SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 2411

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 29, 2016

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2411 (1R), with committee amendments.

As amended, this bill adjusts certain State taxes to support strengthened investments in public and private assets in this State.

Estate Tax

The bill phases out the New Jersey estate tax over four years by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current $675,000 threshold with a "true" exclusion amount initially established at $2.0 million for decedents dying on or after January 1, 2017, and incorporating the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for decedents dying on or after January 1, 2018, and finally eliminating the estate tax for decedents dying on and after January 1, 2020. Although the federal exclusion amount for calendar year 2016 is $5,450,000, that exclusion amount will increase in calendar year 2018 and 2019 as it is subject to annual cost - of - living adjustments determined pursuant to the current federal estate law.

The current New Jersey estate tax is determined by reference to a repealed federal credit against a system of federal estate taxation that no longer exists. The former federal credit was part of a national revenue-sharing policy, no longer in effect, that was originally designed to provide to states a portion of what would otherwise have been a high-rate federal tax. Because the mechanics of the current tax are a remnant of that former federal imposition, the New Jersey estate tax is initially imposed at a rate of 37 percent until all the tax that would have been imposed on the value of the estate below $675,000 is made up. This bill eliminates that tax rate "bump" and provides a true exclusion amount by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law to eliminate the tax imposed on estate values below the statutory exclusion amount.

Under this bill, until the estate tax expires, the estate tax will be imposed on the New Jersey property of nonresident decedents. Currently, the estate tax is only imposed on the property of resident decedents. The amendment uses a "ratio" method: the estate of a nonresident computes estate tax as though a State resident, then pays the proportion of that liability that the estate's New Jersey property is of the estate's total property. This change takes effect for nonresident decedent estates on January 1, 2017.

Veteran's Personal Exemption

The bill provides an additional annual personal exemption under the New Jersey gross income tax of $3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

Personal Motor Vehicle Fuel Tax Deduction

The bill provides for an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer's motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than $100,000, and will be capped at $250 for the 2016 taxable year and at $500 for each taxable year thereafter.

Pension and Retirement Income Exclusion

The bill increases the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This will reduce the State's personal income tax on retirement income of certain retired taxpayers in this State.

Generally under current law, taxpayers with $100,000 or less of annual income, who are at least 62 years old, may claim a pension and retirement income exclusion of up to $20,000 for joint filers, $15,000 for individuals, and $10,000 for married but filing separately.

This bill increases the gross income tax pension and retirement income exclusion to $100,000 for joint filers, $75,000 for individuals, and $50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
Joint	$20,000	$40,000	$60,000	$80,000	$100,000
Individual	$15,000	$30,000	$50,000	$60,000	$75,000
Separate	$10,000	$20,000	$30,000	$40,000	$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than $100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than $100,000 but not over $125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than $125,000 but not more than $150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

Earned Income Tax Credit

The bill increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount. To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status and the number of qualifying dependents.

Petroleum Products Gross Receipts Tax

The bill provides for increases in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2.75 percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to $0.04 per gallon.

This bill increases the base rate on petroleum products, other than highway fuel and other than aviation fuel, from 2.75 percent to 7 percent of gross receipts, and increases the base rate on highway fuel from 2.75 percent to 12.85 percent of gross receipts. Under the petroleum products gross receipts tax provisions "highway fuel" means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene. The starting date of the new petroleum products gross receipts tax rates for highway fuel, other than diesel fuel, will be the "2016 implementation date," defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. The rate increase on diesel fuel will occur in two steps: (1) with 70% of the rate increase taking effect on January 1, 2017, and (2) the full rate increase effective on July 1, 2017.

The 12.85 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.85 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate increase will be zero; on and after January 1, 2017 it will be 70 percent of the 12.85 percent rate, and on and after July 1, 2017 it will be taxed at the 12.85 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined on July 1, 2016.

The bill provides a cap for the total tax on highway fuel under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer will calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This calculated amount is designated as the highway fuel cap amount.

Each fiscal year from 2018 through 2026 the State Treasurer will determine an adjusted tax rate to be imposed beginning each October 1 so that taxes collected from the motor fuels tax on highway fuel and petroleum products tax on highway fuel do not exceed the highway fuel cap amount for any fiscal year. This "true-up" provision will ensure that if the tax rates are too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil (exclusive of fuel oil used for home heating use) is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined on July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene), currently subject to a 4 cents per gallon tax, and imposed on common carriers in interstate and foreign commerce only on the "burnout" portion, will remain unchanged as imposed under current law.

<u>Review Council</u>

The bill establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both. The review council will report to the Governor and the Legislature by January 15, 2020, on the council's consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.

The review council will monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, delaying a phase-in of an increased tax exclusion, freezing a scheduled rate reduction, or repealing one of the bill's provisions), the council will certify this interference to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

As amended and reported, this bill is identical to Assembly Bill No. 12, as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) increase the annual estate tax exclusion amounts for the three years before the estate tax is eliminated. The $1,000,000 exclusion amount applicable during 2017 is increased to $2,000,000. The exclusion amounts for 2018 and 2019 are changed from $2,000,000 and $3,000,000 respectively to the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for 2018 and 2019.

(2) Add to the bill a section that provides under the New Jersey gross income tax an additional annual personal exemption of $3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

(3) Add to the bill a section that provides an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer's motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than $100,000 and will be capped at $250 for the 2016 taxable year and at $500 for each taxable year thereafter.

(4) Delete from the bill a proposed charitable contribution deduction under the New Jersey gross income tax.

(5) Change the following petroleum products gross receipts tax provisions: The amendments change the starting date of the new petroleum products gross receipts tax rates for most highway fuels from July 1, 2016 to the "2016 implementation date," defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. A phase-in for the rate increase on diesel fuel will occur in two steps: (1) with 70% of the rate increase taking effect on January 1, 2017, and (2) the full rate increase effective on July 1, 2017. The amendment changes the new tax rate on highway fuel from the 12.5 percent rate in the bill to 12.85 percent. The amendment makes a technical change to the petroleum products exemption section, replacing the undefined term "motor fuel" with the defined term "highway fuel."

FISCAL IMPACT:

The Office of Legislative Services estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between $848,200,000 to $852,700,000 in FY 2017, declining thereafter to an estimated gain of between $279,600,000 to $346,600,000 in FY 2022. The revenue reductions will be phased in over time, starting with an estimated range of revenue losses between $145,500,000 to $150,000,000 in FY 2017 and rising to an estimated range of revenue losses between $862,000,000 to $929,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of $998,200,000 and stabilizing to an estimated gain of $1,208,600,000 in FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
State Revenue Losses to General Fund (Estate Tax) and Property Tax Relief Fund:						
Estate Tax	($16,000,000)	($109,000,000)	($273,000,000)	($377,000,000)	($459,000,000)	($552,000,000)
GIT (PTRF) Vet's Excl.	$0	($23,000,000)	($23,000,000)	($23,000,000)	($23,000,000)	($23,000,000)
Fuel Tax Deduction	($7,500,000) to ($12,000,000)	($15,000,000) to ($24,000,000)	($15,000,000) to ($24,000,000)	($15,000,000) to ($24,000,000)	($15,000,000) to ($24,000,000)	($15,000,000) to ($24,000,000)
Retirement Income	$0	($60,000,000) to ($90,000,000)	($70,000,000) to ($105,000,000)	($80,000,000) to ($120,000,000)	($85,000,000) to ($130,000,000)	($135,000,000) to ($193,000,000)
EITC	($122,000,000)	($124,000,000)	($127,000,000)	($130,000,000)	($133,000,000)	($137,000,000)
Total Loss	**($145,500,000) to ($150,000,000)**	**($331,000,000) to ($370,000,000)**	**($508,000,000) to ($552,000,000)**	**($625,000,000) to ($674,000,000)**	**($715,000,000) to ($769,000,000)**	**($862,000,000) to ($929,000,000)**
State Revenue Gain to General Fund:						
12.85% PPGR	$947,600,000	$1,137,900,000	$1,137,900,000	$1,137,900,000	$1,137,900,000	$1,137,900,000
7% Non-Motor	$25,900,000	$31,100,000	$31,100,000	$31,100,000	$31,100,000	$31,100,000
4 cent/gal Diesel	$24,700,000	$39,600,000	$39,600,000	$39,600,000	$39,600,000	$39,600,000
Total Gain	**$998,200,000**	**$1,208,600,000**	**$1,208,600,000**	**$1,208,600,000**	**$1,208,600,000**	**$1,208,600,000**
Net Total State Revenue All Funds	**$852,700,000 to $848,200,000**	**$838,600,000 to $877,600,000**	**$656,600,000 to $700,600,000**	**$534,600,000 to $583,600,000**	**$439,600,000 to $493,600,000**	**$279,600,000 to $346,600,000**