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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/18

SPONSOR Maestas/Gonzales LAST UPDATED _____ HB 228

SHORT TITLE Gas Tax Increase & Road Fund SB _____

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20	FY21	FY22		
\$0.0	\$70,849.0	\$71,439.0	\$71,169.0	\$71,193.0	Recurring	NEW State Road Maintenance Fund (fuel)
\$0.0	\$47,258.0	\$47,650.0	\$47,471.0	\$47,487.0	Recurring	NEW Municipalities - maintenance fund
\$0.0	\$23,593.0	\$23,790.0	\$23,700.0	\$23,708.0	Recurring	NEW Counties - maintenance fund
\$0.0	\$1.1	\$1.1	\$1.1	\$1.1	Recurring	Municipalities and Counties Fund - (excl. P&I)
\$0.0	\$0.7	\$0.7	\$0.7	\$0.7	Recurring	State Aviation Fund
\$0.0	\$0.4	\$0.4	\$0.4	\$0.4	Recurring	Motorboat Fuel Tax Fund
\$0.0	\$0.8	\$0.8	\$0.8	\$0.8	Recurring	County Government Road Fund
\$0.0	\$0.8	\$0.8	\$0.8	\$0.8	Recurring	Municipal Roads Fund
\$0.0	\$0.8	\$0.8	\$0.8	\$0.8	Recurring	Municipal Arterial Program of Local Governments Road Fund
\$0.0	\$1.7	\$1.7	\$1.7	\$1.7	Recurring	Local Governments Road Fund
\$0.0	\$2,400.0	\$2,400.0	\$2,400.0	\$2,400.0	Recurring	Tribal Tax Sharing Agreements (Pueblo of Santo Domingo and Nambe)
\$0.0	\$2,147.0	\$2,130.0	\$2,095.0	\$2,062.0	Recurring	State Road Fund
\$0.0	\$146,253.3	\$147,415.3	\$146,841.3	\$146,856.3	Recurring	TOTAL

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
\$115.0	\$115.0	\$0.0	\$230.0	Nonrecurring	TRD Operating
unknown				Recurring	General Fund

Parenthesis () indicate expenditure decreases

Conflicts with SB177

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportation (DOT)

Taxation and Revenue Department (TRD)

Municipal League

SUMMARY

House Bill 228 contains the following provisions, effective July 1, 2018:

- increases the gasoline tax by 10 cents per gallon (from 17 cents to 27 cents),
- increases the special fuels tax by 10 cents per gallon (from 21 cents to 31 cents), and
- creates the state road maintenance fund.

About half of the new revenue from the gasoline tax is distributed to the new state road maintenance fund, and about half is used for an additional distribution to municipalities and counties for road maintenance. Of this additional local distribution, two-thirds is allocated for municipalities and the remaining one-third is allocated for counties. The bill also effectively distributes an additional one-half cent of the new tax to the state road maintenance fund, which helps to offset the effect of increasing the tribal tax sharing agreements with the pueblos of Santo Domingo and Nambe. The bill sends half of the new special fuels tax revenue to the new state road maintenance fund and the other half as an additional distribution to municipalities and counties for road maintenance.

Distribution of New Tax Revenue	Gas Tax	Special Fuels Tax
State Road Maintenance Fund	\$0.0475	\$0.05
Municipalities & Counties	\$0.0475	\$0.05
State Road Fund	\$0.005	--
Total	\$0.10	\$0.10

This bill designates the newly created state road maintenance fund for improvement or maintenance of existing public roads or bridges. This will be a nonreverting fund in the state treasury and will be administered by the Department of Transportation and cannot be used for bonding. Additionally, the new money distributed to municipalities and counties for road maintenance cannot be used for bonding.

FISCAL IMPLICATIONS

The fiscal impact of the gasoline and special fuels tax increases is estimated by multiplying the gallons of gasoline and special fuel forecasted by the New Mexico Department of Transportation (as of January 2017) by the amount of the tax increase. The appropriate distribution percentage rates were then applied to the different funds. The analysis is based on the assumption that the tax increases do not modify the price elasticity demand for gasoline and special fuels. The fuel tax increases will generate about \$146 million in new revenue annually, with about \$91 million attributable to the gasoline tax increase and about \$55 million attributable to the special fuels tax increase.

This bill adjusts fuel tax distributions to essentially hold harmless the various existing fuel tax beneficiaries; however, an additional half cent of the ten cent gasoline tax increase is sent to the state road fund to offset the effect of the tribal sharing agreements, creating a net positive impact. Currently, the Pueblo of Santo Domingo and the Pueblo of Nambe, pursuant to the gasoline tax sharing agreements, are entitled to receive an amount equal to 40 percent of the net receipts attributable to the gasoline tax paid to the DOT on 2.5 million gallons of gasoline each month, and which consequently will receive an additional \$100 thousand each per month.

The tables below summarize the total revenue sources and uses as outlined in the bill.

Revenue Sources (in thousands)					Five Year Total	Fund Affected
FY18	FY19	FY20	FY21	FY22		
\$0.0	\$90,837.0	\$90,500.0	\$89,799.0	\$89,143.0	\$360,279.0	Gasoline Tax (10 cents)
\$0.0	\$55,416.0	\$56,915.0	\$57,042.0	\$57,712.0	\$227,085.0	Special Fuels Tax (5 cents)
\$0.0	\$146,253.0	\$147,415.0	\$146,841.0	\$146,855.0	\$587,364.0	TOTAL

Revenue Uses (in thousands)					Five Year Total	Fund Affected
FY18	FY19	FY20	FY21	FY22		
\$0.0	\$70,851.0	\$71,440.0	\$71,171.0	\$71,195.0	\$284,657.0	Muni & County Road Maintenance
\$0.0	\$70,849.0	\$71,439.0	\$71,169.0	\$71,193.0	\$284,650.0	State Road Maintenance Fund
\$0.0	\$2,147.0	\$2,130.0	\$2,095.0	\$2,062.0	\$8,434.0	State Road Fund
\$0.0	\$2,400.0	\$2,400.0	\$2,400.0	\$2,400.0	\$9,600.0	Tribal Tax Sharing Agreement

Revenue estimates provided by DOT were very similar to LFC's analysis. However, figures from TRD differed significantly on estimated revenue to the state road fund; which may be due to an error the in analysis' applied distributional percentages.

The fuel tax increases will also have a direct but unknown effect on all other general fund agencies with motor vehicle travel costs, as these agencies will now have to pay the increased tax rate on gasoline purchased.

This bill creates a new fund for state road maintenance and provides for annual appropriations by the Legislature.

This bill addresses the LFC tax policy principles of adequacy and efficiency by raising revenues from a source that is far less volatile than some of the other sources of general fund revenues. Motor fuels tax revenues fluctuate over time, but the revenue stream is much more stable than

taxes more susceptible to changes in oil and gas prices, for example (see significant issues section).

SIGNIFICANT ISSUES

The last increase in the state gasoline tax occurred in 1993, when the tax was raised from \$0.16 to \$0.22 per gallon. It has since been reduced twice to the current rate of \$0.17 per gallon. The special fuels tax rate was last increased in 2003, when it was raised from \$0.18 per gallon to its present rate of \$0.21 per gallon. New Mexico fuel taxes are lower than in surrounding states and lower than the national average.

Based on inflation-adjusted fuel tax revenue data reported to the Census Bureau, *Governing* magazine has indicated total motor fuel tax revenues have not kept pace with inflation.¹ Seven states raised their gas tax rates on January 1, 2017. The two highest increases occurred in Pennsylvania and Michigan, with rate hikes of 7.9 cents and 7.3 cents per gallon resulting in total rates of 58.3 cents and 37.8 cents per gallon, respectively, according to the Tax Foundation. The other five states – Nebraska, Georgia, North Carolina, Indiana, and Florida – implemented more modest rate increases.

The New Mexico Municipal League indicates its member support this legislation. Many local governments have seen a real decline in the amount of their gasoline tax distributions over the years, reportedly due in part to competing sales of gasoline by Native American tribes in the vicinity of municipal limits. Additionally, gradually increasing fuel efficiency may contribute to observed declines. County and municipal funds would benefit directly from this bill. 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.

Gasoline prices fluctuate with crude oil prices. However, gasoline tends to be a relatively inelastic product in that price fluctuations do not tend to significantly increase or reduce demand. As such, the revenues resulting from passage of this bill would likely remain consistent regardless of changes in prices at the pump.

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

TRD has pointed out in related bills that gasoline taxes are regressive, meaning that they have an outsized effect on those with lower incomes. This will be especially true in New Mexico as the state's lowest tax bracket (defined as a taxable income of less than \$5.5 thousand if single, \$8 thousand if married or head of household, or \$4 thousand if married filing separately) currently comprises 46 percent of filers.

ADMINISTRATIVE IMPLICATIONS

According to TRD, implementing this bill would have a high impact on Information Technology Division of approximately 1,500 hours or about 9.5 months and \$380 thousand (\$230 thousand in contract costs, one full-time project manager, and one business analyst; and \$105 thousand in

¹ *Governing*, *State Gas Tax Revenue Data*, <http://www.governing.com/gov-data/transportation-infrastructure/gas-tax-revenue-data-by-state-inflation-adjusted.html>

soft costs). State development resources along with a part-time FAST contract resource would need to work on these changes. Considering the effort and estimated 9.5 months needed to implement this bill, TRD states the effective date of July 1, 2018 is not feasible and instead recommends an effective date of April 1, 2019.

TECHNICAL ISSUES

According to DOT, HB 228 should include an applicability section to assure that revenue distribution changes are not initiated prior to receipt of the increased fuel tax revenue.

APPLICABILITY--The distributions pursuant to this act (Sections 1 through 10) apply to receipts from gasoline tax and special fuel excise tax imposed on or after the effective date of this act.

Additionally, DOT states Section 10 of HB 228 creates the new “State Road Maintenance Fund” and describes the administration and use of the fund, a distribution of revenue to the fund, and appropriations from the fund. The section is enacted as a new section of the Tax Administration Act. DOT indicates it may be appropriate to split Section 10 into two sections, one creating the fund and describing administration and appropriations, and a separate section of the Tax Administration Act specifying the distribution of revenue into the fund.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with Senate Bill 177, which increases the gasoline tax by 10 cents and the special fuels tax by 5 cents. SB177 also creates the new state road maintenance fund with similar provisions as this bill; additionally, it makes a temporary appropriation to DOT of \$3 million in FY19 and \$5 million in FY20 and FY21 for the remediation of the Carlsbad brine well.

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

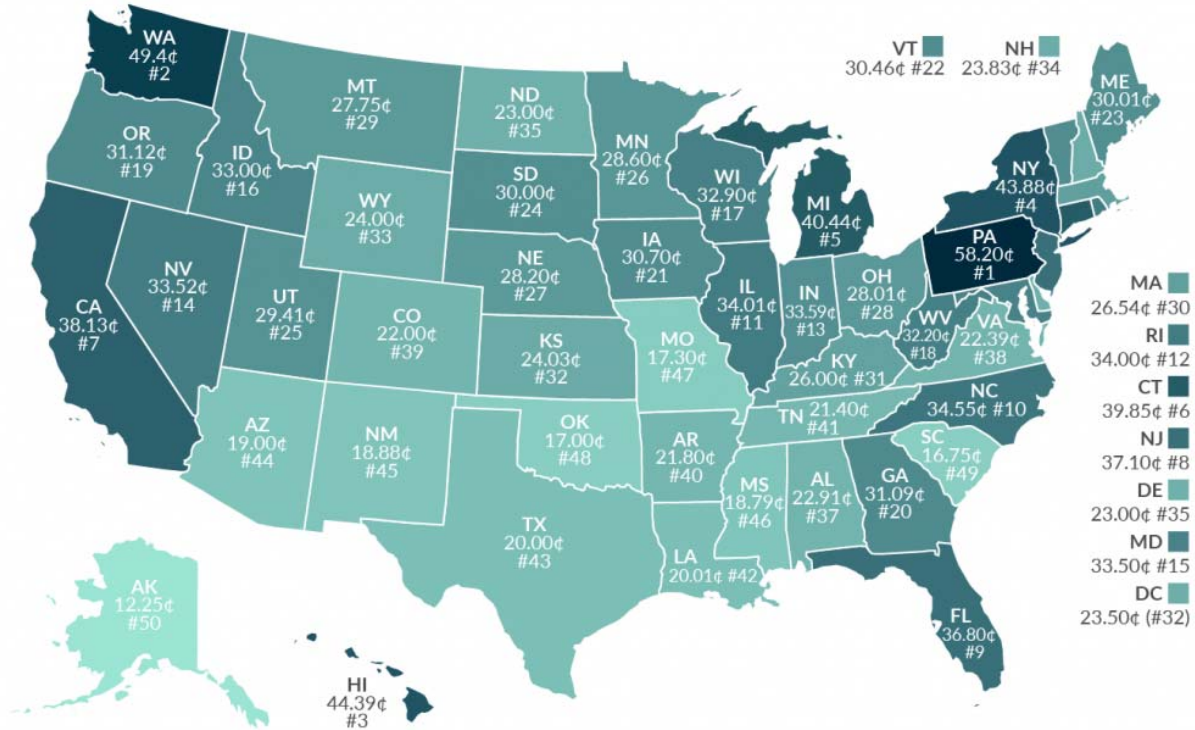
- 1. Adequacy:** Revenue should be adequate to fund needed government services.
- 2. Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- 3. Equity:** Different taxpayers should be treated fairly.
- 4. Simplicity:** Collection should be simple and easily understood.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

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APPENDIX A

How High Are Gas Taxes in Your State?

Total State Taxes and Fees on Gasoline, as of January 2017 (cents per gallon)



Notes: These rates do not include the 18.40 cent/gallon federal excise tax on gas. The American Petroleum Institute (API) has developed a methodology for determining the average tax rate on a gallon of fuel. Rates may include any of the following: excise taxes, environmental fees, storage tank taxes, other fees or taxes, and general sales tax. In states where gasoline is subject to the general sales tax, or where the fuel tax is based on the average sale price, the average rate determined by API is sensitive to changes in the price of gasoline. States that fully or partially apply general sales taxes to gasoline are California, Connecticut, Georgia, Illinois, Indiana, Michigan, and New York. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included.

Source: American Petroleum Institute.



APPENDIX B

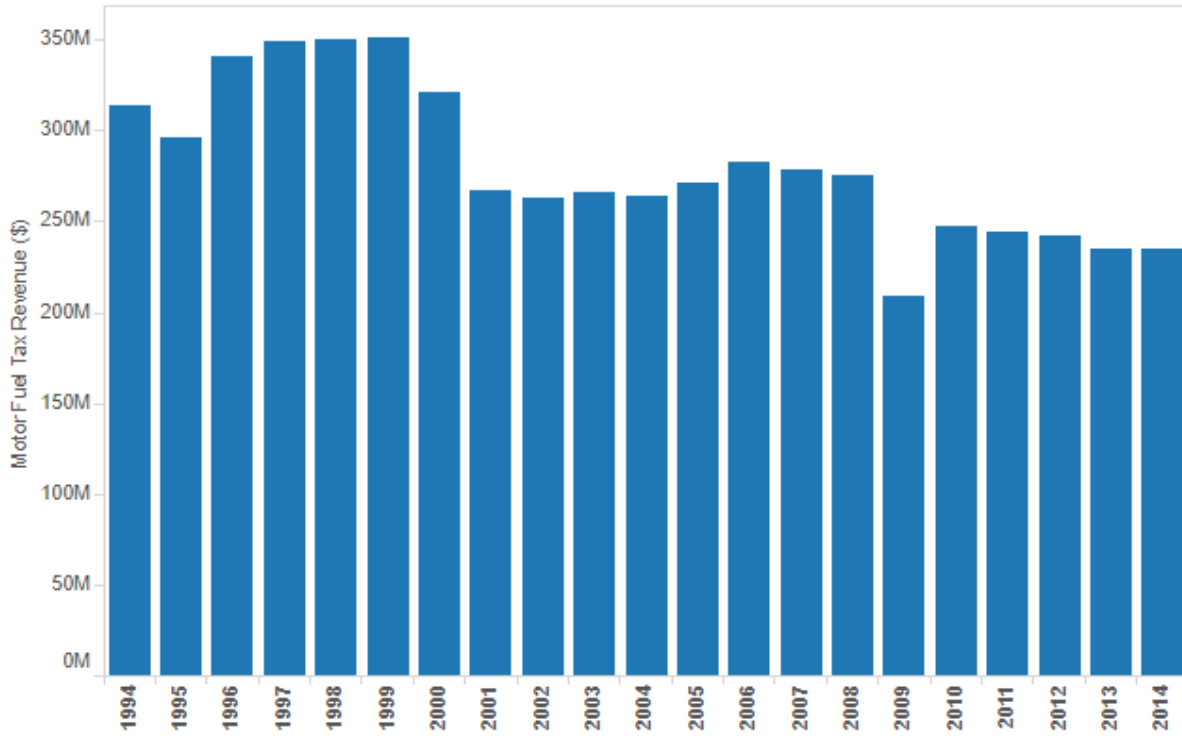
Governing Magazine: State Gas Tax Revenues Have Not Kept Pace with Inflation

New Mexico

Inflation-adjusted change since 1994: -\$78,860,000 (-25.1%)

Inflation-adjusted change since 2000: -\$85,683,000 (-26.7%)

Years since raising gas tax: 21.6 years as of February



Figures were adjusted for inflation and shown in 2014 dollars.

SOURCE: Governing calculations of U.S. Census Bureau Annual Survey of State Government Tax Collections data. Information on last gas tax raise compiled by the Institute on Taxation and Economic Policy.