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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/01/13

SPONSOR Dodge LAST UPDATED \_\_\_\_\_ HB 584

SHORT TITLE Dyed Special Fuel Gross Receipts SB \_\_\_\_\_

ANALYST Smith

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
\$0.0	(\$32,675.0)	(\$32,152.0)	(\$33,117.0)	(\$34,011.0)	Recurring	General Fund
\$0.0	(\$21,783.0)	(\$21,435.0)	(\$22,078.0)	(\$22,674.0)	Recurring	Local Governments
\$0.0	(\$54,458.0)	(\$53,587.0)	(\$55,195.0)	(\$56,685.0)	Recurring	Total

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 584 adds a new section to the Gross Receipts and Compensating Tax Act to provide a deduction for receipts from selling special dyed fuel. The bill also includes language that the deduction be reported separately.

**Effective Date:** July 1, 2013

### FISCAL IMPLICATIONS

In FY12, approximately 280 million gallons of dyed special fuel were sold in New Mexico, at an average price of \$3.51 per gallon (average price of \$3.93 less federal and state taxes of \$0.42 per gallon), for an estimated \$980 million in sales subject to an average rate of 6.062 percent, taking into account an estimated 9/10 of purchases being made outside of municipalities. Impacts are projected to change at a rate of growth in the Global Insight forecast diesel price.

This bill may be counter to the Legislative Finance Committee (LFC) tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

## **SIGNIFICANT ISSUES**

The TRD notes that the expressed intent of this legislation is to provide benefit to the agricultural industry's use of dyed special fuels, but it fails to provide a mechanism to insure that other economic sectors who can use the fuel will not also claim the deduction. Although there may be legitimate tax policy reasons to tax the fuel used in agriculture, it is also true that the reduction in tax burden would further assist a vital business activity in (primarily) rural New Mexico. If this is to be targeted tax expenditure, it is administratively unworkable to isolate the agricultural use of dyed special fuel within the existing combined fuel reporting and gross receipts tax systems.

## **ADMINISTRATIVE IMPLICATIONS**

Neither the gross receipts tax nor the Combined Fuel Reporting (CFR) has a provision for segregating the deduction proposed by this legislation.

This bill requires the deduction to be separately stated from other deductions that the taxpayer may report on their CRS-1 Form so that the Department could report out on the aggregate amount of the deductions taken pursuant to this section and the number of taxpayers claiming the deduction. This requires the Department to program the GenTax system to be able to accept a new special rate code and possibly a new special location code. Forms will have to either be created or revised and taxpayers and Department employees will need to be educated. Historically, we have seen that when the taxpayer is required to report differently, either they choose not to take advantage of the deduction or they report incorrectly which in turn makes the subsequent reports inaccurate. The taxpayers also have to reprogram their systems, if they are electronic, or possibly hire a bookkeeper or CPA, to be able to track the deduction separately, which is an additional burden on them, both financially and administratively.

Confidentiality laws may limit the information that can be reported to Revenue Stabilization and Tax Policy Committee in determining if the deduction is performing its purpose.

The LFC tax policy of accountability is not met since the 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.

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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