

## HB0362S02 compared with HB0362

~~deleted text~~ shows text that was in HB0362 but was deleted in HB0362S02.

inserted text shows text that was not in HB0362 but was inserted into HB0362S02.

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Representative Brian M. Greene proposes the following substitute bill:

### 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;

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- ▶ imposes a percentage tax per gallon on motor fuel and special fuel based on the previous ~~{calendar}~~ 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 ~~{calendar}~~ 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;
- ▶ repeals the requirement to post a tax rate decal on each motor fuel or undyed special fuel pump or dispensing device;
- ▶ amends the amount of revenue that is appropriated from the Transportation Fund to the class B and class C roads account;
- ▶ amends the apportionment formula for revenues deposited in the class B and class C roads account; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ This bill provides a special effective date. }~~ None

### Utah Code Sections Affected:

AMENDS:

**51-2a-202**, as enacted by Laws of Utah 2004, Chapter 206

**59-12-2203**, as enacted by Laws of Utah 2010, Chapter 263

**59-13-102**, as last amended by Laws of Utah 2012, Chapter 369

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

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

**72-2-107**, as last amended by Laws of Utah 2010, Chapter 391

**72-2-108**, as last amended by Laws of Utah 2008, Chapter 109

ENACTS:

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

REPEALS:

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

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

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

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

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

(a) made at least annually; and

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

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

(3) If a political subdivision receives revenue from a sales and use tax imposed under Section 59-12-2219, the political subdivision shall identify the amount of revenue the political subdivision budgets for transportation and verify compliance with Subsection 59-12-2219(~~57~~6) in the audit, review, compilation, or fiscal report.

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

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

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

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

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

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

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

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

(3) As provided in this Subsection (3), one of the following sales and use taxes may be

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imposed within the boundaries of a local taxing jurisdiction:

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

~~(b)~~ (a) ~~.10%~~ 20% shall be distributed to the county and cities and towns within the county using the apportionment formula described in Subsection ~~(6)~~ 5 and expended for:

(i) a class B road;

(ii) a class C road;

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

(A) a sidewalk;

(B) curb and gutter;

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(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal;

(F) street lighting; or

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

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

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

~~\_\_\_\_\_~~ (c) .05% shall be expended by the county for one or more regionally significant transportation facilities;

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

~~\_\_\_\_\_~~ (a) .10% shall be distributed to the county and cities and towns within the county using the apportionment formula described in Subsection (6) and expended for:

~~\_\_\_\_\_~~ (i) a class B road;

~~\_\_\_\_\_~~ (ii) a class C road;

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

~~\_\_\_\_\_~~ (A) a sidewalk;

~~\_\_\_\_\_~~ (B) curb and gutter;

~~\_\_\_\_\_~~ (C) a safety feature;

~~\_\_\_\_\_~~ (D) a traffic sign;

~~\_\_\_\_\_~~ (E) a traffic signal;

~~\_\_\_\_\_~~ (F) street lighting; or

~~\_\_\_\_\_~~ (G) a combination of Subsections (5)(a)(iii)(A) through (F);

~~\_\_\_\_\_~~ (iv) the construction of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

~~†~~ (v) public transit system services; ~~{ or }~~

(vi) a combination of Subsections (~~f~~~~5~~~~4~~)(a)(i) through (v); and

(b) ~~.15%~~ 05% shall be expended by the county for one or more regionally significant

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transportation facilities.

~~(4)(5)~~ (a) Revenue described in ~~Subsections~~ Subsection ~~(4)(b) and (5)~~(a) shall be apportioned as follows:

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

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

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

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

(c) The Department of Transportation shall biannually remit to the commission the weighted mileage information required to determine the ratio under Subsection ~~(4)(5)~~(a)(i).

~~(7)(6)~~ Revenue collected from a sales and use tax under this section may not be used to supplant existing revenue a county, city, or town budgets for transportation.

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

### **59-13-102. Definitions.**

As used in this chapter:

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

(2) "Clean fuel" means:

(a) the following special fuels:

(i) propane;

(ii) compressed natural gas;

(iii) liquified natural gas; or

(iv) electricity; or

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

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

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

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

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

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

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

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

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

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

(i) federally certificated air carriers; and

(ii) other persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) "Qualified motor vehicle" does not include a recreational vehicle not used in



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connection with any business activity.

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

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

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

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

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

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

(b) Special fuel includes:

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

(ii) diesel fuel.

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

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

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

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

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

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

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

~~[(20)]~~ (22) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental

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Protection Agency or Internal Revenue Service regulations.

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

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

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

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

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

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

- (i) the Ute tribe;
- (ii) an individual; or
- (iii) a group of individuals; or

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

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

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

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

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

(ii) Subject to the requirements under Subsection (1)(b)(iii), the statewide average rack price of a gallon of motor fuel under Subsection (1)(b)(i) shall be determined by calculating the

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previous ~~calendar~~ fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous ~~December 31~~ June 30 as published by an oil pricing service.

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

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

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

(II) 0.

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

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

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

(II) 0.

(iv) The commission shall annually:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) may not:

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

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

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

(ii) shall:

(A) be in writing;

(B) be signed by:

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

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

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

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

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

(iii) may:

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

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

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

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

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

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

(A) from the Navajo Nation; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

(i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

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

(iii) used in a vehicle off-highway;

(iv) used to operate a power take-off unit of a vehicle;

(v) used for off-highway agricultural uses;

(vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) used in machinery and equipment not registered and not required to be registered



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for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

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

(b) propane or electricity.

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

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

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

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

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

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

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

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

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

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

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commission shall make rules governing the application and refund provided for in Subsection (9)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

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

(i) may not:

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

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

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

(ii) shall:

(A) be in writing;

(B) be signed by:

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

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

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

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

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

(iii) may:

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

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

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

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

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

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

(A) from the Navajo Nation; and

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

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

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

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

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

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

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

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

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

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

72-2-107. Appropriation from Transportation Fund -- Deposit in class B and class C roads account.

(1) (a) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The first \$458,000,000 of total revenue deposited into the Transportation Fund during the fiscal year [~~from state highway-user taxes and fees~~], minus:

[(a)] (i) those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

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

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

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

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

[(v)] (ii) any other amounts appropriated or transferred for any other state agencies not a part of the department; and

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

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

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

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

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

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

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

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

### -- Bonds.

(1) For purposes of this section:

(a) "Graveled road" means a road:

(i) that is:

(A) graded; and

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

(ii) that has an improved surface; and

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(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and

(II) coarser than sand.

(b) "Paved road" includes a graveled road with a chip seal surface.

(c) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(d) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five; and

~~[(ii) graveled road miles multiplied by two; and]~~

~~[(iii)]~~ (ii) all other road type road miles multiplied by one.

(2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class C roads account shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that

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county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

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

(A) 14%; and

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

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

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

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

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

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

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

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

(6) The governing body of any municipality or county may issue bonds redeemable up

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to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

### Section 9. Repealer.

This bill repeals:

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

~~{ Section 8. **Effective date:**~~

~~— This bill takes effect on January 1, 2016.~~

~~Legislative Review Note~~

~~— as of 2-19-15 9:12 AM~~

~~— Office of Legislative Research and General Counsel}~~