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## FISCAL IMPACT REPORT

SPONSOR Adair DATE TYPED 01/25/05 HB \_\_\_\_\_

SHORT TITLE Emergency Taxpayer Relief Initiative SB 50

ANALYST Padilla-Jackson

### REVENUE

| Estimated Revenue |                          | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected  |
|-------------------|--------------------------|-------------------------|----------------------|--|
| FY05              | FY06                     |                         |                      |  |
|                   | (\$1,600.0 to \$2,000.0) | Similar                 | Recurring            | Taxation & Revenue Dept (W-D Tax Id Permit) <sup>1</sup> |
| (\$1,100.0)       | (\$1,900.0)              | Approx (\$2,900)        | Recurring            | Hazardous Waste Fund <sup>2</sup>                        |
| (*)               | (\$147,000.0)            |                         | Recurring            | General Fund <sup>3</sup>                                |
| (*)               | (\$19,500.0)             |                         | Recurring            | General Fund <sup>4</sup>                                |
| (*)               | (\$2,000.0)              |                         | Recurring            | General Fund <sup>4</sup>                                |
|                   | (\$33,500.0)             |                         | Recurring            | General Fund <sup>5</sup>                                |
|                   | (\$13,500.0)             |                         | Recurring            | Other State Funds <sup>5</sup>                           |
|                   | (\$51,500.0)             |                         | Recurring            | General Fund <sup>6</sup>                                |

(Parenthesis ( ) Indicate Revenue Decreases)

(\*) FY 2005 impacts are uncertain because the bill does not contain an effective date and because of the difficulty of implementing so many changes in a short period of time. (See discussion under TECHNICAL ISSUES and ADMINISTRATIVE IMPACTS).

1. Applies to Sections 3, 4, 5, 6, 9 through 17, and 23 (Estimates provided by DOT)
2. Applies to Section 18 (Estimates provided by NMED)
3. Applies to Section 1, reinstatement of municipal tax credit (Estimates provided by TRD)
4. Applies to Section 21, repeal of daily bed surcharge and weight-distance ID card (TRD)
5. Applies to Section 2, cigarette tax (LFC estimates)
6. Applies to Section 7, premium tax (LFC estimates)

Duplicates: House Bill 81

**SOURCES OF INFORMATION**

LFC Files

Responses Received From

Department of Transportation (DOT)

New Mexico Environment Department (NMED)

Taxation and Revenue Department (TRD)

**SUMMARY**

Synopsis of Bill

Senate Bill 50 repeals or reduces various tax and fee increases that raised FY05 state revenues by more than \$1 million. The bill only applies to tax or fee increases passed and signed during 2003 and 2004. The following table provides a brief summary of each of the proposed changes.

| Section | Tax Description  | Prior Tax Rate | New Tax Rate | Total Revenue | Fund Impact          | Notes  |
|---------|--|----------------|--------------|---------------|----------------------|--|
| 1       | Gross Receipts Tax Credit  |                | 0.5%         |               |                      | Reinstate tax credit where muni has imposed grt of at least 0.5%   |
|         |  |                | 0.25%        | -\$147,000.00 | General Fund         | Reinstate tax credit where muni has imposed grt of at least 0.25%  |
| 2       | Cigarette Tax  | \$0.0455       | \$0.0105     | -\$33,500.00  | General Fund         | Per cigarette or from \$0.91 to \$0.21 per pack  |
| 3       | Gasoline Tax   | \$0.17         | 16.0%        | -\$13,500.00  | Other State Funds    | Per gallon   |
| 4       | Motor Vehicle Weight Distance Tax  | See page 3     |              |               |                      | Reverse weight distance tax increase adopted in 2003   |
| 5       | Bus Tax Rate   | See page 5     |              |               |                      | Mills per mile   |
| 6       | Special Fuel Excise Tax  | \$0.21         | \$0.18       |               |                      | Per gallon   |
| 7       | Premium Tax  | 1%             | 0%           | -\$51,500.00  | General Fund         | On gross health insurance premiums and membership and policy fees received on health insurance and or contracts  |
| 8       | Pharmacy Licensure Fee Revocation  |                |              |               |                      | Repeals fee for issuance or annual renewal for wholesale drug distributor, drug manufacturer, or drug warehouse  |
| 9       | Motorcycle Registration Fees   | 15             | 11           |               |                      | Motorcycle with less than two wheels   |
|         |  | 15             | 11           |               |                      | Motorcycle with three wheels   |
| 10      | Passenger Vehicle Registration Fees  | 27             | 20           |               |                      | < 2,000 pounds   |
|         |  | 21             | 16           |               |                      | < 2,000 pounds -- after 5-years of registration  |
|         |  | 39             | 29           |               |                      | < 2,000 pounds   |
|         |  | 31             | 23           |               |                      | > 2,000 pounds -- after 5 years of registration  |
|         |  | 56             | 42           |               |                      | > 3,000 pounds   |
|         |  | 45             | 34           |               |                      | > 3,000 pounds -- after 5 years of registration  |
| 11      | Trailer Registration Fees  | 13             | 10           |               |                      | Permanent registration of freight trailers   |
|         |  | 7 + 1          | 5 + 1        |               |                      | Annual registration of each utility trailer  |
|         |  | 32 + 7         | 25 + 5       |               |                      | Permament registration of utility trailers not used in commerce, < 6001 pounds                                   |
| 12      | Registration Fees--Trucks, etc.  | See page 18    |              |               |                      |  |
| 13      | Bus Registration Fees  | 7              | 5            |               |                      | Annual   |
| 14      | Bus Registration - Agricultural Labor Fees   | 33             | 25           |               |                      |  |
| 15      | Fertilizer Trailer Fee   | 7              | 5            |               |                      | Trailers used by commercial fertilizer company to deliver liquid fertilizer to a farmer (less than 3,500 pounds) |
| 16      | Registration Fees -- Manufactured Homes  | 7              | 5            |               |                      |  |
| 17      | School Bus Fees  | 7              | 5            |               |                      |  |
| 18      | Repeals language to allow Environmental Improvement Board to adopt rules setting fees for businesses conducting permitted hazardous waste activities |                |              | -\$1,900.00   | Hazardous Waste Fund |  |
|         | Repeals language allowing EIB to set fees for a hazardous waste permit management fee  |                |              |               |                      |  |
| 19      | Livestock Code Fees  | <=\$100        | <=\$50       |               |                      | Fee for recording a transfer of a brand  |
|         |  | <=\$100        | <=\$50       |               |                      | Fee for recording or researching a brand   |
|         |  | <=\$10         | <=\$5        |               |                      | Fee for additional certified copies of brands  |
|         |  | <=\$100        | <=\$50       |               |                      | Fee for recording of brands  |
|         |  | <=\$100        | <=\$50       |               |                      | Fee for issuing a certificate of brand   |
| 20      | Butcher Fees   | <=\$100        | <=\$25       |               |                      | Annual license fee   |
|         |  | <=\$100        | <=\$10       |               |                      | Annual license fee - Butcher Manufacturer  |
| 21      | Repeal Sections 1 and 2 of Laws 2004, Chapter 4, Section 5, which previously were delayed repeal effective June 30, 2007                             |                |              | -\$21,500.00  | State Road Fund      | Repeal daily bed surcharge and weight-distance tax identification card requirements passed in 2003               |
| 22      | Temporary Provision -- No bond impairment  |                |              |               |                      |  |
| 23      | Declare Emergency  |                |              |               |                      |  |

Note: Fiscal impact may be conservative as good information on certain smaller taxes and fees was not readily available

Significant Issues

According to the New Mexico Environment Department, Senate Bill 50 limits the Environmental Improvement Board's (EIB) authority under the Hazardous Waste Act (HWA) established in the late 1980's, when the operation of facilities that treat, store, or dispose of hazardous waste (TSDFs) was beginning to be regulated. Since then, cleanup of legacy contamination, especially at federal facilities, has become an equal priority of the hazardous waste regulatory program. This issue is particularly important in New Mexico, where nearly half of all TSDF's are federal facilities, most of which have significant clean up requirements. Federal TSDF's comprise nearly 85 per cent of the Environment Department's Hazardous Waste Bureau's permitting and corrective action workload. Senate Bill 50 would eliminate the opportunity for facilities with significant clean-up requirements to pay the Department's costs of overseeing cleanup.

### **FISCAL IMPLICATIONS**

Total fiscal impact, summing each of the various estimates provided by TRD, DOT, NMED, and LFC for FY06 is approximately \$270 million. Though, the LFC cautions that this estimate may be conservative as information on certain smaller taxes and fees was not readily available.

No impacts were provided for the following revenues collected by TRD because – according to information provided to the Tax Department – the revenues affected by the bill have been pledged to debt service on bonds that will not be defeased for a number of years: Cigarette Tax, Gasoline tax, Weight-Distance Tax, Special Fuels Tax, Motor Vehicle Registration Fees and Hazardous Waste Permit Fees. See other substantive issues below.

#### **Environment**

Demands on the EIB to provide more regulatory oversight have increased at a time when sources of revenue (i.e., the general fund and federal funds) have declined or remained flat. According to NMED, EIB has turned to permit fees to augment the revenue stream. Senate Bill 50 eliminates the primary mechanism to fund oversight of permits. If Senate Bill 50 passed, NMED believes that revenues would stay at current or lower levels, inhibiting EIB from effectively overseeing corrective action and permitted activities at TSDFs.

#### **Transportation**

According to the DOT, beneficiaries of Sections 3, 4, 5, 6, 9 through 17, and 23 of the bill's tax relief accrues almost entirely to out-of-state trucking companies transporting goods in interstate commerce.

### **ADMINISTRATIVE IMPLICATIONS**

It was reported that TRD would face a significant short-term impact to make all of the system and processing changes required in the bill. According to TRD, the required changes could not possibly be made in time for the emergency clause effective date of the bill.

### **TECHNICAL ISSUES**

Senate Bill 50 does not provide an effective date for the various tax rate changes, but instead employs an emergency clause. According to the TRD and DOT, changes to tax rates or fees or distribution changes should come with an effective date (generally the first day of the month) to allow for fair and predictable administration (the changes could occur in the middle of a tax payment period, generating confusion over how to assess tax within the period).

According to the DOT, Senate Bill 50 ignores the revenue distribution provisions that were associated with certain of the past tax increases proposed to be rolled-back. The bill should “roll-back” those revenue distribution provisions in conjunction with the roll-back of the tax rates.

### **OTHER SUBSTANTIVE ISSUES**

The Department of Transportation expressed concerns regarding taxes and fees that have been previously pledged toward bonds and make up a part of the state’s contract with bondholders. DOT cites both the New Mexico Constitution, Article IX, Section 16, which states in part that “The legislature shall not enact any law which will decrease the amount of annual revenues pledged for the payment of state highway debentures or which will divert any of such revenues to any other purpose so long as any of said debentures issued to anticipate the collection thereof remain unpaid.” Similarly, DOT noted that Section 22 of Senate Bill 50 provides that “If any provision of this act or any lower tax or fee provided for in this act would have the effect of impairing any revenue bonds outstanding on the effective date of this act, then the provision, lower tax or lower fee shall not take effect until the affected outstanding bonds are defeased.”

According to the Department of Transportation, “virtually all of the State Road Fund tax and fee sources are pledged toward bonds through the year 2024...any legislated tax rate decrease would be considered an impairment to the bonds.” DOT asserts that the tax rate changes proposed in Sections 3, 4, 5, 6, and 9 through 17 could not go into effect until the year 2025 when the bonds are fully defeased”.

Lastly, DOT cautioned that Section 23 of the bill repeals prior law that was recently revised in connection with Weight Distance Tax Identification Permits. According to DOT, most of the repealed language is necessary for tax administration and pre-dated the recent change to that Tax Identification Permit Fee.

### **APPROPRIATION IMPACTS**

According to information provided by HSD, approximately 90 percent of the facilities affected by the bed surcharge, accounting for about \$17.6 million of the total revenue, are reimbursed through the Medicaid program. Elimination of the surcharge would reduce these reimbursements. New Mexico Medicaid is funded 75 percent by the federal government and 25 percent by the state.

**OPJ/lg**