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

SPONSOR Jennings **ORIGINAL DATE** 2/19/07 **LAST UPDATED** 2/21/07 **HB**

SHORT TITLE Gasoline Distribution Equipment Tax Deduction **SB** 1167

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	($8.0)		Recurring	General Fund
	($1.0)		Recurring	Small Cities Assistance Fund
	($1.0)		Recurring	Small Counties Assistance Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Response Received From
New Mexico Environment Department (NMED)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 1167 creates a compensating tax deduction for the value of equipment and materials used to comply with air quality standards promulgated by the federal environmental protection agency (EPA) that affect above-ground storage tanks for gasoline distribution bulk terminals, bulk plants and pipeline facilities.

The deduction created in this bill will apply to receipts received between July 1, 2007 and July 1, 2013.

FISCAL IMPLICATIONS

estimates that 25 to 30 facilities in New Mexico would be affected by the EPA's proposed rule limiting air pollutants from gasoline facilities. The capital costs of these facilities would be about $11 thousand each, leading to total costs of compliance equal to $302.5 thousand. Assuming that

66 percent of these costs would be subject to the compensating tax under current law, the bill would reduce compensating tax collections by $10.0 thousand ($302.5 X 0.66 X 0.05). Eighty percent of that revenue loss will accrue to the general fund and 10 percent will accrue to both the small cities and small counties assistance funds.
The bill will have no fiscal impact in FY14 and beyond, when the proposed deduction will have sunset.

SIGNIFICANT ISSUES

In October 2006 the EPA proposed national emissions standards on air pollutants from gasoline facilities. NMED reports that the EPA promulgates standards for hazardous air pollutants that are known or suspected to cause cancer or other health effects. Gasoline vapors normally contain nine hazardous air pollutants: benzene, ethylbenzene, hexane, toluene, xylenes, isooctane, naphthalene, cumene, and methyl tert-butyl ether.

According to an EPA fact sheet on the proposed air pollutant standards, most gasoline facilities already comply with the new rule. Nationwide, about 3 – 5 thousand facilities are estimated to require additional pollution controls.

NMED believes that reducing the gross receipts tax burden on gasoline facilities would set a precedent for allowing tax breaks to polluting industries that are required to install pollution controls to meet EPA standards.

LFC notes that while individual deductions from the compensating tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

TECHNICAL ISSUES

TRD believes that since the bill provides a compensating tax deduction but not a gross receipts tax deduction it could be construed to discriminate against in-state companies selling equipment needed to comply with the EPA rule.

SS/mt: nt