

TRANSPORTATION FUNDING AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ repeals the requirement for a person who sells motor fuel or undyed special fuel in a retail sale to post a tax rate decal on each motor fuel or undyed special fuel pump or dispensing device;
- ▶ increases the tax rate for a tax imposed upon motor fuel that is sold, used, or received for sale or used in this state;
- ▶ increases the tax rate for a tax imposed upon special fuel that is sold, used, or received for sale or used in this state;
- ▶ annually appropriates Transportation Fund revenues to the Department of Transportation for maintenance and bridge rehabilitation projects; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



28 AMENDS:

29 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308

30 **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259

31 **72-2-106**, as last amended by Laws of Utah 2010, Chapter 278

32 REPEALS:

33 **59-13-104**, as enacted by Laws of Utah 1998, Chapter 253



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

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

37 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
38 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
39 **in limited circumstances.**

40 (1) (a) Subject to the provisions of this section, a tax is imposed at the rate of [~~24-1/2~~]
41 34-1/2 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this
42 state.

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

47 (2) Any increase or decrease in tax rate applies to motor fuel that is imported to the
48 state or sold at refineries in the state on or after the effective date of the rate change.

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

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

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

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

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

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

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

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

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

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

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

77 (7) (a) The United States government or any of its instrumentalities, this state, or a
78 political subdivision of this state that has purchased motor fuel from a licensed distributor or
79 from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this
80 section is entitled to a refund of the tax and may file with the commission for a quarterly
81 refund.

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

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

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

89 (b) This amount shall be used as provided in Section [41-22-19](#).

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

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

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

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

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

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

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

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

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

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

108 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
109 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of
110 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the
111 Navajo Nation.

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

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

116 (i) may not:

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

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

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

- 121 (ii) shall:
- 122 (A) be in writing;
- 123 (B) be signed by:
- 124 (I) the chair of the commission or the chair's designee; and
- 125 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 126 (C) be conditioned on obtaining any approval required by federal law;
- 127 (D) state the effective date of the agreement; and
- 128 (E) state any accommodation the Navajo Nation makes related to the construction and
- 129 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 130 Nation; and
- 131 (iii) may:
- 132 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 133 Navajo Nation information that is:
- 134 (I) contained in a document filed with the commission; and
- 135 (II) related to the tax imposed under this section;
- 136 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 137 (C) provide for inspections or audits of distributors, carriers, or retailers located or
- 138 doing business within the Utah portion of the Navajo Nation.
- 139 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
- 140 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
- 141 result of the change in the tax rate is not effective until the first day of the calendar quarter after
- 142 a 60-day period beginning on the date the commission receives notice:
- 143 (A) from the Navajo Nation; and
- 144 (B) meeting the requirements of Subsection (9)(f)(ii).
- 145 (ii) The notice described in Subsection (9)(f)(i) shall state:
- 146 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
- 147 motor fuel;
- 148 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
- 149 and
- 150 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
- 151 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not

152 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
153 30-day period beginning on the day the agreement terminates.

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

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

157 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
158 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

159 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
160 ~~59-13-304~~, a tax is imposed at the [~~same rate imposed under Subsection 59-13-201(1)(a)~~] rate
161 of 29-1/2 cents per gallon on the:

- 162 (i) removal of undyed diesel fuel from any refinery;
- 163 (ii) removal of undyed diesel fuel from any terminal;
- 164 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
165 warehousing;
- 166 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
167 this part unless the tax has been collected under this section;
- 168 (v) any untaxed special fuel blended with undyed diesel fuel; or
- 169 (vi) use of untaxed special fuel other than propane or electricity.
- 170 (b) The tax imposed under this section shall only be imposed once upon any special
171 fuel.

172 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
173 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
174 the public highways of the state, but this exemption applies only in those cases where the
175 purchasers or the users of special fuel establish to the satisfaction of the commission that the
176 special fuel was used for purposes other than to operate a motor vehicle upon the public
177 highways of the state; or

- 178 (ii) is sold to this state or any of its political subdivisions.
- 179 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:
 - 180 (i) sold to the United States government or any of its instrumentalities or to this state or
181 any of its political subdivisions;
 - 182 (ii) exported from this state if proof of actual exportation on forms prescribed by the

- 183 commission is made within 180 days after exportation;
- 184 (iii) used in a vehicle off-highway;
- 185 (iv) used to operate a power take-off unit of a vehicle;
- 186 (v) used for off-highway agricultural uses;
- 187 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
188 upon the highways of the state; or
- 189 (vii) used in machinery and equipment not registered and not required to be registered
190 for highway use.
- 191 (3) No tax is imposed or collected on special fuel if it is:
- 192 (a) (i) purchased for business use in machinery and equipment not registered and not
193 required to be registered for highway use; and
- 194 (ii) used pursuant to the conditions of a state implementation plan approved under Title
195 19, Chapter 2, Air Conservation Act; or
- 196 (b) propane or electricity.
- 197 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
198 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
- 199 (5) The special fuel tax shall be paid by the supplier.
- 200 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
201 [59-13-303](#) and [59-13-305](#) to obtain a special fuel user permit and file special fuel tax reports.
- 202 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
203 which are delivered into vehicles and for which special fuel tax liability is reported.
- 204 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the
205 commission from taxes and license fees under this part shall be deposited daily with the state
206 treasurer and credited to the Transportation Fund.
- 207 (b) An appropriation from the Transportation Fund shall be made to the commission to
208 cover expenses incurred in the administration and enforcement of this part and the collection of
209 the special fuel tax.
- 210 (c) Five dollars of each special fuel user trip permit fee paid under Section [59-13-303](#)
211 may be used by the commission as a dedicated credit to cover the costs of electronic
212 credentialing as provided in Section [41-1a-303](#).
- 213 (8) The commission may either collect no tax on special fuel exported from the state

214 or, upon application, refund the tax paid.

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

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

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

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

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

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

- 233 (i) the Navajo Nation imposes a tax on the special fuel;
- 234 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
235 person required to pay the tax is an enrolled member of the Navajo Nation; and
- 236 (iii) the commission and the Navajo Nation execute and maintain an agreement as
237 provided in this Subsection (11) for the administration of the reduction of tax.

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

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

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

244 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference

245 between:

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

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

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

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

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

255 (i) may not:

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

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

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

260 (ii) shall:

261 (A) be in writing;

262 (B) be signed by:

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

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

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

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

267 (E) state any accommodation the Navajo Nation makes related to the construction and
268 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
269 Nation; and

270 (iii) may:

271 (A) notwithstanding Section [59-1-403](#), authorize the commission to disclose to the
272 Navajo Nation information that is:

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

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

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

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

278 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
279 imposed on special fuel, any change in the amount of the reduction of taxes under this
280 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
281 calendar quarter after a 60-day period beginning on the date the commission receives notice:

282 (A) from the Navajo Nation; and

283 (B) meeting the requirements of Subsection (11)(f)(ii).

284 (ii) The notice described in Subsection (11)(f)(i) shall state:

285 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
286 special fuel;

287 (B) the effective date of the rate change of the tax described in Subsection
288 (11)(f)(ii)(A); and

289 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

290 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
291 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
292 30-day period beginning on the day the agreement terminates.

293 (h) If there is a conflict between this Subsection (11) and the agreement required by
294 Subsection (11)(a), this Subsection (11) governs.

295 (12) (a) Beginning on [~~January~~] July 1, [~~2009~~] 2015, a tax imposed under this section
296 on compressed natural gas is imposed at a [~~reduced~~] rate of [~~8-1/2~~] 29-1/2 cents per gasoline
297 gallon equivalent [~~to be increased or decreased proportionately with any increase or decrease in~~
298 ~~the rate in Subsection 59-13-201(1)(a)~~].

299 (b) Beginning on July 1, [~~2011~~] 2015, a tax imposed under this section on liquified
300 natural gas is imposed at a [~~reduced~~] rate of [~~8-1/2~~] 29-1/2 cents per gasoline gallon equivalent
301 [~~to be increased or decreased proportionately with any increase or decrease in the rate in~~
302 ~~Subsection 59-13-201(1)(a)~~].

303 Section 3. Section **72-2-106** is amended to read:

304 **72-2-106. Appropriations from Transportation Fund.**

305 (1) On and after July 1, 1981, there is appropriated from the Transportation Fund to the
306 use of the department an amount equal to two-elevenths of the taxes collected from the motor

307 fuel tax and the special fuel tax, exclusive of the formula amount appropriated to the B and C
308 road fund and the collector road fund, to be used for highway rehabilitation.

309 (2) For a fiscal year beginning on or after July 1, 2015, \$40,000,000 is appropriated
310 from the Transportation Fund to the department to be used for maintenance on roads classified
311 by the department as level two roads for maintenance purposes.

312 (3) For a fiscal year beginning on or after July 1, 2015, \$25,000,000 is annually
313 appropriated from the Transportation Fund to the department to be used for bridge
314 rehabilitation projects.

315 Section 4. **Repealer.**

316 This bill repeals:

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

318 Section 5. **Effective date.**

319 This bill takes effect on July 1, 2015.

Legislative Review Note
as of 2-3-15 5:45 PM

Office of Legislative Research and General Counsel