

Representative Brian M. Greene proposes the following substitute bill:

TRANSPORTATION INFRASTRUCTURE FUNDING

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Johnny Anderson

Senate Sponsor: _____

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 fiscal 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 fiscal 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;



- 26 ▶ repeals the requirement to post a tax rate decal on each motor fuel or undyed special
- 27 fuel pump or dispensing device;
- 28 ▶ amends the amount of revenue that is appropriated from the Transportation Fund to
- 29 the class B and class C roads account;
- 30 ▶ amends the apportionment formula for revenues deposited in the class B and class C
- 31 roads account; and
- 32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **51-2a-202**, as enacted by Laws of Utah 2004, Chapter 206
- 40 **59-12-2203**, as enacted by Laws of Utah 2010, Chapter 263
- 41 **59-13-102**, as last amended by Laws of Utah 2012, Chapter 369
- 42 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308
- 43 **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259
- 44 **72-2-107**, as last amended by Laws of Utah 2010, Chapter 391
- 45 **72-2-108**, as last amended by Laws of Utah 2008, Chapter 109

46 ENACTS:

- 47 **59-12-2219**, Utah Code Annotated 1953

48 REPEALS:

- 49 **59-13-104**, as enacted by Laws of Utah 1998, Chapter 253



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

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

53 **51-2a-202. Reporting requirements.**

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

- 56 (a) made at least annually; and

57 (b) filed with the state auditor within six months of the close of the fiscal year of the
58 entity.

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

62 (3) If a political subdivision receives revenue from a sales and use tax imposed under
63 Section 59-12-2219, the political subdivision shall identify the amount of revenue the political
64 subdivision budgets for transportation and verify compliance with Subsection 59-12-2219(6) in
65 the audit, review, compilation, or fiscal report.

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

67 **59-12-2203. Authority to impose a sales and use tax under this part.**

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

70 (a) a county, city, or town may impose the sales and use tax authorized by Section
71 59-12-2213 in accordance with Section 59-12-2213; or

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

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

76 (a) a county, city, or town may impose the sales and use tax authorized by Section
77 59-12-2214 in accordance with Section 59-12-2214; or

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

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

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

84 (b) a county, city, or town may impose the sales and use tax authorized by Section
85 59-12-2218 in accordance with Section 59-12-2218.

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

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

89 **59-12-2219. County option sales and use tax for highways and public transit --**

90 **Base -- Rate -- Expenditure of revenue.**

91 (1) As used in this section:

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

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

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

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

98 (3) A sales and use tax under this section shall be expended as provided in Subsection
99 (4).

100 (4) The sales and use tax under this section shall be expended as follows:

101 (a) .20% shall be distributed to the county and cities and towns within the county using
102 the apportionment formula described in Subsection (5) and expended for:

103 (i) a class B road;

104 (ii) a class C road;

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

106 (A) a sidewalk;

107 (B) curb and gutter;

108 (C) a safety feature;

109 (D) a traffic sign;

110 (E) a traffic signal;

111 (F) street lighting; or

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

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

116 (v) public transit system services;

117 (vi) a combination of Subsections (4)(a)(i) through (v); and

118 (b) .05% shall be expended by the county for one or more regionally significant

119 transportation facilities.

120 (5) (a) Revenue described in Subsection (4)(a) shall be apportioned as follows:

121 (i) 50% shall be apportioned in the ratio that the class B roads weighted mileage within
122 the unincorporated area of the county and class C roads weighted mileage within each city or
123 town within that county bear to the total class B and class C roads weighted mileage within the
124 county; and

125 (ii) 50% shall be apportioned in the ratio that the population of a city, town, or total
126 unincorporated area of a county bears to the total population of the county.

127 (b) (i) Population figures for purposes of this section shall be based on the most recent
128 official census or census estimate of the United States Census Bureau.

129 (ii) If a needed population estimate is not available from the United States Census
130 Bureau, population figures shall be derived from the estimate from the Utah Population
131 Estimates Committee created by executive order of the governor.

132 (c) The Department of Transportation shall biannually remit to the commission the
133 weighted mileage information required to determine the ratio under Subsection (5)(a)(i).

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

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

137 **59-13-102. Definitions.**

138 As used in this chapter:

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

141 (2) "Clean fuel" means:

142 (a) the following special fuels:

143 (i) propane;

144 (ii) compressed natural gas;

145 (iii) liquified natural gas; or

146 (iv) electricity; or

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

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

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

153 ~~[(4)]~~ (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,
154 offered for sale, or used as a fuel in diesel engines.

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

159 ~~[(5)]~~ (6) "Distributor" means any person in this state who:

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

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

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

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

168 (i) federally certificated air carriers; and

169 (ii) other persons.

170 ~~[(6)]~~ (7) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C.
171 Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service
172 regulations and that is considered destined for nontaxable off-highway use.

173 ~~[(7)]~~ (8) "Exchange agreement" means an agreement between licensed suppliers where
174 one is a position holder in a terminal who agrees to deliver taxable special fuel to the other
175 supplier or the other supplier's customer at the loading rack of the terminal where the delivering
176 supplier holds an inventory position.

177 ~~[(8)]~~ (9) "Federally certificated air carrier" means a person who holds a certificate
178 issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo
179 operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

180 ~~[(9)]~~ (10) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is

181 generally used in an engine or motor for the generation of power, including aviation fuel, clean
182 fuel, diesel fuel, motor fuel, and special fuel.

183 ~~[(10)]~~ (11) "Highway" means every way or place, of whatever nature, generally open to
184 the use of the public for the purpose of vehicular travel notwithstanding that the way or place
185 may be temporarily closed for the purpose of construction, maintenance, or repair.

186 ~~[(11)]~~ (12) "Motor fuel" means fuel that is commonly or commercially known or sold
187 as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

188 ~~[(12)]~~ (13) "Motor fuels received" means:

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

194 (b) motor fuels that have been imported by any person into the state from any other
195 state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when,
196 and the place where, the interstate transportation of the motor fuel is completed within the state
197 by the person who at the time of the delivery is the owner of the motor fuel.

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

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

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

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

203 ~~[(13)]~~ (15) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle
204 used, designed, or maintained for transportation of persons or property which:

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

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

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

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

212 ~~[(14)]~~ (16) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay
213 which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel
214 from a refinery or terminal into a motor vehicle, rail car, or vessel.

215 ~~[(15)]~~ (17) "Removal," as used in Part 3, Special Fuel, means the physical transfer of
216 diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of
217 diesel fuel. Removal does not include:

- 218 (a) loss by evaporation or destruction; or
- 219 (b) transfers between refineries, racks, or terminals.

220 ~~[(16)]~~ (18) (a) "Special fuel" means any fuel regardless of name or character that:

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

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

224 (b) Special fuel includes:

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

226 (ii) diesel fuel.

227 ~~[(17)]~~ (19) "Supplier," as used in Part 3, Special Fuel, means a person who:

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

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

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

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

235 ~~[(18)]~~ (20) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage
236 of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel
237 fuel is removed for distribution at a rack.

238 ~~[(19)]~~ (21) "Two party exchange" means a transaction in which special fuel is
239 transferred between licensed suppliers pursuant to an exchange agreement.

240 ~~[(20)]~~ (22) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing
241 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental
242 Protection Agency or Internal Revenue Service regulations.

243 ~~[(21)]~~ (23) "Use," as used in Part 3, Special Fuel, means the consumption of special
 244 fuel for the operation or propulsion of a motor vehicle upon the public highways of the state
 245 and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

246 ~~[(22)]~~ (24) "User," as used in Part 3, Special Fuel, means any person who uses special
 247 fuel within this state in an engine or motor for the generation of power to operate or propel a
 248 motor vehicle upon the public highways of the state.

249 ~~[(23)]~~ (25) "Ute tribal member" means an enrolled member of the Ute tribe.

250 ~~[(24)]~~ (26) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
 251 Reservation.

252 ~~[(25)]~~ (27) "Ute trust land" means the lands:

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

255 (i) the Ute tribe;

256 (ii) an individual; or

257 (iii) a group of individuals; or

258 (b) specified as trust land by agreement between the governor and the Ute tribe meeting
 259 the requirements of Subsections [59-13-201.5\(3\)](#) and [59-13-301.5\(3\)](#).

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

261 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
 262 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
 263 **in limited circumstances.**

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

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

270 (ii) Subject to the requirements under Subsection (1)(b)(iii), the statewide average rack
 271 price of a gallon of motor fuel under Subsection (1)(b)(i) shall be determined by calculating the
 272 previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel,
 273 excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as

274 published by an oil pricing service.

275 (iii) (A) Subject to the requirement in Subsection (1)(b)(iii)(B), the statewide average
276 rack price of a gallon of motor fuel determined under Subsection (1)(b)(ii) may not be less than
277 \$1.75 per gallon.

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

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

285 (II) 0.

286 (C) Subject to the requirement in Subsection (1)(b)(iii)(D), the statewide average rack
287 price of a gallon of motor fuel determined by the commission under Subsection (1)(b)(ii) may
288 not exceed \$4.00 per gallon.

289 (D) For a calendar year following the year that the maximum statewide average rack
290 price of a gallon of motor fuel reaches the maximum under Subsection (1)(b)(iii)(C), the
291 commission shall on January 1 annually adjust the maximum statewide average rack price of a
292 gallon of motor fuel described in Subsection (1)(b)(iii)(C) by taking the maximum statewide
293 average rack price of a gallon of motor fuel for the previous year and adding an amount equal
294 to the greater of:

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

298 (II) 0.

299 (iv) The commission shall annually:

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

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

304 (C) post or otherwise make public the adjusted fuel tax rate as determined in

305 Subsection (1)(b)(iv)(B) no later than 60 days prior to the annual effective date under
306 Subsection (1)(b)(v).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

367 section:

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

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

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

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

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

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

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

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

383 (i) may not:

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

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

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

388 (ii) shall:

389 (A) be in writing;

390 (B) be signed by:

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

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

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

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

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

398 (iii) may:

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

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

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

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

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

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

410 (A) from the Navajo Nation; and

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

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

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

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

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

418 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
419 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
420 30-day period beginning on the day the agreement terminates.

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

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

424 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
425 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

426 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
427 59-13-304, a tax is imposed at the same [rate] rates imposed under [Subsection] Subsections
428 59-13-201(1)(a) and (b) on the:

- 429 (i) removal of undyed diesel fuel from any refinery;
- 430 (ii) removal of undyed diesel fuel from any terminal;
- 431 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
- 432 warehousing;
- 433 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
- 434 this part unless the tax has been collected under this section;
- 435 (v) any untaxed special fuel blended with undyed diesel fuel; or
- 436 (vi) use of untaxed special fuel other than propane or electricity.
- 437 (b) The tax imposed under this section shall only be imposed once upon any special
- 438 fuel.
- 439 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
- 440 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
- 441 the public highways of the state, but this exemption applies only in those cases where the
- 442 purchasers or the users of special fuel establish to the satisfaction of the commission that the
- 443 special fuel was used for purposes other than to operate a motor vehicle upon the public
- 444 highways of the state; or
- 445 (ii) is sold to this state or any of its political subdivisions.
- 446 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:
- 447 (i) sold to the United States government or any of its instrumentalities or to this state or
- 448 any of its political subdivisions;
- 449 (ii) exported from this state if proof of actual exportation on forms prescribed by the
- 450 commission is made within 180 days after exportation;
- 451 (iii) used in a vehicle off-highway;
- 452 (iv) used to operate a power take-off unit of a vehicle;
- 453 (v) used for off-highway agricultural uses;
- 454 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
- 455 upon the highways of the state; or
- 456 (vii) used in machinery and equipment not registered and not required to be registered
- 457 for highway use.
- 458 (3) No tax is imposed or collected on special fuel if it is:
- 459 (a) (i) purchased for business use in machinery and equipment not registered and not

460 required to be registered for highway use; and

461 (ii) used pursuant to the conditions of a state implementation plan approved under Title
462 19, Chapter 2, Air Conservation Act; or

463 (b) propane or electricity.

464 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
465 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

466 (5) The special fuel tax shall be paid by the supplier.

467 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
468 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

469 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
470 which are delivered into vehicles and for which special fuel tax liability is reported.

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

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

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

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

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

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

490 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses

491 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid
492 as provided in Subsection (9) and this Subsection (10).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 522 (i) may not:
- 523 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 524 (B) provide a reduction of taxes greater than or different from the reduction described
- 525 in this Subsection (11); or
- 526 (C) affect the power of the state to establish rates of taxation;
- 527 (ii) shall:
- 528 (A) be in writing;
- 529 (B) be signed by:
- 530 (I) the chair of the commission or the chair's designee; and
- 531 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 532 (C) be conditioned on obtaining any approval required by federal law;
- 533 (D) state the effective date of the agreement; and
- 534 (E) state any accommodation the Navajo Nation makes related to the construction and
- 535 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 536 Nation; and
- 537 (iii) may:
- 538 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 539 Navajo Nation information that is:
- 540 (I) contained in a document filed with the commission; and
- 541 (II) related to the tax imposed under this section;
- 542 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 543 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
- 544 located or doing business within the Utah portion of the Navajo Nation.
- 545 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
- 546 imposed on special fuel, any change in the amount of the reduction of taxes under this
- 547 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
- 548 calendar quarter after a 60-day period beginning on the date the commission receives notice:
- 549 (A) from the Navajo Nation; and
- 550 (B) meeting the requirements of Subsection (11)(f)(ii).
- 551 (ii) The notice described in Subsection (11)(f)(i) shall state:
- 552 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on

553 special fuel;

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

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

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

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

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

559 30-day period beginning on the day the agreement terminates.

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

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

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

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

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

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

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

567 is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be increased [~~or~~

568 ~~decreased~~] proportionately with any increase [~~or decrease~~] in the rate in Subsection

569 59-13-201(1)(a).

570 Section 7. Section 72-2-107 is amended to read:

571 **72-2-107. Appropriation from Transportation Fund -- Deposit in class B and**

572 **class C roads account.**

573 (1) (a) There is appropriated to the department from the Transportation Fund annually

574 an amount equal to 30% of an amount which the director of finance shall compute in the

575 following manner: The first \$458,000,000 of total revenue deposited into the Transportation

576 Fund during the fiscal year [~~from state highway-user taxes and fees~~], minus:

577 [~~(a)~~] (i) those amounts appropriated or transferred from the Transportation Fund during

578 the same fiscal year to:

579 [(i)] (A) the Department of Public Safety;

580 [(ii)] (B) the State Tax Commission;

581 [(iii)] (C) the Division of Finance;

582 [(iv)] (D) the Utah Travel Council; and

583 [(v)] (ii) any other amounts appropriated or transferred for any other state agencies not

584 a part of the department; and

585 ~~[(b)]~~ (iii) the amount of sales and use tax revenue deposited in the Transportation Fund
586 in accordance with Section 59-12-103.

587 (b) There is appropriated to the department from the Transportation Fund annually an
588 amount equal to 35% of the total revenue that exceeds \$458,000,000 minus the amounts
589 described in Subsections (1)(a)(i) through (iii) that is deposited into the Transportation Fund
590 during the fiscal year.

591 (2) (a) Except as provided in Subsection (2)(b), ~~[all of this money]~~ the amounts
592 appropriated to the department in Subsections (1)(a) and (b) shall be placed in an account to be
593 known as the class B and class C roads account to be used as provided in this title.

594 (b) The director of finance shall annually transfer \$500,000 of the amount calculated
595 under Subsection (1) to the department as dedicated credits for the State Park Access Highways
596 Improvement Program created in Section 72-3-207.

597 (3) Each quarter of every year the director of finance shall make the necessary
598 accounting entries to transfer the money appropriated under this section to the class B and class
599 C roads account.

600 (4) The funds in the class B and class C roads account shall be expended under the
601 direction of the department as the Legislature shall provide.

602 Section 8. Section 72-2-108 is amended to read:

603 **72-2-108. Apportionment of funds available for use on class B and class C roads**

604 **-- Bonds.**

605 (1) For purposes of this section:

606 (a) "Graveled road" means a road:

607 (i) that is:

608 (A) graded; and

609 (B) drained by transverse drainage systems to prevent serious impairment of the road
610 by surface water;

611 (ii) that has an improved surface; and

612 (iii) that has a wearing surface made of:

613 (A) gravel;

614 (B) broken stone;

- 615 (C) slag;
- 616 (D) iron ore;
- 617 (E) shale; or
- 618 (F) other material that is:
- 619 (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
- 620 (II) coarser than sand.
- 621 (b) "Paved road" includes a graveled road with a chip seal surface.
- 622 (c) "Road mile" means a one-mile length of road, regardless of:
- 623 (i) the width of the road; or
- 624 (ii) the number of lanes into which the road is divided.
- 625 (d) "Weighted mileage" means the sum of the following:
- 626 (i) paved road miles multiplied by five; and
- 627 [~~(ii) graveled road miles multiplied by two; and~~]
- 628 [~~(iii)~~] (ii) all other road type road miles multiplied by one.
- 629 (2) Subject to the provisions of Subsections (3) through (5), funds in the class B and
- 630 class C roads account shall be apportioned among counties and municipalities in the following
- 631 manner:
- 632 (a) 50% in the ratio that the class B roads weighted mileage within each county and
- 633 class C roads weighted mileage within each municipality bear to the total class B and class C
- 634 roads weighted mileage within the state; and
- 635 (b) 50% in the ratio that the population of a county or municipality bears to the total
- 636 population of the state as of the last official federal census or the United States Bureau of
- 637 Census estimate, whichever is most recent, except that if population estimates are not available
- 638 from the United States Bureau of Census, population figures shall be derived from the estimate
- 639 from the Utah Population Estimates Committee.
- 640 (3) For purposes of Subsection (2)(b), "the population of a county" means:
- 641 (a) the population of a county outside the corporate limits of municipalities in that
- 642 county, if the population of the county outside the corporate limits of municipalities in that
- 643 county is not less than 14% of the total population of that county, including municipalities; and
- 644 (b) if the population of a county outside the corporate limits of municipalities in the
- 645 county is less than 14% of the total population:

646 (i) the aggregate percentage of the population apportioned to municipalities in that
647 county shall be reduced by an amount equal to the difference between:

648 (A) 14%; and

649 (B) the actual percentage of population outside the corporate limits of municipalities in
650 that county; and

651 (ii) the population apportioned to the county shall be 14% of the total population of
652 that county, including incorporated municipalities.

653 (4) (a) If an apportionment under Subsection (2) for fiscal year 2014 to a county or
654 municipality with a population of less than 14,000 is less than 120% of the amount apportioned
655 to the county or municipality from the class B and class C roads account for fiscal year 1996-97
656 multiplied by the percentage increase in the class B and class C roads account from fiscal year
657 1996-97 to the most recently completed fiscal year, the department shall:

658 (i) reapportion the funds under Subsection (2) to ensure that the county or municipality
659 receives an amount equal to 120% of the amount apportioned to the county or municipality
660 from the class B and class C roads account for fiscal year 1996-97; and

661 (ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to
662 counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not
663 apply.

664 (b) The aggregate amount of the funds that the department shall decrease
665 proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the
666 aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

667 (5) (a) In addition to the apportionment adjustments made under Subsection (4), a
668 county or municipality that qualifies for reapportioned money under Subsection (4)(a)(i) shall
669 receive the percentage change in the class B and class C roads account compounded annually
670 beginning in fiscal year 2006-07.

671 (b) The adjustment under Subsection (5)(a) shall be made in the same way as provided
672 in Subsection (4)(a)(ii) and (b).

673 (6) The governing body of any municipality or county may issue bonds redeemable up
674 to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the
675 costs of constructing, repairing, and maintaining class B or class C roads and may pledge class
676 B or class C road funds received pursuant to this section to pay principal, interest, premiums,

677 and reserves for the bonds.

678 Section 9. **Repealer.**

679 This bill repeals:

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