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FINAL FISCAL NOTE

Drafting Number: LLS 20-0339 Date: July 15, 2020
Prime Sponsors: Sen. Fenberg Bill Status: Postponed Indefinitely
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Bill Topic: STATEWIDE BIODIESEL BLEND REQUIREMENT DIESEL FUEL SALES

- Summary of Fiscal Impact:
- State Revenue
- TABOR Refund
- State Expenditure
- Local Government
- State Transfer
- Statutory Public Entity

This bill would have phased in a requirement that diesel sold in certain areas of the state be blended with 10 percent biodiesel by January 1, 2023. It would have increased state expenditures in FY 2020-21, and may have impacted state and local government expenditures on an ongoing basis.

Appropriation Summary: No appropriation was required as costs under the bill would have been paid from the continuously appropriated Petroleum Storage Tank Fund.

Fiscal Note Status: The fiscal note reflects the reengrossed 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 20-038

Table with 3 columns: Category, FY 2020-21, FY 2021-22. Rows include Revenue, Expenditures (Cash Funds), Transfers, and TABOR Refund.

## **Summary of Legislation**

This bill requires all diesel fuel sold or offered for sale in nonattainment areas in Colorado between June 1 and September 15 each year to be blended with a percentage of biodiesel or renewable diesel and phases in an implementation schedule as follows: diesel must contain at least 5 percent biodiesel (B5) by June 1, 2021, and at least 10 percent biodiesel (B10) by June 1, 2023. Nonattainment area means an area of the state designated by the U.S. Environmental Protection Agency (EPA) as not meeting the national ambient air quality standards. Diesel fuel used in locomotives or off-road mining equipment is exempt from these requirements.

The Division of Oil and Public Safety in the Department of Labor and Employment (CDLE) must promulgate rules to:

- establish a waiver process by which a distributor or retailer of diesel fuel or a refiner or terminal operator in Colorado may seek a temporary waiver from the blended biodiesel requirements for good cause shown, such as demonstrating an extreme disruption or limitation in the supply of diesel or biodiesel or extreme weather conditions; and
- for a bill of lading, require the labeling of biodiesel-blended fuel to reflect the percentage of biodiesel included in the blended fuel when the blend is equal to or above B5.

The division may promulgate additional rules to implement this section as necessary, which may include:

- requirements for fuel dispenser labeling for the sale of biodiesel-blended fuels; and
- requirements that refiners and terminal operators with locations in a nonattainment area offer clear diesel (B0) and that biodiesel producers with positions at refineries and terminals offer biodiesel blend stock (B100) for the purposes of ensuring supply security and enhancing federally licensed blenders' ability to meet the blended biodiesel requirements.

The bill also encourages the CDLE, the Air Quality Control Commission in the Department of Public Health and Environment (CDPHE), and the Office of Economic Development and International Trade (OEDIT) to research potential grant program implementation and incentives to promote the production of biodiesel-blended fuel in the state.

In addition, the Regional Air Quality Council, in coordination with the Colorado Department of Transportation (CDOT), is encouraged to consider utilizing existing and future federal resources to replace diesel trucks and commercial vehicles manufactured before 2010 if it finds that such replacement would result in a significant reduction in emissions of volatile organic compounds, nitrogen oxide, and other pollutants in the nonattainment area. CDOT, in consultation with the council, must analyze and assess the available supply of biodiesel in Colorado before June 1, 2023.

Finally, the bill authorizes the use of the Petroleum Storage Tank Fund for the administration of the bill and to be used for fuel quality testing; administration costs require an appropriation from the General Assembly and the testing costs are continuously appropriated to the CDLE.

## Background

According to the U.S. Energy Information Administration, over 700 million gallons of diesel was sold to an end user in Colorado in 2017. All manner of diesel fuels are administered and reported in the same way under the Colorado International Fuel Tax Agreement.

As of writing, the following Colorado counties are classified as nonattainment areas by the EPA: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, and Weld counties.

## State Expenditures

The bill will increase state cash fund expenditures in the CDLE by \$200,000 in FY 2020-21 from the Petroleum Storage Tank Fund. The bill will also increase workload in the CDPHE, OEDIT, and CDOT, and may minimally increase expenditures in agencies that use diesel fuel. These impacts are shown in Table 2 and discussed below.

**Table 2**  
**Expenditures Under SB 20-038**

	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Department of Labor and Employment</b>		
Blended Biodiesel Fuel Analyzer	\$145,600	-
Supplies for Hazardous Material Disposal	\$22,400	-
Chemicals for Fuel Testing	\$32,000	-
<b>Total Cost</b>	<b>\$200,000</b>	<b>\$0</b>

**Division of Oil and Public Safety–CDLE.** The CDLE will have one-time costs of \$200,000 in FY 2020-21 to purchase a blended biodiesel fuel analyzer and associated supplies and chemicals. The rulemaking required under the bill can be accomplished within existing resources.

**Air Quality Control Commission–CDPHE.** The Air Quality Control Commission (AQCC) will research grants and incentives. This workload increase requires no change in appropriations.

**OEDIT.** Similar to the AQCC, OEDIT will have an increase in workload to research grants and incentives related to biodiesel use; no change in appropriations is required.

**CDOT.** CDOT will analyze and assess the available supply of biodiesel in the state. Any additional funding required for this effort will be allocated from the State Highway Fund by the Transportation Commission.

**Other state agencies.** Beginning in FY 2020-21, state agencies that operate or maintain diesel vehicles and generators, including, but not limited to, the Departments of Corrections, Natural Resources, Personnel, and Transportation, may have a minimal increase in diesel costs. As the cost of fuel is always in flux, it is assumed that no change in appropriations is required.

**Local Government**

Like the state, local governments that operate or maintain diesel vehicles and generators in nonattainment areas may have a minimal increase in diesel costs.

**Effective Date**

The bill was postponed indefinitely by the House Energy and Environment Committee on May 28, 2020.

**State Appropriations**

The Petroleum Storage Tank Fund is continuously appropriated to the CDLE for certain expenditures, including the fuel testing expenditures permitted and required by the bill. No appropriation is required.

**State and Local Government Contacts**

Colorado Energy Office	Corrections	Counties
Labor	Law	Military Affairs
Municipalities	Natural Resources	Personnel
Public Health	Public Safety	Regulatory Agencies
Revenue	Special Districts	Transportation

**Greenhouse Gas Emissions Report**

Legislative Council Staff has prepared a Greenhouse Gas Emissions Report for this bill. To access the report or check its status, please visit the General Assembly website using the link below:

<https://leg.colorado.gov/agencies/legislative-council-staff/greenhouse-gas-reports>