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FISCAL IMPACT REPORT

ORIGINAL DATE 2/26/07

SPONSOR Garcia, M.H. LAST UPDATED 3/14/07 HB 1145/aHBIC/aHTRC/aHF1

SHORT TITLE Biodiesel Fuel Production Tax Incentives SB _____

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(\$220.0)	(\$430.0)	Recurring	General Fund
	(\$15.0)	(\$30.0)	Recurring	Local Government

(Parenthesis () Indicate Revenue Decreases)

Duplicates SB 607

SOURCES OF INFORMATION

LFC Files
 Energy Information Agency (www.eia.doe.gov)
 National Biodiesel Board (NBB)

Responses Received From

Energy Minerals and Natural Resource Department (EMNRD)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HF#1

House Bill 1145 was amended on the House Floor to make a technical correction. The HBIC amendment changed the blend percentage from five to at least two for the income tax credits for the purchase of blended fuel but did not change it for the gross receipts tax for the rack operators. This amendment corrects this omission.

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amended House Bill 1145 changing the schedule of credits to 3 cents for 2007 to 2010, 2 cents in 2011, 1 cent in 2012, and expiring in 2013.

Amended Schedule of Credits (PIT/CIT)

Tax Year	Credit per gallon of Blended Biodiesel
2007-2010	\$0.03
2011	0.02
2012	0.01
2013	-

Synopsis of HBIC Amendment

The House Business and Industry Committee amended House Bill 1145 in the following ways:

- Changes the blend of biodiesel from 5 percent to 2 percent
- Makes purchases for government and off-road vehicle special fuel eligible for the credit
- Provides a “clawback” for taxpayers who receive the credit and cease blending the diesel

Synopsis of Original Bill

House Bill 1145 provides credits for the payment of special fuels taxes for blended biodiesel fuel. Sections 1 and 2 deal with credits for personal and corporate income taxes; section 3 deals with the gross receipts and compensating tax.

Sections 1 and 2. For personal income (PIT) and corporate income (CIT) taxes, the credit is based on the number of gallons purchased that phases out by the end of 2012:

Schedule of Credits (PIT/CIT)

Tax Year	Credit per gallon of Blended Biodiesel
2007	\$0.06
2008	0.05
2009	0.04
2010	0.03
2011	0.02
2012	0.01
2013	-

The credit cannot be used against both PIT and CIT and, if the credit exceeds tax liability, can be carried forward up to five years. Biodiesel is defined as a renewable, biodegradable, monoalkyl ester combustible liquid that is derived from plant oils or animal fats. “Blended” refers to a 5 percent biodiesel/95 percent diesel mixture. [note: changed to 2 percent with HBIC amendment]

Section 3. This section allows a credit against gross receipts and compensating tax liability called the “biodiesel blending facility tax credit” for rack operators for installing blended biodiesel equipment or expanding a facility to produce blended biodiesel fuel. The Energy, Minerals and Natural Resources Department (EMNRD) is responsible for validating the credit and issues a certificate of eligibility that includes the estimated amount of the credit. The credit

cannot exceed \$50 thousand for installation of equipment at any one facility. The aggregate amount of all credits validated by EMNRD cannot exceed \$1 million. The credit can be carried over for up to four years. Biodiesel is defined as a renewable, biodegradable, monoalkyl ester combustible liquid that is derived from plant oils or animal fats. The fuel must meet American Society for Testing and Materials standards for B100 blend stock.

FISCAL IMPLICATIONS

Assuming 100,000 gallons is the near-term capacity of biodiesel, a 2 percent blend will yield 5 million gallons of fuel eligible for the tax credit. In FY07, the credit is expected to decrease income tax collections by \$181 thousand, growing to over \$1 million by the time the credit phases out in 2012. TRD expects the volume of blended diesel to grow 50 percent per year.

The gross receipts tax credit is assumed to be small and cost approximately \$100 thousand. Due to the effective date, half of a full year impact will hit FY08. Approximately 30 percent of this is a local government impact through lower gross receipts tax distributions.

Fiscal Impacts

	Tax Year						
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Assumptions:							
Total Special Fuel Taxable Gallons (mill. Gal)	494.9	509.7	535.2	562.0	590.1	619.6	650.6
Growth	1%	3%	5%	5%	5%	5%	5%
Total B100 sales (mill. Gals)	0.15	0.23	0.34	0.51	0.76	1.14	1.71
Total B2 Blend mill. gallons	8	11	17	25	38	57	85
B2/Total on-highway	2%	2%	3%	5%	6%	9%	13%
Total Off-road & Government SF gallons	303	312	328	344	361	379	398
B2 off-highway & govt	5	7	10	15	23	35	52
Total B2 million gallons)	12	18	27	41	61	92	138

	Tax Year						
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Proposed Law: Income tax credit							
B2 blend (million gallons)	12	18	27	41	61	92	138
Credit rate Cents per gallon of B2 blend	-\$0.03	-\$0.03	-\$0.03	-\$0.03	-\$0.02	-\$0.01	\$0.00
Total credits (\$ million)	(\$0.4)	(\$0.5)	(\$0.8)	(\$1.2)	(\$1.2)	(\$0.9)	\$0.0
Credits claimed -- non-refundable; 5-yr cf	(\$0.18)	(\$0.36)	(\$0.59)	(\$0.91)	(\$1.07)	(\$0.99)	(\$0.48)

	Fiscal Year						
	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	

Fiscal impacts -- State General Fund (\$millions)	(\$0.181)	(\$0.363)	(\$0.589)	(\$0.907)	(\$1.066)	(\$0.986)
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Gross Receipts Tax & Compensating Tax Impact (\$n	(\$0.050)	(\$0.100)	(\$0.100)	(\$0.100)	(\$0.100)	(\$0.100)
State	(0.035)	(0.070)	(0.070)	(0.070)	(0.070)	(0.070)
Local	(0.015)	(0.030)	(0.030)	(0.030)	(0.030)	(0.030)

SIGNIFICANT ISSUES

Over the last few years, biodiesel has taken off as a viable alternative fuel to regular, crude oil based diesel fuel. Although the typical story of the use of biodiesel is of someone asking a restaurant for their waste grease to fill up his or her car, most biodiesel is made from soybeans. Biodiesel is different from ethanol which is made primarily from corn. Biodiesel added to diesel

fuel can lower the emissions because it lowers the sulfur content, the burning of which contributes to greenhouse gas emissions. According to the National Biodiesel Board (NBB), there are currently two biodiesel retailers in New Mexico, one in Santa Fe and one in Albuquerque. The retailer in Albuquerque is one of two distributors, the other being in Portales.

EMNRD:

Biodiesel, specifically peanut oil, was the first fuel used by Rudolf Diesel in his demonstration engines one hundred years ago. Biodiesel (B100) is a renewable fuel produced from domestically produced oils such as soybean oil, animal fats or recycled cooking oil and can be blended with diesel in any proportion with good emissions and lubricity performance. When blended with Ultra Low Sulfur Diesel, biodiesel provides lubrication characteristics lost by reduced sulfur content, benefiting fuel system and engine components. Lower friction because of higher lubricity of biodiesel can improve fuel economy with power output and torque equal to conventional diesel. Biodiesel has a higher cetane rating than conventional diesel as well as higher oxygen content. Oil change interval frequency may be reduced. Biodiesel is non-toxic and biodegradable. All diesel engine emissions are reduced depending on engine design; the biodiesel fraction reduces greenhouse gas emissions. It is safer than conventional diesel because of its higher flash point. Biodiesel reduces our dependence on foreign oil while benefiting domestic agriculture.

ADMINISTRATIVE ISSUES

TRD:

One-half of a full-time equivalent position would be required for manual processes to monitor the credits and track carry-forwards.

Keeping track of how much credit has been approved would be simpler if done at the certification stage by EMNRD than when the credits are claimed with TRD. This is because taxpayers may file tax returns containing credit claims at any time, sometimes adjusting their liability by applying credits to prior periods.

TECHNICAL ISSUES

TRD:

The state may wish to allow the GRT and Compensating Tax credit to persons other than rack operators who wish to blend biodiesel fuel blends. If so, Section 3 could be modified to state *“rack operators or persons who blend biodiesel fuel blends for sale for use on the highway.”*

GRT and Compensating Tax provisions should be made effective either July 1 or January 1 for administrative simplicity and consistency with the semi-annual updating of forms and instructions.

OTHER SUBSTANTIVE ISSUES

The increasing use of renewable fuels lessens the dependence on foreign sources of fuel as well as provides economic development opportunities for the state.

NF/nt:csd