

FOR VOTE AT THE 2023 ANNUAL IFTA BUSINESS MEETING



**IFTA BALLOT PROPOSAL
1-2023**

Sponsor

IFTA Audit Committee

Date Submitted

May 12, 2023

Proposed Effective Date

January 1, 2024

Manual Sections to be Amended

(January 1996 Version, Effective July 1, 1998, as revised)

Procedures Manual

Section P540 Distance Records

Subject

Standardization of Electronic Audit Records

History/Digest

The Board of Trustees approved a GPS Standardization Working Group in October 2019. The charges for this working group were outlined as follows:

- (1) Survey membership on level of experience with various GPS or other electronic auditing and how they engage in such audits, including any issues encountered conducting GPS audits, types of GPS systems audited, and the mileage software used to conduct the audit;
- (2) Survey the IAC to gain a better understanding of the obstacles faced to comply with the Plan and difficulties found in the audit process;
- (3) Review the format for the electronic data and provide recommendations for a standard format;
- (4) Analyze the electronic recordkeeping requirements in both the Plan and the Agreement with the results from the survey and make recommendations; and
- (5) Provide progress updates at upcoming Board meetings and a report to both Boards with a final recommendation by the Fourth Quarter 2020.

The Board of Trustees issued a new charge on December 1, 2020, as follows:

The IFTA AC should work together with the IRP AC to develop a ballot that works for both organizations. Your ballot proposal should take into consideration the research that was completed and presented to the Board in October 2020 from the GPS Standardization Working Group.

- (6) A ballot, FTPBP#4 2021, was submitted on March 23, 2021, and distributed for comment. The Audit Committee provided multiple opportunities for discussion at the 2021 Audit Workshop. The committee also reviewed the online comments. After much deliberation, the Audit Committee withdrew the ballot.

Intent

To define what data elements would be adequate and what formats would be acceptable (i.e., XLS, CSV, etc.) for audit from the licensee. The individual jurisdiction has the discretion to accept static images but is not required to. The intent is not to exclude future or current technologies that would sufficiently capture distance accrued and that would allow for the verification of distance. An example of such a technology would include geofencing. Licensee records which do not contain all the elements set out in P540 may still, depending on the sufficiency and appropriateness of the records and of the licensee's operations, be adequate for an audit as outlined in P530.

Commentary:

Geofencing technology creates geographic boundaries, such as jurisdiction, enabling software to respond when a vehicle leaves and enters a particular boundary. If certain data was provided from geofencing technology, it could allow for the verification of distance. This does not remove the requirements of total distance traveled by the vehicle or distance traveled in each jurisdiction for VTS (vehicle tracking systems), this is a requirement of section P560 Summaries.

Interlining Indicates Deletion; Underlining Indicates Addition

1 PROCEDURES MANUAL

2 P500 Recordkeeping

3 *P540 Distance Records

4

5 .100 Distance records produced by a means other than a vehicle-tracking system, **as set out in**
6 **P540.200**, that substantially document the fleet's operation and contain the following elements shall be
7 accepted by the base jurisdiction as adequate under this article:

8

9 *[SECTION P540.100.005 – P540.100.035 and P540.300 REMAIN UNCHANGED]*

10

11 .200 ~~Distance records produced wholly or partly by a vehicle tracking system, including a~~
12 ~~system based on a global positioning system (GPS):~~ Distance records produced by a vehicle
13 tracking system that utilizes latitudes and longitudes, a record must be created and maintained at
14 a minimum every 10 minutes when the vehicle's engine is on and contain the following data
15 elements:

16

17 .005 ~~the original GPS or other location data for the vehicle to which the records pertain~~
18 ~~.010~~ .005 the date and time of each GPS or other system reading, at intervals sufficient to
19 validate the total distance traveled in each jurisdiction

20

21 ~~.015~~ .010 the location of each GPS or other system reading the latitude and longitude to
22 include a minimum of 4 decimal places (0.0001) of each system reading

23

24 ~~.020~~ .015 the beginning and ending reading from the odometer, hubodometer, engine
25 control module (ECM), or any similar device for the period to which the records pertain
26 the odometer reading from the engine control module (ECM) of each system reading. If
27 no ECM odometer is available a beginning and ending dashboard odometer or hubodometer for
28 the trip will be acceptable.

29

30 ~~.025~~ the calculated distance between each GPS or other system reading

31

32 ~~.030~~ the route of the vehicle's travel

33

34 ~~.035~~ the total distance traveled by the vehicle

35

36 ~~.040~~ the distance traveled in each jurisdiction

37

38 ~~.045~~ .020 the vehicle identification number or vehicle unit number

39

40 This data must be accessible in an electronic spreadsheet format such as XLS, XLSX, CSV or delimited
41 text file. Formats from a vehicle tracking system that provides a static image such as PDF, JPEG, PNG,
42 or Word are not acceptable.

43

No Revisions following the Comment Period ending June 30, 2023

Ballot #1-2023
Comment Period Ending June 30, 2023

Support: 31
Oppose: 0
Undecided: 2

ALBERTA

Support

BRITISH COLUMBIA

Support

CONNECTICUT

Support

Connecticut supported this ballot when it was previously presented and continues to do so.

DELAWARE

Support

IDAHO

Support

Idaho supports aligning with IRP requirements and audit consistency for joint shops and licensees.

ILLINOIS

Undecided

The inconsistencies within this ballot and the incomplete first sentence of .200 makes this ballot difficult to understand. However, if revisions properly addressed those issues, it would be easier to support.

Static images – conflicting language: the “Intent” section of the ballot says: “The individual jurisdiction has the discretion to accept static images but is not required to.” But the proposed new language of 540.200 says: “Formats from a vehicle tracking system that provides a static image such as PDF, JPEG, PNG, 42 or Word are not acceptable.”

Sentence structure/Section structure: Current Section 540 is hard to parse; the proposed revisions do not help. It appears that there are 2 ways to meet the distance records requirement: 540.100 or 540.200. *If that’s the case, then 540 should start with a lead-in sentence that essentially says that. Then, the lead in for 540.100 and 540.200 should be a full sentence that lays out the requirements for that subsection.*

Something like:

*P540 DISTANCE RECORDS

Distance records produced as provided under either 540.100 or by means of a vehicle-tracking system as provided under 540.200 that substantially document the fleet’s operations and contain the elements set

out in 540.100 or 540.200, respectively, shall be accepted by the base jurisdiction as adequate under this article.

.100 Distance records produced by a means other than a vehicle-tracking system that substantially document the fleet's operations and contain the following elements shall be accepted by the base jurisdiction as adequate under this article:

.005

.200 Distance records produced by a vehicle tracking system that substantially document the fleet's operation and contain the following elements accessible in an electronic spreadsheet format such as XLS, SLSX, XSV or delimited text file shall be accepted by the base jurisdiction as adequate under this article:

.005

If there *aren't* 2 ways to meet the distance records requirements, then that should be made clear also.

Dead zones and technical issues can cause temporary system reading failures which is why the elements such as route of vehicle's travel and summary data should consistently be required for all distance records. Suggestion would be to add back the elements that were crossed out:

- . .030 the route of the vehicle's travel
- . .035 the total distance traveled by the vehicle
- . .040 the distance traveled in each jurisdiction
- . .045 the vehicle identification number or vehicle unit number

INDIANA

Support

The ballot provides uniformity for carriers by clearly defining the data elements and formats required.

The ballot closely conforms with current IRP data elements.**IOWA**

Support

KANSAS

Support

KENTUCKY

Support

MANITOBA

Support

MARYLAND

Support

MICHIGAN

Support

MISSOURI

Support

NEBRASKA

Support

NEVADA

Support

NEW BRUNSWICK

Support

NEW HAMPSHIRE

Support

NEWFOUNDLAND

Support

NORTH CAROLINA

Support

North Carolina has three primary concerns with this ballot.

First, North Carolina has a grammatical concern for the parenthetical phrase under P540.100. It currently reads as follows (bracketed language added to assist in explaining how the sentence is functioning):

"Distance records produced by a means other than a vehicle-tracking system, [which you can find] in P540.200. . . ."

However, the inverse is true: P540.200 is where the vehicle-tracking system requirements are found. Therefore, the parenthetical phrase should be removed. In the alternative, Illinois' proposed changes would resolve this issue.

Second, GPS coordinates can be noted by either by DD (decimal degrees) or DMS (degrees, minutes, seconds). It appears the ballot is referring to DD. Therefore, the following changes may make it more clear:

".010 the latitude and longitude in decimal degrees with a minimum of 4 decimal places (e.g., 0.0001) of for each system reading"

Third, North Carolina has concerns regarding the ballot's language prohibiting "static image[s] such as PDF, JPEG, PNG, or Word . . ."

The sponsor of the ballot has stated that a jurisdiction can accept these records, however, this is not clear based on the Procedures Manual. North Carolina assumes that the sponsor is allowing this through P530, which provides that:

"records may be produced through any means, and retained in any format or medium available to the licensee and accessible by the base jurisdiction. If records are presented in a format or in a manner in which the base jurisdiction cannot audit them, they have not been made available as required."

However, this is not a mechanism for a member jurisdiction to accept static images. The above language from P530 and the new ballot's language under P540.200 conflict. There is a legal maxim that governs conflicts like this, specifically: *generalia specialibus non derogant*. This maxim provides that if two laws govern the same factual situation, the law governing the specific subject matter overrides the law governing the general subject matter.

Applied here, the specific prohibition against static images would prevail over P530. Therefore, North Carolina recommends the following change to the ballot:

"This data must be accessible in an electronic spreadsheet format such as XLS, XLSX, CSV or delimited text file. Formats from a vehicle tracking system that provides a static image such as PDF, JPEG, PNG, or Word are acceptable in the sole discretion of the member jurisdiction."

NORTH DAKOTA

Support

NOVA SCOTIA

Support

OKLAHOMA

Undecided

The last sentence of the proposed language is in conflict with the statement in the ballot intent. The intent statement says jurisdictions may accept static formats (the individual jurisdiction has the discretion to accept static images but is not required to), but the ballot says static formats are unacceptable. (Formats from a vehicle tracking system that provides a static image such as PDF, JPEG, PNG, 42 or Word are not acceptable).

Oklahoma would be supportive if the language conflict is reconciled.

ONTARIO

Support

PENNSYLVANIA

Support

PRINCE EDWARD ISLAND

Support

QUEBEC

Support

We support this ballot because a jurisdiction still has the discretion to accept the GPS data provided by the carrier if it believes it has the necessary information. It is not limited to the requirement set out in section P540.

SASKATCHEWAN

Support

SOUTH DAKOTA

Support

For uniformity, this ballot between the IFTA and IRP audit committees gives jurisdictions and carriers written standards for electronic records. These are just minimums and jurisdictions can still use their discretion in adequate records.

Stakeholders

Support

Industry Advisory Committee
Chuck Ledig, Chair

Support

Comment: The position of the IFTA Industry Advisory Committee (IAC) is such that we support the Ballot, however, suggest that a minor change to verbiage be considered.

The language employed to qualify data reporting frequency should be something to the effect of, *“While the vehicle is in motion, the elapsed time between GPS positions be no greater than 10 minutes”*, as the current language can be misinterpreted as 10 minutes or greater.

TENNESSEE

Support

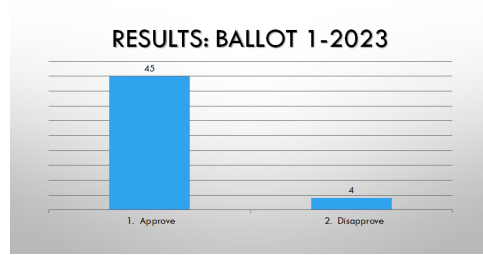
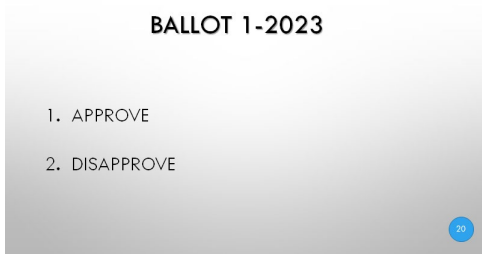
WASHINGTON

Support

WYOMING

Support

Total Responses: 49 45 Yes – 4 No Ballot 1-2023 Passed



| Participant | Response |
|-------------|---------------|
| AL | [No Response] |
| AB | Disapprove |
| AZ | Approve |
| AR | [No Response] |
| BC | [No Response] |
| CA | Approve |
| CO | Approve |
| CT | Approve |
| DE | Disapprove |
| FL | Approve |
| GA | Approve |
| ID | Approve |
| IL | Approve |
| IN | Approve |
| IA | Approve |
| KS | Approve |
| KY | Approve |
| LA | Approve |
| ME | Disapprove |
| MB | Approve |
| MD | Approve |
| MA | Disapprove |
| MI | Approve |
| MN | Approve |
| MS | Approve |
| MO | Approve |

** Keypad 58 was a replacement voting fob for NY

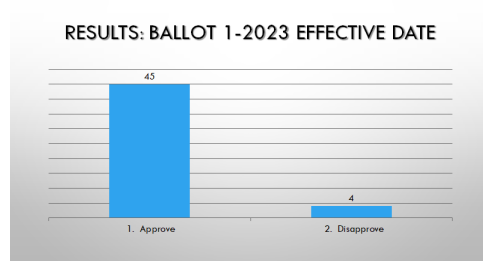
| | |
|-----------|---------------|
| MT | Approve |
| NE | Approve |
| NV | Approve |
| NB | Approve |
| NL | [No Response] |
| NH | Approve |
| NJ | Approve |
| NY | [No Response] |
| NC | Approve |
| ND | Approve |
| NS | Approve |
| OH | Approve |
| OK | Approve |
| ON | Approve |
| OR | Approve |
| PA | Approve |
| PE | Approve |
| QC | Approve |
| RI | Approve |
| SK | Approve |
| SC | [No Response] |
| SD | Approve |
| TN | Approve |
| TX | Approve |
| UT | Approve |
| VT | Approve |
| VA | Approve |
| WA | [No Response] |
| WV | [No Response] |
| WI | [No Response] |
| WY | Approve |
| Keypad 58 | Approve |

** Keypad 58 was a replacement voting fob for NY

Total Responses: 49 45 Yes – 4 No Ballot 1-2023 Effective Date Passed

BALLOT 1-2023 EFFECTIVE DATE

1. 1. APPROVE
2. 2. DISAPPROVE



| Participant | Response |
|-------------|---------------|
| AL | Approve |
| AB | Disapprove |
| AZ | Approve |
| AR | Approve |
| BC | [No Response] |
| CA | Approve |
| CO | Approve |
| CT | Approve |
| DE | Disapprove |
| FL | [No Response] |
| GA | Approve |
| ID | Approve |
| IL | Approve |
| IN | Approve |
| IA | Approve |
| KS | Approve |
| KY | Approve |
| LA | Approve |
| ME | Disapprove |
| MB | Approve |
| MD | Approve |
| MA | Disapprove |
| MI | Approve |
| MN | Approve |
| MS | Approve |

** Keypad 58 was a replacement voting fob for NY

| | |
|-----------|---------------|
| MO | Approve |
| MT | Approve |
| NE | Approve |
| NV | Approve |
| NB | Approve |
| NL | [No Response] |
| NH | Approve |
| NJ | Approve |
| NY | [No Response] |
| NC | [No Response] |
| ND | Approve |
| NS | Approve |
| OH | Approve |
| OK | Approve |
| ON | Approve |
| OR | Approve |
| PA | Approve |
| PE | Approve |
| QC | Approve |
| RI | Approve |
| SK | Approve |
| SC | [No Response] |
| SD | Approve |
| TN | Approve |
| TX | Approve |
| UT | Approve |
| VT | Approve |
| VA | Approve |
| WA | [No Response] |
| WV | [No Response] |
| WI | [No Response] |
| WY | Approve |
| Keypad 58 | Approve |

** Keypad 58 was a replacement voting fob for NY

FOR VOTE AT THE 2023 ANNUAL IFTA BUSINESS MEETING



**IFTA BALLOT PROPOSAL
2-2023**

Sponsor

IFTA, Inc. Program Compliance Review Committee

Date Submitted

May 12, 2023

Proposed Effective Date

January 1, 2024

Manual Sections to be Amended

Articles of Agreement

Section R1370

Subject

Records Review

History/Digest

Ballot #7 2022 created an IFTA records review allowing for jurisdictions to obtain audit credits for reviewing a Licensee's record keeping system and educating Licensees on IFTA compliance. Requirements for conducting and documenting a records review were established. The ballot required jurisdictions conducting records reviews to report the number of records reviews conducted on the Annual Report. The ballot did not require jurisdictions to provide records reviews to other member jurisdictions.

Intent

This ballot is being submitted for consideration of changes to the IFTA Articles of Agreement to require jurisdictions to make information on records reviews conducted by a jurisdiction available to all member jurisdictions. The intent of this ballot is to include all records reviews conducted starting January 1, 2023.

Interlining Indicates Deletion; Underlining Indicates Addition

1 Articles of Agreement
2 R1370 AUDIT REPORTS

3
4 *[Section .100, remains unchanged unchanged]*

5
6 .200 The base jurisdiction shall, on request, furnish copies of audit reports and audit work papers to
7 another member jurisdiction. The base jurisdiction shall, on request, furnish copies of records
8 review files to another jurisdiction. A copy of the audit report, records review report, work
9 papers, supporting documentation and any pertinent post-audit or post records review
10 communications must be maintained by the base jurisdiction as part of the audit file or records
11 review file for the period set forth in P910.

12
13 *[Section .300, remains unchanged unchanged]*

14
15 .400 In accordance with A500 and A510, on completion of a records review, the base jurisdiction shall
16 make the records review report available to all member jurisdictions by uploading the report to
17 the IFTA, Inc. Clearinghouse.

18
19

No Revisions following the Comment Period Ending June 30, 2023

Ballot #2-2023
Comment Period Ending June 30, 2023

Support: 29
Oppose: 0
Undecided: 2

ALBERTA

Support

BRITISH COLUMBIA

Support

CONNECTICUT

Support

DELAWARE

Support

IDAHO

Support

INDIANA

Support

The ballot requires us to maintain and transmit records reviews as required for audits.

IOWA

Undecided

Iowa generally supports this concept but the ballot should require IFTA to develop a standard report for Records Reviews to ensure consistency, compliance and usefulness of the data.

KANSAS

Support

KENTUCKY

Support

MANITOBA

Support

MARYLAND

Support

MICHIGAN

Support

MISSOURI

Support

NEBRASKA

Support

Nebraska supports this ballot and the desire for transparency. We questioned how to select which jurisdictions you would send the report to since there are no "results" in a records review and therefore no impacted jurisdictions to notify.

NEVADA

Support

NEW BRUNSWICK

Support

NEW HAMPSHIRE

Support

NEWFOUNDLAND

Support

NORTH CAROLINA

Support

NORTH DAKOTA

Support

NOVA SCOTIA

Support

OKLAHOMA

Support

Oklahoma believes this ballot will hold all jurisdictions accountable to each other for their uniform conduct. That is a laudable goal.

ONTARIO

Support

PENNSYLVANIA

Support

PRINCE EDWARD ISLAND

Support

QUEBEC

Support

SASKATCHEWAN

Support

SOUTH DAKOTA

Support

South Dakota as one of the jurisdictions to bring the original records review ballot supports this ballot. We feel the method will need to be defined as how to upload and want the record review to be treated in line with the audits. This will allow other jurisdictions to see what records reviews are being completed and provides information to other jurisdictions in a spirit of openness and cooperation.

TENNESSEE

Support

WASHINGTON

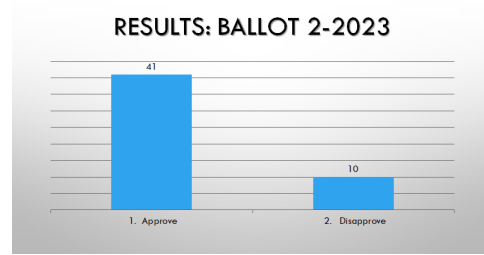
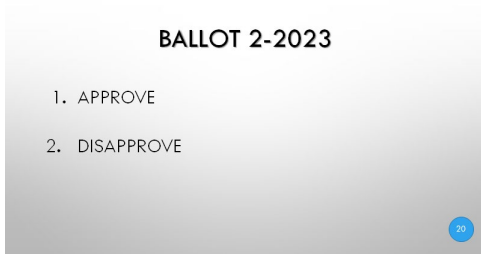
Undecided

The intent is to include all records reviews beginning January 1, 2023, and has an effective date of January 1, 2024. Clarity is needed to detail the timeline required to submit 2023 record reviews to other jurisdictions, when for standard audits A460 requires it to be provided (uploaded to the clearinghouse) at the same time as it is provided to a licensee. Additionally, information regarding the required file naming and upload parameters will need to be provided by the clearinghouse prior to the effective date of this ballot. Finally, since the current process for the jurisdictional notice requirement includes selecting the affected jurisdictions at the time the report is uploaded, it is unclear if simply uploading the record review without selecting audited jurisdictions will satisfy notification as records reviews do not require comparing tax return records or any resulting tax assessment, and thus do not indicate affected jurisdictions on its face.

WYOMING

Support

Total Responses: 51 41 Yes – 10 No Ballot 2-2023 Passed



| Participant | Response |
|-------------|---------------|
| AL | Approve |
| AB | Disapprove |
| AZ | Disapprove |
| AR | Approve |
| BC | [No Response] |
| CA | Approve |
| CO | Approve |
| CT | Approve |
| DE | Approve |
| FL | Approve |
| GA | Approve |
| ID | Approve |
| IL | Approve |
| IN | Approve |
| IA | Disapprove |
| KS | Approve |
| KY | Approve |
| LA | Approve |
| ME | Approve |
| MB | Approve |
| MD | Approve |
| MA | Disapprove |
| MI | Approve |
| MN | Disapprove |
| MS | Approve |
| MO | Approve |

** Keypad 58 was a replacement voting fob for NY

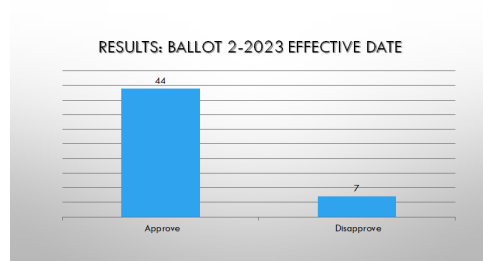
| | |
|-----------|---------------|
| MT | Approve |
| NE | Disapprove |
| NV | Approve |
| NB | Approve |
| NL | [No Response] |
| NH | Approve |
| NJ | Disapprove |
| NY | [No Response] |
| NC | Approve |
| ND | Approve |
| NS | Disapprove |
| OH | Approve |
| OK | Approve |
| ON | Approve |
| OR | Approve |
| PA | Approve |
| PE | Approve |
| QC | Approve |
| RI | Approve |
| SK | Approve |
| SC | [No Response] |
| SD | Approve |
| TN | Approve |
| TX | Approve |
| UT | Approve |
| VT | Disapprove |
| VA | Disapprove |
| WA | [No Response] |
| WV | [No Response] |
| WI | [No Response] |
| WY | Approve |
| Keypad 58 | Approve |

** Keypad 58 was a replacement voting fob for NY

Total Responses: 51 44 Yes – 7 No Ballot 2-2023 Effective Date Passed

BALLOT 2-2023 EFFECTIVE DATE

1. APPROVE
2. DISAPPROVE



| Participant | Response |
|-------------|---------------|
| AL | Approve |
| AB | Disapprove |
| AZ | Disapprove |
| AR | Approve |
| BC | [No Response] |
| CA | Approve |
| CO | Approve |
| CT | Approve |
| DE | Approve |
| FL | Approve |
| GA | Approve |
| ID | Approve |
| IL | Approve |
| IN | Approve |
| IA | Disapprove |
| KS | Approve |
| KY | Approve |
| LA | Approve |
| ME | Approve |
| MB | Approve |
| MD | Approve |
| MA | Disapprove |
| MI | Approve |
| MN | [No Response] |
| MS | Approve |

** Keypad 58 was a replacement voting fob for NY

| | |
|-----------|---------------|
| MO | Approve |
| MT | Approve |
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| NV | Approve |
| NB | Approve |
| NL | [No Response] |
| NH | Approve |
| NJ | Disapprove |
| NY | [No Response] |
| NC | Approve |
| ND | Approve |
| NS | Approve |
| OH | Approve |
| OK | Approve |
| ON | Approve |
| OR | Approve |
| PA | Approve |
| PE | Approve |
| QC | Approve |
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| SK | Approve |
| SC | [No Response] |
| SD | Approve |
| TN | Approve |
| TX | Approve |
| UT | Approve |
| VT | Disapprove |
| VA | Approve |
| WA | Approve |
| WV | [No Response] |
| WI | [No Response] |
| WY | Approve |
| Keypad 58 | Approve |

** Keypad 58 was a replacement voting fob for NY

FOR VOTE BY DECEMBER 31, 2023



**IFTA BALLOT PROPOSAL
03-2023**

Sponsor

IFTA, Inc. Board of Trustees

Date Submitted

May 19, 2023

Proposed Effective Date

January 1, 2024

Manual Sections to be Amended (January 1996 Version, Effective July 1, 1998, as revised)

IFTA Articles of Agreement Sections: R820, R1020.200

IFTA Procedures Manual Sections: P550.700, P720.350, P1040.300

Subject

Provide exclusions for some record keeping and reporting requirements in those instances where the consumption of fuel is taxed by applying a tax rate to distance (taxable miles).

History/Digest

Beginning in the first quarter of 2024, the State of Indiana will submit a new taxable fuel type for IN to be included on the IFTA return, wherein tax is imposed on the consumption of fuel by applying a tax rate to distance (taxable miles) on the IFTA return.

For specific instances where a jurisdiction chooses to tax consumption based on applying a tax rate to distance, reporting requirements for total gallons, miles per gallon (MPG), or maintaining fuel receipts, is not necessary and will have no effect on the amount of fuel tax owed.

The requirements mentioned above and the subject matter of the proposed changes to the IFTA governing documents will only apply in those specific instances where tax is imposed on the consumption of fuel solely by applying a tax rate to distance. For other instances where the consumption of fuel used in the same vehicle is taxed differently in a jurisdiction using the traditional method of applying the tax rate to the taxable gallons (volume), the record keeping and reporting requirements will remain as is and the exclusions proposed here would not apply

to that calculation of fuel use tax.

Intent

The intent of this ballot is to make clear that for those instances, and only in those instances, where a jurisdiction is taxing the consumption of fuel by applying a tax rate to distance (taxable miles), certain record keeping and reporting requirements that are not necessary to reporting requirements and can be excluded as a requirement. As noted above, if the same vehicle using the same fuel type, also travels through another jurisdiction that applies their fuel use tax in the traditional way by applying a tax rate to the taxable gallons (volume) or using a different method besides applying the tax rate to distance, then the requirements to maintain records and report total fuel consumed and report the MPG, are not effected by these proposed changes and there is no exclusion from the requirements in those instances. The exclusions only apply to the specific instance where the consumption of a particular fuel type by a jurisdiction is taxed by applying a tax rate to the distance (taxable miles).

1 **Interlining Indicates Deletion; Underlining Indicates Addition**

2
3 **ARTICLES OF AGREEMENT**

4 ***R800 TAXATION OF MOTOR FUELS**

5
6 ***R820 TAXABLE FUEL USE**

7
8 All motor fuel as defined in R239, which is acquired and which is normally subject to
9 consumption tax, is taxable unless proof to the contrary is provided by the licensee. The
10 licensee must report all fuel placed in the supply storage unit used to propel the qualified
11 motor vehicle, as taxable on the tax return, excluding qualified motor vehicles that only
12 travel in jurisdictions that either impose a tax on the consumption of fuel solely by
13 applying a tax rate to distance or does not impose any tax on that vehicle fuel type. If
14 any qualified motor fuel vehicle of the same fuel type travels in any other jurisdiction that
15 imposes tax on the consumption of fuel by applying a tax rate to net taxable fuel, then
16 the exemption from reporting does not apply and the total fuel placed in the supply
17 storage unit of all qualified motor vehicles must be reported.

18
19 ***R1000 TAX PAID PURCHASES**

20
21 ***R1020 BULK FUEL PURCHASES**

22
23 **.200** A licensee may claim a tax-paid credit on the IFTA tax return for fuel withdrawn
24 from bulk storage only when the fuel is placed into the fuel supply storage unit
25 tank of a qualified motor vehicle; the bulk storage tank is owned, leased, or
26 controlled by the licensee; and either the purchase price of the fuel includes fuel
27 tax paid to the member jurisdiction where the bulk fuel storage tank is located or
28 the licensee has paid fuel tax to the member jurisdiction where the bulk fuel
29 storage tank is located.

30
31 **PROCEDURES MANUAL**

32
33 ***P550 FUEL RECORDS**

34
35 *{All other sections remain unchanged}*

36
37 .900 The requirements in this section will not apply to qualified motor vehicles that
38 only travel in jurisdictions that either impose a tax on the consumption of fuel solely by
39 applying a tax rate to distance or does not impose tax on that vehicle fuel type. If any
40 qualified motor vehicle of the same fuel type travels in any other jurisdiction that imposes
41 tax on the consumption of fuel by applying a tax rate to net taxable fuel, then the
42 exemption from the requirements of this section will not apply and all of the requirements
43 contained in this section must be followed.

44
45 **P700 STANDARD TAX RETURNS**

46
47 ***P720 REQUIRED INFORMATION**

48
49 Each jurisdiction shall provide, at a minimum, the following elements to be present on a
50 standard tax return. These elements may be preprinted, have a field or space for, or be
51 automatically calculated:

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.350 Average fuel consumption factor (to two decimal places) for the tax reporting period. The requirements to report the average fuel consumption factor will not apply to qualified motor vehicles that only travel in jurisdictions that either impose a tax on the consumption of fuel solely by applying a tax rate to distance or does not impose tax on that vehicle fuel type. If any qualified motor vehicle of the same fuel type travels in any other jurisdiction that imposes tax on the consumption of fuel by applying a tax rate to net taxable fuel, then the exemption from the requirements of this section will not apply and the average fuel consumption factor must be reported.

***P1040 MONTHLY TRANSMITTALS**

The transmittal data listing shall contain, but not be limited to, the following information:

.300 The reported fleet fuel consumption factor for each licensee excluding licensees with qualified motor vehicles that only travel in jurisdictions that either impose a tax on the consumption of fuel solely by applying a tax rate to distance or does not impose tax on that vehicle fuel type. If any qualified motor vehicle of the same fuel type travels in any other jurisdiction that imposes tax on the consumption of fuel by applying a tax rate to net taxable fuel, then the exemption from the requirements to include the fleet consumption factor do not apply and the fleet consumption factor must be reported.

Ballot #3-2023
Comment Period Ending June 30, 2023

Support: 27
Oppose: 2
Undecided: 4

ALBERTA

Support

Alberta supports this ballot as it will allow jurisdictions the flexibility to tax alternative fuels on a distance basis while maintaining the benefits of IFTA administration for carriers. Given the changes occurring with how vehicles are powered it will be important for jurisdictions to have that flexibility.

BRITISH COLUMBIA

Support

CALIFORNIA

Support

“California supports this ballot as we think it is important step in allowing jurisdictions the flexibility to tax alternative fuels and implement different tax collection schemes. However, we are concerned that the ballot as written may exceed the Congressional grant of authority to the States under ISTEA, which could open up IFTA to legal challenges. We support changing the ballot language to address these concerns.”

CONNECTICUT

Support

Connecticut supports this ballot. With the passing of Ballot 8-2022 adding alternative fuels as a fuel type last year, IFTA needs to take the next step by being flexible in allowing a jurisdiction to collect the motor fuels use tax based on distance. The purpose of the agreement is to promote and encourage efficient administration of motor fuels use tax for both jurisdictions and carriers registered for IFTA and this ballot continues that premise.

DELAWARE

Support

IDAHO

Support

INDIANA

Support

This ballot provides the IFTA community the flexibility to collect fuel taxes based on distance when data for the traditional reporting is not available.

IOWA

Support

Iowa's IT systems can support this change for IFTA.

KANSAS

Support

KENTUCKY

Support

MANITOBA

Support

MARYLAND

Support

MICHIGAN

Support

Michigan supports this ballot. This ballot allows flexibility to all IFTA jurisdictions who want to implement a distance tax, but more importantly it gives EV carriers a mechanism to report and remit distance tax to those jurisdictions who have or are considering legislation to tax EVs that are registered under IFTA.

MISSOURI

Support

NEBRASKA

Oppose

Nebraska is opposed to this ballot in its current form. We agree with the concerns being raised by other jurisdictions, notably the issues raised by Newfoundland, Prince Edward Island and Saskatchewan and including the possible conflict with ISTEPA and Congress' grant of authority to the States raised by both California and Oklahoma. In addition to these issues, we would offer the following comments:

1. The ballot as written provides an option for IFTA reporting for jurisdictions that have elected to tax "alternative fuels" on distance rather than consumption. The history and digest section implies that this ballot is intended, at least for now, for vehicles that operate on electricity. What would happen, if a jurisdiction would choose to begin taxing other alternative fuels (E85 or ethanol for example) on distance rather than consumption. Would this ballot open the door to distance tax collection on "alternative fuels" that are currently taxed on consumption to distance tax besides electricity?
2. It is not clear in the ballot language how this would impact the tax return. If a carrier needs to report distance for an electric vehicle that operates in both a consumption-based jurisdiction (PA) and distance tax jurisdictions (IN) would you need two separate tax returns? This issue

would be even more convoluted if jurisdictions would begin to utilize a distance tax on more than just electric vehicles.

3. The intent section of the ballot states that this is a short-term solution. What exactly does that mean? Nebraska does understand that the ballot was drafted in response to Indiana's law change but feels that a ballot with the potential for such a significant change to the agreement should be fully vetted and all opinions allowed to be heard. We concur with Saskatchewan that the work of the Alternative Fuel Committee has not been completed. Some IFTA ballots can be proposed, discussed, and voted on in a few months but this ballot is not one of them. This will have significant impact for the long term, not the short term and sufficient time should be allowed for a full and complete analysis before jurisdictions should be asked to vote.

NEVADA

Support

NEW BRUNSWICK

Support

NEW HAMPSHIRE

Support

NEWFOUNDLAND

Undecided

Newfoundland and Labrador echoes the concerns of Saskatchewan and would recommend that further work be conducted to standardize the reporting methodology and the format of returns prior to approving this ballot and investing in system updates.

NORTH CAROLINA

Undecided

North Carolina shares the concerns raised by Oklahoma, California, and the AAC regarding whether the ballot exceeds the authority granted to States by Congress through the Intermodal Surface Transportation Efficiency Act (ISTEA). Although, North Carolina generally agrees with the analysis provided in the AAC comments, North Carolina is uncertain whether a VMT can serve as an indirect proxy for fuel consumption.

North Carolina is also concerned regarding other aspects of the ballot.

First, the proposed changes to P550 are unclear. The language makes a direct relationship between record keeping requirements and a schedule on a return. These are distinct concepts, and North Carolina is concerned about the potential of relieving the duty to maintain records for alternative fuel bulk withdrawals. If the licensee operates in member jurisdictions that tax the same product differently (consumption versus distance), the licensee cannot be relieved of maintaining these records.

Second, as noted by other member jurisdictions, despite reference to the contrary, there is nothing short-term about this solution. These are permanent amendments to the Articles of Agreement and Procedures Manual.

Third, North Carolina is generally concerned with the ballot's reference to "specific schedules." This language, as noted in the AAC comments, is imprecise and ambiguous.

NORTH DAKOTA

Support

NOVA SCOTIA

Support

OKLAHOMA

Oppose

Section 31701(2) of the Intermodal Surface Transportation Efficiency Act (ISTEA) defines "Fuel Use Tax" as a "tax imposed on or measured by the *consumption of fuel* in a motor vehicle" (emphasis added.) Oklahoma would note that the term "consumption" is a crucial factor in the implementation of the tax. It suggests that the tax should be imposed on the amount of fuel used, which inherently implies a direct relationship with the actual usage or burn of fuel. Switching to a distance-based approach would deviate significantly from this measure, instead levying tax based on miles travelled, regardless of the actual fuel consumed. It is hard to imagine a valid "Fuel Use Tax" where the amount of fuel used was irrelevant.

This ballot would likely violate the US Constitution's Compact Clause, by agreeing among the jurisdictions to collect and distribute taxes in a way not authorized by Congress. Beyond the ballot, this congressional language limited to 'fuel use tax' raises the question of whether states imposing VMT require additional congressional authorization to collect it via interjurisdictional cooperation (IFTA). Oklahoma has concerns that if this ballot were to pass it would fundamentally change the way IFTA functions in a *ultra vires* manner.

Oklahoma agrees with the *policy* goals of this ballot and would suggestion a redrafting of the proposal that would correct the legal authority issues.

PLEASE NOTE: It is Oklahoma's understanding that the Attorney Advisory Committee (AAC) has drafted advisory comments on this topic, however the AAC has not been permitted to post their comments. Oklahoma finds this act of gatekeeping concerning.

ONTARIO

Support

PENNSYLVANIA

Support

PRINCE EDWARD ISLAND

Undecided

The preamble suggests the use of schedules is based on how a jurisdiction treats specific fuels; however, it is written based on how a jurisdiction taxes, regardless of fuel type.

Indiana now meets the description of "member jurisdictions that have elected to tax alternative fuels

used in qualified motor vehicles based on distance” so as written R820 and P550 would not apply to Indiana, period.

It appears the intent of R820 and P550 is that it “would not apply to specific schedules included on the IFTA tax Return for alternative fuels which a member jurisdiction has elected to tax based on distance when used in qualified motor vehicles.”

As well, Indiana continues to meet the description of “member jurisdiction is imposing tax based on fuel consumption” so as written P720.350 and P1040.300 apply to Indiana.

It appears the intent of P720.350 and P1040.300 is limited to “if the tax imposed by the member jurisdiction on that fuel is based on consumption” or “if the member jurisdiction is imposing tax on that fuel, based on consumption.”

QUEBEC

Support

SASKATCHEWAN

Undecided

This ballot has Saskatchewan's support if / once the committee has studied the various reporting options for alternative fuels and determined that reporting *based on a consumption rate* or reporting *based on distance* are the only two methods IFTA will accommodate.

We do not want to prematurely invest in IT system changes only to have to make further changes to accommodate different reporting methods not yet identified or analyzed. We would prefer the committee to complete its work prior to a ballot being brought forward on this matter.

Saskatchewan recognizes the need to be supportive of other jurisdictions for whom this is a more urgent matter. We acknowledge the importance of acting quickly to accommodate jurisdictions that require reporting based on distance.

SOUTH DAKOTA

Support

In this spirit of the agreement and R140 we as members agree to administer IFTA taxes cooperatively. A member jurisdiction has legislated to tax alternative fuel vehicles on a per-mileage-based fee. This ballot is the first step of changes that may come as the taxation of "fuel" or "road" taxes evolves. This ballot supports our fellow jurisdiction's tax legislation.

Stakeholders

Support

Industry Advisory Committee
Chuck Ledig, Chair

Support

Comments: It is the position of the IFTA Industry Advisory Committee (IAC) that the frameworks and constructs that govern the future methods for collecting tax revenues and fees associated with alternatively fueled / propelled vehicles meet three core principles (i.e. "core-principle test"): they are 1) efficient, 2) clear and 3) fair to all stakeholders.

The current frameworks and methodologies employed for collecting distance associated with IFTA qualified vehicles and the resulting filing of tax returns through IFTA meet the core-principle test, in and of itself. The changes proposed to the Agreement by Ballot 3-2023, to allow the same distance and same architecture to be utilized to collect tax simply based on this distance, also meet the core-principle test.

Understanding that the effort of the IFTA chartered, Alternative Fuels Committee (AFC) will continue / be ongoing, with respect to enhancing and improving the IFTA in this regard, we support this ballot as a solution to the immediate need created by the passage of ballot 8-2022 last year.

TENNESSEE

Support

WASHINGTON

Support

WYOMING

Support

The Attorney Advisory Committee (AAC) writes to express legal considerations about IFTA BALLOT PROPOSAL 03-2023. The subject of Ballot 3 is “Creating a mechanism for member jurisdictions to collect and report tax based on distance rather than fuel consumed”.

As of 7/6/23 – updates to amended Ballot #3-2023:

The AAC is grateful to IFTA Inc. for discussing the AAC’s comments on Ballot #3 and look forward to reviewing further versions of the ballot.

- 1. The AAC is concerned that language used in the changes proposed in Ballot 3 and the commentary in the proposal document, may support an interpretation that IFTA is not in compliance with the *Intermodal Surface Transportation Efficiency Act (ISTEA)* and, therefore, the U.S. Constitution. Language used to enable the calculation of tax based on distance travelled should indicate that such methodology is being used as a method for measuring consumption rather than as an alternative to taxation based on or measured by consumption.**

The Compact Clause of the U.S. Constitution provides that “No State shall, without the Consent of Congress, ... enter into Any Agreement or Compact with another State, or with a foreign Power” (Article 1, Section 10, Clause 3). In 1991, through ISTEA, Congress authorized States to impose a “fuel use tax” reporting requirement and collection of a “fuel use tax” by a single base state for proportional sharing among the states, but only if it conformed with the “International Fuel Tax Agreement”. ISTEA defined “fuel use tax” as follows:

49 USC 31701 (2) “fuel use tax” means a tax imposed on or measured by the *consumption* of fuel in a motor vehicle. (emphasis added)

(3) “International Fuel Tax Agreement” means the interstate agreement on collecting and distributing *fuel use taxes* paid by motor carriers, developed under the auspices of the National Governors’ Association. (emphasis added)

Accordingly, any fuel use tax (and the IFTA itself) must be imposed on or measured by the consumption of fuel.

The “Subject” section of the Ballot Proposal indicates that it “*create[s] a mechanism for member jurisdictions to collect and report tax based on distance **rather than fuel consumed***”. (emphasis added)

The “Intent” section of the Ballot Proposal indicates that “*The intent of the ballot is to establish a short term solution in which a carrier has the ability to report and pay tax for the use of alternative fuels in qualified motor vehicles based on distance **rather than fuel consumed***”. (emphasis added)

Stating that the purpose and intent of the changes is to facilitate the imposition or measurement of tax on a basis other “than fuel consumed” appears contrary to the explicit wording of ISTEA. The argument that the proposed amendments are inconsistent with ISTEA could be supported by the proposed changes to P720.350 which require the average fuel consumption factor to two decimal places for the tax reporting period “(if the member jurisdiction is imposing tax based on fuel consumption)”. Similar language appears in proposed P1040.350. Again, ISTEA requires that tax be

imposed or based on fuel consumption. This language suggests that tax could be imposed or based on something other than fuel consumption.

The AAC believes that a finding that the changes proposed in Ballot 3 were found to be unconstitutional would not put the IFTA in jeopardy as a whole. However, the AAC believes that a motor carrier could challenge an assessment by one state of a distance-based fuel imposed by another jurisdiction if the provisions of the Agreement were interpreted as relating to tax that is imposed on or measured by something other than the consumption of fuel.

To minimize this risk, the AAC recommends amending the language of the proposed changes and the commentary to indicate that IFTA continues to adhere to a consumption-based tax as stipulated in federal law even where a distance-based calculation is used. The language of the revisions and the surrounding commentary might be revised to better align with federal law and the U.S. Constitution by clarifying that the ballot provides a means to 'estimate the taxable fuel consumed based on distance traveled', and to eliminate the appearance of collecting and reporting tax based on distance *rather than* fuel consumed.

2. **The AAC is concerned that the phrase “specific schedules included on the IFTA Tax Return for member jurisdictions that have elected to tax alternative fuels used in qualified motor vehicles” used in the revisions to R820 of the Agreement and P550.700 of the Procedures Manual is ambiguous and imprecise.** We understand that the unstated intention is that the specific schedules contemplated are those that relate to the consumption of alternative fuels where the tax is calculated with reference to distance travelled. However, this intention is not explicit and could be interpreted more broadly. The concern could be addressed by explicitly stating that the schedules in question are those that relate to the consumption of alternative fuels where the tax is calculated with reference to distance travelled.
3. **The changes to R820 and P550 are written as an exception to a duty imposed on licensees, which is less clear than stating an affirmative duty.** In other words, the changes say what is not required to be done but do not say what is required to be done. From a clarity and drafting perspective, it is clearer to state when the duty does apply as opposed to stating when the duty does not apply.
4. **The proposed amendments could be interpreted as exempting distance-based alternative fuel taxation from collection and dissemination under IFTA.** The changes to R820 are worded as an exception to both reporting *and* taxability and therefore, suggest an exception to the general rules establishing what is "taxable fuel use" under IFTA. If the intent is to include such tax within IFTA but allow variations in reporting of alternative fuel use based on distance, one would expect the amendments to have been made in the reporting sections at Article IX. However, inclusion of these provisions in Article VIII could be interpreted as creating an exemption not just with respect to reporting but with respect to taxability where a jurisdiction uses a distance-based tax. These exemptions appear to create a dichotomy between taxes on fuels calculated on distance travelled and those calculated on the traditional consumption calculations. That dichotomy appears to be furthered by the proposed amendments at P720 and P1040 that clarify those procedures' application to tax "based on fuel consumption."

(END)

The IFTA Team respectfully disagrees with the AAC's comments and position on this ballot. Here are our reasons and facts to support said dissent with the AAC's comments:

1. Ballot 3-2023 does not violate the Compact Clause of the United States Constitution. A violation of the Compact Clause would have to include an act that would enhance or increase the political power of a state and/or undermine the authority of the federal government. **Ballot 3-2023 does neither.** (*NCSL Report 1999 Chapter 2 IFTA Is A Unique Hybrid Agreement pgs. 6 through 9*)

2. Section 4008 of the ISTEAs only acknowledges IFTA, requires conformity to same on or before September 30, 1996, and specifically mentions the three core provisions of IFTA (base jurisdiction concept, definition of qualified motor vehicle, and retention of state sovereignty to establish tax rates and exercise tax authority). No other aspects of administering the Agreement exist within the ISTEAs legislation. **Ballot 3-2023 does not interfere with nor alter any of the core provisions already agreed to by the United States Congress by virtue of Section 4008 of ISTEAs.** (*NCSL Report 1999 Chapter 2 IFTA Is A Unique Hybrid Agreement, IFTA Is Not A Federal Mandate (pg. 10), Congressional Consent (pgs. 9-10), Reciprocity Characteristics (pgs. 11-12), Congressional Coercion (pgs. 13-14), Page 14 Specifically: "In short, ISTEAs recognizes three core IFTA provisions that were contemplated by the member jurisdictions as the essence of the agreement: the base jurisdiction concept, uniform definition of the taxpayer and state retention of substantive tax authority. Congressional coercion of state participation in the IFTA provides the consent necessary to elevate these core provisions to compact status. Other provisions that are not core provisions and are not specifically recognized in ISTEAs do not have compact status and should be legally recognized as interstate reciprocity."*)

3. The United States Supreme Court has ruled on numerous occasions that certain agreements do not rise to the level of meeting the test for application of the Compact Clause. The Supreme Court has adopted a functional interpretation in which only compacts that increase the political power of the states while undermining federal sovereignty require congressional consent. These cases include:
 - a. United States Steel Corp. vs. Multistate Tax Comm'n, 434 U.S. 452, 470 [1978]
 - b. Virginia vs. Tennessee, 148 U.S. 503, 519 [1893]

c. New York vs. United States, 505 U.S. 144, 182 [1992]

The provisions of Ballot 3-2023 fall within the Supreme Court's adoption of a functional interpretation of what constitutes a violation of the Compact Clause as there is no increase in the political power of the states nor has federal sovereignty been undermined. (NCSL Report 1999 Chapter 2 IFTA Is A Unique Hybrid Agreement, The Compact Clause Threshold (pgs. 7-9))

4. The NCSL Report of 1999 included extensive research by several attorneys from IFTA jurisdictions, IFTA, Inc. executives, independent attorneys, the American Trucking Associations, a United States Congressman, and the NCSL staff which authored the report. This report identified several areas where IFTA is a unique hybrid agreement, is not subject to the Compact Clause (citing several court cases and **excepting** what has been expressly accepted by Congress), validated that ISTEA required conformity with the Agreement, only identified and embraced the three core provisions of IFTA, and remanded (by its silence) all other regulatory authority to the members of the Agreement. **The NCSL Report illustrates that amendments to IFTA fall outside of the provisions of the Compact Clause provided the three core provisions are not altered as they have been approved by Congress. Nothing in Ballot 3-2023 interferes with what the U.S. Congress has already approved. (NCSL Report 1999 Chapter 2 IFTA Is A Unique Hybrid Agreement, Congressional Coercion (pgs. 13-14))**

5. The legislation in question, Indiana House Bill 1050, amended Indiana's Motor Carrier Fuel Tax law. A new tax was **not** created; rather, the fuel use tax law of Indiana was amended to account for the use of alternative fuels, established the rules for determining an applicable tax rate, and acknowledged the continuance of IFTA as the instrument through which Indiana's motor carrier fuel tax shall be paid. Moreover, Indiana's calculation method is based on consumption. The prevailing Indiana diesel tax rate is divided by the average MPG for diesel vehicles computed by Indiana to arrive at an effective use tax rate. That rate is applied to distance in Indiana. **Since this imposition of tax is clearly in the Indiana Motor Carrier Fuel Tax code and is based on consumption, it is being imposed consistent with existing motor carrier fuel taxes in Indiana and therefore still within the confines of IFTA.**

Commentary:

We believe that the extensive research and conclusions embodied in the NCSL Report of 1999 are as valid in 2023 as they were in 1999. We encourage every voting commissioner to read the full NCSL report which includes the support of their research including references to supreme court cases, congressional law, and other extensive supporting facts and examples -vs- the opinions stated by the AAC which are not supported by any facts or research yet attempt to present a concern without referencing any support for their comments. In addition to the NCSL report, common sense analysis also supports the NCLS conclusions that Congress never intended for every amendment in the IFTA to require congressional approval. If the AAC comments were true, then anytime there is a proposed ballot that seeks to amend the IFTA, it would require congressional approval. As the NCSL clearly concludes, this is not true and the hybrid IFTA has only three core provisions which relate to the Compact Clause. All other provisions of our IFTA represent either a reciprocal jurisdiction agreement or an administrative agreement between jurisdictions, neither of which falls under the Compact Clause. Ballot 3-2023 does nothing more than make a small change to the return requirements (administrative) and clearly, does not run afoul of the Compact Clause or ISTEPA. Please do not accept the AAC comments as fact and take the time to read through the NCSL report. The full NCSL report is available on our website, or you can e-mail dmeise@iftach.org and she will e-mail you a copy.

This Ballot does not interfere with the Core Provisions, nor does it pose a violation of the Compact Clause of the United States Constitution. Therefore, Ballot 3-2023 is well within the membership's authority, if desired, to ratify Ballot 3-2023 as it has hundreds of ballots before within the authority of being recognized as a reciprocal administrative agreement.

The Attorney Advisory Committee (AAC) writes to express legal considerations about IFTA BALLOT PROPOSAL 03-2023. The subject of Ballot 3 is “Creating a mechanism for member jurisdictions to collect and report tax based on distance rather than fuel consumed”.

As of 7/6/23 – updates to amended Ballot #3-2023:

The AAC is grateful to IFTA Inc. for discussing the AAC’s comments on Ballot #3 and look forward to reviewing further versions of the ballot.

- 1. The AAC is concerned that language used in the changes proposed in Ballot 3 and the commentary in the proposal document, may support an interpretation that IFTA is not in compliance with the *Intermodal Surface Transportation Efficiency Act (ISTEA)* and, therefore, the U.S. Constitution. Language used to enable the calculation of tax based on distance travelled should indicate that such methodology is being used as a method for measuring consumption rather than as an alternative to taxation based on or measured by consumption.**

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imposed or based on fuel consumption. This language suggests that tax could be imposed or based on something other than fuel consumption.

The AAC believes that a finding that the changes proposed in Ballot 3 were found to be unconstitutional would not put the IFTA in jeopardy as a whole. However, the AAC believes that a motor carrier could challenge an assessment by one state of a distance-based fuel imposed by another jurisdiction if the provisions of the Agreement were interpreted as relating to tax that is imposed on or measured by something other than the consumption of fuel.

To minimize this risk, the AAC recommends amending the language of the proposed changes and the commentary to indicate that IFTA continues to adhere to a consumption-based tax as stipulated in federal law even where a distance-based calculation is used. The language of the revisions and the surrounding commentary might be revised to better align with federal law and the U.S. Constitution by clarifying that the ballot provides a means to 'estimate the taxable fuel consumed based on distance traveled', and to eliminate the appearance of collecting and reporting tax based on distance *rather than* fuel consumed.

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3. **The changes to R820 and P550 are written as an exception to a duty imposed on licensees, which is less clear than stating an affirmative duty.** In other words, the changes say what is not required to be done but do not say what is required to be done. From a clarity and drafting perspective, it is clearer to state when the duty does apply as opposed to stating when the duty does not apply.
4. **The proposed amendments could be interpreted as exempting distance-based alternative fuel taxation from collection and dissemination under IFTA.** The changes to R820 are worded as an exception to both reporting *and* taxability and therefore, suggest an exception to the general rules establishing what is "taxable fuel use" under IFTA. If the intent is to include such tax within IFTA but allow variations in reporting of alternative fuel use based on distance, one would expect the amendments to have been made in the reporting sections at Article IX. However, inclusion of these provisions in Article VIII could be interpreted as creating an exemption not just with respect to reporting but with respect to taxability where a jurisdiction uses a distance-based tax. These exemptions appear to create a dichotomy between taxes on fuels calculated on distance travelled and those calculated on the traditional consumption calculations. That dichotomy appears to be furthered by the proposed amendments at P720 and P1040 that clarify those procedures' application to tax "based on fuel consumption."

(END)

Ballot #3-2023
Comment Period Ending October 16, 2023

Support: 17
Oppose: 3
Undecided: 4

ALBERTA

Support

ARKANSAS

Support

BRITISH COLUMBIA

Support

CONNECTICUT

Support

FLORIDA

Support

ILLINOIS

Undecided

We support the change in R1020.

We do not support the changes to P550. Comments from jurisdictions such as South Dakota and North Carolina show that these proposed changes complicate things more than clarify them.

We are still determining if the changes to R820, P720, P1040 are really necessary.

Nevertheless, we plan to have our return programmed to accommodate Indiana's tax rate and calculations, so that we can collect the appropriate tax owed to Indiana from IL carriers.

To do this, instead of creating a new fuel type and column in the tax rate matrix, we prefer using an additional row to display consumption rates based on distance. Using additional rows to capture other rates, such as surcharges and split rates, is already familiar.

IOWA

Undecided

Iowa is generally supportive of this measure and understands the need for IFTA to support the collection of the EV-mileage based fuel tax in Indiana and apportion that revenue to all other IFTA jurisdictions. However, we need to continue to review this ballot to be fully confident that we do not inadvertently create two fuel tax types with the risk that a customer could challenge that they are apportionable. In other words, we need clear language to say that an EV fuel tax is apportionable regardless of the method in which it was collected. The same would need to apply if a jurisdiction chose to switch from a diesel-per-gallon tax to a diesel-per-mile tax, for example. Iowa collects EV-per-gallon; Indiana collects EV-per-mile. So a truck with mileage in both states should therefore apportion the revenue from the EV fuel tax.

We look forward to any clarifying calls with members to ensure that this issue is addressed.

KANSAS

Support

KENTUCKY

Support

MANITOBA

Support

MB supports this ballot in order to move forward on this specific issue.

NEBRASKA

Undecided

Nebraska shares the concerns raised by NC and finds the ballot confusing. It will be the jurisdictions responsibility to advise their carriers on record keeping requirements that will withstand judicial review and based on this language, we would find that difficult.

NEVADA

Oppose

Nevada agrees with SD.

Regardless of how we are calculating alternative fuels, the record keeping requirements need to remain the same, (1) for Audit purposes, (2) to be less confusing for the customers. (We already have some customers that get confused between our requirements and DOT requirements.) Let's not make it any more difficult.

The biggest comments from the AAC, is that it has always been consumption based and now we are trying to change it to distance based because of the law in Indiana. But what if a jurisdiction started taxing other alternative fuels (E85 or ethanol for example) based on distance rather than on consumption. Would this ballot open the door to distance tax collection on alternative fuels that are currently taxed on consumption? (NE)

Want to make sure these changes are for alternative fuels (EV) only, and that it does not open the door to change how the calculations are currently done for the current fuel types (diesel, gasoline, etc.) on the IFTA return.

Some of the other concerns, is that it does not appear to be a short-term solution but may have significant impact for the long term and should be completely assessed before a ballot is brought. (SK, NE)

It is really confounding that we're being asked to vote on a ballot regarding a change that has no set guidelines or consensus on any level (IFTA, Federal, or State wise).

We also feel that IFTA should be giving guidance for the jurisdictions, not the jurisdictions dictating what we calculate? If one jurisdiction goes distance, there should be a guideline for distance regardless of which jurisdiction. That way when a state law does come into play the jurisdiction can act at the legislative level and state that we are following IFTA guidelines.

NEW BRUNSWICK

Support

NEWFOUNDLAND

Support

NORTH CAROLINA

Oppose

North Carolina has two primary concerns with this ballot.

It's first concern is the changes to P550. The relief of record keeping requirements is unclear and ambiguous.

The intent of the statute provides as follows:

"As noted above, if the same vehicle using the same fuel type, also travels through another jurisdiction that applies their fuel use tax in the traditional way by applying a tax rate to the taxable gallons (volume) or using a different method besides applying the tax rate to distance, then the requirements to maintain records and report total fuel consumed and report the MPG, are not affected by these proposed changes and there is no exclusion from the requirements in those instances."

North Carolina does not believe that the intent of the ballot is achieved with the current language. It is much more clear to state that the requirements contained in P550 do not apply to motor carriers operating exclusively within jurisdictions where the tax is imposed on the consumption of the motor fuel by applying a tax rate to distance. For instance, if a motor carrier is maintaining bulk storage facilities and making withdrawals in a member jurisdiction that imposes the tax based on distance, and travels in a member jurisdiction that imposes the tax based on consumption, does the motor carrier have to maintain bulk withdrawal records? The withdrawals are occurring in a member jurisdiction where the "tax is imposed on the consumption of fuel by applying a tax rate to distance." Although it could be interpreted to require record keeping when travel occurs in a member jurisdiction that taxes based on consumption, the legal concern is that the answer may be unclear.

Further, the P550 record keeping requirements are unclear for motor carriers that maintain bulk storage facilities in a member jurisdiction that imposes the tax based on distance and who generally only travels in those jurisdictions. The record keeping requirement exemption, as proposed by the ballot, becomes problematic if that motor carrier then incidentally travels in a member jurisdiction that imposes the tax based on consumption. For example, accordingly to P550.400, the licensee must maintain retail records for receipts for all deliveries and quarterly inventory reconciliations for each tank. When does that obligation begin? If the motor carrier then ceases travel in jurisdictions that tax based on consumption, when does the obligation end? Is it the reporting period that the motor carrier traveled in the jurisdiction that taxes based on consumption? What if the travel was in the beginning of the reporting period? It is unclear and places auditors in a difficult position to evaluate fuel use and provides little guidance to motor carriers about its record keeping obligations as their travel routes may change overtime.

North Carolina's concern with the clarity of P550 is rooted in risks for litigation. In North Carolina, most of our litigation stems from P550. Therefore, we are very sensitive to changes to this section. Introducing

any ambiguity will have a severe, long-lasting impact to our collection efforts as more member jurisdictions introduce distance based taxation.

North Carolina also views this ballot primarily from a risk assessment perspective. Without the ballot, the motor carrier must maintain records that may not be needed. With the passage of this ballot, either: (1) the motor carrier fails to maintain records due to reliance on unclear language that exposes the motor carrier to unnecessary assessments; or (2) the member jurisdiction's assessment fails to be upheld in court where a court determines that records were not required to be maintained. The risk to member jurisdictions and motor carriers trying to understand the language greatly outweighs the potential benefits of removing records keeping requirements for certain motor carriers.

The second concern is one that is shared by South Dakota. When a motor carrier operates in at least one jurisdiction that calculates tax on consumption and not distance, to properly calculate the miles per fuel consumption, all fuel placed in the qualified motor vehicle must be reported.

NOVA SCOTIA

Support

OHIO

Undecided

Ohio shares the same concerns as South Dakota. We believe it is generally important for taxpayers to maintain complete records. Additionally, "instance of taxation" is not defined and could create confusion.

ONTARIO

Support

PENNSYLVANIA

Support

PRINCE EDWARD ISLAND

Support

PEI supports this ballot in order to move forward with next steps. We share South Dakota's concern that jurisdictions, or carriers, may interpret the language different than the intent and there may be missing records/reports based on a misunderstanding. However, we are willing to see if this actually happens once carriers start crossing borders of jurisdictions with different means of taxing.

SOUTH CAROLINA

Support

SOUTH DAKOTA

Oppose

South Dakota believes that the instance of taxation will determine what information the carrier will be responsible for reporting for fuel. For example, a carrier is driving from Indiana to South Dakota. He fuels his qualified electric vehicle in every state with x amount of electricity. The way South Dakota reads this ballot, the fuel placed in the qualified motor vehicle in Indiana, where the "instances of taxation is

imposed on the consumption by applying a tax rate to distance,” would exclude them from reporting that x amount of fuel used for Indiana.

Section P550 also has a similar effect of excluding the record keeping requirement where the tax is imposed on the consumption of fuel by applying a tax rate to distance.

By not having to include all fuel placed in every qualified motor vehicle in the reporting or record keeping requirements it may give a false per mile fuel consumption rate which could negatively impact other jurisdictions tax amounts.

Without the reporting or the record keeping required information for auditors to audit how will they be able to verify the correct amount of tax was appropriated to each jurisdiction for use? There would be no way to determine what vehicles are being driven in jurisdictions that impose tax on the consumption of fuel only.

South Dakota understands the need to address the different taxation methodologies that are being looked at in jurisdictions. By leaving the language in the agreement, as is, it would require all fuel put into a qualified motor vehicle regardless of how tax will apply to be recorded on the returns and records kept for auditors to verify that fuel.

We also look for ease of our taxpayers. If the IFTA licensee must try and decide what information is reported and what information must be kept in their records based on instances, this would make it harder to comply with the IFTA agreement.

TENNESSEE

Support

VIRGINIA

Support

Ballot #3-2023
3rd Comment Period Ending November 16, 2023

Support: 21
Oppose: 1
Undecided: 2

ALBERTA

Support

ARKANSAS

Support

CALIFORNIA

Support

CONNECTICUT

Support

Connecticut continues to support this ballot and appreciates the efforts made to modify the ballot based on the comments received from the previous commentary periods and the input received during the regional meetings.

IDAHO

Support

ILLINOIS

Oppose

After following the evolution of Ballot #3, reading the IFTA QA for Ballot 3-2023 that was mailed to Commissioners on 10/31/2023, and finding syntax errors and confusing language in the draft (also noted by North Carolina in their comment), Illinois does not see any value added to justify changing the IFTA Agreement that all fifty-eight jurisdictions must uphold. Until there is a good explanation for justifying the changes (other than R1020) and at least until a more comprehensibly constructed draft is presented, our position is to oppose the ballot. Illinois stands ready to work with IFTA Inc. and member jurisdictions going forward to address the issues raised in this Ballot.

INDIANA

Support

Indiana supports this ballot. However, IN agrees with other jurisdictions in that the recordkeeping requirements should remain as they currently are regarding fuel to avoid confusion. We also agree that the language in the ballot could be made clearer. We support the statement that the tax is imposed on the consumption of fuel by applying the tax rate to distance.

IOWA

Support

Iowa appreciates the discourse between members and the responses from IFTA. We are supportive of this measure because we understand this change needs to be made based on the law passed in Indiana. At the same time, we strongly encourage all IFTA jurisdictions that if this issue arises in their legislatures that they support EV fuel collection at the point of distribution rather than usage. We again encourage IFTA to develop model legislation to this end.

KANSAS

Support

KENTUCKY

Support

MANITOBA

Support

MARYLAND

Support

MICHIGAN

Support

NEVADA

Support

Nevada will support this Ballot to help with moving forward.

We also feel that the record keeping requirements should remain the same as they currently are now regardless of the fuel type and how it is calculated from one jurisdiction to another. Otherwise, it will be confusing for the taxpayers to know when to keep records and when not to keep records.

We do agree with North Carolina regarding some of the language still being unclear and will be confusing for our taxpayers to understand. We like their proposed language as it is a lot clearer and easier to understand.

We also agree with South Dakota regarding the need for this ballot and believe that we as members of IFTA need to work towards a solution to standardize the taxation of alternative type fuels. To help all jurisdictions use the same taxation methodology as we do now with other fuel types.

NEW BRUNSWICK

Support

NEW HAMPSHIRE

Support

NORTH CAROLINA

Support

The changes addressed many of the concerns raised by North Carolina and other member jurisdictions. Therefore, North Carolina generally supports the ballot. However, North Carolina would like to raise additional concerns with the ballot, which North Carolina encourages the sponsor to review and otherwise consider adopting the changes recommended in this comment.

First, the ballot uses language that attempts to improve clarity by repeating substantive requirements or exemptions. This is done four times in the ballot with the sentence beginning as follows: "If any qualified motor fuel vehicle of the same fuel type travels in any other jurisdiction that imposes tax on the consumption of fuel by applying a tax rate to net taxable fuel, then . . ." This raises issues regarding whether the repeated language is attempting to create an additional requirement or exemption. This should be avoided under the statutory canon of "Rule to Avoid Surplusage," which provides that every word and every provision should be given effect, and none should be ignored and none should be given interpretation that causes it to duplicate another provision or to have no consequence. North Carolina does not see the repeated language as necessary, and thus the additional sentence injects ambiguity where the opposite was intended. The language should be removed. By removing the language, not only does it make the ballot more clear, it also makes it easier to read by significantly reducing the volume of changes.

Second, the following phrase that appears four times is unclear: "qualified motor vehicles that only travel in jurisdictions that [] impose a tax on the consumption of fuel solely by applying a tax rate to distance" Which fuel? All fuel? Or only the fuel type used by the qualified motor vehicle? The latter is intended by the sponsor, and the ballot should be amended to make this clear. North Carolina notes that similar ambiguity issues with the next sentence: "If any qualified motor vehicle of the same fuel type travels in any other jurisdiction that imposes tax on the consumption of fuel" Which fuel? The fuel type used by the qualified motor vehicle?

Third, North Carolina has concerns regarding the use of the term "net taxable fuel." This term is not defined, and not otherwise used in the Articles of Agreement except for the language proposed by this ballot. Although it is referenced in the Procedures Manual, the use of the term is only clear within the context of how many member jurisdictions have constructed their return. Taxable fuel is taxable fuel and is independent of the tax rate calculation. Adding "net" in front of this phrase does not necessarily classify taxable fuel as subject to a certain rate calculation methodology. Absent additional clarifying language, the question becomes, in interpreting this new phrase: net of what? As this is a developing area with only one state using this tax rate calculation methodology, it is foreseeable that this phrase can become more problematic. For example, when combined with the first concern from above, it may be interpreted that the sentence that contains this phrase is indeed governing a distinct issue. North Carolina understands that the sponsor is attempting to create a phrase or term that distinguishes applying a tax rate to distance from the method for how member jurisdictions have historically calculated the use of fuel. North Carolina is hesitant that "net taxable fuel" is the best way to characterize this tax calculation methodology absent defining the term or drafting, as North Carolina proposes below, in such a way that it is not required.

Fourth, P550 is an 'all-or-nothing' requirement. P550 requires licensee to "maintain complete records of all motor fuel purchased, received, or used in the conduct of its business" Now the ballot has introduced exceptions to the 'all-or-nothing' requirement. The issue becomes when the motor carrier begins to operate or ceases to operate in jurisdictions that taxes based on tax rate to the taxable gallons (volume), when do the record keeping requirements apply? P550 is silent and provides no guidance for these licensees on how to comply with P550. Please see North Carolina's most recent comments regarding its concerns on this issue. One solution is to base the record keeping requirements on the reporting period. In other words, if a licensee operates in a non-tax-rate-to-distance jurisdiction during a reporting period, all record keeping requirements apply.

Finally, North Carolina is concerned that this ballot fails to amend other impacted provisions and thus fails take a comprehensive approach for making consistent changes in the IFTA governing documents. For example, the exemption created under P550 creates inconsistencies with P560. P560 requires licensees to make summaries available for audit that include "the distance traveled by and the fuel placed into each vehicle in the fleet during the quarter" Also, the ballot fails to amend P710.200, which requires IFTA tax returns to include the "[t]otal number of gallons or liters of motor fuel used by the licensee in operation of qualified motor vehicles" Finally, P720.500 requires (through P700) that jurisdictions capture: (1) the taxable gallons or liters; (2) tax paid gallons or liters; and (3) net taxable gallons or liters. If the ballot moves forward with amending P720.350, North Carolina is not sure why corresponding changes would also need to be made to P710.200 and P720.500. The same concern is also applicable to the changes made to P1040.300 -- why are conforming changes not also made to P1040.350 through P1040.450.? All these omissions need to be addressed.

The following is proposed language that address some of the above concerns.

R820

[Existing R820 language] A motor carrier is not required to report fuel placed in the supply storage unit of a qualified motor vehicle if the vehicle exclusively traveled in jurisdictions using fuel for which the motor fuel use tax is either not imposed or imposed by applying a tax rate to distance.

P550.900

The requirements in this section do not apply to a licensee maintaining records for a qualified motor vehicle that, during the reporting period, exclusively traveled in jurisdictions using fuel for which the motor fuel use tax is either not imposed or imposed by applying a tax rate to distance.

P1040.300

The reported fleet fuel consumption factor for each licensee unless licensee only operated qualified motor vehicles that exclusively traveled in jurisdictions using fuel for which the motor fuel use tax is either not imposed or imposed by applying a tax rate to distance;

NORTH DAKOTA

Support

NOVA SCOTIA

Support

OHIO

Undecided

Ohio has concerns about the record keeping provisions. Ohio believes it is generally important for taxpayers to maintain complete records. Ohio routinely educates taxpayers on current recordkeeping requirements and does not want to add confusion to this process. Like South Dakota, we question the need for this ballot.

ONTARIO

Undecided

Ontario appreciates the supporting materials sent out by the Board and Executive Director on October 31, 2023. While Ontario is generally supportive of the approach in the ballot, we will review the ballot further alongside the memo and Qs & As.

QUEBEC

Support

The legal dept opinion: In the proposed amendment to section P720.350, we believe it would be more accurate to replace the word "section" with "subsection".

"...then the exemption from the requirements of this subsection will not apply and the average fuel consumption factor must be reported". to clarify that the proposed exemption applies only to P720.350 and not to the entirety of section P720.

i.e. the requirement to indicate the average fuel consumption factor in the quarterly report. -While we are of the opinion that the context surrounding the addition still allows for a narrower scope of the exemption, we believe that this amendment would provide clarity. Note that "subsection" is a term used in IFTA (see R1600.100, R1620.15 and several comments).

SOUTH CAROLINA

Support

SOUTH DAKOTA

Support

We do thank the Board of Directors for making the wording change. This change has helped narrow the exemption. As South Dakota reads the ballot, the exemption will only apply when a fuel type is only used in a jurisdiction that either does not collect a fuel tax on that type of fuel or only collects the fuel tax on miles driven.

South Dakota does still question the need for this ballot. We do believe that we as members of IFTA need to work towards a solution to standardize the taxation of alternative type fuels. This will help all jurisdictions use the same taxation methodology as we do now with other fuels. However, South Dakota will support this ballot to give industry and jurisdictions a roadmap to move forward.

**IFTA BALLOT 3-2023
VOTING RESULTS**

| JURISDICTION | LANGUAGE | | EFFECTIVE DATE | |
|----------------------|----------|----|----------------|----|
| | YES | NO | YES | NO |
| ALABAMA | 1 | | 1 | |
| ALBERTA | 1 | | 1 | |
| ARIZONA | 1 | | | 1 |
| ARKANSAS | 1 | | 1 | |
| BRITISH COLUMBIA | 1 | | 1 | |
| CALIFORNIA | | | | |
| COLORADO | | | | |
| CONNECTICUT | 1 | | 1 | |
| DELAWARE | | | | |
| FLORIDA | 1 | | 1 | |
| GEORGIA | | | | |
| IDAHO | 1 | | 1 | |
| ILLINOIS | | 1 | | 1 |
| INDIANA | 1 | | 1 | |
| IOWA | 1 | | | 1 |
| KANSAS | 1 | | 1 | |
| KENTUCKY | 1 | | 1 | |
| LOUISIANA | 1 | | 1 | |
| MAINE | 1 | | | 1 |
| MANITOBA | 1 | | 1 | |
| MARYLAND | | | | |
| MASSACHUSETTS | | | | |
| MICHIGAN | 1 | | 1 | |
| MINNESOTA | | | | |
| MISSISSIPPI | | | | |
| MISSOURI | | | | |
| MONTANA | 1 | | 1 | |
| NEBRASKA | | | | |
| NEVADA | 1 | | 1 | |
| NEW BRUNSWICK | 1 | | 1 | |
| NEW HAMPSHIRE | 1 | | 1 | |
| NEW JERSEY | | 1 | | 1 |
| NEW MEXICO | | | | |
| NEW YORK | | 1 | | 1 |
| NEWFOUNDLAND | 1 | | 1 | |
| NORTH CAROLINA | 1 | | 1 | |
| NORTH DAKOTA | 1 | | 1 | |
| NOVA SCOTIA | | | | |
| OHIO | | | | |
| OKLAHOMA | | 1 | | 1 |
| ONTARIO | 1 | | 1 | |
| OREGON | 1 | | 1 | |
| PENNSYLVANIA | 1 | | 1 | |
| PRINCE EDWARD ISLAND | 1 | | 1 | |
| QUEBEC | 1 | | 1 | |
| RHODE ISLAND | 1 | | 1 | |
| SASKATCHEWAN | | | | |

**IFTA BALLOT 3-2023
VOTING RESULTS**

| JURISDICTION | LANGUAGE | | EFFECTIVE DATE | |
|----------------------|-----------|----------|----------------|----------|
| | YES | NO | YES | NO |
| SOUTH CAROLINA | 1 | | 1 | |
| SOUTH DAKOTA | 1 | | 1 | |
| TENNESSEE | 1 | | 1 | |
| TEXAS | 1 | | 1 | |
| UTAH | 1 | | 1 | |
| VERMONT | | | | |
| VIRGINIA | 1 | | 1 | |
| WASHINGTON | | | | |
| WEST VIRGINIA | | | | |
| WISCONSIN | 1 | | 1 | |
| WYOMING | 1 | | 1 | |
| TOTALS | 37 | 4 | 34 | 7 |

Bold font in the voting total columns and shading indicate that the jurisdiction did not vote.

Number of "YES" votes necessary to pass: *Three-fourths of the total eligible member jurisdictions who voted (R1630.200)*

Effective Date: January 1, 2024

LANGUAGE:

NUMBER OF "YES" VOTES RECEIVED: **37**

NUMBER OF "NO" VOTES RECEIVED: **4**

NUMBER OF VOTES NOT RECEIVED: **17**

RESULT: PASSED

ALTERNATIVE EFFECTIVE DATE:

NUMBER OF "YES" VOTES RECEIVED: **34**

NUMBER OF "NO" VOTES RECEIVED: **7**

NUMBER OF VOTES NOT RECEIVED: **17**

RESULT: PASSED

Ballot Intent:

The intent of this ballot is to make clear that for those instances, and only in those instances, where a jurisdiction is taxing the consumption of fuel by applying a tax rate to distance (taxable miles), certain record keeping and reporting requirements that are not necessary to reporting requirements and can be excluded as a requirement. As noted above, if the same vehicle using the same fuel type, also travels through another jurisdiction that applies their fuel use tax in the traditional way by applying a tax rate to the taxable gallons (volume) or using a different method besides applying the tax rate to distance, then the requirements to maintain records and report total fuel consumed and report the MPG, are not effected by these proposed changes and there is no exclusion from the requirements in those instances. The exclusions only apply to the specific instance where the consumption of a particular fuel type by a jurisdiction is taxed by applying a tax rate to the distance (taxable miles).

FOR VOTE AT THE 2023 ANNUAL IFTA BUSINESS MEETING



**IFTA BALLOT PROPOSAL
4-2023**

Sponsor

IFTA, Inc. Board of Trustees

Date Submitted

May 24, 2023

Proposed Effective Date

Upon Passage

Manual Sections to be Amended (January 1996 Version, Effective July 1, 1998, as revised)

IFTA Articles of Agreement Sections: R1600

Subject

Adding a provision to allow the Alternative Fuels Committee to make proposals for amendment or requests for non-substantive changes to the Agreement, Procedures Manual, or Audit Manual.

History/Digest

Article XVI, R1600 of the IFTA Articles of Agreement provides for certain Standing Committees of the Association to make proposals for amendment or requests for non-substantive changes to the Governing Documents of IFTA. The Alternative Fuels Committee was established as a Standing Committee of IFTA as a result of the ratification of Article XI-Committees, Section 10, of the IFTA, Inc. Bylaws on August 3, 2022. The Alternative Fuels Committee (AFC) is tasked with researching and identifying any alternative fuel source(s) used to propel qualified motor vehicles. Part of these responsibilities is to make recommendations to the Board of Trustees for amendments to the governing documents. The AFC is to seek input from other Standing Committees in discharging its responsibilities. With the rapidly evolving emergence of alternative fuels used in the propulsion of qualified motor vehicles the impact of alternative fuels upon the administration of fuel use taxes collected through IFTA, and the development of other methods to collect tax for the use of alternative fuels in qualified motor vehicles (e.g. distance based taxation), the AFC will be critical to the administration of this Agreement. As such, the Alternative Fuels Committee should have the same authority to propose amendments or

requests for non-substantive changes to the governing documents as other Standing Committees in accordance with Article R1600.

Intent

To include the Alternative Fuels Committee as a Standing Committee with the authority to propose amendments and non-substantive changes to the governing documents of IFTA.

Interlining Indicates Deletion; Underlining Indicates Addition

1 **ARTICLE XVI**

2

3 ***R1600 AMENDMENT**

4

5 Proposals for amendment and requests for non-substantive changes of the Agreement,
6 Procedures Manual, or Audit Manual may be made by any member jurisdiction, the Audit
7 Committee, the Agreement Procedures Committee, the Clearinghouse Advisory
8 Committee, the Law Enforcement Committee, the Program Compliance Review
9 Committee, the Alternative Fuels Committee, or the Board of Trustees of the Association.

10

11

No Revisions Following the Comment Period Ending June 30, 2023

Ballot #4-2023
Comment Period Ending June 30, 2023

Support: 30
Oppose: 1
Undecided: 0

ALBERTA

Support

BRITISH COLUMBIA

Support

CONNECTICUT

Support

This new standing committee that was approved last year should have the ability to put forth a ballot similar to other standing committees.

DELAWARE

Support

IDAHO

Support

INDIANA

Support

IOWA

Support

KANSAS

Support

KENTUCKY

Support

MANITOBA

Support

MARYLAND

Support

MICHIGAN

Support

MISSOURI

Support

NEBRASKA

Support

NEVADA

Support

NEW BRUNSWICK

Support

NEW HAMPSHIRE

Support

NEWFOUNDLAND

Support

NORTH CAROLINA

Support

NORTH DAKOTA

Support

NOVA SCOTIA

Support

OKLAHOMA

Oppose

Oklahoma believes this committee should be a Working Group or a Task Force rather than a standing committee.

ONTARIO

Support

PENNSYLVANIA

Support

PRINCE EDWARD ISLAND

Support

QUEBEC

Support

SASKATCHEWAN

Support

SOUTH DAKOTA

Support

We as members voted to make the Alternative Fuel Committee a standing committee last year at the annual business meeting. Last year, language was missed in that vote to allow the Alternative Fuel

Committee to put forth a ballot. This ballot simply is cleaning up last year's vote to allow this committee to act the same as the other standing committees and propose ballots.

TENNESSEE

Support

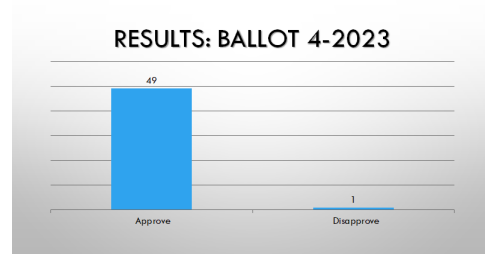
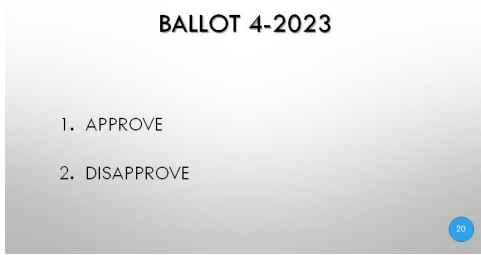
WASHINGTON

Support

WYOMING

Support

Total Responses: 50 49 Yes – 1 No Ballot 4-2023 Passed



| Participant | Response |
|-------------|---------------|
| AL | Approve |
| AB | Approve |
| AZ | Approve |
| AR | Approve |
| BC | [No Response] |
| CA | Approve |
| CO | Approve |
| CT | Approve |
| DE | Approve |
| FL | Approve |
| GA | Approve |
| ID | Approve |
| IL | Approve |
| IN | Approve |
| IA | Approve |
| KS | Approve |
| KY | [No Response] |
| LA | Approve |
| ME | Approve |
| MB | Approve |
| MD | Approve |
| MA | Approve |
| MI | Approve |
| MN | [No Response] |
| MS | Approve |
| MO | Approve |

** Keypad 58 was a replacement voting fob for NY

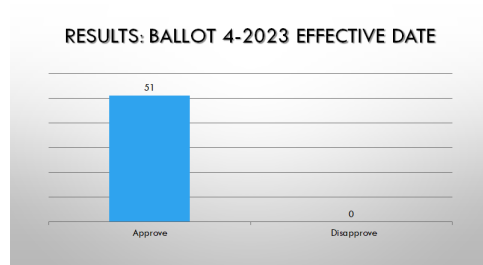
| | |
|-----------|---------------|
| MT | Approve |
| NE | Approve |
| NV | Approve |
| NB | Approve |
| NL | [No Response] |
| NH | Approve |
| NJ | Approve |
| NY | [No Response] |
| NC | Approve |
| ND | Approve |
| NS | Approve |
| OH | Approve |
| OK | Approve |
| ON | Disapprove |
| OR | Approve |
| PA | Approve |
| PE | Approve |
| QC | Approve |
| RI | Approve |
| SK | Approve |
| SC | [No Response] |
| SD | Approve |
| TN | Approve |
| TX | Approve |
| UT | Approve |
| VT | Approve |
| VA | Approve |
| WA | Approve |
| WV | [No Response] |
| WI | [No Response] |
| WY | Approve |
| Keypad 58 | Approve |

** Keypad 58 was a replacement voting fob for NY

Total Responses: 51 51 Yes – 0 No Ballot 4-2023 Effective Date Passed

BALLOT 4-2023 EFFECTIVE DATE

1. APPROVE
2. DISAPPROVE



| Participant | Response |
|-------------|---------------|
| AL | Approve |
| AB | Approve |
| AZ | Approve |
| AR | Approve |
| BC | [No Response] |
| CA | Approve |
| CO | Approve |
| CT | Approve |
| DE | Approve |
| FL | Approve |
| GA | Approve |
| ID | Approve |
| IL | Approve |
| IN | Approve |
| IA | Approve |
| KS | Approve |
| KY | Approve |
| LA | Approve |
| ME | Approve |
| MB | Approve |
| MD | Approve |
| MA | Approve |
| MI | Approve |
| MN | [No Response] |
| MS | Approve |

** Keypad 58 was a replacement voting fob for NY

| | |
|-----------|---------------|
| MO | Approve |
| MT | Approve |
| NE | Approve |
| NV | Approve |
| NB | Approve |
| NL | [No Response] |
| NH | Approve |
| NJ | Approve |
| NY | [No Response] |
| NC | Approve |
| ND | Approve |
| NS | Approve |
| OH | Approve |
| OK | Approve |
| ON | Approve |
| OR | Approve |
| PA | Approve |
| PE | Approve |
| QC | Approve |
| RI | Approve |
| SK | Approve |
| SC | [No Response] |
| SD | Approve |
| TN | Approve |
| TX | Approve |
| UT | Approve |
| VT | Approve |
| VA | Approve |
| WA | Approve |
| WV | [No Response] |
| WI | [No Response] |
| WY | Approve |
| Keypad 58 | Approve |

** Keypad 58 was a replacement voting fob for NY