

Department of Legislative Services  
2012 Session

FISCAL AND POLICY NOTE

House Bill 1388  
Ways and Means

(Delegates Ross and Hixson)

Motor Fuel Tax - Increase - Construction Cost Index

This bill increases the State motor fuel tax rate for all fuels except aviation gasoline and turbine fuel by 15 cents per gallon. The increase is phased in annually by five cents per gallon over three years.

Beginning July 1, 2015, these tax rates will be indexed to the change in the Construction Cost Index (CCI) and will potentially increase once each fiscal year based on the percentage change in the CCI; however, the increase is limited to two cents per gallon in each fiscal year.

The bill takes effect July 1, 2012.

Fiscal Summary

**State Effect:** Transportation Trust Fund (TTF) revenues increase by \$160.4 million in FY 2013, with the State share totaling \$144.4 million. Future year revenue estimates reflect the phase in of the excise tax increase and forecasts of fuel consumption and construction costs. Minimal increase in special fund expenditures beginning in FY 2013 due to implementation costs at the Comptroller’s Office.

(\$ in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	\$160.4	\$324.6	\$491.6	\$523.4	\$558.8
SF Expenditure	-	-	-	-	-
Net Effect	\$160.4	\$324.6	\$491.6	\$523.4	\$558.8

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local highway user revenues increase by \$16.0 million in FY 2013 and by \$53.6 million in FY 2017. Local expenditures are not affected.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** The bill increases the State motor fuel tax rate for all fuels except aviation gasoline and turbine fuel by 15 cents per gallon. The increase is phased in annually by five cents per gallon over three years.

The bill also indexes the motor fuel tax rates for all fuels except aviation gasoline or turbine fuel to the CCI published by the *Engineering News-Record* (ENR). Beginning July 1, 2015, motor fuel tax rates will increase annually if the Comptroller's Office determines the CCI has increased over a specified time period. The increase will be the percentage growth in the CCI multiplied by the current motor fuel tax rates, rounded to the nearest one-tenth of one cent. Motor fuel tax rates cannot increase by more than two cents per gallon in any fiscal year.

The bill also imposes a floor tax on any person possessing tax-paid motor fuel for sale at the start of business on (1) July 1, 2012; and (2) the date of any increase in the motor fuel tax under the bill. Individuals are required to compile and file an inventory of the motor fuel tax held at the close of business on the preceding date and remit within 30 days any additional motor fuel tax that is due.

**Current Law:** The State motor fuel tax rate per gallon or gasoline-equivalent gallon is 23.5 cents for gasoline; 24.25 cents for special fuel (diesel); 7 cents for aviation gasoline and turbine fuel; and 23.5 cents for clean burning fuel. The motor fuel tax rate is not indexed or automatically adjusted. Motor fuel tax revenues are projected to total \$752.6 million in fiscal 2013.

### Background:

#### *Motor Fuel Tax*

Some states, including Maryland, impose only a motor fuel excise tax, while other states impose both an excise tax and a sales tax or equivalent tax. The total state motor fuel tax rates for gasoline in neighboring jurisdictions are shown in **Exhibit 1**. These rates are in addition to a federal motor fuel tax rate of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel fuel. Maryland's gasoline tax rate of 23.5 cents per gallon is about one-fifth less than the average rate imposed by all states. In addition, Maryland's motor fuel tax rate is not adjusted periodically for inflation. However, 12 states (California, Connecticut, Florida, Georgia, Iowa, Kentucky, Nebraska, New York, North Carolina, Pennsylvania, Vermont, and West Virginia) have adopted variable motor fuel tax rates that do incorporate inflationary adjustments. Six states impose the sales tax on the retail purchase of motor fuel (California, Illinois, Indiana, Michigan, New York, and Virginia). **Appendix 1** shows the motor fuel tax rate in each state.

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**Exhibit 1**  
**Total State Motor Fuel Tax Rates in Neighboring Jurisdictions**  
**(Cents per Gallon)**

	<u>Sales Tax</u>	<u>Variable Rate</u>	<u>Gasoline</u>	<u>Diesel</u>
Delaware	-	-	23.0¢	22.0¢
District of Columbia	-	-	23.5	23.5
North Carolina	-	Yes	39.2	39.2
Pennsylvania	-	Yes	32.3	39.2
Virginia	Yes*	-	19.8	20.1
West Virginia	-	Yes	33.4	32.1
<b>Maryland</b>	-	-	<b>23.5¢</b>	<b>24.25¢</b>
National Average	-	-	30.4¢	29.6¢

Note: The tax rates for other states may include other state taxes and fees.

\*Virginia imposes a 2.1% sales tax in Northern Virginia for transportation that is collected at the distributor and not retail level.

Source: American Petroleum Institute

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*Blue Ribbon Commission on Transportation Funding*

Chapters 525 and 526 of 2010 established the Blue Ribbon Commission on Transportation Funding. The commission was tasked with reviewing, evaluating, and making recommendations on a variety of issues, including: (1) the current State funding sources and structure of TTF; (2) short- and long-term transit and highway construction and maintenance funding needs; (3) options for public-private partnerships to meet transportation funding needs; (4) the structure of regional transportation authorities and their ability to meet transportation needs; and (5) options for sustainable, long-term revenue sources for transportation. During the September 2010 to October 2011 period, the 28-member commission held 14 meetings and received feedback from numerous experts and affected parties.

The commission's November 1, 2011 final report recommends, among other things, protecting and increasing transportation funding and facilitating funding partnerships. **Exhibit 2** summarizes key recommendations included in the final report. The bill implements some of the commission's recommendations.

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**Exhibit 2**  
**Summary of the Final Recommendations of the**  
**Blue Ribbon Commission on Transportation Funding**

**Protect and Increase Transportation Funding**

- Amend the Maryland Constitution to prohibit transfers from TTF to nontransportation purposes, except in fiscal emergencies.
- Raise \$870 million in new annual revenues for transportation by, for example, increasing (1) the motor fuel tax over three years by five cents per gallon per year and then indexing it to inflation; (2) vehicle registration fees by 50%; and (3) other transportation revenues.
- Restore the allocation of annual highway user revenues to local governments.
- Increase transportation bonding capacity commensurate with revenue adjustments.
- Remove the cost-recovery cap for Motor Vehicle Administration fees.
- Consider establishing tolls on new or expanded transportation facilities in conjunction with variable pricing techniques.

**Support Transit**

- Reach the transit cost-recovery ratio goal of 35%.
- Regularly adjust transit fares and eliminate nonpaying ridership.

**Support State Growth Policies**

- Collaborate with local governments to ensure that local plans reflect State growth policies.

**Capture Value Created by Transportation Investments**

- Integrate value capture analysis into transportation decisionmaking.
- Seek authority to apply tax increment financing support to highway project development.

**Facilitate Transportation Financing Partnerships**

- Establish centralized enabling legislation for public-private partnerships (P3) outlining efficient and timely legislative review.
- Revise the current transportation P3 process.
- Assess the feasibility of loaning State funds to local governments and private sponsors to facilitate transportation investments.

Source: Blue Ribbon Commission on Transportation Funding Final Report, November 2011.

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**State Fiscal Effect:** TTF revenues increase by \$160.4 million in fiscal 2013 as a result of increasing motor fuel tax rates by 5 cents and imposing a floor tax. **Exhibit 3** illustrates the fiscal effect and the cumulative increase in motor fuel tax rates under the bill. The estimate is based on the phase in as specified by the bill and current forecasts for motor fuel consumption and changes in the CCI.

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**Exhibit 3**  
**Cumulative Motor Fuel Tax Rate Increase and Estimated Revenue Impact**  
**(\$ in Millions)**

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
<b>Rate Increase</b>					
Excise Tax	5 ¢	10 ¢	15 ¢	15.0 ¢	15.0 ¢
Construction Cost Index	0 ¢	0 ¢	0 ¢	0.9 ¢	1.8 ¢
<b>Cumulative Increase</b>	<b>5 ¢</b>	<b>10 ¢</b>	<b>15 ¢</b>	<b>15.9 ¢</b>	<b>16.8 ¢</b>
<b>TTF Revenues</b>					
Excise Tax	\$158.2	\$322.3	\$489.3	\$493.4	\$498.6
CCI	0	0	0	29.6	59.8
Floor Tax	2.2	2.3	2.3	0.4	0.4
<b>Total</b>	<b>\$160.4</b>	<b>\$324.6</b>	<b>\$491.6</b>	<b>\$523.4</b>	<b>\$558.8</b>
MDOT Share	144.4	293.4	444.4	473.2	505.2
Local Share	16.0	31.2	47.2	50.2	53.6

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**Local Fiscal Effect:** Local governments receive a portion of TTF revenues as highway user revenues for the purpose of constructing and maintaining local roads. Pursuant to this legislation, local highway user revenues increase by \$16.0 million in fiscal 2013 and by \$53.6 million in fiscal 2017, as shown in Exhibit 3. Local expenditures are not affected.

**Small Business Effect:** Small businesses for which motor fuel constitutes a significant portion of their costs (transportation firms, delivery companies, taxicabs, etc.) will have increased tax burdens as a result of the bill. Based on the estimated increases under the bill, the impact is expected to be minimal. The incidence of the tax will be shared by (1) customers (including other businesses) through higher product prices; and (2) owners of the small businesses. Small businesses may potentially benefit to the extent that additional funding improves the State's transportation infrastructure.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** American Petroleum Institute, Comptroller's Office, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 13, 2012  
mlm/jrb

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**Appendix 1**  
**Total State Motor Fuel Tax Rates**  
**(Cents per Gallon)**

<u>Rank</u>	<u>State</u>	<u>Regular Gasoline</u>			<u>Diesel</u>			<u>Sales Tax</u>	<u>Variable Rate</u>	<u>Local Tax</u>	<u>Notes</u>	
		<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>	<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>					
*	1	New York	8.1	40.9	49.0	8.0	41.5	49.5	x	x	x	State – Sales tax adjusted based upon population. Local – County sales tax.
*	2	Connecticut	25.0	23.6	48.6	46.2	0.0	46.2		x		State – 7.0% gross receipts earnings tax, collected at the wholesale level and adjusted annually.
	2	California	35.7	12.9	48.6	13.0	38.5	51.5	x	x	x	State – 2.25% sales tax for gas and 2.0 cpg UST fee. Local – At least a 1.25% sales tax on diesel.
	4	Hawaii	17.0	30.1	47.1	17.0	32.8	49.8			x	State – 4.0% sales tax, and 0.1 cpg environmental tax. Local – County taxes.
	5	Michigan	19.0	20.4	39.4	15.0	22.9	37.9	x			State – 6.0% sales tax and 0.875 cpg environmental fee.
*	6	North Carolina	38.9	0.3	39.2	38.9	0.3	39.2		x		State – Flat excise tax plus a variable rate of 7.0% of average wholesale price during preceding six months.
	7	Illinois	19.0	19.9	38.9	21.5	22.2	43.7	x		x	State – 6.25% sales tax calculated off retail price less federal and state excise taxes and 0.3 cpg tax for UST.
	7	Indiana	18.0	20.9	38.9	16.0	33.0	49.0	x			State – 7.0% sales tax; 1.0 cpg inspection fee and 11.0 cpg surcharge for diesel paid quarterly.
	9	Washington	37.5	0.0	37.5	37.5	0.0	37.5			x	
	10	Florida	4.0	31.0	35.0	4.0	26.5	30.5		x	x	State – 12.0 cents sales tax indexed to CPI and other State taxes (e.g., 2 cpg environmental taxes). Local – Reflects average local option tax rate.

<u>Rank</u>	<u>State</u>	<u>Regular Gasoline</u>			<u>Diesel</u>			<u>Sales Tax</u>	<u>Variable Rate</u>	<u>Local Tax</u>	<u>Notes</u>
		<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>	<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>				
*	11	West Virginia	20.5	12.9	33.4	20.4	11.7	32.1	x		State – Average wholesale tax floor of \$2.34, rate may not change more than 10.0% annually.
	12	Nevada	23.0	10.1	33.1	27.0	1.6	28.6		x	State – 0.75 cpg environmental and 0.055 cpg inspection fees. Local – Option taxes.
	13	Rhode Island	32.0	1.0	33.0	32.0	1.0	33.0			State – 1.0 cpg environmental fee.
	14	Wisconsin	30.9	2.0	32.9	30.9	2.0	32.9			State – 2.0 cpg UST fee.
*	15	Pennsylvania	12.0	20.3	32.3	12.0	27.2	39.2	x		State – Franchise tax based on average wholesale price during a one-year period and 1.1 cpg UST fee paid by retailers.
	16	Maine	30.0	1.5	31.5	31.2	1.5	32.7			State – Includes 0.07 cpg fee for a coastal and inland water fund and other fees.
	17	Oregon	30.0	1.0	31.0	30.0	0.3	30.3		x	Local – Option taxes.
	18	Georgia	7.5	21.9	29.4	7.5	24.4	31.9	x	x	State – Sales tax of 4.0% applied to stated average prices every six months. Local – Sales tax weighted by population.
	19	Minnesota	28.1	0.1	28.2	27.5	0.1	27.6			State – Includes an inspection fee and some years a cleanup fee.
	20	Ohio	28.0	0.0	28.0	28.0	0.0	28.0			
	21	Kentucky	26.4	1.4	27.8	18.1	1.4	19.5	x		State – 10.0 cents of the excise tax indexed to the average wholesale price not to exceed 10.0 cents; 1.4 cpg UST fee; and special fuel taxes.
	21	Montana	27.0	0.8	27.8	27.8	0.8	28.6		x	State – 0.75 cpg fee for environmental cleanup.



<u>Rank</u>	<u>State</u>	<u>Regular Gasoline</u>			<u>Diesel</u>			<u>Sales Tax</u>	<u>Variable Rate</u>	<u>Local Tax</u>	<u>Notes</u>
		<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>	<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>				
23	Nebraska	26.7	0.9	27.6	26.7	0.3	27.0		x		State – Release prevention fees of 0.9 cpg for gas and 0.3 cpg for diesel.
24	Vermont	19.0	7.1	26.1	25.0	4.0	29.0		x		State – Includes an infrastructure fee valued at 2.0% of the average ppg of gas less taxes in the prior quarter and a 1.0 cpg license fee for UST.
25	Idaho	25.0	0.0	25.0	25.0	0.0	25.0				
26	Kansas	24.0	1.0	25.0	26.0	1.0	27.0				State – 1.0 cpg environmental fee.
27	Utah	24.5	0.0	24.5	24.5	0.0	24.5				
28	South Dakota	22.0	2.0	24.0	22.0	2.0	24.0				State – 2.0 cpg tank inspection fee.
* 29	<b>Maryland</b>	<b>23.5</b>	<b>0.0</b>	<b>23.5</b>	<b>24.3</b>	<b>0.0</b>	<b>24.3</b>				
29	Massachusetts	21.0	2.5	23.5	21.0	2.5	23.5				State – 2.5 cpg UST fund tax.
* 29	District of Columbia	23.5	0.0	23.5	23.5	0.0	23.5				
* 32	Delaware	23.0	0.0	23.0	22.0	0.0	22.0				State – 0.9% gross receipts tax assessed for hazardous substance cleanup fund.
32	North Dakota	23.0	0.0	23.0	23.0	0.0	23.0				
34	Colorado	22.0	0.0	22.0	20.5	0.0	20.5				
34	Iowa	21.0	1.0	22.0	22.5	1.0	23.5		x		State – Based upon percentage of ethanol sales compared to total motor fuel tax sold. 1.0 cpg UST fee.
36	Arkansas	21.5	0.3	21.8	22.5	0.3	22.8				State – 0.3 cpg fee at the wholesale level for UST fund.
37	Tennessee	20.0	1.4	21.4	18.0	0.4	18.4			x	State – 1.0 cent special petroleum tax for gas and 0.4 cpg environmental fee.

<u>Rank</u>	<u>State</u>	<u>Regular Gasoline</u>			<u>Diesel</u>			<u>Sales Tax</u>	<u>Variable Rate</u>	<u>Local Tax</u>	<u>Notes</u>
		<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>	<u>Excise</u>	<u>Other Tax/Fee</u>	<u>Total</u>				
38	Alabama	16.0	4.9	20.9	19.0	2.9	21.9			x	State – 1.0 cpg fee at the wholesale level for UST. Local – Other taxes averaging 2.0 cpg.
39	Louisiana	20.0	0.0	20.0	20.0	0.0	20.0				
39	Texas	20.0	0.0	20.0	20.0	0.0	20.0				
* 41	Virginia	17.5	2.3	19.8	17.5	2.6	20.1	x		x	State – 0.6 cpg storage tank fee. Local – 2.1% sales tax on motor fuels in Northern Virginia.
42	New Hampshire	18.0	1.6	19.6	18.0	1.6	19.6				State – Includes 0.125 cpg fee for oil pollution control fund and 1.5 cpg fee for UST cleanup fund.
43	Arizona	18.0	1.0	19.0	18.0	1.0	19.0				State – 1.0 cpg UST tax.
44	New Mexico	17.0	1.9	18.9	21.0	1.8	22.8			x	State – 1.0 cpg loading fee.
45	Mississippi	18.0	0.8	18.8	18.0	0.8	18.8			x	State – 0.4 cpg environmental fee. Local – Three counties have a 3.0 cpg seawall tax.
46	Missouri	17.0	0.3	17.3	17.0	0.3	17.3				State – Includes agricultural inspection and transport load fees.
47	Oklahoma	16.0	1.0	17.0	13.0	1.0	14.0				State – 1.0 cpg UST fee.
48	South Carolina	16.0	0.8	16.8	16.0	0.8	16.8				State – 0.25 cpg inspection fee and 0.50 cpg UST fee.
* 49	New Jersey	10.5	4.0	14.5	13.5	4.0	17.5				State – 4.0 cpg petroleum products gross receipts tax.
50	Wyoming	13.0	1.0	14.0	13.0	1.0	14.0				State – 1.0 cpg UST fee.
51	Alaska	8.0	0.0	8.0	8.0	0.0	8.0				
	<b>US Average</b>	<b>20.9</b>	<b>9.5</b>	<b>30.4</b>	<b>19.0</b>	<b>10.6</b>	<b>29.6</b>				

\*MidAtlantic Region

cpg: cents per gallon

UST: Underground Storage Tank

Source: American Petroleum Institute; Department of Legislative Services