

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/07

SPONSOR Ingle LAST UPDATED _____ HB _____

SHORT TITLE Dyed Special Fuel Gross Receipts SB 665

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(20,047.5)		Recurring	General Fund
	(13,365.0)		Recurring	Local Governments

(Parenthesis () Indicate Revenue Decreases)

Conflicts with HB 775

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Energy Minerals and Natural Resource Department (EMNRD)

Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

Senate Bill 665 adds special fuel dyed in accordance with federal regulations to the list of fuels that qualify for gross receipts and compensating tax exemptions. Under current law, special dyed fuel is exempt from the special fuels supplier tax but not the gross receipts tax.

Because the bill has no effective date its provisions are assumed to become effective 90 days after the legislature adjourns on June 15, 2007.

FISCAL IMPLICATIONS

TRD estimates that 225 million gallons of special fuel will be eligible for the exemptions created in this bill in FY08. Assuming an average price of \$2.25 per gallon results in a tax base equal to \$506.3 million. With a statewide gross receipts tax rate of 6.6 percent, the bill will reduce

revenue by about \$33.4 million. About 60 percent of that revenue loss will accrue to the general fund, while the remaining 40 percent loss will accrue to local governments.

The bill may have a small fiscal impact on FY07 because it will become effective for half of June 2007.

SIGNIFICANT ISSUES

According to EMNRD, dyed diesel fuel is the only motor fuel currently referred to as “dyed special fuel” and is used primarily in agricultural, off-road applications such as tractor fuel. Due to this type of fuel’s high sulfur content, the Environmental Protection Agency (EPA) requires it to be dyed red for identification so it can’t be used for on-road purposes. The red dye also helps the Internal Revenue Services (IRS) identify whether fuel is taxable or not.

TRD reports there is no clear policy rationale for the proposed exemption. LFC notes the proposed exemption significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

ADMINISTRATIVE IMPLICATIONS

The bill will have a moderate administrative impact on TRD. Instructions and publications will be revised, and taxpayers and employees will be educated. TRD reports that the bill would be easier to administer if it became effective on July 1, 2007, since that is when revisions to tax instructions are normally sent.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 665 conflicts with House Bill 775, which suspends fuel taxes for one year.

TECHNICAL ISSUES

Consider amending the bill to include a July 1, 2007 effective date.

SS/mt