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FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/09
 LAST UPDATED 3/09/09 HB _____

SPONSOR Griego, P.

SHORT TITLE New Emission Standards To Take Effect In 2015 SB 548/aSCORC/aSFL#1

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 340/aHENRC;
 Relates to HB 291, HB 341 and HJM 20

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)
 New Mexico Environment Department (NMED)

Other Responses

New Mexico Association of Commerce and Industry (ACI) (Automobile Dealer's Association)

SUMMARY

Synopsis of SFL Amendment #1

Senate floor Amendment #1 makes a technical correction to align the effective date in the bill title to the amended effective date of 2013 in the bill.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee Amendment extends the effective date of the California Clean Car Rules from model year 2011 to model year 2013.

Synopsis of Original Bill

Senate Bill 548 amends a section of the Air Quality Control Act to extend the effective date of California Clean Car Rules adopted in New Mexico from model year 2011 to model year 2015.

FISCAL IMPLICATIONS

While SB 548 does not hold fiscal implications for responding state agencies, the Automobile Dealer's Association proposes that the bill will yield economic benefits to its industry and local communities.

SIGNIFICANT ISSUES

The state Environmental Improvement Board (EIB) and the Albuquerque-Bernalillo Air Quality Control Authority adopted the California Clean Car Standards on November 27, 2007, with an effective date beginning model year 2011. According to a January 2008 letter that NMED sent to all Legislators, the adopted rule applies only to model year 2011 vehicles and later and includes the following three components:

- “Reduce non-methane organic compound emissions from new motor vehicles. Automobile manufacturers are required to deliver a fleet of vehicles to New Mexico that meet an average emission requirement. Because the rule requires an average standard, this allows some vehicles that are relatively higher emitting and some vehicles with relatively lower emissions be delivered to New Mexico, as long as the average meets the standard.”
- Zero Emissions Vehicle. “Automobile manufacturers are required to deliver to New Mexico a certain percentage of vehicles for sale that are considered to emit less air pollution than normal.”
- Greenhouse gas emissions limit. “The regulation requires automobile manufacturers to deliver a fleet of vehicles for sale in New Mexico that meet an average standard for greenhouse gas emissions.”

An excerpt from the letter, included as Attachment A, provides additional background information on rule design and implementation.

Proponents of the California Clean Car standards indicate the main objective is to reduce greenhouse gas (GHG) emissions and other air pollutants from new motor vehicles. According to the Environmental Defense Fund, “California estimates that the Clean Cars program will reduce overall greenhouse gas emission from passenger cars by 18 percent in 2020 and 27 percent cut in 2030.” NMED estimates that the new emission standards would cut GHG emissions from new cars and trucks by 30 percent and is predicted to reduce GHG emissions by about 10.5 million metric tons (MMt) in New Mexico by 2016.

According to clean car advocates, the regulations do not call for radical vehicle changes but are designed instead to tap technologies, methods, and cleaner fuels available now. EMNRD suggests that the upfront cost of such vehicles would be recaptured over time by lower fuel costs, providing consumers with an economic incentive to purchase clean cars.

The primary issue is how to balance the desire to reduce GHG emissions without creating a “patchwork” of rules across states -- in the absence of a national rule -- that potentially creates an unfair economic advantage to those states without the rules. In particular, the New Mexico Automobile Association suggests SB 548 would postpone what is referred to as the “cross-border sales loophole,” whereby consumers go to neighboring states to purchase vehicles because the desired models are unavailable in New Mexico due to the average fleet requirements starting in 2011. The Association proposes that extending the effective date to 2015 would allow

dealers to weather the economic downturn, save jobs, and extend economic benefits to their local communities. In the meantime, it is possible that a national standard would be enacted that would create a level competitive environment.

A key contributor to the “cross-border sales loophole” is the ability to register a non-compliant car in New Mexico. However, NMED asserts that other states with similar automobile profiles as New Mexico have yet to demonstrate a significant effect from adopting the CA Clean Car rules next to a state without them. In particular, the agency points to Maine, which “recently conducted an audit of 60,000 vehicles sold over a two-year period and found that less than five vehicles of the 60,000 vehicles registered during that time period were not approved vehicles.”

PERFORMANCE IMPLICATIONS

NMED notes that its performance measure relating to reducing GHG emissions will most likely be adversely affected if the effective date for the “clean car rules” is extended to 2015.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 548 duplicates HB 340.

SB 548 relates to HB 291, which prohibits registration or certification of title for motor vehicles that do not comply with air emissions standards of the Environmental Improvement Board or of a local board.

SB 548 relates to HB 341, which provides for grounds to refuse, suspend or revoke registration or certificate of title of a vehicle that does not comply with emissions standards adopted pursuant to the Environmental Improvement Act or the Air Quality Control Act.

SB 548 relates to House Joint Memorial 20, which requests the New Mexico Congressional delegation to support a single nationwide standard for a new motor vehicle emission standard.

TECHNICAL ISSUES

According to NMED, the greenhouse gas standards are fleet average standards the decline over time. There are two fleet average greenhouse gas requirements: (1) passenger cars and light duty trucks 3,750 pounds and fewer (PC/LDT1); and light duty trucks between 3,751 and 8,500 pounds (LDT2).” The agency confirms that there is no overall averaging between the fleet standards for the state, just the two separate standards.

OTHER SUBSTANTIVE ISSUES

The California Air Resources Board published its final analysis of potential greenhouse gas savings resulting from the clean car standards on February 25, 2008, reporting that that the California clean car standards would provide twice the greenhouse gas benefits by 2020 as compared to the federal fuel economy standards - an additional 79 million metric tons of carbon dioxide reductions. The Sierra Club points out in its website that adding in the 12 other states that have adopted California's standards, the number jumps to 204 million metric tons, an 89 percent improvement over the new federal fuel economy standards.

ALTERNATIVES

In its January 2008 letter to Legislators, NMED proposes to close the “border sales loophole” by legislation: “The New Mexico Motor Vehicle Division currently has the authority to deny a registration for a wide range of reasons, but not based on the vehicle's compliance with new motor vehicle emission standards. Upon their request, the Department is committed to working with the dealers on legislation to deny registration for non-compliant vehicles purchased in other states. Legislation would be required to address this issue and there is ample time to do so because the standards will not be applicable until model year 2011.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Environment Department will implement the emissions standards in accordance with the existing state regulation for model year 2011 vehicles. Automobile dealers may be adversely affected.

POSSIBLE QUESTIONS

1. Are the “CA clean car” vehicles available in other states available in New Mexico?
2. What is the demand for these vehicles in light of the economy and cost of gas?
3. Does the rule limit the overall inventory of vehicles normally purchased in New Mexico?
4. Would these vehicles provide a profit margin to auto dealers sufficient to make up any loss of sales to neighboring states?
5. What will be the economic impact to automobile dealers if the effective date is not extended?
6. What other options are available to reduce GHG and other air pollutants that will keep the timeline for GHG reduction intact?
7. Does New Mexico need a waiver from the EPA to implement and enforce the standards or just those relating to GHG emissions?
8. How will New Mexico’s CA clean car rule be impacted if the Congress enacts a national standard?

MA/svb:mc

Appendix

APPENDIX A

Excerpt from Department of Environment January 2008 Letter to Legislators

The Clean Car Rule: The regulation adopted by the Environmental Improvement Board recently has three components that all apply only to model year 2011 vehicles and later. The rule has no requirements for model year 2010 vehicles and earlier. The Clean Car Rule allows automobile manufacturers to accrue credits and debits that may be applied to future years so that a manufacturer can supply more vehicles that meet requirements in one year and less in the next. This unique system provides manufacturers flexibility to meet market demands while still ensuring a lower-emitting vehicle fleet overall in future years.

The first component is designed to reduce non-methane organic compound emissions from new motor vehicles. Automobile manufacturers are required to deliver a fleet of vehicles to New Mexico that meet an average emission requirement. Because the rule requires an average standard, this allows some vehicles that are relatively higher emitting and some vehicles with relatively lower emissions be delivered to New Mexico, as long as the average meets the standard. Automobile manufacturers are already delivering vehicles that meet these standards to many other states.

The second component of the rule is “technology-forcing”. It is referred to as the “Zero Emissions Vehicle” portion of the regulation. Automobile manufacturers are required to deliver to New Mexico a certain percentage of vehicles for sale that are considered to emit less air pollution than normal. Some examples of vehicles that currently meet these requirements are the Chevy Monte Carlo, the Ford Focus, the Subaru Forester, the Ford Escape Hybrid and the Toyota Highlander Hybrid. As you can see, these are vehicles that are already available for sale in the state; the rule simply requires manufacturers to deliver a fixed percentage of these vehicles to the state annually. The percentage of vehicles in this category that are required to be delivered to the state increases over the years so that more and more of these vehicles are available for sale in the state.

The final component of the rule is the greenhouse gas emissions limit. The regulation requires automobile manufacturers to deliver a fleet of vehicles for sale in New Mexico that meet an average standard for greenhouse gas emissions. This final component requires U.S. Environmental Protection Agency (USEPA) approval of a “waiver” to the state of California in order to be effective. On December 20, 2007, the USEPA denied the waiver for this component to the state of California. California Governor Schwarzenegger has already announced his intention to file suit against USEPA for the denial of the waiver. This component of the New Mexico rule will not be effective until and unless the USEPA decision is reversed. The other components of the Clean Car Rule will be effective starting with model year 2011, regardless of the outcome of the greenhouse gas emissions component.