

Colorado Legislative Council Staff Fiscal Note

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 14-0619 **Date:** August 12, 2014  
**Prime Sponsor(s):** Rep. Young; Dore **Bill Status:** Signed into Law  
 Sen. Schwartz; Crowder **Fiscal Analyst:** Larson Silbaugh (303-866-4720)

**SHORT TITLE:** BIOGAS SYSTEM COMPONENTS SALES & USE TAX EXEMPTION

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b> General Fund	Reduction between \$0 and \$635,000 per year See State Revenue section.	
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None needed		

\* This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.

\*\* These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

**Summary of Legislation**

This bill creates a sales and use tax exemption for equipment used to capture biogas to be used as a renewable natural gas or the equipment used to turn biogas into electricity. Biogas is a natural by-product that is released as manure, food waste, and other organic compounds breakdown. The sales tax exemption is available for the next five years, expiring July 1, 2019.

**State Revenue**

This bill will reduce state general fund revenue by between \$0 and \$653,000 per year depending on the number and size of anaerobic digesters built that year. In a typical year, there may be no revenue impact, but at least one project that is scheduled to begin construction would have an estimated \$653,000 reduction in General Fund revenue.

**Assumptions.** Under current law, tangible personal property used to capture biogas used to produce energy is taxable for sales and use tax purposes. This bill would exempt this equipment from sales and use taxes.

In 2007, the United States Department of Agriculture and the Natural Resources Conservation Service identified 38 facilities nationwide that captured biogas to be used to produce electricity, heat, or power vehicles. These projects cost between \$25,000 and \$1.7 million to build. A 2010 report by the Environmental Protection Agency estimated that an anaerobic digester for a large dairy farm with 4,000 cattle would cost \$2.6 million to build. A digester of this size would reduce sales tax revenue by \$75,000. Based on these reports, it is not likely that an anaerobic digestion facility would be built each year, and a typical project is modest in scale. If this is the case, then this bill would have a limited revenue impact each year.

In contrast to the 2007 report, construction is expected to begin on the world's largest anaerobic digestion facility in the first quarter of 2014. The total investment in this project is expected to be \$45 million, but only a portion of that is for tangible personal property that would be subject to sales and use taxes. For this fiscal note, tangible personal property is assumed to account for 50 percent of the cost of the project in Weld County, or \$22.5 million dollars. Exempting \$22.5 million from the state sales and use tax would reduce General Fund revenue by \$653,000. If tangible personal property subject to sales taxes is greater than 50 percent of the total cost of the project, then the reduction in sales tax revenue would be larger than \$635,000. This bill is not expected to become law before construction is scheduled to begin on the biogas facility in Weld County.

If the 2007 and 2010 reports represent typical biogas facilities, then there will be a marginal revenue impact in a typical year. However, there is at least one project that is being planned that would decrease revenue by an estimated \$653,000 if tangible personal property used in the project were exempt from sales and use taxes.

### **State Expenditures**

This sales tax exemption will be administered by the Department of Revenue with existing resources.

**Assumptions.** The Department of Revenue will administer this sales and use tax exemption by issuing sales tax refunds for any sales taxes that are collected for qualified projects. Because of the low number of qualifying projects, the additional refund claims can be accommodated within existing resources.

### **Local Government Impact**

As amended in the Senate Appropriations committee, this sales and use tax exemption for local governments is voluntary so local governments are only impacted if they choose to adopt the sales and use tax exemption.

### **Effective Date**

The bill was signed into law by the Governor and took effect on May 17, 2014.

### **State and Local Government Contacts**

Revenue  
Cities

Personnel and Administration  
RTD

Counties  
Governor's Energy Office