

Senator Kevin T. Van Tassell proposes the following substitute bill:

MOTOR AND SPECIAL FUEL TAX AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Motor and Special Fuel Tax Act by amending provisions relating to motor and special fuel.

Highlighted Provisions:

This bill:

- ▶ increases the motor and special fuel tax rate;
- ▶ increases the tax rate imposed on compressed natural gas;
- ▶ provides that the motor fuel and special fuel tax rate shall be increased every two years;
- ▶ provides procedures for implementing the motor fuel and special fuel tax rate adjustment;
- ▶ grants the State Tax Commission rulemaking authority to establish rules to implement the motor fuel and special fuel tax rate increase provisions;
- ▶ repeals certain tax rate decal posting requirements; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill takes effect on July 1, 2011.

27 This bill coordinates with H.B. 184, Motor and Special Fuel Tax Act Amendments, by
28 making substantive amendments.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308

32 **59-13-301**, as last amended by Laws of Utah 2008, Chapters 153 and 382

33 REPEALS:

34 **59-13-104**, as enacted by Laws of Utah 1998, Chapter 253

35 **Utah Code Sections Affected by Coordination Clause:**

36 **59-13-301**, as last amended by Laws of Utah 2008, Chapters 153 and 382



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **59-13-201** is amended to read:

40 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
41 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
42 **in limited circumstances.**

43 (1) (a) Subject to the provisions of this section, a tax is imposed at the rate of [~~24-1/2~~]
44 29 1/2 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this
45 state.

46 (b) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of
47 this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a),
48 rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in
49 Section 59-13-102 and are sold, used, or received for sale or use in this state.

50 (c) (i) Beginning on or after January 1, 2013, the commission shall, every two years in
51 the odd year, increase the rate imposed under Subsection (1)(a) by .75 cents.

52 (ii) The adjusted fuel tax rate shall take effect on January 1 in a year that the fuel tax
53 rate is required to be adjusted in accordance with Subsection (1)(c)(i).

54 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
55 the commission shall make rules implementing the provisions of this Subsection (1)(c).

56 (2) Any increase or decrease in tax rate applies to motor fuel that is imported to the

57 state or sold at refineries in the state on or after the effective date of the rate change.

58 (3) (a) No motor fuel tax is imposed upon:

59 (i) motor fuel that is brought into and sold in this state in original packages as purely
60 interstate commerce sales;

61 (ii) motor fuel that is exported from this state if proof of actual exportation on forms
62 prescribed by the commission is made within 180 days after exportation;

63 (iii) motor fuel or components of motor fuel that is sold and used in this state and
64 distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in
65 this state; or

66 (iv) motor fuel that is sold to the United States government, this state, or the political
67 subdivisions of this state.

68 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
69 commission shall make rules governing the procedures for administering the tax exemption
70 provided under Subsection (3)(a)(iv).

71 (4) The commission may either collect no tax on motor fuel exported from the state or,
72 upon application, refund the tax paid.

73 (5) (a) All revenue received by the commission under this part shall be deposited daily
74 with the state treasurer and credited to the Transportation Fund.

75 (b) An appropriation from the Transportation Fund shall be made to the commission to
76 cover expenses incurred in the administration and enforcement of this part and the collection of
77 the motor fuel tax.

78 (6) (a) The commission shall determine what amount of motor fuel tax revenue is
79 received from the sale or use of motor fuel used in motorboats registered under the provisions
80 of the State Boating Act, and this amount shall be deposited in a restricted revenue account in
81 the General Fund of the state.

82 (b) The funds from this account shall be used for the construction, improvement,
83 operation, and maintenance of state-owned boating facilities and for the payment of the costs
84 and expenses of the Division of Parks and Recreation in administering and enforcing the State
85 Boating Act.

86 (7) (a) The United States government or any of its instrumentalities, this state, or a
87 political subdivision of this state that has purchased motor fuel from a licensed distributor or

88 from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this
89 section is entitled to a refund of the tax and may file with the commission for a quarterly
90 refund.

91 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
92 commission shall make rules governing the application and refund provided for in Subsection
93 (7)(a).

94 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
95 the General Fund an amount equal to the lesser of the following:

- 96 (i) .5% of the motor fuel tax revenues collected under this section; or
- 97 (ii) \$1,050,000.

98 (b) This amount shall be used as provided in Section 41-22-19.

99 (9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that
100 is sold, used, or received for sale or use in this state is reduced to the extent provided in
101 Subsection (9)(b) if:

102 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
103 fuel is paid to the Navajo Nation;

104 (ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or
105 not the person required to pay the tax is an enrolled member of the Navajo Nation; and

106 (iii) the commission and the Navajo Nation execute and maintain an agreement as
107 provided in this Subsection (9) for the administration of the reduction of tax.

108 (b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this
109 section:

110 (A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that
111 difference is greater than \$0; and

112 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
113 if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.

114 (ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

115 (A) the amount of tax imposed on the motor fuel by this section; less

116 (B) the tax imposed and collected by the Navajo Nation on the motor fuel.

117 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
118 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of

119 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the
120 Navajo Nation.

121 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
122 commission shall make rules governing the procedures for administering the reduction of tax
123 provided under this Subsection (9).

124 (e) The agreement required under Subsection (9)(a):

125 (i) may not:

126 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

127 (B) provide a reduction of taxes greater than or different from the reduction described
128 in this Subsection (9); or

129 (C) affect the power of the state to establish rates of taxation;

130 (ii) shall:

131 (A) be in writing;

132 (B) be signed by:

133 (I) the chair of the commission or the chair's designee; and

134 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

135 (C) be conditioned on obtaining any approval required by federal law;

136 (D) state the effective date of the agreement; and

137 (E) state any accommodation the Navajo Nation makes related to the construction and
138 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
139 Nation; and

140 (iii) may:

141 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
142 Navajo Nation information that is:

143 (I) contained in a document filed with the commission; and

144 (II) related to the tax imposed under this section;

145 (B) provide for maintaining records by the commission or the Navajo Nation; or

146 (C) provide for inspections or audits of distributors, carriers, or retailers located or
147 doing business within the Utah portion of the Navajo Nation.

148 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
149 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a

150 result of the change in the tax rate is not effective until the first day of the calendar quarter after
151 a 60-day period beginning on the date the commission receives notice:

152 (A) from the Navajo Nation; and

153 (B) meeting the requirements of Subsection (9)(f)(ii).

154 (ii) The notice described in Subsection (9)(f)(i) shall state:

155 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
156 motor fuel;

157 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);

158 and

159 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

160 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
161 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
162 30-day period beginning on the day the agreement terminates.

163 (h) If there is a conflict between this Subsection (9) and the agreement required by
164 Subsection (9)(a), this Subsection (9) governs.

165 Section 2. Section **59-13-301** is amended to read:

166 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
167 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

168 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
169 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)[~~(a)~~] on
170 the:

171 (i) removal of undyed diesel fuel from any refinery;

172 (ii) removal of undyed diesel fuel from any terminal;

173 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
174 warehousing;

175 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
176 this part unless the tax has been collected under this section;

177 (v) any untaxed special fuel blended with undyed diesel fuel; or

178 (vi) use of untaxed special fuel other than propane or electricity.

179 (b) The tax imposed under this section shall only be imposed once upon any special
180 fuel.

- 181 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
182 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
183 the public highways of the state, but this exemption applies only in those cases where the
184 purchasers or the users of special fuel establish to the satisfaction of the commission that the
185 special fuel was used for purposes other than to operate a motor vehicle upon the public
186 highways of the state; or
187 (ii) is sold to this state or any of its political subdivisions.
- 188 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that:
189 (i) is sold to the United States government or any of its instrumentalities or to this state
190 or any of its political subdivisions;
191 (ii) is exported from this state if proof of actual exportation on forms prescribed by the
192 commission is made within 180 days after exportation;
193 (iii) is used in a vehicle off-highway;
194 (iv) is used to operate a power take-off unit of a vehicle;
195 (v) is used for off-highway agricultural uses;
196 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle
197 upon the highways of the state; or
198 (vii) is used in machinery and equipment not registered and not required to be
199 registered for highway use.
- 200 (3) No tax is imposed or collected on special fuel if it is:
201 (a) (i) purchased for business use in machinery and equipment not registered and not
202 required to be registered for highway use; and
203 (ii) used pursuant to the conditions of a state implementation plan approved under Title
204 19, Chapter 2, Air Conservation Act; or
205 (b) propane or electricity.
- 206 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
207 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
- 208 (5) The special fuel tax shall be paid by the supplier.
- 209 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
210 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.
211 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases

212 which are delivered into vehicles and for which special fuel tax liability is reported.

213 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the
214 commission from taxes and license fees under this part shall be deposited daily with the state
215 treasurer and credited to the Transportation Fund.

216 (b) An appropriation from the Transportation Fund shall be made to the commission to
217 cover expenses incurred in the administration and enforcement of this part and the collection of
218 the special fuel tax.

219 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303
220 may be used by the commission as a dedicated credit to cover the costs of electronic
221 credentialing as provided in Section 41-1a-303.

222 (8) The commission may either collect no tax on special fuel exported from the state
223 or, upon application, refund the tax paid.

224 (9) (a) The United States government or any of its instrumentalities, this state, or a
225 political subdivision of this state that has purchased special fuel from a supplier or from a retail
226 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
227 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
228 manner prescribed by the commission.

229 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
230 commission shall make rules governing the application and refund provided for in Subsection
231 (9)(a).

232 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses
233 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid
234 as provided in Subsection (9) and this Subsection (10).

235 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
236 commission shall make rules governing the application and refund for off-highway and
237 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

238 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
239 uses shall be made in accordance with the tax return procedures under Section 59-13-202.

240 (11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is
241 reduced to the extent provided in Subsection (11)(b) if:

242 (i) the Navajo Nation imposes a tax on the special fuel;

243 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
244 person required to pay the tax is an enrolled member of the Navajo Nation; and

245 (iii) the commission and the Navajo Nation execute and maintain an agreement as
246 provided in this Subsection (11) for the administration of the reduction of tax.

247 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this
248 section:

249 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that
250 difference is greater than \$0; and

251 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
252 if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

253 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference
254 between:

255 (A) the amount of tax imposed on the special fuel by this section; less

256 (B) the tax imposed and collected by the Navajo Nation on the special fuel.

257 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on
258 the special fuel does not include any interest or penalties a taxpayer may be required to pay to
259 the Navajo Nation.

260 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
261 commission shall make rules governing the procedures for administering the reduction of tax
262 provided under this Subsection (11).

263 (e) The agreement required under Subsection (11)(a):

264 (i) may not:

265 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

266 (B) provide a reduction of taxes greater than or different from the reduction described
267 in this Subsection (11); or

268 (C) affect the power of the state to establish rates of taxation;

269 (ii) shall:

270 (A) be in writing;

271 (B) be signed by:

272 (I) the chair of the commission or the chair's designee; and

273 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

274 (C) be conditioned on obtaining any approval required by federal law;
275 (D) state the effective date of the agreement; and
276 (E) state any accommodation the Navajo Nation makes related to the construction and
277 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
278 Nation; and
279 (iii) may:
280 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
281 Navajo Nation information that is:
282 (I) contained in a document filed with the commission; and
283 (II) related to the tax imposed under this section;
284 (B) provide for maintaining records by the commission or the Navajo Nation; or
285 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
286 located or doing business within the Utah portion of the Navajo Nation.
287 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
288 imposed on special fuel, any change in the amount of the reduction of taxes under this
289 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
290 calendar quarter after a 60-day period beginning on the date the commission receives notice:
291 (A) from the Navajo Nation; and
292 (B) meeting the requirements of Subsection (11)(f)(ii).
293 (ii) The notice described in Subsection (11)(f)(i) shall state:
294 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
295 special fuel;
296 (B) the effective date of the rate change of the tax described in Subsection
297 (11)(f)(ii)(A); and
298 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
299 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
300 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
301 30-day period beginning on the day the agreement terminates.
302 (h) If there is a conflict between this Subsection (11) and the agreement required by
303 Subsection (11)(a), this Subsection (11) governs.
304 (12) Beginning on [~~January 1, 2009~~] July 1, 2011, a tax imposed under this section on

305 compressed natural gas is imposed at a reduced rate of [~~8-1/2~~] 10 cents per gasoline gallon
306 equivalent [~~to be increased or decreased proportionately with any increase or decrease in the~~
307 ~~rate in Subsection 59-13-201(1)(a)]~~.

308 Section 3. **Repealer.**

309 This bill repeals:

310 Section **59-13-104, Tax rate decals -- Posted on pump.**

311 Section 4. **Effective date.**

312 This bill takes effect on July 1, 2011.

313 Section 5. **Coordinating S.B. 239 with H.B. 184 -- Substantive amendments.**

314 If this S.B. 239 and H.B. 184, Motor and Special Fuel Tax Act Amendments, both pass,

315 it is the intent of the Legislature that the Office of Legislative Research and General Counsel,

316 in preparing the Utah Code database for publication, modify Subsection 59-13-301(12)(b) to

317 read as follows:

318 "(b) Beginning on July 1, 2011, a tax imposed under this section on liquified natural
319 gas is imposed at a reduced rate of 10 cents per gasoline gallon equivalent."

FISCAL NOTE

S.B. 239 1st Sub. (Green)

SHORT TITLE: Motor and Special Fuel Tax Amendments

SPONSOR: Van Tassell, K.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

By increasing the tax rate on motor fuel, special fuel, and compressed natural gas, enactment of this bill increases revenue to the Transportation Fund by \$74,491,500 in FY 2012 and \$82,946,900 in FY 2013. Also, the bill includes an automatic increase in the motor fuel and special fuel tax rate of 0.75 cents in odd fiscal years, which is responsible for \$4,348,200 of the revenue growth from FY 2012 to FY 2013.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
Transportation Fund	\$0	\$82,946,900	\$82,946,900
Transportation Fund, One-time	\$0	(\$8,455,400)	\$0
Total Revenue	\$0	\$74,491,500	\$82,946,900
Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$74,491,500	\$82,946,900
Net Impact, General/Education Funds	\$0	\$0	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local governments with B & C roads can expect to see an increase in revenue by 30% of the total revenue increase to the Transportation Fund, or \$22,347,500 in FY 2012 and \$24,884,100 in FY 2013.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Individuals and businesses purchasing motor fuel, special fuel, or compressed natural gas can expect to see an increase in the amount of tax paid by \$74,491,500 in FY 2012 and \$82,946,900 in FY 2013.