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FISCAL IMPACT REPORT

SPONSOR: Stockard DATE TYPED: 01/28/00 HB

SHORT TITLE: Gas Sales Deduction on Indian Land SB 109

ANALYST: Williams

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	**FY01**			
		See Text		

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC files
Taxation and Revenue Department (TRD)
State Highway and Transportation Department (SHTD)
Environment Department (ED)

SUMMARY

Synopsis of Bill

Endorsed by the Revenue Stabilization and Tax Policy Review Committee. Authorizes a deduction for gasoline for entities other than registered Native American tribal distributors for gasoline sold and received in New Mexico if: 1) the sale occurs on tribal land; 2) the gasoline is dispensed into a vehicle on tribal land; 3) the tribe or pueblo certifies it has an excise, privilege or similar tax on gasoline and 4) the entity is in compliance with the tribal government tax. A multiplier based on the ratio of the tribal tax rate to the state tax rate would determine the quantity of gasoline exempted. Effective date is April 2000, with an emergency clause.

Significant Issues

Chapter 190, Tribal Distributors Gas Tax Deduction, enacted in 1999 was designed to resolve taxation issues for gasoline sold by Native American tribal entities, but resulted in a dual taxation issue for non-Native American dealers selling gasoline on Native American lands. Currently, a non-Native American retailer is subject to state and tribal tax when the gasoline is sold on Native American lands. The difference is approximately $0.17 per gallon. The non-Native American retailer is potentially not competitive with Native American owned stores on tribal lands or any store located off the reservation. Most of these retailers are operating on the Navajo Reservation, and the Navajo Nation imposed a gasoline tax, effective October 1999. These retailers would still be subject to the state's petroleum products loading fee of $0.01 cent per gallon.

FISCAL IMPLICATIONS

A short-term revenue loss is estimated to be about $100.0 to $125.0 per month in gasoline excise tax. However, in the long-run, both TRD and SHTD note that without legislative action to address the dual taxation issue, these operations are expected to reorganize into a joint venture or lease operation to qualify as a "registered Indian tribal distributor" or go out of business. Thus, the long run impact is estimated to be zero.

The gasoline excise tax revenues are apportioned to the state road fund, county/municipal road funds, county government road fund, municipal road funds, municipal arterial program, state aviation fund, motor boat fuel fund.

In the long-run, since this bill would discourage reorganization and there would be no deduction for petroleum products loading fee authorized, then there would be a revenue gain for the corrective action fund and the local governments road fund. This revenue gain is estimated to be approximately $70.0 to $90.0 per year.

TRD Assumptions

12 to 15 non-Native American gasoline retail stations located on Native American land
Each of these retailers sells about 50,000 gallons per month

ADMINISTRATIVE IMPLICATIONS

TRD notes some additional audit effort would be required. None noted by SHTD.

AW/njw