F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	2/01/17		
SPONSOR	SCORC	**LAST UPDATED**	2/22/17	**HB**	
SHORT TITLE	Increase Gasoline and Special Fuels Tax (temp)			**SB**	CS/132/SCORC/ec
				ANALYST	Iglesias

REVENUE (dollars in thousands)

Estimated Revenue*					**Recurring or Nonrecurring**	**Fund Affected**
FY17	**FY18**	**FY19**	**FY20**	**FY21**		
$17,521.0	$70,638.3	$71,453.0	$71,589.7	$71,493.1	Recurring	NEW Tax Stabilization Reserve
$0.0	$0.0	$0.0	$0.0	$0.0	Recurring	NEW State Road Maintenance Fund
$17,521.0	$70,638.3	$71,453.0	$71,589.7	$71,493.1	Recurring	NEW Municipalities and Counties Fund - maintenance
$9.0	$34.9	$34.7	$34.4	$34.1	Recurring	Municipalities and Counties Fund
$0.0	$0.7	$0.7	$0.7	$0.7	Recurring	State Aviation Fund
$0.4	$0.4	$0.4	$0.4	$0.3	Recurring	Motorboat Fuel Tax Fund
$2.0	$8.0	$8.0	$8.0	$8.0	Recurring	County Government Road Fund
$2.0	$8.0	$8.0	$8.0	$8.0	Recurring	Municipal Roads Fund
$0.0	$0.8	$0.8	$0.8	$0.8	Recurring	Municipal Arterial Program of Local Governments Road Fund
$0.0	$1.5	$1.6	$1.6	$1.7	Recurring	Local Governments Road Fund
$600.0	$2,400.0	$2,400.0	$2,400.0	$2,400.0	Recurring	Tribal Tax Sharing Agreements (Pueblo of Santo Domingo and Nambe)
($602.0)	($2,407.0)	($2,407.0)	($2,407.0)	($2,407.0)	Recurring	State Road Fund

Parenthesis ( ) indicate revenue decreases

*Estimates are based on the assumption that the bill will take effect on April 1, 2017, and the assumption that in FY18 and in the following fiscal years, the average taxable value of New Mexico Oil will not exceed $67 per barrel for a six-month period.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY17	**FY18**	**FY19**	**3 Year Total Cost**	**Recurring or Nonrecurring**	**Fund Affected**
$111.0	$0.0	$0.0	$111.0	Nonrecurring	TRD
$1.0	$1.0	$1.0	$3.0	Recurring	TRD
unknown	unknown	unknown	unknown	Recurring	General Fund

Relates to HB 63; partially duplicates SB95; partially duplicates SB131.

SOURCES OF INFORMATION

LFC Files

Responses Received From
New Mexico Department of Transportation (DOT)
New Mexico Municipal League (NMML)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SCORC Substitute

The Senate Corporations & Transportation Committee (SCORC) committee substitute for Senate Bill 132 indexes the gasoline and special fuel excise taxes to the chained price index for gross government fixed investment by type, state and local, highways and streets, as calculated by the U.S. Bureau of Economic Analysis. The substitute also revised a technical issue such that the fuel taxes are indexed based on the 2017 calendar year (see technical issues section).

Senate Bill 132 increases the gasoline tax by 10 cents per gallon from $0.17 to $0.27 and increases the special fuels tax by 10 cents per gallon from $0.21 to $0.31 for the purpose of rebuilding state fund reserves and for road maintenance and repair.

Beginning in FY20, and each subsequent year, the gasoline tax rate and the special fuels tax rate would be subject to an index provision based on the "chained price index for nonresidential construction calculated by the United States Bureau of Economic Analysis." This new revenue would be shared proportionally among all existing revenue recipients. The gasoline adjusted by the chained price index may equal no less than $0.27 and no greater than $0.40. The special fuels tax adjusted by the chained price index may equal no less than $0.31 and no greater than $0.44.

Excise Tax	Current	FY18	FY19	FY20
Gasoline	$0.17	$0.27	$0.27	Adjusted by Chained Price Index
Special Fuels	$0.21	$0.31	$0.31	Adjusted by Chained Price Index

One-half of the new revenue from the 10-cent increase will be distributed to counties and municipalities to be used for county and municipal road maintenance and repair on existing roads. The remaining one-half of new revenue will be distributed to the tax stabilization reserve until the average taxable value of New Mexico oil exceeds $67 per barrel for a six-month period.

When the average taxable value of New Mexico oil exceeds $67 per barrel for a six-month period, one-half of the new revenue from the gasoline tax and the special fuels tax will then be distributed to a new state road maintenance fund for improvement or maintenance of existing public roads or bridges. This will be a nonreverting fund in the state treasury and will be administered by the Department of Transportation.

Other distributions are also adjusted as follows:

Current and Proposed Distribution of Special Fuels Tax

Tax	Fund	Current	Proposed
Special Fuels	Local Governments Road Fund	9.52%	6.45%
	State Road Fund	90.48%	61.29%
	Tax Stabilization Reserve / State Road Maintenance Fund	n/a	16.13%
	Municipalities and Counties Fund - maintenance	n/a	16.13%

Current and Proposed Distribution of Gasoline Tax

Tax	Fund	Current	Proposed
Gasoline	State Aviation Fund	0.26%	0.164%
	Motorboat Fuel Tax Fund	0.13%	0.082%
	Municipalities and Counties	10.38%	6.55%
	County Government Road Fund	5.76%	3.63%
	Municipal Roads Fund	5.76%	3.63%
	Municipal Arterial Program of Local Governments Road Fund	1.44%	0.907%
	State Road Fund	76.270%	48.021%
	Tax Stabilization Reserve/State Road Maintenance Fund	n/a	18.508%
	Municipalities and Counties Fund - maintenance	n/a	18.508%

If the act takes effect on or after April, 2017, the effective date of the provisions of this bill is April 1, 2017. If the act takes effect after April 1, 2017, the effective date of the provisions is the first day of the month following the date this act takes effect.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

The fiscal impact of the bill as substituted by SCORC is estimated by multiplying the gallons of gasoline and special fuel forecasted by the New Mexico Department of Transportation (as of January 2017) by the tax increase of 10 cents for gasoline tax and special fuels tax. The appropriate distribution percentage rates were then applied to the different funds. The estimated impact for FY17 assumes an effective date of April 1, 2017 for the provisions of the bill.

The bill increases overall revenue by approximately $35M in FY17, and by just over $140M in the following fiscal years. Assuming that, in the following fiscal years, the average taxable value of New Mexico oil does not exceed $67 per barrel, this bill allocates about $71 million to the tax stabilization reserve and to municipalities and counties in FY18-FY21.

Based on IHS Global Insight's February 2017 forecast for the chained price index for gross government fixed investment by type, state and local, highways and streets, the fuel tax would tend to increase the applicable tax rate by one cent every year or two, starting from FY22, with the results of indexing simulation provided by DOT as follows:

Tax Rate (cents)	**FY 2017***	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**
Gasoline	27	27	27	27	27	28	29
Special Fuel	31	31	31	31	31	32	33

*In case SB 131 takes effect on April 1, 2017.
The price indexing forecast is based on the IHS Global Insight Short-Term US forecast of the chained price index for state and local gross investment in highways and streets released in February, 2017.

The state road fund revenue is somewhat reduced by payments to the Pueblo of Santo Domingo and the Pueblo of Nambe, pursuant to the gasoline tax sharing agreements specifying they are entitled to receive an amount equal to 40 percent of the net receipts attributable to the gasoline tax paid to DOT on 2.5 million gallons of gasoline each month, and which consequently will receive an additional $100 thousand each per month, while all the other funds are held harmless.

The Taxation and Revenue Department (TRD) estimates this bill to have a high impact on the Information Technology Division and a moderate impact on the Financial Distribution Bureau. The department estimates a total operating budget impact of $111 thousand nonrecurring in FY17 and $1 thousand recurring for programming changes needed to administer the tax increase.

The fuel tax increases will also have a direct but unknown effect on all other general fund agencies with motor vehicle travel costs, as these agencies will now have to pay the increased tax rate on all fuel purchased.

This bill creates a new fund and provides for continuing appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

The December 2016 revenue forecast lowered projections by about $130 million for FY17 and FY18. Projected FY17 ending reserve balances are negative $85.5 million, or -1.4 percent, and if FY18 appropriations remain flat with FY17, the appropriations are expected to exceed revenues by $103.4 million. The provisions in this bill to distribute new revenue from the gasoline and special fuels tax increase is one approach to help address fiscal solvency for current and future fiscal years. If enacted by April 1, 2017, this bill will address about 20 percent of the shortfall for FY17 and about 68 percent of the shortfall for FY18.

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. Seven states raised their gas tax rates on January 1, 2017. The two highest increases occurred in Pennsylvania and Michigan, with rate hikes of 7.9 cents and 7.3 cents per gallon resulting in total rates of 58.3 cents and 37.8 cents per gallon, respectively, according to the Tax Foundation. The other five states – Nebraska, Georgia, North Carolina, Indiana, and Florida – implemented more modest rate increases.

Many local governments have seen a real decline in the amount of their gasoline tax distributions over the years, reportedly due in part to competing sales of gasoline by Native American tribes in the vicinity of municipal limits. Additionally, gradually increasing fuel efficiency may contribute to observed declines. While the proposed tax increase would significantly increase the state road fund, county and municipal funds would benefit directly as well. Local governments are responsible for the maintenance, repair and construction of approximately 44,000 miles of roads compared to 30,000 miles of roads for which the state is responsible. The New Mexico Municipal League and its' members support this legislation.

DOT indicates, according to historical data (see table and chart below), the New Mexico taxable value of oil has only occasionally been above $67 per barrel, and, in the next few years, it is forecast to be well below that threshold.

DOT offers the following table to illustrate this point:

	Price per barrel		
FY	**Taxable Value (7-31-5)**	**NM value**	**WTI**
2000	22	25	26
2001	26	28	30
2002	20	22	24
2003	26	28	30
2004	29	32	34
2005	41	45	49
2006	54	60	64
2007	53	59	63
2008	**84**	**94**	**97**
2009	59	65	70
2010	64	71	75
2011	**76**	**85**	**89**
2012	**80**	**90**	**95**
2013	**76**	**85**	**92**
2014	**84**	**95**	**101**
2015	54	62	69
2016	33	38	42
2017	38	43	
2018	42	48	
2019	44	50	forecast*
2020	47	53	
2021	49	56	

Source: ONGARD

Column 2 reports the NM oil taxable value as defined in the bill; column 3 reports the NM oil value; column 4 reports the West Texas Intermediate (WTI) spot price as a benchmark. Taxable value is forecasted using the average price differential between NM oil value and NM taxable value as observed in the last four fiscal years.

*For FY17 and for the following years, the New Mexico value is based on the December 2016 consensus general fund forecast.

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. It should be noted that Native American tribes can increase their taxes in step with state increases but preserve any differential they deem appropriate.

DOT indicates fuel taxes have historically served as a proxy for damage done to public roads, and motor fuel revenues are usually considered "user fees" paid for road maintenance and road projects. Based on economic theory, any diversion of "user fee" revenues away from road-related purposes represents a violation of the benefit principle of taxation.

TRD points out that gasoline taxes are regressive, meaning that they have an outsized effect on those with lower incomes. This will be especially true in New Mexico as the state's lowest tax bracket (defined as a taxable income of less than $5,500 if single, $8,000 if married or head of household, or $4,000 if married filing separately) currently comprises 46 percent of filers.

TECHNICAL ISSUES

DOT indicates the tax rate indexing provisions require a technical fix to make the index calculation function correctly.

In Section 12, Subsection C (page 16, lines 5-6) change "… [the most current calendar year available] …" to specify "… <u>calendar year 2017</u> …".

Similarly, in Section 13, Subsection C (page 17, line 12) change "… [the most current calendar year available] …" to specify "… <u>calendar year 2017</u> …".

DOT states the bill should include an APPLICABILITY SECTION to assure that revenue distribution changes are not initiated prior to receipt of the increased fuel tax revenue.

> APPLICABILITY.--The distributions pursuant to this act apply to receipts from gasoline tax and special fuel excise tax imposed on or after the effective date of this act.

ADMINISTRATIVE IMPLICATIONS

TRD expects the bill to have a moderate impact to the Financial Distribution Bureau to test changes to GenTax and create new distributions. TRD also states this bill would have a high impact on the Information Technology Division. Considering the effort and estimated 9.5 months needed to implement, TRD believes the effective date of immediately upon signing by the Governor is not feasible, and recommends an effective date of July 1, 2018.

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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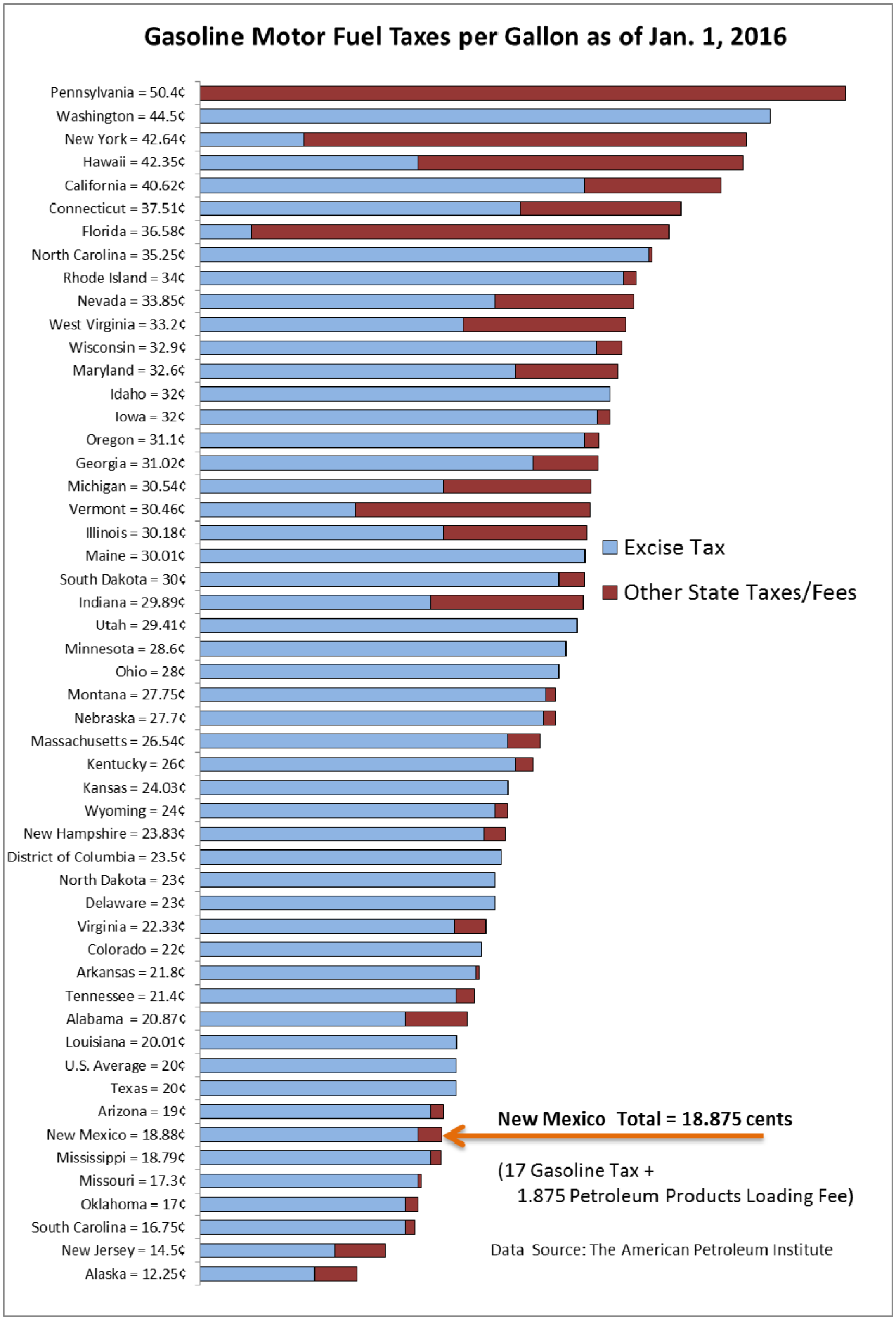
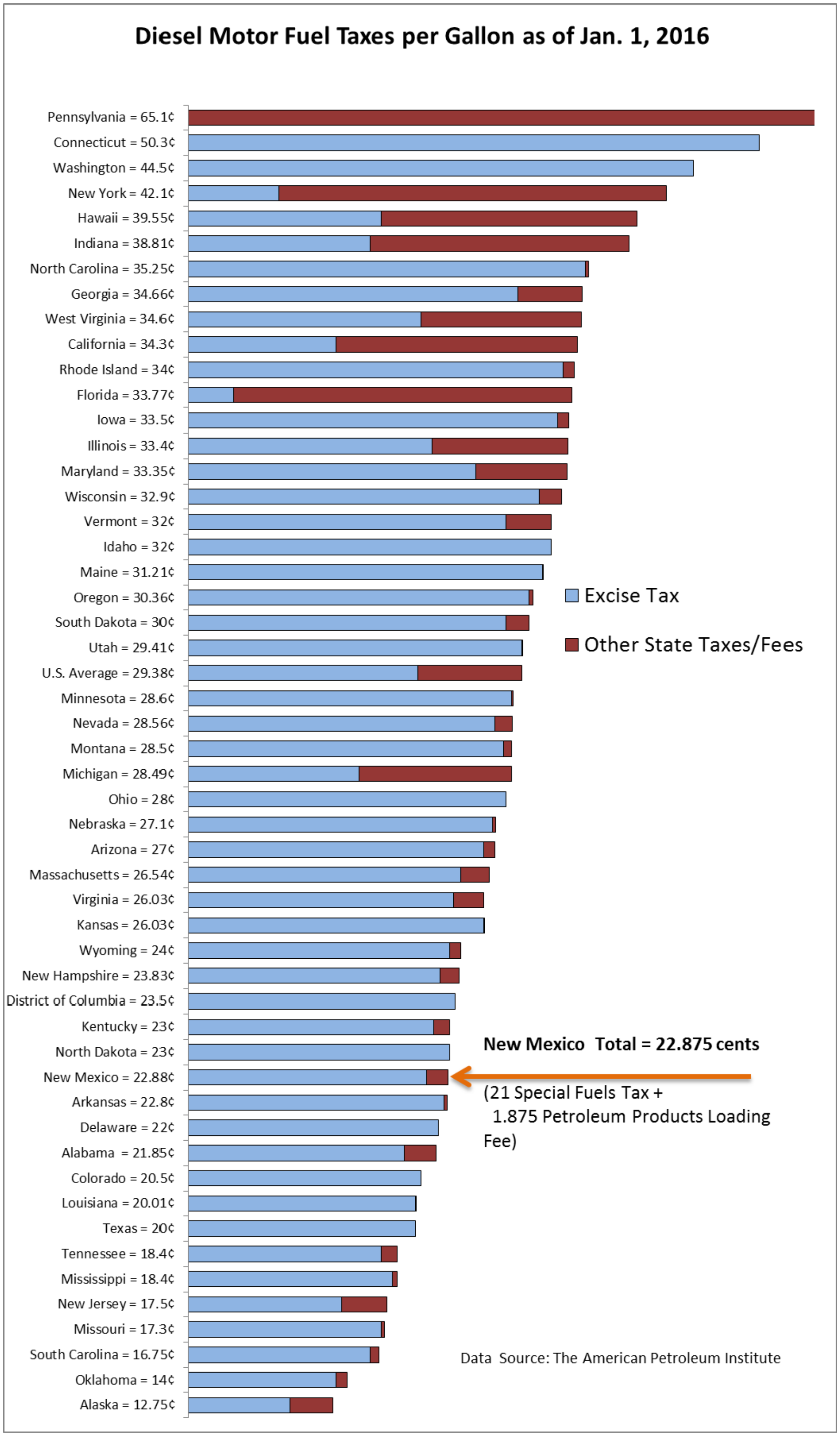
APPENDIX

DOT offers the following graphic depictions of New Mexico's relative fuel tax rates:




Diesel Motor Fuel Taxes per Gallon as of Jan. 1, 2016
Pennsylvania = 65.1¢
Connecticut = 50.3¢
Washington = 44.5¢
New York = 42.1¢
Hawaii = 39.55¢
Indiana = 38.81¢
North Carolina = 35.25¢
Georgia = 34.66¢
West Virginia = 34.6¢
California = 34.3¢
Rhode Island = 34¢
Florida = 33.77¢
Iowa = 33.5¢
Illinois = 33.4¢
Maryland = 33.35¢
Wisconsin = 32.9¢
Vermont = 32¢
Idaho = 32¢
Maine = 31.21¢
Oregon = 30.36¢
South Dakota = 30¢
Utah = 29.41¢
U.S. Average = 29.38¢
Minnesota = 28.6¢
Nevada = 28.56¢
Montana = 28.5¢
Michigan = 28.49¢
Ohio = 28¢
Nebraska = 27.1¢
Arizona = 27¢
Massachusetts = 26.54¢
Virginia = 26.03¢
Kansas = 26.03¢
Wyoming = 24¢
New Hampshire = 23.83¢
District of Columbia = 23.5¢
Kentucky = 23¢
North Dakota = 23¢
New Mexico = 22.88¢
Arkansas = 22.8¢
Delaware = 22¢
Alabama = 21.85¢
Colorado = 20.5¢
Louisiana = 20.01¢
Texas = 20¢
Tennessee = 18.4¢
Mississippi = 18.4¢
New Jersey = 17.5¢
Missouri = 17.3¢
South Carolina = 16.75¢
Oklahoma = 14¢
Alaska = 12.75¢
Excise Tax
Other State Taxes/Fees
New Mexico Total = 22.875 cents
(21 Special Fuels Tax + 1.875 Petroleum Products Loading Fee)
Data Source: The American Petroleum Institute