

**TRANSPORTATION INFRASTRUCTURE FUNDING**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Johnny Anderson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to transportation funding.

**Highlighted Provisions:**

This bill:

- ▶ authorizes a county to impose a local option sales and use tax for highways and public transit;
- ▶ addresses the use of revenue collected from the local option sales and use tax for highways and public transit;
- ▶ requires a political subdivision that receives certain sales and use tax revenue to submit certain information in audits, reviews, compilations, or fiscal reports;
- ▶ repeals the cents per gallon tax rate that is imposed on motor fuels and special fuels after a specified date;
- ▶ imposes a percentage tax per gallon on motor fuel and special fuel based on the previous calendar year statewide average rack price of a gallon of regular unleaded motor fuel after a specified date;
- ▶ establishes procedures for the State Tax Commission to determine the previous calendar year statewide average rack price of a gallon of regular unleaded motor fuel;
- ▶ specifies the date that the adjusted fuel tax rate shall take effect each year;
- ▶ repeals the requirement to post a tax rate decal on each motor fuel or undyed special



28 fuel pump or dispensing device; and  
29       ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       This bill provides a special effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36       **51-2a-202**, as enacted by Laws of Utah 2004, Chapter 206
- 37       **59-12-2203**, as enacted by Laws of Utah 2010, Chapter 263
- 38       **59-13-102**, as last amended by Laws of Utah 2012, Chapter 369
- 39       **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308
- 40       **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259

41 ENACTS:

42       **59-12-2219**, Utah Code Annotated 1953

43 REPEALS:

44       **59-13-104**, as enacted by Laws of Utah 1998, Chapter 253



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

47       Section 1. Section **51-2a-202** is amended to read:

48       **51-2a-202. Reporting requirements.**

49       (1) The governing board of each entity required to have an audit, review, compilation,  
50 or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:

- 51       (a) made at least annually; and
- 52       (b) filed with the state auditor within six months of the close of the fiscal year of the  
53 entity.

54       (2) If the political subdivision, interlocal organization, or other local entity receives  
55 federal funding, the audit, review, or compilation shall be performed in accordance with both  
56 federal and state auditing requirements.

57       (3) If a political subdivision receives revenue from a sales and use tax imposed under  
58 Section **59-12-2219**, the political subdivision shall identify the amount of revenue the political

59 subdivision budgets for transportation and verify compliance with Subsection 59-12-2219(7) in  
60 the audit, review, compilation, or fiscal report.

61 Section 2. Section 59-12-2203 is amended to read:

62 **59-12-2203. Authority to impose a sales and use tax under this part.**

63 (1) As provided in this Subsection (1), one of the following sales and use taxes may be  
64 imposed within the boundaries of a local taxing jurisdiction:

65 (a) a county, city, or town may impose the sales and use tax authorized by Section  
66 59-12-2213 in accordance with Section 59-12-2213; or

67 (b) a city or town may impose the sales and use tax authorized by Section 59-12-2215  
68 in accordance with Section 59-12-2215.

69 (2) As provided in this Subsection (2), one of the following sales and use taxes may be  
70 imposed within the boundaries of a local taxing jurisdiction:

71 (a) a county, city, or town may impose the sales and use tax authorized by Section  
72 59-12-2214 in accordance with Section 59-12-2214; or

73 (b) a county may impose the sales and use tax authorized by Section 59-12-2216 in  
74 accordance with Section 59-12-2216.

75 (3) As provided in this Subsection (3), one of the following sales and use taxes may be  
76 imposed within the boundaries of a local taxing jurisdiction:

77 (a) a county may impose the sales and use tax authorized by Section 59-12-2217 in  
78 accordance with Section 59-12-2217; or

79 (b) a county, city, or town may impose the sales and use tax authorized by Section  
80 59-12-2218 in accordance with Section 59-12-2218.

81 (4) A county may impose the sales and use tax authorized by Section 59-12-2219 in  
82 accordance with Section 59-12-2219.

83 Section 3. Section 59-12-2219 is enacted to read:

84 **59-12-2219. County option sales and use tax for highways and public transit --**  
85 **Base -- Rate -- Expenditure of revenue.**

86 (1) As used in this section:

87 (a) "Class B road" means the same as that term is defined in Section 72-3-103.

88 (b) "Class C road" means the same as that term is defined in Section 72-3-104.

89 (c) "Weighted mileage" means the same as that term is defined in Section 72-2-108.

90 (2) Subject to the other provisions of this part, a county legislative body may impose a  
91 sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the  
92 county, including the cities and towns within the county.

93 (3) A sales and use tax under this section shall be expended as provided in Subsections  
94 (4) and (5).

95 (4) If the entire boundary of a county that imposes a sales and use tax under this section  
96 is within a single public transit district organized under Title 17B, Chapter 2a, Part 8, Public  
97 Transit District Act, the sales and use tax shall be expended as follows:

98 (a) .10% shall be transferred to the public transit district in accordance with Section  
99 59-12-2206;

100 (b) .10% shall be distributed to the county and cities and towns within the county using  
101 the apportionment formula described in Subsection (6) and expended for:

102 (i) a class B road;

103 (ii) a class C road;

104 (iii) traffic and pedestrian safety, including for a class B road or class C road, for:

105 (A) a sidewalk;

106 (B) curb and gutter;

107 (C) a safety feature;

108 (D) a traffic sign;

109 (E) a traffic signal;

110 (F) street lighting; or

111 (G) a combination of Subsections (4)(b)(iii)(A) through (F);

112 (iv) the construction of an active transportation facility that is for nonmotorized  
113 vehicles and multimodal transportation and connects an origin with a destination; or

114 (v) a combination of Subsections (4)(b)(i) through (iv); and

115 (c) .05% shall be expended by the county for one or more regionally significant  
116 transportation facilities.

117 (5) If the entire boundary of a county that imposes a sales and use tax under this section  
118 is not within a single public transit district organized under Title 17B, Chapter 2a, Part 8,  
119 Public Transit District Act, the sales and use tax shall be expended as follows:

120 (a) .10% shall be distributed to the county and cities and towns within the county using

121 the apportionment formula described in Subsection (6) and expended for:

122 (i) a class B road;

123 (ii) a class C road;

124 (iii) traffic and pedestrian safety, including for a class B road or class C road for:

125 (A) a sidewalk;

126 (B) curb and gutter;

127 (C) a safety feature;

128 (D) a traffic sign;

129 (E) a traffic signal;

130 (F) street lighting; or

131 (G) a combination of Subsections (5)(a)(iii)(A) through (F);

132 (iv) the construction of an active transportation facility that is for nonmotorized

133 vehicles and multimodal transportation and connects an origin with a destination;

134 (v) public transit system services; or

135 (vi) a combination of Subsections (5)(a)(i) through (v); and

136 (b) .15% shall be expended by the county for one or more regionally significant

137 transportation facilities.

138 (6) (a) Revenue described in Subsections (4)(b) and (5)(a) shall be apportioned as

139 follows:

140 (i) 50% shall be apportioned in the ratio that the class B roads weighted mileage within

141 the unincorporated area of the county and class C roads weighted mileage within each city or

142 town within that county bear to the total class B and class C roads weighted mileage within the

143 county; and

144 (ii) 50% shall be apportioned in the ratio that the population of a city, town, or total

145 unincorporated area of a county bears to the total population of the county.

146 (b) (i) Population figures for purposes of this section shall be based on the most recent

147 official census or census estimate of the United States Census Bureau.

148 (ii) If a needed population estimate is not available from the United States Census

149 Bureau, population figures shall be derived from the estimate from the Utah Population

150 Estimates Committee created by executive order of the governor.

151 (c) The Department of Transportation shall biannually remit to the commission the

152 weighted mileage information required to determine the ratio under Subsection (6)(a)(i).

153 (7) Revenue collected from a sales and use tax under this section may not be used to  
154 supplant existing revenue a county, city, or town budgets for transportation.

155 Section 4. Section **59-13-102** is amended to read:

156 **59-13-102. Definitions.**

157 As used in this chapter:

158 (1) "Aviation fuel" means fuel that is sold at airports and used exclusively for the  
159 operation of aircraft.

160 (2) "Clean fuel" means:

161 (a) the following special fuels:

162 (i) propane;

163 (ii) compressed natural gas;

164 (iii) liquified natural gas; or

165 (iv) electricity; or

166 (b) any motor or special fuel that meets the clean fuel vehicle standards in the federal  
167 Clean Air Act Amendments of 1990, Title II.

168 (3) "Commission" means the State Tax Commission.

169 (4) "Consumer Price Index" means the Consumer Price Index for All Urban  
170 Consumers as published by the Bureau of Labor Statistics of the United States Department of  
171 Labor.

172 [~~4~~] (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,  
173 offered for sale, or used as a fuel in diesel engines.

174 (b) "Diesel fuel" includes any combustible liquid, by whatever name the liquid may be  
175 known or sold, when the liquid is used in an internal combustion engine for the generation of  
176 power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject  
177 to the tax imposed in Part 2, Motor Fuel, and Part 4, Aviation Fuel, of this chapter.

178 [~~5~~] (6) "Distributor" means any person in this state who:

179 (a) imports or causes to be imported motor fuel for use, distribution, or sale, whether at  
180 retail or wholesale;

181 (b) produces, refines, manufactures, or compounds motor fuel in this state for use,  
182 distribution, or sale in this state;

183 (c) is engaged in the business of purchasing motor fuel for resale in wholesale  
184 quantities to retail dealers of motor fuel and who accounts for his own motor fuel tax liability;  
185 or

186 (d) for purposes of Part 4, Aviation Fuel, only, makes retail sales of aviation fuel to:

187 (i) federally certificated air carriers; and

188 (ii) other persons.

189 ~~[(6)]~~ (7) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C.  
190 Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service  
191 regulations and that is considered destined for nontaxable off-highway use.

192 ~~[(7)]~~ (8) "Exchange agreement" means an agreement between licensed suppliers where  
193 one is a position holder in a terminal who agrees to deliver taxable special fuel to the other  
194 supplier or the other supplier's customer at the loading rack of the terminal where the delivering  
195 supplier holds an inventory position.

196 ~~[(8)]~~ (9) "Federally certificated air carrier" means a person who holds a certificate  
197 issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo  
198 operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

199 ~~[(9)]~~ (10) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is  
200 generally used in an engine or motor for the generation of power, including aviation fuel, clean  
201 fuel, diesel fuel, motor fuel, and special fuel.

202 ~~[(10)]~~ (11) "Highway" means every way or place, of whatever nature, generally open to  
203 the use of the public for the purpose of vehicular travel notwithstanding that the way or place  
204 may be temporarily closed for the purpose of construction, maintenance, or repair.

205 ~~[(11)]~~ (12) "Motor fuel" means fuel that is commonly or commercially known or sold  
206 as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

207 ~~[(12)]~~ (13) "Motor fuels received" means:

208 (a) motor fuels that have been loaded at the refinery or other place into tank cars,  
209 placed in any tank at the refinery from which any withdrawals are made directly into tank  
210 trucks, tank wagons, or other types of transportation equipment, containers, or facilities other  
211 than tank cars, or placed in any tank at the refinery from which any sales, uses, or deliveries not  
212 involving transportation are made directly; or

213 (b) motor fuels that have been imported by any person into the state from any other

214 state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when,  
215 and the place where, the interstate transportation of the motor fuel is completed within the state  
216 by the person who at the time of the delivery is the owner of the motor fuel.

217 (14) "Oil pricing service" means an organization that:

218 (a) publishes wholesale petroleum prices within the United States;

219 (b) publishes at least 25,000 rack prices on a daily basis; and

220 (c) receives daily gasoline and diesel prices from at least 100,000 retail outlets in the  
221 United States and Canada.

222 ~~[(13)]~~ (15) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle  
223 used, designed, or maintained for transportation of persons or property which:

224 (i) has a gross vehicle weight or registered gross vehicle weight exceeding 26,000  
225 pounds;

226 (ii) has three or more axles regardless of weight; or

227 (iii) is used in a combination of vehicles when the weight of the combination of  
228 vehicles exceeds 26,000 pounds gross vehicle weight.

229 (b) "Qualified motor vehicle" does not include a recreational vehicle not used in  
230 connection with any business activity.

231 ~~[(14)]~~ (16) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay  
232 which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel  
233 from a refinery or terminal into a motor vehicle, rail car, or vessel.

234 ~~[(15)]~~ (17) "Removal," as used in Part 3, Special Fuel, means the physical transfer of  
235 diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of  
236 diesel fuel. Removal does not include:

237 (a) loss by evaporation or destruction; or

238 (b) transfers between refineries, racks, or terminals.

239 ~~[(16)]~~ (18) (a) "Special fuel" means any fuel regardless of name or character that:

240 (i) is usable as fuel to operate or propel a motor vehicle upon the public highways of  
241 the state; and

242 (ii) is not taxed under the category of aviation or motor fuel.

243 (b) Special fuel includes:

244 (i) fuels that are not conveniently measurable on a gallonage basis; and



245 (ii) diesel fuel.

246 [~~(17)~~] (19) "Supplier," as used in Part 3, Special Fuel, means a person who:

247 (a) imports or acquires immediately upon importation into this state diesel fuel from  
248 within or without a state, territory, or possession of the United States or the District of  
249 Columbia;

250 (b) produces, manufactures, refines, or blends diesel fuel in this state;

251 (c) otherwise acquires for distribution or sale in this state, diesel fuel with respect to  
252 which there has been no previous taxable sale or use; or

253 (d) is in a two party exchange where the receiving party is deemed to be the supplier.

254 [~~(18)~~] (20) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage  
255 of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel  
256 fuel is removed for distribution at a rack.

257 [~~(19)~~] (21) "Two party exchange" means a transaction in which special fuel is  
258 transferred between licensed suppliers pursuant to an exchange agreement.

259 [~~(20)~~] (22) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing  
260 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental  
261 Protection Agency or Internal Revenue Service regulations.

262 [~~(21)~~] (23) "Use," as used in Part 3, Special Fuel, means the consumption of special  
263 fuel for the operation or propulsion of a motor vehicle upon the public highways of the state  
264 and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

265 [~~(22)~~] (24) "User," as used in Part 3, Special Fuel, means any person who uses special  
266 fuel within this state in an engine or motor for the generation of power to operate or propel a  
267 motor vehicle upon the public highways of the state.

268 [~~(23)~~] (25) "Ute tribal member" means an enrolled member of the Ute tribe.

269 [~~(24)~~] (26) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray  
270 Reservation.

271 [~~(25)~~] (27) "Ute trust land" means the lands:

272 (a) of the Uintah and Ouray Reservation that are held in trust by the United States for  
273 the benefit of:

274 (i) the Ute tribe;

275 (ii) an individual; or

276 (iii) a group of individuals; or  
277 (b) specified as trust land by agreement between the governor and the Ute tribe meeting  
278 the requirements of Subsections [59-13-201.5\(3\)](#) and [59-13-301.5\(3\)](#).

279 Section 5. Section **59-13-201** is amended to read:

280 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**  
281 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**  
282 **in limited circumstances.**

283 (1) (a) Subject to the provisions of this section and until June 30, 2016, a tax is  
284 imposed at the rate of 24-1/2 cents per gallon upon all motor fuel that is sold, used, or received  
285 for sale or used in this state.

286 (b) (i) Subject to the provisions of this section and beginning on July 1, 2016, a tax is  
287 imposed at the rate of 14% of the statewide average rack price of a gallon of motor fuel per  
288 gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

289 (ii) Subject to the requirements under Subsection (1)(b)(iii), the statewide average rack  
290 price of a gallon of motor fuel under Subsection (1)(b)(i) shall be determined by calculating the  
291 previous calendar year statewide average rack price of a gallon of regular unleaded motor fuel,  
292 excluding federal and state excise taxes, for the 12 months ending on the previous December  
293 31 as published by an oil pricing service.

294 (iii) (A) Subject to the requirement in Subsection (1)(b)(iii)(B), the statewide average  
295 rack price of a gallon of motor fuel determined under Subsection (1)(b)(ii) may not be less than  
296 \$1.75 per gallon.

297 (B) For calendar years beginning on or after January 1, 2017, the commission shall, on  
298 July 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel  
299 described in Subsection (1)(b)(iii)(A) by taking the minimum statewide average rack price of a  
300 gallon of motor fuel for the previous year and adding an amount equal to the greater of:

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

304 (II) 0.

305 (C) Subject to the requirement in Subsection (1)(b)(iii)(D), the statewide average rack  
306 price of a gallon of motor fuel determined by the commission under Subsection (1)(b)(ii) may

307 not exceed \$4.00 per gallon.

308 (D) For a calendar year following the year that the maximum statewide average rack  
309 price of a gallon of motor fuel reaches the maximum under Subsection (1)(b)(iii)(C), the  
310 commission shall on July 1 annually adjust the maximum statewide average rack price of a  
311 gallon of motor fuel described in Subsection (1)(b)(iii)(C) by taking the maximum statewide  
312 average rack price of a gallon of motor fuel for the previous year and adding an amount equal  
313 to the greater of:

314 (I) an amount calculated by multiplying the maximum statewide average rack price of a  
315 gallon of motor fuel for the previous year by two times the actual percent change during the  
316 previous calendar year in the Consumer Price Index; and

317 (II) 0.

318 (iv) The commission shall annually:

319 (A) determine the statewide average rack price of a gallon of motor fuel in accordance  
320 with Subsection (1)(b)(ii); and

321 (B) adjust the fuel tax imposed under Subsection (1)(b)(i), rounded to the nearest  
322 one-tenth of a cent, based on the determination under Subsection (1)(b)(ii); and

323 (C) post or otherwise make public the adjusted fuel tax rate as determined in  
324 Subsection (1)(b)(iv)(B) no later than 60 days prior to the annual effective date under  
325 Subsection (1)(b)(v).

326 (v) The tax rate imposed under this Subsection (1)(b) and adjusted as required under  
327 Subsection (1)(b)(iv) shall take effect on July 1 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

368 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

369 commission shall make rules governing the application and refund provided for in Subsection  
370 (7)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

398 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
399 commission shall make rules governing the procedures for administering the reduction of tax

400 provided under this Subsection (9).

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

402 (i) may not:

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

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

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

407 (ii) shall:

408 (A) be in writing;

409 (B) be signed by:

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

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

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

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

414 (E) state any accommodation the Navajo Nation makes related to the construction and

415 maintenance of state highways and other infrastructure within the Utah portion of the Navajo

416 Nation; and

417 (iii) may:

418 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the

419 Navajo Nation information that is:

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

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

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

423 (C) provide for inspections or audits of distributors, carriers, or retailers located or

424 doing business within the Utah portion of the Navajo Nation.

425 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax

426 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a

427 result of the change in the tax rate is not effective until the first day of the calendar quarter after

428 a 60-day period beginning on the date the commission receives notice:

429 (A) from the Navajo Nation; and

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

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

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

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

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

437 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not  
438 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a  
439 30-day period beginning on the day the agreement terminates.

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

442 Section 6. Section **59-13-301** is amended to read:

443 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**  
444 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

445 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section  
446 **59-13-304**, a tax is imposed at the same [~~rate~~] rates imposed under [~~Subsection~~] Subsections  
447 **59-13-201**(1)(a) and (b) on the:

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

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

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

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

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

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

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

458 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

459 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon  
460 the public highways of the state, but this exemption applies only in those cases where the  
461 purchasers or the users of special fuel establish to the satisfaction of the commission that the

462 special fuel was used for purposes other than to operate a motor vehicle upon the public  
463 highways of the state; or  
464 (ii) is sold to this state or any of its political subdivisions.  
465 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:  
466 (i) sold to the United States government or any of its instrumentalities or to this state or  
467 any of its political subdivisions;  
468 (ii) exported from this state if proof of actual exportation on forms prescribed by the  
469 commission is made within 180 days after exportation;  
470 (iii) used in a vehicle off-highway;  
471 (iv) used to operate a power take-off unit of a vehicle;  
472 (v) used for off-highway agricultural uses;  
473 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle  
474 upon the highways of the state; or  
475 (vii) used in machinery and equipment not registered and not required to be registered  
476 for highway use.  
477 (3) No tax is imposed or collected on special fuel if it is:  
478 (a) (i) purchased for business use in machinery and equipment not registered and not  
479 required to be registered for highway use; and  
480 (ii) used pursuant to the conditions of a state implementation plan approved under Title  
481 19, Chapter 2, Air Conservation Act; or  
482 (b) propane or electricity.  
483 (4) Upon request of a buyer meeting the requirements under Subsection (3), the  
484 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.  
485 (5) The special fuel tax shall be paid by the supplier.  
486 (6) (a) The special fuel tax shall be paid by every user who is required by Sections  
487 [59-13-303](#) and [59-13-305](#) to obtain a special fuel user permit and file special fuel tax reports.  
488 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases  
489 which are delivered into vehicles and for which special fuel tax liability is reported.  
490 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the  
491 commission from taxes and license fees under this part shall be deposited daily with the state  
492 treasurer and credited to the Transportation Fund.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

541 (i) may not:

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

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

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

546 (ii) shall:

547 (A) be in writing;

548 (B) be signed by:

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

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

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

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

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

555 Nation; and

556 (iii) may:

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

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

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

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

562 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers

563 located or doing business within the Utah portion of the Navajo Nation.

564 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax

565 imposed on special fuel, any change in the amount of the reduction of taxes under this

566 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the

567 calendar quarter after a 60-day period beginning on the date the commission receives notice:

568 (A) from the Navajo Nation; and

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

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

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

573 (B) the effective date of the rate change of the tax described in Subsection

574 (11)(f)(ii)(A); and

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

576 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not

577 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a

578 30-day period beginning on the day the agreement terminates.

579 (h) If there is a conflict between this Subsection (11) and the agreement required by

580 Subsection (11)(a), this Subsection (11) governs.

581 (12) (a) Beginning on January 1, 2009, a tax imposed under this section on compressed

582 natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be

583 increased [~~or decreased~~] proportionately with any increase [~~or decrease~~] in the rate in

584 Subsection 59-13-201(1)(a).

585 (b) Beginning on July 1, 2011, a tax imposed under this section on liquified natural gas

586 is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be increased [~~or~~  
587 ~~decreased~~] proportionately with any increase [~~or decrease~~] in the rate in Subsection  
588 59-13-201(1)(a).

589 Section 7. **Repealer.**

590 This bill repeals:

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

592 Section 8. **Effective date.**

593 This bill takes effect on January 1, 2016.

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**Legislative Review Note**

as of 2-19-15 9:12 AM

**Office of Legislative Research and General Counsel**