Colorado
Legislative
Council
Staff

SB17-301

REVISED FISCAL NOTE

(replaces fiscal note dated May 4, 2017)

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

Drafting Number:	LLS 17-1155	**Date:**	May 9, 2017
Prime Sponsor(s):	Sen. Scott; Marble Rep. Becker J.; Saine	**Bill Status:**	House Health, Insurance and Environment
		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	**$416,015**	**$433,990**	**$946,253**
General Fund	10,328	8,466	22,790
Fixed Utilities Fund	344,262	282,199	759,663
Highway Users Tax Fund	61,425	143,325	163,800
Severance Tax Trust Fund	See Background section.		
State Transfer			
General Fund	(2.1 million)	(2.1 million)	(2.1 million)
Cash Funds	2.1 million	2.1 million	2.1 million
State Expenditures	**$2.5 million**	**$2.4 million**	**$2.9 million**
General Fund	(70,000)		
Cash Funds	2.2 million	2.1 million	2.1 million
Fixed Utilities Fund	at least 292,761	at least 238,329	at least 663,719
Federal Funds	See State Expenditures section.		
Centrally Appropriated Costs	51,501	43,870	95,943
TABOR Impact	$416,015	$433,990	Not estimated.
FTE Position Change	19.3 FTE	18.8 FTE	22.8 FTE
Appropriation Required: $2,417,521 – 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Future Year Impacts: Ongoing revenue and expenditure increase; General Fund transfer is repealed after FY 2020-21.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 ***reengrossed*** bill annually transfers $2.1 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. It requires the Colorado Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to adopt rules related to investor-owned utility interests in 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 repeals several defunct energy-related statutes in the CEO. It makes changes to the Property Assessed Clean Energy program. It requires investor-owned utilities to submit distributed resource plans during the electric resource planning review process at the PUC. The bill also requires the Colorado Oil and Gas Conservation Commission in DNR to submit monthly reports to the General Assembly about its oil and gas flowline inspection project. The bill is detailed further below.

***General Fund transfer – Colorado Energy Office*.** The bill partially 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 $1.1 million of a former $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, with a $1.0 million General Fund transfer to the Innovative Energy Fund. The bill also removes the requirement that funds are to be limited to innovative energy efficiency projects and policy development grants and loans.

Electric vehicles – County clerks – Highway Users Tax Fund and Electric Vehicle Grant Fund. Beginning January 1, 2018, the bill defines and increases the annual registration fee on plug-in electric motor vehicles collected by county clerks as follows:

- from $50 to $95 for battery electric motor vehicles; and
- from $50 to $65 for plug-in hybrid electric motor vehicles.

Of this fee, the first $30 is transmitted to the Electric Vehicle Grant Fund, as it is under current law, and the remainder is ($65 and $35, respectively) transmitted to the HUTF. 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.

The Department of Revenue is required to create an electric vehicle decal to be attached to the vehicle windshield, which will be given to each electric vehicle owner who pays the fee. Decals are transferrable. The purpose of the Electric Vehicle Grant Fund is also modified in order to allow the fund to offset costs associated with charging stations for electric vehicles.

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 natural gas reserves to meet long-term supply needs. The rulemaking must begin on or before August 1, 2017. The rules must establish criteria for asset evaluation, application review, and administration. Investor-owned utility costs associated with any approved application may not be recovered through base rates.

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 1, 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.

Distributed resource planning — Public Utilities Commission. The bill requires investor-owned utilities to submit distributed resource plan proposals to the PUC that include distribution grid upgrades and investments and forecast demand and penetration plans. The PUC must review the resource plan proposal during its electric resource planning process. Once approved, utility expenditures for distribution infrastructure are to be considered at the next general rate case.

Oil and gas flowline inspection report — Department of Natural Resources. The bill requires the Colorado Oil and Gas Conservation Commission in DNR to report monthly to the General Assembly on the progress of the identification and inspection of flowlines within 1,000 feet of a building unit until the project is completed.

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 currently four investor-owned utilities in Colorado that are subject to the bill, including Xcel Energy, Black Hills Energy, Atmos Energy, and Colorado Natural Gas. Black Hills Energy owns an unregulated subsidiary that is engaged in exploration and production of natural gas. The remaining entities are not currently engaged in the upstream ownership of natural gas reserves, production, or midstream transportation. The PUC has received applications from both Xcel Energy and Black Hills Energy to purchase gas reserves, which were withdrawn and denied, respectively.

Electric vehicles (EVs). Plug-in electric 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 ***$416,015 in FY 2017-18, $433,990 in FY 2018-19, and $946,253 in FY 2019-20*** to the Fixed Utilities Fund, the General Fund, and the State Highway Fund. The bill also creates a four-year state transfer of $2.1 million from the General Fund to two funds in the CEO. These impacts are described below.

Fixed Utilities Fund and General Fund. The bill is expected to increase state revenue to the Fixed Utilities Fund and the General Fund respectively by $344,262 and $10,328 in FY 2017-18, $282,199 and $8,466 in FY 2018-19, and $759,663 and $22,790 in FY 2019-20. This amount includes the administrative costs incurred by the PUC as a result of this bill, as discussed in the State Expenditures section, and an additional 3 percent statutory credit to the General Fund, as discussed in the following paragraph.

Fixed Utilities 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.

State Highway Fund. Beginning in FY 2017-18, the bill will increase state cash fund revenue by an estimated $61,425 in FY 2017-18, $143,325 in FY 2018-19, and $163,800 in FY 2019-20 to the HUTF. The bill increases annual vehicle registration fees to the HUTF for battery EVs by $45 and for plug-in hybrid EVs by $15. The fiscal note assumes that there are currently 6,000 electric vehicles in the state, 55 percent of which are battery EVs and 45 percent of which are hybrid EVs, and that the number of EVs will grow by approximately 1,000 per year. The State Highway Fund in CDOT receives 65 percent of the HUTF revenues generated through vehicle registration fees. The revenue impact has been prorated for a half-year impact in FY 2017-18.

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	Current Fee	Proposed Fees	Fee Change	Number Affected	Total Fee Impact*
FY 2017-18	PEV Annual Vehicle Registration	$50	$65 / $95	$15 / $45	6,000	**$94,500**
FY 2018-19					7,000	**$220,500**
FY 2019-20					8,000	**$252,000**

* *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 $2.1 million from the General Fund from FY 2017-18 through FY 2020-21. This includes $1.1 million to the Energy Fund, and $1.0 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 ***$2,374,262 and 19.3 FTE in FY 2017-18, $2,382,199 and 18.8 FTE in FY 2018-19, and $2,859,663 and 22.8 FTE in FY 2019-20*** from the General Fund and the Fixed Utilities Fund. The bill also increases workload and potentially expenditures in the Department of Revenue, as well as workload in DNR. These impacts are described below.

Colorado Energy Office. The bill increases state cash fund expenditures by $2.1 million and approximately 16.0 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.

Because the bill extends the funding for CEO at a reduced funding level, approximately 8.0 FTE and some programs are expected to be unfunded. The precise impacts have not been estimated by this fiscal note.

Workload will also increase in the CEO to convene the stakeholder meeting required by the bill. This can be accomplished within existing appropriations.

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 $759,662 and 6.8 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	$526,185
FTE	3.3 FTE	2.8 FTE	6.0 FTE
Operating Expenses and Capital Outlay Costs	17,244	2,660	5,700
Legal Services			131,834
FTE			0.8 FTE
Centrally Appropriated Costs*	51,501	43,870	95,943
TOTAL	**$344,262**	**$282,199**	**$759,662**

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

Natural gas reserve interest. The PUC will hold two rulemaking proceedings over FY 2017-18 and FY 2018-19 regarding investor-owned utility interest in 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.

Distributed resource plans. In FY 2019-20, concurrent with the electric resource plan review process, the PUC will require 4.0 FTE to review distributed resource plan proposals from investor-owned utilities. This includes 2.0 FTE Professional Engineer III and 2.0 FTE Rate and Financial Analyst, as well as 1387 hours of legal services at the rate of $95.05 per hour, which requires an allocation of 0.8 FTE to the Department of Law. This fiscal impact will occur in FY 2019-20 only, and again every four years during the electric resource planning process.

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. In order to meet the deadline of January 1, 2018, the Department of Revenue will need to complete programming in CSTARS. However, CSTARS is currently scheduled to be fully replaced by the Colorado DRIVES system in August 2018. To complete the work in CSTARS, the DOR will require $94,760, which represents 920 hours at the rate of $103 per hour to complete programming on a system that will be eliminated. See Technical Note. The department will also create an electric vehicle decal, costs for which can be accomplished within existing resources.

Department of Natural Resources. The Colorado Oil and Gas Conservation Commission in DNR is required to provide monthly reports to the General Assembly on the progress of its flowline identification and inspection project. Workload will also increase in the department to convene the stakeholder meetings required by the bill. These workload increases can be accomplished within existing resources.

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	$48,794
Supplemental Employee Retirement Payments	24,688	21,117	47,149
TOTAL	**$51,501**	**$43,870**	**$95,943**

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 electric 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:
  - $24,570 in FY 2017-18,
  - $57,330 in FY 2018-19,
  - $65,520 in FY 2019-20; and

- to municipalities by:
  - $8,505 in FY 2017-18,
  - $19,845 in FY 2018-19, and
  - $22,680 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 taxes.

School District Impact

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

Technical Note

The Department of Revenue will have costs to complete programming in CSTARS, which is currently scheduled to be fully replaced by the Colorado DRIVES system in August 2018. These computer programming costs could be avoided if the electric vehicle registration fee increase took effect after August 2018.

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 transfers $2.1 million from the General Fund to the Colorado Energy Office. Of this amount, the bill requires an appropriation of $1,100,000 to the Energy Fund, and of $1,000,000 to the Innovative Energy Fund. The fiscal note assumes an allocation of 16.0 FTE is also required.

The bill also requires a reduction in General Fund appropriations of $70,000 to the Colorado Energy Office in FY 2017-18.

While the bill specifies that no separate appropriation of state moneys is required to implement the provisions related to the Public Utilities Commission, the fiscal note indicates that the bill requires an appropriation of $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 in FY 2017-18.

Finally, the bill requires a cash fund appropriation of $94,760 from the CSTARS Account to the Department of Revenue in FY 2017-18.

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