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FISCAL IMPACT REPORT

ORIGINAL DATE 2/3/06

SPONSOR Balderas LAST UPDATED _____ HB 282

SHORT TITLE Renewable Fuel Standards Act SB _____

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Energy, Minerals and Natural Resources Department (ENMRD)

Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

House Bill 282 would enact the “Renewable Fuels Standards Act.” The Act would require that all sales of gasoline include 10% ethanol (known as “E10”) and that all sales of diesel include 2% biodiesel (“B2”), statewide by Jan. 1, 2009.

The requirement can be temporarily suspended if:

- The EMNRD Secretary “...determines that sufficient amounts of denatured alcohol (ethanol) or biodiesel fuel are not available to meet the requirements of ...” the Act, or
- The Governor determines that an emergency or disaster has caused or appears likely to cause a disruption in the price or supply of gasoline or diesel fuel.

Section 4 provides for reporting requirements specifying that fuel distributors and dealers report the price and amount of ethanol and biodiesel fuel available to the distributor or dealer for blending; the amount of ethanol-blended gasoline and biodiesel-blended diesel fuel sold by the distributor or dealer; and any other information deemed necessary by the New Mexico Taxation and

Revenue Department (TRD). The TRD shall establish rules, reporting dates, and provide reporting forms to fuel distributors and dealers. TRD shall consult with EMNRD and the New Mexico Department of Agriculture (NMDA) to determine that sufficient amounts of ethanol and biodiesel are available to comply with the minimum ten percent content requirement for ethanol and the two percent content requirement for biodiesel.

Section 5 of the legislation includes provisions that if any person violates the Act the person is guilty of a petty misdemeanor and shall be sentenced in accordance with Section 31-19-1 NMSA 1978. In addition, EMNRD shall establish a system of administrative penalties for violations of the Act. Administrative penalties may be assessed in lieu of or in addition to other penalties provided by law. EMNRD will solicit public input, provide public notice and hold a public hearing in order to adopt rules that meet minimum requirements of the Act. Administrative penalties shall not exceed \$1,000 dollars for one violation of the Act. Violations of administrative penalties shall be clearly defined along with a scale of administrative penalties relating to the amount of the administrative penalty to the severity and frequency of the violation. EMNRD will provide proper notification of administrative hearings, right to discovery of charges and evidence and appeal procedures. Appeals from decisions made by EMNRD regarding the assessment of an administrative penalty shall be to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

SIGNIFICANT ISSUES

According to the Energy, Minerals and Natural Resources Department, enactment of this legislation would ensure that New Mexico does its part in reducing our nation's dependence on foreign oil, continues to stimulate renewable fuels production enterprises, and promotes healthy air quality, particularly in New Mexico's urban areas. The City of Albuquerque already requires E-10 usage during the winter months (November through February) to maintain urban air quality and comply with Environmental Protection Agency air quality standards. Use of renewable fuels in New Mexico would continue to stimulate renewable fuels production within New Mexico.

Use of renewable fuels in New Mexico will also help to achieve other goals such as reduction of greenhouse gas emissions. With the State's membership in the Chicago Climate Exchange, we are required to reduce greenhouse gas emissions or be forced to purchase credits.

PERFORMANCE IMPLICATIONS

ENMRD notes that House Bill 282 is in direct support of Governor Richardson's Executive Order 2005-049 requiring the increased use of renewable fuels in New Mexico state government. EMNRD with cooperation and assistance of the General Services Department (GSD), Department of Public Safety (DPS), and the Department of Transportation (DOT) are responsible for facilitating and reaching the goal of the fifteen percent renewable fuels usage for state fleets. The bill could increase the output of EMNRD programs by greatly expanding the renewable fuels infrastructure.

ADMINISTRATIVE IMPLICATIONS

The Taxation and Revenue Department notes that it would be required to design new reports to be completed by gasoline distributors and special fuel dealers. These reports would need to contain the price and amount of ethanol and biodiesel fuel available to them, and the amount of ethanol-blended gasoline and biodiesel-blended diesel fuel sold by them, along with any other information needed to determine whether sufficient amounts of these fuels are available to meet the requirements of the Act. Since there are no appropriations in the proposal, these functions will have to be funded out of the Department's regular operating budget.

According to the Energy, Minerals and Natural Resources Department (ENMRD), they will have the responsibility of developing administrative procedures and enforcing requirements of this legislation. This legislation will have an immediate impact if passed due to the development of administrative procedures and enforcement of those procedures. ENMRD believes that their responsibilities under this legislation could be accomplished with existing staff resources if ECMD positions are funded to the level requested in the Executive budget.

TECHNICAL ISSUES

According to the Taxation and Revenue Department, to facilitate ease of compliance, the proposal should probably specify the content requirements by saying "at least ten percent" and "at least two percent" so that it is clear that the fuel does not have to have an exact percentage blend.

OTHER SUBSTANTIVE ISSUES

The Department of Transportation notes that in Section Four, "REPORTING REQUIREMENTS, there is no mention of fuel quality control by means of independent laboratory testing. An addition should be made to strengthen this area of the Renewable Fuels Standards Act otherwise fuel may be falsely certified to meet specifications by dealers and distributors and provide a substandard quality fuel product.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the Energy, Minerals and Natural Resources Department, without this bill the state of New Mexico will not achieve the objectives of Executive Order 2005-33 regarding climate change and greenhouse gas reductions nor the requirements of the Chicago Climate Exchange. The requirement to meet this initiative is a four percent reduction by the end of calendar year 2006. Expansion of alternative fuel infrastructure and increased alternative fuel use will not be realized

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