

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 121** HLS 161ES 251  
 Bill Text Version: **ENGROSSED**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> February 25, 2016 8:16 PM	<b>Author:</b> JACKSON
<b>Dept./Agy.:</b> Revenue	
<b>Subject:</b> limits sales tax on motor fuels	<b>Analyst:</b> Deborah Vivien

TAX/SALES-USE, STATE EG INCREASE SD RV See Note Page 1 of 1  
 Provides relative to the imposition of state sales tax on certain motor fuels (Items #9 and 36)

Current law exempts gasoline, motor fuels and special fuels upon which excise tax has been paid from state and local sales tax. Any taxes on fuels are dedicated to the Transportation Trust Fund. Gasoline purchases are also statutorily exempt from all but 1% of state sales tax.

Proposed law is contingent upon voter approval of HB 84 of 2016 ES1 which removes the exemption from state sales tax on motor fuels. This bill removes the exemption for state sales tax on gasoline subjecting gasoline to 4% state sales tax (no local tax). The tax rate will be fixed annually on January 1 based on an unspecified NYMEX average oil price in the last quarter of the previous calendar year. Proceeds of the sales tax are dedicated to the Transportation Trust Fund. If HB 84, the companion Constitutional amendment, is enacted, it will be considered by the public on the November 8, 2016, ballot.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>						

**EXPENDITURE EXPLANATION**

There is no anticipated direct material effect on governmental expenditures as a result of this measure. The Department indicates that any implementation costs will be absorbed in the current budget. Though the cost of this bill is minimal, the aggregate impact of all session bills may require additional resources.

**REVENUE EXPLANATION**

The bill authorizes a sales tax upon gasoline by removing any statutory exemptions from state sales tax. The tax is graduated based on a non-specific NYMEX oil price average from Oct-Dec of each year as determined by the Secretary of Revenue on January 1, beginning in 2017. If the calculated price is greater than \$60/barrel, gasoline is exempt from state sales tax. Between \$40-59/barrel, gasoline is taxed at 2% state sales tax. Less than \$40/barrel, gasoline is taxed at 4% state sales tax. Road use diesel and special fuels will be taxed at 4%, regardless of the price of oil and are not impacted by this bill.

The following example is for illustrative purposes without certainty of the correlation between the oil price and the gasoline price. Current oil prices are below \$40/barrel and gasoline is roughly \$1.50 per gallon. Under this bill, gasoline would be subject to a 4% sales tax which would generate \$138M if volume remains at current levels. At the same volume levels, if the oil price calculation increases to \$59/barrel and gasoline price increased to \$2.50 per gallon, the sales tax on gasoline would be 2% and generate about \$115M. Finally, if the oil price calculation increased to \$60/barrel, the sales tax on gasoline would cease and the Transportation Trust Fund deposits would decrease by roughly \$115M. This estimate is based on that price remaining over the 5 years of the fiscal note. However, that is unlikely. Maximum exposure to the state if purchases of gasoline remain constant are estimated below.

In FY 15, the volumes reported from the excise tax were 2.3B gallons of gasoline, 0.8B gallons of highway diesel. Data for special fuels is unavailable since the volume-based tax only went into effect last month. Assuming prices of \$35/barrel for some NYMEX oil price and \$1.50/gallon, sales tax collections would increase by \$138M annually. The Transportation Trust Fund will receive all of the sales tax proceeds per the constitutional dedication of all taxes on motor fuels and this bill. The bill begins the oil price calculation in January 2017 so the impact in FY 17 will reflect about a half year.

In a manner similar to cigarettes and alcohol, the excise tax for fuel is collected at the wholesale level so presumably will be included in the base calculation of the sales tax at retail on fuel, according to the department.

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| <u>Senate</u>  | <u>Dual Referral Rules</u>   | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}                  | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}                    |              |
| <input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |              |

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