

# HB0301S03 compared with HB0301

~~text~~ shows text that was in HB0301 but was deleted in HB0301S03.

text shows text that was not in HB0301 but was inserted into HB0301S03.

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Representative Mike Schultz proposes the following substitute bill:

## TRANSPORTATION TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike Schultz**

Senate Sponsor: ~~\_\_\_\_\_~~ Wayne A. Harper

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### LONG TITLE

#### General Description:

This bill reduces the tax on motor fuel, increases vehicle registration fees, and imposes a tax on the sale of electricity for electric vehicle charging.

#### Highlighted Provisions:

This bill:

- ▶ increases vehicle registration fees by ~~5~~7;
- ▶ amends provisions related to and reduces the ~~tax on~~rate for motor fuel tax;
- ▶ imposes a tax on the sale of electricity at an electric vehicle charging station or an electric vehicle charging subscription and deposits the revenue into the Transportation Fund; and
- ▶ makes technical changes.

#### Money Appropriated in this Bill:

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None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**41-1a-1206**, as last amended by Laws of Utah 2022, Chapters 56, 259

**59-13-201**, as last amended by Laws of Utah 2022, Chapter 68

ENACTS:

**59-30-101**, Utah Code Annotated 1953

**59-30-102**, Utah Code Annotated 1953

**59-30-103**, Utah Code Annotated 1953

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

Section 1. Section **41-1a-1206** is amended to read:

**41-1a-1206. Registration fees -- Fees by gross laden weight.**

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) \$46.00 for each motorcycle;

(b) \$44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

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- (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;
- (f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
  - (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;
  - (g) \$45 for each vintage vehicle that has a model year of 1981 or newer;
  - (h) in addition to the fee described in Subsection (1)(b):
    - (i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:
      - (A) each electric motor vehicle; and
      - (B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;
    - (ii) \$21.75 for each hybrid electric motor vehicle; and
    - (iii) \$56.50 for each plug-in hybrid electric motor vehicle; and
  - (i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1981 or newer, 50 cents.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

- (i) \$34.50 for each motorcycle; and
- (ii) \$33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

- (i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:
  - (A) each electric motor vehicle; and
  - (B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;
- (ii) \$16.50 for each hybrid electric motor vehicle; and
- (iii) \$43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) Beginning on January 1, 2024, at the time of registration:

- (i) in addition to the amounts described in Subsections (1)(a), (1)(b), (1)(c)(i),

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(1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(h), (4)(a), and (7), the individual shall also pay an additional ~~+\$5;~~\$7 as part of the registration fee; and

(ii) in addition to the amounts described in Subsections (2)(a), the individual shall also pay an additional ~~+\$3;~~\$5 as part of the registration fee.

~~[(a)]~~ (b) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), ~~(3)(a), ~~++~~~~ (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

~~[(b)]~~ (c) The amounts calculated as described in Subsection ~~[(3)(a) ~~++~~]~~ (3)(b), ~~++~~ shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of 1980 or older is \$40.

(b) A vintage vehicle that has a model year of 1980 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

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(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than \$200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 2. Section **59-13-201** is amended to read:

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

(1) (a) (i) Subject to the provisions of this section and except as provided in Subsection (1)(e), a tax is imposed at the rate of [~~16.5% 5%~~] ~~{15} 14.6%~~ 2% of the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(ii) Notwithstanding Subsection (1)(a)(i), for the period beginning on July 1, 2023, and ending on December 31, 2023, the rate described in Subsection (1)(a)(i) shall be 34.5 cents per gallon.

(b) (i) Until December 31, 2018, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous fiscal year statewide average rack price of a gallon of

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regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service.

(ii) Beginning on January 1, 2019, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous three fiscal years statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service.

(c) (i) Subject to the requirement in Subsection (1)(c)(ii), the statewide average rack price of a gallon of motor fuel determined under Subsection (1)(b) may not be less than \$1.78 per gallon.

(ii) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel described in Subsection (1)(c)(i) by taking the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The statewide average rack price of a gallon of motor fuel determined by the commission under Subsection (1)(b) may not exceed ~~[\$2.43 per gallon]:~~

(A) for a calendar year beginning on January 1, 2024, \$2.57 per gallon;

(B) for a calendar year beginning on January 1, 2025, \$2.71 per gallon;

(C) for a calendar year beginning on January 1, 2026, \$2.82 per gallon; and

(D) for a calendar year beginning on January 1, 2028, and thereafter, \$2.96 per gallon.

(iv) The minimum statewide average rack price of a gallon of motor fuel described and adjusted under Subsections (1)(c)(i) and (ii) may not exceed the maximum statewide average rack price of a gallon of motor fuel under Subsection (1)(c)(iii).

(d) (i) The commission shall annually:

(A) determine the statewide average rack price of a gallon of motor fuel in accordance with Subsections (1)(b) and (c);

(B) adjust the fuel tax rate imposed under Subsection (1)(a), rounded to the nearest

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one-tenth of a cent, based on the determination under Subsection (1)(b);

(C) publish the adjusted fuel tax as a cents per gallon rate; and

(D) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (1)(d)(i)(B) no later than 60 days before the annual effective date under Subsection (1)(d)(ii).

(ii) The tax rate imposed under this Subsection (1) and adjusted as required under Subsection (1)(d)(i) shall take effect on January 1 of each year.

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

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

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

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

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

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

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

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

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

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

(b) An appropriation from the Transportation Fund shall be made to the commission to

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cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under Title 73, Chapter 18, State Boating Act, and this amount shall be deposited into a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Outdoor Recreation in administering and enforcing Title 73, Chapter 18, State Boating Act.

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

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

(8) (a) The commission shall refund annually into the Off-highway Vehicle Account in the General Fund an amount equal to .5% of the motor fuel tax revenues collected under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) may not:

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

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

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

(ii) shall:

(A) be in writing;

(B) be signed by:

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

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

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

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

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

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Nation; and

(iii) may:

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

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

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

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

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

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

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

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

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

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

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

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

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

Section 3. Section **59-30-101** is enacted to read:

### **CHAPTER 30. ELECTRIC VEHICLE CHARGING TAX**

#### **Part 1. Electric Vehicle Charging Tax**

##### **59-30-101. Definitions.**

As used in this chapter:

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(1) "Charging station" means equipment designed to deliver electric energy to an electric vehicle for a fee.

(2) "Charging station operator" means a person who owns or operates a charging station in the state.

(3) "Charging station subscription" means a service for which a person pays a charging station operator a subscription fee for a reduced charging rate or unlimited charging during the subscription period.

(~~3~~4) "Electric vehicle" means a qualifying electric vehicle or qualifying plug-in hybrid vehicle.

(~~4~~5) "Qualifying electric vehicle" means the same as that term is defined in Section 11-42a-102.

(~~5~~6) "Qualifying plug-in hybrid vehicle" means the same as that term is defined in Section 11-42a-102.

Section 4. Section **59-30-102** is enacted to read:

### **59-30-102. Imposition -- Rate -- Revenue distribution.**

(1) There is levied a tax upon the retail sale of:

(a) electric current sold by a charging station operator to charge or recharge an electric vehicle; and

(b) a charging station subscription by a charging station operator to charge or recharge an electric vehicle.

(2) The tax levied under Subsection (1) is imposed at a rate of ~~8%~~ 12.5% for a charging station operator that charges:

(a) per kilowatt hour as described in Subsection (4)(a);

(b) per hour as described in Subsection (4)(a);

(c) a subscription fee for charging services as described in Subsection (4)(b); or

(d) a combination of Subsections (2)(a) through (c).

(3) (a) A charging station operator shall remit a return on the tax imposed in Subsection (1) in an electronic format approved by the commission on the same schedule as the charging station operator's sales and use tax filing.

(b) The tax amount reported on the return described in Subsection (3)(a) is due and payable according to the same terms and schedule as the charging station operator's sales and

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use tax remittance schedule.

(4) (a) ~~{Each}~~ For a charging station operator that charges a fee per kilowatt hour, the charging station operator shall furnish with each sale an itemized invoice, including:

- (i) the name of the charging station operator;
- (ii) the date of sale;
- (iii) the number of kilowatt hours sold, or the length of time using the charging station;
- (iv) the ~~{cost}~~ sales price per kilowatt hour, or per hour for use of the charging station;

and

- (v) the total ~~{cost}~~ sales price of the transaction.

(b) ~~{The invoice shall indicate whether the price includes}~~ For a charging station operator that charges a fee for a charging station subscription, the charging station operator shall furnish with each sale an itemized invoice, including:

- (i) the name of the charging station operator;
- (ii) the date of sale;
- (iii) the subscription price; and
- (iv) the total sales price of the transaction.

(c) In addition to the information required in Subsection (4)(a) or (b), a charging station operator shall ensure that an invoice indicates on a separate line the tax imposed under Subsection (1).

(5) In addition to the tax required by this part, a charging station operator shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if the charging station operator subject to this section fails to:

- (a) pay the tax prescribed by this section~~;~~

~~— (b) pay} by the {tax on time} due date described in Subsection (3); or~~

- (~~{c}~~b) file a return required by this section by the due date described in Subsection (3).

(6) The commission shall deposit revenue from the tax imposed in Subsection (1) into the Transportation Fund.

Section 5. Section **59-30-103** is enacted to read:

### **59-30-103. Collection of electric vehicle charging tax.**

(1) The commission shall administer, collect, and enforce a tax under this chapter in accordance with:

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(a) Chapter 1, General Taxation Policies; and

(b) the same procedures used to administer, collect, and enforce the tax under Chapter 12, Part 1, Tax Collection.

(2) A charging station operator required to collect a tax under this chapter may retain 6% of any amounts the seller is required to remit to the commission under this chapter for the costs of collecting the tax.

(3) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.

Section 6. **Effective date.**

~~This~~(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2024.

(2) The amendments to Section 59-13-201 in this bill take effect on July 1, 2023.