STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**03/08/00**	Bill No:	**SB 1426**
Tax:	**Sales and Use**	Author:	**Rainey**
Board Position:		Related Bills:	**AB 1612 (Torlakson et al.)** **AB 2742 (Baugh, et al.)** **AB 43 (Villaraigosa)** **SB 1777 (Burton)**

BILL SUMMARY:

This bill would transfer to the State Highway Account in the State Transportation Fund all sales and use tax revenues collected at the 4 ¾ percent rate on the sales price of gasoline that represents the federal excise tax and the state excise tax included in the selling price.

ANALYSIS:

Current Law:

Under existing law, a tax is imposed on the sales price or gross receipts, as defined in Sections 6011 and 6012 of the Revenue and Taxation Code, respectively, of tangible personal property sold in this state. Those definitions specifically include in the amount to which the tax applies the amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed by the state under the Motor Vehicle Fuel License Tax Law.

Current federal law imposes an excise tax of $0.184 per gallon on the removal of gasoline from a terminal or refinery, or upon importers for the entry of gasoline into the United States, while state law imposes an excise tax of $0.18 per gallon on the first distribution of gasoline in California.

Under existing law, the disposition of state sales and use tax revenues is governed by Revenue and Taxation Code Section 7102. That section currently provides that sales and use tax revenues be transferred in the following manner:

1) To the Public Transportation Account:
   a) All revenues, less refunds, derived under this part at the 4 ¾ percent rate, including the imposition of sales and use taxes with respect to the sale or use of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel had been exempt from the sales and use taxes.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

b) All revenues, less refunds, at the 4 ¾ percent rate resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on sales of gasoline. The gasoline tax has increased $0.09 per gallon since December 31, 1989.

c) All revenues, less refunds, at the 4 ¾ percent rate from the sales and use tax imposed upon diesel fuel, liquefied petroleum gas and natural gas.

2) All revenues, less refunds, at the ½ percent rate shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties (Section 6051.2 and 6201.2).

3) All revenues, less refunds, at the ½ percent rate shall be transferred to the Public Safety Account in the Local Public Safety Fund (Section 35 of Article XIII of the California Constitution).

4) The balance to the General Fund.

Currently, the sales tax generated from the federal excise tax on gasoline and half of the $0.18 state excise tax ($0.09)is allocated to the General Fund. As indicated above, the tax generated from the imposition of the other $0.09 state motor vehicle fuel license tax is transferred to the Public Transportation Account.

Proposed Law:

This bill would add Section 7104 to the Sales and Use Tax Law to require the Board of Equalization, in consultation with the Department of Finance, to estimate the revenues, less refunds, derived during the previous quarter under this part at the 4 ¾ percent rate that resulted from the imposition of the federal tax on gasoline and imposition of the state tax on motor vehicle fuel under the Motor Vehicle Fuel License Tax Law. The amount estimated may not include the revenues described in paragraph (2) of subdivision (a) of Section 7102 if the Sales and Use Tax Law.

This bill would also require the Board of Equalization to notify the Controller in writing of the amount estimated above. This bill would then require the Controller to transfer from the General Fund the amount estimated to the State Highway Account in the State Transportation Fund.

Background:

Senate Bill 325 (Ch. 1400, 1971) made possible the imposition of state sales and use tax on sales of gasoline, and also allowed a reduction in the basic state tax rate, from 4% to 3 ¾%, without a corresponding loss in revenue. That bill also required that any sales tax collected above the amount that would have been collected if the tax rate had remained at 4% and gasoline remained exempt from the sales tax, be transferred to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

At the June 5, 1990 primary election, the voters of California approved Proposition 111, which increased the excise tax on gasoline and diesel fuel by five cents per gallon beginning August 1, 1990. The proposition also increased the rate an additional one cent per gallon each January 1 thereafter, up to the current 18 cents per gallon rate in effect on and after January 1, 1994. SB 640 (Ch. 14, 1990) was then enacted to

amend Section 7102 to require the sales tax imposed on the Proposition 111 tax increase, which is subject to the sales tax, be allocated each quarter to the Transportation Planning and Development Account.

In 1997, Senate Bill 45 (Kopp, Ch. 622), among its provisions, changed the name of the Transportation Planning and Development Account to the Public Transportation Account. The trust fund retained its spending authority but the bill stated that any reference to the Transportation Planning and Development Account in the law or regulations is a reference to the Public Transportation Account.

Two previous measures with similar provisions have been introduced. Assembly Bill 521 (McClintock, et al.), introduced during the 1999 Legislative Session, contained provisions that would have transferred the sales and use taxes computed on the state and federal excise taxes on gasoline to the Public Transportation Account. Assembly Bill 521 failed passage in the Assembly Transportation Committee. Assembly Bill 276 (Longville), introduced during the 1999 Legislative Session, contained the same provisions as Assembly Bill 521. The sales and use tax provisions were amended from Assembly Bill 276 prior to passing from the Assembly Transportation Committee.

COMMENTS:

1. Sponsor and Purpose. According to the author's office, this bill is sponsored by the Senate Republican Caucus to provide a means to fund transportation needs.

2. Administration. The Board does not anticipate any problems with administering the provisions of this bill.

3. Other measures. Several measures pertaining to the sales tax computed on the state and federal excise taxes on gasoline are under consideration during this Legislative Session.

   Assembly Bill 1612 (Torlakson, et al), as amended on March 14, 2000, would require the sales and use taxes, less refunds, derived at the 4 ¾ percent rate, resulting from the inclusion of both the federal excise tax and the state excise tax on gasoline in the taxable selling price of gasoline, be transferred quarterly to the newly created Neighborhood Street Improvement Account. The amount to be transferred to the Neighborhood Street Improvement Account would *not* include the revenues currently transferred to the Public Transportation Account.

   Assembly Bill 2742 (Baugh, et al), as introduced on February 25, 2000, would require the sales and use taxes, less refunds, derived at the 4 ¾ percent rate, resulting from the inclusion of both the federal excise tax and the state excise tax on gasoline in the taxable selling price of gasoline, be transferred quarterly to the Public Transportation Account. Assembly Bill 2742 would also require the sales and use taxes, less refunds, derived at the 4 ¾ percent rate from retail sales of motor vehicle fuel be transferred quarterly to the State Highway Account.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Assembly Bill 43 (Villaraisgosa), as amended on March 22, 2000, would provide a partial sales and use tax exemption (5 percent) for sales of gasoline and diesel fuel during the summer months.

Senate Bill 1777 (Burton), as amended on March 28, 2000, would provide a partial sales and use tax exemption (5 percent) for sales of gasoline and diesel fuel. SB 1777 would also create the Petroleum Windfall Profits Fund which would be used to Fund the Public Transportation Account.

COST ESTIMATE:

The administrative costs associated with this bill would be absorbable. These costs would include advising and answering inquiries from the public, informing Board staff, and preparing the necessary calculations.

REVENUE ESTIMATE:

Sales tax applies to the entire selling price of gasoline, including the federal and state excise taxes. Under current law, a portion of the sales tax on gasoline and other fuels is transferred to the State Transportation Fund under several provisions of Section 7102 of the Revenue and Taxation Code. One of the transfers involves the sales tax at a 4 ¾ percent tax rate attributable to any increase in the state excise tax on gasoline after 1989. Nine cents of the 18 cents per gallon state excise tax was first effective after 1989.

During fiscal year 1998-99, sales tax applied to 14,063,600,000 gallons of gasoline. The resulting transfer to the State Transportation Fund was $60,121,000. (14,063,600,000 gallons x $0.09 x .0475 = $60,121,000.)

This bill would provide for the additional transfer to the State Transportation Fund of the sales tax at a 4 ¾ percent tax rate attributable to 1) the remaining nine cents per gallon state excise tax and 2) the 18.4 cents per gallon federal excise tax.

Had the provisions of this bill been in effect for 1998-99 sales, an additional $183,038,000 would have been transferred to the State Transportation Fund. (14,063,600,000 gallons x $0.274 x .0475 = $183,038,000.)

Revenue Summary

This proposal would transfer about $183 million annually from the General Fund to the State Highway Account in the State Transportation Fund.

Analysis prepared by:	Bradley E. Miller	445-6662	04/12/00
Revenue estimate by:	David E. Hayes	445-0840	
Contact:	Margaret S. Shedd	322-2376	

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.