

# SENATE, No. 1674

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

**SYNOPSIS**

Requires Petroleum Products Gross Receipts Tax rate reduction if certain Legislative action is taken that includes increases in other State tax rates and revenue; dedicates revenues from certain sales and use tax increases to "Transportation Trust Fund Account."

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT requiring a reduction in the rate of tax imposed upon  
2 certain petroleum products if certain Legislative action is taken  
3 that includes increases in other State tax rates and revenues and  
4 dedicating revenues from certain sales and use tax increases to  
5 transportation purposes, amending P.L.1990, c.42, and  
6 supplementing Title 52 of the Revised Statutes and P.L.1966,  
7 c.30 (C.54:32B-1 et seq.).  
8

9 **BE IT ENACTED** by the Senate and General Assembly of the State  
10 of New Jersey:

11

12 1. (New section) a. The Legislative Budget and Finance  
13 Officer shall, not later than the seventh day after any Legislative  
14 action which repeals, impairs, or amends section 19 of P.L.2016,  
15 c.57 (C.52:18A-257) and increases the rate of tax imposed pursuant  
16 to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et  
17 seq.), make a fiscal estimate to be included in a certification to be  
18 provided to the Director of the Division of Taxation in the  
19 Department of the Treasury of the anticipated amount of State  
20 revenue to be generated as a result of the Legislative action which  
21 increases the rate of tax imposed pursuant to the "Sales and Use  
22 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). The fiscal estimate  
23 of the increase in State revenue pursuant to the Legislative action  
24 shall be based on the difference in total State revenue collected  
25 from the tax imposed pursuant to the "Sales and Use Tax Act,"  
26 P.L.1966, c.30 (C.54:32B-1 et seq.) during the preceding State  
27 fiscal year and the anticipated total amount of revenue to be  
28 collected attributable to the increased rate of tax during the first full  
29 State fiscal year during which the increased rate of tax is imposed.

30 b. On or before the seventh day after the Legislative Budget  
31 and Finance Officer's fiscal estimate is received by the Director of  
32 the Division of Taxation, the director may contest the fiscal  
33 estimate, in which case the director shall provide any necessary  
34 information to the Legislative Budget and Finance Officer for the  
35 purposes of recalculating the fiscal estimate.

36 c. The Legislative Budget and Finance Officer shall, after  
37 considering all information provided by the Director of the Division  
38 of Taxation pursuant to subsection b. of this section, certify the  
39 estimate to be provided to the director for the purposes of  
40 subparagraph (i) of paragraph (1) of subsection a. of section 3 of  
41 P.L.1990, c.42 (C.54:15B-3) to the director. If the director elects  
42 not to contest the fiscal estimate made pursuant to subsection b. of  
43 this section, the fiscal estimate provided pursuant to subsection a. of  
44 this section shall be certified and used by the director for the  
45 purposes of reducing the cents-per-gallon tax rate pursuant to

**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.**

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1 subparagraph (i) of paragraph (1) of subsection a. of section 3 of  
2 P.L.1990, c.42 (C.54:15B-3).

3

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

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

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

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

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

42 Notwithstanding the provisions of subparagraph (a) of this  
43 paragraph to the contrary, for the period from the 2016  
44 implementation date through December 31, 2016, no rate of tax  
45 shall be applied to diesel fuel, blended fuel that contains diesel fuel  
46 or is intended for use as diesel fuel, or kerosene, other than aviation  
47 grade kerosene; for the period from January 1, 2017 through June  
48 30, 2017, the applicable rate for those fuels shall be 70 percent of

1 the rate otherwise determined pursuant to subparagraph (a) of this  
2 paragraph, and for July 1, 2017 and thereafter the applicable rate for  
3 those fuels determined pursuant to subparagraph (a) of this  
4 paragraph.

5 (e) The cents-per-gallon rate determined pursuant to  
6 subparagraph (d) of this paragraph shall not be less than the rate  
7 determined for the average retail price per gallon of number 2 diesel  
8 in the State on July 1, 2016.

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

19 (g) The cents-per-gallon rate determined pursuant to  
20 subparagraph (f) of this paragraph shall not be less than the rate  
21 determined for the average price per gallon, without State or federal  
22 tax included, of retail sales of number 2 fuel oil in the State on July  
23 1, 2016.

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

28 (i) Notwithstanding the provisions of subsection c. of this  
29 section to the contrary, on and after the first day of the second  
30 month following the certification by the Legislative Budget and  
31 Finance Officer pursuant to subsection c. of section 1 of P.L. \_\_\_\_\_,  
32 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) to the  
33 Director of the Division of Taxation in the Department of the  
34 Treasury, the tax imposed pursuant to this paragraph shall be  
35 reduced on a cents-per-gallon basis so that the total revenues  
36 collected from the tax imposed pursuant to this paragraph are  
37 reduced by the amount of the revenue increase as provided in the  
38 certified estimate made by the Legislative Budget and Finance  
39 Officer.

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

46 (b) In addition to the tax, if any, imposed by paragraph (1) of  
47 this subsection, a cents-per-gallon tax is imposed on each  
48 company's gross receipts derived from the first sale of petroleum

1 products within this State on diesel fuel, blended fuel that contains  
2 diesel fuel or is intended for use as diesel fuel, and kerosene, other  
3 than aviation grade kerosene, at the rate of four cents per gallon  
4 before July 1, 2017 and at the rate of eight cents per gallon on and  
5 after July 1, 2017.

6 b. There is imposed on each company that imports or causes to  
7 be imported, other than by a company subject to and having paid  
8 the tax on those imported petroleum products that have generated  
9 gross receipts taxable under subsection a. of this section, petroleum  
10 products for use or consumption by it within this State a tax at the  
11 rate or rates, determined pursuant to subsection a. of this section, on  
12 the consideration given or contracted to be given and the gallonage  
13 for such petroleum products if the consideration given or contracted  
14 to be given for all such deliveries made during a quarterly period  
15 exceeds \$5,000.

16 c. (1) For State fiscal years 2018 through 2026, the rate of tax  
17 imposed on highway fuel pursuant to subsection a. of this section  
18 shall be adjusted annually so that the total revenue derived from  
19 highway fuel shall not exceed the highway fuel cap amount.

20 (2) The State Treasurer shall, on or before December 31, 2016,  
21 determine the highway fuel cap amount as the sum of:

22 (a) the taxes collected for State Fiscal Year 2016 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 amount derived from taxing the gallonage of highway  
26 fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of  
27 four cents per gallon, and

28 (c) the amount that would have been derived from taxing the  
29 gallonage of highway fuel subject to motor fuel tax in State Fiscal  
30 Year 2016 at the rate of 23 cents per gallon.

31 (3) On or before August 15 of each State Fiscal Year following  
32 State Fiscal Year 2017, the State Treasurer and the Legislative  
33 Budget and Finance Officer shall determine the total revenue  
34 derived from:

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

38 (b) the revenue that would be derived from imposing the tax  
39 pursuant to paragraph (2) of subsection a. of this section on  
40 highway fuel at the rate of four cents per gallon, and

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

43 (4) Upon consideration of the result of the determination  
44 pursuant to paragraph (3) of this subsection, and consultation with  
45 the Legislative Budget and Finance Officer, the State Treasurer  
46 shall determine the rate of tax to be imposed on highway fuel  
47 pursuant to subsection a. of this section that will result in revenue  
48 from:

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

4 (b) the revenue derived from the tax imposed pursuant to  
5 paragraph (2) of subsection a. of this section on highway fuel at the  
6 rate of four cents per gallon for the current State Fiscal Year, and

7 (c) the revenue derived from the taxation of highway fuel  
8 pursuant to paragraph (1) of subsection a. of this section equaling  
9 the highway fuel cap amount determined pursuant to paragraph (2)  
10 of this subsection, as adjusted pursuant to paragraph (5) of this  
11 subsection; and that rate shall take effect on October 1 of that year.

12 (5) If the actual revenue determined pursuant to paragraph (3) of  
13 this subsection exceeds the highway fuel cap amount determined  
14 pursuant to paragraph (2) of this subsection, then the highway fuel  
15 cap amount for the succeeding year shall be decreased by the  
16 amount of the excess in setting the rate pursuant to paragraph (4) of  
17 this subsection. If the actual revenue determined pursuant to  
18 paragraph (3) of this subsection is less than the highway fuel cap  
19 amount determined pursuant to paragraph (2) of this subsection,  
20 then the highway fuel cap amount for the succeeding year shall be  
21 increased by the amount of the shortfall in setting the rate pursuant  
22 to paragraph (4) of this subsection.

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

24

25 3. (New section) Following the enactment of P.L. ,  
26 c. (pending before the Legislature as this bill), an amount equal to  
27 the anticipated amount of State revenue to be generated as a result  
28 of any Legislative action which increases the rate of tax imposed  
29 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-  
30 1 et seq.), shall be appropriated annually by the Legislature to the  
31 "Transportation Trust Fund Account," established pursuant to  
32 section 20 of P.L.1984, c.73 (C.27:1B-20).

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34 4. This act shall take effect immediately.

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#### STATEMENT

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39 This bill requires a reduction in the Petroleum Products Gross  
40 Receipts Tax rate upon certain legislative action and is intended to  
41 keep the Legislature's promise of lower taxes. Specifically,  
42 following any Legislative action which repeals, impairs, or amends  
43 section 19 of P.L.2016, c.57, concerning a State tax review council,  
44 and increases the sales and use tax rate, the Legislative Budget and  
45 Finance Officer is required to, not later than seven days following  
46 the Legislative action, provide a fiscal estimate to the Director of  
47 the Division of Taxation in the Department of the Treasury of the  
48 anticipated amount of State revenue to be generated as a result of

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1 the Legislative action which increases the sales and use tax rate.  
2 The estimate is to be calculated based on the difference in total  
3 State revenue collected from the sales and use tax during the  
4 preceding State fiscal year and the anticipated total amount of  
5 revenue to be collected attributable to the increased tax rate.

6 The bill permits the director to contest the Legislative Budget  
7 and Finance Officer's fiscal estimate within seven days of receiving  
8 the fiscal estimate. If the director contests the fiscal estimate, the  
9 director must forward any necessary information to the Legislative  
10 Budget and Finance Officer for the purposes of recalculating the  
11 fiscal estimate. The Legislative Budget and Finance Officer is  
12 required to consider all information provided by the director for the  
13 purposes of potentially recalculating the fiscal estimate and  
14 transmitting the certification to the director. If the director does not  
15 contest the estimate, the Legislative Budget and Finance Officer's  
16 fiscal estimate is to be certified and transmitted to the director.

17 On and after the first day of the second month following the  
18 certification by the Legislative Budget and Finance Officer to the  
19 director, the Petroleum Products Gross Receipts Tax is required to  
20 be reduced on a cents-per-gallon basis so that the total revenues  
21 collected from the tax are reduced by the amount of increased sales  
22 and use tax revenue as provided in the certified estimate.

23 Further, the bill requires the Legislature to annually appropriate  
24 an amount equal to the anticipated amount of State revenue to be  
25 generated as a result of any Legislative action which increases sales  
26 and use tax rate to the "Transportation Trust Fund Account."