LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 1, 2007

TO: Honorable Craig Estes, Chair, Senate Committee on S/C on Ag., Rural Affairs & Coastal Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **SB1337** by Estes (Relating to incentives for biofuel production, distribution, and use in this state.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 16 of the Agriculture Code to transfer the implementation of the Fuel Ethanol and Biodiesel Production Incentive Program from the Texas Economic Development and Tourism Division of the Office of the Governor to the Texas Department of Agriculture.

The bill would specify that funds could be transferred to the GR Dedicated-Fuel Ethanol and Biodiesel Production Account No. 5112 by an act of the Legislature. This source would replace the current statutory language that directs the Comptroller to transfer from the undedicated portion of the General Revenue Fund an amount of money equal to 5.25 times the amount of the fees collected under Section 16.005 of the Agriculture Code to the GR Dedicated-Fuel Ethanol and Biodiesel Production Account No. 5112.

There could be potential savings to the General Revenue Fund since there will no longer be the transfer of 5.25 times the amount of the fees collected under Section 16.005. These savings, though, could be offset by the amount of money transferred to the account by the Legislature in House Bill 1, Eightieth Legislature, Regular Session 2007. However, the amount of money, if any, that might be transferred cannot be predicted at this time.

The bill also adds a new section to Chapter 16 of the Agriculture Code that prohibits any state agency from adopting or implementing rules that would restrict the production or distribution of fuel ethanol or biodiesel beyond what is required by federal law. The new section does allow the Texas Commission on Environmental Quality (TCEQ) to impose restrictions after May 1, 2009, if it has determined that the emissions from the use of fuel ethanol or biodiesel would jeopardize state implementation plans (SIP) for meeting the national ambient air quality standards.

The bill's provisions could result in an increase in nitrogen oxide emmissions and therefore rulemaking and SIP analysis will be required. The TCEQ, however, anticipates being able to absorb any costs associated with these tasks within existing resources.

All sections of the bill, except for the section concerning the clean school bus program, would only be effective if House Bill 1or similar legislation provides funding to the Fuel Ethanol and Biodiesel Production Account No. 5112.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 551 Department of Agriculture, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, ZS, JF