Colorado Legislative Council Staff

SB17-301

FISCAL NOTE

FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 17-1155	**Date:**	May 2, 2017
Prime Sponsor(s):	Sen. Scott	**Bill Status:**	Senate Agriculture
		Fiscal Analyst:	Erin Reynolds (303-866-4146)

BILL TOPIC: ENERGY-RELATED STATUTES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020
State Revenue	**$468,340**	**$427,165**	**$372,487**
General Fund	10,328	8,466	6,211
Fixed Utilities Fund	344,262	282,199	207,026
Highway Users Tax Fund	113,750	136,500	159,250
Severance Tax Trust Fund	See Background section.		
State Transfer			
General Fund	(3.1 million)	(3.1 million)	(3.1 million)
Cash Funds	3.1 million	3.1 million	3.1 million
State Expenditures	**$3.4 million**	**$3.4 million**	**$3.3 million**
Cash Funds	3.0 million	3.1 million	3.1 million
Fixed Utilities Fund	292,761	238,329	175,233
Federal Funds	See State Expenditures section.		
Centrally Appropriated Costs	51,501	43,870	31,793
TABOR Impact	$468,340	$427,165	Not estimated.
FTE Position Change	27.3 FTE	26.8 FTE	26.0 FTE
Appropriation Required: $3,322,761 – Multiple agencies (FY 2017-18).			
Future Year Impacts: Ongoing revenue and expenditure increase; General Fund transfer is repealed after FY 2020-21.			

Summary of Legislation

The bill annually transfers $3.1 million to the Colorado Energy Office (CEO) in the Office of the Governor from the General Fund for four years from FY 2017-18 through FY 2020-21. It increases annual registration fees for plug-in electric vehicles by $35 per vehicle, to be deposited into the Highway Users Tax Fund (HUTF). It requires the Colorado Public Utilities Commission (PUC) to adopt rules related to investor-owned utility interests in Colorado-based natural gas reserves. It requires the CEO and the Department of Natural Resources (DNR) to form a stakeholder group to address funding shortfalls related to abandoned oil and gas wells. It also repeals several defunct energy-related statutes in the CEO. Finally, the bill makes changes to the Property Assessed Clean Energy program.

General Fund transfer – Colorado Energy Office. The bill restores funding that repeals in FY 2016-17 to both the Energy Fund and the Innovative Energy Fund.

- ***Energy Fund.*** The bill removes "Clean and Renewable" from the name of the Energy Fund and restores a $1.6 million General Fund transfer to the fund, which was repealed as of January 1, 2017. The bill also adds educating the general public on energy issues and opportunities to the list of fund uses.

- ***Innovative Energy Fund.*** The bill replaces an off-the-top Severance Tax Trust Fund transfer of $1.5 million, which repeals July 1, 2017, to the Innovative Energy Fund with a General Fund transfer of the same amount. The bill also removes the requirement that funds are to be limited to innovative energy efficiency projects and policy development grants and loans.

Increased registration fees for plug-in electric vehicles – County clerks – Highway Users Tax Fund and Electric Vehicle Grant Fund. The bill increases the annual registration fee on plug-in electric motor vehicles collected by county clerks from $50 to $85. Of this fee, $65 is transmitted to the HUTF and the remaining $20 is transmitted to the Electric Vehicle Grant Fund as it is under current law. HUTF revenue generated from registration fees is distributed to the State Highway Fund in the Colorado Department of Transportation (CDOT) (65 percent), counties (26 percent), and municipalities (9 percent) for transportation needs.

Natural gas reserves – Public Utilities Commission. The bill directs the PUC to adopt rules related to investor-owned utility plan submittal for the acquisition of Colorado-based natural gas reserves to meet long-term supply needs. The rulemaking must take place in two stages, with the first related to general portfolio scope, regulatory framework, and review process, and the second related to the framework for project and asset evaluation.

Stakeholder process on abandoned oil and gas facilities – Colorado Energy Office and the Department of Natural Resources. The CEO and DNR must convene a stakeholder group for one or more meetings before November 2017 to identify voluntary methods to address funding shortfalls associated with the long-term management of abandoned oil and gas facilities.

Program repeals and new requirements – Colorado Energy Office. The bill repeals several statutory programs and requirements in the CEO that were primarily defunct, including:

- two energy-related programs in schools, including the Wind for Schools grant program and the Renewable Energy and Energy Efficiency for Schools loan program;
- the Green Building Incentive pilot program;
- the Colorado Clean Energy Finance Program Act;
- a 2018 emissions study on innovative trucks;
- involvement with the Forest Service in Higher Education and the Air Quality Control Commission in the Colorado Department of Public Health and Environment to support the increased use of woody biomass in bio-heating;
- involvement in grants with the Colorado Energy Research Institute for the development of a central resource for building trade professionals;

- responsibility to maintain a list of solar installers, the requirement for a builder to offer that list to customers, and the requirement for the office to offer training on solar installations;
- a required computer system for tracking the movement of gasoline or special fuel in the state; and
- the administration of the Colorado Carbon Fund Special License Plate.

The bill also requires CEO to:

- promote nuclear and hydroelectric power as clean energy sources; and
- include the energy industry and executive departments when developing and encouraging increased utilization of energy curricula.

Property Assessed Clean Energy program – New Energy Impact District and county treasurers. Under current law, property owners that participate in the Property Assessed Clean Energy program must inform title insurance companies of the new assessment. The New Energy Impact District, which manages the program must hold a hearing to notify lien holders of the special assessment. The bill exempts property owners from the title commitment and hearing requirements if the owner is not seeking to subordinate the priority of existing liens when using the program. The bill also clarifies that housing authorities can voluntarily utilize the program.

Background

House Bill 12-1315. In 2012, the Governor's Energy Office was reorganized as the CEO. The mission of the office was modified to encourage all sources of energy development. The bill created both the Clean and Renewable Energy Fund and the Innovative Energy Fund.

Severance Tax Trust Fund. Because the Severance Tax Trust Fund transfer repeals under current law and is not reauthorized under this bill, DNR and the Department of Local Affairs will split an additional $1.5 million from the Severance Tax Trust Fund; however, this is not a direct impact of this bill.

Background on programs that repeal under SB17-301. The programs repealed by SB17-301 are primarily defunct, as described below.

- ***Wind for School Grant Program.*** This program was created in 2007 and dispersed 12 grants to schools totaling $60,000 over several years. Previously, the grant program was funded primarily by federal American Recovery and Reinvestment Act money. This stream of federal revenue has ended and the state grant program is currently inactive.

- ***Renewable Energy and Energy Efficiency for Schools Loan Program.*** This program was created in 2009 to provide school districts with loans from the Public School Fund for renewable and efficiency upgrades. No applications have been received since the program's inception.

- ***Green Building Incentive Pilot Program.*** The federally funded pilot program was completed in 2012.

- ***Clean Energy Finance Program.*** This inactive program, a partnership between the CEO and the State Treasurer's Office, allowed the investment of state funds in clean energy loans for large-scale commercial, industrial, and institutional installations of solar electric generation facilities. A participating public or private lender was permitted to finance one or more clean energy improvements to commercial, industrial, or government-owned real property, subject to certain conditions.

- ***Emissions study for innovative trucks.*** HB14-1326 required the CEO to study life-cycle emissions produced by medium and heavy duty trucks in certain categories (4, 4A, 4B, 4C, 7, 7A, and 9) to determine whether these trucks generate life-cycle emissions materially greater than those generated by comparable trucks using traditional fuel in order to inform the innovative truck tax credit.

- ***Carbon Fund special license plate.*** Issued since 2008, the CEO transferred the sponsorship of this plate to a nonprofit over the course of the last year.

Public Utilities Commission — Natural gas reserves. There are two investor-owned utilities in Colorado, Xcel Energy and Black Hills Energy. These entities are not currently engaged in the upstream ownership of natural gas reserves, production, or midstream transportation.

Plug-in electric vehicles. There are varying data points on plug-in electric vehicles (PEVs). Data provided to the CEO by Polk indicate that 8,885 plug-in electric vehicles have been purchased in Colorado. However, data provided by the Department of Revenue indicate that 2,346 plug-in electric vehicles were registered in Colorado as of August 2016. These vehicles are currently charged a $50 additional registration fee which is transmitted $30 to the HUTF and $20 to the Electric Vehicle Grant Fund in the CEO.

Property Assessed Clean Energy program. The Property Assessed Clean Energy program allows property owners to finance up to 100 percent of up-front energy efficiency, renewable energy, and water conservation improvements through a special assessment on their property tax bill. The special assessment allows the building improvements to be paid over time even if the property sells. Property owners voluntarily join the special district to gain access to financing and allow the administration of the special assessment. Like property taxes, the special assessment takes priority over other mortgages on the property. County treasurers collect the special assessment on participating properties when property taxes are collected.

State Revenue

The bill will increase state revenue by ***$468,340 in FY 2017-18, $427,165 in FY 2018-19, and $372,487 in FY 2019-20*** to the Fixed Utilities Fund, the General Fund, and the HUTF. The bill also creates a four-year state transfer of $3.1 million from the General Fund to two funds in the CEO. These impacts are described below.

Fixed Utilities Fund. The bill is expected to increase state revenue by $354,590 in FY 2017-18, $290,665 in FY 2018-19, and $213,236 in FY 2019-20 to the Fixed Utilities Fund and the General Fund. This amount includes the administrative costs incurred by the PUC as a result of this bill, as discussed in the State Expenditures section, as well as an additional 3 percent statutory credit to the General Fund.

The Fixed Utilities Fund receives fees assessed against regulated electric and natural gas utilities at a rate set annually based on the amount needed to cover applicable PUC and other utility regulation expenditures in the Department of Regulatory Agencies. The rate is applied to each regulated company's gross intrastate utility operating revenues, as calculated by the Department of Revenue. Whenever additional expenses are incurred against these funds, the assessment must be raised to cover these expenses, plus credit 3 percent to the General Fund as required by state law.

Highway Users Tax Fund. Beginning in FY 2017-18, the bill will increase state cash fund revenue by an estimated $113,750 in FY 2017-18, $136,500 in FY 2018-19, and $159,250 in FY 2019-20 to the HUTF. The bill increases annual vehicle registration fees for plug-in electric vehicles by $35 per vehicle, to be deposited into the HUTF. The State Highway Fund in CDOT receives 65 percent of the HUTF revenues generated through vehicle registration fees. Using an estimate based on available data, the fiscal note assumes that 5,000 individuals will pay the registration fee in FY 2017-18, and that the number of electric plug-in vehicles will grow by approximately 1,000 per year.

Fee impact on plug-in electric vehicle owners. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 below identifies the fee impact of this bill.

Table 1. Fee Impact on Plug-in Electric Vehicle Owners Under SB17-301

Fiscal Year	Type of Fee	Current Fee	Proposed Fee	Fee Change	Number Affected	Total Fee Impact*
FY 2017-18	PEV Annual Vehicle Registration	$50	$85	$35	5,000	**$175,000**
FY 2018-19					6,000	**$210,000**
FY 2019-20					7,000	**$245,000**

* *HUTF revenue generated from registration fees is distributed to the State Highway Fund (65 percent), counties (26 percent), and municipalities (9 percent) for transportation needs.*

State transfers. The bill transfers $3.1 million from the General Fund from FY 2017-18 through FY 2020-21. This includes $1.6 million to the Energy Fund, and $1.5 million to the Innovative Energy Fund.

TABOR Impact

This bill increases state revenue from cash fund fees and a related General Fund credit, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. In years when the state collects revenue above the TABOR limit, the increase in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation increase by equal amounts. However, the increase in cash fund revenue increases the TABOR refund obligation, decreasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will increase money available for the General Fund budget.

State Expenditures

The bill increases state expenditures by ***$3,374,262 and 27.3 FTE in FY 2017-18, $3,382,199 and 26.8 FTE in FY 2018-19, and $3,307,026 and 26.0 FTE in FY 2019-20*** from the General Fund and the Fixed Utilities Fund. The bill will also increase workload and potentially expenditures in the Department of Revenue. These impacts are described below.

Colorado Energy Office — Energy Fund and Innovative Energy Fund. The bill increases state cash fund expenditures by $3.1 million and 24.0 FTE in the CEO for four years from FY 2017-18 through FY 2020-21 from the Energy Fund and the Innovative Energy Fund. The bill repeals a statutory requirement that the CEO perform an emissions study on innovative trucks, which will decrease CEO expenditures by $70,000 in FY 2017-18 only.

The Energy Fund and the Innovative Energy Fund support CEO operational expenses of payroll, leased space, and intergovernmental expenses. These funds also currently support:

- financing programs such as the Property Assessed Clean Energy program and energy performance contracting;
- programming to reduce energy use and savings including in agricultural operations, public buildings, and rural schools;
- technical assistance and trainings, including programs on hydropower development, energy-related building codes, and industrial waste heat to power;
- energy research on technologies, case studies, and demonstration projects on all state energy resources;
- energy emergency planning and liquid fuels management, including propane supply monitoring, coordinating petroleum marketer hours of service exemptions, updating the state energy assurance plan, and natural disaster responses;
- electric vehicle grant funding for public infrastructure; and
- STEM energy education initiatives.

Colorado Energy Office — Federal funds. The bill affects $1.7 million of federal funds. In order to receive a $620,000 U.S. Department of Energy grant for the State Energy Program, the CEO provides a 20 percent match from the Energy Fund and the Innovative Energy Fund. The CEO also administers the $1.1 million U.S. Department of Agriculture Regional Conservation Partnership Program for the state, which delivers grants directly to grantees. This program requires CEO administration paid for by the Energy Fund and the Innovative Energy Fund. The CEO would be unable to access or pass-through this funding without the bill.

Public Utilities Commission — Fixed Utilities Fund. The bill increases state cash fund expenditures for the PUC by $344,262 and 3.3 FTE in FY 2017-18, $282,199 and 2.8 FTE in FY 2018-19, and $207,026 and 2.0 FTE in FY 2019-20. These expenditures are outlined in Table 2 and described in the paragraph below.

Table 2. Public Utilities Commission Expenditures Under SB17-301			
Cost Components	**FY 2017-18**	**FY 2018-19**	**FY 2019-20**
Personal Services	$275,517	$235,669	$173,333
FTE	3.3 FTE	2.8 FTE	2.0 FTE
Operating Expenses and Capital Outlay Costs	17,244	2,660	1,900
Centrally Appropriated Costs*	51,501	43,870	31,793
TOTAL	**$344,262**	**$282,199**	**$207,026**

** Centrally appropriated costs are not included in the bill's appropriation.*

The PUC will hold two rulemaking proceedings over FY 2017-18 and FY 2018-19 regarding investor-owned utility interest in Colorado-based natural gas reserves, which may include ownership of natural gas reserves; natural gas production facilities; and natural gas midstream purification, compression, and transportation facilities. The acquisition of natural gas reserves will include acquisition of minerals and mineral rights, as well as acquisition of plants and equipment, including extraction, purification, measurement, regulations, compression, and transport equipment. As such, the PUC will require 1.0 FTE Physical Science Researcher/Scientist III and 1.0 FTE Professional Engineer II beginning in FY 2017-18 and ongoing. During rulemaking, 1.3 FTE is required in FY 2017-18 and 0.8 FTE in FY 2018-19, which includes increments of a Rate and Financial Analyst, Rules Administrator, Administrative Law Judge, and Court Reporter.

Department of Revenue. In FY 2017-18, the Department of Revenue will be required to perform computer programming related to the new plug-in electric vehicle registration fee. Any costs related to this process have not yet been estimated; the fiscal note will be updated as necessary.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs for the Public Utilities Commission Under SB17-301			
Cost Components	**FY 2017-18**	**FY 2018-19**	**FY 2019-20**
Employee Insurance	$26,813	$22,753	$16,261
Supplemental Employee Retirement Payments	24,688	21,117	15,532
TOTAL	**$51,501**	**$43,870**	**$31,793**

Local Government Impact

The bill will impact local governments in several ways, as described below.

Registration fees — Highway Users Tax Fund. HUTF revenue generated by annual vehicle registration fees is distributed to counties (26 percent) and municipalities (9 percent) for transportation needs. As such, the bill is expected to increase HUTF revenue to counties by approximately $45,500 in FY 2017-18, $54,600 in FY 2018-19, and $63,700 in FY 2019-20. It is also expected to increase HUTF revenue to municipalities by $15,750 in FY 2017-18, $18,900 in FY 2018-19, and $22,050 in FY 2019-20.

County clerks. County clerks offices will be required to adjust the annual vehicle registration fee for plug-in electric vehicles and to provide ongoing training on the vehicles to which the fee applies.

Local housing authorities. To the extent that local housing authorities utilize the Property Assessed Clean Energy program, revenue and expenditures to fund energy improvements will increase through a special assessment on property tax.

School District Impact

The bill's repeal of the renewable energy loan program for schools districts will remove a potential source of capital construction funding for schools; however, no school district has taken advantage of the program to date.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

In FY 2017-18, the bill requires a $3,322,761 appropriation as follows:

- $3.1 million — which includes $1.6 million from the Energy Fund and $1.5 million from the Innovative Energy Fund — and an allocation of 24.0 FTE to the Colorado Energy Office;
- $70,000 from Colorado Energy Office back to the General Fund; and
- $292,761 and an allocation of 3.3 FTE from the Fixed Utilities Fund to the Public Utilities Commission in the Department of Regulatory Agencies.

State and Local Government Contacts

CHFA	Colorado Energy Office	Counties
County Clerks	County Treasurers	Education
Higher Education	Information Technology	Law
Municipalities	Natural Resources	Property Tax Division
Public Health and Environment	Regulatory Agencies	Revenue
School Districts	Transportation	Treasury