

LFC Requester:	Dawn Iglesias
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment** _____ **Date** 3/6/17
Correction _____ **Substitute** _____ **Bill No:** SB 436

Sponsor: Senator Pete Campos **Agency Code:** 924
Short **Person Writing** Aguilar/Craig
Title: GAS TAX & DISTRIBUTIONS **Phone:** 505-827-6519 **Email** Paulj.aguilar@state.nm.us

SECTION II: FISCAL IMPACT

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	\$2.0	\$2.0	Recurring	State Aviation Fund
\$0.0	\$0.0	\$0.0	Recurring	Motorboat Fuel Tax Fund
\$0.0	\$5.0	\$5.0	Recurring	County Governments Road Fund
\$0.0	\$5.0	\$5.0	Recurring	Municipal Road Fund
\$0.0	\$1.0	\$1.0	Recurring	Municipal Arterial Program
\$0.0	\$1,440.0	\$1,440.0	Recurring	Tribal Tax Sharing Agreements (Pueblo of Santo Domingo and Nambe)
\$0.0	\$16.0	\$16.0	Recurring	Municipalities and Counties

\$0.0	\$28,655.0	\$28,996.0	Recurring	NEW DISTRIBUTION - General Fund
\$0.0	\$14,133.0	\$14,296.0	Recurring	NEW DISTRIBUTION - Public Pre-Kindergarten Fund
\$0.0	\$14,133.0	\$14,296.0	Recurring	NEW DISTRIBUTION - Children, Youth & Families Pre-Kindergarten Fund
\$0.0	\$14,126.0	\$14,289.0	Recurring	Local Governments Road Fund
\$0.0	\$12,277.0	\$12,425.0	Recurring	State Road Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$374.0	\$0.0	\$0.0	\$374.0	Nonrecurring	General Fund (TRD)

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 436 increases the gasoline tax by 6 cents per gallon (from 17 cents to 23 cents), and increases the special fuels tax by 6 cents per gallon (from 21 cents to 27 cents) on July 1, 2017. SB 436 distributes the additional revenue in equal parts between the General Fund; both the Local Governments Road Fund and the State Road Fund; and both the Public Pre-Kindergarten Fund and Children, Youth & Families Pre-Kindergarten Fund.

FISCAL IMPLICATIONS

According to the Department of Transportation (DOT), the new revenue from the gasoline and special fuels tax increases is distributed as follows: one-third is permanently distributed to the General Fund (i.e., two cents from gasoline and two cents from special fuel); one-third is equally distributed to the Local Governments Road Fund and the State Road Fund; and one-third is equally distributed to the Public Pre-Kindergarten Fund and Children, Youth & Families Pre-Kindergarten Fund. DOT's revenue estimates by fiscal year are presented above. TRD reports that the yearly taxable volume for gasoline was 882.9 million gallons and special fuels was 544.0 million gallons.

DOT estimates that SB 436 allocates about \$14.1 million about to the Public Pre-Kindergarten Fund based on the January 2017 State Road Fund estimates and on the assumption that the tax increases do not modify the price elasticity demand for gasoline and special fuels. If SB 436 were to become law, this amount would be made available to the Public Education Department's (PED's) Pre-K program for FY 18. The PED is recommending funding in recurring related services ("below the line") of \$21 million. A revenue increase of over two-thirds could result in some challenges related to scaling operations to revenues and increasing access to public Pre-K programs.

The PED may face delays in expanding services quickly due to capital infrastructure needs for additional classrooms in public schools. Additionally, sourcing licensed instructors, planning for additional procurement and messaging the additional availability may all prove difficult in such a time frame that all additional revenues could be made available. The PED Pre-K program has always prioritized high expectations of quality and service while partnering with our school districts and other sub-grantees. Phasing in long term capacity, while maintaining a high quality program, is a challenge to rapid expansion of access. The PED believes that sustained, long term growth of the program to expand access to Pre-K without negatively impacting program quality is the most beneficial approach to providing a high quality Pre-K program to children.

Similarly, it is unclear if SB 436 will replace the below the line appropriation in FY 18, or in future years. If the provisions of SB 436 were to replace below the line funding, then overall Pre-K funding could decrease by \$7 million (with current funding at approximately \$21 million and the provisions of SB 436 providing funding of \$14 million) and result in PED program staff having tough conversations regarding available funds for current staffing levels of programs. Absent any clause that indicates that the funding shall supplement and not supplant traditional revenues to the Public Prekindergarten Fund, the provisions of SB 436 may not provide any additional funding to the Pre-K program in future years if appropriators take credit for this revenue stream to reduce General Fund appropriations below the line in future years.

DOT notes that SB 436 increases the overall fuel tax revenue to the Local Governments Road Fund by about 135 percent (or \$14 million). This could provide additional funding to construct, maintain, repair improve and pave school bus routes and parking lots. This often overlooked portion of the Local Government Road Fund is an important part of the service delivery of the state public education system. Many of our rural school districts have school children that ride on unimproved roads. Running a school bus on dirt, gravel, unpaved or graded roads over a long time frame can require school buses to need replacement prior to the twelve year replacement cycle proved for in law. The cost for early replacement and maintenance are not insignificant. In addition, traveling on these roads can increase seat time for children travelling to and from school. It is unclear if increasing distributions to the Local Governments Road Fund would have a dollar to dollar impact on maintenance, rental fees or school bus replacements the Legislature appropriates yearly, as school districts have often reported these funds are underfunded at current levels. However, any improvements to school bus routes related to additional funding will positively impact school district transportation systems.

SIGNIFICANT ISSUES

DOT indicates that "fuel taxes have historically served as a proxy for damage done to public roads, and motor fuel revenues are usually considered user fees paid for road maintenance and road projects. The economic theory considers any diversion of user fee revenues away from

road-related purposes a violation of the benefit principle of taxation.” Since SB 436 diverts part of the motor fuel revenues to the state’s General Fund and to the Public Pre-Kindergarten Fund, and the Children, Youth & Families Pre-Kindergarten Fund, the tax proceeds source is decoupled from the traditional use of the tax; to facilitate road improvements.

The Pre-Kindergarten Act, Sections 32A-23 through 32A-23-9 NMSA 1978, provides “Any money appropriated for pre-kindergarten programs shall be divided equally between the public education department and the children, youth and families department.” The provisions of SB 436 adhere to this requirement by providing equal distributions to the two prekindergarten funds.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

There is likely to be an additional cost to the Tax and Revenue Department to amend its information technology regarding the additional disbursements proposed under SB 436. These administrative costs will likely be related to updating the GenTax system, related forms and reporting and the central accounting system that tracks inventory reporting for these taxes. Additional costs will be related to the additional disbursement and tracking to the new funds. The amounts estimated under additional Operating Impact represent costs to upgrade systems and includes additional staff to administer the new taxes. The effective date of July 1, 2017 may represent a significant challenge to full implementation of the provisions of SB 436 by TRD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 95, SB 131, SB 132, and HB 509 all make changes to gas and special fuel excise taxes.

SB 344 seeks additional funding for Pre-K.

TECHNICAL ISSUES

DOT recommends an Applicability Section be added to the bill stating that the distribution change applies only to revenues received on or after July 1, 2017.

OTHER SUBSTANTIVE ISSUES

Of note is the standing practice that the state does not charge administrative fees on gas or special fuels to offset the types of administrative costs discussed in the administrative implications section. DOT indicates that at 18.875 cents per gallon, the state has the seventh lowest gasoline motor fuel tax in the nation. Similarly, at 22.875 cents per gallon, the state has the fourteenth lowest diesel motor fuel tax in the nation.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS