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

SPONSOR Foley **ORIGINAL DATE** 2/12/07 **LAST UPDATED** **HB** 775

SHORT TITLE Gas Tax Replacement Fund & Distributions **SB**

ANALYST Francis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
115,234		Nonrecurring	Gasoline Tax Replacement Fund
111,464		Nonrecurring	Special Fuel Tax Replacement Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
(5,000)	(15,000)	none	Nonrecurring	State General Fund (GRT)
(3,250)	(9,750)	none	Nonrecurring	Local Governments (GRT)
749	(1,443)	none	Nonrecurring	State Road Fund (Fuel Taxes)
33	(192)	none	Nonrecurring	Local Government Road Fund
154	134	none	Nonrecurring	Local Governments (Fuel Taxes)
2	2	none	Nonrecurring	Aviation Fund (Fuel Taxes)
1	1	none	Nonrecurring	Motorboat Fuel Fund (Fuel Taxes)

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Transportation

Energy Minerals and Natural Resources Department

SUMMARY

Synopsis of Bill

House Bill 775 exempts gasoline and special fuels received in the state from the Gasoline Tax Act, the Special Fuels Supplier Tax Act and the Gross Receipts and Compensating Tax Act. Two funds are created, the gasoline tax replacement fund and the special fuel tax replacement fund, that distribute funds according to the distributions set up in the gasoline tax act and the special fuels supplier tax act. HB 775 appropriates the equivalent of 101.225 percent of the FY06 revenues attributable to the gas tax to the gasoline tax replacement fund and 103.13 percent of the FY06 revenues attributable to the special fuels tax revenues to the special fuels tax replacement fund.

The exemption is from April 1, 2007 to March 31, 2008 for both the gas tax and the special fuels tax. The two newly created funds distribute one-twelfth of the appropriation each month from June 2007 to May 2008.

FISCAL IMPLICATIONS

The fiscal impact is determined by the difference between the projections of the gasoline and special fuels tax and the percentage increase dictated by HB775. The gross receipts tax impacts has to do with the treatment of dyed fuels.

DOT reports that the revenues will be further impacted since it will be difficult to restart the tax in FY09 after a year hiatus and likely there will be delays in collection.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

The need for an appropriation to the two new funds—the replacement funds—is to ensure that the revenues required for bonding road projects are not impacted while still providing relief for fuel taxes.

DOT Reasons Why Eliminating Motor Fuel Taxes – Even Temporarily – Would be a Serious Mistake

1. Motor fuel tax revenues are committed to bond debt service (see discussion on page 4).
2. There is no guarantee that reduced taxes will be passed on to consumers.
3. Significant problems and complications would occur under the International Fuel Tax Agreement that regulates tax obligations among interstate commercial carriers.
4. Tax savings to consumers would be allocated based on fuel usage rather than on income class or financial need.
5. Decreasing the tax would not encourage conservation, which is needed in the short run to avoid shortages and in the long run to develop alternative sources and encourage efficient vehicle development.

6. The tax is not related to income and the ability to pay. A targeted refund scheme could better assist low income families, fledgling industries, public policy goals, etc. at less cost to the state.
7. If high energy costs represent a long-run concern for the state, they demand a long-run solution. A temporary suspension of motor fuel tax, which is needed to fund transportation infrastructure in the state, is not an appropriate part of such a strategy.
8. It will be difficult to re-instate the tax – both politically and administratively.
9. Approximately 80% ($80 million) of the tax on diesel is paid by out-of-state trucking companies engaged in interstate commerce.
10. At least a small amount of the total cost of suspending the gasoline tax will benefit residents of other states (probably less than 10%, but still in the range of $5 to $10 million).
11. Native American tribes and Pueblos may be forced to suspend or decrease their tribal gasoline taxes. For certain Pueblos, the tribal gasoline tax may represent the most significant source of tribal government income.
12. Motor fuel tax distributors would have no incentive to accurately report fuel volumes needed for local government revenue distribution calculations. Motor fuel volumes are also reported to the Federal Highway Administration for use in determining the state's share of federal highway money, so a negative impact on Federal Highway Funds is quite possible.

OTHER SUBSTANTIVE ISSUES
DOT:

Bonding Impacts of a reduction of the rate of gasoline taxes.

A reduction of the gasoline tax or special fuel tax would constitute a violation of non-impairment language of State statute and covenants in documents related to outstanding NMDOT bond debt and the NMFA GRIP bond issues.

Rating agencies (Moody's and S&P) may react negatively to any change in pledged revenues.

Based on the current interest rate market, a downgrade to the "A" category could cost 21 to 23 basis points (.21% to .23%) in terms of higher interest rates (approximately $16 million additional interest cost on future GRIP bonds).

In total, even for issues selling with bond insurance, the added interest and bond insurance cost for an issue falling into the "A" rating category could range from $3.15 million to $4.85 million.

A change in the pledged revenue source in violation of legal covenants would likely require filing of a "Material Events Notice" under SEC continuing disclosure regulations.

The impact of substituting another source of revenues to replace a reduction of gasoline taxes, with regard to outstanding bonds, could require consent of a majority of existing bond holders. As with the SEC regulation notice, this could require time and expense in identifying, notifying, negotiating and securing consent from holders.

Another potential cost which might be difficult to quantify at this time would be ratings and credit implications on the State of New Mexico in general. Violation of non-impairment provisions and covenants on specific issues such as the transportation bonds could produce questions regarding intent and support of other credit matters.

ALTERNATIVES

One alternative would be to give a tax rebate similar to the energy tax rebate distributed in 2005. This gave taxpayers relief while avoiding any negative bonding consequences. SB812 provides such a rebate to all NM tax filers.

ANA/sec