Fiscal Note & Local Impact Statement

126 th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615
✧ *Internet Web Site:* http://www.lsc.state.oh.us/

BILL: **Sub. H.B. 245**

DATE: **May 5, 2006**

STATUS: **As Enacted – Effective October 12, 2006 (Sections 3, 4, 5, 6 and 9 effective July 6, 2006)**

SPONSOR: **Rep. Reinhard**

LOCAL IMPACT STATEMENT REQUIRED: **Yes** **However, the enacted version does not contain the tax credit provisions which caused the initial "Yes" local impact determination**

CONTENTS: **To establish certain requirements related to the use of alternative fuels by state agencies, and create the Diesel Emissions Grant Fund, The Diesel Emissions Reduction Revolving Loan Fund, and the Biodiesel Revolving Fund**

State Fiscal Highlights

STATE FUND	FY 2007	FY 2008	FUTURE YEARS
Diesel Emissions Grant Fund (New Fund) and Diesel Emissions Reduction Revolving Loan Fund (New Fund) – Department of Development			
Revenues	- 0 -	Gain between $240,000 to $360,000 (or more)	Gain between $240,000 to $360,000 (or more)
Expenditures	- 0 -	Potential increase up to 2% of balance to cover administrative costs offset by accrued interest	Potential increase up to 2% of balance to cover administrative costs offset by accrued interest
Fleet Management (Fund 122) – Department of Administrative Services			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential increase to meet vehicle acquisition requirements	Potential increase to meet vehicle acquisition requirements
Biodiesel Revolving Fund (New Fund) – Department of Administrative Services			
Revenues	- 0 -	Potential gain from sale of credits; appropriations, and other moneys	Potential gain from sale of credits; appropriations, and other moneys
Expenditures	- 0 -	Offsetting increase from fuel reimbursements	Offsetting increase from fuel reimbursements

Alternative Fuel Transportation Grant Fund – Department of Development			
Revenues	- 0 -	Gain from a $1,000,000 transfer from the Energy Efficiency Loan and Grant Fund appropriations	- 0 -
Expenditures	- 0 -	(1) Potential increase as grants are awarded; (2) potential increase to cover administrative costs	(1) Potential increase as grants are awarded; (2) potential increase to cover administrative costs
Other State Funds (General Revenue Fund and Non-GRF Funds) – Various State Agencies; Department of Taxation; Department of Development			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	(1) Potential increase in vehicle and fuel costs; (2) potential administrative increases for departments of Taxation, Development, and EPA	(1) Potential increase in vehicle and fuel costs; (2) potential administrative increases for departments of Taxation, Development, and EPA
Energy Efficiency Loan and Grant Fund (Fund 5M5) – Department of Development			
Revenues	- 0 -	Loss from a $1,000,000 transfer to the Alternative Fuel Transportation Grant Fund	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- ***Diesel Emissions Grant Fund and Diesel Emissions Reduction Revolving Loan Fund.*** The Department of Development will provide grants and loans for projects relating to certified engine configurations and verified technologies in a manner consistent with the requirements of section 793 of the Energy Policy Act of 2005. Moneys credited to the funds may come from grants from Section 793 of the Energy Policy Act of 2005; other grants, gifts, or contributions; and appropriations from the General Assembly. At a minimum, Ohio is estimated to receive at least $240,000 annually between 2007-2011 from Section 793. If Ohio can match the $240,000 with state funds the gain would increase to $360,000. Ohio may also receive more depending on how many states are approved for these grants or loans. Assuming Ohio matches the grant and loans received, Ohio may receive at a minimum between $240,000 to $360,000 annually, and over five- years between $1.2 million to $1.8 million. With the additional matching amounts, Ohio could have $600,000 available annually, or $3 million over the five-year period for the Diesel Emission Program. As far as the Department of Development's administrative expenses, the Department estimates it historically uses 2% of the moneys in grant funds to administer the program. The bill provides that these expenses will be covered with interest accrued to the funds.

- ***Fleet management of alternative fuels.*** The Department of Administrative Services (DAS) will ensure that at least 90% of the total number of new motor vehicles acquired by certain state agencies can run on alternative fuels. No additional moneys are provided to cover such costs; therefore DAS states that it will use current resources to negotiate new vehicle contracts, maintain state agency compliance, and establish vehicle cost limitations and emissions criteria. The Department may experience a revenue gain from the sale of credits exceeding current 75% federal fleet requirements. The bill also requires DAS to designate an employee within DAS as the State Alternative Fuel Resources Officer and also compile data on alternative fuel purchasing and consumption. DAS does not anticipate any additional costs from these provisions.

- ***Fuel purchasing requirements and the Biodiesel Revolving Fund*.** The bill requires that 90 days after the effective date of the bill, all motor vehicles owned or leased by the state that are capable of using alternative fuels to use alternative fuels if the fuel is reasonably available and reasonably priced. The bill also includes gallon amounts that must be purchased by specific dates. The Department of Administrative Services will reimburse state agencies from the newly created Biodiesel Revolving Fund for the difference between biodiesel and regular diesel when they fill up. Money for the reimbursements will come from the sale of credits, appropriations, and other DAS moneys.

- ***Alternative Fuel Transportation Grant Fund*.** The Department of Development will award grants for the purchase and installation of alternative fuel refueling facilities, terminals, and distribution facilities; the purchase of alternative fuels; and to pay the costs of educational and promotional materials and activities in order to increase the availability and use of alternative fuel intended. The bill specifies that moneys for the grants will come from appropriations, transfers from the newly created Biodiesel Revolving Fund, and money from the Energy Efficiency Revolving Loan Fund (Fund 5M5). The bill includes a $1,000,000 transfer in FY 2007 to the Department's Alternative Fuel Transportation Grant Fund (Fund 5CG) from the Energy Efficiency Revolving Loan Fund (Fund 5M5). Any administrative costs are likely to be covered by appropriations in the fund.

- ***Other state funds and agencies affected*.** Several state agencies may experience increased vehicle acquisition, vehicle maintenance, and fuel costs for new alternative fuel vehicles. These costs may come from the GRF or other non-GRF funds. Agency alternative fuel costs, in the case of biodiesel only, may be negligible due to reimbursements from the Biodiesel Revolving Fund. The Department of Taxation may experience increased costs to review tax filings and complete a feasibility study on alternative fuel tax rates. The Department of Development may experience costs to complete an economic study on alternative fuels. The EPA may experience increased costs to provide assistance in administering the diesel emissions programs.

- ***Energy Efficiency Revolving Loan Fund*.** Since the bill includes a $1,000,000 transfer from the Energy Efficiency Revolving Loan Fund (Fund 5M5) to the Alternative Fuel Transportation Grant Fund (Fund 5CG), the amount of grant funds available from Fund 5M5 would presumably be reduced by the equivalent amount.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill contains several provisions related to motor vehicles and the use of alternative fuels. These provisions include: (1) establishing two new programs for the purpose of reducing emissions from diesel engines, the Diesel Emission Reduction Grant Program and the Diesel Emission Reduction Revolving Loan Program, (2) requiring a certain percentage of newly acquired state vehicles to be capable of using alternative fuels, (3) requiring a certain percentage of alternative fuels to be used in state vehicles, (4) establishing a credit banking and selling program, and (5) establishing an Alternative Fuel Transportation Grant Program. Detail on each of these provisions may be found in the LSC Bill Analysis. The fiscal impact of the bill is discussed below.

Diesel Emissions Programs

The bill establishes two new programs for the purpose of reducing emissions from diesel engines, the Diesel Emissions Reduction Grant Program and the Diesel Emissions Reduction Revolving Loan Program, along with two respective funds to support the programs, the Diesel Emissions Grant Fund and the Diesel Emissions Reduction Revolving Loan Fund.

Specifically, the bill states that the programs shall provide for the implementation of Section 793 of the Energy Policy Act of 2005 (see next section for explanation). The Department of Development (DEV) is required to administer both programs and is required to apply to the U.S. Environmental Protection Agency for grants or loan funds under Section 793. Other allowable funding sources for the programs include moneys appropriated by the General Assembly, and other grants, gifts, or other contributions. The bill does not include any appropriations from the General Assembly.

Money that is deposited in the Diesel Emissions Grant Fund is to be used for the purposes of making *grants* for projects relating to certified engine configurations and verified technologies in a manner consistent with the requirements of Section 793. Similarly, money that is deposited into the Diesel Emissions Reduction Revolving Loan Fund is to be used for the purpose of making *loans* for such projects. The bill does not provide specifics of what types of projects and/or eligible applicants that may be eligible for funding.

The bill provides that, upon the request of the Director of Development, the Director of the Ohio EPA shall provide assistance in certain aspects of the administration of these programs. The bill also provides that any interest earned from moneys in the funds shall be used to administer the programs. Based on the administration of other development grant funds, the Department of Development estimates that historically approximately 2% of the money in grant funds is used to cover administrative expenses. It is uncertain whether the interest in the funds will be enough to cover the Department's administrative costs. These costs are likely to include: establishing application requirements and procedures; loan and grant eligibility requirements; requirements for minimum contributions from eligible entities; and requirements and procedures for loan repayments. The bill also requires the Director of Development to consult with the Director of Environmental Protection when adopting the rules of the program. Since DEV appears to be the primary agency responsible for administrative costs, the EPA is not likely to experience significant costs.

<u>The Energy Policy Act of 2005 (H.R. 6)</u>. The Energy Policy Act of 2005 contains two sections that provide grants and loans to states and other eligible entities to achieve significant reductions in diesel emissions. Section 792 of the act provides for grants and loans that would go to eligible national entities, while section 793 provides grants and loans to states. A total of $200 million per year is authorized for such programs for fiscal years (FYs) 2007-2011. This equals a grand total of $1 billion available over this five-year period.

The $200 million per year is divided between two sections of the act: Section 792, which will receive 70%, or $140 million; and Section 793, which will receive 30%, or $60 million. Under the federal legislation, Ohio would be eligible to receive grant and loan funds from Section 793. However, note that even though the $60 million is authorized by the Energy Policy Act of 2005, LSC found no evidence that the money has been appropriated by Congress at this time. Nevertheless, for the purposes of this fiscal note, LSC assumes there will be available grant dollars that the Director of Development may apply for and deposit into the Diesel Emissions Reduction Grant Program and the Diesel Emissions Reduction Revolving Loan Program. At this time, the use and eligibility of these federal dollars is not clearly defined by U.S. EPA publications.

Of the $60 million annually presumed to be available funds under Section 793, Ohio, as well as other states, would only be eligible to tap 20% of that amount, or $12 million. It is unknown what the remaining $48 million will be used for. If Ohio applies and is approved for grants and loans, the state is guaranteed 2% of the $12 million annually, or $240,000. Thus, over five years Ohio could potentially receive a total of $1.2 million. Also note that Ohio could receive more if all 50 states do not apply for grants and loans under Section 793. This is because that if fewer than 50 states are approved for grants and loans, those that are approved will receive 2% (the $240,000 discussed above) plus additional amounts determined by multiplying each state's share of the national population by the remaining funds available after each state has received its 2%. Currently it is unknown how many states will apply for the grants and loans and/or how much additional money Ohio may receive beyond the $240,000 annually.

Section 793 also includes a state matching incentive whereby if Ohio equally matches the $240,000 described above, the EPA will award the state another 50% of that match, or $120,000 annually, equating to an additional $600,000 over five years.

In total, if Ohio is approved for grants and loans each fiscal year from FY 2007 to FY 2011, and if Ohio matches the awards from the U.S. EPA, Ohio may receive $360,000 each fiscal year, or a total of $1.8 million over five years. If state matching funds were contributed, Ohio could potentially have $600,000 available annually, or $3 million over the five-year period, for the Diesel Emission Program.

<u>Acquisition of new motor vehicles by DAS and certain state agencies</u>

The Department of Administrative Services (DAS) may experience costs to ensure that at all new motor vehicles acquired on and after July 1, 2006 by the state for use by state agencies be capable of using alternative fuels (herein referred to as alternative fuel vehicles – AFVs). These costs may include (1) negotiating new state vehicle contracts, (2) managing the overall program and determining whether state agencies are compliant with the requirements, and (3) establishing vehicle cost limitation and emissions criteria. Such costs will likely require hiring additional staff and obtaining additional supplies and equipment. DAS currently does not have an estimate of these additional costs or whether such costs could be absorbed into their current budget.

DAS reports that currently 75% of new vehicles acquired by state agencies are flexible fuel vehicles (FFVs) and are capable of using both regular gasoline, or diesel, as well as certain alternative fuels. It is uncertain whether purchasing and maintaining more alternative fuel vehicles will increase costs to state agencies. Currently, alternative fueled vehicles are priced competitively with standard vehicles.[18]

DAS and/or certain state agencies may be temporarily exempt from purchasing AFVs if DAS determines that certain agencies do not have the available funds to purchase them, or the use of such fuels would not meet the energy conservation and exhaust emissions criteria. Currently it is unknown how many agencies may be exempted.

<u>Use of alternative fuels in state-owned motor vehicles</u>

Accompanying the requirement that DAS and certain state agencies purchase AFVs, the bill requires that no later than 90 days after the effective date of the bill, all motor vehicles owned or leased by the state that are capable of using an alternative fuel shall use an alternative fuel *if* the fuel is reasonably available at a reasonable price. This provision applies to all on-road motor vehicles and off-road vehicles powered by diesel fuel, regardless of gross vehicle weight.

If DAS and/or state agencies have the available funds to purchase AFVs and the available fuels meet the appropriate energy and conservation exhaust emissions criteria, the bill requires DAS and state agencies to meet two fuel purchasing requirements. One of the purchasing requirements is that motor vehicles owned or leased by the state shall use at least 60,000 gallons of E85 blend fuel per year by January 1, 2007, with an increase of 5,000 gallons per calendar year each calendar year thereafter. The other requirement is that the state shall use at least 1,000,000 gallons of biodiesel per year by January 1, 2007 with an increase of 100,000 gallons per year each calendar year thereafter.

To ensure that state agencies are complying with this provisions the bill requires DAS to adopt rules to implement the fuel use requirement, and the directors and heads of all state departments and agencies would be required to issue a directive to all state employees who use motor vehicles informing them of the fuel use requirement. The directive shall instruct state employees to purchase alternative fuels at retail fuel facilities whenever possible. Based on data from the U.S. Department of Energy, the actual price per gallon for E85 (85% ethanol, 15% gasoline) and biodiesel are competitive (and even lower for both, particularly for E85) with regular gasoline and diesel prices.[19] That said, based on current prices of alternative fuels and

[18] According to DAS's 2005 state vehicle contract, a standard Ford Explorer is priced at $20,319 and a FFV Ford Explorer is priced at $20,811.

[19] According to the U.S. Department of Energy's latest on-line Alternative Fuel Price Report, as of September 2005: regular gasoline - $2.77 per gallon; regular diesel - $2.81 per gallon; E85 - $2.41per gallon; biodiesel (B20)- $2.91 per gallon; biodiesel (B2-B5) - $2.81 per gallon; natural gas (compressed) $2.12 gallon of gasoline equivalent.

regular fuels, and the state agency compliance requirements for alternative fuel purchasing, state agencies may not experience significant increases in fuel costs. Ultimately, fuel costs and the resultant new costs or savings would depend on market conditions.

However, all of the discussion above does not consider alternative fuel availability. Currently, there are only a limited number of refueling stations throughout the state that offer alternative fuels.[20] Thus, despite the fueling requirements, unless additional alternative refueling stations are built (or current stations are retrofitted to add such fuels) certain agencies may not be able to comply with the requirements. If more stations start offering alternative fuels, it is uncertain how the price of alternative fuels will compare with standard fuels. If there is a large price difference, particularly in the case of biodiesel, state agencies may rely on the reimbursement from the newly created Biodiesel Revolving Fund (see below) to offset some of these costs. The rate and amount of reimbursement from this new fund is currently unknown and if substantial and consistent price differences do occur it is unknown if the Biodiesel Revolving Fund will have enough available cash to reimburse all agencies that request reimbursement.

Business Logo Program. Linked to alternative fuel availability, the bill also contains a provision that requires the Department of Transportation's (ODOT) business logo program to permit motor fuel dealers to include an alternative fuel logo on their signs along the highway. This will create no fiscal effect on the Department. The Department contracts out the administration of the Business Logo Program and ODOT does not receive any funding or bear any costs for the program. The actual number of motor fuel dealers that may participate in this program is unknown.

DAS credit banking and selling program

Though the bill requires DAS to establish and administer a credit banking and selling program, and permits DAS to sell or trade credits in accordance with procedures established pursuant to the federal "Energy Policy Act of 1992," DAS reports that this language codifies current practices. Therefore, DAS is not likely to experience any additional costs from this provision.

Currently, a certain number of federal credits are earned by state government fleets and other alternative fuel provider fleets that operate, lease, or control 50 or more light-duty vehicles (LDVs) within the United States. Examples of fleets in Ohio that buy and sell credits include the state of Ohio, Columbia Gas, and Cinergy Corporation. One to four credits can be earned on a single AFV depending on the size of the vehicle. The bigger the vehicle, the more credits an agency earns. Fleets that exceed their requirements are allowed to bank credits and sell them to other regulated entities that fall short of their mandates.

Biodiesel Revolving Fund. The bill also establishes the Biodiesel Revolving Fund, which will consist of any money DAS receives from the sale of credits, any money appropriated to the fund by the General Assembly, and any other money obtained or accepted by DAS for credit to the fund. Currently, it is unknown how much money the fund will receive. The bill

[20] According to the U.S. Department of Energy's Alternative Fuel Station Locator, the number of stations providing alternative fuels in Ohio includes: E85 - 9; biodiesel - 16; natural gas (compressed) - 13; liquefied petroleum - 77; electric - 0; hydrogen - 0.

requires that money credited to the fund must be used to pay for the incremental cost[21] of biodiesel for use in vehicles owned or leased by the state that use diesel fuel. In other words, state agencies may be reimbursed the difference between biodiesel and regular diesel when they fill up. Currently, it is unknown how many state agencies will be reimbursed or the average reimbursement amount. The bill does not include any appropriations to this fund from the General Assembly.

The bill also includes a provision that allows DAS, after consultation with the Department of Development, to direct the Office of Budget and Management to transfer available moneys in the Biodiesel Revolving Fund to the Alternative Fuel Transportation Grant Fund to be used for the Alternative Fuel Transportation Grant Program.

Once the proper amount of cash flow in the Biodiesel Revolving Fund has been established to provide the needed reimbursement for covering the incremental cost of biodiesel for use in vehicles owned or leased by the state that use diesel fuel, it is unknown how much additional money in the fund may be available to transfer to the Alternative Fuel Transportation Grant Fund.

<u>State Alternative Fuel Resource Officer</u>

The bill requires DAS to designate an employee within the Department as the State Alternative Fuel Resources Officer. The Officer shall monitor federal activity for any federal action that affects the state in its use of motor vehicles that are capable of using alternative fuels. In addition the Officer shall be available to all state departments and agencies to explain the laws that apply to the purchase of motor vehicles that are capable of using alternative fuels and any relevant issues, such as the location of motor vehicle fueling facilities that sell alternative fuels. If time and resources permit, the Officer may assist political subdivisions with any questions or issues related to alternative fuels and to motor vehicles that are capable of using an alternative fuel.

Since the bill only requires DAS to designate an employee as the State Alternative Fuel Resources Officer, DAS may designate its current Fleet Manager as the State Alternative Fuel Resources Officer. Though the current Fleet Manager may have additional responsibilities, DAS does not believe it will incur significant costs to comply with this provision. DAS estimates, at most, that in the event they have to hire an additional employee to fulfill this responsibility, it would cost the agency approximately $60,000 annually.

<u>Reporting of alternative fuel consumption</u>

The bill also states that on a quarterly basis DAS shall compile all data relating to the purchasing of alternative fuels by state agencies, including the amounts of alternative fuels and conventional fuels purchased, the prices paid for each fuel, the locations at which alternative fuels were purchased, and the amount purchased at each such location. Furthermore, the bill requires that by April 1st of each year, DAS shall prepare a report and submit it to certain members of the legislature, containing all the data described above for the preceding calendar

[21] Incremental cost means the difference between blended biodiesel and conventional petroleum-based diesel fuel at the time the blended biodiesel is purchased.

year. The report shall list the number and types of motor vehicles each state agency owns or leases that are capable of using an alternative fuel and the locations at which these motor vehicles are routinely parked. DAS reports that these new responsibilities will likely be handled by its current Fleet Management Division and that any additional costs will likely be absorbed into its current budget.

Alternative Fuel Transportation Grant Program – Department of Development

The bill expands the Department of Development's (DEV) Alternative Fuel Transportation Grant Program. The program will continue to award grants to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling facilities and for the purchase and use of alternative fuel. The bill allows grants to also be made for alternative fuel distribution facilities and terminals. The grant awards may also be used to pay the costs of educational and promotional materials and activities intended for prospective alternative fuel consumers, fuel marketers, and others in order to increase availability and use of alternative fuels. All grants are limited to a maximum of 80% of the cost for the purchase and installation of an alternative fuel refueling facility, terminal, or distribution facility, except that at least 20% of the total net cost of the facility or terminal shall be incurred by the grant recipient and not compensated for by any other source. Moneys for the grants will come from the Department of Development's Alternative Fuel Transportation Grant Fund, which will receive transfers from the Biodiesel Revolving Fund (established by the bill) and moneys appropriated to it by the General Assembly. The actual amount that will be transferred and/or appropriated to the fund is unknown at this time. The amount of money transferred from the Biodiesel Revolving Fund is likely to occur after it has been determined there is enough cash in the fund to provide reimbursement for covering the incremental cost of biodiesel for use in vehicles owned or leased by the state that use diesel fuel.

The bill adds $1,000,000 in FY 2007 to the Alternative Fuel Transportation Grant Fund (Fund 5CG). The source of the $1,000,000 is from a transfer from the Department's Energy Efficiency Revolving Loan Fund (Fund 5M5). Fund 5M5 receives money from riders on retail electric distribution rates, revenue from loan repayments, and revenues remitted by municipal electric companies and rural electric cooperatives. The General Assembly appropriated $12 million in FY 2006 and $12 million in FY 2007 for these activities. With the transfer of $1,000,000 to Fund 5CG, the amount of grant funds available from Fund 5M5 will be reduced by the equivalent amount.

The applicants that receive a grant shall report to the Director of Development the gallon amounts of blended gasoline and blended biodiesel the applicant sells at retail in this state for a period of three years after the grant is awarded. The Director of Development shall enter into a written confidentiality agreement with the applicant regarding the gallon amounts sold as described above.

The Department of Development may experience additional costs to administer the expanded Alternative Fuel Transportation Grant Fund; however, any administrative costs are likely to be covered by appropriations in the fund. Historically, the Department has estimated that it takes roughly 2% of the total available grant funds to administer a grant program.

Feasibility study – Department of Taxation

The Department of Taxation may experience costs to study the feasibility of encouraging the use of alternative fuels by reducing the motor fuel tax rate on those fuels. Such costs may include hiring additional staff and acquiring additional office resources in order to generate a report one year after the effective date of the bill. Currently it is unknown whether these costs may come from the Department's GRF or non-GRF funds.

Alternative fuel study – Department of Development

The Department of Development may experience costs to study the factors involved in making the production, sale, and use of blended biodiesel and E85 blend fuel a commercially viable and self-sustaining industry. Such costs may include hiring additional staff and acquiring additional office resources in order to generate a report one year after the bill's effective date. Currently it is unknown whether these costs may come from the Department's GRF or non-GRF funds.

LSC fiscal staff: Jonathan Lee, Budget Analyst