F I S C A L   I M P A C T   R E P O R T

SPONSOR Ortiz y Pino **ORIGINAL DATE** 02/26/11 **LAST UPDATED** **HB**

SHORT TITLE Increase & Index Gas & Special Fuels Taxes **SB** 507

ANALYST Burrows

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	**FY12**	**FY13**		
	$22,792.0	$46,878.0	Recurring	State Road Fund
	$1,000.0	$2,100.0	Recurring	Local Govt Road Fund
	$4,260.0	$8,550.0	Recurring	Other Road Funds

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		**	$0.0	**	Nonrecurring	TRD – IT Dept & Revenue Processing
		**	**	**	Recurring	TRD Operating Budget

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 465, HB 287, HB 568, and SB 434

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Taxation and Revenue (TRD)
Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

Senate Bill 507 proposes to increase the gasoline and special fuel excise taxes each year from FY12 through FY14. After FY14, the fuel taxes will be adjusted according to an annual index, which is equal to the producer price index (PPI) for highway, street and other heavy construction, with the provisions that any rate increase is not greater than $0.01 per gallon and the rate would not decrease.

The bill proposes the following per gallon tax increases:

	Gasoline	Special Fuel
Current Law	$0.17	$0.21
FY12	$0.19	$0.23
FY13	$0.21	$0.25
FY14	$0.23	$0.27
FY15+	$0.23 x index	$0.27 x index

The effective date of the provisions of this bill is July 1, 2011.

FISCAL IMPLICATIONS

TRD reports the indexing provision would generally be expected to add $0.01 per gallon to the tax rates (around $15 to $17 million in revenue) each year beyond FY2014.

The gasoline tax component of the revenue impact amounts to about $18 million in FY2012 and $36 million in FY2013. The special fuel tax component of the revenue impact amounts to about $10.1 million in FY2012 and $21.5 million in FY2013.

NMDOT notes that the proposed annual $0.02 per gallon tax increase would amount to only $0.06 per gallon after three years. Assuming a price per gallon of $3.00, this proposal would raise prices by only 2 percent.

The state road fund receives 76.27 percent of gasoline tax and 90.48 percent of special fuel tax revenue. Gasoline tax revenues are also distributed to city and county road, aviation and motor boat funds. The local government road fund receives the remaining 10.52 percent of special fuel tax revenue.

SIGNIFICANT ISSUES

NMDOT notes that road fund revenues have not grown as fast as the New Mexico economy (measured by GDP), general fund revenues or, most recently, the cost of road construction. As a result, periodic rate increases have been necessary (as was done in FY 2004) to catch up with state economic growth and road infrastructure costs.

According to NMDOT, a series of studies generated pursuant to House Memorial 35, House Memorial 9 and House Memorial 5, which were passed in previous legislative sessions, provides a menu of options generated to explore various ways to match road fund revenue growth rates to market conditions. One of the concepts presented was to index the tax rates on the gallons of gasoline and special fuels. The index suggested in this bill is the PPI for highway, street and heavy construction, which best corresponds to road fund expenditures.

TRD reports the proposed price index is probably a valid representation of the cost changes faced by NMDOT for highway construction and maintenance, as well as by county and municipal road departments. Highway construction and maintenance cost is heavily dependent on oil and fuel prices due to fuel consumed by heavy construction equipment and the oil components in asphalt, so the index should track fairly closely with the cost of fuel.

NMDOT reports that in the last seven years, this PPI has grown at an annual average compound rate of 6.8 percent. Beginning in FY15, an increase of 6.8 percent in PPI would increase both gasoline and special fuel by 2¢, but the increase would be constrained to 1¢ by the annual maximum allowed.

ADMINISTRATIVE IMPLICATIONS

TRD notes New Mexico fuel distributors would need to be notified of the increase and any changes to the registered Indian tribal distributor deduction. Annual changes to the electronic reporting in GenTax and the combined fuel tax reporting form would also be needed. Administrative efforts would be significant, but could be accommodated with existing personnel and budget resources.

TRD will need to administer imposition of the inventory tax for special fuels and gasoline for each year of a tax rate increase. The inventory tax is imposed for tax increases, but not for tax decreases. The current revenue processing system will have to be developed to administer the inventory tax.

RELATIONSHIP

House Bill 287 proposes a deduction from special fuel tax for diesel sold within tribal boundaries that is subject to a tribal fuel tax.

House Bill 465 proposes to expand the current law tax-exempt status to apply to shipments between any two entities that can be defined as “any other facility that produces, refines, manufactures, distills and blends or compounds special fuel.”

House Bill 568 proposes to change the determination of special fuel and gasoline tax from cents per gallon to percent of total value.

Senate Bill 434 proposes to authorize the State Board of Finance to issue $50 million in short-term severance tax bonds for the state road fund.

TECHNICAL ISSUES

The language on page 2, line 19 and page 4, lines 6-7 appears to prevent any reduction in the tax rate even in the event of a reduction in the index. However, as written this provision could also be interpreted as limiting any resulting tax decrease to no more than $0.01. This section needs to be clarified.

TRD notes each of the changes to the gasoline tax rate will have an impact on the qualifying tribal tax rates imposed by tribal entities. Section 7-13-4, Subsection E, Paragraph (3) provides that the state tax deduction for gasoline sold by tribal retailers is equal to the rate of tribal tax divided by the state tax rate and multiplied by the number of tribal retail gallons. Tribes would have to increase the rate of their tribal tax to match the state tax rate in order to receive a 100 percent deduction against state tax.

OTHER SUBSTANTIVE ISSUES

According to TRD, the current gasoline tax rate is $0.17 per gallon, and that rate has been in effect since July 1995. The current special fuels tax rate is $0.21 per gallon, and that rate has been in effect since July 2004. After accounting for the effects of inflation, the adequacy of the gasoline tax in particular has eroded over time.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The gasoline and special fuel excise taxes will remain at current rates.

LKB/svb

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity***: *taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc