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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/2020

SPONSOR Brown LAST UPDATED \_\_\_\_\_ HJR 10

SHORT TITLE Limit Use of Funds From Gas Tax & Fees, CA SB \_\_\_\_\_

ANALYST Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22	FY23	FY24		
		See Fiscal Impact for illustration of potential impacts			Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$125.0 -\$150.0		\$125.0 -\$150.0	Nonrecurring	Secretary of State Operating (GF)

Parenthesis ( ) indicate expenditure decreases

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)

Regulation and Licensing Division (RLD)

Department of Transportation (DOT)

General response from the Secretary of State's Office (SOS)

#### No Response Received

Taxation and Revenue Department (RD)

### SUMMARY

#### Synopsis of Bill

The NMAG has provided a summary of this proposed Constitutional Amendment.

House Joint Resolution 10 proposes an amendment to Article 8 of the New Mexico constitution concerning the use of funds derived from taxes, surcharges and fees imposed on motor vehicle fuels. The proposed constitutional amendment adds a new section to

Article 8 which explicitly limits the appropriation of these funds for:

1. The administration of a law imposing the tax, surcharge or fee on motor vehicle fuels.
2. The payment of highway revenue bonds debt service.
3. Compliance with federal highway aid requirements.
4. The planning, engineering, construction, improvement or maintenance of public highways, roads, streets or bridges.
5. Public transit projects that will use no more than 25 percent of the fund.
6. Any other purpose authorized by law, but no more than the rate or amount that is in effect at the time the amendment is adopted.

HJR10 seeks to place the proposed amendment on the ballot for vote by the citizens of New Mexico at the next general election or at any special election prior to that date that may be called for that purpose.

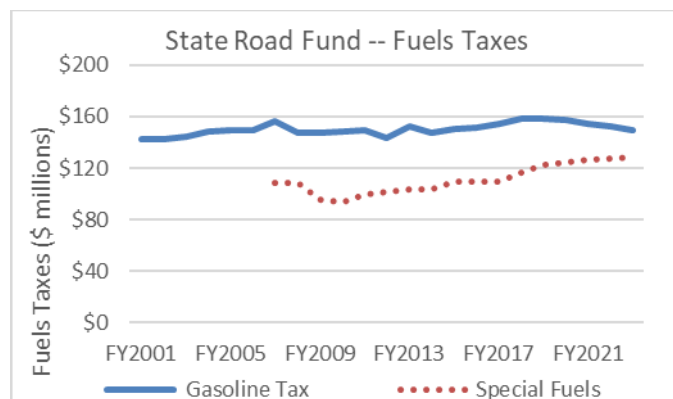
There is no effective date for the joint resolution. Assume an effective date of 90 days after the conclusion of the session (May 20, 2020). The vote of the electorate would take place in November, 2020. If successful, there might be enabling legislation proposed during the 2021 session.

## FISCAL IMPLICATIONS

Under Section 1-16-4 NMSA 1978, SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to ten percent of the registered voters in the state. SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$125 thousand - \$150 thousand, depending upon the number and length of the constitutional amendments, number of registered voters, and whether additional ballot printing systems are needed.

There is no immediate revenue impact to this joint resolution. The resolution will be presented to the voters in November, 2021. If passed, the 2022 legislature would be bound by the proposal in crafting a budget for FY23.

The fuel portions of the State Road Fund estimate are included for reference.



**SIGNIFICANT ISSUES**

NMAG points out that HJR10 does not specify exactly how distribution would be divided up amongst these categories. Presumably, enabling legislation would be needed.

One potential impact of the proposed Constitutional Amendment might be the provision 5: "... Public transit projects that will use no more than 25 percent of the fund." If the Rail Runner could be considered "public transit projects," then this element of the constitutional amendment might restrict the road fund's ability to upgrade the Rail Runner in speed or coverage, such as extending to Socorro.

Alternatively, item 6 in the list: "... any other purpose authorized by law, but no more than the rate or amount that is in effect at the time the amendment is adopted." This might forestall the legislature from expanding the fuels taxes and dedicating the proceeds to other, as yet unknown, uses.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

NMAG reports the following Conflicts or Relationships:

Relates to HB26 which generally would create a new "highway project fund."

Relates to HB3 which generally would increase funds available for the operation of the Department of Transportation.

Relates to HB173 which would change the gasoline and special fuel tax rates and distributions of revenue to the state road fund and a new "clean infrastructure fund" and a new "gasoline and special fuel excise surtax low-income rebate fund."

Relates to HB344 which generally would create a new "urgent need highway project fund."

Relates to HB220 which generally would change distributions of revenue for the general fund, the state road fund and the local government transportation project fund.

**TECHNICAL ISSUES:**

There is a major potential impact if this constitutional amendment is passed and enabling legislation is proposed and exactly implements the terms of this proposal.

The state aviation fund gets some money from gasoline taxes (0.26 percent of gasoline revenue), because aviation gasoline is subject to the gasoline excise tax. The Federal Aviation Administration requires that revenue derived from the aviation industry should be distributed for aviation purposes. If a gasoline tax increase were enacted pursuant to the terms of this constitutional amendment, the gasoline tax revenue derived at the higher rate from the aviation industry would not be distributed to the aviation fund and therefore, not be spent for aviation purposes. There is a real potential that the state would not comply with federal law and would not be eligible to receive Federal Aviation Administration money.

There may be other examples of unintended consequences.

LG/sb/rl