

# Legislative Analysis



## AMENDMENTS TO MOTOR FUEL TAX ACT AND MOTOR CARRIER FUEL TAX ACT

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**House Bills 4359 & 4358**  
**Sponsor: Rep. Wayne Schmidt**  
**Committee: Transportation**

**Complete to 4-15-12**

### SUMMARY OF HOUSE BILLS 4359 & 4358 AS INTRODUCED 2-28-13

Under these bills gasoline and diesel fuel would be taxed based on wholesale prices, which will fluctuate, rather than on a fixed rate per gallon. This is expected to raise additional state restricted transportation revenue beyond current levels, as described later in the *Fiscal Impact* section.

House Bill 4359 would amend the Motor Fuel Tax Act (2000 PA 403). Specifically, the bill would amend Section 8 of the act to change motor fuel taxes from fixed rates per gallon – currently 19 cents per gallon for gasoline and 15 cents per gallon for diesel motor fuel – to a variable rate per gallon based on the wholesale price as defined in the bill.

Beginning on the effective date of the enacted bill (defined as the first day of the first calendar quarter following the enactment of the bill), the variable rate per gallon for all motor fuels –both gasoline and diesel motor fuel – would be 12% of the *wholesale price* of gasoline as calculated by the Michigan Department of Treasury.

Beginning on the first day of the second calendar quarter following the effective date of the enacted bill, the rate per gallon for motor fuels – both gasoline and diesel motor fuel – would be determined by the department on a quarterly basis, as the product of the *applicable percentage* (defined as 10.1%) and the *average wholesale price*, rounded up to the nearest 1/10 of one cent.

"Wholesale price" is defined in the bill as "the price per gallon of unleaded regular gasoline charged by a licensed supplier to a purchaser at the time of removal from a terminal across the rack, as determined by the department." Under the bill's definition, other state and federal motor fuel taxes, sales taxes, and regulatory fees would be excluded from the wholesale price tax base.

"Average wholesale price" is defined in the bill as "the statewide average wholesale price as determined by the department based on a 12-month rolling average of the wholesale price." The bill indicates that the 12-month rolling average period ends on the last day of the month that is 12 months prior to the month is determined by the department after the beginning of the second calendar quarter.

The bill would also amend Section 152, which currently imposes a motor fuel tax on liquefied petroleum gas when used as a motor fuel. The bill would change the tax rate from 15 cents per gallon to the same variable wholesale price rates determined for gasoline and diesel motor fuel.

House Bill 4358 would amend Section 2 of the Motor Carrier Fuel Tax Act (1980 PA 119) to change the tax rate on diesel motor fuel used in Michigan by interstate motor carriers from the current rate of 15 cents per gallon. The bill would make the rate the same as the diesel tax rate established under the Motor Fuel Tax Act in House Bill 4359. House Bill 4358 is tie-barred to House Bill 4359, although House Bill 4359 is not tie-barred to House Bill 4358.

Both House Bill 4358 and House Bill 4359 would strike language that had established differential tax rates for alternative fuels.

### **BACKGROUND INFORMATION:**

The Motor Fuel Tax Act imposes a tax on motor fuels used in motor vehicles on the public roads and highways of the state. The current tax rate is 19 cents per gallon for gasoline and 15 cents per gallon for diesel motor fuel and liquefied petroleum gas used to propel motor vehicles. The tax rate for gasoline was last increased in 1997 when 1997 PA 83 increased the rate from 15 cents per gallon. The current 15 cent per gallon tax rate for diesel motor fuel and liquefied petroleum gas used to propel motor vehicles has been in effect since 1984.

The Motor Carrier Fuel Tax Act imposes a tax on diesel fuel consumed in Michigan by motor carriers, effectively interstate truckers, even if they do not purchase fuel in Michigan. The tax rate is the same as the diesel tax rate established under the Motor Fuel Tax Act, 15 cents per gallon.

### **FISCAL IMPACT:**

The intent of the Motor Fuel Tax Act is "*to require persons who operate a motor vehicle on the public roads or highways of this state to pay for the privilege of using those roads and highways.*" Revenue from the taxes imposed by the act is dedicated for transportation purposes in Article IX, Section 9 of the 1963 Michigan Constitution.

The current 19 cent per gallon gasoline excise tax is estimated to generate \$812.5 million in FY 2013-14; the 15-cent per gallon diesel motor fuel tax rate is expected to generate \$130.0 million.

The bills would likely generate additional state restricted transportation revenue; however, the amount of any increase cannot be precisely estimated. The amount of revenue generated from the proposed "wholesale" motor fuel taxes would depend on two variables: consumption and the "wholesale" price of gasoline. Consumption of gasoline in Michigan peaked in 2002 and has been in decline each year since 2002. The price of gasoline is relatively volatile – from April 2011 through March 2013, the retail price of gasoline ranged from \$4.21 per gallon to \$3.16 per gallon.

We estimated a revenue range using two price points – gasoline with a retail price of \$3.50 per gallon under current tax rates and gasoline with a retail price of \$4.00 per gallon under current tax rates:

**Estimate at \$3.50 per gallon:** Assuming a retail pump price for gasoline of \$3.50 per gallon under current tax rates, and 4.276 billion taxable gallons of gasoline (the estimated consumption for FY 2013-14), House Bill 4359 would generate \$1.527 billion in state restricted transportation revenue, \$1.270 billion from gasoline, and \$257.3 million from diesel. That represents an increase of \$584.7 million in restricted transportation revenue as compared to current law.

**Estimate at \$4.00 per gallon:** Assuming a retail pump price for gasoline of \$4.00 per gallon under current tax rates, and 4.276 billion taxable gallons of gasoline (the estimated consumption for FY 2013-14), House Bill 4359 would generate \$1.771 billion in state restricted transportation revenue, \$1.473 billion from gasoline, and \$298.5 million from diesel. That represents an increase of \$828.8 million in restricted transportation revenue as compared to current law.

Note that these two estimates assume the use of the 10.1% *applicable percentage* for a full year. The bills would use the higher percentage of 12% of the wholesale price for the first calendar quarter after the enactment of the bill.

Under current law, revenue from the Motor Fuel Tax Act and Motor Carrier Fuel Tax Act is credited to the Michigan Transportation Fund (MTF). MTF revenue is then distributed in accordance with the provisions of Public Act 51 of 1951 to other state transportation funds and program accounts and to local road agencies (county road commissions, cities and villages).

It is our understanding that House Bills 4359 and 4358 are related to House Bill 4539, a bill which would exempt gasoline and diesel from the state sales tax. However, neither House Bill 4358 nor 4359 is tie barred to House Bill 4539.

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