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FISCAL IMPACT REPORT

ORIGINAL DATE 02/13/10

SPONSOR Sapien LAST UPDATED _____ HB _____

SHORT TITLE Gas Storage Tank Upgrade Tax Credit SB 253

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
NFI	(\$6,560.0)	(\$6,560.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Environment Department

SUMMARY

Synopsis of Bill

Senate Bill 253 would create new income tax and corporate income tax credits for 50 percent of the costs of improvements required by the N.M. Environment Department to aboveground storage tanks on property owned by the taxpayer. Credits must be claimed in tax years 2010 and 2011. Any credits in excess of tax liability could be carried forward for up to five years. The taxpayer could claim either the income tax credit or the corporate income tax credit but not both.

Provisions are effective July 1, 2010.

FISCAL IMPLICATIONS

Fiscal impacts employ the following assumptions are based on information provided by the NMED: 350 facilities spend \$250,000 each for total costs of \$87.5 million and total credits generated of \$43.75 million. Since the potential average credits per taxpayer would be on the order of \$125,000, a taxpayer would need to have over \$2.5 million of taxable personal income or \$1.6 million of corporate taxable income to utilize the full amount. Using the five year carry forward, would enable taxpayers to utilize most of the credit, but the estimate assumes that 25 percent of the total credits generated are not utilized at any time. Claims are assumed to be

spread evenly over five years beginning in FY11.

OTHER SUBSTANTIVE ISSUES

NMED notes:

The cost for the installation of equipment necessary to meet the regulatory upgrade requirements for a facility with ASTs will vary depending on the equipment that must be replaced. All existing single walled steel ASTs and piping must be in secondary containment or be double-walled by July 1, 2011. The most expensive upgrade cost will be the installation of the tank containment, either using double-walled ASTs or utilizing single walled ASTs in concrete dike containment. The cost estimate provided below does not include any cost for land or building improvements.

A typical upgrade would mostly likely include the cost for replacing 2 single wall ASTs not in containment with double-walled ASTs, 100 feet of double walled underground piping, containment sumps and dispenser sumps, new dispensers with blenders and associated tank system equipment. Costs including equipment and labor are estimated to be in the range of \$250,000 for each facility.

The number of facilities state wide in need of these required upgrades is estimated to be in the range of 300-400 with a total tank count of approximately 600 to 800 tanks.

TECHNICAL ISSUES

TRD notes:

[The bill should] Add a definition for “above ground storage tank” and stipulate what types of storage tank would qualify for the credit. “Eligible improvements” should be defined more precisely. In addition, the bill should provide a mechanism for verifying that improvements comply with Regulation 20.5.4.35 NMAC. The bill refers to Regulation 20.5.4.35 NMAC but does not cite the statute under which the regulation falls.

TC/mew

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