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

ORIGINAL DATE 2/13/18
SPONSOR House Floor **LAST UPDATED** **HB** 329/HRCS/HFlS

SHORT TITLE Special Fuel User Permits **SB**

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	**FY19**	**FY20**	**FY21**	**FY22**		
$0.0	($100.0) – ($500.0)	($100.0) – ($500.0)	($100.0) – ($500.0)	($100.0) – ($500.0)	Recurring	State Road Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal to Moderate Savings	Minimal to Moderate Savings	Minimal to Moderate Savings	Minimal to Moderate Savings	Recurring	NMDOT

Parenthesis ( ) indicate expenditure decreases

Duplicates SB250

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Department of Transportation (response on the HRC substitute)
Taxation and Revenue Department (response on the HRC substitute)

SUMMARY

Synopsis of Bill

The House Floor Substitute for the House Rules and Order of Business Committee Substitute for House Bill 329 allows commercial motor carriers registered or titled in Mexico, operating exclusively within ten miles of the New Mexico-Mexico border, to apply for a quarterly, semi-annual, or an annual special fuel user permit that would act in lieu of a temporary special fuel user permit. The cost of a quarterly, semi-annual, or an annual special fuel user permit is up to $125, $200, and $350, respectively.

Mexican commercial carriers that operate beyond the authorized area, or that only occasionally cross the New Mexico-Mexico border will be required to obtain the temporary special fuel user permit and to report and pay the per mile fee of 5 cents.

The bill also changes the duration and the validity of the current temporary special fuel user permit from 48 hours, and valid for one entry and one exit, to one calendar day, without specifying the number of entries allowed.

Finally, the bill imposes a fine of $300 to motor carrier vehicles using a border crossing special fuel permit outside the authorized area.

The effective date of this bill is July 1, 2018.

FISCAL IMPLICATIONS

LFC staff agree with the assumptions used by the New Mexico Department of Transportation (NMDOT) to estimate the fiscal impact, and the department's analysis is provided below. The Taxation and Revenue Department (TRD) also arrived at very similar estimates.

Under current law, Mexican carriers are not allowed to submit a quarterly fuel tax report, and pay the special fuel user tax according to the miles traveled in New Mexico, since Mexico is not part of the International Fuel Tax Agreement (IFTA is a multi-jurisdictional fuel tax agreement between the 48 U.S. states and the Canadian Provinces for uniformly administering and collecting fuel consumption taxes from companies operating in multiple member jurisdictions). Consequently, under current law, Mexican truckers doing business in the Santa Teresa area, in order to comply with the special fuel user tax, are required to buy the temporary special fuel user permit (which costs $5), and pay 5 cents per each mile traveled in New Mexico, every time they cross the New Mexico-Mexico border.

The Santa Teresa Port of Entry has seen a significant year-over-year increase in the number of truck crossings. As shown in Table 2 in Significant Issues, in FY16 the overall number of truck crossings was about 114 thousand, representing 24 percent year-over-year growth.

As shown in Table 3 in Significant Issues, in FY17 on average there were 473 truck crossings per day. Some of those daily crossings are made by Mexican commercial vehicles that cross the border multiple times per day. Most of those vehicles, active in the Santa Teresa area, are directed to Union Pacific, to the Industrial Park, or cross the New Mexico-Mexico border (bypassing El Paso) but are directed to Texas.

Because the only information available is the number of total truck crossings per month, and because a significant number of vehicles cross the border multiple times per day, estimating the revenue associated with the new border special fuel user permit might be a challenge, as we can only guess the number of vehicles crossing the border daily. For this reason, we cannot provide a point estimate but only a range estimate that necessarily relies on some assumptions.

For instance, if as reported in Table 1 below, we rely on the following assumptions, 40 percent of the 473 average daily crossings are made by commercial vehicles that cross the border twice a day, 20 percent of the crossings are made by commercial vehicles that cross the border once a day, and the remaining 40 percent of vehicles only occasionally cross the border, the estimated revenue is about $312 thousand. However, that amount can vary significantly based on the numbers of trips each motor carrier does every day. We estimate that the overall revenue loss may range from $100 thousand to $500 thousand.

Table 1 – Hypothetical scenario on the number of commercial vehicles crossing daily the New Mexico-Mexico border and associated revenue.

Assumptions	Daily # of Crossings	Daily # of Trucks	Permit Type	Annual Revenue
40% of crossings are made by trucks that cross the border two times per day	189	95	Buy the new annual permit	$ 33,250
20% of crossings are made by trucks that cross the border one time on a daily basis	95	95	Buy the new annual permit	$ 33,250
40% of crossings are made by trucks that only occasionally cross the border	189	189	20% buy the $5 permit (189*20%*$5*260 days); 80% buy the annual permit and use it once every 3.7 days (189*80%*$350*260/70);	$ 245,700
Total	**473**	**379**		**$ 312,000**

SIGNIFICANT ISSUES

Table 2 - Number of truck crossings per fiscal year at Santa Teresa Port of Entry (U.S. Customs).

FY	Santa Teresa	Growth Rate
2013	79,553	5.4%
2014	83,422	4.9%
2015	91,735	10.0%
2016	114,190	24.5%
2017	113,418	-0.7%

Data Source: NMDOT, Bureau of Transportation Statics

Table 3 - Monthly and daily truck crossings at Santa Teresa Port of Entry (U.S. Customs).

	Santa Teresa, NM – FY 2017	
	Truck Crossings per month	**Average Crossings per day***
July	9,117	456
August	10,316	516
September	9,329	466
October	9,281	464
November	9,079	454
December	8,490	425
January	9,492	475
February	8,684	434
March	10,105	505
April	8,723	436
May	10,456	523
June	10,346	517

Data Source: Bureau of Transportation Statics

* Hours of operation at Santa Teresa Commercial Operations (U.S Customs and Border Protection) are Monday-Friday from 8:00 A.M. to 8:00 P.M.

This bill could help support economic development activities on the New Mexico side of the border, protecting the state's current traffic flow levels, port of entry hours of operation, and resulting economic activity.

NMDOT reports it has had several meetings with the Mexican carriers since April 2017. It is clear that the current law as written is not competitive with Texas and is difficult to administer. The goal is to have a competitive fee while not disrupting the convenience and advantage for industry to cross at the Santa Teresa port of entry.

TRD provided the following analysis.

This bill will mostly affect trucks crossing at the Santa Teresa border crossing and going to the nearby Union Pacific intermodal facility or nearby freight transfer facilities. The state has already invested heavily in the Santa Teresa crossing with deductions for locomotive fuel, and has also removed the requirement to pay truck trip tax and the truck weight distance tax when within 10 miles of the border. The bill will eliminate the last need for trucks crossing at Santa Teresa to obtain a permit or pay a tax. As noted above, the increasing traffic at the Santa Teresa port as well as the opening of Union Pacific intermodal yard nearby indicates that these expenditures are meeting their intended purposes.

Typically, most trucks originating in the U.S. and Canada handle the special fuel users tax using the International Fuel Tax Agreement (IFTA) program, which tracks the miles traveled in each state or province, the amount of tax spent on special (diesel) fuel and apportions the tax to the state or province properly. However, Mexico is not part of IFTA and therefore trucks based there do not have this simplifying program available.

ADMINISTRATIVE IMPLICATIONS

This bill would ease the administrative burden on NMDOT and on the industry.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates SB250.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this or similar legislation is not passed, it might reduce traffic through the Santa Teresa port of entry and impact the hours of operations. This would reduce the port of entry's usefulness, and attempts to relocate businesses to and expand businesses within the Santa Teresa area would face an additional obstacle.

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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