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FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/07
 LAST UPDATED 2/26/07 HB _____

SPONSOR Taylor

SHORT TITLE Gas Tax Deductions & Surety Bonds SB 345/aSF1

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	NFI			

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportation
 Taxation and Revenue Department

SUMMARY

Synopsis of SFI Amendment

Senate Floor Amendment amends Senate Bill 345 to remove a provision that allows the Secretary of the Taxation and Revenue Department (TRD) to require a bond of those commercial drivers deemed in danger of default of reports required.

Synopsis of Original Bill

Senate Bill 345 amends the Gasoline Tax Act to allow for a deduction for gasoline received in New Mexico when the gasoline tax had already been paid by an out-of-state terminal where the gasoline was loaded.

SB345 also amends the Weight Distance Tax Act to require commercial truckers who are not part of the International Fuel Tax Agreement (IFTA) to file a bond guaranteeing payment of the weight distance tax.

FISCAL IMPLICATIONS

TRD:

The fuels tax changes will provide some relief for taxpayers by enabling them to avoid temporarily paying tax twice. This will only impact the timing of their payments, not the total amount owed.

The bond requirements for special fuels and weight distance tax purposes will improve compliance and therefore will avoid the potential loss of revenue but the amount of additional collections is uncertain due to a lack of experience with these compliance methods.

SIGNIFICANT ISSUES

DOT:

This bill enhances the state's ability to collect weight distance and special fuel taxes. While the bill does not affect NMDOT directly, most (if not all) of the taxes collected are road fund taxes, so NMDOT should be in favor of passing this bill. The deduction granted for payment of special fuel excise taxes to an out of state terminal (supplier) for fuel imported into New Mexico makes a lot of sense. The bill requires (1) that the terminal collect the taxes and (2) that the special fuel user must declare that the fuel's intended destination is New Mexico before allowing the user to deduct that fuel from special fuel excise tax. That gives New Mexico two potential targets in the event there is tax evasion.

As for the bonds, the bill is clear about what triggers a claim against the bond. It also protects taxpayers by allowing the requirement to be waived if the taxpayer shows a good compliance history.

ADMINISTRATIVE IMPLICATIONS

TRD reports that these changes can be accommodated with existing resources.

OTHER SUBSTANTIVE ISSUES

TRD:

Deduction for imported fuels:

Under present law, an importer who has already paid New Mexico tax to an out-of-state distributor is required to pay the tax again and then claim a refund. The proposal will allow the Department to accept taxes remitted by the out-of-state distributor on behalf of the importer. Tax liabilities are unaffected, but the importer would be spared the foregone cash flow from having to pay the tax and later claim a refund. Since these are monthly transactions, the potential cash flow problem is significant for certain importers.

Surety bond requirements:

This proposal would ensure payment of tax by truckers from jurisdictions with whom New Mexico does not have an enforcement/collection agreement. In particular, this will improve compliance and enforcement with regard to trucks from Mexico operating in the state.

Currently there are not any Mexican Carriers transporting in the U.S.. However, the U.S. Government is expected to reach an agreement under the provisions of NAFTA that would permit Mexican companies to operate trucks in the U.S. Once they are allowed to transport

in the US, they will be adopted by the border state in which they log the majority of their miles. An estimate of 100 Mexican Trucking companies and over 500 trucks could be adopted by New Mexico. Under the IFTA, New Mexico will be responsible for filed reports, collecting tax due and distributing fuel tax due to other states, whether the out of country carriers pay us the fuel tax due or not. A bond of not less than \$500/truck will assure that New Mexico will not be holding the bag for unpaid tax which must be distributed to other states. Surety bonds (or cash) (not less than \$500/truck) for Weight Distance Tax for carriers traveling New Mexico highways but based in Mexico will ensure that highway use taxes are collected even if reports are not correctly filed or taxes paid. Without a surety bond, there are no avenues to collect tax in Mexico.

NF/mt