LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2411

STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JUNE 30, 2016

SUMMARY

Synopsis: Adjusts certain State taxes to support strengthened investments in public, private, and charitable assets in this State.

Type of Impact: Annual loss of revenue from the Property Tax Relief Fund; annual gain in General Fund revenue.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
State Cost	Indeterminate Administrative Cost – See analysis below					
State Revenue Loss:						
Estate Tax (GF)	$0	($120,000,000)	($220,000,000)	($280,000,000)	($512,000,000)	($550,000,000)
GIT (PTRF) **Pensions**	$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)
Charity Deduction	$0	($140,000,000) to ($280,000,000)	($140,000,000) to ($280,000,000)	($140,000,000) to ($280,000,000)	($140,000,000) to ($280,000,000)	($140,000,000) to ($280,000,000)
Total Loss in GF and PTRF	**($122,000,000)**	**($444,000,000) to ($614,000,000)**	**($557,000,000) to ($732,000,000)**	**($630,000,000) to ($810,000,000)**	**($870,000,000) to ($1,055,000,000)**	**($962,000,000) to ($1,160,000,000)**
State Revenue Gain:						
12.5 percent PPGR	$1,029,400,000	$1,106,900,000	$1,106,900,000	$1,106,900,000	$1,106,900,000	$1,106,900,000
7 percent Jet Fuel	$123,000,000 to $160,000,000	$123,000,000 to $160,000,000	$123,000,000 to $160,000,000	$123,000,000 to $160,000,000	$123,000,000 to $160,000,000	$123,000,000 to $160,000,000
7 percent Non-Motor	$31,100,000	$31,100,000	$31,100,000	$31,100,000	$31,100,000	$31,100,000
4 cent/gal Diesel	$29,700,000	$39,600,000	$39,600,000	$39,600,000	$39,600,000	$39,600,000
Total Gain from Fuels Taxes	**$1,213,200,000 to $1,250,200,000**	**$1,300,600,000 to $1,337,600,000**	**$1,300,600,000 to $1,337,600,000**	**$1,300,600,000 to $1,337,600,000**	**$1,300,600,000 to $1,337,600,000**	**$1,300,600,000 to $1,337,600,000**
Net Total State Revenue All Funds	**$1,091,200,000 to $1,128,200,000**	**$686,600,000 to $893,600,000**	**$568,600,000 to $780,600,000**	**$490,600,000 to $707,600,000**	**$245,600,000 to $467,600,000**	**$140,600,000 to $375,600,000**

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. EITC is Earned Income Tax Credit. PPGR is Petroleum Products Gross Receipts tax.

- The Office of Legislative Services (OLS) 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 $1,091,200,000 to $1,128,200,000 in FY 2017, declining thereafter to an estimated gain of between $140,600,000 to $375,600,000 in FY 2022. These ranges are estimated by comparing the better case and the worse case for State revenues in each year. The better case assumes the higher State revenue gain offset by the lower State revenue loss. The worse case assumes the lower State revenue gain offset by the higher State revenue loss. The OLS notes that revenue losses are likely to exceed revenue gains in fiscal years soon after FY 2022.

- The revenue decreases will be phased in over time, starting with an estimated $122,000,000 loss in FY 2017 and rising to an estimated range of revenue losses between $962,000,000 to $1,160,000,000 in FY 2022.

- The revenue increases begin in FY 2017 with an estimated range of between $1,213,200,000 to $1,250,200,000, stabilizing to an estimated range between $1,300,600,000 to $1,337,600,000 for FY 2018 and thereafter from the various fuels tax increases.

BILL DESCRIPTION

Senate Bill No. 2411 (1R) of 2016 bill adjusts various State taxes as follows:

- Section 1: Phases out the estate tax over four years, first by replacing the current $675,000 threshold with a $1,000,000 exclusion, and then increasing that exclusion amount until the tax is eliminated. Imposes the estate tax on non-resident decedents.

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. 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. Under the current tax, that highest rate is imposed on even the smallest estates subject to tax.

This bill eliminates that tax rate “bump” by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law. This allows the bill to replace the former $675,000 tax threshold with a true tax exclusion, initially set at $1,000,000 for the estates of resident decedents dying on or after January 1, 2017. The bill increases the exclusion amount to $2,000,000 for 2018, and $3,000,000 for 2019. For decedents dying on or after January 1, 2020, the bill provides that there will be no tax imposed.

The bill imposes the estate tax on the New Jersey property of nonresident decedents. Currently, the estate tax is imposed only on the property of resident decedents. The bill 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 January 1, 2017, and ceases on January 1, 2020 along with the tax on resident estates.

- Sections 2 and 3: Increase the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This bill increases the personal income tax's 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.

- Section 4: 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 children. For Tax Year 2016, the federal Internal Revenue Service has indicated, the following program limits:

Maximum Income Eligibility Levels				
If filing …	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	$14,880	$39,296	$44,648	$47,955
Married Filing Jointly	$20,430	$44,846	$50,198	$53,505

- Section 5: Allows a New Jersey gross income tax deduction for cash charitable contributions that are made to certain charitable agencies and organizations that primarily provide health, welfare, or human care services to individuals in New Jersey and that are eligible to participate in annual State charitable fund-raising campaigns in this State.

New Jersey gross income taxpayers will be allowed to deduct from gross income cash charitable contributions that are made during the taxable year to a qualified charitable agency or fund-raising organization. The agencies and organization will be those that are already qualified and participating in the annual New Jersey Employees Charitable Campaign under current law and regulations but will only include those groups that primarily provide health, welfare, or human care services to individuals in this State. The deduction cannot exceed 50 percent of a taxpayer's gross income.

To assist the Director of the Division of Taxation in determining which agencies and organizations meet those criteria, the bill establishes a "Charity Advisory Council" comprising the Commissioners of Human Services, Children and Families, Health and Community Affairs (or their designees) and four public members, individuals actively engaged in providing health, welfare, or human care services to individuals in New Jersey, one each appointed by the Senate President, the Speaker of the General Assembly, the Senate Minority Leader, and the Assembly Minority Leader. The council will annually advise the director.

- Sections 6 through 12: Concern an increase 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 2¾ 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 to 7 percent of gross receipts, and increases the base rate on highway fuel to 12.5 percent of gross receipts.

The 12.5 percent tax on 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 12.5 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene, which is treated separately), 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 will be zero; on and after January 1, 2017 it will be 70 percent of the 12.5 percent rate, and on and after July 1, 2017 it will be taxed at the 12.5 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap on 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 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 is the highway fuel cap amount.

In each year beginning 2018 through 2026, the Treasurer, using U.S. Energy Administration projections for gasoline price and consumption in New Jersey and other data, determines what tax rate should be imposed under the petroleum products tax on highway fuel so that the revenues from the motor fuels tax on highway fuel, the 4 cent per gallon petroleum tax and the percentage rate petroleum tax will result in the State receiving the highway fuel cap amount for the fiscal year, and the new rate takes effect on October 1. The bill also has a "true-up" provision: if the rate is 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 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 for the quarter beginning 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) is currently subject to tax but use of the fuel by common carriers in interstate commerce is exempt except for the "burnout" portion used in takeoff. This bill eliminates that exemption for common carriers and imposes tax on all aviation fuel. The 7 percent tax on aviation fuel is converted to a cents-per-gallon rate based on the pretax prices paid by commercial consumers. This rate can be adjusted annually, but cannot change more than 5 percent from the previous year.

- Section 13: 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.
- Requires that the Governor and the Legislature receive by January 15, 2020, the council's report of the 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.
- Requires the review council to 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, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would 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.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The revenue decreases will be phased in over time, starting with an estimated $122,000,000 loss in FY 2017 and rising to an estimated range of revenue losses between $962,000,000 to $1,160,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated range of between $1,213,200,000 to $1,250,200,000, stabilizing to an estimated range between $1,300,600,000 to $1,337,600,000 for FY 2018 and thereafter from the various fuels tax increases. The net impact to total State revenues from these changes is estimated at a gain of between $1,091,200,000 to $1,128,200,000 in FY 2017, declining thereafter to an estimated gain of net revenue gains between $140,600,000 to $375,600,000 in FY 2022. These ranges are estimated by comparing the better case and the worse case for State revenues in each year. The better case assumes the higher State revenue gain offset by the lower State revenue loss. The worse case assumes the lower State revenue gain offset by the higher State revenue loss. The OLS notes that revenue losses are likely to exceed revenue gains in fiscal years soon after FY 2022. These estimates are discussed in greater detail below.

Estate Tax (GF)

The OLS estimates this bill would reduce annual estate tax revenues deposited into the General Fund by $120 million in FY 2018, $220 million in FY 2019, $280 million in FY 2020, and $512 million in FY 2021, at which point the estate tax would be fully repealed. Following the full repeal, the amount of revenue foregone to the General Fund will continue to change with the value of estates.

Given that estates typically take nine months to complete the tax filing process, this bill would have no fiscal impact in FY 2017. The impact would begin in FY 2018 and would be fully phased-in four years later, in FY 2021. As the exclusion thresholds are phased up, the tax "bump" (that part of the tax imposed on estate values below the threshold amounts) would be replaced by a "true" tax exclusion amount each year. The OLS estimates the annual revenue loss at each step of the process as follows:

Estimated Impact of Estate Tax Change			
Fiscal Year	**Est. Estate Tax Revenue Current Law**	**Est. Estate Tax Revenue Under Bill**	**Est. Revenue Loss Under Bill**
2017	$391,000,000	$391,000,000	$0
2018	$418,000,000	$298,000,000	$120,000,000
2019	$448,000,000	$228,000,000	$220,000,000
2020	$479,000,000	$199,000,000	$280,000,000
2021	$512,000,000	$0	$512,000,000
2022	$550,000,000	$0	$550,000,000
After 2022	The amount of revenue foregone will continue to change with the value of estates.		

These estimates are based on Treasury data from FY 2014, the most recent year for which OLS has tax collections data by size of estate, during which the estate tax accounted for $320.0 million in revenue. In the two most recent years, FY 2014 and FY 2015, total estate and inheritance taxes increased by 10 percent and 15 percent respectively, while growth over the last five completed years has averaged about 7 percent. Accordingly, the OLS assumes annual growth in future years of 7 percent, ultimately yielding an estimated total of $512.0 million in FY 2021 at the time of full repeal. For the phase-in years, the OLS applied the annual growth to estate tax amounts at the different levels of the value of estates, as detailed in the Treasury data. In addition, the OLS estimated the impact of eliminating the "bump" using the number of estates at each level applied to the tax table amounts from the Division of Taxation's estate tax worksheet.

Data from the Department of the Treasury indicate that this bill, once fully implemented, would eliminate the estate tax on approximately 3,500 estates annually. This number equals about 5 percent of the approximately 70,000 deaths reported by the Department of Health each year in the State.

The bill also imposes the estate tax on the property of certain nonresident decedents. While this provision should increase State tax revenue during the years before the estate tax is fully repealed, the OLS has no data with which to estimate the potential revenue gain for FY 2018 through FY 2020.

The OLS notes that the estate tax is a volatile revenue source. Much of that volatility reflects assets such as stocks, which can see sharp increases and decreases in value, as measured by the major stock indexes such as the Standard and Poor's 500 index. Accordingly, a prolonged or severe "bear" or "bull" market could indicate subsequent downward or upward volatility in the potential value of the foregone revenues under this bill. In addition, although the OLS estimate assumes a fully phased-in impact by FY 2020, there may be some remnant of estate tax revenue received in fiscal years after FY 2020 to the extent that some estates may face longer delays in filings and processing. The OLS does not have sufficient data on the processing period for individual estates.

Gross Income Tax – Pension and Retirement Income (PTRF)

The OLS estimates the increase in the pension and retirement exclusion will yield a range of potential annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the bill may reduce FY 2018 revenues by between $60 million and $90 million, FY 2019 revenues by between $70 million and $105 million, FY 2020 revenues by between $80 million and $120 million, FY 2021 revenues by between $85 million and $130 million, and FY 2022 revenues by between $135 million and $193 million. Thereafter revenue losses may grow by between 3.0 percent and 4.0 percent annually.

Precise estimates are not possible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under the bill.

The OLS notes that average pension income for senior returns in gross income brackets under $100,000 varies from approximately $18,000 at the lower income levels to about $45,000 at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough pension and retirement income to claim an exclusion near the new maximum levels proposed under this bill. Accordingly, most of the estimated revenue loss from this bill will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under $100,000 will have maximized their exclusion amount, followed by a larger increase in the fifth year as taxpayer with gross income between $100,000 and $150,000 become eligible for a partial exclusion for the first time.

In comparison to the overall revenue losses estimated under this bill, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated $125.5 million annually. While this bill will increase the current maximum exclusion levels fivefold, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under $100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels under this bill. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all their pension and other retirement income under current law will see no benefit from this bill. Taxpayers with gross income between $100,000 and $150,000 will see a substantial tax benefit on income that is fully taxable under current law but will be partially excluded under the bill.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayer's quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Gross Income Tax – Earned Income Tax Credit (PTRF)

The OLS estimates that the Earned Income Tax Credit (EITC) portion of this bill may reduce gross income tax revenues deposited into the Property Tax Relief Fund by about $122.0 million in FY 2017, $124.0 million in FY 2018, and $127.0 million in FY 2019. In future years, growth of about 2.0 percent per year may continue.

The NJ EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State's gross income tax. The OLS estimate begins with the Executive's assessment that the recent increase of the NJ EITC, from 20 percent to 30 percent of the federal credit (P.L. 2015, c.73), would reduce gross income tax revenues by $122.0 million in FY 2016, as reported on pages 30 and 33 in the FY 2017 Budget Summary. The increase under this bill, from 30 percent of the federal credit to 40 percent, is projected to have the same incremental impact as the previously enacted increase. Historically, the federal credit amounts have grown by approximately 2.0 percent annually, but recent Internal Revenue Service data indicate the value of federal credits may grow by less than 1.0 percent in 2016. Lower levels of growth in the federal benefit, combined with the New Jersey Division of Taxation's recent enhanced enforcement efforts, suggests growth in the State program may be contained in FY 2017, the first year under this bill. Accordingly, the OLS assumes a revenue loss of $122.0 million in FY 2017 and a historical 2.0 percent rate of growth annually thereafter.

Based on available federal Internal Revenue Service preview data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by $255, from $708 in TY 2015 to approximately $963 in TY 2016. According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. It is noted, however, that the number of taxpayers receiving an EITC in recent years has experienced some variance due in part to the Division of Taxation's enforcement efforts.

Gross Income Tax – Charitable Deductions (PTRF)

The OLS is unable to determine a precise annual gross income tax revenue loss from the Property Tax Relief Fund for the charitable deduction under this bill. The annual revenue loss may be significant and may range between $140.0 million to $280.0 million annually, but data on the proportion of, or value of, New Jersey charitable contributions allocated to qualified New Jersey charitable organizations is not available. In addition, there may be indeterminate annual administrative costs in the Department of the Treasury associated with the advisory council established to determine which agencies and organizations meet the criteria under the bill.

Federal tax data for New Jersey from the Internal Revenue Service (IRS), indicate that for Tax Year 2013, 1.5 million New Jersey taxpayers claimed $5.5 billion in itemized charitable deductions. The average deduction amount was $3,598, varying from $1,429 on average for taxpayers with adjusted gross income between $10,000 and $25,000, to $67,840 on average for taxpayers with greater than $1,000,000 adjusted gross income. The average deduction equaled about 4.6 percent of total income for all returns, varying from 8.2 percent of total income for low income returns to 2.4 percent of total income for high income returns. This federal IRS data on itemized charitable deductions provides a sense of typical charitable contributions by income levels, but does not comprise the entire New Jersey taxable return population, because 65 percent of New Jersey taxpayers do not itemize deductions on their federal returns.

Applying the federal IRS figures for charitable contributions as a percent of income to the roughly equivalent income brackets for New Jersey full year residents' gross income (the State and federal income brackets are not exactly equivalent), and adjusting for part-year resident and non-resident returns, yields an estimated potential pool of about $10.0 billion in total New Jersey taxpayer charitable contributions annually. Multiplying the potential amounts across income brackets by the State's marginal tax rates yields an estimated potential total taxpayer savings, or State tax revenue loss, of between $450.0 million to $500.0 million per year for an unrestricted full charitable deduction. However, the impact of the bill is expected to be below the potential impact of an unrestricted full charitable deduction, because the bill limits deductions to certain qualified New Jersey charitable organizations and limits the size of a taxpayer's annual deduction to 50 percent of gross income. No data exists on New Jersey taxpayer contributions to the potential organizations that may qualify under the bill, but New York State has a limited charitable deduction that may provide a comparable example for New Jersey. According to the *FY 2017 Annual Report on New York State Tax Expenditures*, published by that state's Department of Taxation and Finance, New York's charitable deduction (qualified contributions up to 50 percent of adjusted gross income) was estimated at $582.1 million in FY 2013, or 1.6 percent of total personal income tax liability. Assuming the charitable deduction under this bill produces a range of taxpayer savings, or State revenue losses, between 1 percent and 2 percent of the Executive's estimated New Jersey GIT liability of $14.0 billion in FY 2017, yields a range of potential revenue losses between $140.0 million and $280.0 million.

Motor Fuels and Petroleum Taxes

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of four major components: (1) an increase in the tax rate on motor fuels by 12.5 percent with a gradual phase-in of the diesel component; (2) imposing a 7 percent tax on aviation fuels with no exemptions; (3) increasing the tax on non-motor fuels subject to the PPGRT from 2.75 percent to 7 percent; and (4) an increase in the tax on diesel fuels by 3 cents per gallon in the first year and 4 cents per gallon in future years. The estimated amounts for these four components are shown in the table below.

Estimated Impact of Various Fuels Tax Changes *$ in Millions*						
	FY 2017	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
12.5 percent PPRG Tax	$1,029.4	$1,106.9	$1,106.9	$1,106.9	$1,106.9	$1,106.9
7 percent Tax on Jet Fuel	$123.0 to $160.0	$123.0 to $160.0	$123.0 to $160.0	$123.0 to $160.0	$123.0 to $160.0	$123.0 to $160.0
7 percent Tax on Non-Motor Fuels PPGR	$31.1	$31.1	$31.1	$31.1	$31.1	$31.1
4 Cent/gal Tax on Diesel PPGR	$29.7	$39.6	$39.6	$39.6	$39.6	$39.6
Total Fuel Taxes	**$1,213.2 to $1,250.2**	**$1,300.6 to $1,337.6**	**$1,300.6 to $1,337.6**	**$1,300.6 to $1,337.6**	**$1,300.6 to $1,337.6**	**$1,300.6 to $1,337.6**

These tax changes are expected to increase PPGRT revenue by between $1.21 billion to $1.25 billion in FY 2017, and between $1.30 billion to $1.34 billion per year for FY 2018 and beyond. The bill is structured in a manner that adjusts the cents-per-gallon 12.5 percent PPGRT tax rate annually to target the amount of revenue generated in FY 2016 when using 23 cents-per-gallon as the 12.5 percent cents-per-gallon equivalent. This will result in variation of the cents-per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately $49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The 12.5 percent rate applied to the current average retail price of $1.79 after subtracting existing taxes, results in a cents-per-gallon rate of 22.375 cents. This results in revenues of $1.107 billion. The amount for FY 2017 needs to be reduced according to the phase in schedule for the diesel component. The distribution of motor fuel sales in the State is approximately 80 percent gasoline and 20 percent diesel. Applying that ratio to the phase in schedule and reducing the revenue accordingly nets a FY 2017 revenue of $1.029 billion.

(2) The US Energy Information Administration (EIA) estimated 4,083,600 gallons per day of kerosene jet fuel sales for New Jersey in its prime supplier report. That adds to 1,490,514,000 gallons per year of kerosene jet fuel sales, which would generate approximately $15 million per year for every cent per gallon charged on that fuel. Aviation gasoline and naphtha-type jet fuel represented less than one percent of the volume of aviation fuel sales so they are not considered in this estimate. Information is not available about what percentage of kerosene jet fuel is used in aircraft and previously exempt from the tax, and the amount that is used for other purposes and already embedded in the above estimates for motor fuels. OLS estimates the "burnout" portion of aviation use to represent approximately $5 million per year under current law. OLS also estimates between 0 percent and 10 percent of consumption is not used by the aviation industry, mostly for jet turbine-based peak power generating capacity. After excluding these amounts, it is estimated that approximately $13.1 million will be generated for each cent-per-gallon imposed through the PPGRT on aviation fuel. The bill subjects the 7 percent tax rate to the price paid by commercial consumers. OLS does not have access to information about the price paid by commercial consumers, but instead references the current spot commodity market prices for jet fuel which are approximately $1.40 per gallon. The market prices are subject to rapid fluctuation, and the actual cost incurred by a commercial consumer is likely to be higher, but it is not clear by how much. $1.40-$1.80 is likely to be a reasonable range of potential current costs. At that range the expected revenue increase is between $123 million per year and $160 million per year

(3) After multiplying the $49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon, the motor fuels component of the PPGRT is calculated to be $197.88 million. Subtracting that from the $218 million in total current PPGRT revenues, the non-motor fuel revenue is calculated to generate $20.12 million at the 2.75 percent rate. Using these same ratios, an increase to 7 percent is likely to generate an additional $31.1 million in additional revenue per year.

(4) Using the above motor fuel distribution and applying it to the $49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in $9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result the FY 2017 revenue from this provision will generate $29.7 million at the 3 cents-per-gallon rate and $39.6 million in FY 2018 and beyond from the 4 cents-per-gallon rate.

Review Council

Lastly, the OLS notes that the legislation requires the review council, established in section 13 of the bill, to 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, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this interference to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases estimated above under the bill, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).