education Bioenergy Research Program and Study	300,000	\$0
Department of Regulatory Agencies, Public Utilities Commission BTU Renewable Energy Credit Program	48,616 0.6 FTE	43,979 0.5 FTE
General Fund Total	\$353,416 0.6 FTE	\$37,232 0.5 FTE
Department of Labor and Employment, Division of Oil and Public Safety Regulation of Above-ground Storage Tanks CFE — Petroleum Storage Tank Fund	35,635 0.5 FTE	50,808 1.0 FTE
Total Expenditures	\$389,051 1.1 FTE	\$88,040 1.5 FTE

Local Government Impact

Highway Users Tax Fund. The exemption for E85 fuel from the state excise tax on gasoline will have a one-half year revenue impact in FY 2007-08 reducing HUTF revenue by \$499,000 and thus, will reduce local government revenue for highways.

Motor fuel taxes are deposited into the HUTF and distributed based on a statutory formula to the Colorado Department of Transportation and to counties and municipalities statewide. Out of the \$499,000 reduction in motor fuel taxes estimated for FY 2007-08, the Department of Transportation will experience a reduction of \$305,611 (61%), distributions to counties will be reduced by a total of \$144,749 (23%), and distributions to municipalities will be reduced by a total of \$78,640 (16%).

State Appropriations

The fiscal note indicates the following appropriations for FY 2007-08:

- Department of Revenue — \$4,800; (GF)
- Colorado Commission on Higher Education — \$300,000; (GF)
- Department of Regulatory Agencies — \$48,616 and 0.6 FTE; (GF) and
- Labor and Employment — \$35,635 and 0.5 FTE (CFE).

Departments Contacted

Agriculture	Governor	Higher Education
Labor and Employment	Law	Local Affairs
Natural Resources	Personnel and Administration	Public Safety
Regulatory Agencies	Revenue	