

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 23, 2003**

**TO:** Honorable Teel Bivins, Chair, Senate Committee on Finance

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB2458** by Krusee (Relating to the collection of the motor fuel taxes; providing penalties.),  
**Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2458, Committee Report 2nd House, Substituted: a positive impact of \$8,273,686 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$6,768,056
2005	\$1,505,630
2006	\$1,906,630
2007	\$2,358,630
2008	\$2,869,630

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Savings/ (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain/(Loss) from <i>AVAILABLE SCHOOL</i> <i>FUND</i> 2	Probable Revenue Gain/(Loss) from <i>STATE HIGHWAY</i> <i>FUND</i> 6
2004	\$9,611,000	(\$4,756,944)	\$1,914,000	\$5,741,000
2005	\$40,000	(\$2,901,370)	\$4,367,000	\$13,102,000
2006	\$44,000	(\$2,901,370)	\$4,764,000	\$14,291,000
2007	\$49,000	(\$2,901,370)	\$5,211,000	\$15,633,000
2008	\$56,000	(\$2,901,370)	\$5,715,000	\$17,144,000

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GR DEDICATED</i> <i>ACCOUNTS</i> 994	Change in Number of State Employees from FY 2003
2004	\$77,000	67.0
2005	\$218,000	64.0
2006	\$240,000	64.0
2007	\$265,000	64.0
2008	\$293,000	64.0

## **Fiscal Analysis**

The bill would move the imposition and collection of the motor fuel tax on gasoline and diesel fuel to the point where fuel is removed from the terminal rack. Under current law, the tax is imposed at the distributor level.

The bill would repeal Chapter 153 of the Tax Code, concerning motor fuel taxes, and it would add Chapter 162 to replace the repealed chapter. The bill would limit the purchase of tax-free diesel fuel to only dyed diesel, except for the federal government and independent school districts. Under current law, certain permitted agricultural end users can purchase clear diesel tax free for off-road use.

The bill would require a license for terminal operators. Under current law, these operators are not required to be permitted or licensed.

The bill would institute a new filing allowance schedule for the remittance of motor fuel taxes on gasoline and diesel fuel. The new collection allowances would be 1.75 percent of the tax remitted for distributors and 0.25 percent of the tax remitted for licensed suppliers. Under current law, a permitted distributor is allowed a two percent filing allowance.

The bill would eliminate the provision to claim a refund for clear diesel fuel used in off-road equipment. The bill would not provide for a refund of tax paid on clear diesel fuel that was used by specified categories of auxiliary power units or power take-off equipment on any motor vehicle. Current law allows for such refunds.

With respect to the allocation of taxes, the bill would add a section titled, "Tax Paid on Undyed Diesel Fuel Used Off-Highway." The new section would direct the Comptroller to determine as accurately as possible the number of gallons of undyed diesel fuel used off-road, on which diesel fuel tax had been paid to the state. The tax on these gallons would be deposited to the General Revenue Fund.

This bill would take effect January 1, 2004.

## **Methodology**

This fiscal note is based upon analyses provided by the Comptroller's Office.

An allowance was made for the loss of refunds on clear diesel fuel used in off-road equipment. It was assumed that, after one year, all racks in Texas would have dyed diesel available for purchase. An allowance was made for the change in provisions for refunds of clear diesel fuel used in power take-off equipment, and other provisions of the bill.

An allowance was also made in fiscal 2004 for the statutory lag in motor fuel tax remittances, and for the effective date of January 1, 2004.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JK, JO, SD, WP, CT