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

SPONSOR Griggs | **ORIGINAL DATE** 1/19/2015 | **LAST UPDATED** 2/25/2015 | **HB**

SHORT TITLE Local Gov't Special Fuels Taxes | **SB** 114/aSFC

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
$0.0	$10,300.0	$10,500.0	$10,800.0	$11,000.0	Recurring	Local Government Special Fuels Tax
$0.0	$12,800.0	$12,800.0	$12,800.0	$12,800.0	Recurring	Local Government Gasoline Tax
$0.0	**$23,100.0**	**$23,300.0**	**$23,600.0**	**$23,800.0**	**Recurring**	**Total**

(Parenthesis ( ) indicate revenue decreases

Relates to HB 58 – Increase Gas Tax for State Road Fund; HB262 – Gas Tax & Road Projects; SB 394 – Increase & Index Gas Tax for Road Projects.

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment changes the short title of the bill to reflect that the bill also expands the local option gasoline tax rate authority to all municipalities and counties.

Synopsis of Original Bill

Senate Bill 114 amends the County and Municipal Gasoline Tax Act to authorize counties and municipalities to impose a tax on special fuel. Specifically, the bill:

- Changes the name of the act to the "County and Municipal Gasoline and Special Fuel Tax Act;

- Authorizes counties and municipalities to impose a special fuels excise tax of up to two cents per gallon in one-cent increments, subject to voter approval.
- Requires a seller of special fuel at retail to register with the county or municipality that imposes a special fuel tax.
- Requires counties and municipalities to collect the special fuel tax.
- Requires that the proceeds of a county or municipal special fuel tax be used for bridge and road projects or for road, street or highway construction, repair or maintenance in the county or municipality. Proceeds may be pledged for the payment of bonds issued to acquire land, buildings or other equipment required for bridge, road, street or highway construction, repair or maintenance or for refunding bonds previously issued for such purposes.
- Repeals a section of the act that required any ordinance imposing a county, county-wide or municipal gasoline tax to contain or adopt by reference the same definitions and the same provisions relating to deductions, refunds and credits as are contained in the Gasoline Tax Act.
- Defines biodiesel, blended biodiesel, gallon, gasoline, highway, motor vehicle, and special fuel.

The bill also removes the provisions that only Class A and Class H counties and municipalities within Class A and Class H counties may impose the municipal and county gasoline tax. Removing this restriction would allow all counties and municipalities to impose the local government gasoline taxes.

DOT reports that one-cent gasoline tax it would generate approximately $9 million per year. This analysis assumes all local governments impose the two cent tax to generate $18 million per year; however, at

Senate Bill 114 is endorsed by the Transportation Infrastructure Revenue Subcommittee

The effective date of this bill is July 1, 2015.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) estimate of the bill's fiscal impact assumes all counties and municipalities impose the 2-cent county and municipal special fuel taxes. DOT reports if all New Mexico counties imposed a one cent special fuels tax it would raise $5 million per year. Assuming a 2-cent tax, then, would mean revenues increase ~$10 million per year. TRD reports, however, that it does not collect individual sales location information for special fuels. The department therefore cannot calculate how much each county and municipality would receive with the adoption of the local governments special fuels tax. The revenue table therefore shows a statewide estimate.

Current law already permits local option gasoline tax impositions of $0.02 per gallon in class A or class H counties. However, DOT points out no jurisdictions in these counties have imposed such a tax. Class A counties include Bernalillo, Dona Ana, San Juan, Santa Fe, and Sandoval. Los Alamos County is the only Class H county. This analysis therefore only estimates the increased local option gasoline tax revenues from the jurisdictions in counties made newly eligible to impose the tax, that is, counties that are not Class A or Class H. Based on FY14 gasoline gallons sold in these counties as a proportion of total gallons sold in the state, the maximum local option gasoline tax revenue generated in the newly eligible counties can be estimated. These counties accounted for 71 percent of gasoline gallons sold in FY14. A 2-cent statewide gasoline tax would raise approximately $18 million per year. Excepting gallons sold in Class A and Class H counties, the estimated revenue impact of gasoline sold in newly-eligible counties would total approximately $12.8 million.

SIGNIFICANT ISSUES

DOT points out that it isn't clear how this local option diesel fuel tax would fit into the International Fuel Tax Agreement or if interstate truckers would receive the appropriate credit for payments of this local tax.

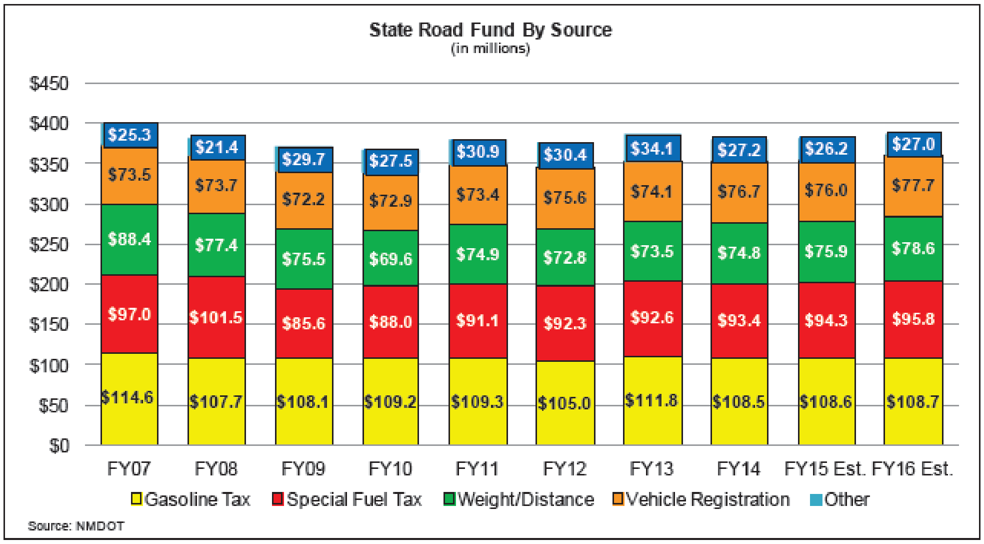
This bill would place the imposition of additional fuel taxes in the hands of the voters and would channel the revenue to local governments. The discussion in "other substantive issues," below, about the state road infrastructure focuses largely on the state road fund, but it has some relevance when discussing local road funding needs.

OTHER SUBSTANTIVE ISSUES

Transportation Infrastructure. New Mexico's statewide transportation infrastructure network, 30 thousand lane miles of interstate corridors and U.S. and state highways, is maintained by the New Mexico Department of Transportation (NMDOT). Construction needs of the transportation network have increased as routine maintenance is deferred, expenses have increased, and maintenance has been performed less frequently. At the same time, revenue growth is not keeping pace with inflation, and debt service payments require a sizeable share of revenue. To ensure a safe, reliable, and robust transportation network, the Legislature and NMDOT must work together to identify efficiency gains and new revenue sources.

State Road Fund. The state road fund is composed of revenues from gasoline tax, special fuel (diesel) tax, weight-distance tax on commercial trucking, vehicle registration fees, and other fee and permit assessments. In FY14, the road fund realized revenues of $374.5 million, 0.3 percent more than FY13. NMDOT estimates road fund growth of 1.8 percent between FY15 and FY16.

The slow growth in road fund revenues is related to a plateau in gasoline tax revenue brought on by gains in passenger vehicle efficiency, fewer vehicle miles traveled per-capita, and slow population growth.



Special fuels tax and weight-distance tax revenues are driven by national consumer demand and tend to be closely related to the state of the U.S. economy. NMDOT noted the slowing growth rate of special fuels tax revenue is primarily due to increasing efficiency in heavy trucks.

Although the state road fund continues to grow, albeit slowly, the purchasing power of the fund has been significantly diminished as a result of material and construction industry price increases. NMDOT estimates that, relative to calendar year 2005, the purchasing power of the state road fund has decreased by more than 10 percent.

Declining revenues are further constrained by significant, long-term debt obligations associated with the Governor Richardson's Investment Partnership (GRIP) projects. The total outstanding principal on transportation infrastructure debt is currently $1.44 billion. In FY16, NMDOT will pay $141 million in debt service. When the effects of debt service are accounted for, the purchasing power of the state road fund decreased 32 percent since 1999.

New Mexico Transportation Needs. NMDOT recently completed the first-of-its-kind assessment of all system-wide lane miles. The assessment used state-of-the-art imaging equipment to determine roadway conditions throughout the state. The results show New Mexico roadways are in significantly worse condition than previously thought: In FY12, 84.5 percent of non-interstate lane miles were reported in good or fair condition; in FY13, the assessment showed only 70 percent were in good or fair condition. Based on this assessment, NMDOT estimates FY15 highway construction and maintenance needs total $866.1 million. The combined maintenance and construction budgets for FY15 total $407.5 million resulting in an unfunded need, or gap, of $458.6 million.

Maintenance Needs. NMDOT estimates total system wide maintenance needs to be $266 million in FY15. The current $150.2 million maintenance budget for FY15 leaves a maintenance gap of $115.8 million. The maintenance gap estimate represents the per year cost of implementing a regular maintenance schedule for roads statewide based on current road conditions.

Because NMDOT is unable to provide maintenance consistently, roadways continue to deteriorate to the point of needing to be reconstructed at a significantly increased cost. NMDOT estimates the annual cost of maintaining a good condition road to be $15 thousand per lane mile, a fair condition road costs an average $180 thousand per lane mile, and a poor condition road may cost $500 thousand to $1.2 million per lane mile to rehabilitate or reconstruct.

Construction Needs. NMDOT estimates the FY16 need for construction to be $600.1 million. The largest need is for roadway reconstruction and rehabilitation, which NMDOT estimated to be $452.6 million. In addition to roadway construction, another $147.5 million is needed to replace and repair bridges across the state. The current funding available for new construction is $257.3 million, leaving a gap of $342.8 million in FY15.

ALTERNATIVES

The Transportation and Infrastructure Revenue Subcommittee was created by the Legislative Council Service in 2013 to identify current and new sources of transportation revenue and make recommendation to the full Legislature to meet the needs of the states transportations infrastructure network. The committee endorsed two revenue increasing bills for the 2015 session. The first would reduce public school capital outlay funding by $100 million and increase the state road fund by that amount in each fiscal year from 2016 to 2021. The second would authorize counties or municipalities to increase their special fuels tax by up to 2 cents to match the current local government authority for a gas tax increase. NMDOT stated, while local governments currently have additional taxing authority over gasoline, none has exercised the option to increase the tax.

Alternative road funding options include increasing the motor vehicle excise tax and transferring the marginal revenue to the road fund, or increasing gasoline and special fuel taxes and transferring the additional revenue to the road fund.

New Mexico’s Motor Vehicle Excise Tax is currently 3.0 percent, lower than surrounding states. The last increase in the state gasoline tax occurred in 1993, when the tax was raised from $0.16 to $0.22 per gallon. It has since been reduced twice to the current rate of $0.17 per gallon. The special fuels tax rate was last increased in 2003, when it was raised from $0.18 per gallon to its present rate of $0.21 per gallon.

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

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