

AVIATION AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Property Tax Act, the Motor and Special Fuel Tax Act, and the Transportation Code by amending provisions relating to aviation.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ modifies the uniform fees on aircraft required to be registered with the state;
- ▶ increases the tax rate on aviation fuel that is purchased for use by a person other than an airline from 9 cents per gallon to 17 cents per gallon;
- ▶ reduces certain aircraft registration fees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2008.

Utah Code Sections Affected:

AMENDS:

- 59-2-404**, as last amended by Chapter 181, Laws of Utah 1999
- 59-13-102**, as last amended by Chapter 258, Laws of Utah 2000
- 59-13-401**, as last amended by Chapter 179, Laws of Utah 1999



- 28 **59-13-402**, as last amended by Chapter 235, Laws of Utah 2001
- 29 **59-13-403**, as last amended by Chapter 322, Laws of Utah 2006
- 30 **59-13-404**, as enacted by Chapter 235, Laws of Utah 2001
- 31 **72-10-110**, as last amended by Chapter 181, Laws of Utah 1999

32

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

34 Section 1. Section **59-2-404** is amended to read:

35 **59-2-404. Uniform fee on aircraft -- Collection of fee by county -- Distribution of**
36 **fees -- Rules to implement section.**

37 (1) There is levied in lieu of the ad valorem tax a uniform fee on aircraft required to be
38 registered with the state in an amount equal to the following [~~percent of the average wholesale~~
39 ~~market value of the aircraft as established by the commission~~]:

40 ~~[(a) for aerial applicators as defined in Section 59-2-102 as follows:]~~

41 ~~[Calendar Year _____ Uniform Fee]~~

42 ~~[2000 _____ 0.4%]~~

43 ~~[2001 _____ 0.3%]~~

44 ~~[2002 and all subsequent years _____ 0.2%; and]~~

45 ~~[(b) for all other aircraft required to be registered with the state as follows:]~~

46 ~~[Calendar Year _____ Uniform Fee]~~

47 ~~[2000 _____ 0.8%]~~

48 ~~[2001 _____ 0.6%]~~

49 ~~[2002 and all subsequent years _____ 0.4%.]~~

<u>Gross Weight of Aircraft</u>	<u>Uniform Fee</u>
50 <u>Less than 3,500 pounds</u>	51 <u>\$50</u>
52 <u>3,500 or more pounds but less than 8,000 pounds</u>	52 <u>\$100</u>
53 <u>8,000 or more pounds but less than 12,500 pounds</u>	53 <u>\$200</u>
54 <u>12,500 pounds or more</u>	54 <u>\$300</u>

55 (2) The uniform fee shall be collected by the counties with the registration fee and
56 distributed to the taxing districts in accordance with Article XIII, Sec. 14, Utah Constitution.

57 (3) The commission shall promulgate rules to implement this section.

58 Section 2. Section **59-13-102** is amended to read:

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

60 As used in this chapter:

61 (1) "Airline" means:

62 (a) any air carrier operating interstate routes on a scheduled basis which offers to fly
63 passengers or cargo on the basis of available capacity on regularly scheduled routes; or

64 (b) any federally certificated air carrier that enplanes at least 10,000 enplanements per
65 year at any single airport in this state.

66 [~~(1)~~] (2) "Aviation fuel" means fuel that is sold at airports and used exclusively for the
67 operation of aircraft.

68 [~~(2)~~] (3) "Clean fuel" means:

69 (a) the following special fuels:

70 (i) propane;

71 (ii) compressed natural gas; or

72 (iii) electricity; or

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

75 [~~(3)~~] (4) "Commission" means the State Tax Commission.

76 [~~(4)~~] (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,
77 offered for sale, or used as a fuel in diesel engines.

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

82 [~~(5)~~] (6) "Distributor" means any person in this state who:

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

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

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

89 or

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

91 (i) federally certificated air carriers; and

92 (ii) other persons.

93 ~~[(6)]~~ (7) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C.
94 Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service
95 regulations and that is considered destined for nontaxable off-highway use.

96 ~~[(7)]~~ (8) "Exchange agreement" means an agreement between licensed suppliers where
97 one is a position holder in a terminal who agrees to deliver taxable special fuel to the other
98 supplier or the other supplier's customer at the loading rack of the terminal where the delivering
99 supplier holds an inventory position.

100 ~~[(8)]~~ (9) "Federally certificated air carrier" means a person who holds a certificate
101 issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo
102 operation or scheduled operation, as defined in 14 C.F.R. Sec. 119.3.

103 ~~[(9)]~~ (10) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is
104 generally used in an engine or motor for the generation of power, including aviation fuel, clean
105 fuel, diesel fuel, motor fuel, and special fuel.

106 ~~[(10)]~~ (11) "Highway" means every way or place, of whatever nature, generally open to
107 the use of the public for the purpose of vehicular travel notwithstanding that the way or place
108 may be temporarily closed for the purpose of construction, maintenance, or repair.

109 ~~[(11)]~~ (12) "Motor fuel" means fuel that is commonly or commercially known or sold
110 as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

111 ~~[(12)]~~ (13) "Motor fuels received" means:

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

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

121 ~~[(13)]~~ (14) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle
122 used, designed, or maintained for transportation of persons or property which:

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

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

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

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

130 ~~[(14)]~~ (15) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay
131 which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel
132 from a refinery or terminal into a motor vehicle, rail car, or vessel.

133 ~~[(15)]~~ (16) "Removal," as used in Part 3, Special Fuel, means the physical transfer of
134 diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of
135 diesel fuel. Removal does not include:

136 (a) loss by evaporation or destruction; or

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

138 ~~[(16)]~~ (17) (a) "Special fuel" means any fuel regardless of name or character that:

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

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

142 (b) Special fuel includes:

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

144 (ii) diesel fuel.

145 ~~[(17)]~~ (18) "Supplier," as used in Part 3, Special Fuel, means a person who:

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

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

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

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

153 [~~18~~] (19) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage
154 of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel
155 fuel is removed for distribution at a rack.

156 [~~19~~] (20) "Two party exchange" means a transaction in which special fuel is
157 transferred between licensed suppliers pursuant to an exchange agreement.

158 [~~20~~] (21) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing
159 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental
160 Protection Agency or Internal Revenue Service regulations.

161 [~~21~~] (22) "Use," as used in Part 3, Special Fuel, means the consumption of special
162 fuel for the operation or propulsion of a motor vehicle upon the public highways of the state
163 and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

164 [~~22~~] (23) "User," as used in Part 3, Special Fuel, means any person who uses special
165 fuel within this state in an engine or motor for the generation of power to operate or propel a
166 motor vehicle upon the public highways of the state.

167 [~~23~~] (24) "Ute tribal member" means an enrolled member of the Ute tribe.

168 [~~24~~] (25) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
169 Reservation.

170 [~~25~~] (26) "Ute trust land" means the lands:

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

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

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

178 Section 3. Section **59-13-401** is amended to read:

179 **59-13-401. Aviation fuel tax -- Rate.**

180 (1) A tax is imposed upon aviation fuel at the rates provided in this section.

181 (2) Except as provided by Subsection (3) the tax on aviation fuel shall be[:] 17 cents
182 per gallon.

183 ~~[(a) beginning July 1, 1999, six cents per gallon;]~~
 184 ~~[(b) beginning July 1, 2000, eight cents per gallon; and]~~
 185 ~~[(c) beginning July 1, 2001, nine cents per gallon.]~~

186 (3) Aviation fuel purchased for use by ~~[a federally certificated air carrier]~~ an airline is
 187 subject to a tax of ~~[four]~~ 4 cents per gallon.

188 Section 4. Section **59-13-402** is amended to read:

189 **59-13-402. Revenue from taxes deposited with treasurer -- Credit to Aeronautics**
 190 **Restricted Account -- Purposes for which funds may be used -- Allocation of funds --**
 191 **Reports -- Returns required.**

192 (1) (a) All revenue received by the commission under this part shall be deposited daily
 193 with the state treasurer who shall credit all of the revenue collected to the Transportation Fund.

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

197 (c) Refunds to which taxpayers are entitled under this part shall be paid from the
 198 Transportation Fund.

199 (2) The state treasurer shall place an amount equal to the total amount received from
 200 the sale or use of aviation fuel in the Transportation Fund's Restricted Revenue Account for
 201 aeronautical operations of the Department of Transportation for:

202 (a) the construction, improvement, operation, and maintenance of publicly used
 203 airports in this state and the payment of principal and interest on indebtedness incurred for
 204 those purposes;

205 (b) the promotion of aeronautics in this state; and

206 (c) the payment of the costs and expenses of the Department of Transportation in
 207 administering this part or other law conferring upon it the duty of regulating and supervising
 208 aeronautics in this state.

209 (3) The tax imposed on each gallon of aviation fuel under Section 59-13-401 shall be
 210 allocated to the airport where the aviation fuel was sold and to aeronautical operations of the
 211 Department of Transportation as follows:

	Total	Allocation to	Allocation to
	Tax	Airport	Aeronautical

214		Allocated		Operations
215	(a) Tax on Each Gallon of Aviation			
216	Fuel Purchased for Use by [a Federally			
217	Certificated Air Carrier] <u>an Airline</u> Other than at			
218	the Salt Lake International Airport	\$.04	\$.03	\$.01
219	(b) Tax, less a refund or credit			
220	claimed under Section 59-13-404,			
221	on Each Gallon of Aviation			
222	Fuel Purchased for Use by [a Certificated			
223	Air Carrier] <u>an Airline</u> at the Salt Lake International			
224	Airport	\$.025	\$.015	\$.01
225	(c) Tax on Each Gallon of Aviation			
226	Fuel Purchased for Use by a Person Other			
227	than [a Federally Certificated Air Carrier] <u>an Airline</u>			
228	at the Salt Lake International Airport	<u>\$.17</u>	<u>\$.00</u>	<u>\$.17</u>
229	[beginning July 1, 1999	\$.06	\$.02	\$.04]
230	[beginning July 1, 2000	\$.08	\$.01	\$.07]
231	[beginning July 1, 2001	\$.09	\$.00	\$.09]
232	(d) Tax on Each Gallon of Aviation Fuel			
233	Purchased for Use by a Person Other			
234	than [a Federally Certificated Air Carrier] <u>an Airline</u>			
235	Other than at the Salt Lake			
236	International Airport	<u>\$.17</u>	<u>\$.03</u>	<u>\$.14</u>
237	[beginning July 1, 1999	\$.06	\$.03	\$.03]
238	[beginning July 1, 2000	\$.08	\$.03	\$.05]
239	[beginning July 1, 2001	\$.09	\$.03	\$.06]
240	(e) The allocation to the publicly used airport may be used at the discretion of the			
241	airport's governing authority for the purposes specified in Subsection (2)(a).			
242	(f) Upon appropriation by the Legislature, the allocation to aeronautical operations of			
243	the Department of Transportation shall be used as provided in Subsection (2).			
244	(4) (a) The commission shall require reports and returns from distributors, retail			

245 dealers, and users in order to enable the commission and the Department of Transportation to
 246 allocate the revenue to be credited to the Transportation Fund's Restricted Revenue Account for
 247 the aeronautical operations of that department and the separate accounts of individual airports.

248 (b) (i) Except as provided by Subsection (4)(b)(ii), any unexpended amount remaining
 249 in the account of any publicly used airport on the first day of January, April, July, and October
 250 shall be paid to the authority operating the airport.

251 (ii) Aviation fuel tax allocated to any airport owned and operated by a city of the first
 252 class shall be paid to the city treasurer on the first day of each month.

253 (c) The state treasurer shall place aviation fuel tax collected on fuel sold at places other
 254 than publicly used airports in the Transportation Fund's Restricted Revenue Account for the
 255 aeronautical operations of the Department of Transportation.

256 Section 5. Section **59-13-403** is amended to read:

257 **59-13-403. Administration and penalties -- Bond requirements.**

258 (1) All administrative and penalty provisions of Part 2, Motor Fuel, apply to the
 259 administration of Part 4, Aviation Fuel.

260 (2) Notwithstanding Subsection (1), a distributor is not required to furnish a bond if the
 261 distributor:

262 (a) meets the definition of distributor under [~~Subsection~~] Section 59-13-102[~~(5)(d)~~];

263 and

264 (b) has an average tax liability of \$500 or less per month.

265 Section 6. Section **59-13-404** is amended to read:

266 **59-13-404. Refunds of aviation fuel tax -- Filing claims -- Commission approval --**
 267 **Rulemaking -- Appeals -- Penalties.**

268 (1) [~~A federally certificated air carrier~~] An airline is entitled to a \$.015 refund or credit
 269 of the aviation fuel tax paid on gallons of aviation fuel purchased at the Salt Lake International
 270 Airport, subject to the conditions and limitations provided under this section.

271 (2) (a) [~~A federally certificated air carrier~~] An airline shall file a claim for a refund or
 272 credit with the commission within 90 days of the end of the tax year for which a claim is made.

273 (b) [~~A federally certificated air carrier~~] An airline filing a claim for a refund or credit
 274 shall furnish any or all of the information outlined in this section upon request of the
 275 commission.

276 (3) (a) The claim shall include an application containing:

277 (i) the name of the [~~federally certificated air carrier~~] airline claimant;

278 (ii) the number of gallons actually purchased;

279 (iii) the place of purchase; and

280 (iv) any other information required by the commission to support the claim.

281 (b) This original claim and all information contained in it, constitutes a permanent file

282 with the commission in the name of the [~~federally certificated air carrier~~] airline claimant.

283 (4) (a) Upon commission approval of the claim for a refund, the commission shall pay

284 the amount found due to the [~~federally certificated air carrier~~] airline claimant.

285 (b) The total amount of claims for refunds shall be paid from the Transportation Fund.

286 (5) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

287 the commission may promulgate rules to enforce this part, and may refuse to accept

288 unsubstantiated evidence for the claim.

289 (b) If the commission is not satisfied with the evidence submitted in connection with

290 the claim, it may reject the claim or require additional evidence.

291 (6) [~~A federally certificated air carrier~~] An airline aggrieved by the decision of the

292 commission with respect to a refund or credit may file a request for agency action, requesting a

293 hearing before the commission.

294 (7) (a) [~~A federally certificated air carrier who~~] An airline that makes any false claim,

295 report, or statement, with intent to defraud or secure a refund or credit to which the claimant is

296 not entitled, is subject to the criminal penalties provided under Section 59-1-401[~~, and the~~].

297 (b) The commission shall initiate the filing of a complaint for alleged violations of this

298 part.

299 (c) In addition to [~~these~~] the penalties under Subsection (7)(a), the [~~federally~~

300 ~~certificated air carrier~~] airline may not receive any refund or credit as a claimant for a period of

301 five years.

302 Section 7. Section **72-10-110** is amended to read:

303 **72-10-110. Aircraft registration information requirements -- Registration fee --**

304 **Administration -- Partial year registration.**

305 (1) All applications for aircraft registration, including under Section 72-10-111, shall

306 contain:

- 307 (a) a description of the aircraft, including:
- 308 (i) the manufacturer or builder;
- 309 (ii) the aircraft registration number, type, year of manufacture, or if an experimental
- 310 aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of
- 311 the Federal Aviation Administration; and
- 312 (iii) gross weight;
- 313 (b) the name and address of the owner of the aircraft; and
- 314 (c) where the aircraft is located, or the address where the aircraft is usually used or
- 315 based.

316 (2) (a) Except as provided in Section 72-10-111, at the time application is made for

317 registration or renewal of registration of an aircraft under this chapter, an annual registration

318 fee shall be paid as follows:

- 319 (i) ~~[\$25]~~ \$45 for each balloon, glider, ultralight, helicopter, or propellor driven aircraft;
- 320 (ii) ~~[\$5,000]~~ \$75 for each jet aircraft with a maximum gross takeoff weight under
- 321 20,000 lbs.; and
- 322 (iii) ~~[\$10,000]~~ \$100 for each jet aircraft with a maximum gross takeoff weight of
- 323 20,000 lbs. or more.

324 (b) The registration fees assessed under this chapter shall be collected by the county

325 and remitted to the State Tax Commission to be distributed as provided in Subsection (2)(c).

326 (c) After deducting the costs of administering all aircraft registrations under this

327 chapter, the State Tax Commission shall deposit all remaining aircraft registration fees in the

328 Transportation Fund's Restricted Revenue Account for aeronautical operations of the

329 Department of Transportation to be used as provided in Subsection 59-13-402(2).

330 ~~[(d) Aircraft which are registered under this chapter for less than a full calendar year~~

331 ~~shall be charged a registration fee which is reduced in proportion to the fraction of the calendar~~

332 ~~year during which the aircraft is registered in this state.]~~

333 **Section 8. Effective date.**

334 This bill takes effect on January 1, 2008.

Legislative Review Note
as of 2-8-07 4:04 PM

Office of Legislative Research and General Counsel

H.B. 414 - Aviation Amendments

Fiscal Note

2007 General Session
State of Utah

State Impact

This bill increases the tax rate on general aviation fuel purchased in the state from 9 cents to 17 cents per gallon. Registration fees and fees in lieu of the ad valorem tax are also restructured with some decrease and some increases. It is estimated that this bill could increase the Transportation Restricted Aeronautics Account by \$437,900 in FY 2008 and by \$875,700 FY 2009.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
Transportation Fund Restricted	\$0	\$0	\$0	\$0	\$437,900	\$875,700
Total	\$0	\$0	\$0	\$0	\$437,900	\$875,700

Individual, Business and/or Local Impact

There will be an increase in taxes paid by individual and business entities purchasing aviation fuel in the State. Individuals registering aircraft in the State will see changes in the registration fees and the fees in lieu of the ad valorem tax. While some aircraft fees will increase and some will decrease, the net result is a decrease in fee revenue for local governments. Local governments could see net revenue losses estimated at about \$1.7 million in FY 2009 and about \$850,000 in FY 2008.