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Lawmakers looking to pump up gas tax this session

By Lisa Riley Roche

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SALT LAKE CITY — Pumping up Utah's 24.5-cent per gallon gas tax for the first time in nearly two decades is on the agenda for the 2015 Legislature, but just what direction lawmakers take with the increase remains to be seen.

Republican leaders in the Utah House and Senate agree it's time to make some changes, yet they're split over whether to make the per-gallon charge a sales tax that adjusts annually or just raise the existing gas tax 5 or 10 cents.

The money is needed to help close a projected \$11.3 billion gap in transportation funding through 2040, much of it for dealing with the deterioration of the state's thousands of miles of roads.

"We do not have a hole, but we see one in front of us, and we're trying to fill it before we get to it," said Carlos Braceras, Utah Department of Transportation executive director.

Braceras said while lawmakers have created a unique Transportation Investment Fund to pay for adding capacity to Utah's highway system, gas tax revenues are used to cover the bulk of the cost of maintaining aging roads.

"It's a struggle. We're constantly being stressed on how to maintain the system," he said, given that adjusted for inflation, the buying power of the 24.5-cent gas tax is actually about 16 cents.

While Gov. Gary Herbert did not recommend a gas tax increase in his proposed 2016 budget, he is helping to drive the discussion by calling for lawmakers to remove a sales tax earmark for roads to free up funds for schools.

The governor recently told the Deseret News and KSL editorial boards "now is the time" to raise the gas tax, whether that means boosting the per-gallon tax, imposing a sales tax or some combination of both.

House Speaker-elect Greg Hughes, R-Draper, said Republicans in the House have the political will to take action on the gas tax.

"We think that it is a unique time, when gas prices are lower and we are not in a re-election year," Hughes said. "I think this session provides an important opportunity to do some heavy political lifting."

What Hughes wants to see this session is a shift from a per-gallon tax to a type of sales tax. The new tax would be adjusted annually by applying a set rate tied to inflation to the average price of gas over the previous year.

Because the shift is intended to initially be revenue neutral, the tax is expected to start near 10 percent. As long as gas prices stay low, Utahns would not spend more filling up their vehicles. But as gas prices go up, so would the taxes Utahns pay.

Hughes said even as gas prices rise, Utahns likely still would be paying a smaller percentage at the pump in gas taxes than they did in 1997, when gas was about \$1.09 per gallon and the tax was increased from 19 cents to 24.5 cents per gallon.

Senate President Wayne Niederhauser, R-Sandy, said he'd like lawmakers this session to simply raise the per-gallon gas tax that's been in place in Utah since 1923 by 5 or 10 cents.

"If you want to talk about good policy, not what's good politics, the gas tax was the right thing to do then and it's still the right thing to do," he said, warning that taxing gas based on price "could be one of the largest tax increases in Utah history."

Niederhauser said it's likely lawmakers will come up with a combination the two taxes, but he'd rather they "courageously do what we need to do and just raise the cents per gallon. Hopefully, other legislatures will do that in the future, too."

A new study, ["Reforming State Gas Taxes,"](#) published in November found that states around the country are struggling with an eroding gas tax base as Americans drive less and vehicles are becoming more fuel efficient.

That's forcing lawmakers nationwide to make the difficult choice of raising gas taxes, raiding other revenue sources or cutting back on transportation spending, according to the study by the Urban Institute and Brookings Institution Tax Policy Center.

The study found the average gas tax rate for the 50 states and Washington, D.C., increased by less than 6 cents between 1993 and 2014, to 24.2 cents, while the amount of revenue per capita declined 10 percent from 1993 to 2011.

Richard Auxier, a research associate at the State and Local Finance Initiative who authored the study, said states are better off with a per-gallon tax that automatically increases as the cost of living rises.

Auxier calculated at the request of the Deseret News that had Utah set up what's known as indexing for inflation in 1997, the last time the gas tax was increased, the rate would have increased to 36.1 cents in 2014.

However, the tax isn't popular with voters, he said.

Critics call automatic increases unjust and argue that lawmakers should have to vote on each increase, Auxier wrote in the study, noting that over the past 20 years, there's been little inclination to "raise rates very often or by very much."

Last November, voters in Massachusetts, one of only three states that indexed gas taxes, repealed tying a 3-cents-per-gallon increase that brought that state's rate up to 24 cents to inflation.

The success of the ballot issue in Massachusetts "speaks to how difficult this is, no matter how much you want to argue it makes sense," Auxier said. "It's a politically tough sell even when gas prices are down."

A 2013 Utah Foundation study found that had there been a 9-cents-per-gallon increase in the gas tax in 2010 that was indexed to inflation, an additional \$6.8 billion would be collected over 30 years. Adding a 4.7 percent sales tax to gas purchases over the same time period would raise at least \$10 billion.

Utah Foundation President Steve Kros said changing the per-gallon tax to a sales tax is risky because of the unpredictability of the cost of gas.

"It can go up and it can go down," he said, noting that gas prices are influenced by many factors, including international politics, but don't necessarily follow inflation. "It would make the revenues more volatile."

Randal O'Toole, a senior fellow at the Libertarian Cato Institute, offered a more radical proposal for funding roads.

"The gas tax is a cheap way of collecting user fees for roads," O'Toole said, but isn't a stable source of revenue and doesn't have enough influence on driving behavior to ease congestion.

"That's why I support mileage-based user fees. User fees work best when they provide links between users and providers that indicate the value of the services provided," he said.

Those fees typically take the form of tolls. Some states, including Oregon, are experimenting with ways to charge drivers according to the miles they travel, a proposal that has raised privacy concerns.

Rep. John Cox, R-Ephraim, said he will introduce legislation this session to direct state officials to start the process of obtaining the needed waivers from the federal government to allow tolls to be charged on I-15 during inversions.

"I personally would love to see tolling as a solution to how we fund roads. I think it's a great user fee," Cox said. But he said his bill is just a first step. "By no means is this a way to replace the gas tax this year."