

**Representative Johnny Anderson** 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:

- ▶ provides definitions;
- ▶ 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;



- 26           ▶ specifies the date that the adjusted fuel tax rate shall take effect each year;
- 27           ▶ repeals the requirement to post a tax rate decal on each motor fuel or undyed special
- 28 fuel pump or dispensing device;
- 29           ▶ repeals the cap on the amount of motor fuel tax revenue that is deposited in the
- 30 Off-highway Vehicle Account;
- 31           ▶ amends the apportionment formula for revenues deposited in the class B and class C
- 32 roads account;
- 33           ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35           None

36 **Other Special Clauses:**

37           None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40           **51-2a-202**, as enacted by Laws of Utah 2004, Chapter 206
- 41           **59-12-2203**, as enacted by Laws of Utah 2010, Chapter 263
- 42           **59-13-102**, as last amended by Laws of Utah 2012, Chapter 369
- 43           **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308
- 44           **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259
- 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(7) 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 Subsections  
99 (4) and (5).

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

103 (a) .10% shall be transferred to the public transit district in accordance with Section  
104 [59-12-2206](#);

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

107 (i) a class B road;

108 (ii) a class C road;

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

110 (A) a sidewalk;

111 (B) curb and gutter;

112 (C) a safety feature;

113 (D) a traffic sign;

114 (E) a traffic signal;

115 (F) street lighting; or

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

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

119 destination;

120 (v) public transit system devices; or

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

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

123 transportation facilities.

124 (5) If the entire boundary of a county that imposes a sales and use tax under this section

125 is not within a single public transit district organized under Title 17B, Chapter 2a, Part 8,

126 Public Transit District Act, the sales and use tax shall be expended as follows:

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

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

129 (i) a class B road;

130 (ii) a class C road;

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

132 (A) a sidewalk;

133 (B) curb and gutter;

134 (C) a safety feature;

135 (D) a traffic sign;

136 (E) a traffic signal;

137 (F) street lighting; or

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

139 (iv) the construction, maintenance, or operation of an active transportation facility that

140 is for nonmotorized vehicles and multimodal transportation and connects an origin with a

141 destination;

142 (v) public transit system services; or

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

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

145 transportation facilities.

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

147 follows:

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

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

150 town within that county bear to the total class B and class C roads weighted mileage within the  
151 county; and

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

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

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

159 (c) The Department of Transportation shall biannually remit to the commission the  
160 weighted mileage information required to determine the ratio under Subsection (6)(a)(i).

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

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

164 **59-13-102. Definitions.**

165 As used in this chapter:

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

168 (2) "Clean fuel" means:

169 (a) the following special fuels:

170 (i) propane;

171 (ii) compressed natural gas;

172 (iii) liquified natural gas; or

173 (iv) electricity; or

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

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

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

180 [~~4~~] (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,

181 offered for sale, or used as a fuel in diesel engines.

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

186 [~~(5)~~] (6) "Distributor" means any person in this state who:

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

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

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

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

195 (i) federally certificated air carriers; and

196 (ii) other persons.

197 [~~(6)~~] (7) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C.  
198 Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service  
199 regulations and that is considered destined for nontaxable off-highway use.

200 [~~(7)~~] (8) "Exchange agreement" means an agreement between licensed suppliers where  
201 one is a position holder in a terminal who agrees to deliver taxable special fuel to the other  
202 supplier or the other supplier's customer at the loading rack of the terminal where the delivering  
203 supplier holds an inventory position.

204 [~~(8)~~] (9) "Federally certificated air carrier" means a person who holds a certificate  
205 issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo  
206 operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

207 [~~(9)~~] (10) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is  
208 generally used in an engine or motor for the generation of power, including aviation fuel, clean  
209 fuel, diesel fuel, motor fuel, and special fuel.

210 [~~(10)~~] (11) "Highway" means every way or place, of whatever nature, generally open to  
211 the use of the public for the purpose of vehicular travel notwithstanding that the way or place

212 may be temporarily closed for the purpose of construction, maintenance, or repair.

213 ~~[(11)]~~ (12) "Motor fuel" means fuel that is commonly or commercially known or sold  
214 as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

215 ~~[(12)]~~ (13) "Motor fuels received" means:

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

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

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

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

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

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

230 ~~[(13)]~~ (15) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle  
231 used, designed, or maintained for transportation of persons or property which:

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

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

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

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

239 ~~[(14)]~~ (16) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay  
240 which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel  
241 from a refinery or terminal into a motor vehicle, rail car, or vessel.

242 ~~[(15)]~~ (17) "Removal," as used in Part 3, Special Fuel, means the physical transfer of



243 diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of  
244 diesel fuel. Removal does not include:

245 (a) loss by evaporation or destruction; or

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

247 [~~16~~] (18) (a) "Special fuel" means any fuel regardless of name or character that:

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

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

251 (b) Special fuel includes:

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

253 (ii) diesel fuel.

254 [~~17~~] (19) "Supplier," as used in Part 3, Special Fuel, means a person who:

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

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

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

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

262 [~~18~~] (20) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage  
263 of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel  
264 fuel is removed for distribution at a rack.

265 [~~19~~] (21) "Two party exchange" means a transaction in which special fuel is  
266 transferred between licensed suppliers pursuant to an exchange agreement.

267 [~~20~~] (22) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing  
268 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental  
269 Protection Agency or Internal Revenue Service regulations.

270 [~~21~~] (23) "Use," as used in Part 3, Special Fuel, means the consumption of special  
271 fuel for the operation or propulsion of a motor vehicle upon the public highways of the state  
272 and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

273 [~~22~~] (24) "User," as used in Part 3, Special Fuel, means any person who uses special

274 fuel within this state in an engine or motor for the generation of power to operate or propel a  
275 motor vehicle upon the public highways of the state.

276 ~~[(23)]~~ (25) "Ute tribal member" means an enrolled member of the Ute tribe.

277 ~~[(24)]~~ (26) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray

278 Reservation.

279 ~~[(25)]~~ (27) "Ute trust land" means the lands:

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

282 (i) the Ute tribe;

283 (ii) an individual; or

284 (iii) a group of individuals; or

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

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

288 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**  
289 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**  
290 **in limited circumstances.**

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

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

297 (ii) Subject to the requirements under Subsection (1)(b)(iii), the statewide average rack  
298 price of a gallon of motor fuel under Subsection (1)(b)(i) shall be determined by calculating the  
299 previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel,  
300 excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as  
301 published by an oil pricing service.

302 (iii) (A) Subject to the requirement in Subsection (1)(b)(iii)(B), the statewide average  
303 rack price of a gallon of motor fuel determined under Subsection (1)(b)(ii) may not be less than  
304 \$1.75 per gallon.

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

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

312 (II) 0.

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

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

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

325 (II) 0.

326 (iv) The commission shall annually:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

379 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in  
380 the General Fund an amount equal to ~~[the lesser of the following: (i)]~~ .5% of the motor fuel tax  
381 revenues collected under this section~~[; or]~~.

382 ~~[(ii) \$1,050,000.]~~

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

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

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

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

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

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

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

397 (B) a person may not require the state to provide a refund, a credit, or similar tax relief

- 398 if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.
- 399 (ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:
- 400 (A) the amount of tax imposed on the motor fuel by this section; less
- 401 (B) the tax imposed and collected by the Navajo Nation on the motor fuel.
- 402 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
- 403 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of
- 404 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the
- 405 Navajo Nation.
- 406 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 407 commission shall make rules governing the procedures for administering the reduction of tax
- 408 provided under this Subsection (9).
- 409 (e) The agreement required under Subsection (9)(a):
- 410 (i) may not:
- 411 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 412 (B) provide a reduction of taxes greater than or different from the reduction described
- 413 in this Subsection (9); or
- 414 (C) affect the power of the state to establish rates of taxation;
- 415 (ii) shall:
- 416 (A) be in writing;
- 417 (B) be signed by:
- 418 (I) the chair of the commission or the chair's designee; and
- 419 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 420 (C) be conditioned on obtaining any approval required by federal law;
- 421 (D) state the effective date of the agreement; and
- 422 (E) state any accommodation the Navajo Nation makes related to the construction and
- 423 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 424 Nation; and
- 425 (iii) may:
- 426 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 427 Navajo Nation information that is:
- 428 (I) contained in a document filed with the commission; and

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

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

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

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

437 (A) from the Navajo Nation; and

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

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

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

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

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

445 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not  
446 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a  
447 30-day period beginning on the day the agreement terminates.

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

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

451 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**  
452 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

453 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section  
454 **59-13-304**, a tax is imposed at the same [~~rate~~] rates imposed under [~~Subsection~~] Subsections  
455 **59-13-201**(1)(a) and (b) on the:

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

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

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

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

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

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

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

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

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

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

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

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

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

478 (iii) used in a vehicle off-highway;

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

480 (v) used for off-highway agricultural uses;

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

483 (vii) used in machinery and equipment not registered and not required to be registered  
484 for highway use.

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

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

488 (ii) used pursuant to the conditions of a state implementation plan approved under Title  
489 19, Chapter 2, Air Conservation Act; or

490 (b) propane or electricity.



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

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

494 (6) (a) The special fuel tax shall be paid by every user who is required by Sections  
495 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

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

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

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

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

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

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

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

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

520 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
521 commission shall make rules governing the application and refund for off-highway and

522 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

549 (i) may not:

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

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

- 553 (C) affect the power of the state to establish rates of taxation;
- 554 (ii) shall:
- 555 (A) be in writing;
- 556 (B) be signed by:
- 557 (I) the chair of the commission or the chair's designee; and
- 558 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 559 (C) be conditioned on obtaining any approval required by federal law;
- 560 (D) state the effective date of the agreement; and
- 561 (E) state any accommodation the Navajo Nation makes related to the construction and
- 562 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 563 Nation; and
- 564 (iii) may:
- 565 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 566 Navajo Nation information that is:
- 567 (I) contained in a document filed with the commission; and
- 568 (II) related to the tax imposed under this section;
- 569 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 570 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
- 571 located or doing business within the Utah portion of the Navajo Nation.
- 572 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
- 573 imposed on special fuel, any change in the amount of the reduction of taxes under this
- 574 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
- 575 calendar quarter after a 60-day period beginning on the date the commission receives notice:
- 576 (A) from the Navajo Nation; and
- 577 (B) meeting the requirements of Subsection (11)(f)(ii).
- 578 (ii) The notice described in Subsection (11)(f)(i) shall state:
- 579 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
- 580 special fuel;
- 581 (B) the effective date of the rate change of the tax described in Subsection
- 582 (11)(f)(ii)(A); and
- 583 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

584 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not  
585 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a  
586 30-day period beginning on the day the agreement terminates.

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

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

593 (b) Beginning on July 1, 2011, a tax imposed under this section on liquified natural gas  
594 is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be increased [~~or~~  
595 ~~decreased~~] proportionately with any increase [~~or decrease~~] in the rate in Subsection  
596 59-13-201(1)(a).

597 Section 7. Section 72-2-108 is amended to read:

598 **72-2-108. Apportionment of funds available for use on class B and class C roads**  
599 **-- Bonds.**

600 (1) For purposes of this section:

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

602 (i) that is:

603 (A) graded; and

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

606 (ii) that has an improved surface; and

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

608 (A) gravel;

609 (B) broken stone;

610 (C) slag;

611 (D) iron ore;

612 (E) shale; or

613 (F) other material that is:

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

615 (II) coarser than sand.

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

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

618 (i) the width of the road; or

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

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

621 (i) paved road miles multiplied by five; and

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

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

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

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

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

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

636 (a) the population of a county outside the corporate limits of municipalities in that  
637 county, if the population of the county outside the corporate limits of municipalities in that  
638 county is not less than 14% of the total population of that county, including municipalities; and

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

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

643 (A) 14%; and

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

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

648 (4) (a) If an apportionment under Subsection (2) for fiscal year 2014 to a county or  
649 municipality with a population of less than 14,000 is less than 120% of the amount apportioned  
650 to the county or municipality from the class B and class C roads account for fiscal year 1996-97  
651 multiplied by the percentage increase in the class B and class C roads account from fiscal year  
652 1996-97 to the most recently completed fiscal year, the department shall:

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

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

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

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

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

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

673 Section 8. **Repealer.**

674 This bill repeals:

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