Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Joint Resolution N (as introduced 10-4-11)
Senate Bills 714 and 715 (as introduced 10-4-11)
Sponsor: Senator Howard C. Walker
Committee: Finance

Date Completed: 11-1-11

CONTENT

Senate Joint Resolution N would amend the State Constitution to increase the maximum sales tax rate by an additional 1% and allocate the proceeds of the increase to the Michigan Transportation Fund.

Senate Bills 714 and 715 would repeal the Motor Carrier Fuel Tax Act and the Motor Fuel Tax Act, respectively.

The bills would not take effect unless the electors approved the joint resolution.

Senate Joint Resolution N

Article IX, Section 8 of the State Constitution limits the sales tax rate to a maximum of 4% of retailers' gross taxable sales of tangible personal property, plus an additional 2% that is dedicated to the State School Aid Fund.

Under the joint resolution, beginning January 1, 2012, the sales tax would have to be imposed on retailers at an additional rate of 1% of their gross taxable sales of nonexempt tangible personal property. The proceeds of the additional 1% sales tax would have to be deposited in the Michigan Transportation Fund or its successor fund.

The allocation of sales tax revenue required by Sections 9 and 10 of Article IX would not apply to the revenue from the sales tax imposed at the additional rate of 1%. (Under Section 9, all specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuel sold for motor vehicles and aircraft, and on registered motor vehicles and aircraft, must be used for transportation purposes as set forth in that section. Also, 25% of general sales taxes on motor vehicle fuel, motor vehicles, and vehicle-related parts must be used for the transportation purposes of the Comprehensive Transportation Fund. Section 10 requires 15% of the sales tax imposed at the 4% rate to be distributed to cities, villages, and townships as revenue sharing.)

The joint resolution would have to be submitted to the voters at the next general election. (Under Article XII, Section 1 of the Constitution, constitutional amendments may be proposed in the Senate or House of Representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house must be submitted, at least 60 days after the approval, to the electors at the next general election or special election, as directed by the Legislature.)

Senate Bills 714 and 715

The Motor Carrier Fuel Tax Act imposes a tax on interstate motor carriers based on the amount of diesel fuel consumed in this State. The rate of the tax is 15 cents per gallon, or for diesel fuel that contains at least 5% biodiesel, 12 cents per gallon.

The Motor Fuel Tax Act imposes taxes on gasoline, diesel fuel, and liquefied petroleum gas (LPG) sold or used in operating vehicles on public highways. The rate of the tax on gasoline is 19 cents per gallon, or for gasoline that is at least 70% ethanol, 12 cents per gallon. The tax on diesel fuel is 15 cents per gallon, or for diesel fuel that contains at least 5% biodiesel, 12 cents per gallon. The LPG tax is 15 cents per gallon.

Under both Acts, the reduced rates apply until September 1, 2016, or until the cumulative tax revenue difference for gasoline containing at least 70% ethanol and diesel fuel containing at least 5% biodiesel taxed at 12 cents per gallon compared to what would have been collected at 19 cents and 15 cents per gallon, respectively, is greater than $2.5 million, whichever is sooner.

The revenue from the motor carrier fuel tax, the gasoline tax, the diesel fuel tax, and the LPG tax is deposited in the Michigan Transportation Fund.

Both Acts are administered by the Department of Treasury. The Motor Carrier Fuel Tax Act requires a person to be licensed in order to act as a motor carrier in the State. The Motor Fuel Tax Act also contains various license requirements.

Senate Bill 714 would repeal the Motor Carrier Fuel Tax Act (MCL 207.211-207.234). Senate Bill 715 would repeal the Motor Fuel Tax Act (MCL 207.1001-207.1170).

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Joint Resolution N

The resolution would increase Michigan Transportation Fund (MTF) revenue by approximately $830.8 million in FY 2011-12 and $1.14 billion in FY 2012-13. It would increase both local unit revenue and expenditures, because a portion of revenue in the MTF is distributed to local units of government to fund transportation-related expenditures. Revenue deposited in the MTF, or transferred from the MTF to other transportation-related funds, is subject to appropriation; so the degree to which the increase in revenue translated to increased State and/or local expenditures would depend on future appropriation decisions.

The resolution would not require a corresponding increase in the Michigan's use tax. If such an increase were adopted, it would increase revenue by approximately $158.7 million in FY 2011-12 and $220.2 million in FY 2012-13. The distribution of revenue to different funds would depend on where legislation directed the increased revenue.

The Michigan Constitution requires that a portion of sales taxes be distributed to cities, villages, and townships for revenue sharing, and that a portion of sales tax revenue from motor vehicle-related sales be directed to the Comprehensive Transportation Fund. The resolution is constructed so that none of the increase in sales tax revenue attributable to the resolution would be affected by either of these two earmarks.

Senate Bills 714 and 715

The collection of the motor carrier fuel tax in FY 2009-10 (the most recent year for which complete data are available) totaled $17.8 million. The collection of the motor fuel tax in FY 2009-10 totaled $943.9 million. All of the collections from both of these taxes are deposited into the Michigan Transportation Fund.

The repeal of the Motor Carrier Fuel Tax Act and the Motor Fuel Tax Act would result in the annual loss in transportation revenue in the MTF of an estimated $961.7 million based on FY 2009-10 data. The MTF is the primary collection and distribution fund for State restricted transportation revenue. Revenue in the MTF is distributed via formula according to Public Act 51 of 1951, commonly referred to as "Act 51". The three primary recipients of MTF revenue pursuant to Act 51 are:

- State Transportation Fund (STF): funding for State highway construction and preservation of State trunkline roads and bridges, and the administration of the Michigan Department of Transportation (MDOT).

- Local Road Agencies: funding to the 83 county road commissions and 533 incorporated cities and villages for local road and street maintenance and improvement programs.

- Comprehensive Transportation Fund (CTF): funding for public transportation programs to the State's 79 public transit agencies.

The first 20% of the total MTF revenue goes for MDOT administrative costs, grants to other State departments, the CTF, and statutory grants. The remaining 80% of all MTF funding is distributed to the following: 39.1% to county road commissions; 21.8% to cities and villages; and the remaining 39.1% to the State Trunkline Fund for State highway construction on roads and bridges.

In addition to the revenue from the motor carrier fuel tax and the motor fuel tax as specified above, the MTF received funding of $842.1 million in FY 2009-10 from vehicle registration taxes. This tax revenue would not be affected by Senate Bills 714 or 715. Thus, the effect of these bills would result in the loss of an estimated 52% of all MTF revenue.

The Department of Treasury administers and collects these taxes for MDOT. The cost of the tax collection is appropriated in the State budget. The Department of Treasury received an interdepartmental grant of $8,379,000 in FY 2011-12 from the Michigan Transportation Fund to cover the expense of tax administration. If the taxes were repealed pursuant to the bills, then the Department would realize a reduction in costs and the savings would accrue to the Michigan Transportation Fund. While some savings might be achieved in FY 2011-12 after the effective date of the bill, the Department potentially would have an unknown amount of continuing costs related to audit functions and information technology systems for this program.

As mentioned above, Senate Bills 714 and 715 would not take effect unless the voters approved Senate Joint Resolution N.

Fiscal Analyst: Joe Carrasco
Elizabeth Pratt
David Zin

S1112\ssjrnsa.

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.