

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 4, 2014)

Drafting Number: LLS 14-0619 **Date:** April 14, 2014
Prime Sponsor(s): Rep. Young; Dore **Bill Status:** Senate Agriculture
 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
State Revenue		(\$75,000)
General Fund		(\$75,000)
State Expenditures		
FTE Position Change		
Appropriation Required: 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

As amended in the House, 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. The sales and use tax exemption in this bill is administered as a refund in the year after the sales taxes are paid. A taxpayer can claim a refund up to \$75,000 per year, but the total refunds cannot exceed \$300,000 per year. Biogas is a natural by-product that is released as manure, food waste, and other organic compounds breakdown.

State Revenue

This bill is estimated to reduce state general fund revenue by \$75,000 in FY 2015-16. This is based on one project that is scheduled to begin construction that would pay almost \$653,000 in sales taxes in FY 2014-15 and would be eligible for the maximum refund amount of \$75,000. In a typical year, there may be no revenue impact, but there is a maximum \$300,000 impact depending on the number of anaerobic digesters that are built in a given year.

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. As amended, there is a \$75,000 cap on the amount of the exemption that can be claimed, reducing the General Fund impact of a project of this size from \$653,000 to \$75,000.

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 \$75,000 in FY 2015-16.

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 House Agriculture, Livestock, and Natural Resources 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 takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Revenue
Cities

Personnel and Administration
RTD

Counties
Governor's Energy Office