

House Bill 170

By: Representatives Roberts of the 155<sup>th</sup>, Burns of the 159<sup>th</sup>, Hamilton of the 24<sup>th</sup>, England of the 116<sup>th</sup>, Stover of the 71<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend various provisions of the Official Code of Georgia Annotated so as to provide for  
2 additional revenue necessary for funding transportation purposes in this state; to amend Title  
3 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to  
4 levy a registration fee on alternative fueled vehicles; to amend Chapter 12 of Title 45 of the  
5 Official Code of Georgia Annotated, relating to the Governor, so as to limit the Governor's  
6 power to suspend the collection of certain motor fuel taxes and require ratification by the  
7 General Assembly; to amend Title 48 of the Official Code of Georgia Annotated, relating to  
8 revenue and taxation, so as to provide for the elimination of sales and use taxes with respect  
9 to certain sales of motor fuels; to change the rate and method of computation of the excise  
10 tax on motor fuels; to repeal the second motor fuel tax; to provide for editorial revision; to  
11 prohibit the levy of certain local sales and use taxes on motor fuel; to provide for the levy of  
12 local excise taxes on motor fuels; to amend Part 3 of Article 2 of Chapter 10 of Title 32 of  
13 the Official Code of Georgia Annotated, the "Georgia Transportation Infrastructure Bank  
14 Act," so as to provide new criteria for determination of eligible projects by the Transportation  
15 Infrastructure Bank; to provide for a short title; to provide for related matters; to provide for  
16 an effective date and applicability; to repeal conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **PART I**  
19 **SECTION 1-1.**

20 This Act shall be known and may be cited as the "Transportation Funding Act of 2015."

21 **PART II**

22 **SECTION 2-1.**

23 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
 24 amended by revising paragraph (7) of subsection (l) of Code Section 40-2-86.1, relating to  
 25 certain special license plates, as follows:

26 "(7)(A) A special license plate to be issued for alternative fueled vehicles, which  
 27 license plate shall be similar in design to the license plate issued to all other residents  
 28 of ~~the~~ this state except that the commissioner shall place a distinctive logo or emblem  
 29 on the license plate which shall distinguish the vehicle as an alternative fueled vehicle  
 30 eligible to travel in travel lanes designated for such vehicles under paragraph (4) of  
 31 subsection (a) of Code Section 32-9-4. The words 'alternative fueled vehicle' shall be  
 32 imprinted on such special license plate in lieu of the county name decal. The funds  
 33 raised by the sale of this license plate shall be deposited in the general fund.

34 (B) As used in this paragraph, the term:

35 (i) 'Alternative fuel' means ~~methanol, denatured ethanol, and other alcohols; mixtures~~  
 36 ~~containing 85 percent or more or such other percentage, but not less than 70 percent,~~  
 37 ~~as determined by the United States secretary of energy, by rule as it existed on~~  
 38 ~~January 1, 1997, to provide for requirements relating to cold start, safety, or vehicle~~  
 39 ~~functions, by volume of methanol, denatured ethanol, and other alcohols with gasoline~~  
 40 ~~or other fuels; natural gas, liquefied petroleum gas, hydrogen; coal derived liquid~~  
 41 ~~fuels; fuels other than alcohol derived from biological materials; electricity including~~  
 42 ~~electricity from solar energy; and any other fuel the United States secretary of energy~~  
 43 ~~determined by rule as it existed on January 1, 1997, is substantially not petroleum and~~  
 44 ~~would yield substantial energy security benefits and substantial environmental~~  
 45 ~~benefits~~ electricity, natural gas, and propane.

46 (ii) 'Alternative fueled vehicle' means: ~~(I) Any~~ any vehicle fueled solely by  
 47 alternative fuel as defined in division (i) of this subparagraph; ~~or~~

48 ~~(H) A hybrid vehicle, which means a motor vehicle which draws propulsion energy~~  
 49 ~~from onboard sources of stored energy which include an internal combustion or heat~~  
 50 ~~engine using combustible fuel and a rechargeable energy storage system; and, in the~~  
 51 ~~case of a passenger automobile or light truck, means for any 2000 and later model,~~  
 52 ~~a vehicle which has received a certificate of conformity under the Clean Air Act, 42~~  
 53 ~~U.S.C. Section 7401, et seq., and meets or exceeds the equivalent qualifying~~  
 54 ~~California low-emission vehicle standard under Section 243(e)(2) of the Clean Air~~  
 55 ~~Act, 42 U.S.C. Section 7583(c)(2), for that make and model year or, for any 2004~~  
 56 ~~and later model, a vehicle which has received a certificate that such vehicle meets~~

57 ~~or exceeds the Bin 5 Tier II emission level established in regulations prescribed by~~  
 58 ~~the administrator of the Environmental Protection Agency under Section 202(i) of~~  
 59 ~~the Clean Air Act, 42 U.S.C. Section 7521(i), for that make and model year vehicle~~  
 60 ~~and which achieves a composite label fuel economy greater than or equal to 1.5~~  
 61 ~~times the Model Year 2002 EPA composite class average for the same vehicle class~~  
 62 ~~and which is made by a manufacturer.~~

63 (C)(i) Pursuant to paragraph (19) of subsection (a) of Code Section 40-2-151, the  
 64 applicant for a special license plate for any alternative fueled vehicle shall provide  
 65 proof that he or she has paid the registration fee prescribed therein prior to the  
 66 issuance of any special license plate under this paragraph.

67 (ii) It is the intention of the General Assembly that all revenue obtained from the fees  
 68 assessed on alternative fueled vehicles pursuant to paragraph (19) of subsection (a)  
 69 of Code Section 40-2-151 shall be dedicated to funding public transit in this state."

70 **SECTION 2-2.**

71 Said title is further amended by adding a new paragraph to subsection (a) of Code Section  
 72 40-2-151, relating to the annual license fees for the operation of vehicles, as follows:

73 "(19)(A)(i) Upon registration of an alternative fueled vehicle not operated  
 74 for commercial purposes . . . . . 200.00

75 (ii) Upon registration of an alternative fueled vehicle operated for  
 76 commercial purposes . . . . . 300.00

77 (B)(i) The fees in this paragraph shall be in addition to any other fee imposed on the  
 78 vehicle by this Code section.

79 (ii) The fees in this paragraph shall be automatically adjusted on an annual basis by  
 80 multiplying the percentage of increase or decrease in a given year in the Construction  
 81 Price Index published by the United States Census Bureau by the current fee. The  
 82 first adjustment shall be calculated and implemented on January 1, 2016."

83 **PART III**

84 **SECTION 3-1.**

85 Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor,  
 86 is amended by revising Code Section 45-12-22, relating to the Governor's authority to  
 87 suspend the collection of taxes, as follows:

88 "45-12-22.

89 (a) Except as provided in subsection (b) of this Code section, the Governor may  
 90 suspend the collection of taxes, or any part thereof, due the state until the meeting of the

91 next General Assembly but no longer; but he or she shall not otherwise interfere with the  
92 collection of taxes.

93 (b) Unless there has been a state of emergency declaration by the Governor, the Governor  
94 shall not suspend or modify in any manner the collection of any rate of prepaid state taxes  
95 as defined in paragraph (24) of Code Section 48-8-2 and calculated pursuant to Code  
96 Section 48-9-14 as it applies to sales of motor fuel and aviation gasoline as such terms are  
97 defined in Code Section 48-9-2. Any suspension or modification of any rate of prepaid  
98 state taxes under this subsection by the Governor shall be effective only until the next  
99 meeting of the General Assembly which must ratify such suspension or modification by  
100 a two-thirds' vote of both chambers. In the event the General Assembly fails to ratify the  
101 Governor's actions, prepaid state taxes under this subsection shall be collected at the rate  
102 specified absent such suspension or modification and any amounts unpaid due to such  
103 suspension or modification shall be collected using such rate."

104 **PART IV**

105 **SECTION 4-1.**

106 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
107 amended by adding a new paragraph to Code Section 48-1-2, relating to definitions relating  
108 to taxation, as follows:

109 "(27) 'Transportation purposes' means and includes roads, bridges, public transit, rails,  
110 airports, buses, seaports, and all accompanying infrastructure and services necessary to  
111 provide access to these transportation facilities."

112 **SECTION 4-2.**

113 Said title is further amended by revising subsections (a) and (b) of and adding a new  
114 subsection to Code Section 48-8-3.1, relating to sales tax exemptions as applied to motor  
115 fuels, to read as follows:

116 "(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as  
117 defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent  
118 of the state sales and use taxes levied or imposed by this article and shall be subject to the  
119 remaining 1 percent of the sales and use taxes levied or imposed by this article.

120 (b) Sales of motor fuel, other than gasoline, which motor fuel other than gasoline is  
121 purchased for purposes other than propelling motor vehicles on public highways as defined  
122 in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent state sales and  
123 use taxes levied or imposed by this article unless otherwise specifically exempted by this  
124 article."

125 "(d) Any sales and use tax levied by a county, municipality, consolidated government, or  
 126 other political subdivision of this state on sales of motor fuels, as defined in paragraph (9)  
 127 of Code Section 48-9-2, and authorized under Article 2, 2A, 3, or 4 of this chapter shall be  
 128 discontinued upon the expiration of the most recent authorization for the levy of such tax.  
 129 No new or renewed local sales and use taxes on motor fuels levied by a county,  
 130 municipality, consolidated government, or other political subdivision of this state shall be  
 131 permitted; provided, however, that after the expiration of any local sales and use taxes on  
 132 motor fuels, a county, municipality, consolidated government, or other political subdivision  
 133 of this state may each levy an excise tax of up to 3¢ per gallon on motor fuels by passage  
 134 of an ordinance by the governing authority of such county, municipality, consolidated  
 135 government, or other political subdivision. If a county, municipality, consolidated  
 136 government, or other political subdivision decides to levy an excise tax on motor fuels for  
 137 more than 3¢ per gallon, it must first be approved in a referendum presented to the  
 138 qualified voters of such county, municipality, consolidated government, or other political  
 139 subdivision. No county, municipality, consolidated government, or other political  
 140 subdivision shall levy an excise tax on motor fuels to exceed 6¢ per gallon. Any such local  
 141 excise tax shall be dedicated to transportation purposes as defined in paragraph (27) of  
 142 Code Section 48-1-2."

143

### SECTION 4-3.

144 Said title is further amended by revising Code Section 48-8-82, relating to authorization of  
 145 counties and municipalities to impose a joint sales and use tax, as follows:

146 "48-8-82.

147 When the imposition of a joint county and municipal sales and use tax is authorized  
 148 according to the procedures provided in this article within a special district, the county  
 149 whose geographical boundary is conterminous with that of the special district and each  
 150 qualified municipality located wholly or partially within the special district shall levy a  
 151 joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall  
 152 correspond to the tax imposed and administered by Article 1 of this chapter. No item or  
 153 transaction which is not subject to taxation by Article 1 of this chapter shall be subject to  
 154 the tax levied pursuant to this article, except that the joint tax provided in this article shall  
 155 be applicable to sales of motor fuels as prepaid local tax as that term is defined in Code  
 156 ~~Section 48-8-2 and shall be applicable to~~ the sale of food and food ingredients and  
 157 alcoholic beverages only to the extent provided for in paragraph (57) of Code Section  
 158 48-8-3. After the expiration of the current authorization for the joint tax imposed under  
 159 this article, such joint tax shall not be levied on the sales of motor fuels as defined in  
 160 paragraph (9) of Code Section 48-9-2."

161 **SECTION 4-4.**

162 Said title is further amended by revising subsection (b) of Code Section 48-8-102, relating  
 163 to the creation of special districts and use of proceeds of the homestead option sales and use  
 164 tax, as follows:

165 "(b) When the imposition of a local sales and use tax is authorized according to the  
 166 procedures provided in this article within a special district, the county whose geographical  
 167 boundary is conterminous with that of the special district shall levy a local sales and use  
 168 tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond  
 169 to the tax imposed and administered by Article 1 of this chapter. No item or transaction  
 170 which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and  
 171 use tax levied pursuant to this article, except that the sales and use tax provided in this  
 172 article shall be applicable to ~~sales of motor fuels as prepaid local tax as that term is defined~~  
 173 ~~in Code Section 48-8-2 and shall be applicable to~~ the sale of food and food ingredients and  
 174 alcoholic beverages only to the extent provided for in paragraph (57) of Code Section  
 175 48-8-3. After the expiration of the current authorization for the tax imposed under this  
 176 article, such tax shall not be levied on the sales of motor fuels as defined in paragraph (9)  
 177 of Code Section 48-9-2."

178 **SECTION 4-5.**

179 Said title is further amended by revising subsection (c) of Code Section 48-8-110.1, relating  
 180 to the authorization for the county special purpose local option sales tax and subjects of  
 181 taxation, as follows:

182 "(c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a  
 183 tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter.  
 184 No item or transaction which is not subject to taxation under Article 1 of this chapter shall  
 185 be subject to a tax imposed under this part, except that a tax imposed under this part shall  
 186 ~~apply to sales of motor fuels as prepaid local tax as that term is defined in Code Section~~  
 187 ~~48-8-2 and shall be applicable to~~ the sale of food and food ingredients and alcoholic  
 188 beverages as provided for in Code Section 48-8-3. After the expiration of the current  
 189 authorization for the tax imposed under this part, such tax shall not be levied on the sales  
 190 of motor fuels as defined in paragraph (9) of Code Section 48-9-2."

191 **SECTION 4-6.**

192 Said title is further amended by revising subsection (c) of Code Section 48-8-201, relating  
 193 to the intergovernmental agreement for the distribution of tax proceeds from the water and  
 194 sewer projects sales tax, as follows:

195 "(c) In the event a tax imposed under this article is imposed only by the municipality:

196 (1) No item or transaction which is not subject to taxation under Article 1 of this chapter  
 197 shall be subject to a tax imposed under this article, except that a tax imposed under this  
 198 article shall apply to:

199 (A) ~~Sales of motor fuels as prepaid local tax as that term is defined in Code Section~~  
 200 ~~48-8-2;~~

201 ~~(B)~~ The sale of food and food ingredients and alcoholic beverages as provided for in  
 202 Code Section 48-8-3;

203 ~~(C)~~(B) The sale of natural or artificial gas used directly in the production of electricity  
 204 which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3;  
 205 and

206 ~~(D)~~(C) The furnishing for value to the public of any room or rooms, lodgings, or  
 207 accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;  
 208 and

209 (2) A tax imposed under this article shall not apply to the sale of motor vehicles; and

210 (3) After the expiration of the current authorization for the tax imposed under this article,  
 211 such tax shall not apply to the sale of motor fuel as defined in paragraph (9) of Code  
 212 Section 48-9-2."

213 **SECTION 4-7.**

214 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section  
 215 48-9-3, relating to an excise tax on motor fuel, as follows:

216 "(a)(1) An excise tax is imposed at the rate of ~~7 1/2¢~~ 29.2¢ per gallon on distributors who  
 217 sell or use motor fuel within this state. An excise tax is imposed at the rate of 33¢ per  
 218 gallon on distributors who sell or use diesel fuel within this state. It is the intention of the  
 219 General Assembly that the legal incidence of the tax be imposed upon the distributor.  
 220 Beginning on January 1, 2016, and annually thereafter, the amount of this excise tax per  
 221 gallon on distributors shall be automatically adjusted on an annual basis in accordance  
 222 with the formula provided in this paragraph. Using 2014 as a base year, the department  
 223 shall determine the average miles per gallon of all new vehicles registered in this state  
 224 pursuant to Code Section 48-5C-1 using the average of combined miles per gallon  
 225 published in the United States Department of Energy Fuel Economy Guide. Beginning  
 226 on January 1, 2016, the department shall again calculate the average miles per gallon of  
 227 all new vehicles registered in this state in 2015. Any percentage increase or decrease in  
 228 fuel efficiency shall be multiplied by the excise tax rate to determine a preliminary excise  
 229 tax rate. Such preliminary excise tax rate shall be multiplied by the annual percentage  
 230 of increase or decrease in highway construction costs as measured by the Construction

231 Price Index published by the United States Census Bureau. The result of such calculation  
 232 shall be the new excise tax rate for the next calendar year."

233 **SECTION 4-8.**

234 Said title is further amended by repealing in its entirety Code Section 48-9-14, relating to the  
 235 second motor fuel tax, and designating said Code section as reserved.

236 **PART V**

237 **SECTION 5-1.**

238 Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the  
 239 "Georgia Transportation Infrastructure Bank Act," is amended by revising subsection (b) of  
 240 Code Section 32-10-127, relating to loans and other financial assistance and the  
 241 determination of eligible projects, as follows:

242 "(b) The board shall determine which projects are eligible projects and then select from  
 243 among the eligible projects qualified projects. Preference may be given to eligible projects  
 244 ~~which have local financial support in tier 1 and tier 2 counties, as defined in Code Section~~  
 245 48-7-40 and by the Department of Community Affairs. When determining eligibility, the  
 246 board shall make every effort to balance any loans or other financial assistance among all  
 247 regions of this state."

248 **PART VI**

249 **SECTION 6-1.**

250 (a) This Act shall become effective on July 1, 2015.

251 (b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not  
 252 be affected by the passage of this Act and shall continue to be governed by the provisions of  
 253 Title 48 of the Official Code of Georgia Annotated as it existed immediately prior to the  
 254 effective date of this Act.

255 **SECTION 6-2.**

256 All laws and parts of laws in conflict with this Act are repealed.