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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/12
 SPONSOR Harden LAST UPDATED 02/06/12 HB _____
 SHORT TITLE Dyed Special Fuel Gross Receipts SB 226
 ANALYST Walker-Moran / Hoffman

REVENUE (dollars in thousands)

Estimated Revenue Impact					Recurring or Nonrecurring	Fund(s) Affected
FY12	FY13	FY14	FY15	FY16		
\$0.0	(\$54,790.0)	(\$57,570.0)	(\$59,300.0)	(\$61,070.0)	Recurring	General Fund
\$0.0	(\$10,640.0)	(\$11,180.0)	(\$11,510.0)	(\$11,850.0)	Recurring	Local Governments

Parentheses () indicate a revenue loss.

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 226 provides a gross receipts tax deduction for the sale of special fuel dyed according to federal regulations.

The effective date of this bill is July 1, 2012. There is no sunset date. The LFC recommends adding a sunset date.

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.

The Estimated Revenue Impact table above shows a significant revenue loss to the state as a result of this bill. The initial loss, in FY2013 is estimated at \$65.43 million, and based on the TRD model increases to an estimated \$72.93 million in FY2016.

The TRD's Special Fuel Tax return information indicates that approximately 294 million gallons of dyed diesel was received in New Mexico during calendar year 2011. The revenue impact assumes a 3% growth rate per year in the volume of diesel and a tax-excluded price of about \$3.50 per gallon.

The TRD does not report any additional operating budget impact from this bill.

SIGNIFICANT ISSUES

Dyed special fuel (for off-road use) is primarily used in agriculture, mining, construction, and electric power generation where it is used as a fuel to produce other goods that will ultimately be subject to gross receipts tax.

Dyed special fuel (for off-road use) is exempt from state and federal road use taxes on motor fuel. The \$0.244 federal tax and the \$0.21 state tax is not imposed on dyed special fuel.

The TRD suggests this gross receipts tax deduction proposal could be viewed as reducing structural pyramiding in the gross receipts tax.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

The TRD reports no significant administrative or compliance issue for the department.

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