

1 **OFF-HIGHWAY VEHICLE PROGRAM FUNDING**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Brent H. Goodfellow**

5 **This act modifies Revenue and Taxation by eliminating the \$850,000 limitation on the**
6 **allocation of motor fuel tax revenues to the Off-Highway Vehicle Account. This act**
7 **leaves in place the .5% limitation for allocations to that account. This act takes effect on**
8 **July 1, 2003.**

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **59-13-201**, as last amended by Chapter 232, Laws of Utah 2001

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

13 Section 1. Section **59-13-201** is amended to read:

14 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
15 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
16 **in limited circumstances.**

17 (1) (a) A tax is imposed at the rate of 24-1/2 cents per gallon upon all motor fuel that is
18 sold, used, or received for sale or used in this state.

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

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

24 (3) (a) No tax is imposed upon:

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

27 (ii) motor fuel that is exported from this state if proof of actual exportation on forms



28 prescribed by the commission is made within 180 days after exportation;

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

32 (iv) motor fuel that is sold to the United States government, this state, or the political
33 subdivisions of this state where sale and delivery is made in quantities of 750 gallons or more.

34 (b) For purposes of this Subsection (3), the state and its political subdivisions may
35 make collective purchases for purposes of meeting the 750 gallon requirement, and the state
36 and political subdivisions may provide for this purchase in any manner approved by the
37 commission.

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

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

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

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

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

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

58 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

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

61 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
62 the General Fund [~~an amount equal to the lesser of the following: (i) .5% of the motor fuel tax~~
63 ~~revenues collected under this section[; or (ii) \$850,000].~~

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

65 (c) This Subsection (8) sunsets on July 1, 2010.

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

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

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

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

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

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

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

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

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

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

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

88 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
89 commission shall make rules governing the procedures for administering the reduction of tax

90 provided under this Subsection (9).

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

92 (i) may not:

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

94 (B) provide a reduction of taxes greater than or different from the reduction described

95 in this Subsection (9); or

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

97 (ii) shall:

98 (A) be in writing;

99 (B) be signed by:

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

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

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

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

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

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

106 Nation; and

107 (iii) may:

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

109 Navajo Nation information that is:

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

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

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

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

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

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

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

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

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

119 (A) from the Navajo Nation; and

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

- 121 (ii) The notice described in Subsection (9)(f)(i) shall state:
- 122 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
- 123 motor fuel;
- 124 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
- 125 and
- 126 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
- 127 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
- 128 permitted under this Subsection (9) beginning on the first day of the calender quarter after a
- 129 30-day period beginning on the day the agreement terminates.
- 130 (h) If there is a conflict between this Subsection (9) and the agreement required by
- 131 Subsection (9)(a), this Subsection (9) governs.
- 132 Section 2. **Effective date.**
- 133 This act takes effect on July 1, 2003.

Legislative Review Note
as of 12-6-02 4:24 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

Passage of this bill would shift \$350,000 from the Transportation Fund into the General Fund - Off Highway Vehicle Account.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Transportation Fund	\$0	\$0	(\$350,000)	(\$350,000)
Other	\$0	\$0	\$350,000	\$350,000
TOTAL	\$0	\$0	\$0	\$0

Individual and Business Impact

No fiscal impact.
