

# RESOLUTION OF THE CITY COUNCIL

No. 289

Approved May 15, 1998

RESOLVED, That the City Council hereby endorses and urges passage by the General Assembly of Senate Bill 98-S 2138 relating to the Gasoline Tax, in substantially the form attached.

IN CITY COUNCIL  
MAY 7 1998  
READ AND PASSED

*Evelyn V. Fargnoli*  
PRES.  
*Michael H. Clement*  
CLERK

**APPROVED**  
MAY 15 1998  
*Vincenzo A. Cianci*  
MAYOR

IN CITY COUNCIL  
MAR 19 1998  
FIRST READING  
REFERRED TO COMMITTEE ON  
STATE LEGISLATION

*Michael R. [Signature]*  
Clerk

THE COMMITTEE ON

*State Legislation*  
Recommends *Passage*

*Barbara A. [Signature]*  
Clerk

4/28/98

*(Signature)*

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LC00395

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## STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

98-S 2138

JANUARY SESSION, A.D. 1998

## A N A C T

RELATING TO THE GASOLINE TAX

98-S 2138

Introduced By: Senator J. Michael LenihanDate Introduced: January 15, 1998Referred To: Senate Committee on Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 31-36-7 and 31-36-20 of the General Laws in Chapter 31-36  
2 entitled "Gasoline Tax" are hereby amended to read as follows:

3 **31-36-7. Monthly report of distributors -- Payment of tax.** -- (a) Every distributor  
4 shall, on or before the twenty-fifth day of each month, render a report to the tax administrator,  
5 upon forms to be obtained from the tax administrator, of the amount (number of gallons) of fuels  
6 purchased, sold, or used by the distributor within this state and the wholesale selling price  
7 thereof, and the amount of fuels sold by the distributor without this state from fuels within this  
8 state during the preceding calendar month, and, if required by the tax administrator as to  
9 purchases, the name or names of the person or persons from whom purchased and the date and  
10 amount of each purchase, and as to sales, the name or names of the person or persons to whom  
11 sold and the amount of each sale, and shall pay at the same time to the administrator the balance  
12 of a tax, if any, on all fuels sold or used by the distributor within this state, and the tax to be at  
13 the rate set forth in subsection (b) below.

14 (b) (1) For the period June 1, 1981 through March 31, 1983 every distributor shall pay to  
15 the tax administrator a tax at the rate of ten percent (10%) of the average wholesale selling price  
16 excluding federal and state excise taxes, of all taxable gallons of fuel sold or used by it within  
17 this state. The tax rate of ten percent (10%) of the average wholesale selling price shall be  
18 converted to cents per gallon rounded up to the nearest whole cent. In no event shall the tax

1 imposed be less than ten cents (\$.10) per gallon.

2 (2) For the period April 1, 1983 and thereafter, every distributor shall pay to the tax  
3 administrator a tax at the rate of eleven percent (11%) of the average wholesale selling price  
4 excluding federal and state excise taxes of all taxable gallons of fuel sold or used by it within  
5 this state. The tax rate of eleven percent (11%) of the average wholesale selling price shall be  
6 converted to cents per gallon rounded up to the nearest whole cent. In no event shall the tax  
7 imposed be less than twenty-five cents (\$.25) per gallon, twenty-four cents (\$.24) of which shall  
8 be disbursed and distributed pursuant to the provisions of section 31-36-20, and one cent (\$.01)  
9 of which shall be paid into the general revenue fund for general revenue purposes.

10 Provided, however, that in the year ~~2006~~ 2004 and in each year thereafter, the one cent  
11 (\$.01) identified above shall not be paid into the general revenue fund for general revenue  
12 purposes but shall remain in the intermodal surface transportation fund.

13 (3) In determining the rate for the period June 1, 1981 through December 31, 1981, the  
14 tax administrator shall fix the rate based on the wholesale selling price of motor fuel sold during  
15 the first quarter of 1981 and from other relevant data. The rate for this period shall be fixed  
16 during the month of May, 1981. Every year, during the months of March, June, September, and  
17 December, commencing with June 1982, the tax administrator shall fix a new tax for motor fuel.  
18 The tax administrator shall fix the tax rate during June of a particular year based on motor fuel  
19 sold during April of that same year. The tax administrator shall fix the tax rate during September  
20 based on motor fuel sold during July of that same year. The tax administrator shall fix the tax  
21 rate during December of a particular year based on motor fuel sold during October of that same  
22 year. The tax administrator shall fix the tax rate during March of a particular year based on  
23 motor fuel sold during January of that same year. The tax rate fixed by the tax administrator  
24 during June of a particular year is the tax rate for the three-month period that begins on July 1 of  
25 that same year. The tax rate fixed by the tax administrator during September of a particular year  
26 is the tax rate for the three-month period that begins on October 1 of that same year. The tax rate  
27 fixed by the tax administrator during December of a particular year is the tax rate for the three-  
28 month period that begins on January 1 of the immediately following year.

29 (4) The tax rate fixed by the tax administrator during March of a particular year is the tax  
30 rate for the three-month period that begins on April 1 of that same year.

31 (c) The tax administrator shall fix the tax rate for motor fuel in the manner prescribed in  
32 the following steps:

1 (1) STEP ONE: Enter the number of gallons of taxable gasoline sold during April, July,  
2 October, or January as the case may be.

3 (2) STEP TWO: Enter the remainder of (A) the total amount of money received from the  
4 wholesale selling price of the gasoline described in step one, minus (B) the portion of that total  
5 amount which represents federal and state excise taxes imposed thereon.

6 (3) STEP THREE: Enter the quotient of (A) the remainder determined under step two,  
7 divided by (B) the number of gallons entered under step one.

8 (4) STEP FOUR: (i) For the period referred to in subsection (b)(1) above, enter the  
9 product of (A) the greater of (1) one dollar (\$1.00) or (2) the quotient determined under step  
10 three, multiplied by (B) the applicable rate set forth in subsection (b) above of this section.

11 (ii) For the period referred to in subsection (b)(2) above, enter the product of (A) the  
12 greater of (1) two dollars and twenty-eight cents (\$2.28) or (2) the quotient determined under  
13 step three, multiplied by (B) the applicable rate set forth in subsection (b) above.

14 (5) The product entered under step four, with any fraction of a cent to be rounded to the  
15 next higher cent, is the tax rate per gallon of motor fuel for the appropriate three-month period  
16 specified in subsection (b).

17 (6) Additionally, every distributor shall, at the time of payment of the foregoing tax, pay  
18 over to the tax administrator an excise tax in an amount equal to two percent (2%) of the  
19 wholesale price per gallon of the fuels. The wholesale price shall be that price as determined by  
20 the tax administrator consistent with the provisions of this chapter, and all the provisions of this  
21 chapter shall apply to this levy. In no event shall the excise tax imposed be less than three cents  
22 (\$.03) per gallon.

23 (d) For purposes of this section the term "wholesale selling price" shall mean the  
24 delivered price exclusive of federal and state excise taxes and exclusive of any additional  
25 charges in excess of the regular wholesale selling price.

26 (e) (1) It shall be unlawful, except in proceedings before a court of competent  
27 jurisdiction or to collect the taxes or enforce the penalties provided by this chapter of this title,  
28 for the tax administrator or any person having an administrative duty under the chapters, to make  
29 known in any manner whatever the business affairs, operations, or information obtained by an  
30 investigation of records and equipment of any distributor or any other person visited or examined  
31 in the discharge of official duty, or the amount or source of income, profits, losses, expenditures,  
32 or any particular thereof, set forth or disclosed in any return, or to permit any return or copy

1 thereof or any book containing any abstract or particulars thereof to be seen or examined by any  
2 person: provided, however, the tax administrator may authorize examination of his or her records  
3 and the returns filed with him or her by the tax authorities of another state or of the federal  
4 government, if a reciprocal arrangement exists.

5 (2) Provided, further, that nothing herein shall be construed to prevent the disclosure or  
6 publication of statistical or other information wherein the identity of individual taxpayers is not  
7 made known.

8 (f) (1) (i) Pursuant to rules and regulations prescribed by the tax administrator, the  
9 distributor shall pay within five (5) calendar days following the close of each taxable period, as  
10 hereinafter defined, the amount of tax due on fuels for the period. A taxable period shall mean  
11 the 1st through 22nd day of the first month of the calendar quarter, the 23rd day of the first  
12 month through the 22nd day of the second month of the calendar quarter, and 23rd of the second  
13 month through the 22nd day of the third month of a calendar quarter.

14 (ii) The distributor shall file a tax return on or before the twentieth day of the month  
15 following the close of each calendar quarter. Taxes accruing from the 23rd through the last day  
16 of the third month of the quarter shall be paid with the return.

17 (iii) The difference between the actual amount of tax liability for the entire quarter and  
18 the sum of the amounts previously paid for that quarter shall be reconciled at the time of filing  
19 the return. If the amount of tax liability exceeds payments previously made for the quarter, the  
20 balance of the tax shall be paid over to the tax administrator with the filing of the quarterly  
21 return. If the amount of payment previously made exceeds the tax liability for the quarter, credit  
22 for the overpayment shall be applied to the next payment due.

23 (2) A distributor will be considered to have complied with the requirements of  
24 subsection (f)(1) with respect to the close of a calendar quarter if either the distributor's  
25 payments for the taxable periods during the calendar quarter total not less than ninety percent  
26 (90%) of the tax liability for the calendar quarter period or each taxable period payment is equal  
27 to one hundred percent (100%) of the tax liability for the comparable period of the next prior  
28 year. This latter alternative shall not apply to a distributor who had no tax liability for the  
29 comparable period of the next prior year.

30 (3) In case of failure by any person required to pay on the date prescribed therefor any  
31 amount of taxes with the tax administrator under this subsection, unless it is shown that the  
32 failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon the

1 person a penalty of five percent (5%) of the amount of the underpayment. For purposes of this  
2 subdivision the term "underpayment" means the excess of the amount of tax required to be paid  
3 over the amount, if any, thereof paid on or before the due date.

4 (4) Additions to tax. - In case of failure:

5 (i) To file any return required by this section on the date prescribed therefor (determined  
6 with regard to any extension of time for filing), unless it is shown that the failure is due to  
7 reasonable cause and not due to willful neglect, there shall be added to the amount required to be  
8 shown as a payment or as tax on the return, five percent (5%) of the amount if the failure is for  
9 not more than one month, with an additional five percent (5%) for each additional month or  
10 fraction thereof during which such failure continues, not exceeding twenty-five percent (25%) in  
11 the aggregate:

12 (ii) To pay the amount shown as payment or tax on any return specified in subsection  
13 (f)(4)(i) on or before the date prescribed for payment of the tax (determined with regard to any  
14 extension of time for payment), unless it is shown that the failure is due to reasonable cause and  
15 not due to willful neglect, there shall be added to the amount shown as tax on such return, five-  
16 tenths percent (0.5%) of the amount if the failure is for not more than one month, with an  
17 additional five-tenths percent (0.5%) for each additional month or the failure continues, not  
18 exceeding twenty-five percent (25%) in the aggregate; or

19 (iii) To pay any amount in respect of any tax required to be shown on a return specified  
20 in subsection (f)(4)(i) which is not so shown (including an assessment made as a result of  
21 mathematical error) within ten (10) days of the date of the notice and demand therefor, unless it  
22 is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be  
23 added to the amount of tax stated in the notice and demand, five-tenths percent (0.5%) of the  
24 amount if the failure is for not more than one month, with an additional five-tenths percent  
25 (0.5%) for each additional month or fraction during which the failure continues, not exceeding  
26 twenty-five percent (25%) in the aggregate.

27 (5) Limitations and special rule.

28 (i) With respect to any return, the amount of the addition under subsection (f)(4)(i) shall  
29 be reduced by the amount of the addition under subsection (f)(4)(ii) for any month to which an  
30 addition to tax applies under subsections (f)(4)(i) and (f)(4)(ii):

31 (ii) With respect to any return, the maximum amount of the addition permitted under  
32 subsection (f)(4)(i) shall be reduced by the amount of the addition under subsection (f)(4)(ii)

1 which is attributable to the tax for which the notice and demand is made and which is not paid  
2 within ten (10) days of notice and demand:

3 (iii) The additions set forth in subsection (f)(5) shall be in lieu of the ten percent (10%)  
4 penalties prescribed in section 31-36-9(2) and (10). Interest prescribed in section 44-1-7 shall be  
5 applicable.

6 (6) Federal requirements.. - In the event the federal government requires a certain  
7 portion of the gasoline tax to be dedicated for highway improvements, then the state controller is  
8 hereby directed to establish a restricted receipt account and deposit that portion of gasoline tax  
9 receipts which brings the state into federal compliance.

10 **31-36-20. Disposition of proceeds.** -- (a) Notwithstanding any other provision of law to  
11 the contrary, all moneys paid into the general treasury under the provisions of this chapter or  
12 chapter 37 of this title shall be applied to and held in a separate fund and be deposited in such  
13 depositories as may be selected by the General Treasurer to the credit of the fund, which fund  
14 shall be known as the Intermodal Surface Transportation Fund; provided, however, that three  
15 cents (\$.03) per gallon of the tax imposed and accruing for the liability under the provisions of  
16 section 31-36-7, less refunds and credits, shall be transferred to the Rhode Island public transit  
17 authority as provided under section 39-18-21, and one cent (\$.01) per gallon shall be transferred  
18 to the Elderly/Disabled Transportation Program of the department of elderly affairs, and ~~nine~~  
19 ~~cents (\$.09)~~ two cents (\$.02) shall be transferred to the municipalities for the maintenance of  
20 roads and bridges according to the provisions of section 25-5-4 of the general laws, and seven  
21 cents (\$.07) per gallon shall be available according to the following schedule:

- 22 (1) For the fiscal year 1998, seven cents shall be available for general revenue.  
23 (2) For the fiscal year 1999, ~~six~~ four cents shall be available for general revenue.  
24 (3) For the fiscal year 2000, ~~five~~ three cents shall be available for general revenue.  
25 (4) For the fiscal year 2001, ~~four~~ two cents shall be available for general revenue.  
26 (5) For the fiscal year 2002, ~~three~~ one cents shall be available for general revenue.  
27 (6) For the fiscal year 2003, ~~two cents~~ no funding shall be available for general revenue.  
28 (7) For the fiscal year 2004, ~~one cent~~ shall be available for general revenue.  
29 (8) For the fiscal year 2005, ~~no funding~~ shall be available for general revenue.

30 All deposits and transfers of funds made by the tax administrator under this section  
31 including those to the Rhode Island public transit authority, the department of elderly affairs and  
32 the general fund, shall be made within twenty-four (24) hours of receipt or previous deposit of

1 the funds in question.

2 (b) Notwithstanding any other provision of law to the contrary, all other funds in the  
3 fund shall be dedicated to the Rhode Island department of transportation, subject to annual  
4 appropriation by the general assembly. The director of the department of transportation shall  
5 submit to the general assembly, budget office and office of the governor annually an accounting  
6 of all amounts deposited in and credited to such fund together with a planned budget for  
7 proposed expenditures for the succeeding fiscal year in compliance with sections 35-3-1 and 35-  
8 3-4. On order of the director of transportation, the state controller is hereby authorized and  
9 directed to draw his or her orders upon the general treasurer for the payment of such sum of such  
10 portion thereof as may be required from time to time upon receipt by him or her of properly  
11 authenticated vouchers.

12 (c) At any time the amount of the fund is insufficient to fund the expenditures of the  
13 department of transportation, not to exceed the amount authorized by the general assembly, the  
14 general treasurer is authorized from time to time, with the approval of the governor and the  
15 director of administration, in anticipation of the receipts of monies enumerated in section 31-36-  
16 20 to advance sums to the fund, for the purposes specified in section 31-36-20, any funds of the  
17 state not specifically held for any particular purpose, provided, however, that all such advances  
18 made to the fund shall be returned to the general fund forthwith upon the receipt by such fund of  
19 proceeds resulting from the receipt of monies to the extent of such advances.

20 SECTION 2. Section 24-5-4 of the General Laws in Chapter 24-5 entitled "Maintenance  
21 of Town Highways" is hereby amended to read as follows:

22 ~~24-5-4. Appropriations expended under department of transportation - State aid. -~~  
23 ~~Whenever any town shall make an annual appropriation equal to or in addition to the sum of~~  
24 ~~twenty cents (\$.20) on each one hundred dollars (\$100) of the ratable property of such town, and~~  
25 ~~whenever the electors at the meeting shall direct that the appropriation be expended under the~~  
26 ~~care and direction of the department of transportation, the town shall be entitled to state aid in~~  
27 ~~the care and maintenance of its public highways, causeways, and bridges, other than state~~  
28 ~~highways, in the following amount: A sum of money not exceeding one fifth (1/5) of the money~~  
29 ~~appropriated as aforesaid by any town, out of any money specifically appropriated by the general~~  
30 ~~assembly to be used and expended by the department of transportation for the repair, care, and~~  
31 ~~maintenance of public highways, causeways, and bridges in the respective towns; and the state~~  
32 ~~controller is hereby authorized and directed to draw his or her order upon the general treasurer~~

1 ~~for the money so appropriated, upon proper vouchers signed by the director of transportation.~~  
2 ~~Whenever the electors at the meeting shall direct the appropriation as aforesaid to be expended~~  
3 ~~under the direction of the department of transportation, the town treasurer of the town shall pay~~  
4 ~~such highway bills for highway expenditures in the town as are properly audited by the director~~  
5 ~~of transportation, not exceeding the amount of the town's appropriation.~~

6 **24-5-4. Appropriations for municipal bridges and roads - State aid. --** There is  
7 hereby established a municipal road and bridge program, which shall include, but not be limited  
8 to, resurfacing, striping and signing, minor drainage improvements, minor guardrail  
9 improvements, crack sealing, chip sealing, retaining wall repair, sidewalk and curb repair.  
10 Commencing with the fiscal year ending June 30, 1999, the general assembly will appropriate  
11 the funds provided for this purpose in section 31-36-20 of the general laws as follows:

12 (a) A base grant to every municipality of one hundred fifty thousand dollars (\$150,000)  
13 per fiscal year.

14 (b) The remainder shall be given to each municipality based on a formula which  
15 compares that municipality's center lane road mileage and motor vehicle registrations to the  
16 state's total municipal center lane road mileage and motor vehicle registrations. For each  
17 municipality, let R be the center land road mileage multiplied by the number of motor vehicle  
18 registrations. The amount to be allocated to any municipality is the value of R for that  
19 municipality divided by the sum of the values of R for all municipalities times the amount  
20 remaining after the base grant referred to in subsection (a) is allocated.

21 The director of the department of transportation shall annually certify the center lane  
22 road mileage for each municipality. The registrar of motor vehicles shall annually certify to the  
23 director of the department of transportation the total number of motor vehicle registrations for  
24 each municipality. The director of the department of transportation shall notify by March of  
25 each fiscal year the amount each municipality will receive based upon the aforesaid formula.  
26 Following a public meeting in May of each fiscal year to consider potential uses of these funds,  
27 municipalities by council action may apply to the director of the department of transportation for  
28 these funds. The state controller is hereby authorized and directed to draw his or her order upon  
29 the general treasurer for the money so appropriated, upon proper vouchers signed by the director  
30 of transportation.

31 Furthermore, whenever any state funds are appropriated for the municipal road and  
32 bridge program, the funds shall be used for the purposes stated in this section only and all such

1 state funds must be used to supplement any and all money allocated by a municipality for road  
2 and bridge purposes and, in no event, shall state funds be used to supplant, directly or indirectly,  
3 any money allocated by a municipality for road and bridge purposes.

4 Notwithstanding the provisions of section 35-3-15 of the general laws in chapter 35-3  
5 entitled "State Budget", all unexpended, encumbered, and unencumbered balances of said  
6 revenue appropriations for the municipal road and bridge program, whether regular or special  
7 appropriations, at the end of each fiscal year shall be reappropriated in the ensuing fiscal year  
8 and made immediately available for the same purposes as the former applications.

9 SECTION 3. This act shall take effect on July 1, 1998.

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98-S 2138

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
AN ACT  
RELATING TO THE GASOLINE TAX

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- 1 This act would allocate a portion of the gasoline tax and apply it to a "municipal road  
2 and bridge program" according to a formula specified within the act.  
3 This act would take effect on July 1, 1998.

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PROVIDENCE, R.I.  
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FBI