

Legislative Analysis



EARMARK PORTION OF SALES TAX FOR STATE TRUNKLINE FUND

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Senate Bill 351 (H-3)

Sponsor: Sen. John Proos

Senate Committee: Transportation

House Committee: Transportation

Complete to 5-3-12

SUMMARY OF SENATE BILL 351 AS REPORTED FROM HOUSE COMMITTEE 5-2-12

Senate Bill 351 (S-3) would amend Section 25 of the General Sales Tax Act (1933 PA 167) to change the current distribution of sales tax revenue. The bill would direct an amount equal to 18% of the tax collected at 4% from the sale of motor fuel from the state General Fund to transportation purposes as follows:

-- To the State Trunkline Fund (STF) "an amount sufficient to match available federal highway funds for the purpose of matching federal aid highway funds as those federal funds are made available to this state, but not less than 39.1% [of the proposed new sales tax earmark]."

-- After the distribution to the STF, any remaining balance would be distributed 66% to the county road commissions in accordance with Section 12 of 1951 PA 51, and 34% to cities and villages in the state in accordance with Section 13 of 1951 PA 51.

The distribution in the H-3 substitute differs from both the introduced and Senate-passed versions of the bill, which distributed all the earmarked funds to STF.

The bill indicates that this redirection of sales tax revenue would begin with the fiscal year ending September 30, 2013. The H-3 substitute differs from both the introduced and Senate-passed versions of the bill, which would have made the proposed redirection of sales tax revenue begin in the fiscal year ending September 30, 2011.

FISCAL IMPACT:

The total impact of the redirection in Senate Bill 351 (H-3) of sales tax attributable to gasoline and diesel motor fuel sales, from the state General Fund to the STF and local road agencies, would be approximately \$135.1 million (\$112.6 gasoline plus \$22.5 diesel.)

Michigan is one of several states to impose a sales tax on motor fuel sales, in addition to motor fuel excise taxes. Sales of motor fuels are subject to the state's 6% sales tax on retail sales, established in the General Sales Tax Act (1933 PA 167). The tax base for the

sales tax on motor fuel sales is the motor fuel retail price, including the federal excise tax, but not including the state motor fuel excise tax.

The distribution of revenue from the Michigan sales tax is earmarked, in part, in Article IX of the 1963 Constitution. Section 25 of the General Sales Tax Act reflects those constitutional earmarks as well as two additional statutory earmarks: One hundred percent (100%) of the tax at 2%, and sixty percent (60%) of the tax at 4% is dedicated by the State Constitution to the School Aid Fund. Fifteen percent (15%) of the tax at 4% is constitutionally earmarked for local revenue sharing. In addition, a portion of the sales tax on motor fuel and other automotive products is statutorily earmarked, in Section 25, Subsection (4) of the General Sales Tax Act, to the Comprehensive Transportation Fund (CTF), a state fund established in Section 10b of 1951 PA 51 for public transportation programs. This earmark is sometimes described as the "auto-related sales tax." There is also an earmark in the General Sales Tax Act, effectively \$9.0 million, to the Michigan Health Initiative Fund. The balance of sales tax revenue—the amount not otherwise constitutionally or statutorily earmarked—is credited to the state General Fund.

Senate Bill 351(H-3) would earmark an amount equal to 18% of the revenue from the sales tax imposed at 4% from the sale of motor fuel for transportation purposes as follows:

-- To the STF "an amount sufficient to match available federal highway funds for the purpose of matching federal aid highway funds as those federal funds are made available to this state, but not less than 39.1% [of the proposed new sales tax earmark]."

-- After the distribution to the STF, any remaining balance would be distributed 66% to the county road commissions in accordance with Section 12 of 1951 PA 51, and 34% to cities and villages in the state in accordance with Section 13 of 1951 PA 51.

The earmarking proposed by Senate Bill 351 would not affect the current constitutional or statutory earmarks to the School Aid Fund, constitutional revenue sharing, the CTF, or the Michigan Health Initiative Fund. The bill would redirect to the STF and local road agencies the sales tax attributable to motor fuel sales that would otherwise go to the state General Fund. To put it another way, 18% of the tax collected at 4% is effectively the amount of sales tax revenue credited to the General Fund after current constitutional and statutory earmarks.

Based on February 2012 Michigan Department of Treasury estimates, approximately 4.345 billion taxable gallons of gasoline will be consumed in Michigan in FY 2012-13. At this level of consumption, and an average pump price of \$4.00 per gallon, the sales tax on retail sales of gasoline will generate approximately \$936.9 million in state revenue.

Using the assumptions and estimates noted above, 4.345 billion taxable gallons of gasoline at an average pump price of \$4.00 per gallon, we estimate that Senate Bill 351 (H-3) would effect the redirection of \$112.6 million from the state General Fund to the STF and local road agencies.

The bill would also redirect sales tax attributable to diesel motor fuel. Consumption of diesel motor fuel is roughly 20% of gasoline consumption of gasoline (approximately 856 million gallons as compared to 4.345 billion gallons of gasoline). As a result, without accounting for variation in diesel fuel pump price, we estimate that Senate Bill 351 (H-3) would also redirect approximately \$22.5 million in sales tax attributable to diesel sales from the state General Fund to the transportation agencies.

Thus, as noted earlier, the total impact of Senate Bill 351 (H-3) redirection of sales tax attributable to gasoline and diesel motor fuel sales, from the state General Fund to the STF and local road agencies would be approximately \$135.1 million (\$112.6 gasoline plus \$22.5 diesel.)

The amount of this redirected sales tax revenue that would be allocated between the STF, county road commissions, and cities and villages cannot be readily estimated at this time. The allocation to the STF would depend on the amount of federal aid made available to the state and the related amount "sufficient to match federal aid." The department estimates the amount needed to match federal aid for the state trunkline road and bridge program for FY 2012-13 to be \$127.9 million. The amount allocated to the STF would then determine the residual amount, if any, that would be allocated to county road commissions, and cities and villages.

Note that the estimates used in this analysis are broad estimates. The actual amount of sales tax attributable to sales of gasoline, and the amount redirected to the STF and local road agencies under Senate Bill 351 (H-3), would depend on two variables: the level of motor fuel consumption and the price of motor fuel. If the actual average price of fuel remains constant and consumption falls, sales tax revenue will be less. Consumption of gasoline has declined in Michigan since a FY 2000-01 peak of 4.942 billion gallons to the current estimated consumption level of 4.345 billion gallons.

Conversely if the price of fuel rises, and consumption remains constant, then sales tax revenue and the amount of the Senate Bill 351 earmark for transportation will increase.

Some representations of state sales tax revenue distribution show that more than 100% of sales tax revenue is currently earmarked. These representations include the sales tax earmark to local units of government (statutory revenue sharing) made in the Glenn Steil Revenue Sharing Act – 21.3% of the tax collected at 4%. However, this earmark is subject to appropriation and the legislature has not appropriated the full amount of the earmark. The earmark for statutory revenue sharing is effectively treated in the same way as any discretionary General Fund appropriation.

The bill indicates that the earmark of sales tax revenue to the STF is for "*the purpose of matching federal aid highway funds as those federal funds are made available to the state.*"

For additional information on state matching funds for federal aid highway programs see: *Federal-Aid Highway Funds in State Transportation Budget* on the House Fiscal Agency website.

<http://www.house.mi.gov/hfa/PDFs/FINAL%20Transportation%20Federal%20Aid%20Analysis%20Feb%202012.pdf>

For additional information on the taxing of motor fuels, see:

Motor Fuel Taxes, Sales Tax on Motor Fuels, and Tax Collection on the House Fiscal Agency website.

<http://www.house.mi.gov/hfa/PDFs/tax%20rates%20and%20collection%202012%20update.pdf>

Computation of Sales Tax on Gasoline							
Gasoline tax revenue for FY 2012-13 *	\$825,500,000						
at 19 cents per gallon	0.19						
Taxable gallons	4,344,736,842						
Taxable base price per gallon	3.594						
Taxable base	\$15,614,984,211						
Sales tax @6%	0.06						
Sales tax revenue on gasoline sales	\$936,899,053						
Distribution:							
School Aid Fund (100% of tax at 2%)	\$312,299,684	Constitutional					
School Aid Fund (60% of 4%)	374,759,621	Constitutional					
Local revenue sharing (15% of 4%)	93,689,905	Constitutional					
Comprehensive Transportation Fund (27.9% of 25% of 4%)	43,565,806	Statutory					
Subtotal	\$824,315,016						
General Fund (balance)	112,584,036						
Total Distribution	\$936,899,053						
Tax collected at 4%	\$624,599,368						
GF/GP share of the tax collected at 4%	18.03%						
This is a rough estimate of sales tax on gasoline, and related distribution, based on estimated consumption and pump price of \$4.00 per gallon. See Section 25 of the General Sales Tax Act							
* ORTA estimate 2/9/2012							

Gas at \$4.00 per gallon	
3.410	Base retail price
0.184	Federal excise tax
3.594	Base for sales tax
0.216	Sales tax @ 6%
3.810	Subtotal
0.190	State excise tax
4.000	Pump price

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.