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

ORIGINAL DATE 2/28/2017
SPONSOR Campos **LAST UPDATED** 3/06/2017 **HB**

SHORT TITLE Gas Tax & Distributions **SB** 436

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue*					Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
$0.0	$28,254.7	$28,580.5	$28,635.2	$28,596.5	Recurring	NEW General Fund
$0.0	$14,133.2	$14,296.1	$14,323.4	$14,304.0	Recurring	NEW Public Pre-Kindergarten (PED)
$0.0	$14,133.2	$14,296.1	$14,323.4	$14,304.0	Recurring	NEW Pre-Kindergarten (CYFD)
$0.0	$16.0	$16.0	$15.9	$15.7	Recurring	Municipalities and Counties Fund - (excl. P&I)
$0.0	$1.7	$1.7	$1.7	$1.7	Recurring	State Aviation Fund
$0.0	($0.2)	($0.2)	($0.2)	($0.2)	Recurring	Motorboat Fuel Tax Fund
$0.0	$5.3	$5.3	$5.3	$5.2	Recurring	County Government Road Fund
$0.0	$5.3	$5.3	$5.3	$5.2	Recurring	Municipal Roads Fund
$0.0	$1,198.6	$1,193.7	$1,187.5	$1,177.4	Recurring	Municipal Arterial Program of Local Governments Road Fund
$0.0	$1,440.0	$1,440.0	$1,440.0	$1,440.0	Recurring	Tribal Tax Sharing Agreements (Pueblo of Santo Domingo and Nambe)
$0.0	$14,126.4	$14,289.3	$14,316.7	$14,297.3	Recurring	Local Governments Road Fund
$0.0	$12,277.0	$12,425.0	$12,447.0	$12,424.0	Recurring	State Road Fund

Parenthesis ( ) indicate revenue decreases

*Note: These estimates are based on the assumption that, in FY 2018 and in the following fiscal years, the total amount in state general fund reserves will be less than 10 percent.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund/Agency Affected
Total	$700.0	$73.0	$0.0	$773.0	Nonrecurring	General Fund (TRD)

Parenthesis ( ) indicate expenditure decreases

Conflicts with SB95, SB 131, SB 132, and HB 509; related to HB 63.

SOURCES OF INFORMATION
LFC Files

Responses Received From:
New Mexico Department of Transportation (DOT)
New Mexico Municipal League
Children, Youth and Families Department (CYFD)
Taxation and Revenue Department (TRD)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 436 increases the gasoline tax by 6 cents per gallon (from 17 cents to 23 cents), and increases the special fuels tax by 6 cents per gallon (from 21 cents to 27 cents) on July 1, 2017.

The new revenue from the 6 cent increase in the gasoline and special fuels tax is permanently distributed as follows: 1) one-third to pre-kindergarten funds managed by the Public Education Department (PED) and the Children, Youth and Families Department (CYFD); 2) one-third to the local governments road fund and the state road fund; and 3) one-third to the general fund.

FISCAL IMPLICATIONS

The fiscal impact of the bill is estimated by multiplying the gallons of gasoline and special fuel forecasted by the Department of Transportation (as of January 2017) by the tax increase of 6 cents for gasoline tax and special fuels tax. The appropriate distribution percentage rates were then applied to the different funds. The bill increases overall revenue by approximately $85 million in FY18 and beyond. The bill allocates about $28.5 million per fiscal year to the general fund in a recurring distribution, and about $14 million per fiscal year to each of the PED and CYFD pre-kindergarten funds.

DOT calculates this bill increases the overall fuel tax revenue to the state road fund and the local governments road fund by about 6 percent (or $12 million) and 135 percent (or $14 million), respectively.

This bill provides for continuing appropriations to various funds. The LFC has concerns with including continuing appropriation language as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

DOT notes 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 represents a violation of the benefit principle of taxation. Since this bill diverts part of the motor fuel revenues to the state’s general fund, the public pre-kindergarten fund, and the CYFD pre-kindergarten fund, the tax proceeds source is decoupled from the traditional use of the tax, which is to facilitate road improvements.

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. The proposed tax increase would significantly increase the local government road fund, as well as the state road fund. 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 Public Education Department (PED) suggests the additional funding this bill provides to the local governments road fund could be used to construct, maintain, repair improve and pave school bus routes and parking lots. This often overlooked portion of the local government road fund is an important part of the service delivery of the state public education system. Many of the state's rural school districts have school children that ride on unimproved roads. Running a school bus on dirt, gravel, unpaved or graded roads over a long timeframe can require school buses to need replacement prior to the twelve year replacement cycle proved for in law. PED states the cost for early replacement and maintenance are not insignificant. In addition, traveling on unimproved roads can increase seat time for children travelling to and from school. It is unclear if increasing distributions to the Local Governments Road Fund would have a dollar-to-dollar impact on maintenance, rental fees or school bus replacements the Legislature appropriates yearly, as school districts have often reported these funds are underfunded at current levels. However, any improvements to school bus routes related to additional funding will positively impact school district transportation systems.

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

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.

The Taxation and Revenue Department (TRD) notes, as a per-gallon excise, gasoline taxes are regressive; 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 all personal income tax filers.

ADMINISTRATIVE IMPLICATIONS

PED indicates the revenues generated from this bill would increase the department's Pre-K funding by over two-thirds, which could result in some challenges related to scaling operations to revenues and increasing access to public Pre-K programs.

PED may face delays in expanding services quickly due to capital infrastructure needs for additional classrooms in public schools. Additionally, sourcing licensed instructors, planning for additional procurement and messaging the additional availability may all prove difficult in such a timeframe that all additional revenues could be made available. The PED Pre-K program has always prioritized high expectations of quality and service while partnering with school districts and other sub-grantees. Phasing in long term capacity, while maintaining a high quality program, is a challenge to rapid expansion of access. PED believes that sustained, long term growth of the program to expand access to Pre-K without negatively impacting program quality is the most beneficial approach to providing a high quality Pre-K program to children.

TRD does not currently charge an administrative fee on gasoline tax and special fuels tax distributions. This bill creates two new distributions that TRD would now be required to administer, thus creating a greater administrative burden and increasing the cost to its budget.

TRD foresees moderate impact to the financial distributions bureau and a high impact on the Information Technology Division, requiring a contract with FAST Enterprises and ten months to implement the changes. Therefore, TRD believes completing the changes by the effective date of July 1, 2017 is not feasible.

CONFLICT AND RELATIONSHIP

Conflicts with SB95, SB131, SB132, and HB509 which seek to increase the gasoline tax and special fuels tax by different amounts and make alternative adjustments to fuel tax distributions.

Related to HB63, which allows all local governments to raise gasoline taxes up to five cents per gallon and to impose a special fuels tax of up to five cents per gallon.

TECHNICAL ISSUES

PED indicates it is unclear if this bill will replace the below the line appropriation in FY 18, or in future years. If the provisions of this were to replace below the line funding, then overall Pre-K funding could decrease by $7 million (with current funding at approximately $21 million and the provisions of this bill providing funding of $14 million) and result in PED program staff having tough conversations regarding available funds for current staffing levels of programs. Absent any clause that indicates that the funding shall supplement and not supplant traditional revenues to the Public Prekindergarten Fund, PED indicates the provisions of this may not provide any additional funding to the Pre-K program in future years if appropriators take credit for this revenue stream to reduce General Fund appropriations below the line in future years.

Assuming that the intent of SB 436 is to change the distribution of the gasoline tax and special fuels tax based on revenues received after the July 1, 2017 tax increase, NMDOT recommends that an Applicability Section be added to the bill stating that the distribution change applies only to revenues received on or after July 1, 2017.

APPENDIX

The following pages provide graphics from DOT to illustrate New Mexico's current fuel taxes relative to other states.

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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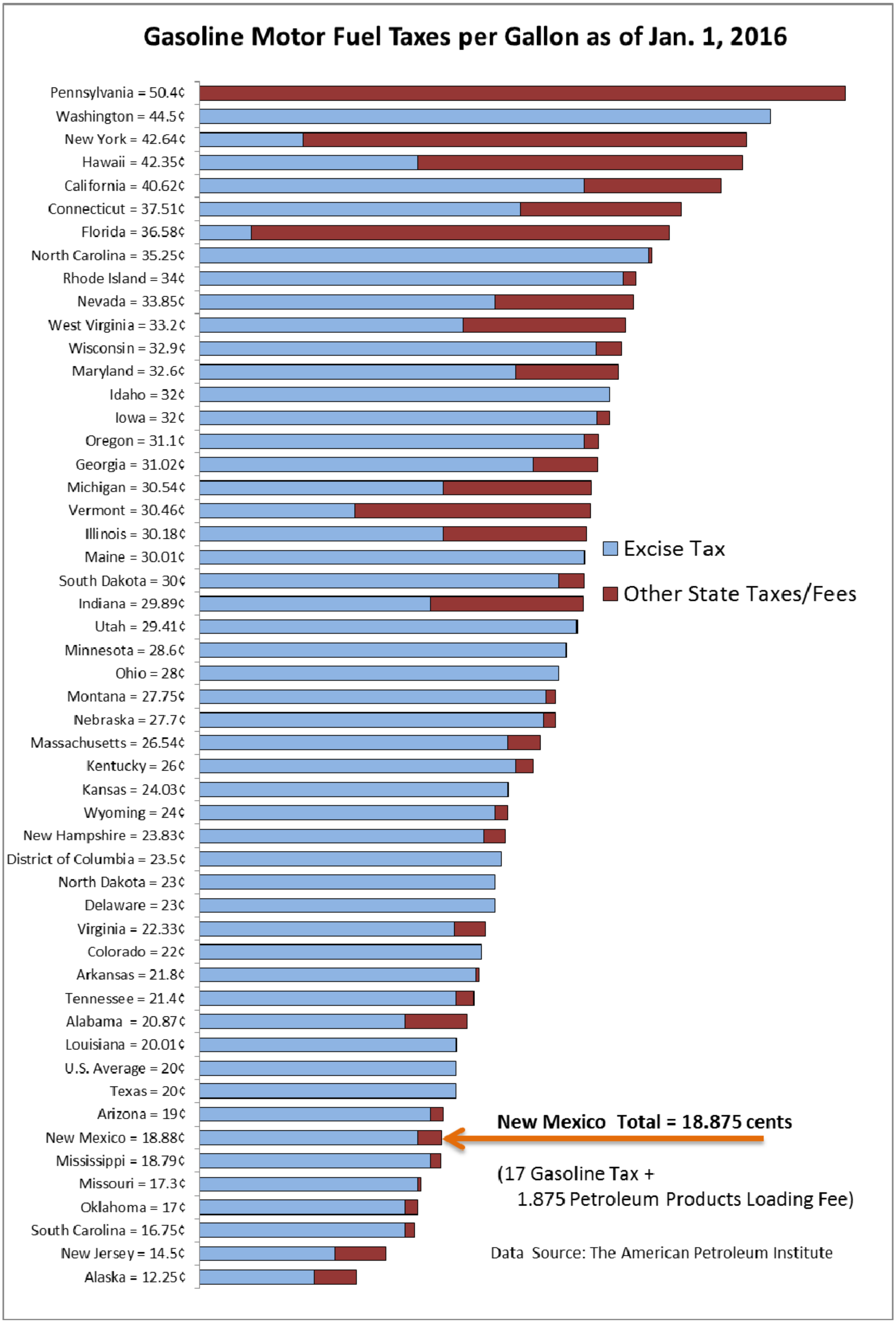
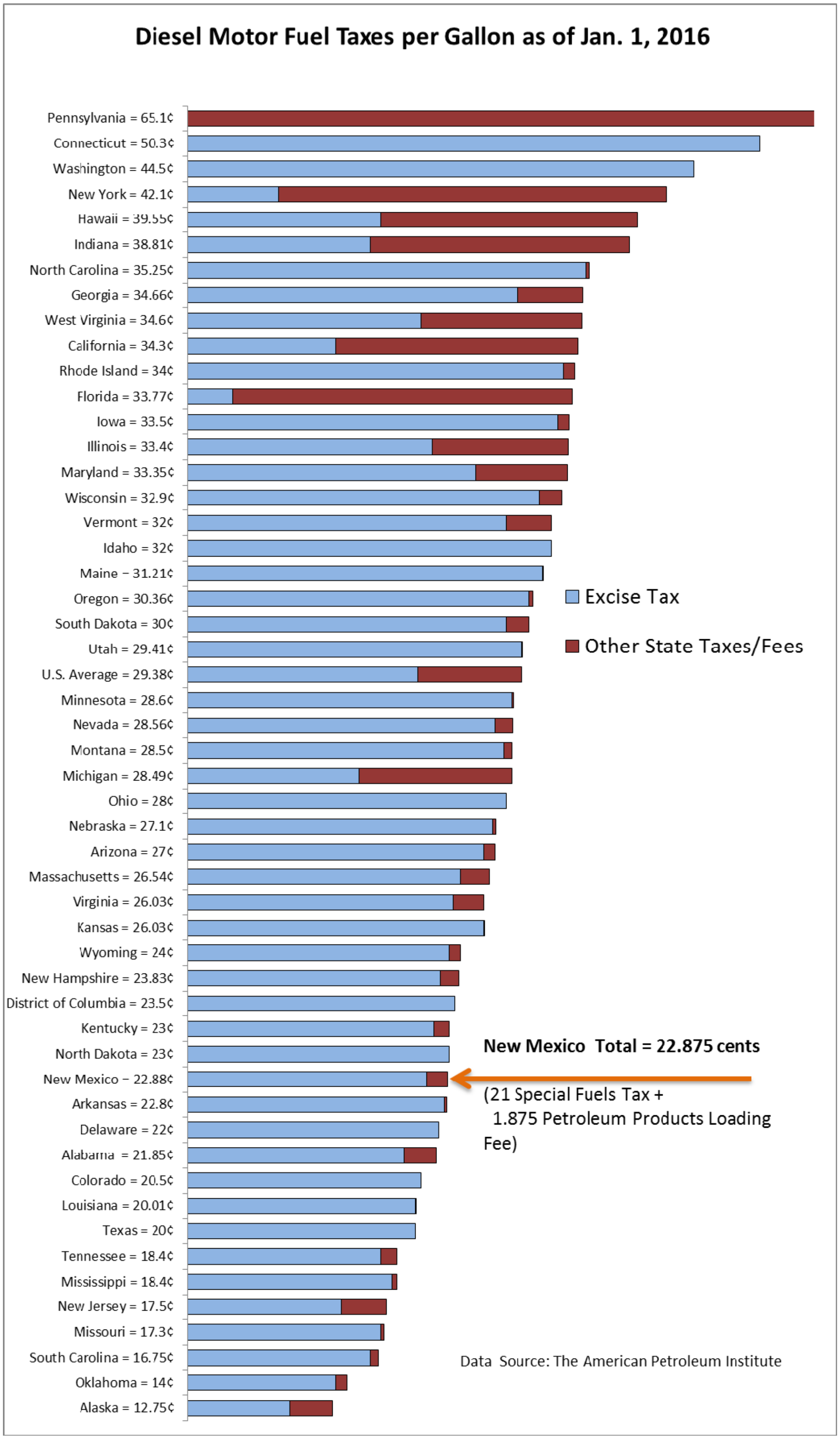

Gasoline Motor Fuel Taxes per Gallon as of Jan. 1, 2016
Pennsylvania = 50.4¢
Washington = 44.5¢
New York = 42.64¢
Hawaii = 42.35¢
California = 40.62¢
Connecticut = 37.51¢
Florida = 36.58¢
North Carolina = 35.25¢
Rhode Island = 34¢
Nevada = 33.85¢
West Virginia = 33.2¢
Wisconsin = 32.9¢
Maryland = 32.6¢
Idaho = 32¢
Iowa = 32¢
Oregon = 31.1¢
Georgia = 31.02¢
Michigan = 30.54¢
Vermont = 30.46¢
Illinois = 30.18¢
Maine = 30.01¢
South Dakota = 30¢
Indiana = 29.89¢
Utah = 29.41¢
Minnesota = 28.6¢
Ohio = 28¢
Montana = 27.75¢
Nebraska = 27.7¢
Massachusetts = 26.54¢
Kentucky = 26¢
Kansas = 24.03¢
Wyoming = 24¢
New Hampshire = 23.83¢
District of Columbia = 23.5¢
North Dakota = 23¢
Delaware = 23¢
Virginia = 22.33¢
Colorado = 22¢
Arkansas = 21.8¢
Tennessee = 21.4¢
Alabama = 20.87¢
Louisiana = 20.01¢
U.S. Average = 20¢
Texas = 20¢
Arizona = 19¢
New Mexico = 18.88¢
Mississippi = 18.79¢
Missouri = 17.3¢
Oklahoma = 17¢
South Carolina = 16.75¢
New Jersey = 14.5¢
Alaska = 12.25¢
Excise Tax
Other State Taxes/Fees
New Mexico Total = 18.875 cents
(17 Gasoline Tax + 1.875 Petroleum Products Loading Fee)
Data Source: The American Petroleum Institute



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