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

ORIGINAL DATE 02/07/12
SPONSOR Vigil **LAST UPDATED** **HB** 205

SHORT TITLE Raise and Change Gas Tax Distribution **SB**

ANALYST Walker-Moran

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	$56,160.0	Recurring	Department of Transportation

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue						Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14	FY15	FY16	FY16		
0	56,160	56,790	57,800	58,880	59,950	Recurring	Highway District Project Fund
0	(875)	(875)	(875)	(875)	(875)	Recurring	State Road Fund
0	960	960	960	960	960	Recurring	Tribal Gasoline Tax Sharing Agreement Dist.
0	4	4	4	5	5	Recurring	Local Gov. Road Fund (Special Fuels Tax)
0	(5)	(5)	(5)	(5)	(5)	Recurring	Counties & Municipalities
0	(5)	(5)	(5)	(5)	(5)	Recurring	County Gov. Road Fund
0	(5)	(5)	(5)	(5)	(5)	Recurring	Municipal Road Fund
0	8	8	8	8	8	Recurring	Municipal Arterial Fund
0	(1)	(1)	(1)	(1)	(1)	Recurring	Aviation Fund
	9	9	9	9	9	Recurring	Motor Boat Fuel Tax Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with HB 202

SOURCES OF INFORMATION
LFC Files

<u>Responses Received From</u>
Department of Transportation (DOT)
Taxation and Revenue Department (TRD)

SUMMARY

<u>Synopsis of Bill</u>

House Bill 205 amends several sections of the gasoline and special fuels deductions. Several of the distributions are reduced to allow a new fund, the "Highway District Project Fund" to receive distributions from the taxes collected for five years from July 1, 2012 through June 30, 2017. The bill will also increase the gasoline tax, for the same five year time period, by four cents (from $0.17/gal to $0.21/gal) and the special fuel (diesel) tax by four cents (from $0.21/gal to $0.25/gal) to increase revenue.

The <u>effective date</u> of this bill is July 1, 2012. The sunset date of this bill is June 30, 2017 or five years.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

<u>Appropriation:</u>
Funds in the newly created Highway District Project Fund is appropriated to DOT for the acquisition of rights of way or for state highway project planning, designing, engineering, construction, improvement or maintenance of state highway projects. The money shall be used equally across the six transportation districts and none of the money may be used for any debt service.

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.

<u>Revenue:</u>
As calculated by DOT, in FY13 the four cent per gallon tax increases will generate $35.5 million from gasoline and $20.7 from special fuels. Distributions of both the gasoline and special fuels taxes are adjusted so that during the temporary tax increase approximately all increased revenue is directed to the Highway District Project Fund.

The table shows small distribution impacts to funds receiving impacted revenues due to the level of precision in the proposed distribution changes (e.g. 19.00% of gasoline tax revenue is directed to the new fund versus the 19.05% gasoline tax revenue attributable to the four cent increase).

Beyond the very small distribution impacts, there will also be a negative impact to the State Road Fund due to Gasoline Tax Sharing Agreements. The agreements dictate a distribution to Nambe and Kewa Pueblos based on the rate of the Gasoline Tax. When the gasoline tax rate goes up, the distributions to the pueblos will also temporarily increase. The current agreements expire

January 2014 and July 2014, the fiscal impact assumes that they are both extended in their current form.

SIGNIFICANT ISSUES

The DOT balances expenditures to revenue as appropriated by the State Legislature. The cost of maintenance and construction has increased dramatically over the past five years as inflationary costs have impacted the materials, such as asphalt, concrete and fuel that are used in our services and products. Economic downturns have decreased the revenue incomes limiting these services and jeopardizing the sustainability of the highway infrastructure. Currently, the DOT estimates that routine highway maintenance gaps average around $200 million per year, highway construction gaps average around $300 million per year and major improvement projects throughout the state are easily in the billions of dollars. Supplemental funding appropriated to the State Road Fund would be prioritized within the six transportation districts to protect the current state infrastructure investment through pavement preservation and further address critical safety and congestion projects that would provide the greatest impact to New Mexico taxpayers.

During the five year period when the gasoline tax increases, tribes must also increase their tribal tax rates in order to continue qualifying for their deductions at 100%. If they do so, their taxes would be estimated to generate an additional $2.4 million annually.

New Mexico currently has the 8th lowest tax on Gasoline and the 17th lowest tax on diesel among the 50 states. The current gasoline tax rate is $0.17 per gallon, and that rate has been in effect since July 1995, (the tax rate on gasoline has not been lower than $0.17 since July 1993). The current special fuels tax rate is $0.21 per gallon, and that rate has been in effect since July 2004.

ADMINISTRATIVE IMPLICATIONS

The TRD reports moderate administrative impacts would result from tax rate changes, administration of the inventory taxes for gasoline and special fuel, changes to revenue distribution calculations, and monitoring of tribal-imposed tax rates, including distributor notification for the proper treatment of the gasoline tax deduction for volumes delivered to each tribal jurisdiction for retail sale within the reservation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 202 also amends Sections 7-13-3 and 7-16A-3, converting those tax rate impositions to value-based tax rates for gasoline and special fuel.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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