

1 HB560  
2 177285-1  
3 By Representative McCutcheon (Constitutional Amendment)  
4 RFD: Transportation, Utilities and Infrastructure  
5 First Read: 19-APR-16

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8 SYNOPSIS: This bill would propose a constitutional  
9 amendment to provide for additional gasoline and  
10 diesel fuel excise taxes to bring the excise taxes  
11 in line with the average gasoline taxes and fees  
12 levied in the four states bordering Alabama. The  
13 revenue from the additional taxes would be paid  
14 into the Alabama Transportation Safety Fund  
15 established in SB180, 2016 Regular Session, and  
16 would be expended only as authorized in that act.

17 This bill would prohibit the passage of a  
18 local law levying an excise tax on gasoline or  
19 diesel fuel by a county, except under certain  
20 conditions.

21 This bill would also provide additional fees  
22 for private passenger alternative fuel vehicles and  
23 commercial alternative fuel vehicles and would  
24 require that the fees be paid into the Alabama  
25 Transportation Safety Fund and expended only for  
26 specific purposes.

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
4

5 To propose a constitutional amendment to the  
6 Constitution of Alabama of 1901, as amended, to provide for  
7 additional gasoline and diesel fuel excise taxes; to provide  
8 for the distribution of the revenue from the additional taxes;  
9 to prohibit the passage of a local law levying an excise tax  
10 on gasoline or diesel fuel by a county, except under certain  
11 conditions; and to provide additional fees for private  
12 passenger alternative fuel vehicles and commercial alternative  
13 fuel vehicles.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. The following amendment to the  
16 Constitution of Alabama of 1901, as amended, is proposed and  
17 shall become valid as a part thereof when approved by a  
18 majority of the qualified electors voting thereon and in  
19 accordance with Sections 284, 285, and 287 of the Constitution  
20 of Alabama of 1901, as amended:

21 PROPOSED AMENDMENT

22 Section 1. (a) For the purposes of this amendment,  
23 the following terms shall have the following meanings:

24 (1) ALABAMA TAX ON GASOLINE. The Total State Excise  
25 Taxes/Fees on Gasoline most recently reported by the American  
26 Petroleum Institute for Alabama.

1 (2) BORDER STATES AVERAGE GASOLINE TAX. The average  
2 of the Total State Excise Taxes/Fees on Gasoline most recently  
3 reported by the American Petroleum Institute for Georgia,  
4 Florida, Mississippi, and Tennessee as calculated by the  
5 department.

6 (3) DEPARTMENT. The Department of Revenue.

7 (b) (1) Effective October 1, 2016, and in addition to  
8 any other taxes provided by law, there shall be additional  
9 excise taxes imposed on gasoline and diesel fuel in an amount  
10 equal to six cents (\$0.06) per gallon.

11 (2) The additional gasoline and diesel fuel excise  
12 taxes imposed under this amendment shall be collected as  
13 provided in Section 40-17-326, Code of Alabama 1975, and paid  
14 into the Alabama Transportation Safety Fund established in  
15 SB180, 2016 Regular Session, and distributed and expended only  
16 as provided in that act.

17 (c) Effective October 1 in 2019, 2023, and 2027,  
18 there shall be additional excise taxes imposed on gasoline and  
19 diesel fuel in an amount equal to the difference between the  
20 Border States Average Gasoline Tax and the Alabama Tax on  
21 Gasoline as determined under the procedures set out in  
22 subsection (d).

23 (d) No later than February 1 in 2019, 2023, and  
24 2027, the department shall calculate the Border States Average  
25 Gasoline Tax and the difference between the Border States  
26 Average Gasoline Tax and the Alabama Tax on Gasoline, rounded  
27 to the nearest penny, and shall notify the Senate Pro Tempore

1 and Speaker of the House of Representatives of the  
2 recalculated rates on the first day of the next Regular  
3 Session.

4 (e) (1) In the event an upward or downward adjustment  
5 of the gasoline and diesel fuel excise taxes imposed in  
6 subsection (c) is warranted by the department's recalculation,  
7 any change in the rate of the gasoline and diesel fuel excise  
8 taxes shall take effect on October 1, 2019, unless, during the  
9 2019 Regular Session of the Legislature, a joint resolution is  
10 adopted by the Legislature to continue imposing the rate of  
11 gasoline and diesel fuel excise taxes at the rate effective  
12 October 1, 2016.

13 (2) The process for recalculation by the department  
14 set out in this subsection shall be repeated in 2023 and 2027,  
15 and any upward or downward adjustment in gasoline and diesel  
16 fuel excise taxes warranted by the department's recalculation  
17 shall take effect on the following October 1, unless a joint  
18 resolution is adopted by the Legislature during the Regular  
19 Session of 2023 or 2027 to continue imposing the rate of  
20 gasoline and diesel fuel excise taxes in effect at the time  
21 the resolution is adopted. After October 1, 2027, no further  
22 adjustments in the gasoline and diesel fuel excise taxes shall  
23 take effect, except by separate act of the Legislature.

24 (3) Any additional gasoline and diesel fuel excise  
25 taxes imposed under subsection (c) shall be collected as  
26 provided in Section 40-17-326, Code of Alabama 1975, and paid  
27 into the Alabama Transportation Safety Fund established in

1 SB180, 2016 Regular Session and distributed and expended only  
2 as provided in that act.

3 Section 2. (a) The Legislature shall not enact any  
4 local law authorizing the levy of a local excise tax on  
5 gasoline or diesel fuel by a county on or after the  
6 ratification of this amendment, unless the authority to levy  
7 is approved by a majority of qualified electors in a  
8 referendum conducted in accordance with the election laws of  
9 the state and held in conjunction with a scheduled primary or  
10 general election or in conjunction with a special election  
11 held for another purpose in the jurisdiction.

12 (b) The Legislature may enact a local law  
13 authorizing the levy of a local excise tax on gasoline or  
14 diesel fuel by a municipality on or after the ratification of  
15 this amendment.

16 Section 3. (a) Effective January 1, 2017, in  
17 addition to any other license tax or registration fee levied  
18 pursuant to Chapter 6, Title 32 or Chapter 12, Title 40, Code  
19 of Alabama 1975, there shall be an additional annual fee of  
20 one hundred dollars (\$100) for each private passenger  
21 alternative fuel vehicle and an additional annual fee of one  
22 hundred fifty dollars (\$150) for each commercial alternative  
23 fuel vehicle. The additional annual fee, levied by this  
24 section, for each commercial vehicle, registered pursuant to  
25 Section 32-6-56, shall be prorated based on the percentage of  
26 miles in which the fleet operated in Alabama. The additional  
27 fee levied herein shall be collected pursuant to Chapter 12,

1 Title 40, Code of Alabama 1975, and paid into the Alabama  
2 Transportation Safety Fund established in SB180, 2016 Regular  
3 Session, and distributed and expended only as provided in that  
4 act.

5 (b) For the purposes of this section, the following  
6 terms shall have the following meanings:

7 (1) ALTERNATIVE FUEL VEHICLE. A vehicle that runs  
8 solely on natural gas or any energy source other than gasoline  
9 or diesel fuel or operates pursuant to any technology of  
10 powering an engine that does not involve petroleum, which  
11 includes, but is not limited to, an electric vehicle or solar  
12 powered vehicle. The term does not include any vehicle that is  
13 not registered for operation on public roads or highways.

14 (2) COMMERCIAL ALTERNATIVE FUEL VEHICLE. A  
15 commercial motor vehicle as defined in Section 32-6-49.3, Code  
16 of Alabama 1975, that runs or operates on one of the methods  
17 described in subdivision (1).

18 (3) PASSENGER ALTERNATIVE FUEL VEHICLE. A private  
19 passenger automobile as defined in Section 40-12-240(18), Code  
20 of Alabama 1975, that runs or operates on one of the methods  
21 described in subdivision (1).

22 END OF PROPOSED AMENDMENT.

23 Section 2. An election upon the proposed amendment  
24 shall be held in accordance with Sections 284 and 285 of the  
25 Constitution of Alabama of 1901, now appearing as Sections 284  
26 and 285 of the Official Recompilation of the Constitution of

1 Alabama of 1901, as amended, and the election laws of this  
2 state.

3 Section 3. The appropriate election official shall  
4 assign a ballot number for the proposed constitutional  
5 amendment on the election ballot and shall set forth the  
6 following description of the substance or subject matter of  
7 the proposed constitutional amendment:

8 "Proposing an amendment to the Constitution of  
9 Alabama of 1901, to provide for additional gasoline and diesel  
10 fuel excise taxes; to provide for the distribution of the  
11 revenue from the additional taxes; to prohibit the passage of  
12 a local law levying an excise tax on gasoline or diesel fuel  
13 by a county, except under certain conditions; and to provide  
14 additional fees for private passenger alternative fuel  
15 vehicles and commercial alternative fuel vehicles.

16 "Proposed by Act \_\_\_\_\_."

17 This description shall be followed by the following  
18 language:

19 "Yes ( ) No ( )."