

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 ([www.nmlegis.gov](http://www.nmlegis.gov)). 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** 2/11/14  
**SPONSOR** Gonzales **LAST UPDATED** \_\_\_\_\_ **HB** 74

**SHORT TITLE** Gas Tax Increase for Major Road Projects **SB** \_\_\_\_\_

**ANALYST** van Moorsel

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16	FY17	FY18		
0.0	(2.0)	(2.0)	(2.0)	(2.0)	Recurring	State Aviation Fund
0.0	(1.0)	(1.0)	(1.0)	(1.0)	Recurring	Motorboat Fuel Tax Fund
0.0	(2.0)	(2.0)	(2.0)	(2.0)	Recurring	Municipalities & Counties
0.0	(2.0)	(2.0)	(2.0)	(2.0)	Recurring	County Government Road Fund
0.0	(6.0)	(6.0)	(6.0)	(6.0)	Recurring	Local Arterial Governments Road Fund
0.0	(2.0)	(2.0)	(2.0)	(2.0)	Recurring	Municipal Roads
0.0	1.0	1.0	1.0	1.0	Recurring	Special Fuels Local Governments Road Fund
0.0	1,200.0	1,200.0	1,200.0	1,200.0	Recurring	Tribal Governments
0.0	72,000.0	72,842.0	73,534.0	74,171.0	Recurring	Major Investment Highway Project Fund
0.0	(1,192.0)	(1,192.0)	(1,192.0)	(1,192.0)	Recurring	State Road Fund
<b>0.0</b>	<b>71,996.0</b>	<b>72,837.0</b>	<b>73,529.0</b>	<b>74,167.0</b>	<b>Recurring</b>	<b>Total</b>

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 55 - 2014 Work NM Act – Severance Tax Bond Projects

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Transportation (DOT)

**SUMMARY**

Synopsis of Bill

House Bill 74 amends fuel excise tax rates and distributions to generate revenue with which to service debt on newly authorized highway project bonds, and authorizes \$300 million in “major investment highway projects.”

House Bill 74 temporarily increases the gasoline tax from FY15 to FY24 from \$0.17 per gallon to \$0.22 cents per gallon. During the same period, the bill increases the special fuels excise tax from \$0.21 per gallon to \$0.26 per gallon (see Attachment for current gasoline and diesel excise tax rates).

The bill temporarily reduces the following distribution of gasoline taxes in FY15-FY24:

- to the state aviation fund from 0.26 percent to 0.20 percent;
- to the motorboat fuel tax fund from 0.13 percent to 0.10 percent;
- to municipalities and counties from 10.38 percent to 8.02 percent;
- to the county government road fund from 5.76 percent to 4.45 percent;
- to municipalities for roads from 5.76 percent to 4.45 percent;
- to the municipal arterial program of the local governments road fund from 1.44 percent to 1.11 percent.

The bill also temporarily reduces the distribution of the special fuel excise tax in FY15-FY24 to the local governments road fund from 9.52 percent to 7.69 percent.

The bill creates the major investment highway project fund and creates a distribution of gasoline tax and special fuels excise tax revenues to fund for FY15-FY24. The distributions are equal to 22.73 percent of net gasoline tax receipts and 19.23 percent of special fuel tax receipts.

Money in the fund is dedicated servicing the debt on “major investment highway project bonds” issued for the purpose of constructing and improving of major highways. Balances in the fund are nonreverting, provided that when the bonds have been retired, balances in the fund shall revert to the state road fund.

HB 74 authorizes the State Transportation Commission (STC) to issue major investment highway project bonds payable solely from taxes paid into the major investment highway project fund. The total aggregate outstanding principal amount of bonds issued may not exceed \$300 million without further legislative approval. The project design life of a major investment highway project funded by the bonds must meet or exceed the life of the bonds issued for each project. The bill includes a clause preventing statutory changed from impairing the revenue source dedicated to servicing the debt on the bonds.

The bill authorizes the issuance of up to \$300 million in major investment highway project bonds to fund the following projects:

- \$35 million for new six-lane construction of I-25 from mile 0 to mile 6;
- \$15 million for new six-lane construction of US-70 from mile 148.8 to mile 150.1;
- \$50 million for reconstruction of US-54 from mile 130 to mile 163;
- \$25 million to widen I-25 to six lanes from Rio Bravo to the future Mesa del Sol interchange;
- \$25 million to construct a new interchange on I-25 at Mesa del Sol;
- \$25 million to replace the bridge on US-54 at mile 325.3;
- \$25 million for rehabilitation and reconstruction at the junction of US-64 and US-87;
- \$25 million to complete the capacity and safety enhancement of US-64 from mile 56 to mile 60;
- \$25 million for reconstruction of NM-68 from Espanola to Velarde; and
- \$50 million for new four-lane construction of US-491 from mile 25.9 to mile 41.8.

The effective date of this bill is July 1, 2014.

### **FISCAL IMPLICATIONS**

TRD calculated the distributions to the funds by comparing gasoline tax rates and fund distribution percentages under current law to those proposed in the bill. TRD points out the revenue table includes a revenue increase in the Tribal Governments Fund because TRD estimates in order for tribal governments to continue to qualify for their deductions at 100 percent they must increase their tribal tax rates by five cents (\$0.05). TRD also used a Department of Transportation (DOT) forecast for taxable gallons of special fuels used.

TRD estimates that the lower fund distribution rates for gasoline and special fuels will not show a significant change in revenue as the reduced distributions are offset by the increased gasoline and special fuels tax rates.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

### **SIGNIFICANT ISSUES**

Policymakers recognize infrastructure funding is critical to the public health, safety, and economic vitality within New Mexico's communities. During the interim, the LFC heard reports of shrinking revenues and increasing needs and costs of planning, constructing, operating and maintaining the state's roads, water systems, and state-owned and -operated facilities.

On January 23, 2014, at the direction of the State Transportation Commission, the New Mexico Finance Authority presented a "draft" of an official state for approval to issue transportation revenue bonds Series 2014A in the amount of approximately \$75 million to finance certain road projects, including the cost of the issuance. The bonds will be supported by revenue from the highway infrastructure fund. While the official statement does not list the specific use of the funds, the proceeds can only be used on the 14 designated road projects prioritized in 2003. US Highway 491 is an eligible project and may benefit from the proceeds of the issuance. It is anticipated the bonds will be issued at the end of February 2014, with a closing in March 2014.

According to LFC analysis, a number of the projects mentioned in the proposed legislation have not previously been considered priorities by NMDOT and, as such, have not been included in earlier documents submitted to the LFC or discussed in detail before appropriation committees. Six of the projects – I-25 from mile 0 to mile 6; US-70 from mile 148.8 to mile 150.1; US-54 from mile 130 to mile 163; I-25 from Rio Bravo to the future Mesa del Sol interchange, the junction of US 64 and US 87, and; I-25 at Mesa del Sol – are not currently programmed, designed, or under construction, and as such the costs associated with the projects cannot be verified as sufficient for project completion.

Some of the projects mentioned in the proposed legislation have costs attached that do not accurately reflect department estimates. The bridge on US-54 at mile 325.3 is currently programmed at a cost of \$20 million, is currently being designed and will be let in March 2017. Capacity and safety enhancement on US 64 from mile 56 to mile 60 have been split by the department into two projects: the highway between mile 56 to mile 58 is programmed at a cost of \$16.5 million and is being designed and the highway between mile 58 to mile 60 is programmed at \$17.7 million and is being designed. Reconstruction of NM-68 from Espanola to Velarde from mile 4.7 to mile 6.7 is programmed at a cost of \$9 million and will be let in the fall of 2015; the remainder of the project is planned for design with the costs for completion projected at \$33.6 million. Funding for the project will be required from the Legislature.

Construction on US 491 from mile 25.9 to mile 41.8 has been partially initiated, with the construction from mile 36.9 to 41.9 having been programmed, designed, and now under construction at a cost of \$15.7 million; US 491 from mile 15.9 to 36.9 is being designed but has not been programmed, and the cost of construction is estimated to be \$67 million.

## ADMINISTRATIVE IMPLICATIONS

TRD reports a low impact on Financial Distribution Bureau processing and operations; and a moderate IT impact, involving changing rate changes of the combined fuel tax (CFT) program for tax and surcharge on gasoline and special fuel, setting up two new RA accounts to distribute funds to new recipients of gasoline surtax and special fuel surtax, and distribution rates changes of tax and surcharge on gasoline and special fuel, totaling 300 hours.

Forms and online reporting would need to change to incorporate the CFT surtax on the return. NM distributors/suppliers would need to be notified of the surtax and make changes to their electronic filing. A form, instructions, and backend systems will need to be developed for the inventory tax reporting for both the gasoline tax and the special fuels tax programs with the tax increase for tax due and then again with the tax decrease in 2024.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate