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## FISCAL IMPACT REPORT

SPONSOR: Garcia, MP                      DATE TYPED: 2/24/03    HB 587/aHENRC

SHORT TITLE: Definition of Alternative Fuel                      SB \_\_\_\_\_

ANALYST: Reynolds-Forte

### REVENUE

| Estimated Revenue |               | Subsequent<br>Years Impact | Recurring<br>or Non-Rec | Fund<br>Affected  |
|-------------------|---------------|----------------------------|-------------------------|-------------------|
| FY03              | FY04          |                            |                         |                   |
|                   | Indeterminate | Indeterminate              | Recurring               | State Road Fund   |
|                   | Indeterminate | Indeterminate              | Recurring               | Local Governments |
|                   |               |                            |                         |                   |

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with HB193 and HB70 as amended.

### SOURCES OF INFORMATION

#### Responses Received From

Energy Minerals and Natural Resources Department  
 NM Department of Agriculture  
 State Highway and Transportation Department

#### Synopsis of HENRC Amendment

The House Energy and Natural Resources Committee amendment to HB587 changes the definition of ethanol, methanol and biodiesel from the original bill. The amendment references the American society for testing and materials and requires that ethanol and methanol blends meet these standards in order to be defined as alternative fuel for the Alternative Fuel Tax Act. The amendment also changes the definition for biodiesel requiring that it contain twenty percent B100 blend stock of biodiesel meeting the American society for testing and materials.

#### Fiscal Impact of HENRC Amendment to HB587

The amendment will not change the fiscal impact, as it is impossible to estimate how much alternative fuel will be used based on this new definition. Based on the amendment, the Highway

and Transportation Department does note that ethanol and methanol may be used in “flexible-fuel” vehicles, and 20% biodiesel mixtures can be used in any unmodified diesel engine. The number of alternative fuel vehicles may grow considerably given a 6-to-7 cent per gallon tax advantage, although the price to produce these alternative fuels may offset the tax advantage in the ultimate price paid by the consumer.

The fiscal impact on the State Road Fund is minimal for the ethanol and methanol component since the Road Fund receives 13 cents per gallon from gasoline tax and 12 cents per gallon from alternative fuels tax. Local governments would realize the majority of any revenue loss associated with increased use of ethanol and methanol.

A larger impact would be associated with biodiesel mixtures. The Road Fund receives 16 cents per gallon from special fuel tax, but only 12 cents per gallon from alternative fuel tax. The Local Governments Road Fund would lose its 2 cent per gallon share of special fuel tax on volumes of biodiesel and its 0.5 cent share on ethanol, methanol and biodiesel from the Petroleum Products Loading Fee (PPL Fee). The Department is not aware of any extensive use of these fuels in New Mexico currently.

#### Technical Issues of HENRC Amendment

The State Highway and Transportation Department is concerned that the bill fails to remove the newly defined alternative fuels (ethanol, methanol and biodiesel) from the definitions within the Gasoline Tax Act or the Special Fuels Supplier Tax Act. Technically speaking, this would impose double-taxation on these alternative fuels, rather than the intended preferential tax rate. They recommend that:

- 1) The bill should include Section 7-13-2 NMSA 1978, and a reference added in Subsection H to specify that ethanol and methanol mixtures that qualify as “alternative fuel” for purposes of the Alternative Fuel Tax Act are an exception to the definition of “gasoline”.
- 2) Section 7-16A-2 NMSA 1978 should be included in the bill, and a reference added in Subsection N to specify that biodiesel mixtures that qualify as “alternative fuel” for purposes of the Alternative Fuel Tax Act are an exception to the definition of “special fuel”.

The amendment defines biodiesel as containing “twenty percent B100 materials”—should this be at least twenty percent B100 materials? If a mixture contains twenty-one percent, it would not qualify as alternative fuel under the amended definition.

The closing reference to “B100, blend stock for distillate fuels”, in the amendment seems to be repetitive.

#### Synopsis of Original Bill

House Bill 587 amends the definition section of the Alternative Fuel Tax Act in order to redefine alternative fuel. This amended definition differs from the existing definition in that it adds two new fuel mixtures:

1. A fuel mixture containing not less than seventy percent ethanol or methanol and,
2. A fuel mixture containing not less than twenty percent biodiesel or vegetable oil and deletes one current fuel mixture (a water-phased hydrocarbon fuel emulsion).

HB587 has a July 1, 2003 effective date.

### **FISCAL IMPLICATIONS**

Current law provides that alternative fuel be taxed at twelve cents per gallon instead of the seventeen cents per gallon for gasoline and eighteen cents per gallon for diesel. HB587 extends the twelve-cent tax rate to the two additional fuel mixtures effective July 1, 2003.

The revenues from the gasoline, diesel and alternative fuel taxes are distributed to the state road fund and the counties and municipalities. HB 587 could have a negative impact on the revenues to these funds dependant upon the amount of ethanol, methanol or biodiesel sold which meets the new definition. It is impossible to estimate an amount at this time.

### **CONFLICT**

HB587 conflicts with HB193 and HB70 as amended. Both HB193 and HB70/a alternative fuel definitions requires a fuel mixture containing not less than eighty-five percent ethanol or methanol; HB587 a fuel mixture containing not less than seventy percent ethanol or methanol.

The NM Department of Agriculture notes that the new definition of “alternative fuel” conflicts with state fuel specifications as identified in the Petroleum Products Standards Act Chapter 57, Article 19, and Sections 25 through 37 NMSA 1978. Title 19, Chapter 15, Part 104 Standard Specifications/Modifications for Petroleum Products.

### **OTHER SUBSTANTIVE ISSUES**

The Energy, Minerals and Natural Resources Department believes that enactment of HB587 would directly support the Energy Conservation and Management Division’s alternative transportation program and its goals of reducing our dependence on foreign oil and improving air quality.

**PRF/prr:yr:njw**