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FISCAL IMPACT REPORT

SPONSOR:	Watchman	DATE TYPED:	02/21/01	HB	807
SHORT TITLE:	Special Fuels			SB	
				ANALYST:	Williams

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	**FY02**			
	($1,112.0) to ($2,224.0)	($1,213) to ($1,426)	Recurring	State Road Fund
	($138.0 to $276.0)	($151 to $302)	Recurring	Local Gov't. Road Fund
	($34.5 to $69.0)	($34.5 to $69.0)	Recurring	Local Gov't Road Fund (Petroleum Products Loading Fee)
	($69.0 to $138.0)	($69.0 to $138.0)	Recurring	Corrective Action Fund (Petroleum Products Loading Fee)

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
Taxation and Revenue Department (TRD)
State Highway and Transportation Department (SHTD)

SUMMARY

Synopsis of Bill

The bill address special fuels taxes for registered tribal suppliers. A "registered Indian tribal supplier" is defined to include enterprises which are wholly owned by a tribe or one of its members, and at least one owner must be registered with TRD as a supplier under the Special Fuels Supplier Tax Act. The bill expands the special fuels deduction to that sold at retail by a registered Indian tribal supplier when the sale occurs on the supplier's tribal land and the special fuel is placed into a vehicle's fuel supply tank. The bill would be effective July 1, 2001.

Significant Issues

In contrast to other approaches to dual taxation issues, this bill does not require tribal governments to impose a similar tax of similar magnitude.

State Highway and Transportation Department revenue projection for the state road fund has been revised downward, and the department is essentially maxed out on bonding capacity to fund new highway projects. The infrastructure needs of the state are significant and need to be addressed.

FISCAL IMPLICATIONS

There is considerable uncertainty regarding the potential revenue loss of this bill. The low side of the fiscal impact range is based on an assumption of 6.9 million gallons sold to automobiles, light trucks and truckers trying to operate outside of normal tax compliance. There is a notable lack of data and methodological problems impacting the fiscal impact estimate. The lower range of the estimate is considered a minimum; it is conceivable that the fiscal impacts could be as much as two times as large.

The revenue erosion due to sales to long distance truck traffic is also uncertain over the long term. Tribal land located along I-40 and I-25 would offer an opportunity to sell to these consumers; however, TRD notes heavy trucks are subject to filing special fuel user tax returns or filing under the International Fuel Tax Agreement (IFTA). TRD would notify IFTA of diesel sold to truckers which is not subject to tax, and other states would disallow trucker claims for credit against tax for those volumes. The result would be assessments of unpaid tax, penalty and interest.

This analysis includes an estimate of revenue loss due to the petroleum loading products fee. Neither TRD nor SHTD included this component of revenue loss in their fiscal analysis.

ADMINISTRATIVE IMPLICATIONS

TRD notes minor adverse administrative impact.

OTHER SUBSTANTIVE ISSUES

SHTD notes special fuel tax revenues are pledged for fifteen years as part of the revenue stream for highway bonds. Article IX, Section of the New Mexico Constitution provides:

> "The Legislature shall not enact any law which will decrease the amount of the annual revenues pledged for the payment of state highway debentures or will divert any such revenues to any other purpose so long as any of said debentures issued to anticipate the collection thereof remain unpaid."

SHTD notes the State Highway System includes 12,002 miles of roadway, including frontage roads and ramps. Roads and bridges wear out because of traffic and environmental effects. Since 1990 the State's population has grown about 1.4% a year while traffic has grown about 3.6% a year. Standards for highway design change have become more stringent. Expectations for access to paved highways, up-to-date designs, and four lane roads are increasing. Road fund revenues do not keep up with inflation. The Department is required to pay gross receipts taxes on highway construction projects, a drain of more than $32.6 million in FY 2000 from the State Road Fund.

Laws of 1998 increased the State Highway Commission's bonding authority to $1.124 billion and expanded revenues that secure bonds to include all federal funds and state taxes and fees paid into the Road Fund. In addition, federal legislation, TEA-21, increased the Department's available federal-aid highway funding by an average of $76.25 million a year. The Department is selling bonds to construct four lane projects and will retire the bonds over the next twelve to fifteen years using the additional federal funds. Because the increase in federal funds was less than anticipated, the Department is not able to support debt service for the full bonding authority granted by the legislature.

The Department's current Statewide Transportation Improvement Program (STIP) shows that for FY 2001-2006 revenues for preserving and improving the state highway system, including bond proceeds, total nearly $2.25 billion. For the same time span, the Department' Long Range Comprehensive Transportation Plan (LRP) shows needs for improvement, including bond projects, which total $6.25 billion. Over a twenty-year period, the LRP anticipates revenues totaling $6.0 billion in today's dollars, while projected needs for improvement to state highways ($13.5 billion) and economic-development ($1.2 billion) total $14.8 billion. Needs for improvement to municipal, county, or tribal road systems are not included in these totals.

POSSIBLE QUESTIONS

1. What extent of special fuel sales would be impacted? Would sales to long-distance carriers be impacted?

2. To what extent would the bill interact with the International Fuels Tax Agreement? What might be the potential fiscal impacts?

3. How could bondholders be held harmless from the impacts of this bill?

AW/ar