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FISCAL IMPACT REPORT

SPONSOR: Whitaker DATE TYPED: 02/18/01 HB 568
 SHORT TITLE: Tax Credit for Certain Off-Road Fuel SB _____
 ANALYST: Eaton

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	<(89.0)	<(89.0)	Recurring	Road Fund
	<(11.0)	<(11.0)	Recurring	Local Govt. Road Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill provides for a new refund procedure for diesel fuel users for undyed fuel used off highway and to power equipment other than motor vehicles.

The special fuel tax (included in the price of fuel purchased by fuel users) could be refunded only when fuel is used for:

- propelling the vehicle on locations other than the state's highways and roads;
- operating auxiliary equipment using a power take-off from the main engine or transmission of a vehicle;
- operating a non-automotive apparatus mounted on the vehicle using fuel from the vehicle's fuel supply tank.

The Taxation and Revenue Department would be allowed to establish rules, procedures and requirements for determining how to calculate fuel used for off-road purposes and fuel used on the highways. Refund claims could be filed no more frequently than quarterly for amounts of 100 gallons or more.

This bill also deletes a requirement subjecting sale of dyed fuel to special fuel tax.

Significant Issues

Any fuel qualifying for a special fuel tax refund would be subject to the state Compensating Tax of 5% of value. The Taxation and Revenue Department (TRD) would probably require the compensating tax liability be withheld from the Special Fuel Tax refund amount.

TRD report that this bill essentially lifts the deduction spelled out in Taxation and Revenue Department Regulations 3.16.110.9 through 3.16.110.12 (associated with Section 7-16A-11 NMSA 1978) to statutory status. These regulations specify required records and equipment, and specify methodology for an "alternative calculation" available to off-road fuel users reporting Special Fuel Excise Tax. Special Fuel Excise Tax filers are not currently making use of the "alternative calculation", possibly because the regulation is not well known or because the record keeping requirements are quite stringent and the calculations complicated.

TRD report that the bill should specify that claims for refund should be submitted only by persons who do not file Special Fuel (user) Excise Tax returns. Use of the "alternative calculation" on the Special Fuel Excise Tax return, and filing a claim for refund under the provisions of this bill, would result in a double refund.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) estimates that the combined impact on state and local road funds is less than \$100.0.

ADMINISTRATIVE IMPLICATIONS

The Taxation and Revenue Department (TRD) report that they would need one additional FTE to process the refunds. The department already receives a number of complaints from taxpayers regarding slow processing of gasoline off-road refunds, and the addition of a new refund function for special fuel would make the problem worse.

JBE/sb/njw