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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/16

SPONSOR Smith LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Increase Gas Tax and Create New Funds SB 284

ANALYST Alejandro

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20		
\$0	\$0	\$0	\$0	\$0	Recurring	State Aviation Fund
\$0	\$0	\$0	\$0	\$0	Recurring	Motorboat Fuel Fund
\$0	\$0	\$0	\$0	\$36,600.0	Recurring	Municipalities & Counties Fund – Gasoline & Special Fuels
\$0	\$0	\$0	\$0	\$0	Recurring	County Government Road Fund
\$0	\$0	\$0	\$0	\$0	Recurring	Tribal Governments
\$0	\$0	\$0	\$0	\$0	Recurring	Municipal Roads Fund
\$0	\$0	\$0	\$0	\$0	Recurring	Local Governments Road Fund – Gasoline Tax & Special Fuels Tax
\$0	\$0	\$0	\$0	\$1,000.0	Recurring	State Road Fund – Gasoline & Special Fuels
\$0	\$0	\$0	\$0	\$0	Recurring	General Fund
\$0	\$0	\$0	\$0	\$18,300.0	Recurring	State Road Maintenance Fund – Gasoline & Special Fuels
\$0	\$0	\$0	\$0	\$17,300.0	Recurring	Carlsbad Brine Well Remediation Fund – Gasoline & Special Fuels
<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$73,200</b>		<b>Total</b>

Parenthesis ( ) indicate revenue decreases

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY16	FY17	FY18	3-Year Total	Recurring or Nonrecurring	Fund Affected
\$0	\$0	\$233.0	\$233.0	Nonrecurring	TRD Budget

Parenthesis ( ) indicate expenditure decreases

**SOURCES OF INFORMATION**

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Transportation (NMDOT)

New Mexico Municipal League

**SUMMARY**

Senate Bill 284 increases the gasoline tax by five cents per gallon (from 17 cents to 22 cents) in FY20, and increases the tax by an additional one cent per gallon each subsequent year for five years (up to 27 cents per gallon in FY25). The bill also increases the special fuels tax by five cents per gallon (from 21 cents to 26 cents) in FY20, and increases the tax by an additional one cent per gallon each subsequent year for five years (up to 31 cents per gallon in FY25).

<b>Excise Tax</b>	<b>Current</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>
Gas	\$0.17	\$0.22	\$0.23	\$0.24	\$0.25	\$0.26	\$0.27	Adjusted by Chained Price Index
Special Fuels	\$0.21	\$0.26	\$0.27	\$0.28	\$0.29	\$0.30	\$0.31	Adjusted by Chained Price Index

The new revenue from the initial five cent increase in the gasoline tax and the special fuels tax is split between a new State Road Maintenance Fund to be used for road reconstruction, resurfacing, other improvement, or maintenance of existing public roads; a new additional distribution to counties and municipalities to be used for county and municipal road maintenance and repair on existing roads; and a new Carlsbad Brine Well Remediation Fund, administered by DOT, to be used for remediating the Carlsbad brine well.

Beginning in FY26, and each subsequent year, the gasoline tax rate and special fuels tax rate would be subject to an index provision based on the “chained price index for nonresidential construction calculated by the United States Bureau of Economic Analysis.” This new revenue would be shared proportionately among all existing revenue recipients. Fuel tax indexing would tend to increase the applicable tax rate by one cent every year, with the results of an indexing simulation provided by the New Mexico Department of Transportation (DOT) being as follows:

<b>Excise Tax</b>	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>FY29</b>	<b>FY30</b>	<b>FY31</b>	<b>FY32</b>
Gas	\$0.27	\$0.28	\$0.29	\$0.30	\$0.31	\$0.32	\$0.33	\$0.34
Special Fuels	\$0.31	\$0.32	\$0.33	\$0.35	\$0.36	\$0.37	\$0.38	\$0.39

This bill has an effective date of July 1, 2019, and does not include a delayed repeal date.

**FISCAL IMPLICATIONS**

As the provisions of this bill do not become effective until July 1, 2019, there is no fiscal impact until FY20. At that time, however, a substantial increase in revenue is predicted. The DOT estimated the revenue impacts resulting from this legislation beyond FY20 as follows:

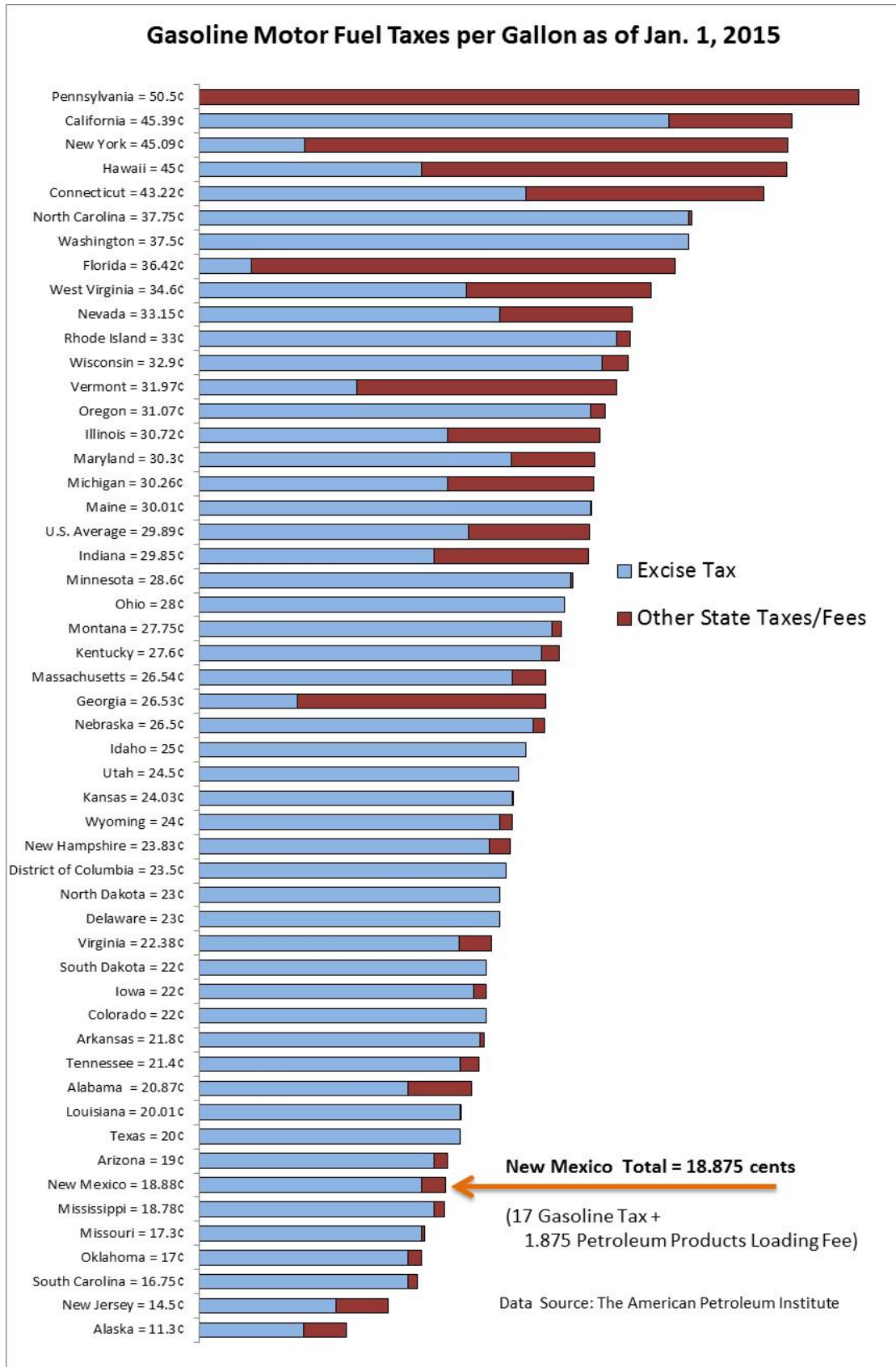
**Gasoline Excise Tax and Special Fuel Excise Tax combined impact**

Estimated Revenue						Recurring or Non- Recurring	Fund Affected
FY20	FY21	FY22	FY23	FY24	FY25		
\$929	\$10,366	\$19,470	\$28,171	\$36,556	\$44,632	Recurring	State Road Fund
\$18,315	\$19,010	\$19,451	\$19,809	\$20,168	\$20,515	Recurring	State Road Maintenance Fund
\$36,611*	37,999*	\$38,882*	\$39,596*	\$40,314*	\$41,008*	Recurring	Counties & Municipalities: Maintenance Road Fund
\$17,301*	\$17,954*	\$18,369*	\$18,704*	\$19,040*	\$19,366*	Recurring until FY 2029	Carlsbad Brine Well Remediation Fund
\$1	\$443	\$869	\$1,277	\$1,670	\$2,049	Recurring	Local Governments Road Fund
\$(2)	\$16	\$33	\$49	\$65	\$80	Recurring	State Aviation Fund
\$(1)	\$8	\$16	\$25	\$33	\$40	Recurring	Motorboat Fuel Tax Fund
\$14	\$113	\$208	\$299	\$387	\$471	Recurring	Municipal Arterial Program
\$(2)	\$391	\$770	\$1,133	\$1,483	\$1,819	Recurring	Municipal Road Fund
\$(2)	\$391	\$770	\$1,133	\$1,483	\$1,819	Recurring	County Governments Road Fund
\$0	\$0	\$0	\$0	\$0	\$0	Recurring	General Fund

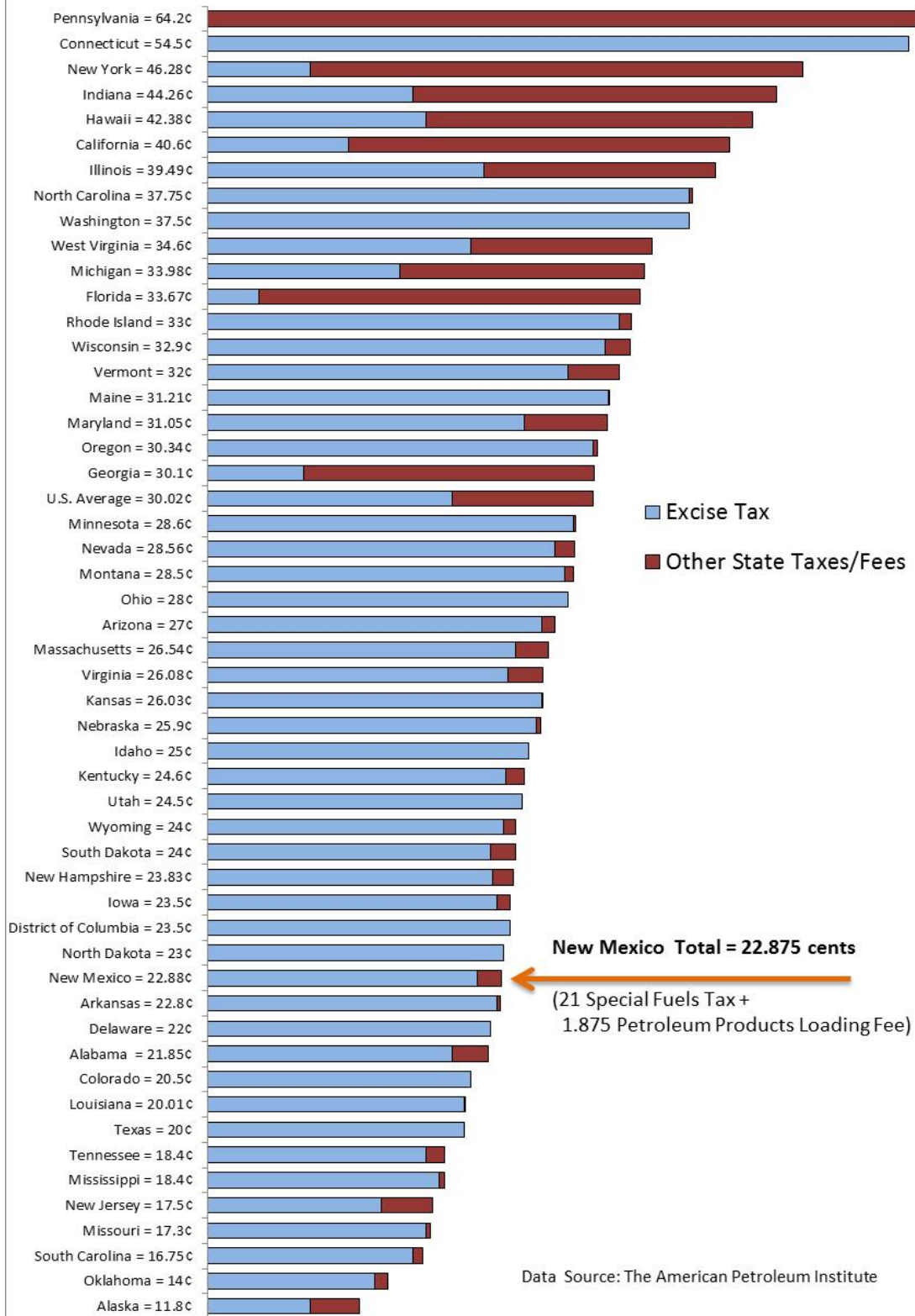
(Parenthesis ( ) Indicate Expenditure Decreases)

\* The bill establishes that, from FY 20 to FY 29, the city of Carlsbad and Eddy County shall transfer fifty percent of the amount received from the additional distribution of gasoline and special fuel (Counties and Municipalities Maintenance Road Fund) to the Carlsbad Brine Well Remediation Fund. However, the exact amount is not quantifiable because it is proportioned to the taxable fuel sold in these locations. Consequently, the revenues estimates for the Counties and Municipalities Maintenance Road Fund are slightly overestimated, while the Carlsbad Brine Well Remediation Fund revenue is slightly underestimated.

DOT also offers the following graphic depictions of New Mexico’s relative fuel tax rates:



### Diesel Motor Fuel Taxes per Gallon as of Jan. 1, 2015



## **SIGNIFICANT ISSUES**

According to the New Mexico Municipal League, which supports this legislation, the gasoline tax has not been adjusted since July 1, 1995 when it was decreased from 20 cents to 17 cents. Many local governments have seen a real decline in the amount of their gasoline tax distributions over the years due to competing sales of gasoline by Native American Tribes in the vicinity of municipal limits. The Municipal League also points out that local governments are responsible for the maintenance, repair and construction of approximately 44,000 miles of roads compared to 30,000 miles of roads for which the state is responsible.

It should be noted that Native American Tribes can increase their taxes in step with state increases but preserve any differential they think is appropriate.

## **TECHNICAL ISSUES**

TRD indicates that section 7-1-3(Y) NMSA 1978 defines “tax” as tax, penalty and interest. On page 2, line 15, and page 3, lines 21-22, this language is stricken. If it is stricken, then the amount will be based upon an amount equal to tax, penalty and interest, whereas if the language is not stricken, then the amount will be based only upon the tax amount.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 251 also increases the gasoline tax and special fuel tax.

## **PERFORMANCE IMPLICATIONS**

The LFC tax policy of accountability is not met since DFA and TRD are not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from the governing body to determine whether the proceeds from the tax are meeting their purpose.

## **ADMINISTRATIVE IMPLICATIONS**

TRD indicates that it does not currently charge an administrative fee on gasoline tax and special fuels tax distributions. This bill creates two new distributions that TRD would now be required to administer, thus creating a greater administrative burden and increasing the cost to its budget. TRD recommends an additional source of funding through an administrative fee or an alternate funding source.

Further, TRD’s Financial Distribution Bureau (FDB) estimates a significant impact to financial distribution business processes. Once programming changes (i.e., increase in gasoline and special fuel tax, new distributions to DOT and municipalities and counties) are made to the GenTax system, FDB staff will need to verify the changes by performing selected tests of data, functionality and reports, prior to authorizing TRD’s ITD to move changes into production.

TRD’s Revenue Processing Division (RPD) also estimates high impact on administration. Forms and instructions will need to be modified, as well as configuration to the GenTax system to record the inventory tax and payments. The inventory tax for gasoline tax and special fuels tax, will need to be collected for 8 consecutive years, and for each subsequent year that the tax

changes. If a new program is needed, RPD will need to set up a new payment type. RPD also estimates that an additional 1.5 full-time employee would be needed to manage the calls and additional processing needs during the inventory tax collection for each year the tax changes.

Lastly, TRD's Information Technology Division (ITD) estimates a high administrative impact (50 weeks) to change CFT document rules, distribution configurations and business objects related to the distributions module.

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