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F I S C A L I M P A C T R E P O R T

SPONSOR: Herrera DATE TYPED: 03/03/01 HB 904

SHORT TITLE: Eliminate Tribal Distributors Tax Deduction SB

ANALYST: Williams

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	**FY02**			
	$ 4,620.0	$ 5,040.0	Recurring	State & Local GRT
	$ (2,700.0)	$ (2,950.0)	Recurring	General Fund
	$ (2,100.0)	$ (2,285.0)	Recurring	Local Governments
	$ 9,506.0	$ 10,373.0	Recurring	State Road Fund
	$ 1,294.0	$ 1,412.0	Recurring	County and Municipalities (Roads)
	$ 718.0	$ 783.0	Recurring	County Government Road Funds
	$ 718.0	$ 783.0	Recurring	Municipal Road Funds
	$ 180.0	$ 196.0	Recurring	Municipal Arterial Program
	$ 32.0	$ 35.0	Recurring	State Aviation Fund
	$ 16.0	$ 18.0	Recurring	Motorboat Fuel Fund
	$ 550.0	$ 600.0	Recurring	Corrective Action Fund
	$ 367.0	$ 400.0	Recurring	Local Governments Road Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates/Conflicts with/Companion to/Relates to HB 448, HB 497, SB 119, SB 407

SOURCES OF INFORMATION

LFC Files
Environment Department
Taxation and Revenue Department analysis not submitted
State Highway and Transportation Department

SUMMARY

Synopsis of Bill

House Bill 904 eliminates the special gasoline tax deductions allowed to registered Indian tribal distributors and allowed for gasoline subject to tribal gasoline taxes. The bill would be effective July 1, 2001.

Significant Issues

Laws of 1999, Chapter 190 created a deduction for registered Indian tribal distributors. The law allows up to 60 million gallons (30 million gallons per year for two qualifying distributors) on which state tax has not been paid to be sold outside tribal boundaries. The law also authorizes a deduction against state gasoline tax for gasoline sold at retail within tribal boundaries which is subject to a tribal gasoline tax. This amount of gasoline is currently about 40 million gallons per year.

Laws of 2000, Chapter 50 created a deduction for non-Indian entities selling gasoline within tribal boundaries which is subject to a tribal gasoline tax, to avoid the problem of double taxation.

Environment Department raises concerns about clean-up of contaminates sites on tribal lands if this language is enacted.

FISCAL IMPLICATIONS

The preliminary estimated fiscal impact is shown above. This fiscal impact analysis will be updated upon receipt of analysis from TRD.

A gross receipts impact is noted because there is an automatic deduction from gross receipts tax if the gasoline tax is paid; because there is no gasoline tax paid now, the state should be receiving payment of gross receipts tax. The gross receipts tax impact applies to the 60 million gallons of gasoline not currently subject to the gasoline tax, which is sold outside tribal boundaries. The total reflects gasoline at $1.40 per gallon and an average effective gross receipts tax rate of 6% for both state and local governments. The FY02 amount reflects 11/12 impact for the first year.

The gasoline and petroleum products loading fee impacts assume the appropriate tax levels for a net 80 million gallons. Based on conversations with TRD staff, there are 60 million gallons of off-reservation sales attributable to the current two distributors qualified as "registered Indian tribal distributors". There is an estimated additional 40 million gallons of on-reservation sales. There are concerns that upon passage of this bill, there could be an additional roughly 20 million gallons brought onto the New Mexico side of the Navajo and Jicarilla reservations from their adjoining lands in Arizona and Colorado, respectively. Because these reservations extend out-of-state, gasoline could be imported and sold within the reservation, but not be subject to New Mexico gasoline tax.

The petroleum products loading fee is subject to adjustment on October 1 annually according to the level of balances in the corrective action fund. The fiscal analysis reflects an assumption of 1.25 cents per gallon.

AW/jsp/njw