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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/13

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

SHORT TITLE Increase & Index Gas & Special Fuels Taxes SB 527

ANALYST Walker-Moran

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
NFI in these years. Revenue impact begins in FY20. See fiscal impact section for impact beginning in FY20.					Recurring	

(Parenthesis ( ) Indicate Revenue Decreases)

Related to SB-160, as amended by SCONC.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Transportation (DOT)

Taxation and Revenue Department (TRD)

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

Senate bill 527 amends sections 7-13-3 and 7-16A-3 NMSA 1978 to increase gasoline excise taxes and special fuel excise taxes two cents per year starting in FY20. Beginning in FY25 the bill will index price increases to a chained price index for state and local highway and street investment.

The gasoline excise tax and (special fuels excise tax) imposed shall be:

\$0.17 (\$0.21) per gallon on or before June 30, 2019;

\$0.19 (\$0.23) per gallon between July 1, 2019 and June 30, 2020;

\$0.21 (\$0.25) per gallon between July 1, 2020 and June 30, 2021;

\$0.23 (\$0.27) per gallon between July 1, 2021 and June 30, 2022;

\$0.25 (\$0.29) per gallon between July 1, 2022 and June 30, 2023;

\$0.27 (\$0.31) per gallon between July 1, 2023 and June 30, 2024;

For both the gasoline excise tax and the special fuels excise tax on and after July 1, 2024, the rate is determined as follows: No later than April 30, 2024 and April 30 of each subsequent year, TRD shall calculate the rate of gasoline tax to be imposed as of July 1 of that year. The rate of the gasoline excise tax (and the special fuels excise tax) per gallon shall be equal to the product, rounded down to the nearest whole cent, \$0.27 (\$0.31) multiplied by a fraction with a numerator equal to the chained price index for the previous calendar year and a denominator equal to the chained price index for calendar year 2022, where "chained price index" means the chained price index for state and local gross investment in highways and streets.

The effective date of this bill is July 1, 2013.

**FISCAL IMPLICATIONS**

As reported by DOT: Gasoline and Special Fuel Taxes are forecast through FY2017 in the January 2013 Road Fund Forecast; beyond that year this revenue illustration uses Global Insight’s growth rate for Highway Consumption of Gasoline and Special Fuels.

In FY20, every one cent (\$0.01) increase in the Gasoline Tax would increase revenues by about \$9.1 million and every one cent (\$0.01) increase in the Special Fuels (diesel) Tax would increase revenue by about \$5.4 million.

**REVENUE Illustration (dollars in thousands)**

Estimated Revenue					Recurring or Nonrec	Funds Affected
FY20	FY21	FY22	FY23	FY24		
23,141	45,974	68,582	91,040	112,898	Recurring	State Road Fund
480	960	1,440	1,920	2,400	Recurring	Tribal Gasoline Tax Sharing Agreement Dist.
1,027	2,041	3,045	4,042	5,014	Recurring	Local Gov. Road Fund (Special Fuels Tax)
1,886	3,748	5,591	7,423	9,207	Recurring	Counties & Municipalities
1,047	2,080	3,103	4,119	5,109	Recurring	County Gov. Road Fund
1,047	2,080	3,103	4,119	5,109	Recurring	Municipal Road Fund
262	520	776	1,030	1,277	Recurring	Municipal Arterial Fund
47	94	140	186	231	Recurring	Aviation Fund
24	47	70	93	115	Recurring	Motor Boat Fuel Tax Fund
<b>28,960</b>	<b>57,543</b>	<b>85,849</b>	<b>113,971</b>	<b>141,359</b>	<b>Recurring</b>	<b>Total</b>

After the 10 cent phase-in is complete, this bill will index the gasoline and special fuels taxes using the Price Index for state and Local Gross Investment in Highways and Streets. The table below illustrates fuel tax rates using Global Insight’s December 2012 Long Term Forecast of the Price Index.

	Rate Under SB-527			Increase from Current	
	Gasoline	Special Fuel		Gasoline	Special Fuel
<b>FY13</b>	\$ 0.17	\$ 0.21	<b>FY13</b>	\$ -	\$ -
<b>FY14</b>	\$ 0.17	\$ 0.21	<b>FY14</b>	\$ -	\$ -
<b>FY15</b>	\$ 0.17	\$ 0.21	<b>FY15</b>	\$ -	\$ -
<b>FY16</b>	\$ 0.17	\$ 0.21	<b>FY16</b>	\$ -	\$ -
<b>FY17</b>	\$ 0.17	\$ 0.21	<b>FY17</b>	\$ -	\$ -
<b>FY18</b>	\$ 0.17	\$ 0.21	<b>FY18</b>	\$ -	\$ -
<b>FY19</b>	\$ 0.17	\$ 0.21	<b>FY19</b>	\$ -	\$ -
<b>FY20</b>	\$ 0.19	\$ 0.23	<b>FY20</b>	\$ 0.02	\$ 0.02
<b>FY21</b>	\$ 0.21	\$ 0.25	<b>FY21</b>	\$ 0.04	\$ 0.04
<b>FY22</b>	\$ 0.23	\$ 0.27	<b>FY22</b>	\$ 0.06	\$ 0.06
<b>FY23</b>	\$ 0.25	\$ 0.29	<b>FY23</b>	\$ 0.08	\$ 0.08
<b>FY24</b>	\$ 0.27	\$ 0.31	<b>FY24</b>	\$ 0.10	\$ 0.10
<b>FY25</b>	\$ 0.28	\$ 0.32	<b>FY25</b>	\$ 0.11	\$ 0.11
<b>FY26</b>	\$ 0.28	\$ 0.33	<b>FY26</b>	\$ 0.11	\$ 0.12
<b>FY27</b>	\$ 0.29	\$ 0.33	<b>FY27</b>	\$ 0.12	\$ 0.12
<b>FY28</b>	\$ 0.29	\$ 0.34	<b>FY28</b>	\$ 0.12	\$ 0.13
<b>FY29</b>	\$ 0.30	\$ 0.34	<b>FY29</b>	\$ 0.13	\$ 0.13
<b>FY30</b>	\$ 0.30	\$ 0.35	<b>FY30</b>	\$ 0.13	\$ 0.14

**SIGNIFICANT ISSUES**

As reported by DFA, since 1951, the New Mexico tax rate for gasoline has shown a long term downward trend. Starting in 1979, real diesel taxes have generally been between \$0.20 and \$0.25 in constant 2001 dollars. When prices are increasing, as they have generally trended over in recent years, a per unit tax does not keep pace with increased value as it would with a percent tax. The pro-posed incremental increase of the tax rate proposed by this bill will move the relationship of the unit taxes relative to prices towards that of a percent tax. The 7-year average growth in the price index for state and local highways and streets is 9.7% (BEA, NIPA, 2005=100).

As reported by TRD, as “unit-based” taxes (fixed rate taxes based on gallons of motor fuel), rather than value-based taxes, the real revenue yield of the gasoline tax and special fuels tax tends to erode over time, after accounting for the effects of inflation. Periodic maintenance of “unit-based” tax rates is generally required to maintain adequacy of the tax yield.

Current revenue for state road funds, even when combined with federal funds, is insufficient to address needs critical to the economic welfare of the state. NMDOT economic analysis suggests state road funds will be negatively impacted even further as a result of an increase in fuel-efficient vehicles. According to the NMDOT, there are currently at least \$1.5 billion in unfunded construction needs across the state, including a routine maintenance gap of approximately \$225 million, structurally deficient bridge repair needs of \$250 million, and heavy equipment replacement needs of \$150 million. Further, there are downtown “main street” reconstruction funding needs of approximately \$340 million and major investment project and interchange funding needs of approximately \$425 million. GRIP projects that have been deferred for lack of funding total \$390 million. Although other states are exploring options to address similar problems, the department is not currently considering plans for additional revenue sources.

## **ADMINISTRATIVE IMPLICATIONS**

As reported by TRD, this legislation would have a high impact on the department. New Mexico distributors and Tribal entities imposing Tribal gasoline taxes would need to be notified of the annual tax rate changes. Distributors and rack operators would need to be notified of any changes to the Registered Indian Tribal Distributor deduction. Changes to the electronic reporting in GenTax and the combined fuel tax reporting form would need to be done for each year. Each year of any tax rate increase, the department will need to administer imposition of the inventory tax for special fuels and gasoline. The current revenue processing system will have to be developed to administer the inventory tax. Administrative efforts would be significant. Calculation and administration of the on-going annual tax rate indexing provisions and possible changes to the Registered Indian Tribal Distributor deduction may eventually require additional personnel resources.

## **TECHNICAL ISSUES**

As reported by TRD, the tax indexing provisions in Section 1, Subsection C and Section 2, Subsection C can be interpreted to allow for adjustments to the tax rates in both the upward and downward direction. If the intent of the bill is to never have the rates fall below the specified FY2024 levels (\$0.27 for gasoline and \$0.31 for special fuel), then that should be explicitly specified: “however, in no event shall the tax rate be adjusted to be less than the rate imposed during the previous year”.

After June 30, 2024, the tax should be determined by the department based on the Chained Price Index. This may produce a tax reduction which could result in a refund pursuant to Section 7-16A-6 for the special fuel. However, there is no provision to refund gasoline tax for a tax decrease.

## **OTHER SUBSTANTIVE ISSUES**

As reported by TRD, 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.

According to the January 2013 Notes to State Motor Fuel Excise Tax Report by the American Petroleum Institute, among the 50 states, New Mexico currently has the 8th lowest tax on gasoline, lower than the US average rate \$0.304/gallon; and the 17th lowest tax on diesel, slightly lower than the US average rate \$0.30/gallon.

As reported by DOT, 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 \$1.2 million annually for each two cent (\$0.02) increase.

As reported by DFA, starting in FY25, this bill aligns gasoline and special fuel taxes more closely with highway and street infrastructure. State and local highway and street infrastructure may be funded more efficiently through other programs, such as sales or activity tax or more directly from dominant wear and tear source user fees, such as existing weight distance taxes.

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

EWM/blm