

Representative Brian M. Greene proposes the following substitute bill:

TRANSPORTATION INFRASTRUCTURE FUNDING

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Johnny Anderson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to transportation funding.

Highlighted Provisions:

This bill:

- ▶ 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 statewide average rack price of a gallon of regular unleaded motor fuel;
- ▶ establishes procedures for the State Tax Commission to determine the statewide average rack price of a gallon of regular unleaded motor fuel;
- ▶ specifies the date that the adjusted fuel tax rate shall take effect each year;



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

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **51-2a-202**, as enacted by Laws of Utah 2004, Chapter 206
- 40 **59-12-2203**, as enacted by Laws of Utah 2010, Chapter 263
- 41 **59-13-102**, as last amended by Laws of Utah 2012, Chapter 369
- 42 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308
- 43 **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259
- 44 **63I-1-259**, as last amended by Laws of Utah 2014, Chapter 54
- 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 **63I-1-251**, Utah Code Annotated 1953

49 REPEALS:

- 50 **59-13-104**, as enacted by Laws of Utah 1998, Chapter 253



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

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

54 **51-2a-202. Reporting requirements.**

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

57 (a) made at least annually; and
58 (b) filed with the state auditor within six months of the close of the fiscal year of the
59 entity.

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

63 (3) If a political subdivision receives revenue from a sales and use tax imposed under
64 Section 59-12-2219, the political subdivision shall identify the amount of revenue the political
65 subdivision budgets for transportation and verify compliance with Subsection 59-12-2219(7) in
66 the audit, review, compilation, or fiscal report.

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

68 **59-12-2203. Authority to impose a sales and use tax under this part.**

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

71 (a) a county, city, or town may impose the sales and use tax authorized by Section
72 59-12-2213 in accordance with Section 59-12-2213; or

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

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

77 (a) a county, city, or town may impose the sales and use tax authorized by Section
78 59-12-2214 in accordance with Section 59-12-2214; or

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

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

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

85 (b) a county, city, or town may impose the sales and use tax authorized by Section
86 59-12-2218 in accordance with Section 59-12-2218.

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

88 accordance with Section 59-12-2219.

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

90 **59-12-2219. County option sales and use tax for highways and public transit --**
91 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
92 **existing budgeted transportation revenue.**

93 (1) As used in this section:

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

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

96 (c) "Public transit district" means a public transit district organized under Title 17B,
97 Chapter 2a, Part 8, Public Transit District Act.

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

101 (3) The commission shall distribute sales and use tax revenue collected under this
102 section as provided in Subsections (4) and (5).

103 (4) The commission shall distribute the sales and use tax revenue collected within the
104 county as follows:

105 (a) .20% shall be distributed as provided in Subsection (5); and

106 (b) .05% shall be distributed to the county legislative body.

107 (5) (a) Subject to Subsection (5)(b), the commission shall make the distributions
108 required by Subsection (4)(a) as follows:

109 (i) 50% of the total revenue collected under Subsection (4)(a) within the counties that
110 impose a tax under this section shall be distributed to the unincorporated areas, cities, and
111 towns within those counties on the basis of the percentage that the population of each
112 unincorporated area, city, or town bears to the total population of all of the counties that
113 impose a tax under this section; and

114 (ii) 50% of the total revenue collected under Subsection (4)(a) within the counties that
115 impose a tax under this section shall be distributed to the unincorporated areas, cities, and
116 towns within those counties on the basis of the location of the transaction as determined under
117 Sections 59-12-211 through 59-12-215.

118 (b) (i) Population for purposes of this Subsection (5) shall be determined on the basis

119 of the most recent official census or census estimate of the United States Census Bureau.

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

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

122 Estimates Committee created by executive order of the governor.

123 (6) A county, city, or town may expend revenue collected from a tax under this section

124 for:

125 (a) a class B road;

126 (b) a class C road;

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

128 (i) a sidewalk;

129 (ii) curb and gutter;

130 (iii) a safety feature;

131 (iv) a traffic sign;

132 (v) a traffic signal;

133 (vi) street lighting; or

134 (vii) a combination of Subsections (6)(c)(i) through (vi);

135 (d) the construction, maintenance, or operation of an active transportation facility that

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

137 destination;

138 (e) public transit system services; or

139 (f) a combination of Subsections (6)(a) through (e).

140 (7) Revenue collected from a sales and use tax under this section may not be used to

141 supplant existing revenue a county, city, or town budgets for transportation.

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

143 **59-13-102. Definitions.**

144 As used in this chapter:

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

147 (2) "Clean fuel" means:

148 (a) the following special fuels:

149 (i) propane;

150 (ii) compressed natural gas;

151 (iii) liquified natural gas; or

152 (iv) electricity; or

153 (b) any motor or special fuel that meets the clean fuel vehicle standards in the federal

154 Clean Air Act Amendments of 1990, Title II.

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

156 (4) "Consumer Price Index" means the Consumer Price Index for All Urban

157 Consumers as published by the Bureau of Labor Statistics of the United States Department of

158 Labor.

159 [~~4~~] (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,
160 offered for sale, or used as a fuel in diesel engines.

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

165 [~~5~~] (6) "Distributor" means any person in this state who:

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

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

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

172 or

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

174 (i) federally certificated air carriers; and

175 (ii) other persons.

176 [~~6~~] (7) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C.

177 Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service

178 regulations and that is considered destined for nontaxable off-highway use.

179 [~~7~~] (8) "Exchange agreement" means an agreement between licensed suppliers where
180 one is a position holder in a terminal who agrees to deliver taxable special fuel to the other

181 supplier or the other supplier's customer at the loading rack of the terminal where the delivering
182 supplier holds an inventory position.

183 ~~[(8)]~~ (9) "Federally certificated air carrier" means a person who holds a certificate
184 issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo
185 operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

186 ~~[(9)]~~ (10) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is
187 generally used in an engine or motor for the generation of power, including aviation fuel, clean
188 fuel, diesel fuel, motor fuel, and special fuel.

189 ~~[(10)]~~ (11) "Highway" means every way or place, of whatever nature, generally open to
190 the use of the public for the purpose of vehicular travel notwithstanding that the way or place
191 may be temporarily closed for the purpose of construction, maintenance, or repair.

192 ~~[(11)]~~ (12) "Motor fuel" means fuel that is commonly or commercially known or sold
193 as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

194 ~~[(12)]~~ (13) "Motor fuels received" means:

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

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

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

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

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

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

209 ~~[(13)]~~ (15) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle
210 used, designed, or maintained for transportation of persons or property which:

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

212 pounds;

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

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

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

218 [~~(14)~~] (16) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay
219 which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel
220 from a refinery or terminal into a motor vehicle, rail car, or vessel.

221 [~~(15)~~] (17) "Removal," as used in Part 3, Special Fuel, means the physical transfer of
222 diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of
223 diesel fuel. Removal does not include:

224 (a) loss by evaporation or destruction; or

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

226 [~~(16)~~] (18) (a) "Special fuel" means any fuel regardless of name or character that:

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

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

230 (b) Special fuel includes:

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

232 (ii) diesel fuel.

233 [~~(17)~~] (19) "Supplier," as used in Part 3, Special Fuel, means a person who:

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

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

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

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

241 [~~(18)~~] (20) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage
242 of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel

243 fuel is removed for distribution at a rack.

244 [~~(19)~~] (21) "Two party exchange" means a transaction in which special fuel is
245 transferred between licensed suppliers pursuant to an exchange agreement.

246 [~~(20)~~] (22) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing
247 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental
248 Protection Agency or Internal Revenue Service regulations.

249 [~~(21)~~] (23) "Use," as used in Part 3, Special Fuel, means the consumption of special
250 fuel for the operation or propulsion of a motor vehicle upon the public highways of the state
251 and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

252 [~~(22)~~] (24) "User," as used in Part 3, Special Fuel, means any person who uses special
253 fuel within this state in an engine or motor for the generation of power to operate or propel a
254 motor vehicle upon the public highways of the state.

255 [~~(23)~~] (25) "Ute tribal member" means an enrolled member of the Ute tribe.

256 [~~(24)~~] (26) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
257 Reservation.

258 [~~(25)~~] (27) "Ute trust land" means the lands:

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

261 (i) the Ute tribe;

262 (ii) an individual; or

263 (iii) a group of individuals; or

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

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

267 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
268 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
269 **in limited circumstances.**

270 (1) (a) Subject to the provisions of this section and through December 31, 2015, a tax
271 is imposed at the rate of 24-1/2 cents per gallon upon all motor fuel that is sold, used, or
272 received for sale or used in this state.

273 (b) (i) Subject to the provisions of this section and beginning on January 1, 2016, a tax

274 is imposed at the rate of 10% of the statewide average rack price of a gallon of motor fuel per
275 gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

276 (ii) (A) Until December 31, 2018, and subject to the requirements under Subsection
277 (1)(b)(iii), the statewide average rack price of a gallon of motor fuel under Subsection (1)(b)(i)
278 shall be determined by calculating the previous fiscal year statewide average rack price of a
279 gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12
280 months ending on the previous June 30 as published by an oil pricing service.

281 (B) Beginning on January 1, 2019 and subject to the requirements under Subsection
282 (1)(b)(iii), the statewide average rack price of a gallon of motor fuel under Subsection (1)(b)(i)
283 shall be determined by calculating the previous three fiscal years statewide average rack price
284 of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36
285 months ending on the previous June 30 as published by an oil pricing service.

286 (iii) (A) Subject to the requirement in Subsection (1)(b)(iii)(B), the statewide average
287 rack price of a gallon of motor fuel determined under Subsection (1)(b)(ii) may not be less than
288 \$2.45 per gallon.

289 (B) Beginning on a calendar year following the year that the actual statewide average
290 rack price of a gallon of motor fuel reaches \$2.45 before applying the minimum under
291 Subsection (1)(b)(iii)(A), the commission shall, on January 1, annually adjust the minimum
292 statewide average rack price of a gallon of motor fuel described in Subsection (1)(b)(iii)(A) by
293 taking the minimum statewide average rack price of a gallon of motor fuel for the previous
294 calendar year and adding an amount equal to the greater of:

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

298 (II) 0.

299 (C) The statewide average rack price of a gallon of motor fuel determined by the
300 commission under Subsection (1)(b)(ii) may not exceed \$4.00 per gallon.

301 (iv) The commission shall annually:

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

304 (B) adjust the fuel tax rate imposed under Subsection (1)(b)(i), rounded to the nearest

305 one-tenth of a cent, based on the determination under Subsection (1)(b)(ii);

306 (C) publish the adjusted fuel tax as a cents per gallon rate; and

307 (D) post or otherwise make public the adjusted fuel tax rate as determined in

308 Subsection (1)(b)(iv)(B) no later than 60 days prior to the annual effective date under

309 Subsection (1)(b)(v).

310 (v) The tax rate imposed under this Subsection (1)(b) and adjusted as required under

311 Subsection (1)(b)(iv) shall take effect on January 1 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

386 (i) may not:

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

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

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

391 (ii) shall:

392 (A) be in writing;

393 (B) be signed by:

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

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

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

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

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

401 (iii) may:

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

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

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

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

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

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

413 (A) from the Navajo Nation; and

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

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

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

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

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

421 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
422 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
423 30-day period beginning on the day the agreement terminates.

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

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

427 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
428 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

429 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
430 59-13-304, a tax is imposed at the same [rate] rates imposed under [Subsection] Subsections
431 59-13-201(1)(a) and (b) on the:

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

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

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

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

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

- 450 (i) sold to the United States government or any of its instrumentalities or to this state or
451 any of its political subdivisions;
- 452 (ii) exported from this state if proof of actual exportation on forms prescribed by the
453 commission is made within 180 days after exportation;
- 454 (iii) used in a vehicle off-highway;
- 455 (iv) used to operate a power take-off unit of a vehicle;
- 456 (v) used for off-highway agricultural uses;
- 457 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
458 upon the highways of the state; or
- 459 (vii) used in machinery and equipment not registered and not required to be registered

460 for highway use.

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

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

464 (ii) used pursuant to the conditions of a state implementation plan approved under Title
465 19, Chapter 2, Air Conservation Act; or

466 (b) propane or electricity.

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

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

470 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
471 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

525 (i) may not:

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

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

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

530 (ii) shall:

531 (A) be in writing;

532 (B) be signed by:

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

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

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

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

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

540 (iii) may:

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

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

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

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

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

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

552 (A) from the Navajo Nation; and

- 553 (B) meeting the requirements of Subsection (11)(f)(ii).
- 554 (ii) The notice described in Subsection (11)(f)(i) shall state:
- 555 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
- 556 special fuel;
- 557 (B) the effective date of the rate change of the tax described in Subsection
- 558 (11)(f)(ii)(A); and
- 559 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
- 560 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
- 561 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
- 562 30-day period beginning on the day the agreement terminates.
- 563 (h) If there is a conflict between this Subsection (11) and the agreement required by
- 564 Subsection (11)(a), this Subsection (11) governs.
- 565 (12) (a) Beginning on January 1, 2009, a tax imposed under this section on compressed
- 566 natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be
- 567 increased [~~or decreased~~] proportionately with any increase [~~or decrease~~] in the rate in
- 568 Subsection [59-13-201](#)(1)(a).
- 569 (b) Beginning on July 1, 2011, a tax imposed under this section on liquified natural gas
- 570 is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be increased [~~or~~
- 571 ~~decreased~~] proportionately with any increase [~~or decrease~~] in the rate in Subsection
- 572 [59-13-201](#)(1)(a).
- 573 Section 7. Section **63I-1-251** is enacted to read:
- 574 **63I-1-251. Repeal dates, Title 51.**
- 575 **Subsection [51-2a-202](#)(3) is repealed on June 30, 2020.**
- 576 Section 8. Section **63I-1-259** is amended to read:
- 577 **63I-1-259. Repeal dates, Title 59.**
- 578 (1) Subsection [59-2-924](#)(3)(g) is repealed on December 31, 2016.
- 579 (2) Section [59-2-924.3](#) is repealed on December 31, 2016.
- 580 (3) Section [59-9-102.5](#) is repealed December 31, 2020.
- 581 **(4) Subsection [59-12-2219](#)(7) is repealed on June 30, 2020.**
- 582 Section 9. Section **72-2-108** is amended to read:
- 583 **72-2-108. Apportionment of funds available for use on class B and class C roads**

584 -- **Bonds.**

585 (1) For purposes of this section:

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

587 (i) that is:

588 (A) graded; and

589 (B) drained by transverse drainage systems to prevent serious impairment of the road

590 by surface water;

591 (ii) that has an improved surface; and

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

593 (A) gravel;

594 (B) broken stone;

595 (C) slag;

596 (D) iron ore;

597 (E) shale; or

598 (F) other material that is:

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

600 (II) coarser than sand.

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

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

603 (i) the width of the road; or

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

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

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

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

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

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

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

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

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

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

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

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

628 (A) 14%; and

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

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

633 (4) (a) If an apportionment under Subsection (2) for fiscal year 2014 to a county or
634 municipality with a population of less than 14,000 is less than 120% of the amount apportioned
635 to the county or municipality from the class B and class C roads account for fiscal year
636 1996-97, the department shall:

637 (i) reapportion the funds under Subsection (2) to ensure that the county or municipality
638 receives an amount equal to [~~120% of~~] the amount apportioned to the county or municipality
639 from the class B and class C roads account for fiscal year 1996-97 multiplied by the percentage
640 increase in the class B and class C roads account from fiscal year 1996-97 to the most recently
641 completed fiscal year; and

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

645 (b) The aggregate amount of the funds that the department shall decrease

646 proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the
647 aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

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

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

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

659 Section 10. **Repealer.**

660 This bill repeals:

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