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FISCAL IMPACT REPORT

SPONSOR: SCONC DATE TYPED: 3/13/03 HB

SHORT TITLE: Tax Sharing for Certain Gas Distributors SB 874/SCONCS

ANALYST: Reynolds-Forte

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(*)	(1,473.8)	Recurring	State General Fund (GRT)
	*	1,741.0	Recurring	State Road Fund (gas)
	*	1,920.0	Recurring	Tribal Government (gas)
	(*)	(1,141.9)	Recurring	County & Municipal Govt (GRT)
	*	498.2	Recurring	County and Municipal Road Funds (gas)
	*	276.5	Recurring	County Road Funds (gas)
	*	276.5	Recurring	Municipal Road Funds (gas)
	*	69.1	Recurring	Municipal Arterial Program (gas)
	*	12.5	Recurring	Aviation Division(gas)
	*	6.2	Recurring	Motorboat Fuel Fund (gas)

(Parenthesis () Indicate Revenue Decreases)

The fiscal impact shows a full year impact in Subsequent Years, since it is uncertain when a tax sharing agreement would become effective. The fiscal impact assumes a gasoline tax rate of \$0.16 per gallon.

(*), *: Presumably there would be only a partial fiscal impact in FY04, depending on when a tax sharing agreement becomes effective.

Relates to HB690

SOURCES OF INFORMATION

Responses Received From
State Highway and Transportation Department

SUMMARY

Synopsis of Bill

Senate Conservation Committee Substitute for Senate Bill 874 allows a qualified tribe (defined as the Pueblo of Nambe) to enter into “tax sharing agreements” with the Taxation and Revenue Department in exchange for ceasing gasoline distribution outside Reservation boundaries on which the gasoline excise tax has not been applied. The qualified tribe would receive 40% of the gasoline tax revenue attributable to 2.5 million gallons each month (30 million gallons). The tax sharing agreement would be for a period of up to 10 years.

The bill has a July 1, 2003 effective date.

Significant Issues

The State Highway and Transportation Department points out that under current law, two registered Indian tribal distributors (Nambe and Santo Domingo) qualify to sell 30 million gallons per year (2.5 million gallons per month on average) of gasoline outside Reservation boundaries on which the gasoline tax is not imposed (deducted under Section 7-13-4, Subsection F NMSA 1978).

Currently gasoline on which the gasoline tax has not been paid is also subject to the gross receipts tax. Gasoline retailers, not the Indian tribal distributors, are liable for the gross receipts tax.

FISCAL IMPLICATIONS

The amounts listed in the Revenue Table show the bill would decrease the revenues from the gross receipts tax attributable to the sales of gasoline that were exempt from gasoline excise tax pursuant to Section 7-13-4, Subsection F (untaxed Native American gasoline sold outside the reservation), and would increase revenues to the state road fund for gasoline tax imposed on gasoline related to the tax sharing agreements.

The bill, which defines qualified Indian tribe as Nambe Pueblo, changes revenue as follows:

- State General Fund: Decrease of \$1.5 million
- County/City General Funds: Decrease of \$1.1 million
- State Road Fund: Increase of \$1.7 million
- County/City Road Fund: increase of \$1.1 million

The Tribal Government would receive approximately \$1.9 million annually from the gasoline tax.

RELATIONSHIP

Senate Conservation Committee Substitute for SB874 relates to HB-690 which establishes a transit fund administered by the State Highway and Transportation Department, and distributes into the fund the revenue associated with the gross receipts tax imposed on gasoline that is not

subject to gasoline excise tax and sold by Indian tribal distributors outside the boundaries of a Reservation.

TECHNICAL ISSUES

On page 5, line 1, the bill specifies that a copy of any gasoline tax sharing agreement be “*transmitted to the secretary*”. The “*secretary*” in this particular section is defined by statute as the Secretary of Highway and Transportation Department. It seems that the bill should state that the “*secretary of the Taxation and Revenue Department*” should be notified not the Secretary of Highway and Transportation.

The Taxation and Revenue Department is required to administer and distribute the tax but is not involved in making the agreement; maybe the department should have review authority prior to finalization of the agreement.

OTHER SUBSTANTIVE ISSUES

The approximate volumes of fuel reported to be sold outside Reservation boundaries without imposition of the gasoline excise tax by Nambe has been:

	<u>Nambe</u>
FY2000	29,863,875
FY2001	13,985,496
FY2002	19,700,360

PRF/njw