



February 20, 2015

SENATE BILL No. 488

DIGEST OF SB 488 (Updated February 17, 2015 12:53 pm - DI 73)

Citations Affected: IC 6-2.5; IC 6-6; IC 8-14; IC 8-23.

Synopsis: Taxation of special fuel. Eliminates the sales tax on the sale of all special fuel that is subject to the special fuel gallonage tax except for: (1) liquid natural gas or compressed natural gas through 2016; (2) natural gas or an alternative fuel commonly or commercially known or sold as butane or propane; and (3) dyed special fuel. Repeals the law concerning precollection of sales tax on special fuel. Increases the gallonage tax on special fuel from \$0.16 to \$0.27 per gallon. Eliminates the motor fuel surcharge tax on special fuel. Reduces the amount of sales tax deposited in the motor vehicle highway account from 1% of collections to 0.5% of collections. Provides that 65% of the money in the highway, road, and street fund shall be distributed to the state highway fund and 35% of the money in the highway, road, and street fund shall be distributed to the local road and street account. (Current law provides that 55% is distributed to the state highway fund and 45% is distributed to the local road and street account.) Provides that biodiesel fuel that is manufactured in Indiana and shipped out of state is exempt from the special fuel tax and motor carrier fuel tax. (Under current law, a refund must be claimed.) Adjusts distributions to the motor carrier regulation fund.

Effective: July 1, 2015.

Walker, Charbonneau, Broden

January 14, 2015, read first time and referred to Committee on Tax & Fiscal Policy.
February 19, 2015, amended, reported favorably — Do Pass.

SB 488—LS 6860/DI 58



February 20, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 488

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-5-27, AS AMENDED BY P.L.226-2014(ts),
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 27. (a) **This section does not apply to dyed
4 special fuel (as defined in IC 6-6-2.5-22).** Except as provided in
5 subsection (b), transactions involving tangible personal property and
6 services are exempt from the state gross retail tax, if:
7 (1) the person acquiring the property or service directly uses or
8 consumes it in providing public transportation for persons or
9 property; **or**
10 (2) **the tangible personal property is special fuel (as defined in**
11 **IC 6-6-2.5-22) that is subject to the special fuel tax under**
12 **IC 6-6-2.5.**
13 (b) Except as provided in subsection (c), a transaction involving a
14 natural gas product (as defined by IC 6-6-2.5-16.5) acquired:
15 (1) after December 31, 2013, and before January 1, 2017; and
16 (2) to fuel a motor vehicle used in providing public transportation

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1 for persons or property;
 2 is not exempt from the state gross retail tax.

3 (c) Subsection (b) does not apply to transactions involving a natural
 4 gas product purchased by a public transportation corporation to fuel a
 5 motor vehicle used to provide public transportation for persons.

6 SECTION 2. IC 6-2.5-6-7, AS AMENDED BY P.L.146-2008,
 7 SECTION 311, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2015]: Sec. 7. Except as otherwise provided in
 9 ~~IC 6-2.5-7~~ or in this chapter, a retail merchant shall pay to the
 10 department, for a particular reporting period, an amount equal to the
 11 product of:

- 12 (1) seven percent (7%); multiplied by
 13 (2) the retail merchant's total gross retail income from taxable
 14 transactions made during the reporting period.

15 The amount determined under this section is the retail merchant's state
 16 gross retail and use tax liability regardless of the amount of tax the
 17 retail merchant actually collects.

18 SECTION 3. IC 6-2.5-6-10, AS AMENDED BY P.L.227-2013,
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2015]: Sec. 10. (a) In order to compensate retail merchants
 21 and those required to remit gasoline use tax for collecting and timely
 22 remitting the state gross retail tax, the state use tax, and the gasoline
 23 use tax, every retail merchant or person required to remit the gasoline
 24 use tax, except as provided in subsection (c), is entitled to deduct and
 25 retain from the amount of those taxes otherwise required to be remitted
 26 under ~~IC 6-2.5-7-5~~, IC 6-2.5-3.5 or under this chapter, if timely
 27 remitted, a retail merchant's collection allowance.

28 (b) The allowance equals a percentage of the retail merchant's state
 29 gross retail and use tax or the person's gasoline use tax liability accrued
 30 during a calendar year, specified as follows:

- 31 (1) Seventy-three hundredths percent (0.73%), if the retail
 32 merchant's state gross retail and use tax or gasoline use tax
 33 liability accrued during the state fiscal year ending on June 30 of
 34 the immediately preceding calendar year did not exceed sixty
 35 thousand dollars (\$60,000).
 36 (2) Fifty-three hundredths percent (0.53%), if the retail merchant's
 37 state gross retail and use tax or gasoline use tax liability accrued
 38 during the state fiscal year ending on June 30 of the immediately
 39 preceding calendar year:
 40 (A) was greater than sixty thousand dollars (\$60,000); and
 41 (B) did not exceed six hundred thousand dollars (\$600,000).
 42 (3) Twenty-six hundredths percent (0.26%), if the retail



1 merchant's state gross retail and use tax liability or the person's
 2 gasoline use tax accrued during the state fiscal year ending on
 3 June 30 of the immediately preceding calendar year was greater
 4 than six hundred thousand dollars (\$600,000).

5 (c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not
 6 entitled to the allowance provided by this section. A retail merchant is
 7 not entitled to the allowance provided by this section with respect to
 8 gasoline use taxes imposed by IC 6-2.5-3.5.

9 SECTION 4. IC 6-2.5-7 IS REPEALED [EFFECTIVE JULY 1,
 10 2015]. (Collection and Remittance of State Gross Retail Tax on Motor
 11 Fuel).

12 SECTION 5. IC 6-2.5-9-4 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. ~~(a) Except as~~
 14 ~~provided in IC 6-2.5-7~~; A person who:

- 15 (1) displays an advertised price, marked price, or publicly stated
 16 price that includes the state gross retail or use taxes;
- 17 (2) offers to assume or absorb part of a customer's state gross
 18 retail or use tax on a sale; or
- 19 (3) offers to refund part of a customer's state gross retail or use tax
 20 as a part of a sale;

21 commits a Class B infraction.

22 ~~(b) A retail merchant who:~~

- 23 ~~(1) uses a metered pump to dispense gasoline; or special fuel;~~
- 24 ~~(2) is required to display on the pump the total price per unit of~~
 25 ~~the gasoline or special fuel under IC 6-2.5-7-2; and~~
- 26 ~~(3) advertises the gasoline or special fuel at a price other than that~~
 27 ~~required by IC 6-2.5-7-2;~~

28 ~~commits a Class B infraction:~~

29 SECTION 6. IC 6-2.5-10-1, AS AMENDED BY P.L.205-2013,
 30 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2015]: Sec. 1. (a) The department shall account for all state
 32 gross retail and use taxes that it collects.

33 (b) The department shall deposit those collections in the following
 34 manner:

- 35 (1) ~~Ninety-eight and eight~~ **Ninety-nine and three** hundred
 36 ~~forty-eight thousandths percent (98.848%)~~ **(99.348%)** of the
 37 collections shall be paid into the state general fund.
- 38 (2) **Five-tenths of** one percent ~~(1%)~~ **(0.5%)** of the collections
 39 shall be deposited in the motor vehicle highway account
 40 established under IC 8-14-1.
- 41 (3) Twenty-nine thousandths of one percent (0.029%) of the
 42 collections shall be deposited into the industrial rail service fund



1 established under IC 8-3-1.7-2.

2 (4) One hundred twenty-three thousandths of one percent
3 (0.123%) of the collections shall be deposited into the commuter
4 rail service fund established under IC 8-3-1.5-20.5.

5 SECTION 7. IC 6-6-2.5-1.7 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2015]: **Sec. 1.7. As used in this chapter, "biodiesel manufacturing
8 plant" means a facility that is located in Indiana and is used for the
9 production of biodiesel.**

10 SECTION 8. IC 6-6-2.5-20 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. As used in this
12 chapter, "received" means the removal from any refinery or terminal in
13 Indiana, **including a biodiesel manufacturing plant**, or the entry into
14 Indiana of any special fuel for consumption, use, sale, or warehousing,
15 except for transfers in bulk into or within a terminal in Indiana between
16 registered suppliers. The tax imposed under section 28 of this chapter
17 with respect to special fuel removed from terminals within Indiana and
18 with respect to special fuel which is the subject of a tax precollection
19 agreement pursuant to section 35(j) of this chapter, shall be imposed at
20 the same time and in the same manner as the tax imposed by Sections
21 4081 to 4083 of the Internal Revenue Code. The definitions of the
22 terms "removal", "entry", and "transfers in bulk" shall have the same
23 meanings described in the Internal Revenue Code or Code of Federal
24 Regulations.

25 SECTION 9. IC 6-6-2.5-20.5 IS ADDED TO THE INDIANA
26 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2015]: **Sec. 20.5. As used in this chapter,
28 "refinery" has the meaning set forth in 26 CFR 48.4081-1. The
29 term also includes a biodiesel manufacturing plant.**

30 SECTION 10. IC 6-6-2.5-23 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. As used in this
32 chapter, "supplier" means a person that imports or acquires
33 immediately upon import into Indiana special fuel by pipeline or
34 marine vessel from within a state, territory, or possession of the United
35 States into a terminal or that imports special fuel into Indiana from a
36 foreign country, or that produces, manufactures, or refines special fuel
37 within Indiana, **including a person that produces biodiesel or both
38 biodiesel and blended biodiesel at a biodiesel manufacturing plant**,
39 or that owns special fuel in the pipeline and terminal distribution
40 system in Indiana, and is subject to the general taxing or police
41 jurisdiction of Indiana, and in any case is also registered under Section
42 4101 of the Internal Revenue Code for transactions in taxable motor



1 fuels in the bulk distribution system. A terminal operator shall not be
 2 considered a supplier merely because the terminal operator handles
 3 special fuel consigned to it within a terminal.

4 SECTION 11. IC 6-6-2.5-28, AS AMENDED BY P.L.190-2014,
 5 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2015]: Sec. 28. (a) A license tax of ~~sixteen~~ **twenty-seven**
 7 cents ~~(\$0.16)~~ **(\$0.27)** per:

8 (1) gallon;

9 (2) diesel gallon equivalent (as defined in IC 6-6-4.1-1(f)), in the
 10 case of a special fuel that is liquid natural gas; or

11 (3) gasoline gallon equivalent (as defined in IC 6-6-4.1-1(g)), in
 12 the case of a special fuel that is compressed natural gas;

13 is imposed on all special fuel sold or used in producing or generating
 14 power for propelling motor vehicles except fuel used under section
 15 30(a)(8) or 30.5 of this chapter. The tax shall be paid at those times, in
 16 the manner, and by those persons specified in this section and section
 17 35 of this chapter.

18 (b) The department shall consider it a rebuttable presumption that
 19 all undyed or unmarked special fuel, or both, received in Indiana is to
 20 be sold for use in propelling motor vehicles.

21 (c) Except as provided in subsection (d), the tax imposed on special
 22 fuel by subsection (a) shall be measured by invoiced gallons (or diesel
 23 or gasoline gallon equivalents in the case of a special fuel described in
 24 subsection (a)(2) or (a)(3)) of nonexempt special fuel received by a
 25 licensed supplier in Indiana for sale or resale in Indiana or with respect
 26 to special fuel subject to a tax precollection agreement under section
 27 35(d) of this chapter, such special fuel removed by a licensed supplier
 28 from a terminal outside of Indiana for sale for export or for export to
 29 Indiana and in any case shall generally be determined in the same
 30 manner as the tax imposed by Section 4081 of the Internal Revenue
 31 Code and Code of Federal Regulations.

32 (d) The tax imposed by subsection (a) on special fuel imported into
 33 Indiana, other than into a terminal, is imposed at the time the product
 34 is entered into Indiana and shall be measured by invoiced gallons
 35 received at a terminal or at a bulk plant.

36 (e) In computing the tax, all special fuel in process of transfer from
 37 tank steamers at boat terminal transfers and held in storage pending
 38 wholesale bulk distribution by land transportation, or in tanks and
 39 equipment used in receiving and storing special fuel from interstate
 40 pipelines pending wholesale bulk reshipment, shall not be subject to
 41 tax.

42 (f) The department shall consider it a rebuttable presumption that



1 special fuel consumed in a motor vehicle plated for general highway
 2 use is subject to the tax imposed under this chapter. A person claiming
 3 exempt use of special fuel in such a vehicle must maintain adequate
 4 records as required by the department to document the vehicle's taxable
 5 and exempt use.

6 (g) A person that engages in blending fuel for taxable sale or use in
 7 Indiana is primarily liable for the collection and remittance of the tax
 8 imposed under subsection (a). The person shall remit the tax due in
 9 conjunction with the filing of a monthly report in the form prescribed
 10 by the department.

11 (h) A person that receives special fuel that has been blended for
 12 taxable sale or use in Indiana is secondarily liable to the state for the
 13 tax imposed under subsection (a).

14 (i) A person may not use special fuel on an Indiana public highway
 15 if the special fuel contains a sulfur content that exceeds five
 16 one-hundredths of one percent (0.05%). A person who knowingly:

- 17 (1) violates; or
- 18 (2) aids or abets another person to violate;

19 this subsection commits a Class A infraction. However, the violation
 20 is a Class A misdemeanor if the person has committed one (1) prior
 21 unrelated violation of this subsection, and a Level 6 felony if the person
 22 has committed more than one (1) unrelated violation of this subsection.

23 SECTION 12. IC 6-6-2.5-57.5 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2015]: **Sec. 57.5. (a) Each person operating**
 26 **a biodiesel manufacturing plant in Indiana shall file monthly**
 27 **reports of operations within Indiana on forms prescribed by the**
 28 **department. The department may require the reporting of any**
 29 **information the department considers reasonably necessary.**

30 **(b) For purposes of reporting and determining tax liability**
 31 **under this chapter, every licensee shall maintain inventory records**
 32 **as required by the department.**

33 SECTION 13. IC 6-6-2.5-68 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 68. (a) The
 35 administrator shall transfer the next twenty-five million dollars
 36 (\$25,000,000) of the taxes that are collected under this chapter and
 37 received during a period beginning July 1 of a year and ending June 30
 38 of the immediately succeeding year to the auditor of state for
 39 distribution in the following manner:

- 40 (1) Thirty percent (30%) to each of the counties, cities, and towns
 41 eligible to receive a distribution from the local road and street
 42 account under IC 8-14-2 and in the same proportion among the



- 1 counties, cities, and towns as funds are distributed under
 2 IC 8-14-2-4.
- 3 (2) Thirty percent (30%) to each of the counties, cities, and towns
 4 eligible to receive a distribution from the motor vehicle highway
 5 account under IC 8-14-1 and in the same proportion among the
 6 counties, cities, and towns as funds are distributed from the motor
 7 vehicle highway account under IC 8-14-1.
- 8 (3) Forty percent (40%) to the Indiana department of
 9 transportation.
- 10 (b) The auditor of state shall hold all amounts of collections
 11 received from the administrator that are made during a particular
 12 month and shall distribute all of those amounts under subsection (a) on
 13 the fifth day of the immediately succeeding month.
- 14 (c) All amounts distributed under subsection (a) may only be used
 15 for purposes that money distributed from the motor vehicle highway
 16 account may be expended under IC 8-14-1.
- 17 (d) **The department shall deposit two and seventy-eight**
 18 **hundredths percent (2.78%) of the revenue collected under this**
 19 **chapter in the motor carrier regulation fund administered by the**
 20 **department.** All remaining revenue collected under this chapter shall
 21 be used in the same manner as the revenue collected under IC 6-6-1.1.
 22 The administrator shall, after the transfers specified in subsection (a)
 23 **and to the motor carrier regulation fund,** deposit the remainder of
 24 the revenues collected under this chapter in the same manner that
 25 revenues are deposited under IC 6-6-1.1-802.
- 26 SECTION 14. IC 6-6-4.1-4.5, AS AMENDED BY P.L.277-2013,
 27 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2015]: Sec. 4.5. (a) A surcharge tax is imposed on the
 29 consumption of motor fuel by a carrier in its operations on highways in
 30 Indiana. The rate of this surcharge tax is eleven cents (\$0.11) per
 31 ~~(1) gallon of gasoline or special fuel (other than natural gas or~~
 32 **gallon of** an alternative fuel commonly or commercially known
 33 or sold as butane or propane.
- 34 ~~(2) diesel gallon equivalent of a special fuel that is liquid natural~~
 35 ~~gas; or~~
- 36 ~~(3) gasoline gallon equivalent of a special fuel that is compressed~~
 37 ~~natural gas or an alternative fuel commonly or commercially~~
 38 ~~known or sold as butane or propane.~~
- 39 The tax shall be paid quarterly by the carrier to the department on or
 40 before the last day of the month immediately following the quarter.
- 41 (b) The amount of motor fuel consumed by a carrier in its operations
 42 on highways in Indiana is the total amount of motor fuel consumed in



1 its entire operations within and without Indiana, multiplied by a
 2 fraction. The numerator of the fraction is the total number of miles
 3 traveled on highways in Indiana, and the denominator of the fraction is
 4 the total number of miles traveled within and without Indiana.

5 (c) The amount of tax that a carrier shall pay for a particular quarter
 6 under this section equals the product of the tax rate in effect for that
 7 quarter, multiplied by the amount of motor fuel consumed by the
 8 carrier in its operation on highways in Indiana.

9 (d) Subject to section 4.8 of this chapter, a carrier is entitled to a
 10 proportional use credit against the tax imposed under this section for
 11 that portion of motor fuel used to propel equipment mounted on a
 12 motor vehicle having a common reservoir for locomotion on the
 13 highway and the operation of this equipment as determined by rule of
 14 the commissioner. An application for a proportional use credit under
 15 this subsection shall be filed on a quarterly basis on a form prescribed
 16 by the department.

17 SECTION 15. IC 8-14-2-3 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The auditor of
 19 state shall credit the state highway fund established under IC 8-23-9-54
 20 monthly with ~~fifty-five~~ **sixty-five** percent (~~55%~~) (**65%**) of the money
 21 deposited in the highway, road and street fund.

22 (b) Funds allocated to the department under this chapter must be
 23 appropriated.

24 SECTION 16. IC 8-14-2-4, AS AMENDED BY P.L.182-2007,
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2015]: Sec. 4. (a) The auditor of state shall establish a special
 27 account to be called the "local road and street account" and credit this
 28 account monthly with ~~forty-five~~ **thirty-five** percent (~~45%~~) (**35%**) of
 29 the money deposited in the highway, road and street fund.

30 (b) The auditor shall distribute to units of local government money
 31 from this account each month. Before making any other distributions
 32 under this chapter, the auditor shall distribute E85 incentive payments
 33 to all political subdivisions entitled to a payment under section 8 of this
 34 chapter.

35 (c) After distributing E85 incentive payments required under section
 36 8 of this chapter, the auditor of state shall allocate to each county the
 37 remaining money in this account on the basis of the ratio of each
 38 county's passenger car registrations to the total passenger car
 39 registrations of the state. The auditor shall further determine the
 40 suballocation between the county and the cities within the county as
 41 follows:

42 (1) In counties having a population of more than fifty thousand



1 (50,000), sixty percent (60%) of the money shall be distributed on
 2 the basis of the population of the city or town as a percentage of
 3 the total population of the county and forty percent (40%)
 4 distributed on the basis of the ratio of city and town street mileage
 5 to county road mileage.

6 (2) In counties having a population of fifty thousand (50,000) or
 7 less, twenty percent (20%) of the money shall be distributed on
 8 the basis of the population of the city or town as a percentage of
 9 the total population of the county and eighty percent (80%)
 10 distributed on the basis of the ratio of city and town street mileage
 11 to county road mileage.

12 (3) For the purposes of allocating funds as provided in this
 13 section, towns which become incorporated as a town between the
 14 effective dates of decennial censuses shall be eligible for
 15 allocations upon the effectiveness of a corrected population count
 16 for the town under IC 1-1-3.5.

17 (4) Money allocated under the provisions of this section to
 18 counties containing a consolidated city shall be credited or
 19 allocated to the department of transportation of the consolidated
 20 city.

21 (d) Each month the auditor of state shall inform the department of
 22 the amounts allocated to each unit of local government from the local
 23 road and street account.

24 SECTION 17. IC 8-23-29-2, AS ADDED BY P.L.208-2014,
 25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2015]: Sec. 2. The department shall contract with a third party
 27 to study transportation infrastructure funding mechanisms. The contract
 28 must include the following terms:

29 (1) A description of the funding mechanisms that will be studied.
 30 The funding mechanisms must include the following:

31 (A) An option that is based on variables, including vehicle
 32 gross weight and miles traveled.

33 (B) An option that accounts for variations in usage and degree
 34 of damage caused to transportation infrastructure by vehicles
 35 of different sizes and configurations.

36 (C) A flat per vehicle fee.

37 (D) Adjustments to one (1) or more of the following:

38 (i) ~~The state gross retail tax on motor fuel imposed under~~
 39 ~~IC 6-2.5-7.~~

40 (ii) (i) The gasoline tax imposed under IC 6-6-1.1.

41 (iii) (ii) The special fuel tax imposed under IC 6-6-2.5.

42 (iv) (iii) The motor carrier fuel tax imposed under



- 1 IC 6-6-4.1, including the surcharge tax imposed under
- 2 IC 6-6-4.1-4.5.
- 3 (E) Tolls.
- 4 (F) Any other mechanism the department determines is
- 5 appropriate.
- 6 (2) The duration of the study, which must be an adequate length
- 7 of time to ensure that a quality and comprehensive analysis of all
- 8 topics will be thoroughly reviewed, but is not to exceed two (2)
- 9 years.
- 10 (3) An inventory of the transportation infrastructure that will be
- 11 maintained through revenue generated by the funding
- 12 mechanisms included in the study. The inventory must include
- 13 state and local highways, roads, and streets.
- 14 (4) The rating system by which the maintenance of the
- 15 transportation infrastructure will be evaluated.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 488, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 7, begin a new paragraph and insert:

"SECTION 1. IC 6-2.5-5-27, AS AMENDED BY P.L.226-2014(ts), SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 27. (a) **This section does not apply to dyed special fuel (as defined in IC 6-6-2.5-22).** Except as provided in subsection (b), transactions involving tangible personal property and services are exempt from the state gross retail tax, if:

(1) the person acquiring the property or service directly uses or consumes it in providing public transportation for persons or property; or

(2) **the tangible personal property is special fuel (as defined in IC 6-6-2.5-22) that is subject to the special fuel tax under IC 6-6-2.5.**

(b) Except as provided in subsection (c), a transaction involving a natural gas product (as defined by IC 6-6-2.5-16.5) acquired:

(1) after December 31, 2013, and before January 1, 2017; and

(2) to fuel a motor vehicle used in providing public transportation for persons or property;

is not exempt from the state gross retail tax.

(c) Subsection (b) does not apply to transactions involving a natural gas product purchased by a public transportation corporation to fuel a motor vehicle used to provide public transportation for persons."

Page 3, delete lines 15 through 42.

Page 4, delete lines 1 through 28, begin a new paragraph and insert:

"SECTION 6. IC 6-2.5-10-1, AS AMENDED BY P.L.205-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) The department shall account for all state gross retail and use taxes that it collects.

(b) The department shall deposit those collections in the following manner:

(1) ~~Ninety-eight and eight~~ **Ninety-nine and three** hundred forty-eight thousandths percent (~~98.848%~~) (**99.348%**) of the collections shall be paid into the state general fund.

(2) **Five-tenths of** one percent (~~1%~~) (**0.5%**) of the collections shall be deposited in the motor vehicle highway account established under IC 8-14-1.



(3) Twenty-nine thousandths of one percent (0.029%) of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

(4) One hundred twenty-three thousandths of one percent (0.123%) of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

SECTION 7. IC 6-6-2.5-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.7. As used in this chapter, "biodiesel manufacturing plant" means a facility that is located in Indiana and is used for the production of biodiesel.**

SECTION 8. IC 6-6-2.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. As used in this chapter, "received" means the removal from any refinery or terminal in Indiana, **including a biodiesel manufacturing plant**, or the entry into Indiana of any special fuel for consumption, use, sale, or warehousing, except for transfers in bulk into or within a terminal in Indiana between registered suppliers. The tax imposed under section 28 of this chapter with respect to special fuel removed from terminals within Indiana and with respect to special fuel which is the subject of a tax precollection agreement pursuant to section 35(j) of this chapter, shall be imposed at the same time and in the same manner as the tax imposed by Sections 4081 to 4083 of the Internal Revenue Code. The definitions of the terms "removal", "entry", and "transfers in bulk" shall have the same meanings described in the Internal Revenue Code or Code of Federal Regulations.

SECTION 9. IC 6-6-2.5-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 20.5. As used in this chapter, "refinery" has the meaning set forth in 26 CFR 48.4081-1. The term also includes a biodiesel manufacturing plant.**

SECTION 10. IC 6-6-2.5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. As used in this chapter, "supplier" means a person that imports or acquires immediately upon import into Indiana special fuel by pipeline or marine vessel from within a state, territory, or possession of the United States into a terminal or that imports special fuel into Indiana from a foreign country, or that produces, manufactures, or refines special fuel within Indiana, **including a person that produces biodiesel or both biodiesel and blended biodiesel at a biodiesel manufacturing plant**, or that owns special fuel in the pipeline and terminal distribution system in Indiana, and is subject to the general taxing or police



jurisdiction of Indiana, and in any case is also registered under Section 4101 of the Internal Revenue Code for transactions in taxable motor fuels in the bulk distribution system. A terminal operator shall not be considered a supplier merely because the terminal operator handles special fuel consigned to it within a terminal.

SECTION 11. IC 6-6-2.5-28, AS AMENDED BY P.L.190-2014, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 28. (a) A license tax of ~~sixteen~~ **twenty-seven** cents (~~\$0.16~~) (**\$0.27**) per:

- (1) gallon;
- (2) diesel gallon equivalent (as defined in IC 6-6-4.1-1(f)), in the case of a special fuel that is liquid natural gas; or
- (3) gasoline gallon equivalent (as defined in IC 6-6-4.1-1(g)), in the case of a special fuel that is compressed natural gas;

is imposed on all special fuel sold or used in producing or generating power for propelling motor vehicles except fuel used under section 30(a)(8) or 30.5 of this chapter. The tax shall be paid at those times, in the manner, and by those persons specified in this section and section 35 of this chapter.

(b) The department shall consider it a rebuttable presumption that all undyed or unmarked special fuel, or both, received in Indiana is to be sold for use in propelling motor vehicles.

(c) Except as provided in subsection (d), the tax imposed on special fuel by subsection (a) shall be measured by invoiced gallons (or diesel or gasoline gallon equivalents in the case of a special fuel described in subsection (a)(2) or (a)(3)) of nonexempt special fuel received by a licensed supplier in Indiana for sale or resale in Indiana or with respect to special fuel subject to a tax precollection agreement under section 35(d) of this chapter, such special fuel removed by a licensed supplier from a terminal outside of Indiana for sale for export or for export to Indiana and in any case shall generally be determined in the same manner as the tax imposed by Section 4081 of the Internal Revenue Code and Code of Federal Regulations.

(d) The tax imposed by subsection (a) on special fuel imported into Indiana, other than into a terminal, is imposed at the time the product is entered into Indiana and shall be measured by invoiced gallons received at a terminal or at a bulk plant.

(e) In computing the tax, all special fuel in process of transfer from tank steamers at boat terminal transfers and held in storage pending wholesale bulk distribution by land transportation, or in tanks and equipment used in receiving and storing special fuel from interstate pipelines pending wholesale bulk reshipment, shall not be subject to



tax.

(f) The department shall consider it a rebuttable presumption that special fuel consumed in a motor vehicle plated for general highway use is subject to the tax imposed under this chapter. A person claiming exempt use of special fuel in such a vehicle must maintain adequate records as required by the department to document the vehicle's taxable and exempt use.

(g) A person that engages in blending fuel for taxable sale or use in Indiana is primarily liable for the collection and remittance of the tax imposed under subsection (a). The person shall remit the tax due in conjunction with the filing of a monthly report in the form prescribed by the department.

(h) A person that receives special fuel that has been blended for taxable sale or use in Indiana is secondarily liable to the state for the tax imposed under subsection (a).

(i) A person may not use special fuel on an Indiana public highway if the special fuel contains a sulfur content that exceeds five one-hundredths of one percent (0.05%). A person who knowingly:

- (1) violates; or
- (2) aids or abets another person to violate;

this subsection commits a Class A infraction. However, the violation is a Class A misdemeanor if the person has committed one (1) prior unrelated violation of this subsection, and a Level 6 felony if the person has committed more than one (1) unrelated violation of this subsection.

SECTION 12. IC 6-6-2.5-57.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 57.5. (a) Each person operating a biodiesel manufacturing plant in Indiana shall file monthly reports of operations within Indiana on forms prescribed by the department. The department may require the reporting of any information the department considers reasonably necessary.**

(b) For purposes of reporting and determining tax liability under this chapter, every licensee shall maintain inventory records as required by the department.

SECTION 13. IC 6-6-2.5-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 68. (a) The administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

- (1) Thirty percent (30%) to each of the counties, cities, and towns



eligible to receive a distribution from the local road and street account under IC 8-14-2 and in the same proportion among the counties, cities, and towns as funds are distributed under IC 8-14-2-4.

(2) Thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1.

(3) Forty percent (40%) to the Indiana department of transportation.

(b) The auditor of state shall hold all amounts of collections received from the administrator that are made during a particular month and shall distribute all of those amounts under subsection (a) on the fifth day of the immediately succeeding month.

(c) All amounts distributed under subsection (a) may only be used for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(d) **The department shall deposit two and seventy-eight hundredths percent (2.78%) of the revenue collected under this chapter in the motor carrier regulation fund administered by the department.** All **remaining** revenue collected under this chapter shall be used in the same manner as the revenue collected under IC 6-6-1.1. The administrator shall, after the transfers specified in subsection (a) **and to the motor carrier regulation fund**, deposit the remainder of the revenues collected under this chapter in the same manner that revenues are deposited under IC 6-6-1.1-802.

SECTION 14. IC 6-6-4.1-4.5, AS AMENDED BY P.L.277-2013, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.5. (a) A surcharge tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this surcharge tax is eleven cents (\$0.11) per

(1) gallon of gasoline ~~or special fuel (other than natural gas or~~ **gallon of** an alternative fuel commonly or commercially known or sold as butane or propane.

(2) ~~diesel gallon equivalent of a special fuel that is liquid natural gas; or~~

(3) ~~gasoline gallon equivalent of a special fuel that is compressed natural gas or an alternative fuel commonly or commercially known or sold as butane or propane.~~

The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.



(b) The amount of motor fuel consumed by a carrier in its operations on highways in Indiana is the total amount of motor fuel consumed in its entire operations within and without Indiana, multiplied by a fraction. The numerator of the fraction is the total number of miles traveled on highways in Indiana, and the denominator of the fraction is the total number of miles traveled within and without Indiana.

(c) The amount of tax that a carrier shall pay for a particular quarter under this section equals the product of the tax rate in effect for that quarter, multiplied by the amount of motor fuel consumed by the carrier in its operation on highways in Indiana.

(d) Subject to section 4.8 of this chapter, a carrier is entitled to a proportional use credit against the tax imposed under this section for that portion of motor fuel used to propel equipment mounted on a motor vehicle having a common reservoir for locomotion on the highway and the operation of this equipment as determined by rule of the commissioner. An application for a proportional use credit under this subsection shall be filed on a quarterly basis on a form prescribed by the department.

SECTION 15. IC 8-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The auditor of state shall credit the state highway fund established under IC 8-23-9-54 monthly with ~~fifty-five~~ **sixty-five** percent (~~55%~~) (**65%**) of the money deposited in the highway, road and street fund.

(b) Funds allocated to the department under this chapter must be appropriated.

SECTION 16. IC 8-14-2-4, AS AMENDED BY P.L.182-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) The auditor of state shall establish a special account to be called the "local road and street account" and credit this account monthly with ~~forty-five~~ **thirty-five** percent (~~45%~~) (**35%**) of the money deposited in the highway, road and street fund.

(b) The auditor shall distribute to units of local government money from this account each month. Before making any other distributions under this chapter, the auditor shall distribute E85 incentive payments to all political subdivisions entitled to a payment under section 8 of this chapter.

(c) After distributing E85 incentive payments required under section 8 of this chapter, the auditor of state shall allocate to each county the remaining money in this account on the basis of the ratio of each county's passenger car registrations to the total passenger car registrations of the state. The auditor shall further determine the suballocation between the county and the cities within the county as



follows:

(1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) For the purposes of allocating funds as provided in this section, towns which become incorporated as a town between the effective dates of decennial censuses shall be eligible for allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(4) Money allocated under the provisions of this section to counties containing a consolidated city shall be credited or allocated to the department of transportation of the consolidated city.

(d) Each month the auditor of state shall inform the department of the amounts allocated to each unit of local government from the local road and street account."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 488 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 1.

