

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 260

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO TRANSPORTATION; TO PROVIDE A SHORT TITLE; AMENDING SECTION  
2 40-701, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPORTIONMENT  
3 OF THE HIGHWAY DISTRIBUTION ACCOUNT AND TO MAKE TECHNICAL CORRECTIONS;  
4 AMENDING SECTION 41-4909, IDAHO CODE, TO REVISE TRANSFER FEE PROVISIONS  
5 RELATING TO CERTAIN REVENUE RECEIVED BY THE PETROLEUM CLEAN WATER TRUST  
6 FUND AND TO REMOVE PROVISIONS RELATING TO CERTAIN CERTIFICATION BY THE  
7 DIRECTOR OF THE DEPARTMENT OF INSURANCE TO THE IDAHO STATE TAX COMMIS-  
8 SION RELATING TO BALANCES IN THE FUND AND RELATING TO THE SUSPENSION  
9 AND REINITIATION OF TRANSFER FEES UPON CERTAIN CONDITIONS; AMENDING  
10 SECTION 41-4910, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF CER-  
11 TAIN TRANSFER FEES AND INTEREST ACCRUING TO THE PETROLEUM CLEAN WATER  
12 TRUST FUND, TO PROVIDE FOR CERTAIN CERTIFICATION BY THE DIRECTOR OF THE  
13 DEPARTMENT OF INSURANCE TO THE IDAHO STATE TAX COMMISSION AND TO MAKE  
14 TECHNICAL CORRECTIONS; AMENDING SECTION 49-106, IDAHO CODE, TO DEFINE A  
15 TERM AND TO REVISE A DEFINITION; AMENDING SECTION 49-109, IDAHO CODE, TO  
16 REVISE A DEFINITION AND TO DEFINE A TERM; AMENDING CHAPTER 4, TITLE 49,  
17 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-457, IDAHO CODE, TO PRO-  
18 VIDE FOR AN ELECTRIC VEHICLE FEE, TO PROVIDE FOR A HYBRID VEHICLE FEE AND  
19 TO PROVIDE FOR DEPOSIT OF FEES; AMENDING SECTION 57-814, IDAHO CODE, TO  
20 PROVIDE FOR CERTAIN TRANSFERS FROM THE GENERAL FUND TO THE HIGHWAY DIS-  
21 TRIBUTION ACCOUNT UPON THE OCCURRENCE OF CERTAIN CONDITIONS, TO PROVIDE  
22 FOR APPROPRIATION AND TO PROVIDE A SUNSET PROVISION; AMENDING SECTION  
23 63-2402, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TAX ON MOTOR FUEL,  
24 TO PROVIDE FOR THE REDUCTION IN TAX ON MOTOR FUEL UPON THE OCCURRENCE OF  
25 CERTAIN CONDITIONS, TO PROVIDE A SUNSET PROVISION, TO REMOVE AN EXEMP-  
26 TION FROM MOTOR FUELS TAX AND TO MAKE TECHNICAL CORRECTIONS.  
27

28 Be It Enacted by the Legislature of the State of Idaho:

29 SECTION 1. SHORT TITLE. This act shall be known and may be cited as the  
30 "Road Safety and Economic Development Act of 2015."

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

33 40-701. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is  
34 established in the state treasury an account known as the "Highway Distribu-  
35 tion Account," to which shall be credited:

36 (a) Moneys as provided by sections 63-2412(1)(f)4. and 63-2418(4),  
37 Idaho Code;

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

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

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

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

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

6 (c) Five percent (5%) to the law enforcement ~~account~~ fund, established  
7 in section 67-2914, Idaho Code, until such distribution reaches an  
8 amount equal to one hundred fifty percent (150%) of the 2014 fiscal  
9 year distribution. All remaining moneys, if any, shall be apportioned  
10 fifty-nine and eighty-five hundredths percent (59.85%) to the state  
11 highway account established in section 40-702, Idaho Code, and forty  
12 and fifteen hundredths percent (40.15%) to the local units of govern-  
13 ment as provided in section 40-709, Idaho Code. The state controller  
14 shall cause the remittance of the moneys apportioned to local units of  
15 government not later than January 25, April 25, July 25 and October 25  
16 of each year, and to the state highway account and the law enforcement  
17 ~~account~~ fund as the moneys become available to the highway distribution  
18 account.

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

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

27 SECTION 3. That Section 41-4909, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 41-4909. SOURCE OF TRUST FUND -- APPLICATION FEES -- APPLICATION FOR  
30 ENROLLMENT -- TRANSFER FEES. (1) Every owner or operator of an underground  
31 storage tank may, if he desires to apply to the trust fund to insure the un-  
32 derground tank, make application for and pay into the trust fund an initial  
33 application fee set by the administrator, but not to exceed twenty-five dol-  
34 lars (\$25.00) for each tank for which application for coverage is made.

35 (2) Every owner or operator of an aboveground storage tank may, if he  
36 desires to apply to the trust fund to insure the aboveground tank, make ap-  
37 plication for and pay into the trust fund an initial application fee set by  
38 the administrator, but not to exceed twenty-five dollars (\$25.00) for each  
39 tank for which application for coverage is made.

40 (3) Every owner or operator of a farm tank or residential tank may, if he  
41 desires to apply to the trust fund to insure the tank, make application for  
42 and pay into the trust fund an initial application fee set by the administra-  
43 tor, but not to exceed twenty-five dollars (\$25.00) for each tank for which  
44 application for coverage is made.

45 (4) Every owner or operator of a heating tank may, if he desires to apply  
46 to the trust fund to insure the tank, make application for and pay into the  
47 trust fund an initial application fee set by the administrator, but not to  
48 exceed five dollars (\$5.00) for each tank for which application for coverage  
49 is made.

1 (5) The application for insurance shall be made to the administrator on  
2 forms furnished and prescribed by the administrator for the purpose of elic-  
3 iting reasonably available information as to the type and use of the storage  
4 tank, the type of business enterprise of the tank owner or operator, the age  
5 of the storage tank, the materials used in the construction of the tank and  
6 the inside and outside protective coatings and other corrosion protective  
7 measures, leak detection methods, spill and overflow prevention methods of  
8 the tank, the location of the tank and its proximity to roads and buildings,  
9 the foundation and type of material used as a bedding and fill for the tank,  
10 any available inspection records of the tank including the gallons of petro-  
11 leum products entered into the tank and the gallon dispersements from the  
12 tank, and other information that is reasonably prudent in order to obtain  
13 a sufficient body of statistical data to determine the relative hazards of  
14 various categories of tanks, the potential that future leaks or discharges  
15 may occur, and the conditions under which cleanup costs and personal injury  
16 and property damage costs may occur and vary in the severity of the release  
17 and the resultant costs to the trust fund.

18 (6) The administrator shall act upon the application for insurance with  
19 all reasonable promptness, and the administrator shall make such investi-  
20 gations of the applicant as the administrator deems advisable to determine  
21 if the information contained in the application for insurance is accurate  
22 and complete. The administrator shall determine if the applicant's storage  
23 tanks meet all the eligibility requirements and promptly notify the appli-  
24 cant of the acceptance or nonacceptance of the application for insurance.  
25 The absence of unknown data requested on the application shall not preclude  
26 an applicant's acceptance for coverage by the trust fund, if the applicant is  
27 otherwise eligible for insurance under this chapter.

28 (7) In addition to the application fees received by the trust fund pur-  
29 suant to this section, the trust fund shall receive the revenue produced by  
30 the imposition of a "transfer fee" of ~~one~~ three cents (±3¢) per gallon on  
31 the delivery or storage of all petroleum products as defined in subsection  
32 (23) of section 41-4903, Idaho Code, delivered or stored within the state  
33 of Idaho. This transfer fee is hereby imposed upon the first licensed dis-  
34 tributor who receives, as receipt is determined in section 63-2403, Idaho  
35 Code, a petroleum product within this state for the privilege of engaging in  
36 the delivery or storage of petroleum products whose delivery or storage may  
37 present the danger of a discharge into the environment and thus create the  
38 liability to be funded. The fee imposed by this subsection shall not apply  
39 to: (a) petroleum or petroleum products which are first delivered or stored  
40 in this state in a container of fifty-five (55) gallons or less if such con-  
41 tainer is intended to be transferred to the ultimate consumer of the petro-  
42 leum or petroleum products; or (b) petroleum or petroleum products delivered  
43 or stored in this state for the purpose of packaging or repackaging into con-  
44 tainers of fifty-five (55) gallons or less if such container is intended to  
45 be transferred to the ultimate consumer of the petroleum or petroleum prod-  
46 ucts.

47 (8) The transfer fee shall be collected by the commission on all pe-  
48 troleum products delivered or stored within this state after April 1, 1990.  
49 This transfer fee shall be in addition to any excise tax imposed on motor fuel  
50 or other petroleum products and shall be remitted to the commission with the

1 distributor's monthly report as required in section 63-2406, Idaho Code.  
 2 The distributor may deduct from his monthly report those gallons of petro-  
 3 leum products returned to a licensed distributor's refinery or pipeline  
 4 terminal storage or exported from the state when supported by proper docu-  
 5 ments approved by the commission. For the purpose of carrying out its duties  
 6 under the provisions of this chapter, the commission shall have the powers  
 7 and duties provided in sections 63-3038, 63-3039, 63-3042 through 63-3066,  
 8 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code, which sections  
 9 are incorporated by reference herein as though set out verbatim.

10 (9) No person shall be excused from liability for any duty or fee im-  
 11 posed in this chapter for failure to obtain a distributor's license.

12 ~~(10) The director shall certify to the commission when the unencumbered~~  
 13 ~~balance in the trust fund equals thirty-five million dollars (\$35,000,000).~~  
 14 ~~Effective the first day of the second month following the date of such cer-~~  
 15 ~~tification, the imposition of the transfer fee shall be suspended. There-~~  
 16 ~~after, the director shall certify to the commission when the unencumbered~~  
 17 ~~balance in the trust fund equals twenty-five million dollars (\$25,000,000).~~  
 18 ~~Effective the first day of the second month following the date of such certi-~~  
 19 ~~fication, the imposition of the transfer fee shall be reinitiated.~~

20 SECTION 4. That Section 41-4910, Idaho Code, be, and the same is hereby  
 21 amended to read as follows:

22 41-4910. DISTRIBUTION OF APPLICATION FEES AND TRANSFER FEES. (1) The  
 23 application fees and the transfer fees collected as provided in this chapter  
 24 shall be promptly remitted to the state treasurer for deposit in the Idaho  
 25 petroleum clean water trust fund. The transfer fees and accumulated inter-  
 26 est which accrued to the fund prior to August 3, 1995, shall remain in the  
 27 fund. The transfer fees and accumulated interest, which have been held in a  
 28 separate suspense account since August 3, 1995, shall be distributed as pro-  
 29 vided in subsection (4) of this section. The transfer fees and accumulated  
 30 interest which accrue to the Idaho petroleum clean water trust fund subse-  
 31 quent to April 1, 1997, shall be distributed monthly thereafter as provided  
 32 in subsection (5) of this section.

33 (2) An amount of money equal to the actual cost of collecting, adminis-  
 34 tering and enforcing the transfer fee by the commission, as determined by it,  
 35 shall be retained by the commission. The amount retained by the commission  
 36 shall not exceed the amount authorized to be expended by appropriation by the  
 37 legislature. Any unencumbered balance in excess of the actual cost of col-  
 38 lection, administering and enforcing the transfer fee requirements by the  
 39 commission at the end of each fiscal year shall be remitted to the state trea-  
 40 surer for deposit into the Idaho petroleum clean water trust fund.

41 (3) From the receipts of the transfer fee, an amount of money shall be  
 42 distributed to the state refund account established under section 63-3067,  
 43 Idaho Code, sufficient to reimburse that account for all current refund  
 44 claims under this chapter paid from that account. Any refunds due and owing  
 45 from the commission under this chapter shall be paid from the state refund  
 46 account and those moneys are hereby continuously appropriated for that pur-  
 47 pose.

48 (4) For the distribution on April 1, 1997, the balance of the transfer  
 49 fees and accumulated interest accruing to the separate suspense account es-

1 tablished for such fees on August 3, 1995, which remain after distributing  
 2 the amounts specified in subsections (2) and (3) of this section, shall be  
 3 distributed as follows:

4 (a) Twenty percent (20%) to the Idaho petroleum clean water trust fund  
 5 established in section 41-4905, Idaho Code;

6 (b) Three percent (3%) to the Idaho department of parks and recreation  
 7 in accordance with ~~subparagraphs 1., 2., and 3. of paragraph (f), sub-~~  
 8 ~~section (1) of section 63-2412, Idaho Code; and~~

9 (c) The remainder shall be distributed:

10 (i) Six million dollars (\$6,000,000) to the state highway account  
 11 for administration by the Idaho transportation department as pro-  
 12 vided in section 41-4910A, Idaho Code; and

13 (ii) The balance remaining to the highway distribution account  
 14 established in section 40-701, Idaho Code.

15 (5) For the distribution at the end of fiscal year 1997 and monthly  
 16 thereafter, the balance of the transfer fees and accumulated interest ac-  
 17 cruing to the Idaho petroleum clean water trust fund which remain after  
 18 distributing the amounts specified in subsections (2) and (3) of this sec-  
 19 tion, shall be distributed as follows:

20 (a) ~~Seventy-seven percent (77%) to the highway distribution account~~  
 21 ~~established in section 40-701, Idaho Code; and~~

22 (b) Seven percent (7%) to the state highway account established in sec-  
 23 tion 40-702, Idaho Code;

24 (c) Three percent (3%) to the Idaho department of parks and recreation  
 25 in accordance with ~~subparagraphs 1., 2., and 3. of paragraph (f), sub-~~  
 26 section (1) of section 63-2412, Idaho Code, as that section existed on  
 27 July 1, 2009 until such distribution reaches an amount equal to one hun-  
 28 dred fifty percent (150%) of the 2014 fiscal year distribution.

29 (d) All remaining moneys, if any, shall be distributed to the highway  
 30 distribution account established in section 40-701, Idaho Code.

31 (6) (a) The director shall certify to the commission when the un-  
 32 encumbered balance in the petroleum clean water trust fund equals  
 33 thirty-five million dollars (\$35,000,000). Effective the first day of  
 34 the second month following the date of such certification, the moneys  
 35 from the transfer fee shall be distributed as follows:

36 (i) Seventy percent (70%) to the highway distribution account es-  
 37 ablished in section 40-701, Idaho Code;

38 (ii) Seven percent (7%) to the state highway account established  
 39 in section 40-702, Idaho Code;

40 (iii) Three percent (3%) to the Idaho department of parks and  
 41 recreation in accordance with paragraph (f), subsection (1) of  
 42 section 63-2412, Idaho Code, until such distribution reaches an  
 43 amount equal to one hundred fifty percent (150%) of the 2014 fiscal  
 44 year distribution; and

45 (iv) All remaining moneys, if any, shall be distributed to the  
 46 highway distribution account established in section 40-701, Idaho  
 47 Code.

48 (b) Thereafter, the director shall certify to the commission when  
 49 the unencumbered balance in the trust fund equals twenty-five million  
 50 dollars (\$25,000,000). Effective the first day of the second month fol-

1 lowing the date of such certification, the moneys from the transfer fee  
 2 shall be distributed in accordance with the provisions of subsection  
 3 (5) of this section.

4 SECTION 5. That Section 49-106, Idaho Code, be, and the same is hereby  
 5 amended to read as follows:

6 49-106. DEFINITIONS -- E. (1) "Electric personal assistive mobility  
 7 device" means a self-balancing two (2) nontandem wheeled device designed to  
 8 transport only one (1) person, with an electric propulsion system that lim-  
 9 its the maximum speed of the device to fifteen (15) miles per hour or less.

10 (2) "Electric vehicle" means a vehicle powered only by a form of elec-  
 11 tricity.

12 (3) "Emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

13 (34) "Encumbrance." (See "Lien," section 49-113, Idaho Code)

14 (45) "EPA" means the environmental protection agency of the United  
 15 States.

16 (56) "Essential parts" means all integral and body parts of a vehicle  
 17 of a type required to be registered, the removal, alteration or substitution  
 18 of which would tend to conceal the identity of the vehicle or substantially  
 19 alter its appearance, model, type or mode of operation.

20 (67) "Established place of business" means a place occupied either con-  
 21 tinuously or at regular periods by a dealer or manufacturer where his books  
 22 and records are kept and a large share of his business is transacted.

23 (78) "Excessive noise" or "unusual noise" means any sound made by a  
 24 passenger motor vehicle or a motorcycle at any time under any condition of  
 25 grade, speed, acceleration or deceleration, which exceeds ninety-two (92)  
 26 decibels, or any lower decibel level that is fixed by law or rules adopted by  
 27 the board of health and welfare, on the "A" scale of a general radio company  
 28 No. 1551-B sound level meter, or equivalent, stationed at a distance of not  
 29 less than twenty (20) feet to the side of a vehicle or motorcycle as the vehi-  
 30 cle or motorcycle passes the soundmeter or is stationed not less than twenty  
 31 (20) feet from a stationary motor or engine.

32 (89) "Excessive speed" means any speed of fifteen (15) miles per hour  
 33 or more above the posted speed limit, and is only for purposes of determining  
 34 disqualification of commercial driving privileges.

35 (910) "Executive head," as used in chapter 20, title 49, Idaho Code,  
 36 means the governor of the state of Idaho.

37 (101) "Explosives" means any chemical compound or mechanical mixture  
 38 that is commonly used or intended for the purpose of producing an explosion  
 39 and which contains any oxidizing and combustive units or other ingredients  
 40 in proportions, quantities or packing that an ignition by fire, by friction,  
 41 by concussion, by percussion or by detonator of any part of the compound or  
 42 mixture may cause a sudden generation of highly heated gases with which the  
 43 resultant gaseous pressures are capable of producing destructive effects on  
 44 contiguous objects or of destroying life or limb.

45 (112) "Extraordinary circumstances" means any situation where an emer-  
 46 gency exists or public safety is endangered, or any situation in which a ve-  
 47 hicle:

48 (a) Is blocking or impeding traffic; or

49 (b) Is causing a hazard; or

- 1 (c) Has the potential of impeding any emergency vehicle; or  
 2 (d) Is impeding any snow removal or other road maintenance operation;  
 3 or  
 4 (e) Has been stolen but not yet reported as recovered; or  
 5 (f) Is not registered, or displays a license plate registration tag  
 6 which has been expired; or  
 7 (g) Has been involved in an accident and remains on the highway; or  
 8 (h) The driver has been arrested.

9 SECTION 6. That Section 49-109, Idaho Code, be, and the same is hereby  
 10 amended to read as follows:

11 49-109. DEFINITIONS -- H. (1) "Habitual violator" means any person who  
 12 has a driving record which shows a violation point count of eighteen (18) or  
 13 more points in any consecutive twenty-four (24) month period; or twenty-four  
 14 (24) or more points in any consecutive thirty-six (36) month period.

15 (2) "Hazardous material" means any material that has been designated as  
 16 hazardous under 49 U.S.C. section 5103, and is required to be placarded under  
 17 subpart F of 49 CFR part 172, or any quantity of material listed as a select  
 18 agent or toxin under 42 CFR part 73.

19 (3) "Hazardous waste" means a material that is subject to the hazardous  
 20 waste manifest requirements of the EPA due to the type and quantity of the ma-  
 21 terial, or which would be subject to these requirements absent an interim au-  
 22 thorization to the state under title 40, code of federal regulations or which  
 23 includes, in whole or in part, polychlorinated biphenyls which are regulated  
 24 by title 40, code of federal regulations, part 761.

25 (4) "Hearing aid dog." (See ~~"Hearing impaired person,"~~ section  
 26 56-701A, Idaho Code)

27 (5) "Highway" means the entire width between the boundary lines of ev-  
 28 ery way publicly maintained when any part is open to the use of the public  
 29 for vehicular travel, with jurisdiction extending to the adjacent property  
 30 line, including sidewalks, shoulders, berms and rights-of-way not intended  
 31 for motorized traffic. The term "street" is interchangeable with highway.

32 (a) Arterial. Any highway designated by the local authority as part of  
 33 a major arterial system of highways within its jurisdiction.

34 (b) Controlled-access. Any highway or roadway in respect to which own-  
 35 ers or occupants of abutting lands and other persons have no legal right  
 36 of access to or from the highway except at such points only or in such  
 37 manner as may be determined by the public authority having jurisdiction  
 38 over the highway.

39 (c) Through. Any highway or portion of it on which vehicular traffic is  
 40 given preferential right-of-way, and at the entrances to which vehicu-  
 41 lar traffic from intersecting highways is required by law to yield the  
 42 right-of-way to vehicles on the through highway in obedience to a stop  
 43 sign, yield sign, or other traffic-control device.

44 (6) "Hybrid vehicle" means a motor vehicle with a hybrid propulsion  
 45 system that operates on both an alternative fuel, including electricity, and  
 46 traditional fuel.

1 SECTION 7. That Chapter 4, Title 49, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 49-457, Idaho Code, and to read as follows:

4 49-457. ELECTRIC VEHICLE FEE -- HYBRID VEHICLE FEE. (1) An electric  
5 vehicle fee of one hundred twenty dollars (\$120) shall be collected in addi-  
6 tion to all other registration fees assessed pursuant to this chapter on each  
7 electric vehicle registered.

8 (2) A hybrid vehicle fee of sixty-five dollars (\$65.00) shall be col-  
9 lected in addition to all other registration fees assessed pursuant to this  
10 chapter on each hybrid vehicle registered.

11 (3) All fees provided for in this section shall be deposited to the  
12 highway distribution account as established in section 40-701, Idaho Code,  
13 and shall be apportioned as provided for in that section.

14 SECTION 8. That Section 57-814, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 57-814. BUDGET STABILIZATION FUND. (1) There is hereby created in the  
17 state treasury the budget stabilization fund for the purpose of meeting gen-  
18 eral fund revenue shortfalls and to meet expenses incurred as the result of  
19 a major disaster declared by the governor. All moneys in the budget reserve  
20 account at the date of approval of this act shall be transferred to the budget  
21 stabilization fund. Interest earnings from the investment of moneys in this  
22 fund by the state treasurer shall be credited to the permanent building ac-  
23 count subject to the provisions of section 67-1210, Idaho Code.

24 (2) Subject to the requirements of section 63-3203, Idaho Code, the  
25 state controller shall annually transfer moneys from the general fund to the  
26 budget stabilization fund subject to the following criteria:

27 (a) If the state controller certifies that the receipts to the general  
28 fund for the fiscal year just ending have exceeded the receipts of the  
29 previous fiscal year by more than four percent (4%), then the state con-  
30 troller shall transfer all general fund collections in excess of said  
31 four percent (4%) increase to the budget stabilization fund, up to a  
32 maximum of one percent (1%) of the actual general fund collections of  
33 the fiscal year just ending. The state controller shall make the trans-  
34 fers in four (4) equal amounts during September, December, March and  
35 June of the next fiscal year.

36 (b) If the state controller certifies that the receipts to the general  
37 fund for the fiscal year just ending have exceeded the receipts of the  
38 previous fiscal year by four percent (4%) or more, then the state con-  
39 troller shall transfer four tenths of one percent (.4%) of all general  
40 fund collections to the highway distribution account as provided for in  
41 section 40-701, Idaho Code, which cumulative amounts shall be contin-  
42 uously appropriated thereafter. The state controller shall make the  
43 transfers in four (4) equal amounts during September, December, March  
44 and June of the next fiscal year. The provisions of this paragraph shall  
45 be null, void and of no force and effect on and after July 1, 2021.

46 (b)c The amount of moneys in the budget stabilization fund shall not ex-  
47 ceed ten percent (10%) of the total general fund receipts for the fiscal  
48 year just ending.

1 (ed) The state controller shall transfer moneys in the budget stabi-  
 2 lization fund in excess of the limit imposed in subsection (2) (~~bc~~) of  
 3 this section to the general fund.

4 (3) If a majority of the membership of each house of the legislature  
 5 adopt a concurrent resolution requesting the amount of the transfer speci-  
 6 fied in subsection (2) of this section be reduced, the state controller shall  
 7 reduce the amount of the transfer.

8 (4) Appropriations of moneys from the budget stabilization fund in  
 9 any year shall be limited to fifty percent (50%) after the fund balance has  
 10 reached ten percent (10%).

11 SECTION 9. That Section 63-2402, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed  
 14 upon the distributor who receives motor fuel in this state. The legal inci-  
 15 dence of the tax imposed under this section is borne by the distributor. The  
 16 tax becomes due and payable upon receipt of the motor fuel in this state by  
 17 the distributor unless such tax liability has previously accrued to another  
 18 distributor pursuant to this section. The tax shall be imposed without re-  
 19 gard to whether use is on a governmental basis or otherwise, unless exempted  
 20 by this chapter.

21 (2) On and after July 1, 2015, tThe tax imposed in this section shall  
 22 be at the rate of ~~twenty-five~~ thirty-one cents (~~25~~31¢) per gallon of motor  
 23 fuel received. This tax shall be subject to the exemptions, deductions and  
 24 refunds set forth in this chapter.

25 (3) At such time as the total ongoing appropriation that has been made  
 26 to the highway distribution account pursuant to section 57-814(2)(b), Idaho  
 27 Code, reaches twenty million dollars (\$20,000,000), the tax imposed under  
 28 subsection (2) of this section shall be reduced by one cent (1¢), and there-  
 29 after such tax shall continue to be reduced by one cent (1¢) each time an ad-  
 30 ditional twenty million dollars (\$20,000,000) has been appropriated to the  
 31 highway distribution account pursuant to section 57-814(2)(b), Idaho Code,  
 32 until such time as the tax imposed on one (1) gallon of motor fuel reaches  
 33 twenty-five cents (25¢). The provisions of this subsection shall be null,  
 34 void and of no force and effect on and after July 1, 2021.

35 (4) Nothing in this chapter shall prohibit the distributor who is li-  
 36 able for payment of the tax imposed under subsection (1) of this section from  
 37 including as part of the selling price an amount equal to such tax on motor  
 38 fuels sold or delivered by such distributor; provided however, that nothing  
 39 in this chapter shall be deemed to impose tax liability on any person to whom  
 40 such fuel is sold or delivered except as provided in subsection (~~6~~7) of this  
 41 section.

42 (~~4~~5) Any person coming into this state in a motor vehicle may transport  
 43 in the manufacturer's original tank of that vehicle, for his own use only,  
 44 not more than thirty (30) gallons of motor fuel for the purpose of operating  
 45 that motor vehicle, without complying with the provisions of this chapter.

46 (~~5~~6) The tax imposed in this section does not apply to:

47 (a) Special fuels that have been dyed at a refinery or terminal under  
 48 the provisions of 26 U.S.C. section 4082 and regulations adopted there-

1 under, or under the clean air act and regulations adopted thereunder ex-  
2 cept as provided in section 63-2425, Idaho Code; or

3 ~~(b) Special fuel dispensed into a motor vehicle which uses gaseous spe-~~  
4 ~~cial fuels and which displays a valid gaseous special fuels permit under~~  
5 ~~section 63-2424, Idaho Code; or~~

6 ~~(e)~~ Special fuels that are gaseous special fuels, as defined in section  
7 63-2401, Idaho Code, except that part thereof that is delivered into the  
8 fuel supply tank or tanks of a motor vehicle; or

9 ~~(d)~~ (c) Aircraft engine fuel subject to tax under section 63-2408, Idaho  
10 Code.

11 (67) Should the distributor of first receipt be exempt from imposi-  
12 tion of the tax as a matter of federal law, by virtue of its status as a  
13 ~~federally-recognized~~ federally recognized Indian tribe or member of such  
14 tribe, such distributor shall not bear the tax's legal incidence and must  
15 pass the tax through as part of the selling price of the fuel. Such distrib-  
16 utor shall retain the administrative obligation to remit the tax, and such  
17 obligation shall accrue upon receipt in accordance with subsection (1) of  
18 this section. Should a retailer otherwise subject to the tax be exempt from  
19 imposition of the tax as a matter of federal law, by virtue of its status as  
20 a ~~federally-recognized~~ federally recognized Indian tribe or member of such  
21 tribe, the retailer shall not bear the tax's legal incidence and must pass  
22 the tax through as part of the selling price of the fuel to the consumer, un-  
23 less such consumer is exempt from imposition of the tax as a matter of federal  
24 law, by virtue of its status as a ~~federally-recognized~~ federally recognized  
25 Indian tribe or membership in such tribe, and the retailer shall be entitled  
26 to claim a credit against taxes otherwise due and owing under this chapter or  
27 a tax refund, together with interest, attributable to the fuel purchased by  
28 such consumer.