

ASSEMBLY, No. 3885

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 27, 2024

Sponsored by:

Assemblywoman ANDREA KATZ

District 8 (Atlantic and Burlington)

Assemblywoman HEATHER SIMMONS

District 3 (Cumberland, Gloucester and Salem)

Assemblyman CODY D. MILLER

District 4 (Atlantic, Camden and Gloucester)

Co-Sponsored by:

Assemblymen Hutchison and Bailey

SYNOPSIS

Imposes additional annual registration fee for electric vehicles; reduces rate of highway fuel taxes; authorizes DOT to conduct alternative revenue feasibility study.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the financing of transportation infrastructure in
2 the State, supplementing chapter 3 of Title 39 of the Revised
3 Statutes and P.L.1984, c.73, and amending P.L.2010, c.22 and
4 P.L.1990, c.42.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. (New section) a. As used in this section:

10 “Chief administrator” means the Chief Administrator of the New
11 Jersey Motor Vehicle Commission.

12 “Commercial electric vehicle” means any electric vehicle that is
13 operated in interstate or intrastate commerce and used for the
14 transportation of persons for hire, compensation or profit, or
15 designed or used primarily for the transportation of property.

16 “Electric vehicle” means any motor vehicle that is propelled
17 solely by an electric motor or energy storage device, which electric
18 motor or energy storage device can be charged from an electricity
19 supply external to the vehicle.

20 “Passenger electric vehicle” means any electric vehicle that is
21 not a commercial electric vehicle.

22 b. In addition to any other motor vehicle registration fees
23 imposed pursuant to the provisions of chapter 3 of Title 39 of the
24 Revised Statutes, the chief administrator shall impose and collect an
25 annual registration fee of \$300 for each passenger electric vehicle
26 during the fiscal year beginning on July 1, 2025, and each fiscal
27 year thereafter;

28 c. In addition to any other motor vehicle registration fees
29 imposed pursuant to the provisions of chapter 3 of Title 39 of the
30 Revised Statutes, the chief administrator shall impose and collect an
31 annual registration fee of \$450 for each commercial electric vehicle
32 during the fiscal year beginning July 1, 2025, and each fiscal year
33 thereafter.

34 d. (1) In the case of a new passenger or commercial electric
35 vehicle purchased or leased in the State, the fee shall be collected
36 by the person required to collect the retail sales tax imposed on that
37 motor vehicle pursuant to subsection a. of section 3 of P.L.1966,
38 c.30 (C.54:32B-3). That person shall be personally liable for
39 collecting, reporting, and remitting the fee in a manner prescribed
40 by the chief administrator.

41 (2) In the case of a new passenger or commercial electric
42 vehicle purchased or leased in a jurisdiction other than this State,
43 the fee and any forms required by the chief administrator shall be
44 remitted directly to the chief administrator. If the seller or lessor of
45 the new passenger or commercial electric vehicle in that other

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 jurisdiction is required to collect the retail sales tax imposed on that
2 electric vehicle pursuant to subsection a. of section 3 of P.L.1966,
3 c.30 (C.54:32B-3) and is authorized to apply for the issuance and
4 filing of a certificate of ownership pursuant to R.S.39:10-11, that
5 seller or lessor may collect, report, and remit the fee in a manner
6 prescribed by the chief administrator.

7 e. All revenues derived from the fee imposed pursuant to this
8 section shall be collected by the chief administrator and remitted to
9 the State Treasurer for deposit into the Transportation Trust Fund
10 Account, as required pursuant to section 20 of P.L.1984, c.73
11 (C.27:1B-20).

12 f. The chief administrator, in accordance with the provisions of
13 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), shall promulgate rules and regulations to effectuate the
15 purposes of this section.

16
17 2. Section 3 of P.L.2010, c.22 (C.54:39-103) is amended to
18 read as follows:

19 3. a. A tax is imposed on fuel used or consumed in this State as
20 follows:

21 (1) Motor fuel:

22 (a) at the rate of **10.5** 7 cents per gallon for:

23 gasoline and

24 blended fuel that contains gasoline or that is intended for use
25 as gasoline;

26 (b) at the rate of **13.5** 9 cents per gallon for:

27 diesel fuel,

28 blended fuel that contains diesel fuel or that is intended for
29 use as diesel fuel, and

30 kerosene;

31 (2) Liquefied Petroleum Gas:

32 at the rate of one-half of the tax imposed under subsection a.
33 of this section on gasoline, or **5.25** 3.5 cents per gallon;

34 (3) Aviation gasoline:

35 at the rate of 10.5 cents per gallon.

36 b. In addition to the tax, if any, imposed pursuant to subsection
37 a. of this section a tax is imposed on aviation fuel for distribution to
38 a general aviation airport at the rate of 2 cents per gallon.

39 c. The taxes imposed by this section are imposed on the
40 consumer, but shall be precollected pursuant to the terms of the
41 "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), for the
42 facility and convenience of the consumer.

43 (cf: P.L.2010, c.79, s.2)

44

45 3. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read
46 as follows:

47 3. a. (1) (a) There is imposed on each company which is
48 engaged in the refining or distribution, or both, of petroleum

1 products other than highway fuel and aviation fuel and which
2 distributes such products in this State a tax at the rate of seven
3 percent of its gross receipts derived from the first sale of petroleum
4 products within this State, and there is imposed on each company
5 which is engaged in the refining or distribution, or both, of highway
6 fuel a tax at ~~the~~ a rate ~~of 12.85 percent~~, as ~~adjusted~~
7 determined pursuant to subsection c. of this section, of its gross
8 receipts derived from the first sale of those products within this
9 State.

10 (b) The applicable tax rate for gasoline, blended fuel that
11 contains gasoline or is intended for use as gasoline, and liquefied
12 petroleum gas, which are taxed as a highway fuel pursuant to
13 subparagraph (a) of this paragraph, shall be converted to a cents-
14 per-gallon rate, rounded to the nearest tenth of a cent, and adjusted
15 quarterly by the director, effective on July 1, October 1, January 1,
16 and April 1, based on the average retail price per gallon of unleaded
17 regular gasoline in the State, as determined in the most recent
18 survey of the retail price per gallon of gasoline that includes a
19 Statewide representative random sample conducted by the Board of
20 Public Utilities, Office of the Economist, or its successor.

21 (c) The cents-per-gallon rate determined pursuant to
22 subparagraph (b) of this paragraph shall not be less than the rate
23 determined for the average retail price per gallon of unleaded
24 gasoline in the State on July 1, 2016.

25 (d) The applicable tax rate for diesel fuel, blended fuel that
26 contains diesel fuel or is intended for use as diesel fuel, and
27 kerosene, other than aviation grade kerosene, which are taxed as a
28 highway fuel pursuant to subparagraph (a) of this paragraph, shall
29 be converted to a cents-per-gallon rate, rounded to the nearest tenth
30 of a cent, and adjusted quarterly by the director, effective on July 1,
31 October 1, January 1, and April 1, based on the average retail price
32 per gallon of number 2 diesel in the State, as determined in the most
33 recent survey of retail diesel fuel prices that includes a Statewide
34 representative random sample conducted by the Board of Public
35 Utilities, Office of the Economist, or its successor.

36 Notwithstanding the provisions of subparagraph (a) of this
37 paragraph to the contrary, for the period from the 2016
38 implementation date through December 31, 2016, no rate of tax
39 shall be applied to diesel fuel, blended fuel that contains diesel fuel
40 or is intended for use as diesel fuel, or kerosene, other than aviation
41 grade kerosene; for the period from January 1, 2017 through June
42 30, 2017, the applicable rate for those fuels shall be 70 percent of
43 the rate otherwise determined pursuant to subparagraph (a) of this
44 paragraph, and for July 1, 2017 and thereafter the applicable rate for
45 those fuels determined pursuant to subparagraph (a) of this
46 paragraph.

47 (e) The cents-per-gallon rate determined pursuant to
48 subparagraph (d) of this paragraph shall not be less than the rate

1 determined for the average retail price per gallon of number 2 diesel
2 in the State on July 1, 2016.

3 (f) The applicable tax rate for fuel oil determined pursuant to
4 subparagraph (a) of this paragraph shall be converted to a cents-per-
5 gallon rate, rounded to the nearest tenth of a cent, and adjusted
6 quarterly by the director, effective on July 1, October 1, January 1,
7 and April 1, to reflect the average price per gallon, without State or
8 federal tax included, of retail sales of number 2 fuel oil in the State,
9 as determined in the most recent survey of retail diesel fuel prices
10 that included a Statewide representative random sample conducted
11 by the Board of Public Utilities, Office of the Economist, or its
12 successor.

13 (g) The cents-per-gallon rate determined pursuant to
14 subparagraph (f) of this paragraph shall not be less than the rate
15 determined for the average price per gallon, without State or federal
16 tax included, of retail sales of number 2 fuel oil in the State on July
17 1, 2016.

18 (h) On and after the 10th day following a certification by the
19 review council pursuant to subsection c. of section 19 of P.L.2016,
20 c.57 (C.52:18A-257), no tax shall be imposed pursuant to this
21 paragraph.

22 (2) (a) In addition to the tax, if any, imposed by paragraph (1)
23 of this subsection, a cents-per-gallon tax is imposed on each
24 company's gross receipts derived from the first sale of petroleum
25 products within this State on gasoline, blended fuel that contains
26 gasoline or that is intended for use as gasoline, liquefied petroleum
27 gas, and aviation fuel at the rate of **four** 2.64 cents per gallon; and

28 (b) In addition to the tax, if any, imposed by paragraph (1) of
29 this subsection, a cents-per-gallon tax is imposed on each
30 company's gross receipts derived from the first sale of petroleum
31 products within this State on diesel fuel, blended fuel that contains
32 diesel fuel or is intended for use as diesel fuel, and kerosene, other
33 than aviation grade kerosene, at the rate of four cents per gallon
34 before July 1, 2017 and at the rate of **eight** 5.3 cents per gallon on
35 and after July 1, 2017.

36 b. There is imposed on each company that imports or causes to
37 be imported, other than by a company subject to and having paid
38 the tax on those imported petroleum products that have generated
39 gross receipts taxable under subsection a. of this section, petroleum
40 products for use or consumption by it within this State a tax at the
41 rate or rates, determined pursuant to subsection a. of this section, on
42 the consideration given or contracted to be given and the gallonage
43 for such petroleum products if the consideration given or contracted
44 to be given for all such deliveries made during a quarterly period
45 exceeds \$5,000.

46 c. (1) For State fiscal years 2018 **through 2026** and each State
47 fiscal year thereafter, the rate of tax imposed on highway fuel
48 pursuant to subsection a. of this section shall be adjusted annually

1 so that the total revenue derived from highway fuel shall not exceed
2 the highway fuel cap amount calculated pursuant to this subsection.

3 (2) The State Treasurer shall **[,]**, on or before December 31,
4 2016,**]** determine the highway fuel cap amount as the sum of:

5 (a) the taxes collected for State Fiscal Year 2016 pursuant to
6 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
7 c.22 (C.54:39-103) on highway fuel**[,]**;

8 (b) the amount derived from taxing the gallonage of highway
9 fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of
10 four cents per gallon**[,]**; and

11 (c) the amount that would have been derived from taxing the
12 gallonage of highway fuel subject to motor fuel tax in State Fiscal
13 Year 2016 at the rate of 23 cents per gallon; except that

14 during State Fiscal Years 2025 and each State Fiscal Year
15 thereafter, the highway fuel cap amount shall be reduced by 33
16 percent of the amount otherwise calculated pursuant to this
17 paragraph.

18 (3) On or before August 15 of each State Fiscal Year following
19 State Fiscal Year 2017, the State Treasurer and the Legislative
20 Budget and Finance Officer shall determine the total revenue
21 derived from:

22 (a) the taxes collected for the prior State Fiscal Year pursuant to
23 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
24 c.22 (C.54:39-103) on highway fuel**[,]**;

25 (b) the revenue that would be derived from imposing the tax
26 pursuant to paragraph (2) of subsection a. of this section on
27 highway fuel at the rate of **[four]** 2.64 cents per gallon**[,]**; and

28 (c) the revenue derived from the taxation of highway fuel
29 pursuant to paragraph (1) of subsection a. of this section.

30 (4) Upon consideration of the result of the determination
31 pursuant to paragraph (3) of this subsection, and consultation with
32 the Legislative Budget and Finance Officer, the State Treasurer
33 shall determine the rate of tax to be imposed on highway fuel
34 pursuant to subsection a. of this section that will result in revenue
35 from:

36 (a) the taxes collected on highway fuel for the current State
37 Fiscal Year pursuant to paragraphs (1) and (2) of subsection a. of
38 section 3 of P.L.2010, c.22 (C.54:39-103)**[,]**;

39 (b) the revenue derived from the tax imposed pursuant to
40 paragraph (2) of subsection a. of this section on highway fuel at the
41 rate of **[four]** 2.64 cents per gallon for the current State Fiscal
42 Year**[,]**; and

43 (c) the revenue derived from the taxation of highway fuel
44 pursuant to paragraph (1) of subsection a. of this section equaling
45 the highway fuel cap amount determined pursuant to paragraph (2)
46 of this subsection, as adjusted pursuant to paragraph (5) of this
47 subsection; and that rate shall take effect on October 1 of that year.

1 (5) If the actual revenue determined pursuant to paragraph (3) of
2 this subsection exceeds the highway fuel cap amount determined
3 pursuant to paragraph (2) of this subsection, then the highway fuel
4 cap amount for the succeeding year shall be decreased by the
5 amount of the excess in setting the rate pursuant to paragraph (4) of
6 this subsection. If the actual revenue determined pursuant to
7 paragraph (3) of this subsection is less than the highway fuel cap
8 amount determined pursuant to paragraph (2) of this subsection,
9 then the highway fuel cap amount for the succeeding year shall be
10 increased by the amount of the shortfall in setting the rate pursuant
11 to paragraph (4) of this subsection.

12 (cf: P.L.2016, c.57, s.14)

13

14 4. (New Section) The State shall annually appropriate from the
15 General Fund, from the revenues collected under the "Sales and Use
16 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) for deposit into the
17 "Transportation Trust Fund Account," established pursuant to
18 section 20 of P.L.1984, c.73 (C.27:1B-20), such amounts as are
19 necessary to support all debt service obligations of the
20 Transportation Trust Fund Authority that remain outstanding for the
21 current year after all other dedicated resources have been exhausted,
22 subject to the approval of the Director of the Division of Budget
23 and Accounting in the Department of the Treasury.

24

25 5. (New section) Notwithstanding any provision of section 19
26 of P.L.2016, c.57 (C.52:18A-257) to the contrary, the amendments
27 to section 3 of P.L.2010, c.22 (C.54:39-103) in section 2 of P.L. ,
28 c. (pending before the Legislature as this bill) shall not cause the
29 review council to certify for the purposes of subparagraph (h) of
30 paragraph (1) of subsection a. of section 3 of P.L.1990, c.42
31 (C.54:15B-3) to the director that the scheduled implementation of
32 P.L.2016, c.57 (C.54:15B-13 et al.) has been impeded.

33

34 6. (New section) a. The Department of Transportation, in
35 consultation with the Transportation Trust Fund Authority and the
36 Office of Revenue and Economic Analysis in the Department of the
37 Treasury, shall conduct a study and make recommendations
38 concerning the dedication of alternative sources of revenue to the
39 Transportation Trust Fund, which revenues may be necessary to
40 offset future revenue reductions from the Motor Fuels Tax and the
41 Petroleum Products Gross Receipts Tax due to the decreased
42 consumption of gasoline, diesel, and other highway fuels. The
43 purpose of this study shall be to identify one or more sources of
44 revenue, other than the Motor Fuels Tax and the Petroleum
45 Products Gross Receipts Tax, that may be relied upon to fund the
46 Transportation Trust Fund in future years.

1 b. The department shall issue a written report of its findings and
2 recommendations pursuant to subsection a. of this section. At a
3 minimum, the report developed pursuant to this section shall:

4 (1) analyze the feasibility of dedicating alternative sources of
5 revenue to the Transportation Trust Fund to ensure that any long-
6 term reductions in revenue from the Motor Fuels Tax and Petroleum
7 Products Gross Receipts Tax do not prevent the Transportation
8 Trust Fund Authority from paying its debt service obligations and
9 funding the State’s transportation capital program. At a minimum,
10 this analysis shall examine the potential implementation of:

11 (a) a mileage-based user fee;

12 (b) an additional registration fee imposed on the owners of all or
13 some motor vehicles;

14 (c) a carbon or pollution tax;

15 (d) an additional tax or fee imposed on the electricity used to
16 charge electric vehicles;

17 (e) an increased dedication of revenue from the Sales and Use
18 Tax; and

19 (f) an increased dedication of revenue from the Corporation
20 Business Tax; and

21 (2) make recommendations for the dedication of alternative
22 sources of revenue, other than the Motor Fuels Tax and the
23 Petroleum Products Gross Receipts Tax, to the Transportation Trust
24 Fund.

25 c. No later than August 31, 2026, the department shall submit
26 the report to the Governor and, pursuant to section 2 of P.L.1991,
27 c.164 (C.52:14-19.1), to the Legislature. The department shall
28 publish an electronic copy of the report on the department’s official
29 Internet website.

30

31 7. (New section) Notwithstanding any provision of the
32 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
33 seq.) to the contrary, the Director of the Division of Taxation in the
34 Department of the Treasury shall adopt, immediately upon filing
35 with the Office of Administrative Law and no later than the 30th
36 day after the date of enactment of P.L. , c. (pending before the
37 Legislature as this bill), such rules and regulations as the director
38 deems necessary to implement the provisions of this act, which
39 regulations may thereafter be amended by the director.

40

41 8. This act shall take effect on July 1, 2024.

42

43

44

STATEMENT

45

46 This bill would ensure greater tax fairness between the owners of
47 gas powered vehicles and electric vehicles. Namely, the bill would
48 establish an additional annual registration fee for electric vehicles,

1 provide for a reduction in the State tax on highway fuels under both
2 the Petroleum Products Gross Receipts (PPGR) Tax and the Motor
3 Fuels Tax, and require the Department of Transportation to study
4 and make recommendations concerning the dedication of alternative
5 sources of revenue to the Transportation Trust Fund (TTF).

6

7 *Additional Annual Registration Fee for Electric Vehicles*

8 The bill first requires the Chief Administrator (chief
9 administrator) of the New Jersey Motor Vehicle Commission to
10 impose and collect an additional annual registration fee for each
11 passenger and commercial electric vehicle in the State. Under the
12 bill, the amount of the additional annual registration fee would be
13 \$300 for each passenger electric vehicle and \$450 for each
14 commercial electric vehicle during the fiscal years beginning on and
15 after July 1, 2025. Notably, the bill requires all revenues derived
16 from these additional registration fees to be collected by the chief
17 administrator and remitted to the State Treasurer for deposit into the
18 TTF.

19

20 *Reduction of Highway Fuel Taxes*

21 Next, the bill would enact a 33 percent reduction in the taxes
22 imposed on highway fuels under both the Motor Fuel Tax and the
23 Petroleum Products Gross Receipts Tax (PPGRT), collectively
24 referred to as the “gas tax,” beginning with State Fiscal Year 2025.
25 The bill would also permanently extend the procedure by which the
26 rate of tax imposed on highway fuels under the PPGRT is
27 calculated. Currently, the Motor Fuel Tax is fixed at 10.5 cents for
28 gasoline and 13.5 cents for diesel fuel, and the PPGR tax is set at
29 31.8 cents for gasoline and 35.8 cents for diesel fuel.

30 The Motor Fuel Tax on gasoline would be lowered from 10.5
31 cents to 7 cents per gallon, and the motor fuel tax on diesel would
32 be lowered from 13.5 cents to 9 cents per gallon. The motor fuel
33 tax on liquefied petroleum gas would likewise be lowered from 5.25
34 cents per gallon to 3.5 cents given that the tax rate for these
35 products are set at one-half of the tax imposed on gasoline.

36 Under current law, the tax rate imposed on highway fuels under
37 the PPGRT is annually adjusted by the State Treasurer to ensure
38 that the State realizes a statutorily prescribed revenue target. All
39 revenues collected are deposited into the TTF to support
40 transportation infrastructure projects and debt service on
41 transportation bonds. This annual adjustment mechanism is
42 currently set to expire at the conclusion of State Fiscal Year 2026.
43 This bill would permanently extend this annual adjustment
44 mechanism.

45 The bill also reduces the rate of tax imposed on highway fuels
46 under the PPGRT by lowering the statutorily prescribed revenue
47 target, also referred to as the “highway fuel cap amount,” by 33
48 percent. The highway fuel cap amount is based on State Fiscal

1 Year 2016 sum of: (1) the taxes collected on the 12.48 percent and
2 four cent tax rates for highway fuels taxes, (2) the amount derived
3 from taxing the gallonage of highway fuel subject to the four cent
4 motor fuel tax, and (3) the amount that would have been derived
5 from taxing the gallonage of highway fuel subject to the motor fuel
6 tax at a rate of 23 cents per gallon.

7 To ensure adequate funding for the TTF, the bill would require
8 the State to annually appropriate from the General Fund such
9 amounts as are necessary from the revenues collected under the
10 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) into
11 the TTF to support all debt service obligations of the Transportation
12 Trust Fund Authority's (TTFA) for the current year.

13

14 *Alternative Revenue Feasibility Study*

15 Finally, the bill requires the Department of Transportation
16 (department), in consultation with the TTFA and the Office of
17 Revenue and Economic Analysis in the Department of the Treasury,
18 to study and make recommendations and a report concerning the
19 dedication of alternative sources of revenue to the TTF. These
20 revenues may be necessary to offset future revenue reductions from
21 the Motor Fuels Tax (MFT) and the Petroleum Products Gross
22 Receipts Tax (PPGRT) due to the decreased consumption of
23 gasoline, diesel, and other highway fuels. The purpose of this study
24 will be to identify one or more sources of revenue, other than the
25 Motor Fuels Tax and the Petroleum Products Gross Receipts Tax,
26 that may be relied upon to fund the TTF in future years.

27 At a minimum, the report would be required to: (1) analyze the
28 feasibility of dedicating alternative sources of revenue to the TTF;
29 and (2) make recommendations for the dedication of alternative
30 sources of revenue, other than the MFT and the PPGRT, to the TTF.

31 No later than August 31, 2026, the department is required to
32 submit the report to the Governor and the Legislature as well as
33 publish an electronic copy of the report on the department's official
34 Internet website.