# LEGISLATIVE SERVICES AGENCY
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## FISCAL IMPACT STATEMENT

**LS 6808** **NOTE PREPARED:** Feb 1, 2012
**BILL NUMBER:** SB 353 **BILL AMENDED:** Jan 30, 2012

**SUBJECT:** Use Tax on Gasoline.

**FIRST AUTHOR:** Sen. Walker **BILL STATUS:** As Passed Senate
**FIRST SPONSOR:** Rep. Dermody

**FUNDS AFFECTED:** X GENERAL **IMPACT:** State & Local
X DEDICATED
FEDERAL


**Summary of Legislation:** (Amended) This bill provides a new collection procedure for collecting state gross retail taxes on the sale of gasoline by using a gasoline Use Tax based on gallons sold. It specifies that the collection point is moved to the first purchaser of gasoline from a refiner, a terminal operator, or supplier. It also bases the Gasoline Use Tax on the retail price of gasoline using a rolling monthly average retail price per gallon.

The bill requires the Department of State Revenue to determine a Use Tax rate per gallon using a monthly statewide average price and the 7% gross retail tax rate. It requires all reports of gasoline Use Tax to be filed electronically and the taxes remitted using the Department's online tax system. It changes from 25% to 15% the amount the price of gasoline must change before a new Use Tax rate may be set. The bill requires a new Use Tax rate to take effect on the first or sixteenth of the month. The bill requires the Department to publish notices on its Internet web site and provide notices to registered distributors, refiners, and terminal operators using electronic mail with a direct link. It also makes corresponding changes.


**Effective Date:** Upon Passage; January 1, 2013.

**Explanation of State Expenditures**: (Revised) *Department of State Revenue (DOR)*: DOR will have to revise tax forms to accommodate this change, but overall this bill could decrease administrative costs for the DOR. The DOR reports that this new procedure will reduce the number of taxpayers remitting Sales Tax on gasoline to approximately 360 distributors, versus approximately 3,600 retailers who currently sell gasoline. The bill requires all reports of Use Tax on gasoline to be filed electronically semimonthly and the taxes remitted using the DOR's online tax system. The bill also requires the DOR to use a data service to determine the most recent retail price at least monthly. Currently the Attorney General's Office uses a monthly data source at a minimal charge. The new license fees collected will offset the cost of purchasing the data service.

**Explanation of State Revenues:** (Revised) *Summary*: This bill would have an indeterminable impact on Sales Tax collected on gasoline each fiscal year. The bill changes the method of calculating the Sales Tax on gasoline from the price of gas sold to a Use Tax on the number of gallons sold.

*Sales Tax on Gasoline under Current Statute*: Retailers are required to prepay the Sales Tax on gasoline. The prepayment rate is determined by the following formula: 80% * Sales Tax rate * average retail price (as determined by the DOR). The prepayment rate is determined semiannually (in June and December) by the DOR and is limited to 125% of the previous prepayment rate. Retail merchants are then required to file their returns monthly to reconcile the amount of Sales Tax collected at the pump to the amount of Sales Tax prepaid. Retailers remit the difference between the prepaid Sales Tax and the total Sales Tax collected at the pump to the DOR. After reconciliation, the total Sales Tax on gasoline that gets remitted each month is based on actual pump prices for that month.

(Revised) *Use Tax on Gasoline under this Bill:* This bill provides a new collection procedure for remitting Use Tax of gasoline. The bill changes the method of calculating the tax on gasoline from the price of gas sold to a Use Tax on the number of gallons sold. Under this bill, the gasoline Use Tax rate is determined by this formula: the statewide average retail price * 7%. The bill requires the DOR to use a data service that updates the most recent retail price at least monthly. Under this bill, the amount of Use Tax remitted would be based on a previous month's price and will not be reconciled with the actual pump price as in current statute. The bill allows the DOR, after approval by the Office of Management and Budget to determine a new gasoline use tax if the average retail price per gallon of gasoline excluding taxes has changed by at least 15% since the last determination.

(Revised) *Distributor Licensing*: This bill provides that distributors desiring to receive gasoline within Indiana must obtain a permit from the DOR to collect payments of gasoline Use Tax. The fee for the permit is $100. It is estimated that this provision could increase revenues by $36,000. The bill provides that the DOR may require a distributor to file, concurrently with the filing of an application for a permit, a bond in an amount of at least $2,000 and not more than a three-month gasoline Use Tax liability in cash or with a surety company approved by the DOR. The bill provides that the bond is conditioned upon the prompt filing of true electronic reports and payment of all gasoline Use Taxes collected by the distributor, together with any penalties and interest, and upon faithful compliance of the provisions of the bill.

(Revised) *Reconciliation Provision:* This bill provides that each retail merchant shall, for sales made before January 1, 2013, take an inventory of the gasoline in storage on the commencement of business on January 1, 2013, and reconcile the amount of Sales Taxes owed on sales of gasoline through December 31, 2012. The bill provides that the reconciliation must be filed with the DOR before March 1, 2013, and must be accompanied by a payment for any gross retail taxes owed on gasoline sold through December 31, 2012, or by a claim for a credit, if the retail merchant's reconciliation indicates the retail merchant has overpaid Sales Taxes on gasoline sold through December 31, 2012. This provision allows for the collection of Sales Tax which was due under the original formula that had not been remitted before the effective date of the new formula. Retailers must remit Sales Tax before the 20th day after the end of month.

*Background information*: Sales Tax revenue is deposited in the state General Fund (99.848%), the Commuter

Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

**Explanation of Local Expenditures:** Local revenues will be impacted to the extent that a local unit receives funds from the Commuter Rail Service Fund or the Industrial Rail Service Fund.

**Explanation of Local Revenues:**

**State Agencies Affected:** DOR.

**Local Agencies Affected:**

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