

HOUSE BILL No. 1346

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-6; IC 8-23-29-2.

Synopsis: Motor carrier fuel surcharge tax. Reimposes the motor carrier fuel surcharge tax (previously repealed by HEA 1290-2018). Reduces the special fuel tax rate by the amount of the motor carrier fuel surcharge tax rate.

Effective: July 1, 2019.

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January 14, 2019, read first time and referred to Committee on Roads and Transportation.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1346

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 6-6-1.1-201, AS AMENDED BY P.L.218-2017,
2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 201. (a) A license tax is imposed on the use of all
4 gasoline used in Indiana at the applicable rate specified in subsection
5 (b), except as otherwise provided by this chapter. The distributor shall
6 initially pay the tax on the billed gallonage of all gasoline the
7 distributor receives in this state, less any deductions authorized by this
8 chapter. The distributor shall then add the per gallon amount of tax to
9 the selling price of each gallon of gasoline sold in this state and
10 collected from the purchaser so that the ultimate consumer bears the
11 burden of the tax.
12 (b) The license tax described in subsection (a) is imposed at the
13 following applicable rate per gallon:
14 (1) Before July 1, 2017, eighteen cents (\$0.18).
15 (2) For July 1, 2017, through June 30, 2018, the lesser of:
16 (A) the rate resulting from using the factors determined under
17 IC 6-6-1.6-2; or



(B) twenty-eight cents (\$0.28).

(3) Beginning July 1, 2018, and each July 1 through July 1, 2024, the department shall determine an applicable rate equal to the product of:

(A) the rate in effect on June 30; multiplied by

(B) the **annual index** factor determined under IC 6-6-1.6-3.

The rate shall be rounded to the nearest cent (\$0.01). However, after June 30, 2018, the new applicable rate may not exceed the rate in effect on June 30 plus one cent (\$0.01). The department shall publish the rate that will take effect on July 1 on the department's Internet web site not later than June 1.

SECTION 2. IC 6-6-1.6-3, AS AMENDED BY P.L.185-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) The department shall calculate an annual index factor to be used for the rate to take effect each July 1 beginning in 2018 through July 1, 2024. The department shall determine the index factor before June 1 of each year using the method described in subsection (b).

(b) The annual ~~gasoline tax~~ index factor ~~and special fuel index factor~~ equals the following:

STEP ONE: Divide the annual CPI-U for the year preceding the determination year by the annual CPI-U for the year immediately preceding that year.

STEP TWO: Divide the annual IPI for the year preceding the determination year by the annual IPI for the year immediately preceding that year.

STEP THREE: Add:

(A) the STEP ONE result; and

(B) the STEP TWO result.

STEP FOUR: Divide the STEP THREE result by two (2).

SECTION 3. IC 6-6-2.5-28, AS AMENDED BY P.L.185-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 28. (a) A license tax 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, at the applicable rate specified in subsection (b). 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 license tax described in subsection (a) is imposed at the following applicable rate per special fuel gallon:

(1) Before July 1, 2017, sixteen cents (\$0.16).

(2) For July 1, 2017, through June 30, 2018, the lesser of:



(A) the rate resulting from using the factors determined under IC 6-6-1.6-2; or

(B) twenty-six cents (\$0.26).

(3) For July 1, 2018, through June 30, 2019, the product of:

(A) the sum of:

(i) the rate in effect on June 30; and

(ii) twenty-one cents (\$0.21); multiplied by

(B) the **annual index** factor determined under IC 6-6-1.6-3.

(4) For July 1, 2019, through June 30, 2020, the product of:

(A) the rate equal to:

(i) the rate in effect on June 30; minus

(ii) twenty-one cents (\$0.21); multiplied by

(B) the annual index factor determined under IC 6-6-1.6-3.

~~(4)~~ **(5)** Beginning July 1, ~~2019~~, **2020**, and each July 1 through July 1, 2024, the department shall determine an applicable rate equal to the product of:

(A) the rate in effect on June 30; multiplied by

(B) the **annual index** factor determined under IC 6-6-1.6-3.

The rate shall be rounded to the nearest cent (\$0.01). However, after June 30, 2018, and before July 1, 2019, the new applicable rate may not exceed the rate in effect on June 30 plus twenty-three cents (\$0.23). **After June 30, 2019, and before July 1, 2020, the new applicable rate may not exceed the rate in effect on June 30 minus twenty cents (\$0.20).** After June 30, ~~2019~~, **2020**, the new applicable rate may not exceed the rate in effect on June 30 plus ~~two cents (\$0.02)~~ **one cent (\$0.01)**. The department shall publish the rate that will take effect on July 1 on the department's Internet web site not later than June 1.

(c) 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.

(d) Except as provided in subsection (e), 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 section 22.5(2) or 22.5(3) of this chapter) 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(j) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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).

(j) 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 4. IC 6-6-4.1-1, AS AMENDED BY P.L.185-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. As used in this chapter:

(a) "Carrier" means a person who operates or causes to be operated a commercial motor vehicle on any highway in Indiana.

(b) "Commercial motor vehicle" means a vehicle which is listed in section 2(a) of this chapter and which is not excluded from the application of this chapter under section 2(b) of this chapter.

(c) "Commissioner" means the commissioner of the Indiana department of state revenue.



(d) "Declared gross weight" means the weight at which a motor vehicle is registered with:

- (1) the bureau of motor vehicles; or
- (2) a state other than Indiana.

(e) "Department" means the Indiana department of state revenue.

(f) "Diesel gallon equivalent" means the amount of an alternative fuel that produces the same number of British thermal units of energy as a gallon of diesel fuel.

(g) "Gasoline gallon equivalent" means the amount of an alternative fuel that produces the same number of British thermal units of energy as a gallon of gasoline.

(h) "Highway" means the entire width between the boundary lines of every publicly maintained way that is open in any part to the use of the public for purposes of vehicular travel.

(i) "Motor fuel" means gasoline (as defined in IC 6-6-1.1), special fuel (as defined in IC 6-6-2.5), and alternative fuel (as defined in IC 6-6-2.5).

(j) "Quarter" means calendar quarter.

(k) "Motor vehicle" has the meaning set forth in IC 6-6-1.1-103.

(l) "Recreational vehicle" means motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure. A vehicle is not a recreational vehicle if the vehicle is used in connection with a business.

(m) "Alternative fuel" has the meaning set forth in IC 6-6-2.5-1.

(n) "Special fuel" has the meaning set forth in IC 6-6-2.5-22.

(o) "Surcharge gallon" means, as applicable:

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

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

(3) a 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.

SECTION 5. IC 6-6-4.1-4, AS AMENDED BY P.L.185-2018, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this tax is determined as follows:

(1) When imposed upon the consumption of gasoline or special fuel (other than a special fuel that is an alternative fuel), the tax rate is **equal to:**



(A) the same rate per gallon as the rate per gallon at which special fuel is taxed under IC 6-6-2.5; **plus**

(B) for a carrier that has paid the surcharge tax at the time of purchasing special fuel that is not an alternative fuel, the surcharge tax rate under section 4.4 of this chapter for those gallons purchased.

(2) When imposed upon the consumption of a special fuel that is an alternative fuel, the tax rate is either of the following:

(A) The same rate per diesel gallon equivalent as the rate per gallon at which special fuel is taxed under IC 6-6-2.5, in the case of liquid natural gas.

(B) The same rate per gasoline gallon equivalent at which special fuel is taxed under IC 6-6-2.5, in the case of 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:

(1) the tax rate in effect for that quarter; multiplied by

(2) the amount of motor fuel ~~that the carrier~~ consumed ~~by the carrier~~ in its operation on highways in Indiana and upon which the carrier has not paid tax imposed under IC 6-6-1.1, IC 6-6-2.5, **section 4.4 of this chapter**, or section 4.5 of this chapter (before its repeal).

(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 the 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 6. IC 6-6-4.1-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 4.4. (a) A surcharge tax is imposed at the applicable**



rate specified in subsection (b) on motor fuel consumed by a carrier in its operations on highways in Indiana and on special fuel (other than natural gas or an alternative fuel) consumed by a person who is not a carrier. The surcharge tax that applies to special fuel that is not an alternative fuel shall be collected and remitted in the manner specified for the special fuel tax under IC 6-6-2.5 as required by the department. A carrier shall reconcile the amount owed under this section as part of the carrier's motor fuel use tax reconciliation under this chapter. However, for a carrier that has not paid any surcharge tax at the time of purchase, 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 surcharge tax described in subsection (a) is imposed at the following applicable rate per surcharge gallon:

(1) For July 1, 2019, through June 30, 2020, twenty-one cents (\$0.21) per surcharge gallon.

(2) Beginning July 1, 2020, and each July 1 through July 1, 2024, the department shall determine an applicable rate equal to the product of:

(A) the rate in effect on June 30; multiplied by

(B) the annual index factor determined under IC 6-6-1.6-3.

The rate shall be rounded to the nearest cent (\$0.01). However, after June 30, 2020, the new applicable rate may not exceed the rate in effect on June 30 plus one cent (\$0.01). The department shall publish the rate that will take effect on July 1 on the department's Internet web site not later than June 1.

(c) 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.

(d) The amount of tax that a carrier shall pay for a particular quarter under this section equals the product of:

(1) the tax rate in effect for that quarter; multiplied by

(2) the amount of motor fuel that the carrier consumed in its operation on highways in Indiana.

(e) 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 7. IC 6-6-4.1-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4.6. (a) Persons having title to motor fuel in storage and held for sale to a carrier in the carrier's operations on highways in Indiana on the effective date of an increase in the surcharge tax rate imposed under section 4.4 of this chapter are subject to an inventory tax based on the surcharge gallons in storage as of the close of the business day preceding the effective date of the increased surcharge tax rate.

(b) Persons subject to the tax imposed under this section shall:

- (1) take an inventory to determine the surcharge gallons in storage for purposes of determining the inventory tax;
- (2) report the surcharge gallons listed in subdivision (1) on forms provided by the commissioner; and
- (3) pay the tax due not more than thirty (30) days after the prescribed inventory date.

In determining the amount of surcharge tax due under this section, the person may exclude the amount of motor fuel that will not be pumped out of the storage tank because the motor fuel is below the mouth of the draw pipe. For this purpose, the person may deduct two hundred (200) surcharge gallons for a storage tank with a capacity of less than ten thousand (10,000) surcharge gallons, and four hundred (400) surcharge gallons for a storage tank with a capacity that exceeds ten thousand (10,000) surcharge gallons.

(c) The amount of the inventory tax is equal to the inventory tax rate times the surcharge gallons in storage as determined under subsection (b). The inventory tax rate is equal to the difference of the increased surcharge tax rate minus the previous surcharge tax rate.

(d) The inventory tax is considered a listed tax for the purposes of IC 6-8.1.

SECTION 8. IC 6-6-4.1-4.7, AS AMENDED BY P.L.185-2018, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4.7. (a) This section applies only to a claim for a proportional use credit under:

- (1) section 4(d) of this chapter or section 4.5(e) of this chapter (before its repeal) for taxes first due and payable after July 31,



1999; or

(2) section 4.4(e) of this chapter, for taxes first due and payable after July 31, 2019.

(b) A carrier must be certified by the department in order to qualify for a proportional use credit under section 4(d) of this chapter, **section 4.4(e) of this chapter**, or section 4.5(e) of this chapter (before its repeal).

(c) A carrier must apply to the department for certification before April 1 of the first calendar year for which the proportional use credit will be claimed. An application for certification must be in writing upon forms prescribed by the department and must be signed and verified by the carrier. The department must include on all application forms suitable spaces for a listing of the following:

(1) The carrier's federal Social Security number or federal tax identification number.

(2) The address of the carrier's principal place of business.

(3) A description of each of the carrier's vehicles that has a common fuel supply reservoir for both locomotion on a public highway and a commercial purpose.

(4) The vehicle identification number for each vehicle described in subdivision (3).

(d) The department may certify that a carrier is qualified to claim a proportional use credit under section 4(d) of this chapter, **section 4.4(e) of this chapter**, or section 4.5(e) of this chapter (before its repeal) only upon payment by the carrier to the department of a one (1) time fee of seven dollars (\$7). The carrier must pay the fee at the time the application for certification is submitted to the department. The department shall deposit the fee in the motor carrier regulation fund established by IC 8-2.1-23-1.

(e) A carrier must notify the department, on forms prescribed by the department, of any change of address by the carrier. The carrier must provide the notice not more than ten (10) days after the change of address. The department may revoke or suspend the certification of a carrier that fails to comply with this subsection.

(f) All certificates issued under this section are personal and may not be transferred.

(g) The department may require a carrier that has been issued a certificate under this section to submit additional information from time to time at reasonable intervals, as determined by the department.

(h) The department may adopt rules under IC 4-22-2 to carry out this section.

SECTION 9. IC 6-6-4.1-4.8, AS AMENDED BY P.L.185-2018,



SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4.8. (a) This section applies only to a claim for a proportional use credit under:

(1) section 4(d) of this chapter or section 4.5(e) of this chapter (before its repeal), for taxes first due and payable after July 31, 1999; or

(2) **section 4.4(e) of this chapter, for taxes first due and payable after July 31, 2019.**

(b) In order to obtain a proportional use credit against taxes imposed under section 4 of this chapter, **section 4.4 of this chapter**, or section 4.5 of this chapter (before its repeal), a carrier must file a claim with the department. The claim must be submitted on a form prescribed by the department and must be filed with the quarterly return for the taxable period for which the proportional use credit is claimed. A carrier is not entitled to a proportional use credit under section 4(d) of this chapter, **section 4.4(e) of this chapter**, or section 4.5(e) of this chapter (before its repeal) unless the carrier:

(1) has paid in full the taxes to which the credit applies; and

(2) has filed a claim for the credit on or before the due date of the corresponding quarterly return for the taxable period for which the proportional use credit is claimed.

A credit approved under this section shall, subject to this section, be refunded to the carrier without interest.

(c) The department shall determine the aggregate amount of proportional use credits claimed under section 4(d) of this chapter, **section 4.4(e) of this chapter**, or section 4.5(e) of this chapter (before its repeal) for each quarter. The department may approve the full amount of a proportional use credit claimed by a carrier if the aggregate amount of proportional use credits claimed for the quarter and for the fiscal year do not exceed the limits set forth in subsection (d). If the aggregate amount of proportional use credits claimed in a quarter exceeds the limits set forth in subsection (d), the department shall pay the claims for that quarter on a pro rata basis.

(d) The department may not approve more than three million five hundred thousand dollars (\$3,500,000) of proportional use credits under this section in a state fiscal year. In addition, the amount of proportional use credits the department may approve under this section for a quarter may not exceed the following:

(1) For the quarter ending September 30 of a year, an amount equal to one million three hundred seventy-five thousand dollars (\$1,375,000).

(2) For the quarter ending December 31 of a year, an amount



equal to:

(A) six hundred twenty-five thousand dollars (\$625,000); plus

(B) the greater of zero (0) or the result of:

(i) the limit determined for the previous quarter under this subsection; minus

(ii) the aggregate amount of claims approved for the previous quarter.

(3) For the quarter ending March 31 of a year, an amount equal to:

(A) six hundred twenty-five thousand dollars (\$625,000); plus

(B) the greater of zero (0) or the result of:

(i) the limit determined for the previous quarter under this subsection; minus

(ii) the aggregate amount of claims approved for the previous quarter.

(4) For the quarter ending June 30 of a year, an amount equal to:

(A) eight hundred seventy-five thousand dollars (\$875,000); plus

(B) the greater of zero (0) or the result of:

(i) the limit determined for the previous quarter under this subsection; minus

(ii) the aggregate amount of claims approved for the previous quarter.

SECTION 10. IC 6-6-4.1-5, AS AMENDED BY P.L.185-2018, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) The department shall deposit revenue collected under sections 4 and 12 of this chapter in the state highway fund (IC 8-23-9-54).

(b) The department shall deposit revenue collected under sections ~~4.3 4.4~~ and ~~4.5 4.6~~ of this chapter (~~before their repeat~~) as follows:

(1) Forty-seven and seventy-five hundredths percent (47.75%) in the state highway fund (IC 8-23-9-54).

(2) Forty-seven and seventy-five hundredths percent (47.75%) in the motor vehicle highway account (IC 8-14-1).

(3) Four and five-tenths percent (4.5%) in the motor carrier regulation fund administered by the department.

(c) The department shall deposit revenue collected under section 13 of this chapter as follows:

(1) Thirty-five percent (35%) in the motor vehicle highway account (IC 8-14-1).

(2) Sixty-five percent (65%) in the state highway fund (IC 8-23-9-54).



SECTION 11. IC 6-6-4.1-6, AS AMENDED BY P.L.185-2018, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) A carrier is entitled to a credit against the tax imposed under section 4 of this chapter if the carrier, or a lessor operating under the carrier's annual permit, has:

(1) paid the tax imposed under IC 6-6-1.1 or IC 6-6-2.5 and section ~~4.5~~ 4.4 of this chapter (~~before its repeal~~) on motor fuel purchased in Indiana;

(2) consumed the motor fuel outside Indiana; and

(3) paid a gasoline, special fuel, or road tax with respect to the fuel in one (1) or more other states or jurisdictions.

(b) The amount of credit for a quarter is equal to the tax paid under IC 6-6-1.1, IC 6-6-2.5, and section ~~4.5~~ 4.4 of this chapter (~~before its repeal~~) on motor fuel that:

(1) was purchased in Indiana;

(2) was consumed outside Indiana; and

(3) with respect to which the carrier paid a gasoline, special fuel, or road tax to another state or jurisdiction.

(c) To qualify for the credit, the carrier shall submit any evidence required by the department of payment of the tax imposed under IC 6-6-1.1 or IC 6-6-2.5 and section ~~4.5~~ 4.4 of this chapter. (~~before its repeal~~).

(d) A credit earned by a carrier in a particular quarter shall be applied against the carrier's tax liability under this chapter for that quarter before any credit carryover is applied against that liability under section 7 of this chapter.

SECTION 12. IC 6-6-4.1-7, AS AMENDED BY P.L.185-2018, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) As used in this section, the credit of a carrier for any quarter is the amount by which the credit to which the carrier is entitled under section 6 of this chapter for that quarter exceeds the tax liability of the carrier under section 4 of this chapter and section ~~4.5~~ 4.4 of this chapter (~~before its repeal~~) for that quarter.

(b) The credit for any quarter shall be allowed as a credit against the tax for which the carrier would otherwise be liable in the quarter in which the credit accrued.

(c) A carrier is entitled to the refund of any credit not previously used to offset a tax liability or for any erroneously paid tax or penalty. To obtain the refund, the carrier shall submit to the department a properly completed application in accordance with rules adopted by the department under IC 4-22-2. The application must be submitted within three (3) years after the end of:



- (1) the quarter in which the credit accrued; or
- (2) the calendar year that contains the taxable period in which the tax or penalty was erroneously paid.

Along with the application, the carrier shall submit any evidence required by the department and any reports required by the department under this chapter.

(d) The department shall pay interest on any part of a refund that is not made within ninety (90) days after the date on which all of the following have been completed:

- (1) The filing of:
 - (A) the properly completed application for refund; or
 - (B) the quarterly return on which a refund is claimed.
- (2) The submission of any evidence required by the department of payment of the tax imposed under IC 6-6-1.1 or IC 6-6-2.5 and section ~~4.5~~ 4.4 of this chapter. ~~(before its repeal)~~.
- (3) The submission of reports required by the department under this chapter.
- (4) The furnishing of a surety bond, letter of credit, or cash deposit under section 8 of this chapter.

(e) The department shall pay interest at the rate established under IC 6-8.1-9 from the date of:

- (1) the refund application;
- (2) the due date of a timely filed quarterly return on which a refund is claimed; or
- (3) the filing date of a quarterly return on which a refund is claimed, if the quarterly refund is filed after the due date of the quarterly return;

to a date determined by the department that does not precede the date on which the refund is made by more than thirty (30) days.

SECTION 13. IC 6-6-4.1-14.5, AS AMENDED BY P.L.185-2018, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14.5. (a) The International Fuel Tax Agreement and any other agreement authorized under IC 6-6, IC 6-8.1, or IC 9-28 shall be limited to the following matters:

- (1) Determining the base state for users.
- (2) Specifying records requirements for users.
- (3) Specifying audit procedures.
- (4) Exchanging information.
- (5) Defining persons eligible for tax licensing.
- (6) Defining qualified motor vehicles.
- (7) Determining if bonding is required.
- (8) Specifying reporting requirements and periods, including the



following:

(A) Establishing uniform penalties and interest rates for late reporting.

(B) Determining methods for collecting and forwarding motor fuel taxes, special fuel taxes, and penalties to another state or jurisdiction.

(9) Any other provisions designed to facilitate the administration of the agreement.

(b) The International Fuel Tax Agreement and any other agreement authorized under IC 6-6, IC 6-8.1, or IC 9-28 do not limit the authority of the general assembly to do any of the following:

(1) Determine whether to impose a tax.

(2) Determine tax rates.

(3) Define tax exemptions or deductions.

(4) Determine what constitutes a taxable event that results in the imposition of a tax.

(5) Determine any other matters related to the powers described in subdivisions (1) through (4).

(c) If:

(1) Indiana becomes a member of the International Fuel Tax Agreement;

(2) another member jurisdiction of the International Fuel Tax Agreement nets all of its International Fuel Tax Agreement returns received in a month according to the terms of the International Fuel Tax Agreement; and

(3) the overall result of the netting is that:

(A) more of the tax prescribed in section 4 of this chapter, **section 4.4 of this chapter**, or section 4.5 of this chapter (before its repeal) was collected and will be transmitted to the department; or

(B) more of the tax prescribed in IC 6-6-1.1 or IC 6-6-2.5 must be refunded to carriers and will be transmitted from the department;

the transmittal described in subdivision (3) shall be done through the International Fuel Tax Agreement Clearinghouse or its successor program according to the terms of the International Fuel Tax Agreement.

(d) The funds received or requested as part of a transmittal described in subsection (c) shall be deposited or credited in the following manner:

(1) A transmittal to the department from a member jurisdiction of the International Fuel Tax Agreement of a collection of the tax



prescribed in section 4 of this chapter, **section 4.4 of this chapter**, or section 4.5 of this chapter (before its repeal) from carriers based in that member jurisdiction shall be deposited in the manner prescribed in section 5 of this chapter.

(2) A request to the department from a member jurisdiction of the International Fuel Tax Agreement of amounts of the tax prescribed in IC 6-6-1.1 or IC 6-6-2.5 to be refunded to carriers based in that member jurisdiction shall be credited in the manner prescribed in IC 6-6-1.1-803.

SECTION 14. IC 6-6-4.1-17, AS AMENDED BY P.L.185-2018, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. If a carrier:

- (1) fails to file a quarterly report required by this chapter;
- (2) fails to pay the tax imposed under section 4 of this chapter, **section 4.4 of this chapter**, or section 4.5 of this chapter (before its repeal);
- (3) files a report after the date established under this chapter;
- (4) with respect to a listed tax (as defined in IC 6-8.1-1-1), fails to file all tax returns or information reports or to pay all taxes, penalties, and interest;
- (5) fails to file a form or report required under this chapter or the International Fuel Tax Agreement in an electronic format prescribed by the department; or
- (6) fails to remit taxes under section 10(f) of this chapter;

the commissioner may suspend or revoke any annual permit, trip permit, temporary authorization, or repair and maintenance permit issued to the carrier. The commissioner may reinstate a permit or temporary authorization if a carrier files all required returns and reports and pays all outstanding liabilities.

SECTION 15. IC 6-6-4.1-20, AS AMENDED BY P.L.215-2018(ss), SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 20. A person **who is** subject to the taxes imposed under section 4 of this chapter, section 4.3 of this chapter (before its repeal), **section 4.4 of this chapter**, ~~and~~ section 4.5 of this chapter (before its repeal), **or section 4.6 of this chapter and** who fails to keep the books and records as required by IC 6-8.1-5 is subject to the penalty imposed under IC 6-8.1-10-4.

SECTION 16. IC 6-6-4.1-21, AS AMENDED BY P.L.215-2018(ss), SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. A carrier **who is** subject to the taxes imposed under section 4 of this chapter, section 4.3 of this chapter (before its repeal), **section 4.4 of this chapter**, ~~and~~ section 4.5 of this chapter



(before its repeal), **or section 4.6 of this chapter and** who fails to file a quarterly report as required by section 10 of this chapter shall pay a civil penalty of three hundred dollars (\$300) for each report that is not filed.

SECTION 17. IC 8-23-29-2, AS AMENDED BY P.L.185-2018, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. The department shall contract with a third party to study transportation infrastructure funding mechanisms. The contract must include the following terms:

(1) A description of the funding mechanisms that will be studied.

The funding mechanisms must include the following:

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

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

(C) A flat per vehicle fee.

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

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

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

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

(iv) The motor carrier fuel tax imposed under IC 6-6-4.1, **including the motor carrier fuel surcharge tax imposed under IC 6-6-4.1-4.4.**

(E) Tolls.

(F) Any other mechanism the department determines is appropriate.

(2) The duration of the study, which must be an adequate length of time to ensure that a quality and comprehensive analysis of all topics will be thoroughly reviewed, but is not to exceed two (2) years.

(3) An inventory of the transportation infrastructure that will be maintained through revenue generated by the funding mechanisms included in the study. The inventory must include state and local highways, roads, and streets.

(4) The rating system by which the maintenance of the transportation infrastructure will be evaluated.

