



OVERVIEW

Some political speculators have suggested that an increase in the federal gasoline tax to meet the nation's staggering highway and mass transit capital investment needs as part of SAFETEA-LU reauthorization is "politically undoable." Their theory is that those who would advocate or support such an increase would do so at great political risk. A survey of state legislative actions on the motor fuel excise since 1997 conducted by the American Road & Transportation Builders Association's Economics Department demonstrates that facts do not support these claims.

ACTION IN 15 STATES

Since 1997, 15 state legislatures—Arkansas, Indiana, Kansas (2), Maine (2), Michigan, Minnesota, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota (2), Utah, Vermont, Washington and Wyoming—voted to raise their state gas tax for transportation investment purposes a total 18 times. The legislature in West Virginia voted to extend the current gas tax for six more years, and the Massachusetts General Court froze the state gas tax rate at 21 cents per gallon. The gas tax rate increases ranged from 1 cent per gallon (North Dakota) to 6 cents per gallon (Ohio). The average of all of the state highway user fee hikes was 4 cents per gallon. Connecticut lowered their gas tax by 7 cents from 32 to 25 cents a gallon, effective July 1, 2000.

The Maine legislature not only raised and indexed their annual motor fuels excise to the annual Consumer Price Index (CPI), it also increased the state's car registration fee to raise additional revenue for transportation investment. One state increase was phased in over 3 years (Utah) and one was put in place for only 17 months, then increased again two years later (South Dakota).

THE POLITICAL MIX: STRONG BIPARTISAN SUPPORT

Successful state gas tax increase votes occurred in 11 states with Republican governors, three with a Democratic governor, and one with an Independent governor. After signing these increases, the Governors of Michigan, Pennsylvania, South Dakota, Utah, Vermont and Wyoming sought another term, and all six were re-elected (Governor Dean of Vermont was re-elected twice).

While most of the votes to enact highway user fee increases were solidly bipartisan, success of such measures in Republican-controlled states is noteworthy. In 7 of the states that approved highway user fee hikes—Kansas, North Dakota, Ohio, Pennsylvania, South Dakota, Utah and Wyoming—Republicans controlled not only the governor's seat, but also both houses of the state legislature.

Although there were several close votes in several state legislatures on this issue, on average, a state motor fuel excise increase was approved by a 74 percent voting majority.

HIGHWAY USER FEE INDEXING

It should also be noted that over the time frame studied, the motor fuels excise also increased *annually* in five states—Florida, Nebraska, New York, North Carolina and Wisconsin—without legislative action. These states have a variable rate gas tax. This means that the tax rate is adjusted at a specified interval on the basis of an index or formula. (See Appendix I) In Florida and New York there are laws that automatically index the excise tax to some measure of annual inflation to help maintain the design and construction purchasing power of their state highway user fee.

There are seven states that currently have a variable rate gas tax.¹ The legislature in each state passes enabling legislation, but does not need to approve each subsequent change in the variable rate. Maine was the most recent state to adopt a variable gas tax rate, based on inflation, which came into effect in 2003.

¹ Some sources report that Delaware, Massachusetts and Rhode Island have a variable gas tax rate. However, the Rhode Island Division of Taxation reports that the indexing stopped in 1996. The Delaware

Thus, in total, between legislative actions and indexing, the motor fuels excise was increased in 26 states over the past ten years.

STATES WITH VARIABLE RATE GAS TAXES		
	RATE CHANGE 97-06	ADJUSTMENT
Florida	Yes	Annual
Iowa	Yes	Annual
Kentucky	Yes	Quarterly
Maine	Yes	Annual
Nebraska	Yes	Quarterly
New York	Yes	Quarterly
North Carolina	Yes	Semiannual
Wisconsin	Yes	Annual (until 4/1/06)

Source: FHWA Motor Fuel Report and state sources

Updated April 1, 2010

Code of Law, Chapter 51 section 5110 states that “Effective January 1, 1995, the tax shall be no more or no less than 23 cents per gallon until increased or decreased by the State.” In Massachusetts, the gas tax rate was fixed by the General Court at 21 cents per gallon in October 2000. Wisconsin had a variable gas tax rate between 1985 and April 1, 2006.

In addition, West Virginia is also listed in some sources as having a variable motor fuel tax rate. To clarify – the motor fuel tax rate in West Virginia is 20.5 cents per gallon, but the consumer sales and service tax and use tax, which is imposed on all sales of gasoline or special fuel, is a variable rate determined by the State Tax Commissioner. The most recent increase was effective January 1, 2005.

ARKANSAS

Arkansas Governor Mike Huckabee (R) and the Democratic-controlled legislature agreed to a 3-cent gas tax increase on March 26, 1999, to be phased in over three years.

Overall, H.B. 1548 raised the gasoline tax from 18.6 cents per gallon on July 1, 1999, to 21.5 cents per gallon on July 1, 2001. The governor originally proposed a 3-cent diesel fuel tax increase and a bond issue, secured by future federal highway funds, to raise money for interstate repairs. Arkansas House members from rural areas that are not served by the interstates objected and insisted something also be done for the state highway system. They pushed through the gasoline tax increase.

The fully implemented increase in the gas tax is expected to raise an additional \$60 million a year for the state highway program.

In 2002, Governor Huckabee was re-elected for a second full term.

CONNECTICUT

On August 22, 1991, a Special Session of the Connecticut General Assembly raised the gasoline tax rate in the state from 23 cents per gallon to 25 cents per gallon. The statute, Section 12-458, outlined a series of gasoline tax increases and the effective dates. Subsequent legislation has altered the statute and raised or lowered gasoline taxes in 1 to 3 cent increments.

The latest decrease, enacted on July 1, 2000, cost the state approximately \$50 million annually.

CENTS PER GALLON	EFFECTIVE DATE
26	January 1, 1992
28	January 1, 1993
29	July 1, 1993
30	January 1, 1994
31	July 1, 1994
32	January 1, 1995
33	July 1, 1995
34	October 1, 1995
35	January 1, 1996
36	April 1, 1996
37	July 1, 1996
38	October 1, 1996
39	January 1, 1997
36	July 1, 1997
32	July 1, 1998
25	July 1, 2000

FLORIDA

From 1990 to 2000, Florida's gas tax was adjusted by the percentage change "in the average of the Consumer Price Index" issued by the Department of Labor, "for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1990, and rounded to the nearest tenth of a cent."

The 1990 Florida Legislature raised the sales tax on motor and special fuel from 5.7 cents a gallon to 6.9 cents a gallon. On January 1, 1991, the rate was raised from 6.9 cents per gallon to 7.2 cents per gallon. Sales tax is also charged on motor fuel in Florida, making the combined tax rate 11.2 cents per gallon for 1991.

During the Florida Legislature session in 2000, language was passed changing the base rate of the gas tax to the 12-month period ending September 30, 1999. Thus changes in the CPI index are added to the 1999 base rate calculation for each year's gas tax rate.

INDIANA

On June 28, 2002, Governor Frank O'Bannon (D) signed a budget and tax bill that included a 3-cent increase in Indiana's gas tax from 15 to 18 cents per gallon. The Indiana House and Senate passed the legislation (H.B. 1001) during a special session on June 22 and June 21, respectively. The House passed the measure 51 to 45, and the Senate passed the bill 33 to 15. The Democratic House Ways and Means Chairman, B. Patrick Baueur, authored the legislation. This was Indiana's first gas tax increase in 14 years.

The new rate will become effective on January 1, 2003.

The new tax is expected to raise about \$99 million per year for road projects throughout the state. The state will receive approximately two-thirds of the new money, and smaller city and county departments will realize the rest, approximately \$33 million per year.

Originally, many state and local officials supported a 7 to 10 cent gas increase. The last increase in the gas tax, in 1988, added one cent that was earmarked for the state budget alone. According to one official, "Local government cannot wait another 17 years for more road dollars. We will be back this fall with a renewed effort to raise the gas tax (again)."

KANSAS

The 2-cent per gallon increase in the Kansas gas tax, raising the rate to 23 cents per gallon for gasoline and 25 cents for diesel, went into effect on July 1, 2002. Governor Graves (R) signed the authorizing legislation on May 29, 2002. The vote in the legislature was close- the House approved the bill 64 to 57 with four Representatives absent or not voting. The Senate approved the measure 22 to 17, with one Senator absent or not voting. The extra money will be used for highway funding.

In addition to the gas tax increase, the plan also raised vehicle registration fees by \$5 for most cars, light trucks and sport utility vehicles. Additional increases include \$2 to \$10 for other vehicles, depending on weight and classification.

The 2-cent increase is in addition to a gradual 4-cent increase passed in 1999, under which there is still a one-cent increase in the gas tax slated for July 1, 2003. The gas tax will decrease to 18 cents per gallon on July 1, 2020. The 1999 increase was passed on April 30, 1999, increasing the gas tax by 2 cents July 1, 1999, 1-cent July 1, 2001, and 1 cent July 1, 2003. The first increase was from 18 to 20 cents per gallon, effective July 1, 1999.

In 2000, Republicans widened their majority in each chamber of the state legislature.

The overall 4-cent increase is estimated to bring in \$615 million over 10 years for the state infrastructure plan. In March 2001 Governor Graves had asked the legislature to send him a bill that would fund his education plan by higher sales and motor fuel taxes. Graves wanted the 1-cent increase, scheduled to come into effect July 1, 2001, to be dedicated to the education plan. His plan was turned down by the Legislature. Governor Graves, who was term-limited, finished his second term in 2003 and now serves as President and CEO of the American Trucking Association.

MAINE

On June 6, 1999, Governor Angus King (I) signed a bill increasing the state gas tax by 3-cents. Combined with an increase in car registration fees from \$23 to \$25 dollars, revenues would increase approximately \$35 million annually.

In April 2002 the Maine Legislature narrowly approved a measure to link the gas tax to inflation. Indexing will begin in 2003. On July 1, 2003 the gas tax will increase from 22 cents to 24.6 cents per gallon, reflecting the 11.8 percent rise in CPI over the past three years.

According to Maine statute 3321 the rate will be calculated as follows: "On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index as computed in subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation."

MASSACHUSETTS

In October 2000, the Massachusetts General Court fixed the state gas tax rate at 21 cents per gallon in the FY 2001 budget, however, because of the General Laws of Massachusetts, there is some confusion over the rate. Before the fixed rate, the gas tax rate was 19.1 percent of the average price of gasoline, with a minimum of 21 cents. However, the rate never rose above the minimum 21 cents per gallon.

The 21 cents per gallon rate was fixed in Chapter 159, Section 126 of the Acts and Resolves of 2000, which was the fiscal year 2001 budget.

In the General Laws of Massachusetts, Chapter 64A is dedicated to the "Taxation of the Sales of Gasoline." Section 3A of Chapter 64A states:

Section 3A. The commissioner shall, before the commencement of each calendar quarter, determine the average price of fuel and the tax per gallon to be applicable for each of the three months in the ensuing calendar quarter; and shall notify every distributor, unclassified importer and unclassified exporter of the tax per gallon that shall apply for such calendar quarter.

Because of this section, some sources say that Massachusetts has a variable gas tax rate. However, according to the Massachusetts Department of Revenue, the actual rate is defined in Chapter 64A, Section 1 (Definitions), paragraph L:

"Tax per gallon", shall be 21 cents per gallon. For aviation fuel, "tax per gallon" shall mean seven and one-half percent of the average price, as determined by the commissioner for each calendar quarter, computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be less than ten cents per gallon.

MICHIGAN

On July 16, 1997, Michigan raised the gasoline tax by 4 cents to raise money for road repairs. The gas tax increase was estimated to bring in an extra \$200 million in annual revenue. Michigan's gas tax has not increased since 1997, remaining at 19 cents per gallon. In 1998, Governor Engler (R) was re-elected, winning 62 percent of the vote.

An August 1997 report by the Michigan House Legislative Analysis Section estimated that while Michigan's nominal gasoline tax rate remained at 15 cents, the real tax rate, accounting for inflation, was just over 10 cents a gallon (in 1983 dollars). Real revenues from motor fuel taxation dropped from \$573 million (1983-84) to less than \$505 million (1993-94). Prior to the 1987 gas tax increase, Michigan enacted two-cent hikes in 1983 and 1984.

Other measures included a 30 percent increase in truck registration and weight fees and a one-time withdrawal of \$69 million from the state's Budget Stabilization Fund.

In general, the gas tax revenues collected from Michigan drivers are deposited in the Michigan Transportation Fund as follows:

- 2% to Recreation Improvement Fund;
- \$5 million to Critical Bridge Fund;
- \$3 million to Rail Grade Crossing Account;
- Transportation Economic Development Fund;
- 10% earmarked to Comprehensive Transportation fund;
- of remainder,
- 39.1% to State Trunkline Fund;
- 39.1% to county road commissions;
- 21.8% to cities and villages.

State fuel tax collections for 1999-2000 were \$930.7 million, or \$48.9 million per 1 cent.

MINNESOTA

The Minnesota Legislature overrode a veto from Governor Tim Pawlenty on February 25, 2008 to pass a 5 cent gas tax increase as part of a transportation finance package. H.F.2800 provides \$6.6 billion for roads, bridges and transit over a ten year period. In addition to the gas tax increase, the legislation authorizes \$1.8 billion in trunk highway bonds for fiscal years 2009 to 2018.

The new law provides additional funding options for local governments and counties. Metropolitan counties are authorized to impose a metropolitan transportation sales tax of 0.25 percent and other counties can impose a local transportation sales tax of 0.5 percent.

NEBRASKA

According to Nebraska State Statute 66-4,144, section 2, the "rate of excise tax shall be an amount sufficient to meet the appropriations made from the Highway Cash Fund by the Legislature." The Director-State Engineer certifies the rate after the Legislature appropriates expenditures from the Highway Cash Fund.

NEW MEXICO

The slight change in New Mexico's gasoline tax, effective October 1, 1998, is due to a decrease in the state's Petroleum Products Loading Fee. Any change in the gas tax rate that occurs in October is due to an alteration in this fee, which ranges from \$80 per 8,000 gallons to \$150 per 8,000 gallons.

NEW YORK

Under the New York State Tax Law, the gasoline tax rate is adjusted annually. There is a basic 8 cents per gallon excise tax and a 0.05-cent petroleum testing fee that are not adjusted. The second component of the gas tax, the petroleum business tax, is equal to a base rate of 7.2 percent of gross receipts from petroleum sales. That figure is then adjusted annually for inflation.

To adjust the tax rate for inflation, the base rate of the petroleum business tax is multiplied by a fraction. Since 1996, the state has calculated the fraction according to the same formula. The fraction numerator is the sum of the monthly producer price index "refined petroleum products," published by the Bureau of Labor Statistics. The consecutive 12-month period ending with the month of August from the immediately preceding year is used. The 12-month sum of the index ending in August of the prior year is used for the denominator. Each January the rate change cannot be greater than five percent of the rate in effect for the previous year.

New York has been using this process to account for inflation in the state's gas tax since 1991.

NORTH CAROLINA

North Carolina's tax rate is a combination of a flat tax rate of 17.5 cents per gallon plus a variable wholesale component. The variable wholesale component is either 3.5 cents a gallon or 7% of the average wholesale price of motor fuel, whichever is greater.

The tax rate is set twice a year based on the wholesale price for each period. The two periods end September 30 and March 31.

The variable gas tax rate became effective on July 15, 1986. At that time the tax rate was 14 cents per gallon plus 3% of the average wholesale price. On August 1, 1989 the tax rate was changed to 17 cents per gallon plus 7% of the average wholesale price. Finally, effective January 1, 1992, the tax rate was again raised to 17.5 cents per gallon and 7% of the average wholesale price. In addition, every gallon of motor fuel includes a .25 cents per gallon inspection tax.

NORTH DAKOTA

North Dakota passed two measures in 1999 to both maintain the gas tax level and raise the rate by 1-cent per gallon. Both bills were needed to make sure the state would qualify for federal highway matching funds under T-21.

On April 22, 1999, North Dakota Governor Edward Schafer (R) signed H.B. 1183 into law, raising the gas tax from 20 to 21 cents per gallon. The Governor had earlier signed a bill to ensure that the tax rate would stay at 20 cents per gallon. Without the new legislation, the tax rate was supposed to revert to 17 cents per gallon in 2000.

The 1-cent increase was expected to raise \$5 million in annual revenues. Without the increase, the state would have been about \$20 million short in meeting the minimum federal match under TEA-21, which would have cost the state \$80 to \$90 million of federal highway funds.

Throughout the mid to late 1990s, changes in the gasoline tax rate in North Dakota have been linked with federal highway funds. Governor Schafer signed H.B. 1094 on April 7, 1995, which tied gasoline tax increases over the next two years to federal funding. Under H.B. 1094 the state could raise the tax rate by 1-cent if the federal government provided the state with \$84 million in highway funds. A second 1-cent increase would take effect if the federal government provided \$93.5 million in funds, and a third 1-cent increase would occur if the state received \$102 million in funds.

Governor Schafer also signed H.B. 1163 on April 8, 1997, making the state's 20-cent per gallon gasoline tax permanent. The previous gas tax legislation passed in 1995 would have reduced the tax rate to 19 cents per gallon on July 1, 1997. Under the current law (Statute 57-43.1-02) the rate is set at 21 cents per gallon with no future rate change scheduled.

OHIO

On March 31, 2003, Governor Bob Taft (R) signed H.B. 87 into law—a 6 cent-per-gallon gas tax increase to be phased in over a three-year period. The measure was part of a larger transportation bill that is expected to raise \$250 annually for the Ohio Department of Transportation New Construction program and an additional \$289 million each year for Ohio's cities, counties and townships.

In addition to the higher gas tax, the fees for a driver's license, renewable every four years, will increase by \$12 to \$23.75, and annual Toledo vehicle registration fees will climb by \$11 to \$54.25. The current 3-cent per gallon surcharge truckers pay for diesel fuel in addition to the current gas tax will be eliminated at the rate of 1 cent in 2005 and 2 cents in 2006.

The first gas tax increase of 2 cents per gallon went into effect on July 1, 2003. The second 2-cent per gallon increase was on July 1, 2004, despite efforts in the Ohio Legislature to delay the enforcement for one year. Although the bill to delay the second increase, H.R. 458, was buried in committee, analysis of the pending legislation mentioned H.B. 87 and the third scheduled increase. According to the legislative analysis, "the third increase will not take effect if the Director of Transportation finds that 95% of the federal fuel tax revenue collected in Ohio is returned to Ohio for basic highway programs and that Ohio no longer receives a net loss of federal fuel tax revenue because of federal tax incentives for ethanol- or alcohol-based fuels."

H.B. 87 passed the House 62 to 33, and the Senate by a vote of 20 to 12. Both chambers of the Ohio legislature have Republican majorities.

PENNSYLVANIA

On April 17, 1997 Governor Thomas Ridge (R) signed a controversial bill that increased the gas tax by 3.5 cents. At the time the state had a \$370 million budget surplus that was expected to grow. Ridge was criticized for raising taxes in the face of a surplus. However, the Governor said that the increase was needed for long-term maintenance of the road system. To reach a compromise, the legislature included a \$150 million commitment to mass transit throughout the state. Half of that amount was guaranteed funding. The bill was expected to produce \$404 million annually for highway and bridge maintenance and construction. In Pennsylvania, the gas tax is the sole source of funding for highway repair.

In 1998, Governor Ridge was re-elected, winning 57 percent of the vote.

According to the enabling legislation in the Pennsylvania Consolidated Statutes (Chapter 90 of Title 75, Vehicle Code), a "permanent state tax of 12 cents a gallon, or fractional part thereof, is imposed and assessed upon all liquid fuels and fuels used or sold and delivered by distributors within this Commonwealth."

In addition to this permanent tax, an Oil Company Franchise Tax is also levied on liquid fuels on a cents-per-gallon equivalent basis. This rate is variable, based on the amount of petroleum sold by a business in Pennsylvania. (Chapter 95 of Title 75, Vehicle Code)

According to the statute, the state will place an "excise tax of 60 mills upon each dollar of its petroleum revenues for the privilege of exercising its corporate franchise or of doing business, or of employing capital, or of owning or leasing property in this Commonwealth in a corporate or organized capacity, or of maintaining an office in this Commonwealth, or of having employees in this Commonwealth, for all or any part of any calendar year."

The provision continues to explain how the money from the Oil Company Franchise Tax is distributed and earmarked:

2. An additional 55 mills is hereby imposed on each dollar of petroleum revenues the proceeds of which shall be distributed as follows:
 - i. Forty-two percent to county maintenance districts for highway maintenance. This allocation shall be made according to the formula provided for in section 9102(b)(2) (relating to distribution of State highway maintenance funds). This allocation shall be made in addition to and not a replacement of amounts normally distributed to county maintenance districts under section 9102.
 - ii. Seventeen percent for highway capital projects.
 - iii. Thirteen percent for bridges.
 - iv. Two percent for bridges identified as county or forestry bridges.
 - v. Twelve percent for local roads pursuant to section 9511(c) (relating to basic allocation to municipalities).
 - vi. Fourteen percent for toll roads designated pursuant to the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, to be appropriated under section 9511(h).

RHODE ISLAND

On June 12, 2002, the Rhode Island House and Senate overrode a veto by Governor Lincoln Almond (R) on House bill 7732, an appropriations act for fiscal year 2003 that includes a 2-cent increase on all motor fuel taxes. However, revenues from the gas tax increase will be directed to the general fund.

On June 6, 2002, Governor Almond vetoed the budget, calling it "a fiscal nightmare, a policy disaster and constitutional crisis." He said that among other things, raising the gas tax will "leave future leaders with few options for revenue generation ..."

H.B. 7732 enacted changes in the disposition of gas tax funds. Originally the governing statute said that in fiscal year 2003, no funding from the gas tax would be available for general revenue. In fiscal year 2002, one-fourth cent (\$0.0025) was directed to the general revenue fund. Under the new statute, in fiscal year 2003 two and one-fourth cent (0.225) will go to general revenue.

Early reports about the budget proposal mentioned that the extra money raised from the tax would be used to shore up the state's education-aid package, which many legislators consider to be inadequate.

SOUTH DAKOTA

In a special session on April 14, 1997, South Dakota Legislators approved an increase in the gasoline tax from 18 to 21 cents per gallon for a period of 17 months. This move came just weeks after the Governor's proposal for a gas tax increase died in the House. In 1998, Governor Janklow (R) was re-elected, winning 64 percent of the vote.

The hike was expected to raise \$24.6 million in new revenues. Of the new revenues, \$16 million will be dedicated to repairing state roads and matching federal funds for other road repair. Up to \$8 million will be dedicated to local governments.

South Dakota passed a second gas tax increase in March 1999 to ensure the state would receive full funding under T-21. The tax rate increased from 18 to 22 cents under the new legislation. The increased tax would generate approximately \$20.4 million in new revenues per year.

UTAH

The Utah legislature and Governor Michael Leavitt (R) reached an agreement for a 5 cent per gallon gas tax increase to fund the state's proposed 10-year \$3.6 billion transportation investment plan. The higher gas tax revenues would generate approximately \$57.5 million per year, or \$2.6 billion over the 10-year period.

Governor Leavitt was re-elected in 2000, winning 56 percent of the vote.

VERMONT

On June 26, 1997 the Vermont legislature approved a four-cent gas tax increase to 19 cents a gallon. The increase was passed in H.527, the Equal Educational Opportunity Act of 1997.

In 1998 and 2000, Governor Dean (D) was re-elected by margins of 15 percent and 12 percent, respectively.

WASHINGTON

Governor Gary Locke (D) signed H.B. 2231 on May 20, 2003, raising the state gas tax from 23 to 28 cents per gallon, effective July 1, 2003.

The Washington Senate passed the legislation April 26 by a vote of 38 to 11. The House of Representatives approved the Senate amended version 60 to 38. The 5-cent per gallon increase was part of a larger \$4.2 billion 10-year transportation plan, and is set to expire when the bonds from all 2003 projects are set to expire. The plan also included a 15 percent increase in truck weight fees and a three-tenths of a percent increase in the automobile sales tax.

WEST VIRGINIA

On May 7, 2001 Governor Bob Wise (D) signed S.B. 1001 to extend the current gas tax rate of 20.5 cents per gallon for six more years. The rate was scheduled to drop back to 15.5 cents per gallon on August 1, 2001. The original 5-cent per gallon increase, passed 1993, was earmarked for matching federal highway funding. However, the 2001 legislation does not direct the funds to federal matching. All revenues from the gas tax are deposited into the State Road Fund for construction, maintenance and repair of highways; federal funds matching; and payment on State bonds issued for highway purposes.

The West Virginia Senate passed the bill 33 to 1 in a roll call vote. The West Virginia House approved the measure by a voice vote.

WISCONSIN

Wisconsin began indexing the state gas tax in 1985 to maintain the purchasing power of the Transportation Fund. Since 1997 the automatic annual adjustments have been based on the inflation rate as measured by the Consumer Price Index. In 2005, the legislature voted to end the automatic indexing, with the last change in effect April 1, 2006. The Wisconsin Department of Administration estimates the change will cost the Department of Transportation \$5.1 million in FY 2007, \$26.0 million in FY 2008 and \$41.9 million in FY 2009.

WYOMING

In July 1998 the Wyoming Legislature raised the gas tax from nine to 14 cents. Two cents of the increase goes to the state's school foundation program. This will occur until the amount totals \$20 million, which was expected to happen in the first two years of the tax. The state highway fund was set to receive about \$11 million a year. After the \$20 million point was reached for schools, all of the revenue raised by the gas tax increase, approximately \$10 million a year, went to roads.

In 1998, Governor Geringer (R) was re-elected, winning 56 percent of the vote.

APPENDIX I – VARIABLE GAS TAX RATES

FLORIDA

Florida's gas tax is adjusted annually by the percentage change in the average of the Consumer Price Index issued by the U.S. Department of Labor of the most recent 12-month period ending September 30, compared to the base year average of the year ending September 30, 1990.

IOWA

The gas tax in Iowa is based on the sale of ethanol-blended gasoline. According to the Iowa Code, "The rate of the excise tax shall be based on the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel distributed in this state." This distribution percentage determines the rate of the gas tax.

If the distribution percentage is less than fifty percent, the gas tax is 19 cents for ethanol-blended gasoline and 20 cents for other motor fuel. As the percentage distribution increases, meaning the distribution of ethanol blended gasoline increases, the tax rate levied on motor fuel rises. For example, if the distribution percentage is greater than 70 percent, but not over 75 percent, the tax rate on ethanol-blended gasoline is 19 cents, and the tax rate on all non-ethanol blended fuel is 21 cents.

KENTUCKY

Kentucky has a two-part variable gas tax rate with a minimum combined tax rate of 15 cents per gallon. The first part is an excise tax of 9 percent of the average wholesale price of gas. This rate cannot fall below 10 cents per gallon. The weighted average wholesale price is determined the first month of each quarter, and then applies to the entire next quarter.

In addition, the State collects a "supplemental highway user motor fuel tax" that is paid in conjunction with the first excise tax. This portion takes the excise tax (9 percent of the average wholesale price) and adjusts the calculated tax for each quarter to "reflect decreases in the average wholesale price." However, this tax cannot be greater than 5 cents per gallon, and the tax for any quarter cannot be less than the previous quarter. In effect, the supplemental highway user motor fuel tax has become a flat rate of 5 cents per gallon. In the Kentucky Revenue Cabinet's "2001 Tax Facts" publication, the Department describes the supplemental tax as "a flat 5 cents per gallon."

MAINE

The state gas tax in Maine will be indexed for inflation beginning in 2003. On July 1, 2003 the gas tax will increase from 22 cents to 24.6 cents per gallon, reflecting the 11.8 percent rise in CPI over the past three years.

According to Maine statute 3321 the rate will be calculated as follows: "On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index as computed in subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation."

NEBRASKA

The motor fuel tax in Nebraska is composed of two parts that cover funding for the Highway Cash Fund and any debt service requirements. The first portion is set to meet the debt service requirements of bonds that have been issued for transportation. The Director-State Engineer "shall certify to the department the excise tax rate to be imposed ... for each year during which such bonds are outstanding necessary to provide in each such year money equal in amount to not less than one hundred twenty-five percent of such year's bond principal and interest payment requirements."

The second component is to "insure that there is maintained an adequate Highway Cash Fund balance to meet expenditures from such fund as appropriated by the Legislature." According to Nebraska law, "The rate of excise tax shall be an amount sufficient to meet the appropriations made from the Highway Cash Fund by the Legislature." The Director-State Engineer also certifies this rate.

Twice a year the rate is examined and adjusted if the actual receipts received to date and any projections of deposits are less than 99 percent or greater than 102 percent of the appropriations.

NEW YORK

Under the New York State Tax Law, the gasoline tax rate is adjusted annually. There is a basic 8 cents per gallon excise tax and a 0.05-cent petroleum testing fee that are not adjusted. The second component of the gas tax, the petroleum business tax, is equal to a base rate of 7.2% of gross receipts from petroleum sales. That figure is then adjusted annually for inflation.

To adjust the tax rate for inflation, the base rate of the petroleum business tax is multiplied by a fraction. Since 1996, the state has calculated the fraction according to the same formula. The fraction numerator is the sum of the monthly producer price index "refined petroleum products," published by the Bureau of Labor Statistics. The consecutive 12-month period ending with the month of August from the immediately preceding year is used. The 12-month sum of the index ending in August of the prior year is used for the denominator. Each January the rate change cannot be greater than five percent of the rate in effect for the previous year.

NORTH CAROLINA

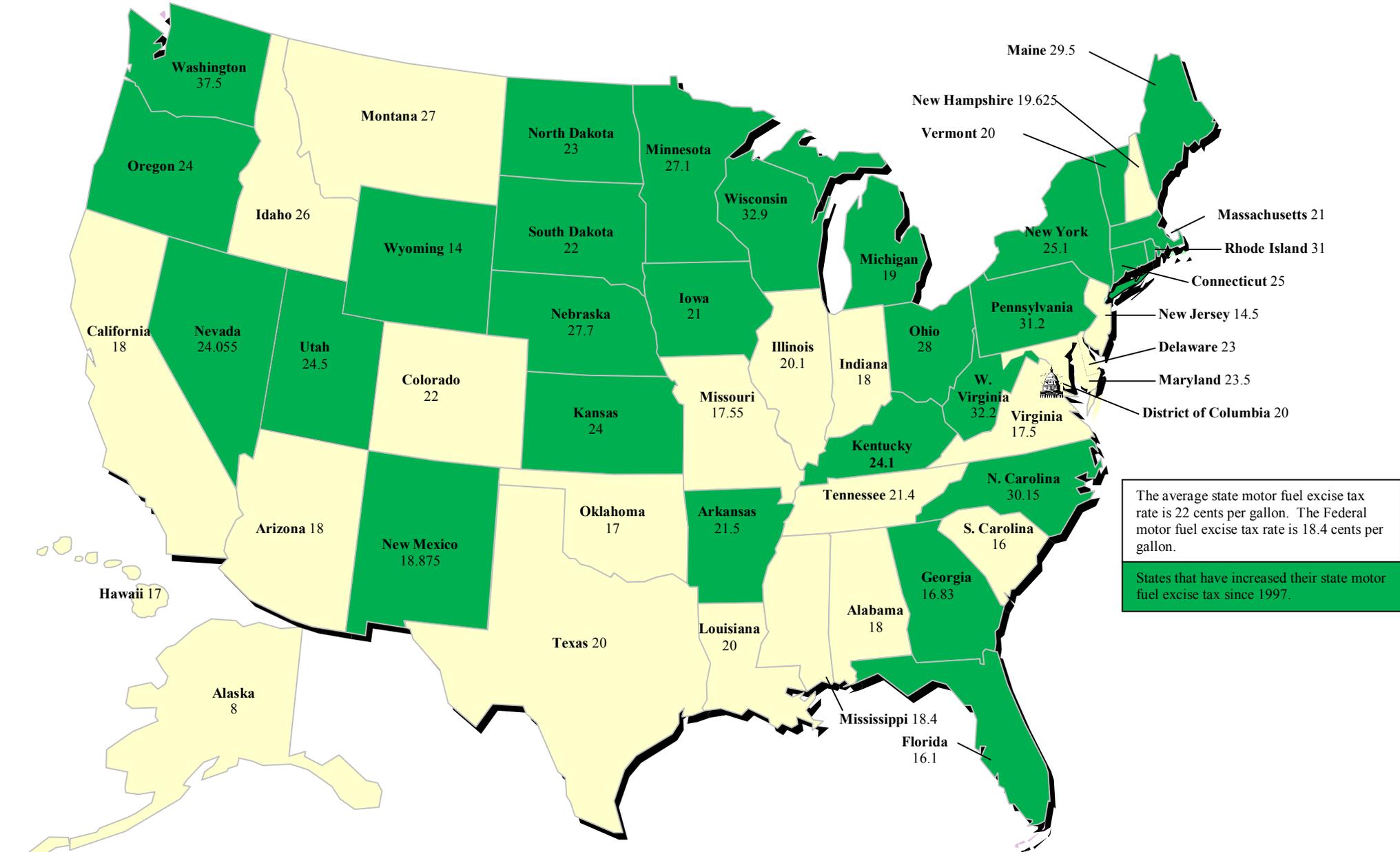
North Carolina's tax rate is a combination of a flat tax rate of 17.5 cents per gallon plus a variable wholesale component. The variable wholesale component is either 3.5 cents a gallon or 7% of the average wholesale price of motor fuel, whichever is greater.

State Tax Rates on Motor Fuel

2010 Motor Fuel Tax Rates					
	Excise Tax	Other Fees	Total	Other Fees Description	Effective Date
Alabama	16	2	18	Inspection fee	
Alaska	8		8		
Arizona	18		18		
Arkansas	21.5		21.5		
California	18		18		
Colorado	22		22		
Connecticut	25		25		
Delaware	23		23		
Dist. of Col.	20		20		
Florida	4	12	16.1	Sales tax	1/1/2010
Georgia	7.5	9.3	16.83	Sales tax	1/1/2010
Hawaii	17		17		
Idaho	25	1	26	Clean water tax	
Illinois	19	1.1	20.1	Sales tax, environmental and LUST fee	
Indiana	18		18		
Iowa	21		21		7/1/2008
Kansas	24		24		
Kentucky	22.7	1.4	24.1	Environmental fee	1/1/2010
Louisiana	20		20		
Maine	29.5		29.5		1/1/2010
Maryland	23.5		23.5		
Massachusetts	21		21		
Michigan	19		19		
Minnesota	27.1		27.1		
Mississippi	18	0.4	18.4	Environmental fee	
Missouri	17	0.55	17.55	Inspection fee	
Montana	27		27		
Nebraska	26.8	0.9	27.7	Petroleum fee	1/1/2010
Nevada	24	0.055	24.055	Inspection fee	
New Hampshire	18	1.625	19.625	Oil discharge cleanup fee	
New Jersey	10.5	4	14.5	Petroleum fee	
New Mexico	17	1.875	18.875	Petroleum loading fee	
New York	8	16.4	24.4	Petrol Tax	1/1/2010
North Carolina	30.3	0.25	30.55	Inspection tax	1/1/2010
North Dakota	23		23		
Ohio	28		28		7/1/2005
Oklahoma	16	1	17	Environmental fee	
Oregon	24		24		
Pennsylvania	12	19.2	31.2	Oil franchise tax	1/1/2009
Rhode Island	30	1	31	LUST tax	
South Carolina	16		16		
South Dakota	22		22		
Tennessee	20	1.4	21.4	Petroleum Tax & Envir. Fee	
Texas	20		20		
Utah	24.5		24.5		
Vermont	19	5.5	24.5	Petroleum cleanup fee	1/1/2010
Virginia	17.5		17.5		
Washington	37.5		37.5		1/1/2010
West Virginia	20.5	11.7	32.2	Sales tax	
Wisconsin	30.9	2	32.9	Petroleum Inspection fee	
Wyoming	13	1	14	License tax	

Source: State Sources and Federation of Tax Administrators

State Motor Fuel Tax Rates*—cents per gallon As of January 1, 2009



The average state motor fuel excise tax rate is 22 cents per gallon. The Federal motor fuel excise tax rate is 18.4 cents per gallon.

States that have increased their state motor fuel excise tax since 1997.

Source: State Department of Revenue Sources and the Federation of Tax Administrators, © American Road & Transportation Builders Association, 2009, updated February 2009
 * Some rates shown may include various sales, environmental, petroleum and LUST taxes and fees.