

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6935

BILL NUMBER: HB 1398

NOTE PREPARED: Apr 15, 2009

BILL AMENDED: Apr 2, 2009

SUBJECT: Ethanol Incentives.

FIRST AUTHOR: Rep. Grubb

FIRST SPONSOR: Sen. Gard

BILL STATUS: As Passed Senate

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires state educational institutions to purchase mid-level blends of gasoline and ethanol, E85, and blended biodiesel fuel to the extent possible.

The 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. It transfers administration of the deduction from the Department of Revenue to the State Budget Agency.

The bill provides that the amount of money expended on administering Indiana corn market development statutes in a state fiscal year may not exceed 10% of the total amount of assessments, grants, and gifts received by the Corn Marketing Council in that year. It establishes the Retail Merchant E85 Deduction Reimbursement Fund. It requires the Indiana Corn Marketing Council's annual transfers to the retail merchant E85 Deduction Reimbursement Fund to be in amounts calculated to restore a balance of \$500,000. It adjusts corn checkoff refund and audit requirements.

The bill 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.

Effective Date: Upon passage; July 1, 2009; August 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.

Corn Marketing Council: The bill provides that the amount of administrative expenditures incurred by the Council during a state fiscal year may not exceed 10% of the total amount of assessments, grants, and gifts received by the Corn Marketing Council. The Council's expenses are required by law to be paid from assessments on Indiana corn growers.

(Revised) State Educational Institutions: The bill provides that state educational institutions shall, whenever possible, purchase mid-level blends of gasoline and ethanol, E85, 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.

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: 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 the Corn Market Council must transfer \$500,000 to the SBA to deposit in the Fund on July 1, 2010. The bill also requires that on July 1, 2011, and each following year, the

Corn Market Council must transfer to the SBA the amount of funds necessary to restore the Fund's balance to \$500,000.

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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