Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 972 and 973 (Substitute S-2)
Senate Bill 974 (Substitute S-3)
Senate Bill 1029 (Substitute S-1)
Sponsor: Senator Tom Barrett (S.B. 972)
Senator Aric Nesbitt (S.B. 973)
Senator Dan Lauwers (S.B. 974)
Senator Roger Victory (S.B. 1029)
Committee: Transportation and Infrastructure

Date Completed: 5-26-22

CONTENT

Senate Bill 972 (S-2) would amend the General Sales Tax Act to specify that, beginning June 15, 2022, through September 15, 2022, the sale of eligible fuel (i.e., any fuel subject to a motor fuel tax) would be exempt from sales tax.

Senate Bill 973 (S-2) would amend the Use Tax Act to specify that, beginning June 15, 2022, through September 15, 2022, the sale of eligible fuel would be exempt from use tax.

Senate Bill 974 (S-3) would amend the Streamlined Sales and Use Tax Revenue Equalization Act to suspend the levy and collection of a specific tax for using or consuming motor fuel and alternative fuel in a qualified commercial vehicle from June 15, 2022, through September 15, 2022.

Senate Bill 1029 (S-1) would amend the Motor Fuel Tax Act to do the following:

- **Specify that, between June 15, 2022, through September 15, 2022, the rate of tax on motor fuel would be zero cents per gallon.**
- **State that it is the intent of the bill that end users receive the benefits of the reduction of taxes proposed under the bill.**
- **Prohibit a person other than an end user from enriching themselves from the proposed reduction in rate and require the reduction to be passed on to an end user.**
- **Appropriate from the General Fund, for fiscal year (FY) 2021-22, approximately $192.6 million among the country road commissions, and approximately $107.4 million among cities and villages, to compensate for revenue lost because of the bill's proposed rate reduction.**
- **Specify that if the tax on motor fuels were zero cents per gallon, then the tax on alternative fuels also would be zero cents per gallon.**

Senate Bill 974 (S-3) is tie-barred to Senate Bill 972 and Senate Bill 973.

Senate Bill 972 (S-2)

The General Sales Tax Act levies a 6.0% tax on the gross proceeds of a business that makes sales at retail.

Under the Act, a purchaser or receiver of fuel other than an exporter or supplier for immediate export must prepay a portion of the sales tax at a rate prescribed by the Act to a refiner, pipeline terminal operator, or marine terminal operator at the time of purchase or receipt. The Act requires prepayments for gasoline and diesel to be made at a cents-per-gallon rate determined by the Department of Treasury and to be based on 6.0% of the statewide average retail price of a gallon of self-serve unleaded gasoline or a gallon of undyed No. 2 ultra-low sulfur diesel, both retail prices as determined by the Department and rounded up to the nearest tenth of one cent.

Under the bill, the requirement to prepay as described above would apply through June 14, 2022, and would resume beginning September 16, 2022. Beginning June 15, 2022, through September 15, 2022, the bill would exempt from the tax imposed by the Act the sale of eligible fuel. "Eligible fuel" would mean any fuel subject to the tax levied under the Motor Fuel Tax Act (see Senate Bill 1029 (S-1)).

Senate Bill 973 (S-2)

The Use Tax Act imposes an excise tax of 6.0% on the use, storage, or consumption of tangible personal property in the State. Under the bill, beginning June 15, 2022, through September 15, 2022, the storage, use, or consumption of eligible fuel would be exempt from the tax imposed by the Act. "Eligible fuel" would mean any fuel subject to the tax levied under the Motor Fuel Tax Act (See Senate Bill 1029 (S-1)).

Senate Bill 974 (S-3)

The Streamline Sales and Use Tax Revenue Equalization Act levies on every person in the State who is an interstate motor carrier a specific tax for using or consuming motor fuel and alternative fuel in a qualified commercial motor vehicle in the State. The Act requires the tax imposed on motor fuels to be at a cents-per-gallon rate of 6.0% of the statewide average retail price of a gallon of self-serve undyed No. 2 ultra-low sulfur diesel fuel or self-serve unleaded regular gasoline, as applicable, rounded down to the nearest tenth of a cent as determined by the Department of Treasury. The Act also entitles an interstate motor carrier to a credit of 6.0% of the price of motor fuel purchased in the State and used in a qualified commercial motor vehicle.

Under the bill, the tax levied and collected as described above would apply through June 14, 2022, and would resume beginning September 15, 2022. In addition, the bill would suspend the entitlement described above from June 15, 2022, to September 15, 2022.

The Act also requires the tax on alternative fuel used by interstate motor carriers in a qualified commercial motor vehicle to be collected under the international fuel tax agreement at a cents-per-gallon rate, or a cents-per-gallon equivalent rate, of 6.0% of the average retail price of a gallon or a gallon equivalent, of the alternative fuel, rounded down the nearest tenth of a cent as determined by the Department. The Act entitles an interstate motor carrier to a credit of 6.0% of the price of the alternative fuel purchased in the State and used in a qualified commercial motor vehicle.

Under the bill, the tax levied and collected as described above would apply through June 14, 2022, and would resume beginning September 15, 2022. In addition, the bill would suspend the entitlement described above from June 15, 2022, to September 15, 2022.

Senate Bill 1029 (S-1)

Gasoline & Diesel Tax Rate

Section 8 of the Motor Fuel Tax Act imposes a motor fuel tax on gasoline and diesel fuel imported into or sold, delivered, or used in Michigan. Beginning with the rate effective on January 1, 2022 (27.2 cents per gallon), and January 1 each year after that, the Department of Treasury must determine the motor fuel tax rate. The Department must adjust the rate by the lessor of 5.0% or the inflation rate, rounding to the nearest 1/10 of a cent.

("Inflation rate" means the annual percentage change in the Consumer Price Index (CPI), as determined by the Department, comparing the two most recent October 1 through September 30 periods that are immediately preceding the effective date of the fuel tax rate prescribed by the bill, converted to decimals. If the annual percentage change is negative, the inflation rate is zero. "Consumer Price Index" means United States CPI for all urban consumers as defined and reported by the U.S. Department of Labor, Bureau of Labor Statistics.)

Under the bill, notwithstanding the tax rates prescribed by the Act, beginning June 15, 2022, through September 15, 2022, the motor fuel tax rate would be zero cents per gallon. In making its tax rate determination, the Department of Treasury could not consider the tax rate imposed under the bill. However, the increased tax rate determined by the Department would not apply while the tax rate imposed under the bill applied.

Under Section 8, beginning with the rate in effect on January 1, 2022, and January 1 of each year after that, the Department must publish notice of the motor fuel tax rate within 30 days after the rate's effective date. Under the bill, the Department would have to publish notice of the tax rate on motor fuel determined by the Department as described above within 30 days before the rate's effective date or 30 days before the date the rate would take effect if not for the application of the rate imposed under the bill, whichever was earlier.

The bill would prohibit a person other than an end user from enriching themselves from a reduction in rate under the bill and require the person to pass the reduction on to the end user.

Alternative Fuel Tax Rates

The Act establishes a tax rate for alternative fuel on a per-gallon or gallon-equivalent basis equal to the motor fuel tax rate. Under the bill, if the tax on motor fuel were zero cents per gallon, then the tax on alternate fuel also would be zero cents per gallon equivalent.

Appropriation

For FY 2021-2022, $300.0 million would be appropriated from the General Fund to be distributed as described below to compensate for the revenue lost because of the application of the motor fuel tax rate imposed under the bill:

-- Approximately $192.6 million to be distributed among the county road commissions to be used as provided under Section 12 of Public Act (PA) 51 of 1951.
-- Approximately $107.4 million to be distributed among cities and villages to be used as provided under Section 13 of PA 51.

(Public Act 51 of 1951, the Michigan Transportation Fund law, establishes the Michigan Transportation Fund (MTF) and provides for the allocation of the Fund to the Michigan Department of Transportation, county road commissions, and cities and villages for the transportation purposes. Section 12 of the Act requires county road commissions to spend amounts allocated to them from the MTF for the preservation, construction, acquisition, and extension of the county local road system and for certain bonds, debt services, and contractual obligations. Section 13 of the Act prescribes similar requirements for cities and villages.)

Legislative Intent

The bill states that is the intent of the Act that end users receive the benefits of the reduction in taxes resulting from the application of the zero cents per gallon tax rate on motor fuel.

MCL 205.56a et al. (S.B. 972)
Proposed MCL 205.94ii (S.B. 973)
MCL 205.173 & 205.175 (S.B. 974)
MCL 207.1008 et al. (S.B. 1029)

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

In FY 2021-22, the bills would reduce revenue to the State by approximately $763.5 million to $803.6 million and would increase revenue to local units by at least $31.0 million to $44.3 million.

Senate Bills 972 (S-2), 973 (S-2), and 974 (S-3) would suspend sales and use taxes on motor fuels from June 15, 2022, through September 15, 2022. The School Aid Fund receives approximately 73.3% of sales tax revenue, and one-third of use tax revenue. Cities, villages and townships, but not counties, receive 10.0% of sales tax revenue through constitutional revenue sharing provisions. The Comprehensive Transportation Fund (CTF) receives 27.6% of the revenue from a rate of 1.0% on sales taxes on motor fuels. Any remaining sales and use tax revenue (for use tax revenue, the remainder is two-thirds of the collections) is deposited into the General Fund. The revenue loss from the suspension would depend on the price of fuel absent the bill. If the prices are higher than estimated, then the revenue loss would be greater and if prices are lower than estimated, then the revenue loss would be less. Assuming that retail gasoline prices otherwise would average $4.50 per gallon over the suspension period, retail diesel prices would average $5.30 per gallon, and that virtually all of the impact occurred under the sales tax, the three bills would lower FY 2021-22 revenue to the School Aid Fund by between $266.3 million and $280.5 million, CTF revenue by between $16.9 million and $17.8 million, constitutional revenue sharing to local units by between $36.3 million and $38.3 million, and General Fund revenue by between $43.8 million and $46.1 million. This estimated General Fund impact does not include the effect of the proposed $300.0 million General Fund appropriation in Senate Bill 1029 (S-1).

Senate Bill 1029 (S-1) would suspend taxes on motor fuels for the same period as the sales and use tax suspensions. Because motor fuel is taxed by volume and not price, the revenue loss from the suspension would depend on how much fuel would be consumed absent the bill rather than the price of fuel. If fuel consumption is greater than estimated, the revenue loss from the suspension would be greater, while if fuel consumption is lower, then the revenue loss would be less than estimated. Revenue from the motor fuels taxes is deposited into the MTF and then distributed according to the terms of Public Act 51 of 1951. The bill would reduce FY 2021-22 MTF revenue by between $400.2 million and $421.0 million. While Public Act 51 divides MTF revenue across a wide variety of funds and functions, the most significant impacts of the bill would be to reduce CTF revenue by between $40.0 million and $42.1 million, and revenue to road and bridge construction by between $360.2 million and $378.9 million. Under Public Act 51, revenue to road and bridge construction is distributed by directing 39.1% to the State, 39.1% to county road commissions, and the remaining 21.8% to cities and villages. As a result, the motor fuel tax suspension would be expected to reduce revenue to State road and bridge construction by between $140.8 million and $148.1 million, revenue to county road commissions by between $140.8 million and $148.1 million, and revenue to cities and villages by between $78.5 million and $82.6 million.

Senate Bill 1029 (S-1) also would appropriate $300.0 million of General Fund revenue to local units, with county road commission receiving approximately $192.6 million and cities and villages receiving approximately $107.4 million. As a result, the net effect of Senate Bill 1029 (S-1) would be to reduce General Fund revenue by $300.0 million, CTF revenue by between $40.0 million and $42.2 million, State road and bridge construction revenue by between $140.8 million and $148.1 million, and to increase county road commission revenue by between $44.5 million and $51.8 million and revenue to cities and villages by between $24.8 million and $28.9 million.

Combined, all the bills' provisions would reduce General Fund revenue by approximately $343.8 million to $346.1 million, School Aid Fund revenue by approximately $266.3 million to 280.5 million, CTF revenue by between $56.9 million and $59.9 million, and MTF revenue for State road and bridge construction by between $140.8 million and $148.1 million. The bills also would increase revenue to county road commissions by between $44.5 million and $51.8 million and lower revenue to cities, villages, and townships by between $7.4 million and $13.5 million.

Estimated Impact of SBs 972 (S-2) - 974 (S-3) and SB 1029 (S-1)
(millions of dollars)

Provisions	**Based on Consensus Forecast**	**Based on Year-to-Date Fuel Consumption**
Suspend Motor Fuel Tax (SB 1029)		
Total Impact on Michigan Transportation Fund	($400.2)	($421.0)
Comprehensive Transportation Fund	(40.0)	(42.1)
State Road/Bridge Construction	(140.8)	(148.1)
County Road Commissions	(140.8)	(148.1)
Cities and Villages	(78.5)	(82.6)
Appropriate General Fund revenue to Local Units (SB 1029)	0.0	0.0
General Fund	(300.0)	(300.0)
County Road Commissions	192.6	192.6
Cities and Villages	107.4	107.4
Suspend Sales/Use Taxes on Motor Fuel (SB 972-974)	(363.3)	(382.6)
General Fund	(43.8)	(46.1)
School Aid Fund	(266.3)	(280.5)
Constitutional Revenue Sharing to Cities, Villages and Townships	(36.3)	(38.3)
Comprehensive Transportation Fund	(16.9)	(17.8)
Total	**($763.5)**	**($803.6)**
General Fund	($343.8)	($346.1)
School Aid Fund	($266.3)	($280.5)
Comprehensive Transportation Fund	($56.9)	($59.9)
County Road Commissions	$51.8	$44.5
Other Local Units	($7.4)	($13.5)
State Road/Bridge Construction	($140.8)	($148.1)

Note: See text for discussion of fund source splits for individual provisions.

Fiscal Analyst: Michael Siracuse
David Zin

SAS\S2122\s972sb
This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.