LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6935 | **NOTE PREPARED:** Feb 25, 2009
BILL NUMBER: HB 1398 | **BILL AMENDED:** Feb 23, 2009

SUBJECT: Ethanol Incentives.

FIRST AUTHOR: Rep. Grubb | **BILL STATUS:** As Passed House
FIRST SPONSOR: Sen. Gard

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: This bill provides that the E85 Sales Tax deduction applies only to reporting periods beginning on January 1 and ending before April 1. It specifies procedures for administering the deduction. The bill transfers administration of the deduction from the Department of State Revenue to the State Budget Agency. This bill allows the blended biodiesel production tax credit to be carried forward 10 years instead of 6 years.

It requires the Indiana Corn Marketing Council to transfer $500,000 each year beginning in 2010 to the Budget Agency for reimbursing the funds affected by the E85 sales tax deduction. It also adds school corporations and state educational institutions to the list of governmental entities that are eligible to apply to the Department of Agriculture for a grant under the E85 fueling station grant program. It also requires state educational institutions to purchase ethanol blended fuel and blended biodiesel fuel to the extent possible.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: *Department of State Revenue(DOR):* This bill could result in some cost savings to the DOR. The bill transfers administration of E85 sales tax credit from the DOR to the State Budget Agency.

State Budget Agency (SBA): This bill would increase administrative expenditures for the SBA. The bill provides that the SBA must administer the E85 sales tax credit. The bill outlines the procedures for administering the credit. Any increase in expenditures would be covered under the existing resources.

State Educational Institutions: The bill provides that state educational institutions shall, whenever possible, purchase ethanol blended fuel and blended biodiesel to fuel vehicles owned or operated by the state educational institutions. Any impact on expenditures is indeterminable.

Indiana State Department of Agriculture (ISDA) and the Indiana Office of Energy and Defense Development (OED): This bill includes school corporations and state educational institutions in the definition of units eligible to receive grants under the E85 Fueling Station Grant Program. The ISDA and the OED may experience increased administrative costs due to this change, such as revision of grant guidelines and computer programs. There may also be an increased number of applicants due to the expansion of eligibility. The current level of resources for the ISDA and the OED should be sufficient to implement this change.

(Revised) Background Information - *E85 Fueling Station Grant Program*: The ISDA and the OED administer the program, which received a $1 M appropriation from the General Fund in FY 2008 (SEA 270-2007).The grant program has a cap of $1 M. Grants awarded in 2008 are listed below.

Biofuels Grant Program	County	Award Date	Award Amount
Lassus Brothers Oil, Inc.	Huntington	3/4/2008	$5,000
Crystal Flash Petroleum, LLC	Hamilton	5/8/2008	$5,000
Thorntons, Inc.	Johnson	8/18/2008	$20,000
National Oil & Gas	Allen	8/18/2008	$18,000
Family Express Corp.	Porter	8/18/2008	$20,000
Ethy Pump-n-Go	Jay	8/28/2008	$20,000
Family Express Corp.	LaPorte	9/13/2008	$20,000
Crystal Flash Petroleum, LLC	Marion	9/13/2008	$7,850
Thorntons, Inc.	Clark	9/17/2008	$20,000

Explanation of State Revenues: *Blended Biodiesel Production Tax Credit*: This bill allows the Blended Biodiesel Production Tax Credit to be carried forward for 10 years. Current statute allows the credit to be carried forward for 6 years. Two companies received certification for credits from the Indiana Economic Development Corporation (IEDC) in FY 2006 and FY 2007. One company received certification for $3 M in credits during FY 2006, and one company received certification for $1 M in credits during FY 2007. This bill would allow these companies to potentially claim Blended Biodiesel Production Tax Credits against their tax liabilities until tax years 2015 and 2016 if the credit amounts exceed their liabilities, and until all credits are claimed. Data was not available for the amount of credits claimed for tax years 2005 to 2007.

Taxpayers that produce blended biodiesel (B2 or greater, excluding B100) at a facility in Indiana are eligible for a tax credit that equals $.02 multiplied by the number of gallons of blended biodiesel produced. The total amount of credits allowed may not exceed $3 M for a taxpayer for all taxable years. The total credits available for biodiesel, blended biodiesel and grain ethanol production may not exceed $50 M for all taxpayers each year. The $50 M cap was reached in FY 2007, and so no new tax credits have been certified since then for biodiesel, blended biodiesel and grain ethanol production.

The Blended Biodiesel Production Tax Credit may be taken against the individual and corporate Adjusted Gross Income (AGI) Tax, the Financial Institutions Tax (FIT), and the Insurance Premiums Tax (IPT) and may not be carried back or refunded. Revenue from the individual and corporate AGI Tax, the FIT and the

IPT is distributed in the state General Fund.

(Revised) *E85 Sales Tax Deduction:* The bill should have no impact on future Sales Tax revenue assuming all the Sales Tax deductions are reimbursed by the fund. The bill provides that the Sales Tax credit applies to periods beginning on January 1 and ending before April 1. The bill establishes the Retail Merchant E85 Deduction Reimbursement Fund to reimburse the state for the deductions. The fund consists of assessments transferred by the Corn Market Council for deposit in the fund, along with gifts and grants. Currently SBA has an informal arrangement with the Corn Market Council to provide reimbursement for this deduction. The bill requires that on July 1 of each year, the Corn Market Council must transfer $500,000 to the State Budget Agency to be deposited in the Retail Merchant E85 Deduction Reimbursement Fund.

The bill also provides that the total amount of deductions claimed in a reporting period may not exceed the amount of money the SBA determines is available in the Retail Merchant E85 Deduction Reimbursement Fund. The bill provides that before August 1 each year, the SBA must determine whether the deductions to be claimed for the next reporting period would exceed the amount in the Retail Merchant E85 Deduction Reimbursement Fund. The SBA is required to publish a notice stating that the deduction is suspended for that reporting period if the deductions to be claimed for the next reporting period would exceed the amount of money in the fund.

The bill requires that on May 1 each year, the State Budget Agency must determine the sum of all retail merchant deductions allowed in the immediately preceding qualifying period and deposit that amount in the same manner sales tax revenue is deposited; state General Fund (99.178%), the Public Mass Transportation Fund (0.67%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Background Information on E85 Sales Tax Deduction - Under current statute, the total E85 sales tax deduction is limited to $1M in all reporting periods. However, the current statute also provides that, notwithstanding the limit, a retail merchant is entitled to the deduction only to the extent that funds are available to reimburse the General Fund from the Corn Market Development Account. This bill repeals the Indiana Corn Market Development Account effective August 1,2009 and requires the SBA to transfer any remaining balance to the Retail Merchant E85 Deduction Reimbursement Fund (established in this bill).

According to DOR's notice in the Indiana Registry, the E85 Sales Tax deduction limits for FY 2008 and FY 2009 have been reached. Approximately $1.47 M was claimed in FY 2008, and the state was reimbursed $750,000. The remaining balance is to be reimbursed to the General Fund over the next four fiscal years. The maximum of $500,000 of deductions were claimed by October 2008 for FY 2009.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOR; ISDA; OED; Corn Marketing Council; SBA.

Local Agencies Affected:

Information Sources: Elisha Modisett, ISDA, 317-517-7526; Bob Lain, DOR, 317-232-3471, DOR Department Notice 28,29,30; IEDC.

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