

Moved by McGee

Seconded by Winder

IN THE SENATE
SENATE AMENDMENT TO H.B. NO. 96

AMENDMENT TO THE BILL

On page 2 of the printed bill, following line 7, insert:

"SECTION 2. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

40-701. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is established in the state treasury an account known as the "Highway Distribution Account," to which shall be credited:

(a) Moneys as provided by sections 63-2412(1)(e)4, and 63-2418(3), Idaho Code;

(b) All moneys collected by the department, their agents and vendors, and county assessors and sheriffs, under the provisions of title 49, Idaho Code, except as otherwise specifically provided for; and

(c) All other moneys as may be provided by law.

(2) The highway distribution account shall be apportioned as follows:

(a) An amount equivalent to the motor fuel tax exceeding twenty-five cents (25¢) per gallon shall be deposited to the highway maintenance, preservation and restoration fund created under section 40-701A, Idaho Code, and the remainder shall be distributed:

(b) Thirty-eight percent (38%) to local units of government as provided in section 40-709, Idaho Code;

(bc) Fifty-seven percent (57%) to the state highway account established in section 40-702, Idaho Code; and

(ed) Five percent (5%) to the law enforcement ~~account~~ fund, established in section 67-2914, Idaho Code. The state controller shall cause the remittance of the moneys apportioned to local units of government not later than January 25, April 25, July 25 and October 25 of each year, and to the state highway account and the law enforcement ~~account~~ fund as the moneys become available to the highway distribution account.

(3) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(4) All idle moneys in the dedicated highway trust or asset accounts or subaccounts established from highway user revenues, reimbursements, fees or permits shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the various highway trust or asset accounts and subaccounts.

SECTION 3. That Chapter 7, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-701A, Idaho Code, and to read as follows:

1 40-701A. ESTABLISHMENT OF HIGHWAY MAINTENANCE, PRESERVATION
 2 AND RESTORATION FUND -- APPORTIONMENT. (1) There is hereby established in the
 3 state treasury a fund known as the "Highway Maintenance, Preservation and Restoration Fund,"
 4 to which shall be credited:

5 (a) Moneys as provided in section 40-701(2)(a), Idaho Code; and

6 (b) All other moneys as may be provided by law.

7 (c) Interest earned on the investment of idle moneys in the highway maintenance, preser-
 8 vation and restoration fund shall be paid to the fund as provided for in subsection (2)(b)
 9 of this section.

10 (2) Moneys in the highway maintenance, preservation and restoration fund shall be ap-
 11 portioned as follows:

12 (a) Thirty eight percent (38%) to local units of government as provided in section
 13 40-709, Idaho Code; and

14 (b) Sixty two percent (62%), with all interest accruing thereon, to remain in the highway
 15 maintenance, preservation and restoration fund established in this section for expenditure
 16 by the Idaho transportation department in accordance with the provisions of subsection
 17 (3) of this section.

18 (3) Moneys in the highway maintenance, preservation and restoration fund as provided in
 19 subsection (2)(b) of this section are hereby continuously appropriated to the Idaho transporta-
 20 tion department. Expenditures of moneys from the fund by the department shall be made only
 21 for the maintenance, preservation and restoration of the state highway system. In no event
 22 shall expenditures be made from this dedicated fund for capacity expansion projects. Provided
 23 however, that no moneys shall be expended from such fund unless and until the department
 24 has made plans for and begun implementation of a statewide pavement management system or
 25 similar management tool that is efficient, effective and widely accepted in the trade or practice
 26 for coordinating a statewide system for the management of pavement maintenance.

27 SECTION 4. That Section 63-2402, Idaho Code, be, and the same is hereby amended to
 28 read as follows:

29 63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed
 30 upon the distributor who receives motor fuel in this state. The legal incidence of the tax im-
 31 posed under this section is borne by the distributor. The tax becomes due and payable upon
 32 receipt of the motor fuel in this state by the distributor unless such tax liability has previously
 33 accrued to another distributor pursuant to this section. The tax shall be imposed without regard
 34 to whether use is on a governmental basis or otherwise, unless exempted by this chapter.

35 (2) The tax imposed in this section shall be at the rate of twenty-five ~~eight~~ cents (~~258¢~~)
 36 per gallon of motor fuel received. This tax shall be subject to the exemptions, deductions and
 37 refunds set forth in this chapter.

38 (3) The tax imposed in this section shall be at the rate of thirty-one cents (31¢) per
 39 gallon of motor fuel received. This tax shall be subject to the exemptions, deductions and
 40 refunds set forth in this chapter.

41 (4) Subsection (2) of this section shall be in full force and effect on and after July 1,
 42 2009, through June 30, 2010.

43 (5) Subsection (3) of this section shall be in full force and effect on and after July 1,
 44 2010.

1 (6) Nothing in this chapter shall prohibit the distributor who is liable for payment of
 2 the tax imposed under subsection (1) of this section from including as part of the selling price
 3 an amount equal to such tax on motor fuels sold or delivered by such distributor; provided
 4 however, that nothing in this chapter shall be deemed to impose tax liability on any person to
 5 whom such fuel is sold or delivered except as provided in subsection (69) of this section.

6 (47) Any person coming into this state in a motor vehicle may transport in the manufac-
 7 turer's original tank of that vehicle, for his own use only, not more than thirty (30) gallons of
 8 motor fuel for the purpose of operating that motor vehicle, without complying with the provi-
 9 sions of this chapter.

10 (58) The tax imposed in this section does not apply to:

11 (a) Special fuels that have been dyed at a refinery or terminal under the provisions of
 12 26 U.S.C. section 4082 and regulations adopted thereunder, or under the clean air act and
 13 regulations adopted thereunder except as provided in section 63-2425, Idaho Code; or

14 (b) Special fuel dispensed into a motor vehicle which uses gaseous special fuels and
 15 which displays a valid gaseous special fuels permit under section 63-2424, Idaho Code; or

16 (c) Special fuels that are gaseous special fuels, as defined in section 63-2401, Idaho
 17 Code, except that part thereof that is delivered into the fuel supply tank or tanks of a
 18 motor vehicle; or

19 (d) Aircraft engine fuel subject to tax under section 63-2408, Idaho Code.

20 (69) Should the distributor of first receipt be exempt from imposition of the tax as a
 21 matter of federal law, by virtue of its status as a federally-recognized Indian tribe or member
 22 of such tribe, such distributor shall not bear the tax's legal incidence and must pass the tax
 23 through as part of the selling price of the fuel. Such distributor shall retain the administrative
 24 obligation to remit the tax, and such obligation shall accrue upon receipt in accordance with
 25 subsection (1) of this section. Should a retailer otherwise subject to the tax be exempt from
 26 imposition of the tax as a matter of federal law, by virtue of its status as a federally-recognized
 27 Indian tribe or member of such tribe, the retailer shall not bear the tax's legal incidence and
 28 must pass the tax through as part of the selling price of the fuel to the consumer, unless such
 29 consumer is exempt from imposition of the tax as a matter of federal law, by virtue of its
 30 status as a federally-recognized Indian tribe or membership in such tribe, and the retailer shall
 31 be entitled to claim a credit against taxes otherwise due and owing under this chapter or a tax
 32 refund, together with interest, attributable to the fuel purchased by such consumer.

33 SECTION 5. That Section 63-2424, Idaho Code, be, and the same is hereby amended to
 34 read as follows:

35 63-2424. GASEOUS FUELS. (1) In the case of special fuels which are in a gaseous
 36 form, the commission shall provide by rule the method to be used for converting the mea-
 37 surement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The
 38 method provided shall cause the tax rate provided in section 63-2402, Idaho Code, to apply to
 39 an amount of gaseous fuels having energy equal to one (1) gallon of gasoline.

40 (2) As an alternative to the provisions of subsection (1) of this section, an annual fee in
 41 lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of
 42 the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by
 43 the formula for proration set out below. The permits shall be sold by gaseous fuels vendors
 44 dispensing gaseous fuels into motor vehicles.

VEHICLE TONNAGE (GVW)	FEE
0 — 8,000	\$ 60.00
8,001 — 16,000	\$ 89.00
16,001 — 26,000	\$179.00
26,001 and above	\$208.00

<u>VEHICLE TONNAGE (GVW)</u>	<u>FEE</u>
<u>0 -- 8,000</u>	<u>\$ 80.00</u>
<u>8,001 -- 16,000</u>	<u>\$110.00</u>
<u>16,001 -- 26,000</u>	<u>\$230.00</u>
<u>26,001 and above</u>	<u>\$270.00</u>

Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by rule the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the commission shall be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous place.

(3) As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by the formula for proration set out below. The permits shall be sold by gaseous fuels vendors dispensing gaseous fuels into motor vehicles.

<u>VEHICLE TONNAGE (GVW)</u>	<u>FEE</u>
<u>0 -- 8,000</u>	<u>\$ 90.00</u>
<u>8,001 -- 16,000</u>	<u>\$120.00</u>
<u>16,001 -- 26,000</u>	<u>\$250.00</u>
<u>26,001 and above</u>	<u>\$290.00</u>

Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by rule the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the commission shall be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous place.

(4) Subsection (2) of this section shall be in full force and effect on and after July 1, 2009, through June 30, 2010.

(5) Subsection (3) of this section shall be in full force and effect on and after July 1, 2010."

CORRECTION TO TITLE

On page 1, delete lines 2 and 3 and insert:

1 "RELATING TO TRANSPORTATION AND MOTOR FUEL TAXES; AMENDING SECTION
2 63-2407, IDAHO CODE, TO DELETE CERTAIN DEDUCTIONS RELATING TO
3 CERTAIN FUELS; AMENDING SECTION 40-701, IDAHO CODE, TO REVISE
4 THE APPORTIONMENT FROM THE HIGHWAY DISTRIBUTION ACCOUNT AND
5 TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 7, TITLE
6 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-701A, IDAHO
7 CODE, TO PROVIDE FOR THE HIGHWAY MAINTENANCE, PRESERVATION AND
8 RESTORATION FUND, TO PROVIDE FOR MONEYS CREDITED TO THE FUND,
9 TO PROVIDE FOR INTEREST, TO PROVIDE FOR APPORTIONMENT OF FUND
10 MONEYS, TO PROVIDE FOR CONTINUOUS APPROPRIATION AND TO PROVIDE
11 FOR EXPENDITURES; AMENDING SECTION 63-2402, IDAHO CODE, TO REVISE
12 THE TAX UPON MOTOR FUEL, TO PROVIDE EFFECTIVE DATES AND TO
13 PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 63-2424,
14 IDAHO CODE, TO REVISE CERTAIN FEES RELATING TO VEHICLES POWERED
15 BY GASEOUS FUELS AND TO PROVIDE EFFECTIVE DATES."