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FISCAL IMPACT REPORT

SPONSOR McQueen **ORIGINAL DATE** 1/30/2020 **LAST UPDATED** **HB** 173

SHORT TITLE Gas Taxes, New Funds & Distributions **SB**

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22	FY23	FY24		
-	-	$52,200.0	$78,400.0	$104,900.0	Recurring	State Road Fund
-	-	$52,200.0	$78,400.0	$104,900.0	Recurring	Clean Infrastructure Fund (NEW)
-	-	$52,200.0	$78,400.0	$104,900.0	Recurring	Gasoline & Special Fuel Surtax Low-Income Rebate Fund (NEW)
-	-	($3,800.0)	($7,300.0)	($10,000.0)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
-	$90.0	-	$90.0	Nonrecurring	TRD Operating Budget
-	-	unknown	unknown	Nonrecurring	DOT Operating Budget

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Office of the Superintendent of Insurance (OSI)

No Response Received
Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

House Bill 173 creates a new gasoline and special fuel surtax of 10 cent per gallon starting in FY21. The surtax is to increase by 5 cents per gallon on July 1st of each following year until July 1, 2026 when the Taxation and Revenue Department (TRD) will calculate the rate of the gasoline surtax using a formula based on the consumer price index. The surtaxes are in addition to the existing gasoline and special fuel taxes. The bill provides for distribution of the surtaxes to the state road fund, a new clean infrastructure fund and a new gasoline and special fuel excise surtax low-income rebate fund.

The bill also enacts the gasoline and special fuel excise surtax low-income rebate, which is based on the taxpayer's modified gross income and the amount it is over the federal property guidelines. The amount of the rebate shall increase each year. The table is as follows:

Modified gross income is

% Over federal poverty guidelines	But not over	Rebate amount for a taxable year beginning on or after:				
		2021	2022	2023	2024	2025
400%	500%	--	$25	$40	$55	$70
300%	400%	$50	$75	$100	$125	$150
200%	300%	$100	$150	$200	$250	$300
100%	200%	$125	$190	$255	$320	$385
0%	100%	$150	$225	$300	$375	$450

The bill also creates a new clean infrastructure fund in the state treasury, to be administered by the Department of Transportation (DOT) in accordance with a clean infrastructure plan seeking to reduce air pollution, which DOT is tasked to create by December 31, 2020 and update every three years thereafter. Money in the new fund would include appropriation, gifts, grants, donations, income from investment of the fund, and other sources.

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

TRD provided the fiscal impact estimates on page one. The department began with DOT forecasts for the amount of gasoline and special fuels (diesel) to be sold in the state, beginning in FY22 when the surtax begins. The new percentages for the existing and new funds distributions were applied and subtracted from the existing gasoline and special fuel distributions. See the *Technical Issues* section below regarding possible over-allocation of the new surtax revenue.

For the low-income rebates, TRD used federal poverty guidelines and state personal income tax filings for tax year 2017, which are now mostly complete. Note that the revenue effects of a tax year are mostly felt in the next fiscal year for personal income tax; i.e., tax year 2017 mostly impacts fiscal year 2018. The number of taxpayers that qualify at each income level were estimated and the total rebates by year were calculated using the table in Section 3-B of the bill. Approximately 75 percent of filers would qualify for the rebate. However, not all taxpayers who qualify for a rebate actually claim it. Here TRD used the percentage of taxpayers who qualify for the low income comprehensive tax rebate that actually claim it (70.2 percent) as a proxy. The net estimated result is that the rebate fund financed by the surtax will be slightly overdrawn each year, resulting in a negative effect to the general fund.

SIGNIFICANT ISSUES

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. New Mexico fuel taxes are lower than in surrounding states and lower than the national average.

Gasoline prices fluctuate with crude oil prices. However, gasoline tends to be a relatively inelastic product in that price fluctuations do not tend to significantly increase or reduce demand. As such, the revenues resulting from passage of this bill would likely remain consistent regardless of changes in prices at the pump.

TRD provided the following policy discussion on this bill:

> "The overall effect of this bill is to increase taxes on gasoline, special fuel and to apply the new revenue to the Clean Infrastructure Fund, the State Road Fund, and back to lower income New Mexico Taxpayers. The size of the rebate is estimated to contribute to a smaller negative effect on the general fund.
>
> Gasoline taxes are understood to be regressive, meaning that although households with lower incomes pay less in these taxes than middle and high-income households, this lower amount is a higher percentage of their overall lower income. This bill has a mechanism to offset the increase for lower income taxpayers through the new low-income tax rebate. For example, a family of four with two vehicles each traveling the US average of 13,500 miles per year with the US average fuel efficiency of 24.5 mpg would increase their cost via the new surtax by about $330 in FY 2026. The rebate available would be between $70 and $450, depending on the income of the family.
>
> According to the Tax Foundation, New Mexico currently has one of the lowest current gasoline tax rates among the states, coming in at 47th. However, most of the neighboring states have relatively low rates as well. The new rate would put New Mexico at about 29th on that list in the first year of the program (FY 2022) and at about 5th on that list in FY 2026.
>
> Beginning in FY 2027, the bill adjusts the surtaxes by inflation. This adheres more closely to the tax policy principle of adequacy than the states' current fuel excise tax because distributions from the revenue (particularly the state road fund) can also expect their costs to increase by inflation."

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers receiving the gasoline and special fuel excise surtax low-income rebate and other information to determine whether the rebate is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

TRD states there will be an impact to the Revenue Processing and Information Technology Divisions, with soft costs as given below.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2020	**FY2021**	**FY2022**	**3-Year Cost**		
--	$15	--	$15	NR	TRD Revenue Processing Division
--	$75	--	$75	NR	TRD Information Technology Division

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

The bill requires Department of Transportation to develop a clean infrastructure plan by December 31, 2020. This will have an impact on the agency's operating budget.

TECHNICAL ISSUES

TRD points out what may be an oversight in the distribution of revenue from the new surtaxes.

> "Section 2 of the bill distributes all of the new surtax revenue, one-third each to three different funds. However, because the bill amends the new surtaxes into the existing Gasoline Tax Act (7-13) and Special Fuel Tax Act (7-16A), existing distributions that refer to those acts could be interpreted as increasing with the addition of the surtaxes. In particular, this would include distributions in the following sections of statute: 7-1-6.7(B) and 7-1-6.9. For clarity, TRD recommends those distributions be amended to explicitly not include the new surtaxes, similar to the amended language in Section 1-A of the bill. For purposes of this analysis, *TRD assumes that those distributions continue to be funded strictly from the gas tax, and not from the new surtaxes*."

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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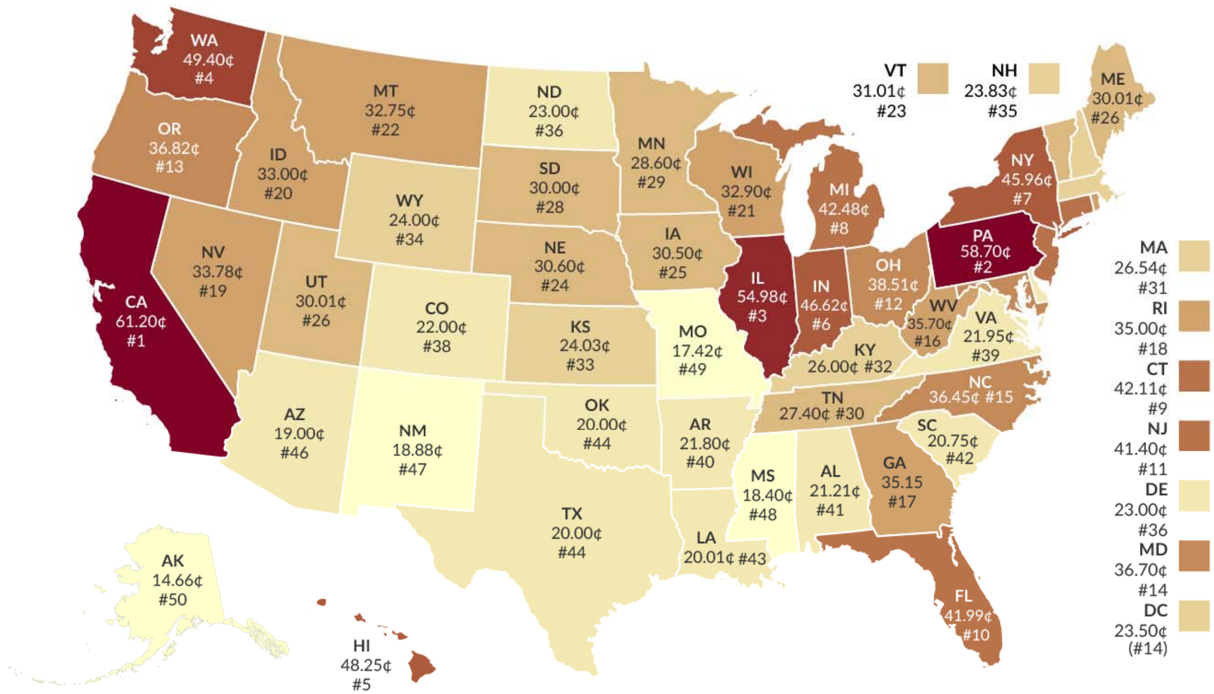
ATTACHMENT 1

How High Are Gas Taxes in Your State?

Total State Taxes and Fees on Gasoline, as of July 2019 (cents per gallon)



Note: These rates do not include the 18.40 cent/gallon federal excise tax rate on gas. The American Petroleum Institute has developed a methodology for determining the average tax rate on a gallon of fuel. Rates may include any of the following: excise taxes, environmental fees, storage tank taxes, other fees or taxes, and general sales taxes. In states where gasoline is subject to the general sales tax, or where the fuel tax is based on average sale price, the average rate determined by API is sensitive to changes in the price of gasoline. States that fully or partially apply general sales taxes to gasoline are California, Connecticut, Georgia, Illinois, Indiana, Michigan, and New York.D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included.

Source: American Petroleum Institute, "State Motor Fuel Taxes by State (July 2019)"

Total State Taxes and Fees on Gasoline

Lower Higher

TAX FOUNDATION @TaxFoundation

ATTACHMENT 2