

**RECOMMENDATIONS FOR 2006**

**INTERIM COMMITTEE ON  
RURAL ECONOMIC DEVELOPMENT  
ISSUES**

**Report to the  
Colorado General Assembly**

**Research Publication No. 544  
December 2005**

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December 2005

To Members of the Sixty-fifth General Assembly:

Submitted herewith is the final report of the Interim Committee on Rural Economic Development Issues. This committee was created pursuant to House Joint Resolution 05-1055. The purpose of the committee is to study economic issues facing rural Colorado, including economic development, retention of employees, and access to technology.

At its meeting on November 15, 2005, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills herein for consideration in the 2006 session was approved.

Respectfully submitted

/s/ Senator Joan Fitz-Gerald  
Chairman

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**INTERIM COMMITTEE ON  
RURAL ECONOMIC DEVELOPMENT  
ISSUES**

**Members of the Committee**

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Representative Rafael Gallegos	Senator Lewis Entz
Representative Cory Gardner	Senator Joan Fitz-Gerald
Representative Wes McKinley	Senator Ken Kester
Representative Ray Rose	Senator Brandon Shaffer
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# EXECUTIVE SUMMARY

## **Committee Charge**

Pursuant to House Joint Resolution 05-1055, the Interim Committee on Rural Economic Development Issues was charged with studying economic issues facing rural Colorado including economic development, retention of employees, and access to technology. For committee purposes, HJR 05-1055 defines "rural" as:

- counties with less than 15,000 population;
- municipalities of less than 15,000 that are located ten miles or more from a municipality of over 15,000; and
- the unincorporated part of a county ten miles or more from a municipality of 15,000 or more.

The committee's charge included the study of:

- the availability and quality of jobs in the rural services and manufacturing sectors;
- difficulties in recruiting and retaining rural professionals;
- whether improving the urban-rural telecommunications infrastructure will result in an improved rural economy; and
- the hardships caused to small businesses and family farms by the estate tax and the economic benefits of repealing the estate tax.

## **Committee Activities**

The Interim Committee on Rural Economic Development Issues held seven meetings during the 2005 interim. Of these seven meetings, the first meeting and the last two meetings were held at the Capitol. The remaining four meetings were held in each of the four geographic quadrants of the state — southeast quadrant, Lamar; southwest quadrant, Alamosa; northeast quadrant, Greeley; and northwest quadrant, Grand Junction.

The committee heard presentations from a number of urban and rural groups, state and local government officials, individuals, businesses, nonprofit organizations, and health care providers that discussed the following: (1) the impact of wind energy development in southeast Colorado; (2) ethanol and biodiesel use as renewable fuels; (3) the importance of rural transportation corridors; (4) the role of rural community colleges in regional economies; (5) the benefit of revolving loan fund programs to rural businesses; (6) issues concerning the accessibility and delivery of health care services in rural communities; (7) issues tied to the hiring and retention of rural health care professionals; (8) rural airport impacts on regional economies; (9) historic railroads and their role in stimulating rural

economies; (10) the effect of the federal estate tax on farm and ranch properties in Colorado; (11) the role of long-term care facilities in rural communities; (12) new hospital district impacts in rural communities; (13) the benefits of value-added agricultural manufacturing; (14) the impact of the energy, mining, and oil and gas industries in Northwestern Colorado; (15) the role of workforce development agencies in rural regional economies; (16) the importance of affordable housing for rural workforce development; (17) the role of the recycling industry in rural parts of Colorado; (18) the importance of access to technology in rural communities; (19) the value of the state enterprise zone program to rural businesses; and (20) the use of biofuels to provide supplemental or exclusive heating or power in state buildings.

The following sections provide background information on issues the committee had lengthy discussions or focused on. Although the committee recommended only three measures, the committee engaged in discussions about legislation concerning each of the following policy issues. These issues included:

- ethanol and biodiesel legislation;
- the impact of the federal estate tax on Colorado farms and ranches; and
- Colorado's Enterprise Zone Program.

### **Ethanol and Biodiesel Fuels**

The committee spent a significant amount of time hearing testimony and discussing legislation that encouraged the use of biofuels, namely ethanol and biodiesel. The committee heard from a number of interested persons and organizations that represented the Colorado Petroleum Association, the ethanol industry, and government officials that oversee the building and energy-related development of state and municipal government buildings. Representatives from Colorado Corngrowers and small farms and ranches in rural Colorado also commented on the benefits of biofuels. The committee adopted 3 bills that encourage the use of biofuels.

Ethanol is a gasoline additive generally made from corn that can also be produced from sugar cane, sugar beets, trees, agricultural waste, or municipal waste. Ethanol is an oxygenate which has been added to gasoline since 1979 to increase octane and reduce air pollution by making the gasoline burn more efficiently.

Biodiesel is an oxygenated fuel defined as the "monoalkyl esters of long chain fatty acids derived from plant or animal matter." Biodiesel is derived solely from virgin oils, including esters derived from virgin vegetable oils of corn, soybeans, sunflower seeds, cottonseeds, canola, rapeseed, safflower, flaxseed, rice bran, mustard seeds, and animal fats. To develop legislation, committee members looked at what other states do to provide incentives to biofuel manufacturers, suppliers, retailers, and consumers.

***Biofuels incentives in other states.*** To promote ethanol as a renewable transportation fuel, three states, Hawaii, Minnesota, and Montana, have mandated a

statewide 10 percent ethanol blend by volume with conventional gasoline. Minnesota was the first state to enact a 10 percent ethanol mandate in 1997. In 2002, Minnesota became the first state to enact legislation that would require nearly all diesel fuel sold in the state to contain at least 2 percent biodiesel fuel oil by 2005. Legislation was enacted in 2005 to increase the ethanol blend requirement to 20 percent beginning in 2013.

In regard to a mandate that requires a state vehicle fleet to use a renewable fuel, Iowa and Kansas require state fleet vehicles to use a 10 percent ethanol blend. Iowa's mandate requires that the 10 percent blend be used if it costs less than \$0.11 per gallon more than conventional fuel; Kansas mandates the 10 percent blend when commercially available.

### **Federal Estate Tax**

The committee was charged with studying the hardships caused to small businesses and family farms by the estate tax and the economic benefits of repealing the estate tax. Groups that testified before the committee to address issues tied to the federal estate tax and its impact on Colorado farms and ranches included the Colorado Cattlemen's Association, the Colorado Cattlemen's Agricultural Land Trust, and the Colorado Farm Bureau. The committee did not recommend legislation that affected this issue.

In an analysis conducted earlier this year, the Congressional Research Service investigated the extent of the risk that family-owned farms and businesses would have to liquidate in order to pay the estate tax. In 2002, 1.3 percent of all U.S. deaths resulted in a taxable estate. According to an analysis by the U.S. Treasury Department, 1.4 percent of all taxable estates met the definition of a family-owned farm and 1.6 percent of all taxable estates met the definition of a family-owned business in 1998. Based on an analysis of this data and the results of a 1992 National Bureau of Economic Research paper, the Congressional Research Service concluded that about "a percent or so" of the heirs of family-owned farms and businesses would be forced to liquidate in order to pay their estate tax bill. This risk will likely be reduced as the threshold on the size of a taxable estate increases through 2009.

The risk of a family-owned farm or business in rural Colorado having to liquidate in order to pay the estate tax is not readily apparent. A total of 971 estates were large enough to owe estate taxes in Colorado during 2002. Assuming the analysis above is correct and can be applied to Colorado, an average of fewer than one family-owned farm per year would be at risk of liquidation, based on the estate tax as it was in 2002. The number of taxable estates in Colorado decreased to 572 in 2004. The reduction in the number of taxable estates was likely due in part to the increase in the threshold to determine a taxable estate during that time period. Thus, the risk of liquidation may have been reduced since 2002. According to the Colorado Department of Agriculture, 11.5 percent of all agricultural operations in Colorado used at least 2,000 acres and 3.2 percent

produced sales worth at least \$500,000 in 2002. Among all agricultural operations, 87 percent were owned by individuals and 6.7 percent were partnerships.

### **Enterprise Zone Program**

The committee heard testimony of representatives from rural economic development groups and rural small business owners on the value of the state enterprise zone program to rural businesses. The program allows taxpayers incentives for certain types of economic activities in these zones that generally involve investment in plant and equipment. The committee discussed a bill that would have provided a state income tax credit for manufacturers who produce biodiesel fuel in enterprise zones. The committee did not recommend that the legislation go forward.

### **Committee Recommendations**

The committee discussed and deliberated five legislative proposals of which the following three were recommended for consideration during the 2005 legislative session.

***Bill A — Ethanol Gasoline Blend Requirements.*** Bill A phases in a requirement that all gasoline sold in Colorado be blended with ethanol and contain at least a specified percentage of ethanol by volume as follows:

- 5 percent by January 1, 2007; and
- 10 percent by January 1, 2009.

If federal law and guidelines allow, and if doing so does not void an automobile manufacturer's warranty, the percentage of ethanol by volume must be:

- 15 percent by January 1, 2011, or at such time after this date when the Division of Oil and Public Safety certifies that the criteria in the act have been met; and
- 20 percent by January 1, 2013, or at such time after this date when the Division of Oil and Public Safety certifies that the criteria in the act have been met.

Conventional (non-oxygenated) gasoline at the unleaded premium grade, may be sold at an airport, marina, mooring facility, or resort, for use in aircraft. Retail gasoline stations may also dispense unleaded premium grade gasoline for use in collector vehicles, off-road vehicles, motorcycles, boats, snowmobile, or small engines. The legislation also allows a person to sell or deliver unleaded premium gasoline to a bulk fuel storage tank if certain conditions are met. Non-oxygenated gasoline may be sold at a public or private racecourse if used as fuel for off-highway motor sports racing events.

Bill A requires the Executive Director of the Department of Personnel to enact a policy requiring all state-owned vehicles and equipment to use the above scheduled fuel blends of ethanol and gasoline. The policy must be adopted by January 1, 2007. The ethanol and gasoline fuel blends are to be used if the price is no greater than 10 cents per gallon more than the price of gasoline. The legislation also requires the department to purchase flexible-fuel vehicles whenever possible. Flexible-fuel vehicles are vehicles that can operate on gasoline, E85 fuel, or a mixture of both. The term E85 fuel means a motor fuel blend that consists of 85 percent ethanol and 15 percent gasoline.

**Bill B — Biodiesel Fuel in State-Owned Diesel Vehicles.** Bill B requires the Executive Director for the Department of Personnel to establish a policy requiring all state-owned diesel vehicles and equipment to use a fuel blend of at least 20 percent biodiesel and 80 percent petroleum diesel subject to availability. The policy must be adopted by January 1, 2007. Under the legislation, the department is responsible for the administration, implementation, and enforcement of the policy and must use the fuel blend only if the cost is no greater than 10 cents per gallon more than the price of petroleum diesel fuel.

**Bill C — Use of Biofuels in State Buildings.** Bill C requires that the life-cycle cost analysis for each state-owned or state-assisted facility include an analysis of the use of biofuels to provide supplemental or exclusive heating, power, or both for each major facility. The legislation defines biofuels as nontoxic plant matter consisting of agricultural or silvicultural crops or their byproducts, urban wood waste, mill residue, slash, or brush.

The life-cycle cost analysis is an evaluation of the cost alternatives over the economic life of a facility that include the initial cost, the cost of energy consumed, replacement costs, and the cost of operation and maintenance of a facility (Section 24-30-1301 (9), C.R.S.). The purpose of the life-cycle cost is to promote a policy to insure that energy conservation practices are employed in the design of state-owned and state-assisted facilities (Section 24-30-1304 (2), C.R.S.).

# STATUTORY AUTHORITY AND RESPONSIBILITIES

House Joint Resolution 05-1055 created the Interim Committee on Rural Economic Development Issues to study economic issues facing rural Colorado including economic development, retention of employees, and access to technology. The committee, which met seven times during the 2005 interim, consisted of ten members from the General Assembly and two non-members — one of which was a county commissioner and the other a town trustee; both from rural local governments. For committee purposes, HJR 05-1055 defines "rural" as:

- counties with less than 15,000 population;
- municipalities of less than 15,000 that are located ten miles or more from a municipality of over 15,000; and
- the unincorporated part of a county ten miles or more from a municipality of 15,000 or more.

The committee was charged to study:

- the availability and quality of jobs in the rural services and manufacturing sectors;
- difficulties in recruiting and retaining rural professionals;
- whether improving the urban-rural telecommunications infrastructure will result in an improved rural economy; and
- the hardships caused to small businesses and family farms by the estate tax and the economic benefits of repealing the estate tax.

Legislative Council Staff and the Office of Legislative Legal Services were directed to assist the committee in carrying out its duties.

## COMMITTEE ACTIVITIES

The committee held seven meetings; three meetings took place at the Capitol and four were split among each of the geographic quadrants of the state. Three bills were recommended for the 2006 legislative session. The committee heard presentations from local and state government officials, urban and rural economic development groups, individuals, businesses, nonprofit organizations, and health care providers.

A number of county commissioners from rural areas stressed that it is important for the state to support the future development of wind generation facilities, renewable energy sources, transportation corridors, and new development projects that promote the economic vitality of rural communities. In addition, local government and state officials discussed the use of biofuels to provide supplemental or exclusive heating, power, or both for state buildings.

Officials from rural community colleges commented on the benefits rural colleges bring to rural economies and the challenges these institutions face given the recent state budget reductions.

Representatives from urban and rural economic development groups commented on the reliance businesses place on Colorado's Enterprise Zone Program and a good transportation infrastructure. Also discussed were the importance of accessible health care, workforce development programs, the need for high-speed Internet capabilities, and the role of affordable housing in rural communities. Economic development groups in Northwest Colorado also talked about the challenges rural regions face when balancing the interests of energy development and communities.

Other groups representing the agricultural industry in Colorado discussed the state role in promoting biofuels such as ethanol and biodiesel. Corn and canola were the main crop-sources discussed for producing ethanol and biodiesel, respectively (although there are a number of other sources for biofuels). Agricultural groups also voiced concern about the impact of the federal estate tax on Colorado farms and ranches.

Health care providers commented on the importance of the following: affordable health care insurance for rural employers as a tool to retain health care professionals; Internet capabilities that are essential for the delivery of certain health care services; the demographic changes that challenge rural health care providers; the role that long-term health care facilities play in rural communities; the value and services provided by state veteran centers in rural communities; Medicaid reimbursement issues; and the value new hospital districts bring to rural communities.

Small business owners and individuals commented on the importance of the 3 percent investment tax credit allowed by the state enterprise zone program, the value of small rural airports to business development, value-added manufacturing processes,

historic railroads and their role in stimulating rural economies, the role of the recycling industry in rural parts of Colorado, and the processing of renewable fuels.

Following is a summary of committee issues and discussions that were the focus of the committee's work. For some of the sections, background information is provided. The background section is followed by a review of the discussions the committee had with respective parties that had an interest in a specific issue. The first section on biofuels (ethanol and biodiesel) was the only issue discussed that led to committee legislation. In total, the committee discussed six bills that affected the ethanol and biodiesel (biofuels) industries; three of which were recommended.

### **Biofuels — Ethanol/Biodiesel Vehicle Fuels and Biofuels Use in State Buildings**

The committee spent a significant amount of time hearing testimony and discussing legislation that encouraged the use of biofuels, namely ethanol and biodiesel. The committee heard from a number of interested persons and organizations that included Colorado Corngrowers, individual farmers, the Colorado Petroleum Association, representatives of the ethanol industry, biodiesel manufacturers in Colorado, and government officials that oversee the building and energy-related development of state and municipal government buildings.

#### **Background**

Ethanol is a gasoline additive generally made from corn. It can also be produced from sugar cane, sugar beets, trees, agricultural waste, or municipal waste. Ethanol is an oxygenate which has been added to gasoline since 1979 to increase octane and reduce air pollution by making the gasoline burn more efficiently.

Biodiesel is an oxygenated fuel defined as the "monoalkyl esters of long chain fatty acids derived from plant or animal matter." Biodiesel is derived solely from virgin oils, including esters derived from virgin vegetable oils of corn, soybeans, sunflower seeds, cottonseeds, canola, rapeseed, safflower, flaxseed, rice bran, mustard seeds, and animal fats. To develop legislation, committee members looked at what other states did to provide incentives to biofuel manufacturers, suppliers, retailers, and consumers.

***Biofuels incentives in other states.*** To promote ethanol as a renewable transportation fuel, three states, Hawaii, Minnesota, and Montana, have mandated a statewide 10 percent ethanol blend by volume with conventional gasoline. Minnesota was the first state to enact a 10 percent ethanol mandate in 1997. In 2002, Minnesota was the first state to enact legislation that would require nearly all diesel fuel sold in the state to contain at least 2 percent biodiesel fuel oil by 2005. Legislation was enacted in 2005 to increase the ethanol blend requirement to 20 percent beginning in 2013.

In addition to the states that mandate the use of renewable fuels, Iowa and Kansas require state fleet vehicles to use a 10 percent ethanol blend. Iowa's mandate requires that the 10 percent blend be used if it costs less than 11 cents per gallon more than conventional fuel; Kansas mandates the 10 percent blend when it is commercially available.

Other states also provide incentives for ethanol and biodiesel by providing exemptions from state excise taxes, producer credits, and other tax advantages. Some states require that a given state's grain crop be used for the production of either ethanol or biodiesel and tie increased production requirements to tax incentives.

For ethanol incentives, seven of 19 states researched offer exemptions from state excise taxes that range from 1 cent per gallon in Iowa and Connecticut to 6 cents per gallon in Alaska. Maine exempts both ethanol and biodiesel from the state's motor fuel excise tax. Twelve of 19 states offer a producers credit that ranges from 5 cents per gallon in Pennsylvania to 40 cents per gallon in North Dakota and Wyoming.

For biodiesel incentives, two of five states, Arkansas and North Dakota, provide a state income tax credit to biodiesel suppliers for facilities and equipment used directly in the wholesale or retail distribution of biodiesel fuels. One state, Indiana, offers a state income tax credit for taxpayers that are producers, dealers, or operators of facilities located in Indiana. Another state, Missouri, offers biodiesel producers monthly grants from the Missouri Qualified Biodiesel Producer Incentive Fund to promote biodiesel technology.

## **Committee Discussions**

Regarding biofuels (ethanol and biodiesel), the committee heard presentations and held discussions on national and state production levels, market penetration, benefits, and concerns that representatives from the oil industry have about biofuels use in Colorado. The committee also held discussions on the use of biofuels for use as heating and power sources in state buildings.

***Ethanol blended gasoline.*** Ethanol industry representatives maintained that currently, there are 91 operating ethanol plants and 18 plants under construction in the United States that produce nearly 4 billion gallons of ethanol annually. In Colorado, there are plants proposed in Evans, Windsor, and Yuma that when completed, would produce nearly 200 million gallons of ethanol annually. Ethanol plants are being constructed in many other states as well.

Representatives from the oil industry maintained that the use of ethanol-blended gasoline is increasing and currently makes up about 85 percent of all gasoline blended in the Denver area.

Committee discussions focused on incentives that other states provide for ethanol producers and ultimately whether ethanol-blended gasoline would reduce the pump price

of gasoline in Colorado. Also discussed was the 2005 federal energy bill that provides federal tax credits to ethanol producers.

In presentations, the committee heard that ethanol-blended gasoline is available in the Denver area, could result in cleaner air during the winter months, and could make the United States less dependent on foreign oil sources. The committee also heard that new ethanol production plants could result in more direct and secondary jobs and provide additional tax revenues for rural local governments in Colorado.

The committee also engaged in discussions about the current 10 percent ethanol mandate imposed during winter months under the federal Clean Air Act and the potential benefits tied to year-round ethanol-blend usage. The committee also entertained discussions on whether ethanol blends greater than 10 percent could be phased in over time given the fact that blends over 10 percent may void auto manufacturers' engine warranties. Also discussed was the future shift to E85 vehicles. An E85 vehicle is a vehicle capable of running on a motor fuel blend that consists of 85 percent ethanol and 15 percent gasoline. Representatives from the ethanol industry mentioned that there are about 30 E85 vehicle models already manufactured in the United States.

Representatives from the Colorado Petroleum Association maintained that the ethanol mandates under the federal Clean Air Act have worked toward cleaner air in Denver during the winter months. The association questioned whether an ethanol mandate is needed, they argued that the marketplace is the most effective way to govern the production and usage of ethanol-blended gasoline in Colorado. Another concern is that ethanol blends that exceed 10 percent require a waiver from the Environmental Protection Agency (EPA) and waivers may not be possible to obtain if the federal agency believes that air quality would be compromised.

Finally, another concern voiced by the association is that currently, our nation imports ethanol from other countries such as Brazil to keep up with national demand. This may change as more ethanol plants are built in the United States.

***Biodiesel.*** Manufacturing representatives from the biodiesel industry informed the committee about research that found that canola is the product of choice for biodiesel manufacturers. Canola was mentioned as a preferable crop to grow because it requires much less water than other crops used for biodiesel production. Industry representatives also discussed a new biodiesel manufacturing operation in Southwest Colorado estimated to generate about \$45.1 million in annual economic activity and create about 239 net new jobs for the regional economy. Industry reports indicate that current diesel production is about 3.8 billion gallons each year in the Rocky Mountain region.

***Biofuels use in state buildings.*** The committee also discussed legislation that would require a life-cycle cost analysis for each state-owned or state-assisted facility to include an analysis of the use of biofuels to provide supplemental or exclusive heating, power, or both for each major facility. The legislation defines biofuels as nontoxic plant

matter consisting of agricultural or silvicultural crops or their byproducts, urban wood waste, mill residue, slash, or brush.

One local government official from Summit County commented on a feasibility study that looks at the use of biofuels for heating government buildings. The committee also discussed the variables that affect the cost of biofuels such as availability, transportation costs, and the type of combustible fuels used by different heating systems.

The life-cycle cost analysis is an evaluation of the cost alternatives over the economic life of a facility that includes the initial cost, the cost of energy consumed, replacement costs, and the cost of operation and maintenance of a facility (Section 24-30-1301 (9), C.R.S.). The purpose of the life-cycle cost analysis is to promote a policy to insure that energy conservation practices are employed in the design of state-owned and state-assisted facilities (Section 24-30-1304 (2), C.R.S.).

***Committee recommendation.*** In response to committee presentations and discussions on biofuels, the committee discussed six bills, of which three were adopted.

Of the three bills not recommended, one bill would have provided a temporary, transferable, 10-year state income tax credit for taxpayers who grow crops used for either ethanol or biodiesel fuels. The committee proposed that the credit be capped at \$20,000 and be equal to a 10 cent per gallon credit.

A second bill would have provided taxpayers who are either biodiesel producers or manufacturers a transferable state income tax credit. This temporary, 10 year credit would have been capped at \$200,000 and equal to a 10 cent per gallon credit.

The committee also discussed legislation that would have established a revolving loan and grant program to fund the construction of ethanol manufacturing plants. Legislation was debated but not recommended after the committee found that the state and federal government have programs in place that could be used to fund renewable energy plant construction.

The committee recommended three of six bills that promote the use of biofuels as follows:

- Bill A — phases in a requirement that all gasoline sold in Colorado be blended with ethanol; requires the Executive Director for the Department of Personnel to establish a policy requiring all state-owned vehicles and equipment to use specified ethanol-fuel blends under certain conditions.
- Bill B — requires the Executive Director for the Department of Personnel to establish a policy requiring all state-owned diesel vehicles and equipment to use a fuel blend of at least 20 percent biodiesel and 80 percent petroleum diesel subject to availability and certain conditions; and

- Bill C — requires that the life-cycle cost analysis for each state-owned or state-assisted facility include an analysis of the use of biofuels to provide supplemental or exclusive heating, power, or both for each major facility.

## **Federal Estate Tax — Effect on Ranches and Farms in Colorado**

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The committee was charged with studying the hardships caused to small businesses and family farms by the estate tax and the economic benefits of repealing the estate tax. Groups that testified before the committee to address issues tied to the federal estate tax and its impact on Colorado farms and ranches included the Colorado Cattlemen's Association, the Colorado Cattlemen's Agricultural Land Trust, and the Colorado Farm Bureau. During several meetings, the committee engaged in lengthy debate about the permanent phase-out of the federal estate tax. Representatives from the agricultural industry and other groups speaking for ranchers voiced the concern that the tax has forced the sale of farms and ranches in Colorado to pay the tax.

### **Background**

Colorado receives its estate tax revenue through a credit allowed in the federal estate tax and does not impose any additional taxes on its citizens. In 2001, Congress passed the Economic Growth and Tax Relief Reconciliation Act, which phases out the federal estate tax through 2009 and repeals it in 2010. The phase-out eliminates the state tax credit beginning in 2005. Thus, for deaths that occur in 2005 through 2009, Colorado will no longer receive any estate tax revenue. Federal law is scheduled to revert on January 1, 2011. If that occurs, Colorado would again receive estate tax revenue. Because Colorado's estate tax is allowed as a credit against the federal estate tax, elimination of the state's estate tax would not save taxpayers any money.

The estate tax is levied on the transfer of assets that occurs after someone dies. In 2005, estates valued at more than \$1.5 million must file an estate tax return. This threshold will increase to \$2.5 million in 2006 and \$3.0 million in 2009. A credit is given that effectively exempts that portion of the estate that falls below the filing threshold, so that only that portion of the estate's value above the threshold is taxed. For example, an estate worth \$1.75 million in 2005 would receive a credit that would effectively exempt the first \$1.5 million from taxation.

***Family-owned farms and small businesses.*** In order to reduce the risk that heirs of family-owned farms and businesses may need to liquidate their farm or business in order to pay the estate tax, Congress has included two special rules for family-owned farms and businesses in the estate tax code. The first rule allows the farm or business to value its land based on how it is currently used rather than at fair market value. The amount by which the value may be reduced below fair market value is capped. In 2004, the market value was allowed to be reduced by a maximum of \$850,000. The maximum reduction increases each year by inflation. The land must continue to be used in the same

way it was being used prior to the person's death for at least a decade following the transfer of land.

The second rule allows family-owned farms and businesses to defer the payment of estate taxes for up to five years, after which the taxes may be paid in installments for up to ten years. A portion of the deferred tax bill is assessed a two percent interest rate. The family-owned farm or business must constitute at least 35 percent of the estate to take advantage of the installment plan, with only that portion of the estate attributed to the farm or business qualifying. According to the Colorado Department of Revenue, 21 estates in Colorado currently owe a total of \$2.2 million on the installment plan. Of these, 12 are farms, three are ranches, and one is a business in a rural county.

In an analysis conducted earlier this year, the Congressional Research Service investigated the extent of the risk that family-owned farms and businesses would have to liquidate in order to pay the estate tax. In 2002, 1.3 percent of all U.S. deaths resulted in a taxable estate. According to an analysis by the U.S. Treasury Department, 1.4 percent of all taxable estates met the definition of a family-owned farm and 1.6 percent of all taxable estates met the definition of a family-owned business in 1998. Based on an analysis of this data and the results of a 1992 National Bureau of Economic Research paper, the Congressional Research Service concluded that about "a percent or so" of the heirs of family-owned farms and businesses would be forced to liquidate in order to pay their estate tax bill. This risk will likely be reduced as the threshold on the size of a taxable estate increases through 2009.

The risk of a family-owned farm or business in rural Colorado having to liquidate in order to pay the estate tax is not readily apparent. A total of 971 estates were large enough to owe estate taxes in Colorado during 2002. Assuming the analysis above is correct and can be applied to Colorado, an average of fewer than one family-owned farm per year would be at risk of liquidation, based on the estate tax as it was in 2002. The number of taxable estates in Colorado decreased to 572 in 2004. The reduction in the number of taxable estates was likely due in part to the increase in the threshold to determine a taxable estate during that time period. Thus, the risk of liquidation may have been reduced since 2002. According to the Colorado Department of Agriculture, 11.5 percent of all agricultural operations in Colorado used at least 2,000 acres and 3.2 percent produced sales worth at least \$500,000 in 2002. Among all agricultural operations, 87 percent were owned by individuals and 6.7 percent were partnerships.

### **Committee Discussions**

The general theme from presenters who discussed the federal estate tax was related to the need for Congress to permanently repeal the tax. Advocates for repeal maintained that the tax ultimately led to the destruction of small farms as they pass from one generation to another. The federal tax forces farms and ranches to be sold for development to pay the tax.

*No committee recommendation.* The committee debated a resolution that would ask Congress to permanently repeal the federal estate tax but it was not recommended.

## **Wind Generation Facilities**

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During the committee's second rural meeting in Lamar, Colorado, it heard presentations on the benefits of wind generation as an alternative renewable energy source. Representatives from local governments, rural economic development groups, rural electric cooperatives, and Xcel Energy commented on the potential economic benefits of wind generation facilities to rural communities.

### **Background**

Economic development impacts from wind farms may be divided into two categories:

- local economic impacts from the construction and operation of the facility; and
- fiscal impacts on local government tax revenue.

*Local economic impacts.* Typically, local economies receive benefits from wind power facilities in two separate phases: 1) facility construction, and 2) facility operation. Wind power plants typically provide short-term employment during construction and long-term employment for the ongoing operation and maintenance of the facility.

The construction period is often relatively short at one year or less. However, some facilities such as the Ponnequin wind farm along the Wyoming border are built out over several years. Specific impacts on the local economy from the construction phase include:

- construction jobs associated with facility build-out;
- spending on construction materials (i.e. gravel, concrete); and
- food and lodging expenditures for any non-local labor brought into the area during the construction period.

Once the facility becomes operational, jobs and spending associated with the operation and maintenance of the facility will continue to provide local economic benefits over the long run. Specific impacts for the local economy from the operations phase include:

- jobs associated with the operations and management of the wind power plants;
- spending on equipment, maintenance, and materials to operate the wind turbines; and
- lease payments to property owners that rent land for the wind turbines.

The above impacts are known as direct impacts - that is the direct infusion of jobs or money into the local economy. This infusion also results in "ripple effects" with further benefit to the local economy. These effects stem from subsequent expenditures for goods and services. For instance, a construction contractor working on a wind farm project leases equipment or purchases supplies locally. Further, employee's of these businesses will spend a portion of their earnings locally, creating additional economic impacts. The degree to which these "secondary" impacts occur depends largely on the diversity of the local economy and its ability to capture these additional expenditures. A full assessment of the local economic impacts of the wind power facility should consider all of these factors. There are also negative impacts related to these projects such as more cars on the roads, more children in the schools, and the need for other services.

*Tax impacts for local governments.* Specific revenue impacts for local governments will depend entirely upon the particular tax policies of each jurisdiction. Local governments will also face a greater demand for services. The following potential tax revenue impacts were identified in the studies that were reviewed:

- personal property taxes paid on the wind turbines;
- real estate taxes paid by landowners; and
- local sales tax impacts.

Personal property tax payments for wind power projects are based on the installed capital cost of the wind plants and often represent the largest impact to the local tax base. Because wind farms are typically more capital intensive than other forms of energy generation on a per mega-watt basis, they provide greater property tax revenues per mega-watt.

Real estate taxes are paid by landowners, and since the land that wind power projects stand on is generally leased, landowners pay these taxes. Real estate tax impacts will depend upon any changes in the assessed value of the land resulting from the installation of the wind farm.

The sales tax impact stems from two sources. The primary source of sales taxes is the construction and operation and maintenance crews' local purchases of equipment and supplies, including hardware and convenience items. The second source of sales taxes is the potential increase in local disposable income for both landowners and project employees, which could be used for local expenditures.

### **Committee Discussions**

Local government officials who commented on wind generation facilities informed the committee that steady rural economic growth depends upon low-cost reliable energy production. Wind generation facilities provide low-cost energy to local consumers.

The committee also heard concerns about the state's extensive regulation that has resulted in wind generation and power plants being built in neighboring states such as Kansas or Nebraska rather than Colorado.

The committee discussed the competitive markets in Colorado and other states for wind generation projects and the importance of an infrastructure at the site to transmit power from the site to end-users. Local government officials commented that contractors that build wind generation facilities might be able to get a project up and running faster in Kansas than Colorado because the permitting process is more complicated in Colorado than neighboring states. The committee discussed ways to expedite the permitting process to gain a competitive edge over competitors in other states.

In addition to wind energy projects, the committee heard testimony from local government officials on localized energy projects such as coal-fire power facilities that rely on dependable rail-line services. One issue discussed by the committee and officials is the significant funding needed to construct the transmission lines that are used to transmit energy from the power facility source to the end-user. The committee discussed the use of Private Activity Bonds for this purpose but later found that new federal funding sources were made available through the recent federal 2005 energy legislation.

*No committee recommendation.* The committee recommended no legislation based on these discussions and suggestions.

### **Recruiting/Retaining Rural Professionals — Rural Health Care Issues**

The committee was charged with studying the difficulties in recruiting and retaining rural professionals. Many economic development groups, small business owners, individuals, health care providers, and representatives from rural hospitals, long-term health facilities, nurse associations and state veteran centers testified on issues that were critical to hiring professionals in rural parts of Colorado. In addition, the committee was briefed on the deficiency of nursing program instructors at the University of Northern Colorado that is adding to Colorado's critical nursing shortage.

#### **Committee Discussions**

Presenters told the committee that one of the main concerns tied to recruiting and retaining workforce professionals is the ability of an employer to offer affordable health insurance. Regarding health care professionals, the committee heard that there is an acute shortage of nurse practitioners in rural Colorado, it is difficult to recruit physicians to work in rural communities, and there is a disparity between the salary paid to rural and urban health care professionals. Generally, rural professionals are paid less. Testimony indicated that in most rural settings, physicians work long hours every day of the week because there is a lack of health care providers. This creates a disincentive for younger,

urban physicians to relocate to rural areas to practice medicine. Also, in addition, in some rural communities, recruiting physicians to work in older, rural hospitals is difficult.

The committee also heard testimony from officials at the University of Northern Colorado comment on the severe nursing shortage in Colorado. One issue fueling the shortage is the significant lack of Masters and PhD faculty to teach nursing courses at the university level. The committee learned that the university is turning away hundreds of students each year who apply for the nursing program because the school does not have the instructors to teach the classes. The shortage of instructors is attributed to the lower salaries they receive when compared to practicing Registered Nurses. Over time, educator salaries are adjusting to market forces. But it may take time for these salaries to edge upward and be more closely aligned with nurses working in large urban hospitals.

The committee engaged in discussions about ways to entice professionals to work in rural regions of Colorado. Persons testifying commented that state grants and tax incentives may to one way to make rural professional positions more attractive to urban professionals.

Health care providers from long-term facilities informed the committee that they struggle to provide services in rural areas because of the lack of an educated work force, the need for improved transportation networks, and the disparity in state Medicaid reimbursement rates from region to region. The Medicaid reimbursement issue becomes more significant when a hospital receives lower reimbursement levels than other regional hospitals and has more than 50 percent of its client-base made up of Medicaid patients.

*No committee recommendation.* The committee recommended no legislation based on these discussions and suggestions.

## **Telecommunications Infrastructure — High-Speed Internet Capabilities**

Health care providers, small businesses, representatives from urban and rural economic development groups, state and local government officials, and representative from rural colleges commented on the importance of building and extending high-speed Internet capabilities in rural communities.

### **Committee Discussions**

Health care providers commented that Internet capabilities are vital to health care professionals because they allow access to essential health care information.

Presenters who worked in the TeleHealth field suggested that the state should work to enhance telecommunications infrastructures in rural regions of Colorado. Internet capabilities provide technical assistance to businesses, hospitals, and communities.

Many small business owners, including Internet providers, discussed the relationship between building rural Internet capacity and job creation. The Internet allows small businesses to flourish without having its owners relocate to urban city-centers. Increased rural Internet capacity may allow people to remain in rural communities rather than relocate to urban areas to find jobs.

*No committee recommendation.* The committee recommended no legislation based on these discussions and suggestions.

### **Rural Transportation Corridors — Ports-to-Plains Corridor**

Local government officials commented on the Ports-to-Plains Corridor and the economic impact of freight corridors in the eastern plains over the next 20 years. Administrators pointed out that the economic impacts are only realized if the project can move forward on the schedule approved by the plan.

#### **Background**

In 1998, the Ports-to-Plains Corridor was identified as Federal High Priority Corridor No. 38 as part of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21). The Corridor extends from Laredo, Texas through Lubbock Texas. In Colorado, it follows US 40/287 from the Colorado-Oklahoma border through Lamar to Limon and then follows Interstate 70 from Limon to Denver.

#### **Committee Discussions**

The committee heard testimony on the economic impact of improvements to the Ports-to-Plains Corridor such as lane-widening and bridge improvements. The committee discussed the federal transportation money that was appropriated in the current federal fiscal year. Also discussed was the potential job creation given the federal funding for road projects along the corridor.

*No committee recommendation.* The committee recommended no legislation based on these discussions and suggestions

### **State Enterprise Zone Program — 3 Percent Investment Tax Credit**

During several rural meetings, spokespersons from economic development groups, small businesses, and individuals commented on the advantages the state enterprise zone program affords small businesses specifically, the 3 percent investment tax credit was discussed.

## **Background**

The 3 percent investment tax credit (ITC) which became effective January 1, 1986, allowed a state income tax credit equal to three percent of any qualified investment in "section 38" property that is used exclusively in an enterprise zone for at least one year. The 3 percent ITC makes up the bulk of the credits certified by zone administrators in both rural and urban zones. This credit made up \$21.7 million of \$24.7 million, or nearly 87.9 percent of total certified state ITCs in rural enterprise zones in FY 2003-04.

State law requires that tangible property be used solely and exclusively in an enterprise zone for at least the first year (Section 39-30-104 (1), C.R.S.). As an example, vehicles can only qualify for the credit if they are operated in the enterprise zone *exclusively* for the first full year the credit is claimed. In other words, the vehicle does not qualify for the ITC if it is driven outside the zone during the first year of service or the first year the credit is claimed.

## **Committee Discussions**

Some small business owners requested the committee to make no changes to the enterprise zone program but encouraged the committee to look at expanding the 3 percent ITC to allow more businesses to benefit from the credit. Specifically, persons asked that the credit be expanded to allow trucks that are used in an enterprise zone but not necessarily *used exclusively* in the zone, for the first year, to qualify for the credit.

The committee discussed the allocation of enterprise zone credits between urban and rural enterprise zones but did not discuss or address any of the credits under the program specifically.

***No committee recommendation.*** The committee recommended no legislation based on these discussions and suggestions.

## **Other Rural Economic Development Issues**

Over the course of seven meetings, the committee engaged in a number of discussions about economic activity specific to a region or community. The following sections briefly highlight some of these issues.

***Cumbres & Toltec Scenic Railroad.*** A spokesperson from the Cumbres & Toltec Scenic Railroad (which connects Antonito, Colorado, and Chama, New Mexico) commented on the railroad's regional economic impact to Southwest Colorado. The Cumbres & Toltec Scenic Railroad is jointly owned by Colorado and New Mexico and is the primary economic engine for the Antonito and Chama economies. These villages are located in two of the poorest counties in Colorado and New Mexico. With a projected count of 45,000 passengers in 2005, the railroad will provide 60 seasonal jobs and

approximately 28 full-time positions. Ridership has increased in the last three years. Last year, the railroad had 30,000 riders. Recently, the railroad received economic development grants from the federal government to restore tracks and rebuild three locomotives. The 1925 engines cost \$1 million each to refurbish.

***Energy boom in Northwest Colorado.*** Representatives from the energy and mining industries testified before the committee to discuss the changing Western Slope economic environment that may grow into a long-term energy boom for Northwest Colorado. The committee was informed that there is a shortage of workers to meet the demands of the energy and mining industries.

Spokespersons from economic development groups talked about the effect population growth from the energy boom has on communities. Population growth must be balanced with the environment to maintain the quality of life Western Slope citizens value. One of the most visible changes is the loss of agricultural land being developed to respond to population growth.

***Pierre Auger Project in Southeast Colorado.*** Dr. John Harton; Department of Physics, CSU, informed the committee about the Pierre Auger Project which will be based at the Lamar Community College. The project measures ultra-high energy cosmic rays with the Pierre Auger Detector and involves the construction of a Cosmic Ray Observatory.

Primary cosmic rays initiate a shower. When the shower hits the ground, it is many miles across. The central core makes a glowing core of nitrogen fluorescent air that can be seen with a telescope on a dark night. The goal of the project is to understand nature and answer three main questions: what are these extremely energetic particles; how do they get their energy; and how do they travel to earth.

The Lamar Community College offered a five-acre parcel (site) of land for the visitor's center, computer center, and assembly building. Dr. Horton commented that the community support in Southeastern Colorado has been significant and has the potential to be one of the unique economic development projects in Colorado that has an international component; there is a similar project in Argentina.

***San Luis Valley Regional Airport.*** A spokesperson from the San Luis Valley Regional Airport in Alamosa commented on the value the airport brings to businesses and the regional economy. The airport was established in the 1930s and currently services a number of businesses throughout the region. The federal government provides the bulk of airport funding. A recent economic impact study indicated that the airport has created about 568 direct and indirect jobs, which pay about \$10.6 million in annual wages. The impact to the economy is estimated at about \$28.0 million.

***Recycling industry on the Western Slope.*** A spokesperson from the recycling industry on the Western Slope informed the committee about the recycling and refuse industries. The recycling industry is a good fit for rural Colorado because the industry

creates jobs that pay above the average wage and has a multiplier effect on local economies. Another advantage of the recycling industry is that it reduces illegal dumping. The committee discussed the government role and how it could assist the industry by providing start-up funding and tax incentives. The committee was informed that Colorado's only support for the industry comes from a \$1 fee that is charged by tire shops on returned or used tires.

***Rural community college in Lamar.*** During several meetings, the committee heard from spokespersons from rural community colleges who voiced concerns about the state's recent budgetary cuts that affect higher education institutions. A spokesperson from the Lamar Community College commented that community colleges play a big role in rural economic development. These colleges are important to the health care industry because they provide health care professionals that remain in rural communities after their college training.

***New hospital district in Rio Grand County.*** The committee heard testimony about a new hospital district in Rio Grand County that was partially funding local ambulance services and its hospital through a local 0.6 percent sales tax option. The sales tax adds a supplemental funding source for the hospital that offsets revenue lost by serving a client-base that is made up of over 50 percent Medicaid claims.

***No proposed legislation.*** The committee recommended no legislation based on these discussions and suggestions.

# SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following three bills are recommended to the Colorado General Assembly for the 2006 session.

## **Bill A — Concerning the Requirement that Gasoline Contain at Least a Specified Percentage of Ethanol By Volume**

Bill A phases in a requirement that all gasoline sold in Colorado be blended with ethanol. Ethanol is a gasoline additive generally made from corn and can also be produced from sugar cane, sugar beets, trees, agricultural waste, or municipal waste. Bill A requires that all gasoline sold in Colorado contain at least a specified percentage of ethanol by volume as follows:

- 5 percent by January 1, 2007; and
- 10 percent by January 1, 2009.

If federal law and guidelines allow, and if doing so does not void an automobile manufacturer's warranty, the percentage of ethanol by volume must be:

- 15 percent by January 1, 2011, or at such time after this date when the Division of Oil and Public Safety certifies that the criteria in the act have been met; and
- 20 percent by January 1, 2013, or at such time after this date when the Division of Oil and Public Safety certifies that the criteria in the act have been met.

Conventional (non-oxygenated) gasoline at the unleaded premium grade, may be sold at an airport, marina, mooring facility, or resort, for use in aircraft. Retail gasoline stations may also dispense unleaded premium grade gasoline for use in collector vehicles, off-road vehicles, motorcycles, boats, snowmobile, or small engines. The legislation also allows a person to sell or deliver unleaded premium gasoline to a bulk fuel storage tank if certain conditions are met. Non-oxygenated gasoline may be sold at a public or private racecourse if used as fuel for off-highway motor sports racing events.

Bill A requires the Executive Director of the Department of Personnel to enact a policy requiring all state-owned vehicles and equipment to use the above scheduled fuel blends of ethanol and gasoline. The policy must be adopted by January 1, 2007. The ethanol and gasoline fuel blends are to be used if the price is no greater than 10 cents per gallon more than the price of gasoline. The legislation also requires the department to purchase flexible-fuel vehicles whenever possible. Flexible-fuel vehicles are vehicles that can operate on gasoline, E85 fuel, or a mixture of both. The term E85 fuel means a motor fuel blend that consists of 85 percent ethanol and 15 percent gasoline.

## **Bill B — Concerning the Use of Biodiesel Fuel for All State-Owned Diesel Vehicles**

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Bill B requires the Executive Director for the Department of Personnel to establish a policy requiring all state-owned diesel vehicles and equipment to use a fuel blend of at least 20 percent biodiesel and 80 percent petroleum diesel subject to availability. Biodiesel means fuel composed of mono-alkylesters of long chain fatty acids derived from plant or animal matter that meet ASTM specifications.

The policy must be adopted by January 1, 2007. Under the legislation, the department is responsible for the administration, implementation, and enforcement of the policy and must use the fuel blend only if the cost is no greater than 10 cents per gallon more than the price of petroleum diesel fuel.

## **Bill C — Concerning the Use of Biofuels in State Buildings**

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Bill C requires that the life-cycle cost analysis for each state-owned or state-assisted facility include an analysis of the use of biofuels to provide supplemental or exclusive heating, power, or both for each major facility. The legislation defines biofuels as nontoxic plant matter consisting of agricultural or silvicultural crops or their byproducts, urban wood waste, mill residue, slash, or brush.

The life-cycle cost analysis is an evaluation of the cost alternatives over the economic life of a facility that include the initial cost, the cost of energy consumed, replacement costs, and the cost of operation and maintenance of a facility (Section 24-30-1301 (9), C.R.S.). The purpose of the life-cycle cost is to promote a policy to insure that energy conservation practices are employed in the design of state-owned and state-assisted facilities (Section 24-30-1304 (2), C.R.S.).

# RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

[www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2005/05interim.htm](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2005/05interim.htm)

## **Meeting Summaries**

## **Briefings/Recommendations**

July 6, 2005	Introductory comments by the chair and committee members. Briefings by Legislative Council Staff on the federal estate tax and economic development organizations on regional issues that affect rural employers and the rural workforce. Briefings by rural health care providers on the challenges that long-term facilities face in rural communities. Briefings by agricultural groups on Colorado's agricultural industry. Briefing by the Colorado Rural Electric Association on the role of electric cooperatives in Colorado.
July 28, 2005	Briefings by economic development and business advocacy organizations in Southeast Colorado. Presentations by county commissioners from Baca and Bent counties on renewable energy projects, the importance of rail lines and transportation corridors, and wind generation facilities. Briefing on federal funding for transportation corridors. Briefing on the Pierre Auger Project (a Cosmic Ray Observatory). Briefing on the value of rural community colleges to regional economies.
July 29, 2005	Briefings by owners of local small businesses on the benefits of value-added manufacturing processes, renewable fuels (biodiesel), rural health care issues, and other rural economic development issues.
August 31, 2005	Briefings by representatives from the ethanol industry, Colorado Corngrowers, farmers, agricultural industry, and small businesses, on ethanol blended gasoline. Presentations by the University of Northern Colorado on the nursing program and instructor shortage. Briefing by the Colorado Center for Nursing Excellence. Presentations by Eastman

Kodak and economic development groups on the impact of the business personal property tax.

- September 9, 2005 Meeting hosted by Club 20 and held at the Two Rivers Convention Center, Grand Junction, Colorado. Presentation by USDA Rural Development on federally-funded rural programs. Briefings by Colorado's energy and mining industries. Briefings by regional hospitals and other health care providers. Other presentations by local economic development groups, workforce development centers, housing coalitions, and other small businesses.
- October 3, 2005 Briefings from the Colorado Department of Agriculture, the Colorado Agricultural Development Authority, and the Colorado Tourism Office. The committee discussed seven proposals.
- October 27, 2005 Briefings from state and local government officials on biofuel use in state buildings. Presentations by the Colorado Petroleum Association, the Petroleum Marketers Association, and the Division of Oil and Public Safety on ethanol mandates. The committee voted to approve three bill drafts.

## **Memoranda**

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### **Legislative Council Staff memoranda:**

- July 6, 2005 *The Estate Tax in Colorado*
- July 25, 2005 *Economic Development from Wind Farms*
- August 19, 2005 *Three Percent Enterprise Zone Investment Tax Credit*
- August 19, 2005 *Tax-Base Sharing Programs*
- August 19, 2005 *Venture Capital for Rural Businesses*
- August 19, 2005 *Gasohol Taxation and the "Nickel" Bill*
- August 25, 2005 *Private Activity Bonds*
- August 31, 2005 *Clean Renewable Energy Bonds*
- October 4, 2005 *State Ethanol and Biodiesel Incentives*

Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

DRAFT

LLS NO. 06-0120.01 Karen Epps

SENATE BILL

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SENATE SPONSORSHIP

Shaffer,

HOUSE SPONSORSHIP

Gardner,

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A BILL FOR AN ACT

101 CONCERNING THE REQUIREMENT THAT GASOLINE CONTAIN AT LEAST A  
102 SPECIFIED PERCENTAGE OF ETHANOL BY VOLUME.

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Committee on Rural Economic Development Issues.** Requires that all gasoline sold in Colorado contain at least:

- 5% denatured ethanol by volume as of January 1, 2007;
- 10% denatured ethanol by volume as of January 1, 2009; and
- If allowed pursuant to federal law and federal guidelines, and if

doing so would not void any automobile manufacturer's warranty:

- 15% denatured ethanol by volume as of January 1, 2011, or at such time after January 1, 2011, as the division of oil and public safety certifies that the criteria in the act have been met; and
- 20% denatured ethanol by volume as of January 1, 2013, or at such time after January 1, 2013, as the division of oil and public safety certifies that the criteria in the act have been met.

Requires a refinery or terminal to provide a bill of lading or shipping manifest that includes the identity and the volume percentage or gallons of oxygenate included in the gasoline.

Allows for the sale of nonoxygenated gasoline under the following circumstances:

- At an airport, marina, mooring facility, or resort for use in aircraft if the gasoline is unleaded premium;
- At a public or private racecourse if the gasoline is intended to be used exclusively as a fuel for off-highway motor sports racing events;
- At retail gasoline stations for use in collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles, or small engines; and
- Directly to bulk fuel storage tanks for use in collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles, small engines, or airplanes.

Requires the executive director of the department of personnel to establish a policy by January 1, 2007, requiring all state-owned vehicles and equipment to use a fuel blend of ethanol and gasoline if the price is no greater than 10¢ more per gallon than the price of gasoline, and to provide for proper administration, implementation, and enforcement of the policy.

Requires the executive director of the department of personnel to purchase flexible-fuel vehicles whenever possible.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 8-20-201, Colorado Revised Statutes, is amended BY  
3 THE ADDITION OF A NEW SUBSECTION to read:

4           **8-20-201. Definitions.** As used in this part 2, unless the context  
5 otherwise requires:

6           (8.5) "SMALL ENGINE" MEANS AN INTERNAL COMBUSTION ENGINE  
7 WITH A TOTAL DISPLACEMENT OF FIFTY CUBIC CENTIMETERS OR LESS.

8           **SECTION 2.** Part 2 of article 20 of title 8, Colorado Revised Statutes,

1 is amended BY THE ADDITION OF A NEW SECTION to read:

2 **8-20-236. Minimum ethanol content required.** (1) (a) EXCEPT AS  
3 OTHERWISE PROVIDED IN SUBSECTIONS (3) TO (6) OF THIS SECTION:

4 (I) EFFECTIVE JANUARY 1, 2007, ALL GASOLINE SOLD OR OFFERED FOR  
5 SALE IN COLORADO SHALL CONTAIN AT LEAST FIVE PERCENT DENATURED  
6 ETHANOL BY VOLUME.

7 (II) EFFECTIVE JANUARY 1, 2009, ALL GASOLINE SOLD OR OFFERED FOR  
8 SALE IN COLORADO SHALL CONTAIN AT LEAST TEN PERCENT DENATURED  
9 ETHANOL BY VOLUME.

10 (III) IF ALLOWED BY FEDERAL LAW AND FEDERAL GUIDELINES, AND IF  
11 DOING SO WOULD NOT VOID ANY AUTOMOBILE MANUFACTURER'S WARRANTY:

12 (A) EFFECTIVE JANUARY 1, 2011, OR AT SUCH TIME AFTER JANUARY  
13 1, 2011, AS THE DIVISION OF OIL AND PUBLIC SAFETY CERTIFIES THAT THE  
14 CRITERIA IN THIS SUBPARAGRAPH (III) HAVE BEEN MET, ALL GASOLINE SOLD OR  
15 OFFERED FOR SALE IN COLORADO SHALL CONTAIN AT LEAST FIFTEEN PERCENT  
16 DENATURED ETHANOL BY VOLUME.

17 (B) EFFECTIVE JANUARY 1, 2013, OR AT SUCH TIME AFTER JANUARY  
18 1, 2011, AS THE DIVISION OF OIL AND PUBLIC SAFETY CERTIFIES THAT THE  
19 CRITERIA IN THIS SUBPARAGRAPH (III) HAVE BEEN MET, ALL GASOLINE SOLD OR  
20 OFFERED FOR SALE IN COLORADO SHALL CONTAIN AT LEAST TWENTY PERCENT  
21 DENATURED ETHANOL BY VOLUME.

22 (b) A GASOLINE AND ETHANOL BLEND SHALL BE DEEMED TO COMPLY  
23 WITH THE MINIMUM ETHANOL REQUIREMENTS OF PARAGRAPH (a) OF THIS  
24 SUBSECTION (1) IF THE ETHANOL CONTENT, EXCLUSIVE OF DENATURANTS AND  
25 PERMITTED CONTAMINANTS, IS WITHIN EIGHT-TENTHS PERCENT BY VOLUME OF  
26 THE SPECIFIED BLEND AS DETERMINED BY AN APPROPRIATE UNITED STATES  
27 ENVIRONMENTAL PROTECTION AGENCY OR ASTM INTERNATIONAL STANDARD  
28 METHOD OF ANALYSIS OF ALCOHOL AND ETHER CONTENT IN MOTOR FUELS.

1           (2) (a) A REFINERY OR TERMINAL SHALL PROVIDE, AT THE TIME  
2 GASOLINE IS SOLD OR TRANSFERRED FROM THE REFINERY OR TERMINAL, A BILL  
3 OF LADING OR SHIPPING MANIFEST TO THE PERSON WHO RECEIVES THE  
4 GASOLINE.

5           (b) FOR OXYGENATED GASOLINE, THE BILL OF LADING OR SHIPPING  
6 MANIFEST SHALL INCLUDE THE IDENTITY AND THE VOLUME PERCENTAGE OR  
7 GALLONS OF OXYGENATE INCLUDED IN THE GASOLINE. IN ADDITION, THE BILL  
8 OF LADING OR SHIPPING MANIFEST SHALL CONTAIN THE FOLLOWING STATEMENT,  
9 CONSPICUOUSLY DISPLAYED IN AT LEAST TEN-POINT, BOLD-FACED TYPE: "THIS  
10 FUEL CONTAINS AN OXYGENATE. DO NOT BLEND THIS FUEL WITH ETHANOL OR  
11 WITH ANY OTHER OXYGENATE."

12           (c) FOR NONOXYGENATED GASOLINE SOLD OR TRANSFERRED AFTER  
13 DECEMBER 31, 2006, THE BILL OF LADING OR SHIPPING MANIFEST SHALL  
14 CONTAIN THE FOLLOWING STATEMENT, CONSPICUOUSLY DISPLAYED IN AT LEAST  
15 TEN-POINT, BOLD-FACED TYPE: "THIS FUEL IS NOT OXYGENATED. IT MUST NOT  
16 BE SOLD AT RETAIL IN COLORADO."

17           (d) THIS SUBSECTION (2) SHALL NOT APPLY TO SALES OR TRANSFERS  
18 OF GASOLINE BETWEEN REFINERIES, BETWEEN TERMINALS, OR BETWEEN A  
19 REFINERY AND A TERMINAL.

20           (3) A PERSON MAY OFFER FOR SALE, SELL, OR DISPENSE AT AN  
21 AIRPORT, MARINA, MOORING FACILITY, OR RESORT, FOR USE IN AIRCRAFT OR FOR  
22 PURPOSES LISTED UNDER SUBSECTION (5) OF THIS SECTION, GASOLINE THAT IS  
23 NOT OXYGENATED IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION IF  
24 THE GASOLINE IS UNLEADED PREMIUM GRADE.

25           (4) A PERSON MAY OFFER FOR SALE, SELL, OR DISPENSE AT A PUBLIC  
26 OR PRIVATE RACECOURSE GASOLINE THAT IS NOT OXYGENATED IN ACCORDANCE  
27 WITH SUBSECTION (1) OF THIS SECTION IF THE GASOLINE IS INTENDED TO BE  
28 USED EXCLUSIVELY AS A FUEL FOR OFF-HIGHWAY MOTOR SPORTS RACING

1       EVENTS.

2               (5) (a) A PERSON MAY OFFER FOR SALE, SELL, OR DISPENSE AT A RETAIL  
3       GASOLINE STATION, FOR USE IN COLLECTOR VEHICLES OR VEHICLES ELIGIBLE TO  
4       BE LICENSED AS COLLECTOR VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES,  
5       BOATS, SNOWMOBILES, OR SMALL ENGINES, GASOLINE THAT IS NOT  
6       OXYGENATED IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION IF THE  
7       PERSON MEETS ALL OF THE CONDITIONS STATED IN PARAGRAPHS (b) AND (c) OF  
8       THIS SUBSECTION (5).

9               (b) THE NONOXYGENATED GASOLINE SHALL BE UNLEADED PREMIUM  
10       GRADE.

11              (c) THE PUMP STANDS SHALL BE POSTED WITH A PERMANENT NOTICE  
12       STATING THE FOLLOWING: "NONOXYGENATED GASOLINE IS FOR USE IN  
13       COLLECTOR VEHICLES OR VEHICLES ELIGIBLE TO BE LICENSED AS COLLECTOR  
14       VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES, BOATS, SNOWMOBILES, OR  
15       SMALL ENGINES ONLY. "THE NOTICE SHALL BE POSTED AT LEAST THREE FEET  
16       ABOVE THE GROUND. A RETAIL GASOLINE STATION THAT SELLS  
17       NONOXYGENATED PREMIUM GASOLINE SHALL REGISTER EVERY TWO YEARS  
18       WITH THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY AND SHALL  
19       FILE, ON FORMS APPROVED BY THE DIRECTOR, THE TOTAL AMOUNT OF  
20       NONOXYGENATED PREMIUM GASOLINE SOLD ANNUALLY.

21              (6) (a) A PERSON MAY OFFER FOR SALE, SELL, AND DELIVER DIRECTLY  
22       TO A BULK FUEL STORAGE TANK GASOLINE THAT IS NOT OXYGENATED IN  
23       ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION IF ALL OF THE CONDITIONS  
24       STATED IN PARAGRAPHS (b) TO (e) OF THIS SUBSECTION (6) ARE MET.

25              (b) THE NONOXYGENATED GASOLINE SHALL BE UNLEADED PREMIUM  
26       GRADE.

27              (c) THE BULK FUEL STORAGE TANK SHALL BE STATIONARY OR  
28       PERMANENTLY INSTALLED.

1           (d) THE BULK FUEL STORAGE TANK SHALL BE UNDER THE CONTROL OF  
2 AN OWNER OF THE REAL PROPERTY AND LOCATED ON THAT REAL PROPERTY.

3           (e) THE NONOXYGENATED GASOLINE SHALL BE PURCHASED FOR USE  
4 ONLY IN VEHICLES LISTED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS  
5 SECTION.

6           (7) A PERSON MAY OFFER FOR SALE, SELL, AND DELIVER DIRECTLY TO  
7 A BULK FUEL STORAGE TANK GASOLINE THAT IS NOT OXYGENATED IN  
8 ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION FOR USE IN AIRCRAFT IF  
9 THE NONOXYGENATED GASOLINE IS UNLEADED PREMIUM GRADE.

10          (8) A PERSON WHO OFFERS FOR SALE, SELLS, OR DISPENSES  
11 NONOXYGENATED PREMIUM GASOLINE UNDER ONE OR MORE OF THE  
12 EXEMPTIONS IN SUBSECTIONS (5) TO (7) AND THIS SUBSECTION (8) OF THIS  
13 SECTION MAY SELL, OFFER FOR SALE, OR DISPENSE OXYGENATED GASOLINE  
14 THAT CONTAINS LESS THAN THE MINIMUM AMOUNT OF ETHANOL REQUIRED  
15 UNDER SUBSECTION (1) OF THIS SECTION ONLY IF ALL OF THE FOLLOWING  
16 CONDITIONS ARE MET:

17           (a) THE BLENDED GASOLINE HAS AN OCTANE RATING OF EIGHTY-SEVEN  
18 OR GREATER.

19           (b) THE GASOLINE IS A BLEND OF OXYGENATED GASOLINE MEETING  
20 THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION WITH  
21 NONOXYGENATED PREMIUM GASOLINE.

22           (c) THE BLENDED GASOLINE CONTAINS NOT MORE THAN TEN PERCENT  
23 NONOXYGENATED PREMIUM GASOLINE.

24           (d) THE BLENDING OF OXYGENATED GASOLINE WITH NONOXYGENATED  
25 GASOLINE OCCURS WITHIN THE GASOLINE DISPENSER.

26           (e) THE GASOLINE STATION AT WHICH THE GASOLINE IS SOLD, OFFERED  
27 FOR SALE, OR DELIVERED IS EQUIPPED TO STORE GASOLINE IN NOT MORE THAN  
28 TWO STORAGE TANKS.

1 (f) THE PERSON MET THE APPLICABLE CONDITIONS STATED IN  
2 SUBSECTIONS (1) TO (5) OF THIS SECTION ON JANUARY 1, 2007, AND HAS  
3 REGISTERED WITH THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY  
4 ON OR BEFORE APRIL 1, 2007.

5 **SECTION 3.** The introductory portion to 24-30-1104 (2) and  
6 24-30-1104 (2) (c) (III), Colorado Revised Statutes, are amended, and the said  
7 24-30-1104 (2) (c) is further amended BY THE ADDITION OF THE  
8 FOLLOWING NEW SUBPARAGRAPHS, to read:

9 **24-30-1104. Central services functions of the department.** (2) In  
10 addition to the county-specific functions set forth in subsection (1) of this  
11 section, the department of personnel shall take such steps as are necessary to  
12 fully implement a central state motor vehicle fleet system by January 1, 1993.  
13 The provisions of the motor vehicle fleet system created pursuant to this  
14 subsection (2) shall apply to the executive branch of the state of Colorado, its  
15 departments, ITS institutions, and ITS agencies; except that the governing board  
16 of each institution of higher education, by formal action of the board, and the  
17 Colorado commission on higher education, by formal action of the commission,  
18 may elect to be exempt from the provisions of this subsection (2) and may  
19 obtain a motor vehicle fleet system independent of the state motor vehicle fleet  
20 system. Under the direction of the executive director, the department of  
21 personnel shall perform the following functions pertaining to the motor vehicle  
22 fleet system throughout the state:

23 (c) (II.5) THE EXECUTIVE DIRECTOR SHALL ADOPT A POLICY THAT,  
24 WHENEVER POSSIBLE, THE STATE SHALL PURCHASE FLEXIBLE-FUEL VEHICLES.

25 (III) For purposes of this paragraph (c):

26 (A) "Alternative fuel" has the meaning established in section  
27 25-7-106.8, C.R.S.

28 (B) "Bi-fueled vehicle" means a motor vehicle, which may be

1 purchased to comply with applicable federal requirements including, but not  
2 limited to, the federal "Energy Policy Act of 1992", 42 U.S.C. sec. 13257, and  
3 42 U.S.C. sec. 7587, that can operate on both an alternative fuel and a  
4 traditional fuel or that can operate alternately on a traditional fuel and an  
5 alternative fuel.

6 (C) "E85 FUEL" MEANS A MOTOR FUEL BLEND OF EIGHTY-FIVE PERCENT  
7 ETHANOL AND FIFTEEN PERCENT GASOLINE.

8 (D) "FLEXIBLE-FUEL VEHICLE" MEANS A VEHICLE THAT CAN OPERATE  
9 ON BOTH E85 FUEL AND GASOLINE OR THAT CAN OPERATE ALTERNATELY ON  
10 E85 FUEL AND GASOLINE. THE TERMS "FLEXIBLE-FUEL VEHICLE" AND  
11 "BI-FUELED VEHICLE" ARE NOT MUTUALLY EXCLUSIVE.

12 (IV) BY JANUARY 1, 2007, THE EXECUTIVE DIRECTOR SHALL ADOPT A  
13 POLICY THAT ALL STATE-OWNED VEHICLES AND EQUIPMENT SHALL BE FUELED  
14 WITH A FUEL BLEND OF ETHANOL AND GASOLINE PURSUANT TO SECTION  
15 8-20-236, C.R.S., IF THE PRICE IS NO GREATER THAN TEN CENTS MORE PER  
16 GALLON THAN THE PRICE OF GASOLINE. THE EXECUTIVE DIRECTOR SHALL  
17 PROVIDE FOR THE PROPER ADMINISTRATION, IMPLEMENTATION, AND  
18 ENFORCEMENT OF THE POLICY.

19 **SECTION 4. Effective date.** This act shall take effect January 1,  
20 2007.

21 **SECTION 5. Safety clause.** The general assembly hereby finds,  
22 determines, and declares that this act is necessary for the immediate  
23 preservation of the public peace, health, and safety.

DRAFT

Bill A

*Colorado Legislative Council Staff*  
**NO FISCAL IMPACT**

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**Drafting Number:** LLS 06-0120  
**Prime Sponsor(s):** Sen. Shaffer  
Rep. Gardner

**Date:** December 11, 2005  
**Bill Status:** Interim Committee on Rural  
Economic Development  
**Fiscal Analyst:** Gary J. Estenson (303-866-4976)

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**TITLE:** CONCERNING THE REQUIREMENT THAT GASOLINE CONTAIN AT LEAST A SPECIFIED PERCENTAGE OF ETHANOL BY VOLUME.

**Summary of Assessment**

Effective January 1, 2007, this legislation requires that all gasoline sold in Colorado contain a specified percentage of ethanol based on the following graduated schedule:

January 1, 2007 -- 5% denatured ethanol by volume  
January 1, 2009 -- 10% denatured alcohol by volume  
January 1, 2011 -- 15% denatured alcohol by volume  
January 1, 2013 -- 20% denatured alcohol by volume

The January 2011 and January 2013 deadlines are only required if the mandated denatured alcohol percentages are allowed under federal law and would not void any automobile warranty. For oxygenated gasoline, a refinery or terminal must provide the person receiving the gasoline documentation confirming that the gasoline contains an oxygenate and at what volume or percentage. For non-oxygenated gasoline, the documentation must state that it is not to be sold in Colorado. The exception to this requirement is for gasoline distributed among or between refineries and terminals.

Gasoline containing ethanol shall not be required for use in aircraft or at marinas, mooring facilities, or resorts. Additionally, unleaded premium grade gasoline may still be sold at gasoline stations for collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles and for small engines.

This legislation also requires the Executive Director of the Department of Personnel and Administration to establish a policy requiring the use of ethanol-blended fuel in all state-owned vehicles by January 1, 2007, as long as the per gallon price of ethanol gasoline is not greater than 10 cents more than the price for standard gasoline. Additionally, this bill requires the purchase of flexible-fuel vehicles by the Department of Personnel and Administration where possible.

The bill does not impact state or local revenues and expenditures and is assessed as having no fiscal impact. The fuel being sold in Colorado currently meets the 2007 mandates required by the bill. Additionally, state regulations already mandate the use of gasoline oxygenated with ethanol in the Denver metropolitan area to comply with clean air standards. These regulations require ethanol in an amount by weight that is nearly equivalent to the bill's 2009 requirements.

# Bill A

After 2007, the bill may impact the fuel distribution system in Colorado but this impact would not affect state or local revenues or expenditures. Finally, it is anticipated that the Department of Personnel and Administration can establish the proposed policy by the bill's required date within existing resources.

## Departments Contacted

Labor and Employment

Personnel and Administration

Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

DRAFT

LLS NO. 06-0156.01 Karen Epps

SENATE BILL

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SENATE SPONSORSHIP

Entz, Fitz-Gerald, Kester, and Shaffer

HOUSE SPONSORSHIP

Rose, Gallegos, Gardner, and Hodge

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Senate Committees

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE USE OF BIODIESEL FUEL FOR ALL STATE-OWNED  
102 DIESEL VEHICLES.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Interim Committee on Rural Economic Development Issues.**  
Requires the executive director of the department of personnel to establish a policy by January 1, 2007, requiring all state-owned diesel

vehicles and equipment to use a fuel blend of 20% biodiesel and 80% petroleum diesel subject to availability, and to provide for proper administration, implementation, and enforcement of the policy.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** The introductory portion to 24-30-1104 (2) and  
3 24-30-1104 (2) (c) (III), Colorado Revised Statutes, are amended, and the  
4 said 24-30-1104 (2) (c) is further amended BY THE ADDITION OF A  
5 NEW SUBPARAGRAPH, to read:

6           **24-30-1104. Central services functions of the department.**

7 (2) In addition to the county-specific functions set forth in subsection (1)  
8 of this section, the department of personnel shall take such steps as are  
9 necessary to fully implement a central state motor vehicle fleet system by  
10 January 1, 1993. The provisions of the motor vehicle fleet system created  
11 pursuant to this subsection (2) shall apply to the executive branch of the  
12 state of Colorado, its departments, ITS institutions, and ITS agencies;  
13 except that the governing board of each institution of higher education,  
14 by formal action of the board, and the Colorado commission on higher  
15 education, by formal action of the commission, may elect to be exempt  
16 from the provisions of this subsection (2) and may obtain a motor vehicle  
17 fleet system independent of the state motor vehicle fleet system. Under  
18 the direction of the executive director, the department of personnel shall  
19 perform the following functions pertaining to the motor vehicle fleet  
20 system throughout the state:

21           (c) (III) For purposes of this paragraph (c):

22           (A) "Alternative fuel" has the meaning established in section  
23 25-7-106.8, C.R.S.

24           (B) "Bi-fueled vehicle" means a motor vehicle, which may be

1 purchased to comply with applicable federal requirements including, but  
2 not limited to, the federal "Energy Policy Act of 1992", 42 U.S.C. sec.  
3 13257, and 42 U.S.C. sec. 7587, that can operate on both an alternative  
4 fuel and a traditional fuel or that can operate alternately on a traditional  
5 fuel and an alternative fuel.

6 (C) "BIODIESEL" MEANS FUEL COMPOSED OF MONO-ALKYL ESTERS  
7 OF LONG CHAIN FATTY ACIDS DERIVED FROM PLANT OR ANIMAL MATTER  
8 THAT MEET ASTM SPECIFICATIONS.

9 (IV) BY JANUARY 1, 2007, THE DIRECTOR SHALL ADOPT A POLICY  
10 THAT ALL STATE-OWNED DIESEL VEHICLES AND EQUIPMENT SHALL BE  
11 FUELED WITH A FUEL BLEND OF TWENTY PERCENT BIODIESEL AND EIGHTY  
12 PERCENT PETROLEUM DIESEL, SUBJECT TO AVAILABILITY AND SO LONG AS  
13 THE PRICE IS NO GREATER THAN TEN CENTS MORE PER GALLON THAN THE  
14 PRICE OF DIESEL FUEL. THE DIRECTOR SHALL PROVIDE FOR THE PROPER  
15 ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT OF THE POLICY.

16 **SECTION 2. Effective date - applicability.** This act shall take  
17 effect July 1, 2006, and shall apply to all state-owned diesel vehicles  
18 fueled on or after July 1, 2007.

19 **SECTION 3. Safety clause.** The general assembly hereby finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, and safety.

DRAFT

**Bill B**

*Colorado Legislative Council Staff*  
**NO FISCAL IMPACT**

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**Drafting Number:** LLS 06-0156

**Date:** December 15, 2005

**Prime Sponsor(s):** Sen. Entz  
Rep. Rose

**Bill Status:** Interim Committee on Rural  
Economic Development

**Fiscal Analyst:** Chris Ward (303-866-5834)

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**TITLE:** CONCERNING THE USE OF BIODIESEL FUEL FOR ALL STATE-OWNED DIESEL VEHICLES.

### **Summary of Assessment**

This bill requires the Executive Director of the Department of Personnel and Administration to establish a policy by January 1, 2007, requiring all state-owned vehicles and equipment to use a fuel blend of at least 20 percent biodiesel and 80 percent petroleum diesel. The requirement is contingent on such fuels being available and costing no more than 10 cents per gallon more than petroleum diesel fuel. The requirement would apply to all passenger vehicles and trucks weighing up to 3/4-ton. The bill would take effect July 1, 2006, and apply to vehicles fueled on or after January 1, 2007.

The Department of Personnel and Administration can develop a policy as required by the bill within existing resources, but the policy may increase the state's cost of operating diesel vehicles by up to 10 cents per gallon of fuel. There are currently 37 vehicles in the state fleet management program that would be affected by this bill. Although the market price of fuel continually fluctuates, a review of retail fuel prices along the Front Range indicates that B20-blend biodiesel is more expensive than regular diesel, but the price difference is less than 10 cents. Beginning in June 2006, however, this price difference is expected to decline, as the federally-mandated use of ultra low sulfur diesel should increase both the cost of petroleum fuel and the cost-effectiveness of biodiesel fuel. Finally, it is expected that costs for biodiesel will drop in the future as suppliers increase their refining capacity.

The bill will not significantly affect state expenditures, and will have no affect at all on state revenues or local government finances. Therefore, it is assessed as having no fiscal impact.

### **Departments Contacted**

Personnel and Administration

Public Health and Environment

Transportation

Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

DRAFT

LLS NO. 06-0231.01 Thomas Morris

SENATE BILL

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SENATE SPONSORSHIP

Kester, Entz, Fitz-Gerald, Isgar, and Shaffer

HOUSE SPONSORSHIP

Rose, Gallegos, Gardner, and Hodge

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Senate Committees

House Committees

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A BILL FOR AN ACT

101

CONCERNING THE USE OF BIOFUELS IN STATE BUILDINGS.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Interim Committee on Rural Economic Development Issues.**  
Requires the life-cycle cost analysis performed for each state-owned or state-assisted major facility to include an analysis of the use of biofuel to provide supplemental or exclusive heating, power, or both for the major facility. Defines "biofuel" to mean nontoxic plant matter consisting of

agricultural or silvicultural crops or their byproducts, urban wood waste, mill residue, slash, or brush.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 24-30-1305 (3), Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4           **24-30-1305. Life-cycle cost - application.** (3) The life-cycle  
5 cost analysis performed for each major facility shall provide but not be  
6 limited to the following information:

7           (e) (I) THE USE OF BIOFUEL TO PROVIDE SUPPLEMENTAL OR  
8 EXCLUSIVE HEATING, POWER, OR BOTH FOR THE MAJOR FACILITY.

9           (II) AS USED IN THIS PARAGRAPH (e), "BIOFUEL" MEANS NONTOXIC  
10 PLANT MATTER CONSISTING OF AGRICULTURAL OR SILVICULTURAL CROPS  
11 OR THEIR BYPRODUCTS, URBAN WOOD WASTE, MILL RESIDUE, SLASH, OR  
12 BRUSH.

13           **SECTION 2. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, and safety.

DRAFT

Bill C

*Colorado Legislative Council Staff*  
**NO FISCAL IMPACT**

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**Drafting Number:** LLS 06-0231

**Date:** December 15, 2005

**Prime Sponsor(s):** Sen. Kester  
Rep. Rose

**Bill Status:** Interim Committee on Rural  
Economic Development

**Fiscal Analyst:** Chris Ward (303-866-5834)

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**TITLE:** CONCERNING THE USE OF BIOFUELS IN STATE BUILDINGS.

### Summary of Assessment

The bill requires that the life-cycle cost analysis for each major state facility provide information on the use of biofuels to provide supplemental or exclusive heating, power, or both for the facility. Under current law, these analyses are used to evaluate cost alternatives over the entire economic life of a facility, including initial costs, replacement costs, energy consumption costs, and operation and maintenance costs. The bill defines biofuels to include nontoxic plant matter consisting of agricultural or silvicultural crops or their byproducts, urban wood waste, mill residue, slash, or brush. It would take effect upon signature of the Governor.

The bill simply requires an analysis of using biofuels in state buildings, which can be accomplished within existing resources. It will not affect state or local government revenues or expenditures and is therefore assessed as having no fiscal impact. It should be noted that state agencies can currently consider biofuels or other renewable fuels in the design of a building, but that retrofitting an existing facility to use biofuel could increase state expenditures.

### Departments Contacted

Personnel and Administration